

Dealing Number

Duty Imprint



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1. Lessor	Lodger (Name, address & phone number)	Lodger Code
OSWALD DITTMANN AND GISELA DITTMANN AS TRUSTEES UNDER INSTRUMENT NUMBER 706593786	Denise Maxwell, Solicitor PO Box 3156, Yeronga Q 4104 Ph: 3892 4329	BE2245

2. Lot on Plan Description	Title Reference
LOT 76 ON REGISTERED PLAN 136121	15315079

3. Lessee	Given names	Surname/Company name and number (include tenancy if more than one)
		STS SYSTEMS PTY LTD ACN 056 962 004

4. Interest being leased
Fee Simple

5. Description of premises being leased
The whole of the Lot

6. Term of lease
Commencement date/event: 22/05/2017
Expiry date: 21/05/2020
#Options: 2 X 3 YEARS

7. Rental/Consideration
See Schedule

8. Grant/Execution

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

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

..... signature
DENISE LOUISE MAXWELL full name
SOLICITOR qualification

5/6/17
Execution Date

.....
Lessor's Signature

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

9. Acceptance

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

..... signature
..... full name
..... qualification

STS Systems Pty Ltd ACN 056 962 004

x x
Director Secretary
Lessee's Signature

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

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Title Reference 15315079

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..... signature
..... DENISE LOUISE MAXWELL full name
..... SOLICITOR qualification

576117
Execution Date

.....
Lessor's Signature

Witnessing Officer

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

This is the attached schedule to the lease dated/...../2017

Reference Schedule

Item 1	Premises:	Lot 76 on RP 136121 Title Reference 15315079
Item 2	Address of Premises:	20 Dulwich Street, Loganholme Q4129
Item 3	Lessor:	Oswald Dittmann and Gisela Dittmann as Trustees under Instrument 706593786
Item 4	Lessee:	STS Systems Pty Ltd ACN 056 962 004
Item 5	Prior Encumbrances:	Nil
Item 6	Commencement of Lease:	22 nd May 2017
Item 7	Termination of Lease:	21 st May 2020 (being a Term of Three [3] years)
Item 8	Option:	Further Term: 2 options of three (3) years each
Item 9	Rent:	Base Rent: \$84,000.00 per annum plus GST
Item 10	Permitted Use:	Manufacturing pre-stressing components
Item 11	Public Liability Policy:	\$10 million
Item 12	Outgoings:	100%
Item 13	Base Rent Review:	
	(a) Market Review Date(s):	The date of commencement of the second further term referred to in Item 8 .
	(b) Fixed % Review:	(1) <i>Date(s):</i> Each anniversary of the commencement of the first further term referred to in Item 8 other than a Market Review Date; (2) <i>Fixed Percentage:</i> 3%
	(c) CPI Review Date(s):	Not applicable
Item 14	Covenantor:	
Item 15	Security Deposit:	An amount equivalent to one (1) months rent plus GST and being as at the Start Date seven thousand seven hundred dollars (\$7,700.00)
Item 16	Amount of Security Deposit for Works	Nil

1. Parties' Intentions

- (a) The Lessor wishes to lease the Premises to the Lessee and the Lessee wishes to take a lease of the Premises for the Term.
- (b) The Lessee will occupy and use the Premises in accordance with this Lease.
- (c) The Lessee will punctually pay all Rent, Outgoings and other money payable under this Lease.

2. Services Provided by and Obligations of Lessor

2.1 Quiet enjoyment

If the Lessee complies with this Lease, it may possess the Premises during the Term without disturbance from the Lessor (or any person claiming through it) except to the extent disturbance is expressly permitted by this Lease.

2.2 24 hour entry to Premises

The Lessee may enter and use the Premises at any time, subject to this Lease, the law and requirements of statutory authorities.

2.3 Air-conditioning

The Lessor must use reasonable endeavours to keep the Lessor's air-conditioning plant and equipment working to air-condition the Premises.

2.4 Lights

- (a) The Lessee must promptly repair or replace broken or faulty light switches and fittings, bulbs, tubes and starters for fluorescent tubes in the Premises.
- (b) The Lessor is not required to (but may, at the Lessee's expense) repair or replace items broken by the Lessee's Act or Omission.

2.5 Testing of air-conditioning plant

If the Lessor's air-conditioning plant and equipment is water cooled ducted air-conditioning, the Lessor must test the water in and clean the cooling tower as required by the relevant Australian Standard.

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2.6 Lessor's liability - limited recourse

- (a) It is agreed that the Lessor or the successor in title to the original Lessor may enter into or hold this Lease (or both) in its capacity as a trustee. In that event, the following provisions of this clause 2.6 apply.
- (b) Any liability of the Lessor arising under or in connection with this Lease is strictly limited to the extent to which (and can be enforced against the Lessor only to the extent to which) it can be satisfied out of property of the Trust out of which the Lessor is actually indemnified for the liability. This limitation of the Lessor's liability applies despite any other provision of this Lease and extends to all liabilities and obligations of the Lessor in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Lease.
- (c) The parties other than the Lessor may not sue the Lessor in any capacity other than as trustee of the Trust, including seeking the appointment of a receiver (except in relation to property of the Trust), a liquidator, an administrator or any similar person to the Lessor or prove in any liquidation, administration or arrangement of or affecting the Lessor (except in relation to property of the Trust).
- (d) The provisions of this clause 2.6 shall not apply to any obligation or liability of the Lessor to the extent that it is not satisfied because under the trust deed establishing the Trust or by operation of law there is a reduction in the extent of the Lessor's indemnification out of the assets of the Trust, as a result of the Lessor's fraud, negligence or breach of trust.

3. Lessee's Obligations - Rent and Other Money

3.1 Payment of rent and other money

- (a) **Rent:** The Lessee must pay Base Rent to the Lessor by monthly instalments each equal to ONE TWELFTH (1/12th) of the then current Base Rent. If necessary, the first and last payments shall be apportioned in respect of time.
- (b) **Outgoings:** If the Lessor notifies the Lessor's estimate of the Rates and Taxes and the Lessor's estimate of Other Operating Expenses, the Lessee must pay the Outgoings as per that estimate to the Lessor during the period to which the estimate relates by equal monthly instalments.
- (c) **Timing for payment of rent and outgoings:** Instalments of Rent and Outgoings must be paid (whether or not demanded by the Lessor) in advance on the first day of the Term and on the first Business Day of every month in the Term.
- (d) **Timing for payment of other money:** Unless otherwise specified in this Lease, all money payable by the Lessee to the Lessor must be paid within TEN (10) Business Days of service on the Lessee of the monthly statement requiring payment of the same.
- (e) **Method of payment:** Unless the Lessor otherwise notifies the Lessee, all money payable by the Lessee to the Lessor must be paid by unendorsed cheque payable to the Manager delivered to the Manager at the place notified by the Manager. Without limit, the Lessee must, if required by the Lessor, pay all Rent and Outgoings to the Lessor by directing the Lessee's bank to debit the Lessee's account for those amounts and credit them to the bank account nominated by the Lessor from time to time. All money payable by the Lessee must be paid free of exchange, without deduction or set-off.
- (f) **Services in premises:** The Lessee must promptly pay all accounts for telephone, electricity, oil, gas and other services consumed in the Premises by or on behalf of the Lessee.
- (g) **Any special charges:** The Lessee must pay the Lessor any assessment for trade waste, water, ambulance cover levy, special cleaning charges or other costs incurred as a result of the Lessee's use or occupation of the Premises.
- (h) **GST:**
 - (i) Any reference in this clause to terms defined or used in the A New Tax System (Goods and Services Tax) Act 1999 is, unless the context indicates otherwise, a reference to that term as defined or used in that Act.
 - (ii) Any amount referred to in this Lease which is relevant in determining a payment to be made by one of the parties to the other is exclusive of GST unless indicated otherwise.
 - (iii) If GST is imposed on a supply made under or in connection with this Lease then the consideration provided for that supply is increased by the rate at which that GST is imposed. The additional consideration is, subject to the supplier providing the recipient with a tax invoice, payable at the same time and in the same manner as the consideration to which it relates.

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- (iv) If a party refunds to the other party any amount on which GST has been paid, that party must also refund an amount in respect of any GST paid in respect of that amount.
- (v) If one of the parties to this Lease is entitled to be reimbursed for an expense or outgoing incurred in connection with this Lease, then the amount of the reimbursement will be net of any input tax credits which may be claimed by the party being reimbursed in relation to that expense or outgoing.

3.2 Lessee to pay Lessee's Proportion of Rates and Taxes and Other Operating Expenses

- (a) For each Outgoings Period, the Lessee must pay to the Lessor:
 - (i) the Rates and Taxes accrued in that Outgoings Period; and
 - (ii) the Other Operating Expenses accrued in that Outgoings Period.
- (b) Outgoings accrue in equal daily increments (irrespective of the period for which they are paid or payable) and must be apportioned accordingly.

3.3 Estimates of outgoings, statements and adjustments

- (a) The Lessor may notify the Lessee of the Lessor's estimate in good faith of the Rates and Taxes and Other Operating Expenses for any period not exceeding ONE (1) year in advance.
- (b) On computation of the Rates and Taxes and Other Operating Expenses for the relevant year ending 30 June, any necessary adjustment between the amount paid by the Lessee for estimated Rates and Taxes and Other Operating Expenses and the actual amount of the Rates and Taxes and Other Operating Expenses must be made between the parties.

3.4 Interest payable by lessee on overdue money

- (a) Without prejudicing the Lessor's other rights and remedies, the Lessee must pay interest to the Lessor at the Prescribed Rate on any money due but unpaid by the Lessee.
- (b) Interest shall be calculated daily from the due date up to and including the date the Lessor receives full payment.
- (c) Failure by the Lessor to promptly claim interest on arrears does not waive the Lessor's right to claim interest.
- (d) **Prescribed Rate** means TWO per cent (2%) more than the Indicator Lending Rate current at the date the money becomes due, and at the first day of each month while the money remains due.

3.5 Cost of lease, default, lessor's approval etc

- (a) Each party must bear its own legal costs in connection with the preparation, negotiation, execution and registration of this Lease.
- (b) The Lessee must pay within TEN (10) Business Days of written notice the Lessor's reasonable costs (including legal costs) and all charges, duties, fees and expenses of or incidental to:
 - (i) any request for the consent or approval of or waiver by the Lessor under this Lease (other than the consent to this Lease of any mortgagee of the Lessor, which is a cost payable by the Lessor),
 - (ii) any breach or default by the Lessee or the Lessee's Agents under this Lease, and the exercise or attempted or proposed exercise of any right, power or remedy of the Lessor under this Lease, in law or equity, and
 - (iii) surrender or termination of this Lease other than by expiration.
- (c) The Lessee must pay or reimburse the Lessor for lease registration fees on this Lease and surveyors fees for preparation of plans of the Premises in registrable form.

3.6 Fixed percentage reviews of Base Rent

- (a) At each Fixed Percentage Review Date, the Base Rent must be reviewed and the Base Rent payable on and from the relevant Fixed Percentage Review Date until the next Review Date shall be the Base Rent payable immediately prior to the relevant Fixed Percentage Review Date (such Base Rent determined as if no abatement or reduction were in effect) increased by the Fixed Percentage.
- (b) Where the application of sub-clause (a) results in a number of dollars and a number of cents, the amount must be rounded up to the nearest dollar.
- (c) The Lessor's right to have the Base Rent reviewed as at a Fixed Percentage Review Date is not forfeited, lost, postponed or otherwise prejudicially affected if the Lessor fails to review the Base Rent in accordance with this clause or to notify the Lessee of the reviewed Base Rent.

3.7 CPI reviews of Base Rent

- (a) At each CPI Review Date, the Base Rent must be reviewed and the Base Rent payable on and from the relevant CPI Review Date until the next Review Date shall be the greater of:
 - (i) the Base Rent payable immediately prior to the relevant CPI Review Date (such Base Rent determined as if no abatement or reduction were in effect); and
 - (ii) the amount calculated as follows:

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

where:

- A = the amount referred to in this sub-clause;
- B = the Base Rent payable immediately prior to the relevant CPI Review Date (such Base Rent determined as if no abatement or reduction were in effect);
- C = the Current CPI; and
- D = the Base CPI.

- (b) Where the application of sub-clause (a) results in a number of dollars and a number of cents, the amount must be rounded up to the nearest dollar.
- (c) If at any time the Consumer Price Index is discontinued or abolished, then the price index substituted for it by the Australian Statistician shall be used for the calculations referred to in sub-clause (a).
- (d) If at any time the Australian Statistician changes the reference base for the Consumer Price Index, then, for the purposes of the application of this clause after the change takes place, regard shall be had only to index numbers published in terms of the new reference base.
- (e) The Lessor's right to have the Base Rent reviewed as at a CPI Review Date is not forfeited, lost, postponed or otherwise prejudicially affected if the Lessor fails to review the Base Rent in accordance with this clause or to notify the Lessee of the reviewed Base Rent.

3.8 Market Reviews of Base Rent

If **Item 13(a)** is applicable, the provisions of Schedule 3 apply at each Market Review Date PROVIDED THAT THE Rent determined on a Market Review Date must not be less than the Rent payable in the year immediately preceding the relevant Market Review Date.

4. Lessee's General Obligations

4.1 Permitted Use

- (a) The Lessee must use the Premises only for the Permitted Use.
- (b) The Lessee must promptly obtain and comply with all approvals, consents, licences and permits required for the Premises to be lawfully used for the Permitted Use and for any works to be effected in the Premises by the Lessee.
- (c) The Lessee must not conduct any illegal, immoral, offensive or unlawful use in the Premises or do anything in the Premises which causes nuisance, damage or disturbance to any occupier of any nearby property.
- (d) The Lessee must not, without the prior consent of the Lessor (given or withheld in its absolute discretion) and all relevant authorities, have in the Premises anything which is flammable, explosive, toxic, hazardous or injurious to health.
- (e) Smoking is prohibited in the Premises. The Lessee must take all steps reasonably necessary to ensure that people in the Premises do not smoke and that people are not injured by any cigarette, cigar or tobacco smoke originating in the Premises. The Lessee indemnifies the Lessor and Manager against all Liabilities suffered or incurred by the Lessor and the Manager (or either of them) arising out of or in connection with a breach of this sub-clause.
- (f) The Lessee must not bring on the Premises plant or equipment which may damage or overload the Premises.
- (g) The Lessee must take all reasonable precautions to keep the Premises free of vermin, insects, birds and animals and, as required by the Lessor, must employ qualified pest exterminators.

4.2 Security of Premises

- (a) The Lessee must use all reasonable endeavours to keep the Premises safe from theft and to lock all lockable doors when the Premises are unoccupied.
- (b) People authorised by the Lessor may enter the Premises for any purpose relating to security, but this does not make the Lessor responsible for the security of the Premises.
- (c) The Lessee must not permit any access keys to be duplicated or to be held by persons other than those reasonably approved by the Lessor. Upon determination of this Lease, the Lessee must return to the Manager all access keys issued to it.

4.3 Obligations relating to access

In exercising its rights in clause 2.2, the Lessee must comply with the Lessor's reasonable requirements for control of, access to and use of the Premises. Clause 2.2 does not limit the Lessor's right to at any time clean, maintain, repair, service, test, renovate and refurbish any part of the Premises as provided in this Lease.

4.4 Compliance with rules and statutes

- (a) The Lessee must comply with all statutes and regulations and all approvals, directions, requirements, notices, orders or permits of any authority in respect of this Lease, the

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Premises, the use of the Premises, the health or safety of people using the Premises, and the Lessee's Equipment.

- (b) The Lessee is not liable under sub-clause (a) for any alteration or addition to the structural parts of the Premises unless caused or contributed to by the Lessee's (or the Lessee's Agents') particular use or occupation of the Premises or unless it arises out of the Lessee's Act or Omission, any act, default, misconduct, neglect, negligence or omission of the Lessee's Predecessors or any work effected by or on behalf of the Lessee, the Lessee's Agents or the Lessee's Predecessors at any time (before or after the commencement of the Term).
- (c) Without limiting or being limited by any other provision of this Lease, the Lessee:
 - (i) acknowledges and agrees that it has been informed by the Lessor that compliance by the Lessee with all laws and authority approvals, directions, requirements, notices, orders and permits in relation to employee health and safety is a key covenant by the Lessee in favour of the Lessor; and
 - (ii) must indemnify the Lessor and the Manager (and their respective agents, contractors and employees) against all Liabilities which the Lessor, or the Manager (or their respective agents, contractors and employees) suffers or incurs arising out of any non-compliance by the Lessee with any laws or authority approvals, directions, requirements, notices, orders or permits in relation to employee health and safety.

4.5 Advertisements and signs

The Lessee must not, without the Lessor's prior approval (not to be unreasonably withheld or delayed) affix or display any advertisement, logo, notice, sign or other device to or in the Premises

4.6 Fire or emergency drills; evacuation

- (a) The Lessee must comply with all the Lessor's fire and emergency drills and instruction programs for fire and emergency procedures.
- (b) The Lessee must appoint and keep appointed an adequate number of floor wardens for the Premises. The Lessee must promptly give notice to the Manager of the names of the wardens.
- (c) Either the Lessor or the Manager (if informed of a bomb threat or believing there is a fire or other risk in the Premises) may request the Lessee and the Lessee's Agents to immediately vacate the Premises and they must immediately comply.
- (d) The Lessee and the Lessee's Agents have no claim against the Lessor or the Manager for any loss, injury, death, damages for loss of profits, abatement or set-off due to or arising out of any drill, program or evacuation under this clause, except to the extent that the same has been caused by the negligence of the Lessor or the Manager.

4.7 Equipment, systems and services

The Lessee must:

- (a) not install or connect any equipment or do any act that overloads the Lessor's air-conditioning plant and equipment or the cables or boards through which electricity is conveyed in the Premises, and
- (b) comply with the Lessor's reasonable requirements in relation to (and must not do anything which interferes with the efficient operation of) the air-conditioning plant and equipment, security, sprinkler and fire alarm installations and any other services in and amenities of the Premises.

4.8 Lessee to give notice of accident and lack of repair

On becoming aware of the same, the Lessee must notify the Manager of:

- (a) damage, injury, death or loss occurring in and any defect or want of repair in the Premises or in any services in or to the Premises, and
- (b) any circumstances likely to cause danger, risk or hazard to any person or property in or services and amenities of the Premises.

4.9 Any head lease or other interest

- (a) The Lessee must permit any person having an interest in the Land or the Premises superior to or concurrent with the Lessor to exercise the Lessor's rights under this Lease and to exercise their lawful rights in respect of the Premises.
- (b) Any person (other than the Lessor) who becomes entitled to receive the money payable under this Lease has the benefit of all the Lessee's and any Covenantor's agreements under this Lease. The Lessee and the Covenantor must (at the Lessor's reasonable cost) promptly on request enter into a deed with that person in the form and containing the provisions reasonably required by the Lessor.

4.10 No warranty as to suitability, exclusive rights or otherwise

- (a) The Lessee agrees that (other than as disclosed under sub-clause (b) or as expressly contained in this Lease), no promise, representation, undertaking or warranty (*Promise*) given by or on behalf of the Lessor or the Manager has been relied on by the Lessee in entering into this Lease or has in any material way induced the Lessee to enter into this Lease.

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- (b) The Lessee must disclose to the Lessor in writing before the Lessee executes this Lease any Promise (other than those expressly contained in this Lease) that the Lessee has relied on in entering into this Lease or which has in any material way induced the Lessee to enter into this Lease.
- (c) The Lessee is liable to the Lessor in damages for all Liabilities which the Lessor or the Manager (as applicable) suffers or incurs arising out of the Lessee's failure to disclose and for any judgment awarded against the Lessor or the Manager arising out of any Promise given by or on behalf of the Lessor or the Manager and not disclosed by the Lessee.

4.11 Supply of electricity by Lessor

The Lessor may (at its option) supply to the Lessee from any bulk supply of electricity purchased by the Lessor for the Premises all electricity consumed on the Premises. In such case:

- (a) The Lessee agrees to purchase from the Lessor all electricity consumed on the Premises.
- (b) So far as it is able, the Lessor must supply electricity to the Premises during the times the Lessee is permitted to use the Premises.
- (c) The Lessee must pay for electricity consumed in the Premises on the basis of the metered consumption at a rate from time to time which is the lowest tariff rate which the Lessee would have paid had it been a non-contestable customer of the relevant retail entity (as defined in the *Electricity Act 1994*) or if there is no relevant retail entity, the retail entity which supplies electricity to the Lessor at the Premises.
- (d) The amount of electricity consumed from time to time by the Lessee will be determined from readings by the Lessor of the meter metering the Premises.
- (e) The Lessor may render accounts to the Lessee from time to time for electricity consumed in the Premises.
- (f) If the Lessee fails to punctually pay any account under sub-clause 4.11(e), the Lessor may, in its absolute discretion and without prejudice to any other right or remedy, disconnect the supply of electricity to the Premises. The Lessee must pay to the Lessor on demand any cost of such disconnection and of any reconnection of the supply. The Lessee is not entitled to claim compensation, damages or an abatement of Rent, Cleaning Rent, Outgoings or any other amount payable under this Lease, as a result of or in connection with such disconnection.

5. Lessee's Obligations – Premises and Equipment

5.1 Cleaning and Repair of Premises

- (a) The Lessee must keep the Premises (including windows) clean and tidy and maintain, repair and keep the Premises in good and substantial repair, order and condition (the Premises being in that state at the date in **Item 6**), except for damage caused by reasonable wear and tear, explosion, earthquake, aircraft or other aerial device, civil commotion, fire, flood, lightning, riot, storm, tempest, act of God or war.
- (b) Despite sub-clause (a):
 - (i) all maintenance and repair of any Lessor's plant and equipment at any time in the Premises must be carried out by the Lessor unless the Lessor otherwise notifies the Lessee (and the Lessee must pay the cost of any such maintenance and repair); and
 - (ii) the Lessee is not required to repair any structural parts of the Premises except where the need for the repair arises out of the Lessee's Act or Omission, any act, default, misconduct, neglect, negligence or omission of the Lessee's Predecessors or any work effected by or on behalf of the Lessee, the Lessee's Agents or the Lessee's Predecessors at any time (before or after the commencement of the Term).
- (c) Without limiting or being limited by sub-clause (a) and clause 9.5, the Lessee must, at its own expense:
 - (i) **re-paint:** paint, regrout, re-cover, clean or otherwise appropriately treat those parts of the Premises and the Lessee's partitions usually so treated in a proper workmanlike manner, with materials and to standards approved by the Lessor at or immediately prior to the Lessee yielding up the Premises and from time to time if necessary or reasonably required by the Lessor;
 - (ii) **Lessee's Equipment:** maintain the Lessee's Equipment clean and in good repair and condition and keep current maintenance and repair contracts (in accordance with the Lessor's reasonable requirements) in respect of any Lessee's Equipment linked to the air-conditioning, electrical, fire protection, emergency or other Premises systems;
 - (iii) **blinds:** if required by the Lessor, throughout the Term have, at each external window, blinds or drapes (**Blinds**) approved by the Lessor for use in the Premises (with a view to uniformity and optimising air-conditioning performance throughout the Premises), maintain those Blinds (and any Blinds **already** installed in the Premises) in good repair,

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order and condition, and ensure that Blinds are drawn at all times when desirable to reduce radiated heat from direct sunlight on windows.

- (d) In this clause "repair" includes replacement, where repair is not reasonably practical. Where either repair or replacement would be conspicuous, it also means additional works or replacements needed to make that repair or replacement inconspicuous. Any replacements of the Lessor's fixtures, fittings, furnishings, plant and equipment belong to the Lessor.

5.2 Alterations to Premises, partitioning and fixtures

- (a) The Lessee must not without the prior approval of the Lessor and all relevant authorities:
- (i) alter the Premises,
 - (ii) use in the Premises any explosive power driven method of fixing articles or any cutting or welding equipment using or generating electric current, heat, flame, molten metal or spark,
 - (iii) cut, deface, drill, hole, mark or affix anything to any floor, floor covering, ceiling, curtain, wall or window of the Premises,
 - (iv) install, alter or relocate the Lessee's partitions, fixtures or cabling in the Premises (**Lessee's Fixtures**), or
 - (v) install additional lights or alter lights, power outlets, switches, electrical switching arrangements, telephone outlets, Lessor's air-conditioning plant and equipment, plumbing, sprinkler, security and fire alarm installations or other equipment and plant in or adjacent to the Premises.
- (b) In seeking the Lessor's approval under sub-clause (a), the Lessee must submit to the Lessor the details the Lessor reasonably requires. The Lessor's approval to the matters in paragraphs (i) to (iii) (inclusive) may be given or withheld in its absolute discretion.
- (c) Any approvals given under sub-clause (a) will be subject to the Lessor's reasonable conditions including (without limit) that:
- (i) the finishes and materials used must be of a first class quality and standard,
 - (ii) each contractor keeps current a public liability policy complying with the Lessee's obligations under clause 6.1, a contractors all risk policy, an insurance policy in relation to consequential loss caused by the works and workers compensation insurance (all such policies to be taken out in the names of the contractor, the Lessee and the Lessor for their respective interests),
 - (iii) the Lessee, its contractors and sub-contractors comply with any site agreements applying to the Premises,
 - (iv) the work be supervised by a person nominated by the Lessor and carried out by tradesmen approved by the Lessor (and the Lessee acknowledges that neither the supervisor nor the Lessor is responsible for any Liabilities arising out of the work),
 - (v) the floor coverings in the Premises and the floors of relevant Common Areas be lined by the Lessee with suitable material during delivery or removal of dust, fibre or powder creating material,
 - (vi) the Lessee pays the Lessor's standard fitout coordination fee for considering the Lessee's submissions and supervising those works and the reasonable fees of any consultants engaged by the Lessor, and
 - (vii) the Lessee obtains and delivers to the Manager copies of certificates of compliance issued by relevant authorities.
- (d) The Lessee must pay:
- (i) the cost of the Lessee's Fixtures and the cost of installing, altering or relocating the Lessee's Fixtures, and
 - (ii) the cost of all additional lights and all alterations to the items referred to in sub-clause 5.2(a)(v) reasonably required by the Lessor or required by law, by any authority or by the Lessor's insurer as a result of any of the matters referred to in sub-clause (a).
- (e) The Lessee must ensure that all work carried out by it or on its behalf is carried out at times and in a manner which causes no damage or nuisance to the Premises. The Lessee must comply with the Lessor's directions in that respect, and with the terms of the then current "Demolition and Make Good Scope of Work" guide for the Premises (if any), and the then current "Fitout Guide" for the Premises (if any) by whatever name these guides are called.

5.3 Security Deposit for works, as built drawings and certification

- (a) On or before the date of commencement of any works referred to in clause 5.2, the Lessee must pay to the Manager the amount set out in **Item 16** as a security deposit (**Security Deposit**) for the performance by the Lessee of its obligations under this Lease in relation to those works. The Lessor must procure that the Security Deposit is held by the Manager in accordance with the provisions of this clause.

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- (b) The Lessor may draw on the Security Deposit to rectify any breach by the Lessee of clause 5.2 or this clause.
- (c) Regardless of whether or not the Lessee complies with clause 5.3(a), immediately after any works referred to in clause 5.2 have been completed, the Lessee must attend a meeting with the Manager and at that meeting must deliver to the Manager all of the following:
 - (i) copies of current certificates and approvals from all relevant authorities authorising the Lessee to occupy the Premises;
 - (ii) certification (in a form reasonably acceptable to the Lessor) from a contractor nominated or approved by the Lessor that all services have been installed in or adjacent to the Premises in accordance with the requirements of all relevant authorities and are compliant with the base building services, together with all relevant commissioning data;
 - (iii) written details of all commissioning data and two sets (one being a sepia and paper copy and one being a C.A.D. copy) of all "as installed" drawings for all services in or adjacent to the Premises including air-conditioning, air balance data and partition layout;
 - (iv) a computer disc (compatible with the computer system then used by the Lessor in managing the Premises) containing professionally drawn accurately dimensioned "as built" drawings of the works (including diagrams of the items referred to in clause 5.2(a)(v)); and
 - (v) copies of all services warranties, guarantees and contractual maintenance obligations in relation to the relevant works.
- (d) The Lessor must procure the refund to the Lessee of the Security Deposit or so much of the Security Deposit as has not been used by the Lessor or the Manager pursuant to this clause as soon as practicable after the first to occur of the following:
 - (i) the date on which the Lessee complies in full with its obligations under clause 5.2 and this clause in relation to the relevant works; and
 - (ii) the date on which this Lease expires or is determined.

5.4 No mortgage of Lessee's equipment

The Lessee must not charge, lease, hire or mortgage any Lessee's Equipment without the Lessor's prior consent which will be given if the Lessee's credit provider is a recognised financial institution who promptly signs and returns the Lessor's usual documentation and the Lessee has paid the Lessor's reasonable costs and expenses of and incidental to the consent and documentation.

5.5 Fitout and equipment paid for or supplied by Lessor

- (a) If the Lessor has paid for or supplied Fitout Works and/or other equipment for the Premises, that Fitout Works and/or equipment will belong to the Lessor and it will be taken into account when determining the rental value of the Premises. However:
 - (i) the Lessee must clean, maintain, service, repair and (if necessary) replace it (including structural repairs and capital works) to maintain it in good condition;
 - (ii) the Lessee will be responsible in respect of it (including any liability for any malfunction or unsafe condition) and must effect insurance in respect of it;
 - (iii) the Lessor will not be required to repair or replace it (nor to make any claim on its insurance) if it is defective, damaged or destroyed; and
 - (iv) except to the extent that the Lessor requires it to remain in the Premises on termination of the Lease, it must be removed by the Lessee from the Premises on termination of this Lease, and the provisions of clauses 9.3, 9.4 and 9.5 will apply, as if it were Lessee's Equipment, with the intent that the Lessee will bear all risks in respect of it.
- (b) Before commencing reinstatement of the Premises at the termination of this Lease, the Lessee must ascertain from the Lessor which (if any) of such Fitout Works or equipment the Lessor wishes to remain in the Premises.

The terms of any Fitout Works agreement or agreement to lease concerning the basis on which any such Fitout Works or equipment is paid for or supplied by the Lessor are incorporated into this Lease (including, in particular, any terms by which amounts are required to be reimbursed or paid as damages to the Lessor in respect of that Fitout Works or equipment if this Lease is prematurely terminated). Any such amounts will be in addition to amounts payable by the Lessee under clause 10.3.

6. Insurance, Risk and Indemnity

6.1 Lessee to effect insurance policy

- (a) The Lessee must effect and keep current:
 - (i) a public liability insurance policy for the Premises in an amount not less than that in **Item 11** (or any higher amount determined in good faith by the Lessor and notified in writing to the Lessee) in respect of any single claim;

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- (ii) plate glass; and
- (iii) an industrial special risks policy in respect of the Lessee's Equipment for its full insurable value against all usual risks.
- (b) Each insurance policy in sub-clause (a) must:
 - (i) be taken out in the name of the Lessee and note the interest of the Lessor as owner of the Premises,
 - (ii) be effected with a reputable insurer approved by the Lessor,
 - (iii) cover the risks and indemnities in clauses 6.3 and 6.4,
 - (iv) note that it shall not lapse, terminate, vary or forfeit without at least a month's prior written notice to the Manager,
 - (v) bear endorsement that notice of any occurrence given by one insured is deemed to be notice given by all insured parties and that breach of duty or failure by one insured to observe the conditions of the policy does not prejudice the rights of any other insured,
 - (vi) provide that the insurer waives all claims against the Lessor, its agents, contractors, employees and officers (except to the extent that the claim being waived is caused by the negligence or wrongful act or omission of the Lessor, its agents, contractors, employees or officers), and
 - (vii) conform with the Lessor's reasonable requirements notified in writing to the Lessee.
- (c) The Lessee must deliver to the Lessor adequate written evidence of the existence and contents of each policy immediately it is effected and of its currency when reasonably required by the Lessor.
- (d) The Lessee must give the insurer full and true information of all matters known to the Lessee (non-disclosure of which may prejudice the policy) and do all things necessary to provide any information or evidence to enable the Lessor to promptly recover any money due to the Lessor under any policy referred to in this Lease.

6.2 Lessee not to void insurances; extra premiums

- (a) The Lessee must not cause the rate of any insurance premium relating to the Premises to be increased, or prejudice or render void or voidable that insurance.
- (b) If the Lessor approves (in its absolute discretion) any request of the Lessee whereby an insurable risk is increased, the Lessee must pay to it any extra premiums due to the increased risk.

6.3 Release of Lessor and Manager

The Lessee releases the Lessor and the Manager (and their respective agents, contractors and employees) from all actions, claims, demands and Liabilities arising from any damage, loss, death or injury occurring in or on the Premises, except to the extent that the same is caused by the negligence or wrongful act or omission of the person seeking to be released.

6.4 Indemnities by lessee

- (a) The Lessee indemnifies the Lessor and the Manager (and their respective agents, contractors and employees) against all Liabilities which the Lessor or the Manager (or their respective agents, contractors and employees) suffers or incurs arising out of the Lessee's Act or Omission, any act or omission of any kind by any trespasser (while that trespasser is in the Premises) or any faulty Lessee's Equipment.
- (b) Without limiting or being limited by sub-clause (a), the Lessee indemnifies the Lessor and the Manager against all Liabilities which the Lessor or the Manager suffers or incurs as a result of the occupation of the Premises by the particular Lessee where those Liabilities would not have been suffered or incurred by the Lessor and the Manager (or either of them) had the particular Lessee not been the lessee of the Premises.

6.5 Any failure of services

- (a) If any services provided by the Lessor or enjoyed by the Lessee in conjunction with the Premises, (including, without limit, the Lessor's air-conditioning plant and equipment) malfunctions or fails then, subject to sub-clause (b):
 - (i) the Lessor and the Manager are not liable for any resulting Liabilities suffered or incurred by the Lessee or the Lessee's Agents,
 - (ii) the Lessee is not entitled to determine this Lease and has no right of abatement or set-off of Rent or other money, and
 - (iii) the Lessee and the Lessee's Agents have no claim for compensation or damages against the Lessor or the Manager.
- (b) Despite sub-clause (a), where the Lessor's air-conditioning plant and equipment fail or malfunction due to the Lessor's failure to comply with clause 2.3, then (subject to clause 4.7) the Lessee's rights (if any) against the Lessor are in damages only.

6.6 No liability for any losses caused by cleaners, security etc

Despite any other provision in this Lease, neither the Lessor nor the Manager are liable for:

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- (a) failure by any security organisation to prevent any unauthorised entry to the Premises, or
 - (b) death, injury, loss or damage caused or contributed to by a contractor (or its agents, employees or sub-contractors),
- where the organisation or contractor has been engaged in good faith by or on behalf of the Lessor and the Lessor reasonably believes it is reputable.

6.7 Lessee's obligations at own risk and expense

Unless this Lease expressly provides otherwise in a particular provision, any act, matter or thing which the Lessee is obliged, required or permitted to do or effect under this Lease, the Lessee's Equipment and the use and occupation of the Premises by the Lessee are all at the sole risk, cost and expense of the Lessee.

7. Lessor's General Rights

7.1 Lessor's right to inspect and show premises

The Lessor may at all reasonable times on reasonable notice enter the Premises accompanied by a representative of the Lessee:

- (a) to inspect them to ascertain their repair, condition and value or to determine if the Lessee is in breach,
- (b) to show them to prospective investors in or purchasers of any estate or interest in the Premises, and
- (c) to show them to prospective tenants.

7.2 Access for maintenance and authority requirements

(a) The Lessor may on reasonable notice (except where the Lessor perceives an emergency, when no notice is required) enter the Premises accompanied by a representative of the Lessee with materials and equipment to:

- (i) clean, install, inspect, change, maintain, repair, remove or use any part of the Premises (and the Lessor's plant, equipment and services in the Premises and the fabric or structure of the Premises;
- (ii) carry out works consented to by the Lessee acting reasonably;
- (iii) carry out any maintenance or repairs to the Premises; and
- (iv) comply with any law, direction, notice, order, requirement or request for which the Lessee is not liable under this Lease.

(b) Under sub-clause (a), the Lessor must not interfere with the Lessee's use of the Premises more than is reasonably necessary (in the Lessor's reasonable opinion) and must remove resulting rubbish and leave the parts of the Premises used clean and in good condition.

7.3 Easements and rights of support

- (a) The Lessor may grant rights of support or easements to or enter into any agreement with any person interested in any land or improvement near the Land or any authority, to provide services for or access to the Premises, the Land or nearby land or to support any structure at any time on the Land or on nearby land.
- (b) Sub-clause (a) does not authorise the Lessor to enter into any agreement derogating substantially from the Lessee's rights in the Premises under this Lease without the Lessee's written consent. The Lessee and any Covenantor must (at the Lessor's request and at the Lessee's cost) promptly withdraw any caveat and execute any consents or other documents, to enable the Lessor to exercise its rights under this clause.

7.4 Hours during which Lessor may close doors of Premises

The Lessor may close or lock any part of the Premises due to civil disturbance, demonstration or any other cause which, in the Lessor's reasonable opinion, may endanger the Premises or any person in the Premises.

7.5 Damage by lessee to the Premises

The Lessor may make good any damage to the Premises caused or contributed to by the Lessee's Act or Omission and the Lessee must pay to the Lessor the cost of the making good.

7.6 Other works in or on the Premises

- (a) The Lessee acknowledges that the Lessor (and those claiming through or under the Lessor) may from time to time carry out works in or on the Premises including:
 - (i) repairs and maintenance; and
 - (ii) works required in order to comply with any law, direction, notice, order, requirement or request for which the Lessee is not liable under this Lease;

PROVIDED THAT the Lessor shall use all reasonable endeavours not to interfere with the Lessee's use and quiet enjoyment of the Premises in carrying out such works.

- (b) The Lessor is not liable to the Lessee for any Liabilities suffered or incurred by the Lessee or the Lessee's Agents arising out of the works referred to in sub-clause (a), and the Lessee

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must not make any claim in relation to (including a claim for abatement or set-off of rent or other money) or terminate this Lease, in connection with such works.

(c) This clause applies despite any other provision of this Lease.

8. Transfer, Sub-Letting, Sale of Shares etc

8.1 Transfer, sub-letting, sharing possession, etc

The Lessee must not transfer, sub-let, part with or share the possession of, grant any licence affecting, or otherwise deal with or dispose of the Premises (or any part of the Premises) or the Lessee's interest under this Lease unless the following provisions of this clause are satisfied:

- (a) **notice to Lessor:** the Lessee gives the Lessor not less than a month's prior notice of its desire to deal with the Premises, details of the parties, documentation and other relevant circumstances;
- (b) **no default:** the Lessee is not in default under this Lease;
- (c) **Lessor's requirements:** the Lessee transfers, sub-leases or grants a licence to:
 - (i) **a transferee, sub-lessee or licensee** which satisfies the Lessor that:
 - (A) it is a respectable, responsible and solvent person, capable of performing the Lessee's agreements under this Lease and with a financial and commercial status equivalent to or better than that represented as applicable to the Lessee when this Lease was agreed to by the Lessor,
 - (B) its proposed occupation and business would involve no higher security risk to or loss of amenity within the Premises than the Lessee's occupation and business, and
 - (C) it meets the Lessor's tenant profile and its proposed business is consistent with the tenant mix in the Premises reasonably required by the Lessor;
 - (ii) **a transferee** who enters into a deed with the Lessor in the form reasonably required by the Lessor (containing an agreement that it will perform the Lessee's agreements in this Lease) and who procures for the Lessor the agreements, indemnities, bank guarantees and personal guarantees reasonably required by the Lessor (including any Bank Guarantee for the amount referred to in **Item 15**);
 - (iii) **a sub-lessee or licensee** who:
 - (A) enters into a deed with the Lessor containing agreements reasonably required by the Lessor, including agreements that the Lessor's consent to the sub-lease or licence is without prejudice to its rights under this Lease, that the sub-lease or licence immediately terminates on the termination of this Lease (unless the Lessor otherwise determines) and that the sub-lessee or licensee must not grant a sub-lease or licence or part with or share the possession of his premises or transfer his sub-lease or licence; and
 - (B) establishes to the Lessor that it is obliged to pay a then current full market rent or licence fee;
- (d) **deed with Lessor:** the Lessee deals (other than by transfer, sub-lease or licence) with a person which enters into a deed with the Lessor in the form and containing the agreements, indemnities and guarantees reasonably required by the Lessor;
- (e) **Lessee pays lessor's costs:** the Lessee pays to the Manager within TEN (10) Business Days of notice, the Lessor's reasonable costs (including legal costs) and disbursements of and incidental to the matters referred to in this clause; and
- (f) **Lessor's requirements on documentation:** the Lessee, transferee, sub-lessee, licensee and any other party to the transaction strictly comply with the Lessor's reasonable requirements in relation to drawing, stamping and registering the transaction documentation.

8.2 Limits on mortgage of Lease

- (a) The Lessee must not charge, mortgage or encumber this Lease or the interest of the Lessee under this Lease or in the Premises, or permit or suffer any sub-lessee or licensee to charge, mortgage or encumber any sub-lease or licence or the interest of the sub-lessee or licensee in the sub-lease or licence or in the Premises.
- (b) Despite sub-clause (a), the Lessee may grant a mortgage or charge over all its assets and undertaking, provided that the mortgagee or chargee first enters into a deed in the form the Lessor reasonably requires, and the Lessee has paid the Lessor's reasonable costs and expenses of and incidental to the deed.

8.3 Sale of shares - default unless Lessor's requirements met

- (a) Sub-clause (c) applies if the Lessee is a corporation whose shares are not listed on the Australian Stock Exchange Limited's official list, or a foreign company whose securities are not quoted for trading on a stock exchange or in a public securities market.
- (b) In sub-clause (c):

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- (i) **Prescribed Rights** means more than 49% of voting, income or capital participation rights in the Lessee; and
- (ii) **Transferor** means any person or persons who beneficially hold or control the Prescribed Rights (or more than 49% of voting, income or capital participation rights in any other company or companies which beneficially hold or control the Prescribed Rights):
 - (A) as at the date in **Item 6**; or
 - (B) if this Lease has been transferred to the Lessee, immediately after the transfer takes effect; or
 - (C) if there has already been a dealing (other than a mortgage or charge) to which this clause applies, immediately after the most recent dealing (other than a mortgage or charge) took effect.
- (c) The Lessee is in default under this Lease if the Transferor transfers, mortgages, charges (other than by way of charge over all its assets and undertaking), grants any option or other rights over, disposes of or ceases to be beneficially entitled to the whole or any part of the Prescribed Rights, unless the following are satisfied:
 - (i) **notice**: the Lessee gives the Lessor not less than a month's prior notice of its desire to deal with the Prescribed Rights, details of the parties, documentation and other relevant circumstances;
 - (ii) **no default**: the Lessee is not in default under this Lease;
 - (iii) **Lessor's requirements**: the Transferor deals with the whole or part of the Prescribed Rights to a person (**Transferee**) which:
 - (A) satisfies the Lessor that it is a respectable, responsible and solvent person, capable of ensuring that the Lessee will comply with this Lease and that the Transferee's interest in the Prescribed Rights involves no higher security risk to or loss of amenity in the Premises than the Transferor's interest in the Prescribed Rights; and
 - (B) procures for the Lessor the agreements, indemnities, Bank Guarantees and personal guarantees reasonably required by the Lessor (including any Bank Guarantee for the amount referred to in **Item 15**); and

Lessee pays lessor's costs: the Lessee pays to the Manager within TEN (10) Business Days of notice, the Lessor's reasonable costs (including legal costs) and disbursements of and incidental to the matters referred to in this clause.

8.4 Assignment and share transfer - costs and documents

The Lessee must pay the Lessor's reasonable costs (including legal costs) and disbursements of and incidental to any proposed dealing under clauses 8.1 or 8.3, even if the Lessee (or other party) does not comply with clauses 8.1 or 8.3 or if the proposed dealing does not proceed.

9. Termination and Yielding Up of Premises

9.1 Effect of resumption, destruction or damage

Clause 9.2 only applies if:

- (a) the Premises are resumed, or
 - (b) the whole or any part of the Premises is destroyed or damaged,
- so as to render the Premises during the Term inaccessible or substantially unfit for the Lessee's use and occupation, so as to deprive the Lessee of use of a substantial part of the Premises during the Term or so as to render the reconstruction of the Premises in its previous form impracticable or undesirable in the Lessor's opinion.

9.2 Lease may be terminated without compensation; abatement

- (a) In the circumstances in clause 9.1, this Lease may (subject to sub-clauses (c) and (i)) be terminated by notice by either the Lessor or the Lessee.
- (b) No liability attaches to any party as a result of termination under this clause, but the termination does not prejudice the Lessor's and the Lessee's rights in respect of any prior breach or matter and does not limit any party's right to compensation from any resuming authority.
- (c) When any damage or destruction in clause 9.1 occurs, the Lessee is only entitled to terminate this Lease pursuant to sub-clause (a) if the Lessor fails to notify the Lessee whether they will rebuild or make the Premises accessible within a reasonable time (having regard to the damage done and the work and approvals required) after the Lessee's notice requesting the Lessor to do so.
- (d) Nothing in this Lease requires the Lessor to rebuild or make the Premises accessible or fit for the Lessee's use.

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- (e) When any damage or destruction in clause 9.1 occurs, the Rent and Outgoings (or a proportionate part according to the Lessor's determination in good faith of the extent of the damage) will abate until the Premises have been rebuilt or made accessible or fit for the Lessee's use or this Lease is terminated under this clause.
- (f) Any dispute about the duration or extent of any abatement under sub-clause (e) must be referred to the decision of a single expert nominated (at the request of the Lessor or the Lessee) by the President of the API.
- (g) The expert must be a full member of the API with at least FIVE (5) years' practice as a registered valuer in Queensland, must act as an expert and not as an arbitrator, must make his determination promptly and must give notice to the parties of his determination. The expert's determination (including as to payment of his costs) is final and binding (except for manifest error).
- (h) Until the dispute is determined, the Lessee must pay Rent and in the amounts determined by the Lessor under sub-clause (e). Within TEN (10) Business Days of the expert notifying the Lessor and the Lessee of his determination, any necessary adjustment must be made between the Lessee and the Lessor.
- (i) Despite any other provision in this Lease, the Lessee has no such right of termination or abatement if the destruction or damage is caused or contributed to by the Lessee's Act or Omission.

9.3 Removal of Lessee's Equipment

- (a) **Right/obligation to remove:** The Lessee:
 - (i) may at any time prior to the expiration of this Lease, and
 - (ii) must immediately prior to or at the expiration or surrender of this Lease (or if this Lease is otherwise sooner determined, within FIVE (5) Business Days after the sooner determination),remove all Lessee's Equipment from the Premises.
- (b) **Conditions applying to removal:** In such removal, the Lessee must:
 - (i) do no damage to the Premises (or immediately make good to the Lessor's satisfaction any damage caused in removing the Lessee's Equipment),
 - (ii) make good to the Lessor's satisfaction any damage caused in affixing or installing the Lessee's Equipment,
 - (iii) take proper steps to prevent damage and excess wear to all relevant floors and floor coverings in the Premises,
 - (iv) remove all rubbish and leave the parts of the Premises used in removing the Lessee's Equipment clean and in good condition.
- (c) **Lessor's approval of certain removal works:** The Lessee must have the removal of the Lessee's Equipment carried out by contractors approved by the Lessor and in accordance with procedures approved by it.
- (d) **Lessee to submit details of removal work:** The Lessee must submit details of the proposed removal works for the Lessor's approval not less than TWO (2) months before the date in **Item 7**.
- (e) **Conditions applying to Lessee's entry if Lease determined:** The Lessee and the Lessee's Agents may only enter the Premises after the expiration or sooner determination of this Lease to comply with this clause and clause 9.5. Entry may only be effected, with the Lessor's prior consent and on the basis that Part 6 and sub-clause (b) apply and that the policies in clauses 6.1(a) and 5.2(c)(ii) are current.

9.4 Lessee's Equipment not removed

- (a) If the Lessee does not remove and carry away the Lessee's Equipment in accordance with clause 9.3, then (subject to clause 9.6(b)) the interest of the Lessee in the Lessee's Equipment not removed immediately passes to the Lessor.
- (b) Where the Lessee's interest in any Lessee's Equipment has passed to the Lessor, the Lessor may leave the Lessee's Equipment on the Premises or (at the Lessee's expense) remove and dispose of the equipment in any way the Lessor thinks fit and repair any damage caused at the Lessee's cost.
- (c) The Lessee indemnifies the Lessor against any Liabilities suffered or incurred by the Lessor in respect of or arising out of sub-clauses (a) and (b).

9.5 Premises to be in good condition on yielding up

- (a) The Lessee must immediately on the expiration or sooner determination of this Lease deliver back possession of the Premises to the Lessor clean and free from rubbish and in good and substantial repair, order and condition in accordance with the Lessee's agreements for maintenance, repair and condition in this Lease.

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- (b) **Services** means that part of the services and facilities (including air-conditioning thermostats, ducts and outlets, fire sprinkler heads and piping, security and fire alarm equipment, lighting, central electrical switching arrangement, emergency lighting and exit signs) provided or installed by or on behalf of the Lessor in the Premises or for the benefit of the Premises in any floor of the Premises.
- (c) **Fitout/Occupation Date** means the date of commencement of this Lease.
- (d) The Lessee must put all the Services into the same good repair and condition as existed immediately prior to the Fitout/Occupation Date.
- (e) Nothing in this clause imposes any obligation on the Lessee to make good any damage caused by reasonable wear and tear, explosion, earthquake, aircraft or other aerial device, civil commotion, fire, flood, lightning, riot, storm, tempest, act of God or war.
- (f) The Lessee must immediately repair any damage to the Premises arising out of any Lessee's Act or Omission under this clause. However, this sub-clause does not limit the Lessor's right under clause 7.5 to make good damage.

9.6 Application of clauses 9.3 to 9.5

- (a) If the Lessee has entered into or is legally entitled to a lease of the whole of the Premises for a further term after the expiration of this Lease, then clauses 9.3 to 9.5 (inclusive) do not apply to the extent that they relate to rights of the Lessor or obligations of the Lessee at or about the expiration of this Lease.
- (b) Clauses 9.3 and 9.4 do not apply to any Lessee's Equipment transferred (with the Lessor's prior approval) to a person who has entered into an agreement for lease or lease with the Lessor or to some recognised financial institution allowing its use by the person (provided that clause 5.4 has been complied with).
- (c) Without limiting the continuing effect of any other provisions, clauses 9.3 to 9.5 (inclusive) continue to operate if this Lease expires or is terminated.

9.7 Failure to comply with clauses 9.3 and 9.5

- (a) Without limiting any other rights the Lessor may have against the Lessee in respect of or arising out of a breach of clauses 9.3 or 9.5, the Lessee must continue to pay amounts equivalent to the Rent and Outgoings (at the rate applicable immediately prior to the expiration or sooner determination of this Lease) for the period from that expiration or sooner determination until the Lessee has complied with all of its obligations under clauses 9.3 and 9.5.
- (b) Despite any other provision of this Lease, payment of the amounts referred to in sub-clause (a) does not constitute an extension or renewal of this Lease or a holding over under this Lease, or give the Lessee any right of any kind in respect of the Premises.

9.8 Holding over - monthly; Lessee to apply for approval

- (a) Subject to sub-clause (b), the Lessee must vacate the Premises at the expiration of the date in **Item 7**.
- (b) With the Lessor's prior approval (given or withheld in its absolute discretion), the Lessee may continue to occupy the Premises beyond the date in **Item 7**. Such occupation is for a fixed term of ONE (1) month and then from month to month, on the provisions of this Lease (so far as applicable) and at a monthly rent which is a monthly proportion of the sum of the Base Rent current on the date in **Item 7** increased by THREE per cent (3%) and the Lessee's Proportion of the Outgoings.
- (c) Without limiting clause 10.2, the tenancy in sub-clause (b) is determinable at any time by the Lessor or by the Lessee by ONE (1) month's notice expiring on any day.

10. Default and Re-Entry

10.1 Lessor's right to remedy defaults

- (a) If the Lessee fails to pay, do or effect anything in accordance with this Lease or with any consent or approval of the Lessor, the Lessor may (after notice to the Lessee specifying the default, except where the Lessor perceives an emergency, when no notice is required) pay, do or effect the thing as if it were the Lessee and at the Lessee's cost. This clause does not affect the Lessor's other rights and remedies.
- (b) The Lessor may enter and remain on the Premises to do or effect anything referred to in sub-clause (a) and the Lessee must pay to the Lessor the Lessor's costs and expenses incurred or paid in doing or effecting that thing.

10.2 Default or breach by Lessee - re-entry

The Lessor may re-enter the Premises, after compliance with the requirements of s. 124 of the Property Law Act (Qld) 1974, if:

- (a) any money payable by the Lessee to the Lessor under this Lease is not paid within TEN (10) Business Days of the due date, or

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- (b) the Lessee breaches any provision of this Lease and, where the breach is capable of remedy, it has not been remedied to the Lessor's reasonable satisfaction within a reasonable time after service of notice on the Lessee specifying the breach, or
- (c) an order is made or a resolution is effectively passed for winding up the Lessee or any Covenantor (being a corporation) or any act or event mentioned in section 461(1)(a)-(k) of the *Corporations Act 2001* occurs in relation to the corporation.

Upon re-entry this Lease is determined. This clause is without prejudice to any claim or other remedy which the Lessor has or may have against the Lessee or any Covenantor in respect of any breach of this Lease. This clause has effect despite any other provision in this Lease.

10.3 Damages claimable by Lessor

- (a) If an event referred to in clause 10.2 occurs, the Lessee is in breach of a fundamental and essential term of this Lease.
- (b) In addition to the Lessor's other rights and remedies, where the Lessor has re-entered the Premises pursuant to clause 10.2 or the Lessor accepts the Lessee's repudiation of this Lease, the Lessee must pay to the Lessor damages for the breach or repudiation being:
 - (i) the costs and expenses of the Lessor in relation to reletting the Premises (including any commission or similar charge), and
 - (ii) the difference between:
 - (A) all money which would have been payable by the Lessee as Base Rent and Outgoings for that part of the Term as had not expired at the date of re-entry or acceptance of repudiation (the **Date**), on the assumptions that:
 - (1) the Base Rent would be the same as the amount payable immediately prior to the relevant Market Review Date on any review under **Schedule 3** which was due to take place after the Date, and
 - (2) each year the Outgoings would have increased by the difference between:
 - (a) the Outgoings for the year to 30 June immediately prior to the Date; and
 - (b) the Outgoings for the year to 30 June immediately preceding the year in (a); and
 - (B) any money which the Lessor using reasonable endeavours has (at the date of the Lessor's demand) actually received or it is likely to receive as rent from other lessee(s) of the Premises for the part of the Term which had not expired at the Date.
- (c) The Lessor's determination of the amount it reasonably anticipates it is likely to receive as rent is final and binding on the parties if it is made in good faith and if it:
 - (i) excludes cleaning charges but includes charges for outgoings,
 - (ii) takes into account the period or likely period during which the Premises have been or may be vacant, any rent free period and any abatement, concession, incentive or inducement allowed, granted or paid (or likely to be allowed, granted or paid) to secure a new lessee or occupier.
- (d) To the extent that the sum determined pursuant to sub-clause 10.3(b)(ii) represents an acceleration of payments, it must be discounted at a rate per annum equal to the Indicator Lending Rate quoted on the Date. The discount must be calculated with effect from the day on which such damages in full (less any such discount) are received by the Lessor.
- (e) This clause continues to operate if this Lease is terminated. It does not limit any right of the Lessor to recover damages for any other loss. The Lessor's right to recover damages is not affected by the Lessor's acceptance of the Lessee's repudiation or by the parties' conduct constituting a surrender by operation of law.
- (f) The conduct of the Lessor in using reasonable endeavours under sub-clause 10.3(b)(ii)(B) does not of itself constitute acceptance of the Lessee's breach or repudiation of this Lease.

10.4 No waiver

- (a) Failure to exercise, delayed exercise or partial exercise of any available remedy or right does not waive any breach by a party.
- (b) Waiver by a party of a particular breach is not a waiver of any other breach or default.
- (c) Demand or acceptance by the Lessor of money payable under this Lease after the Lessee's breach or default does not prejudice any other right or remedy of the Lessor.

11. Security deposit

11.1 Lessee to provide Security Deposit

- (a) On or by the date in **Item 6**, or if this Lease has commenced and the Lessee has already provided a Bank Guarantee or Bank Cheque, then by any date relevant pursuant to **Item 15**, the Lessee must obtain and deliver to the Lessor either:

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- (i) a Bank Guarantee to pay to the Lessor on demand any sum up to an aggregate of the Security Deposit;
or
- (ii) a Bank Cheque payable to the Lessor in the amount of the Security Deposit.
If provided by Bank Guarantee, the Bank Guarantee must be in a form acceptable to the Lessor, including being assignable to any successor of the Lessor and not specifying an expiry date earlier than nine months from 21st May 2026.
- (b) If the Security Deposit has been provided by a Bank Guarantee and a payment is made to the Lessor after a demand under clause 11.2, the Lessee must, within TEN (10) Business Days of being notified by the Lessor, obtain and deliver to the Lessor a further Bank Guarantee for the amount necessary to ensure that a Bank Guarantee is maintained which secures the Security Deposit to the Lessor.
- (c) If there is a change in the Lessor and the Security Deposit has been provided by Bank Guarantee, the Lessee must do whatever it can to help the new lessor receive the benefit of the Bank Guarantee.
- (d) Despite clause 11.1(a), if the Lessee is, after reasonable efforts, unable to obtain a Bank Guarantee which is assignable to any successor of the Lessor, the Lessor may decide to accept a Bank Guarantee which is not assignable. If the Lessor does so, the Lessee agrees that:
 - (i) if the Lessor changes, the Lessee must at its own cost obtain a new Bank Guarantee in favour of the new Lessor, complying with clause 11.1 within TEN (10) Business Days of being notified of the change of Lessor. (If the Lessee is unable to procure a new assignable Bank Guarantee, this clause will also apply to the new Bank Guarantee obtained by the Lessee);
 - (ii) if the Lessee fails to comply with clause 11.1(d)(i), the former Lessor may call up the Bank Guarantee it holds and deliver the proceeds to the new Lessor, to hold as security on the same basis as the Bank Guarantee was held; and
 - (iii) if the Lessor calls up the Bank Guarantee in accordance with this clause, this does not remedy the Lessee's breach under this clause 11.1(d).
- (e) In this clause, references to a successor of the Lessor or a new Lessor include any person who becomes entitled to receive the Rent under this Lease.

11.2 Bank guarantee available to meet Lessee's breaches

- (a) The Bank Guarantee (or any part of it, as determined by the Lessor but not exceeding, in aggregate, the Security Deposit) is payable on the Lessor's demand. The Lessor may not make demand until the Lessee breaches this Lease.
- (b) The Lessee irrevocably agrees that the Bank must act immediately on the Lessor's demand, without reference to the Lessee and even if the Lessee has instructed the Bank not to pay the Lessor.
- (c) Acceptance of the Bank Guarantee or payment under it does not limit the Lessor's rights or waive any breach by the Lessee.

11.3 Duration of Bank Guarantee

The Bank Guarantee must continue in force until the earliest of:

- (a) payment to the Lessor by the Bank of the whole of the amount secured by the Bank Guarantee; or
- (b) the receipt by the Bank of either the Bank Guarantee (returned with the Lessor's consent) or a notice from the Lessor that the Bank Guarantee is no longer required.

11.4 Further Security Deposit on rent increases

- (a) If the Base Rent is increased during the Term in respect of any Market Review Date, the Security Deposit automatically increases (with effect from the later of the Market Review Date and the date on which the Current Base Rent is agreed or determined) to the amount which is the new Security Deposit determined in accordance with **Item 15** at that time (rounded up to the nearest dollar). There is to be no increase in the Security Deposit other than on a Market Review Date.
- (b) Within TEN (10) Business Days of the Security Deposit increasing, the Lessee must:
 - (i) If the Security Deposit has been provided by Bank Guarantee, obtain and deliver to the Lessor a further Bank Guarantee complying with clause 11.1 for the amount necessary to ensure that a Bank Guarantee or Bank Guarantees are maintained which secure the then current Security Deposit to the Lessor;
 - (ii) If the Security Deposit has been paid by Bank Cheque, deliver to the Lessor a Bank Cheque payable to the Lessor for the amount necessary to ensure that the Security Deposit paid is the amount of the then current Security Deposit

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11.5 Security Deposit paid by Bank Cheque

If the Security Deposit has been paid by Bank Cheque pursuant to 11.1(a) then:

- (a) If the Lessee is in default under this Lease, the Lessor may call on the Security Deposit in full or partial satisfaction of any loss or damage suffered by the Lessor in connection with the Lessee's default;
- (b) The Lessee must within 10 Business Days after being notified by the Lessor, obtain and deliver to the Lessor a further Bank Cheque for the amount necessary to ensure that the amount held by the Lessor is equal to the amount of the Security Deposit.

12. Covenantor

12.1 Application of Part 12

This Part 12 applies if a Covenantor is specified in **Item 14**.

12.2 Covenant - joint and several liability

For valuable consideration given by the Lessor at the Covenantor's request (or for other valuable consideration given by the Lessor), the Covenantor unconditionally and irrevocably agrees that it is liable to the Lessor for the Lessee's obligations to the Lessor under or arising out of this Lease. Each Covenantor is liable individually and collectively with the Lessee and each other Covenantor to the Lessor.

12.3 Indemnities

- (a) The Covenantor indemnifies the Lessor against all Liabilities the Lessor suffers or incurs if the Lessee fails to comply with this Lease, if any provision of this Lease is not enforceable by the Lessor or if this Lease is disclaimed by the Lessee's liquidator or trustee in bankruptcy.
- (b) No disclaimer relieves the Covenantor of its obligations under this indemnity. Each indemnity survives any termination of this Lease.

12.4 Principal obligations

- (a) The obligations of each Covenantor under this Lease are principal obligations and are not collateral or secondary to any other obligations (including those of the Lessee) and are not affected by any bond, guarantee, indemnity, judgment, security or right (**Security**) which the Lessor may hold at any time in respect of the Lessee's liability.
- (b) The Lessor need not realise for the benefit of the Covenantor any Security held by the Lessor in respect of the Lessee or any funds or assets that the Lessor may be entitled to receive or claim on.
- (c) The Lessor may vary, exchange, renew, release or refuse to complete or to enforce any Security held by the Lessor.

12.5 Continuing liability of Covenantor

Each Covenantor's liability under this Lease is a continuing liability and is not affected by any act, matter or thing (whether or not done with the Covenantor's consent) including, without limit:

- (a) expiration or termination (including by re-entry) of this Lease;
- (b) the death, bankruptcy, assignment for the benefit of creditors, arrangement with creditors, winding-up, reconstruction, administration, receivership, liquidation, striking off or other incapacity of the Lessee or any other Covenantor;
- (c) the Lessor becoming a party to or bound by any compromise, assignment of property, scheme of arrangement, composition of debts or scheme of reconstruction relating to the Lessee, any other Covenantor or any other person;
- (d) the grant of time, credit or other indulgence to the Lessee, the Covenantor or any other person;
- (e) the whole or partial release or discharge of the Lessee or any other Covenantor from any obligation;
- (f) any transaction, arrangement or agreement in respect of this Lease or otherwise between any of the parties or with any other person;
- (g) the Lessor failing to exercise, waiving or deferring any or all of its powers, rights or remedies under this Lease;
- (h) any act or omission contrary to the Covenantor's interests by the Lessor or any other person or any failure to give effective notice of any breach of this Lease;
- (i) obtaining any judgment or order against any party;
- (j) any actual or alleged set-off, defence, counter-claim or other deduction on the part of the Lessee or any Covenantor;
- (k) any payment made to the Lessor and later avoided;
- (l) any rent review or increase in amounts payable by the Lessee under this Lease, any variation of this Lease, any holding over, any consent or approval given by the Lessor pursuant to this Lease or any transfer or other dealing in respect of this Lease; or

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(m) any other act, default, delay, event, mistake or omission of the Lessor or any other person whereby the Covenantor's liability to the Lessor would, but for this clause, have been affected.

12.6 Assignment of benefit of covenant

- (a) The Lessor may transfer the benefit of the Covenantor's agreements to any transferee of the Lessor's interest in the Land, this Lease or the reversion of this Lease. Unless the Lessor agrees otherwise, the benefit of the Covenantor's agreements will automatically transfer to its successor upon any transfer of this Lease.
- (b) Such transfer in no way affects the Covenantor's agreements under this Lease which shall then be to the transferee (or in the case of a partial transfer, to the Lessor and the transferee).
- (c) The Covenantor must (if requested by the Lessor and at its reasonable expense) promptly enter into a deed with any transferee from the Lessor in terms substantially similar to this Part.

12.7 No proof in estate of lessee in competition with Lessor

- (a) If any bankruptcy, assignment for the benefit of creditors, arrangement with creditors, winding-up, liquidation, receivership or other demise of the Lessee (**Demise**) results in claims by creditors, the Covenantor must not prove or claim in competition with the Lessor so as to diminish any distribution, dividend or payment which (but for such claim) the Lessor would be entitled to receive arising out of the Demise.
- (b) Despite sub-clause (a), the Covenantor must, if required by the Lessor, prove or claim in the Demise, and any amount received by the Covenantor from any distribution, dividend or payment will be received and held by the Covenantor in trust for the Lessor and must be paid to the Lessor on demand in reduction of the amount owing to the Lessor by the Lessee or the Covenantor.

12.8 Warranties by Covenantor

Each Covenantor which is a corporation or trustee warrants that:

- (a) it has full and unrestricted power and authority to agree and indemnify as provided in this Lease and to execute this Lease, and
- (b) its entry into this Lease is part of the proper administration or purposes of the corporation or trust and is for the commercial benefit of the corporation or trust.

12.9 Covenantor to pay Lessor's costs

The Covenantor must pay within TEN (10) Business Days of written demand the Lessor's reasonable legal and other expenses (on an indemnity basis) incurred in the exercise or attempted exercise of any power, remedy or right conferred on the Lessor by this Part.

13. Personal Information

13.1 Personal Information means information or an opinion (including information or an opinion forming part of a database):

- (a) whether true or not;
- (b) whether recorded in a material form or not;
- (c) about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion; and
- (d) collected by or on behalf of the Lessor, or a predecessor in title of the Lessor, in connection with this Lease, the Lessee or any other contract, arrangement or understanding disclosed in this Lease,

13.2 Use of personal information

The Lessee agrees that the Personal Information may be used:

- (a) in connection with the management of, and dealings with, the Premises; and
- (b) to facilitate the Lessor's internal business operations including fulfilment of legal requirements and confidential systems maintenance and testing.

13.3 Disclosure of Personal Information

The Lessee consents to the Personal Information being disclosed:

- (a) to any Covenantor;
- (b) to any person who provides services in connection with the Lessor's ownership and management of the Premises on a confidential basis (for example, valuers, surveyors, real estate agents, contractors and auctioneers);
- (c) to any person acting on the Lessee's behalf including the Lessee's broker, lawyer or accountant;
- (d) to the Lessee's financier or mortgagee;
- (e) to any person in connection with a proposed sale or acquisition of an interest in, or any other dealing by the Lessor in connection with, the Premises;
- (f) to any person in connection with the marketing of another property owned by the Lessor or a related entity of the Lessor;
- (g) to the Lessor's financiers or prospective financiers;

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- (h) to government agencies in connection with this Lease (for example, to stamp and register this Lease);
- (i) if the Lessee requests the Lessor to do so or if the Lessee consents;
- (j) where the law requires or permits the Lessor to do so;
- (k) to any related entity of the Lessor; and
- (l) to any person described in the previous paragraphs who is overseas.

14. Option for Further Term

14.1 Right to lease for Further Term

- (a) "**Further Term**" means the further term referred to in **Item 8(b)**, commencing on the day after the date in **Item 7**.
- (b) "**New Lease Commencement Date**" means the day after the date in **Item 7**.
- (c) "**Termination Date**" means the date in **Item 7**.
- (d) If a further term is set out in **Item 8**, the Lessee may lease the whole of the Premises for the Further Term subject to this Part.

14.2 Conditions for grant of Further Term

The Lessor must grant to the Lessee and the Lessee must take a lease of the whole of the Premises for the Further Term at an initial Base Rent determined under clause 14.3, provided that all the following are satisfied:

- (a) **notice**: the Lessee serves on the Lessor not less than THREE (3) months before the Termination Date a notice requesting the grant of the Lease for the Further Term ("**Lessee's Notice**");
- (b) **payments punctually made**: the Rent and other money payable to the Lessor under this Lease have been duly and punctually paid;
- (c) **no breach**: the Lessee is not in breach of this Lease at the date of service of the Lessee's Notice or at any subsequent time during the Term (unless the breach has been waived in writing by the Lessor or has been remedied to the Lessor's reasonable satisfaction within a reasonable time after service on the Lessee of notice specifying the breach); and
- (d) **occupation**: the Lessee occupies the Premises at the Termination Date.

14.3 Initial Base Rent

- (a) The initial Base Rent is the amount agreed or determined as the Current Base Rent as at the New Lease Commencement Date.
- (b) The Base Rent agreed or determined must not be less than the Base Rent current at the Termination Date (such Base Rent determined as if no abatement or reduction were in effect).
- (c) If the Base Rent has not been agreed or determined by the New Lease Commencement Date, the Base Rent notified by the Lessor to the Lessee pursuant to clause 2 of **Schedule 3** shall apply unless and until there is an agreement or determination to the contrary pursuant to **Schedule 3**.

14.4 Terms of further lease

- (a) Subject to this Part, the lease for the Further Term must contain the provisions of this Lease, except that the Lessor may require any provision to be amended or added in the further lease to reflect changes in the improvements comprising the Premises or its management or otherwise to incorporate provisions which the Lessor would in the first instance require (in good faith) from any prospective lessee if the Lessee had not exercised its right to the lease for the Further Term.
- (b) The relevant parts of the reference schedule of the lease for the Further Term must be completed appropriately having regard to:
 - (i) the criteria for adjustment of public liability insurance under clause 6.1(a); and
 - (ii) the current name, residential address and occupation or registered office (as the case may require) of the Covenantor (if any).
- (c) The further lease must not contain this Part.

14.5 Execution of further lease

The Lessee and the Covenantor (if any) must execute the lease for the Further Term and return it to the Manager within ONE (1) month of receipt of the lease by the Lessee.

14.6 Security Deposit provided by Bank Guarantee on grant of Further Term

- (a) This clause applies if a lease for the Further Term is granted under this Part and a Security Deposit is required under this Lease at the Termination Date.
- (b) If the Security Deposit was provided by Bank Guarantee for the Term, the Lessee must obtain and deliver to the Lessor a Bank Guarantee to pay to the Lessor on demand any sum up to an aggregate of the Security Deposit. The Bank Guarantee must not specify an expiry date.
- (c) On and from the New Lease Commencement Date, the initial **Security Deposit** means the greater of the Security Deposit current at the Termination Date and the new Security Deposit

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determined in accordance with **Item 15** at that time (rounded up to the nearest dollar). The Security Deposit determined in accordance with this clause must be inserted in the relevant item of the reference schedule of the lease for the Further Term.

- (d) The fresh Bank Guarantee must be delivered to the Lessor no later than TEN (10) Business Days after the later of the New Lease Commencement Date and the date on which the initial Base Rent for the Further Term is agreed or determined.
- (e) Despite sub-clauses (b) to (d), if the initial Base Rent for the Further Term has not been agreed or determined by the New Lease Commencement Date, then the Lessee must obtain and deliver to the Lessor on or by the New Lease Commencement Date a Bank Guarantee to pay to the Lessor on demand any sum up to an aggregate of the Security Deposit current at the Termination Date.
- (f) The Lessor must return to the Lessee the Bank Guarantee provided under sub-clause (e) on receipt of the Bank Guarantee provided under sub-clauses (b) to (d).

14.7 Security Deposit provided by Bank Cheque on grant of Further Term

- (a) This clause applies if a lease for the Further Term is granted under this Part and a Security Deposit is required under this Lease at the Termination Date.
- (b) If the Security Deposit was provided by Bank Cheque for the Term, the Lessee must obtain and deliver to the Lessor a Bank Cheque payable to the Landlord for the difference between the Security Deposit held by the Lessor at the end of the Term and the Security Deposit calculated pursuant to 14.7(c).
- (c) On and from the New Lease Commencement Date, the initial **Security Deposit** means the greater of the Security Deposit current at the Termination Date and the new Security Deposit determined in accordance with **Item 15** at that time (rounded up to the nearest dollar). The Security Deposit determined in accordance with this clause must be inserted in the relevant item of the reference schedule of the lease for the Further Term.

The fresh Bank Cheque must be delivered to the Lessor no later than TEN (10) Business Days after the later of the New Lease Commencement Date and the date on which the initial Base Rent for the Further Term is agreed or determined.

15. Right of First Refusal

15.1 The Lessor confers on the Lessee a right of pre-emption in respect of the Land on the terms specified in this clause.

15.2 The right of pre-emption is:

- (a) binding on the Lessor from time to time;
- (b) personal to STS Systems Pty Ltd ACN 056 962 004 and, on an assignment of this Agreement for Lease, the benefit of the right of pre-emption will not be pass to the assignee.

15.3 The Lessor covenants not to sell the property without having first complied with the right of pre-emption in accordance with this clause. The Lessor is bound by this covenant until:

- (a) the termination of the Lease; or
 - (b) STS Systems Pty Ltd ACN 056 962 004 ceases to be the Lessee;
 - (c) the right of pre-emption lapses pursuant to clause 15.5; or
- whichever shall first occur

15.4 If during the duration of this Lease the Lessor desires to sell the property then:

- (a) The Lessor shall serve on the Lessee a written notice of its intention to sell the property and offer to sell it to the Lessee on the price and terms and conditions contained in the notice (the Lessor's Notice);
- (b) The Lessor's Notice shall constitute an irrevocable offer which the Lessee may accept as provided in sub-clause 15.5(c) by 5pm on the day falling seven (7) days from the date of service of the Lessor's Notice (the Acceptance Date);
- (c) To accept the Lessor's offer to sell the property the Lessee must deliver to the Lessor by the Acceptance Date, a duly executed contract for the purchase of the property for the price and on the terms and conditions contained in the Lessor's Notice and otherwise in the form of the then standard REIQ Contract for the sale of commercial property in Queensland together with a bank cheque for the deposit payable under the contract;
- (d) Upon compliance by the Lessee with subclauses 15.5(b) and (c), the parties are bound by an agreement for sale and purchase of the property on the terms contained in the contract for sale;
- (e) The Lessor will deliver to the Lessee within 7 days after receipt of the contract for sale a copy of that contract duly executed by the Lessor;

15.5 This right of pre-emption will lapse if the Lessee does not comply with subclauses 15.5(b) and (c) and the Lessor may then proceed to sell or dispose of the property for a price not less favourable than that contained in the Lessor's Notice.

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15.6 The Lessor is not bound by this clause if, at any time when notice under this clause would otherwise be required, the Lessee is in breach of this Agreement.

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Schedule 1 - Definitions and interpretation

- 1 Definitions:** In this Lease unless the contrary intention appears:
- API** means the Queensland Division of the Australian Property Institute.
- Bank** means an Australian bank carrying on business in Brisbane.
- Bank Guarantee** means an unconditional, enforceable and irrevocable undertaking by a Bank, to pay the specified amount to the Lessor on demand and without prior reference to the Lessee or any other person, and which is on terms acceptable to the Lessor in its absolute discretion. Without limit, the undertaking must not expire, must be assignable to any successor of the Lessor, and must state that it relates to the performance of the Lessee's obligations under this Lease and not be limited to non-payment of rent.
- Base CPI** means the Consumer Price Index (All Groups) for Brisbane last published prior to:
- (a) the immediately preceding Review Date; or
 - (b) (if there is no such prior Review Date), the date in **Item 6**.
- Base Rent** means the amount in **Item 9(a)**, as varied under this Lease.
- Building** means the building and any other improvements now or in the future on the Land and the Lessor's fixtures, fittings, furnishings, plant and equipment at any time in the building and other improvements (all as they may from time to time exist, and where the context permits, includes any part of them).
- Business Day** means Monday to Friday, excluding public holidays in Brisbane.
- Car Park** means that part of the Land set aside from time to time by the Lessor for parking cars.
- Costs** means all assessments, charges, costs, duties, expenses, fees, levies, rates, taxes, wages and outgoings.
- Covenantor** means the person (if any, and if more than ONE (1), each of them) named in **Item 14** and includes a person's executors and administrators and a corporation's successors.
- CPI Review Date** means each date (if any) specified in **Item 13(c)**.
- Current CPI** means the Consumer Price Index (All Groups) for Brisbane last published prior to the subject CPI Review Date.
- Demolition** includes:
- (a) any substantial repair, renovation, refurbishment or reconstruction of the Premises that cannot practicably be carried out without vacant possession of the Premises; or
 - (b) any redevelopment of the Premises that requires vacant possession of Premises.
- Fixed Percentage** means the percentage (if any) specified in **Item 13(b)(2)**.
- Fixed Percentage Review Date** means each date (if any) specified in **Item 13(b)(1)**.
- Further Term** means the further term referred to in **Item 8(b)**, commencing on the day after the date in **Item 7**
- Indicator Lending Rate** means the overdraft reference rate per annum applied from time to time by Westpac Banking Corporation at its principal office in Brisbane. If there is no such rate or that rate is discontinued, ceases to be quoted or ceases (in the Lessor's reasonable opinion) to reflect interest rate indicators of the type reflected by it at the commencement of this Lease, then it means the interest rate nominated by the Lessor (acting reasonably) as its cost of funding plus 2% per annum. A certificate as to a rate given to the Lessor and signed by an officer of the relevant bank is final and binding on the parties to this Lease (except in the case of manifest error).
- Land** means the land described in **Item 1**, and where the context permits includes any part of it.
- Lease** means the Form 7 sub-lease and schedule to it comprised in this document (and any annexure, exhibit, plan and other schedule to it) and includes any equitable lease or lease at law evidenced by this document (and any annexure, exhibit, plan and other schedule to it). Wherever the context allows, a reference to a "lease" will include a sublease, sub-sublease or other such form of lease.
- Lessee** means the person named in **Item 4** and includes its successors, executors and administrators, its assigns approved by the Lessor and, where the context permits, includes the Lessee's Agents.
- Lessee's Act or Omission** means any act, default, misconduct, neglect, negligence or omission of any kind of the Lessee or the Lessee's Agents.
- Lessee's Agents** means each and every of the Lessee's contractors, agents, employees, invitees, licensees, sub-contractors, sub-lessees and other persons claiming through or under the Lessee.
- Lessee's Equipment** means:
- (a) the fixtures, fittings, furnishings, plant and equipment and other items at any time (whether before or after the commencement of the Term) installed in or brought onto any part of the Premises by or on behalf of the Lessee, the Lessee's Agents or the Lessee's Predecessors; and

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(b) (for the purpose of clauses 9.3(a)(ii) and (b) to (e) (inclusive)) any fixtures, fittings, furnishings, plant and equipment (and any other items of a fitout nature) left in the Premises by a prior lessee, licensee or occupier (except to the extent the Lessor otherwise directs), (and, where the context permits, includes any part of them).

Lessee's Predecessors means each and every predecessor in title of the Lessee as lessee under this Lease (and, where this Lease is one in a series of consecutive leases granted pursuant to the exercise of options, it means each and every lessee under a prior lease in the series).

Lessor means the person named in **Item 3** and includes its successors and assigns, and where the context permits includes its agents (including, without limit, the Manager), contractors, employees and sub-contractors.

Liabilities means each and every cost, expense, liability and loss of any kind and all damages.

Manager means any person appointed from time to time by the Lessor to manage the Premises and includes (unless the context otherwise requires) the agents, contractors and employees of that person. If no such person is appointed at the relevant time, it means the Lessor.

Market Review Date means each date (if any) specified in **Item 13(a)**.

Option means the option or options to renew granted by clause 14.

Other Operating Expenses has the meaning given to it in **Schedule 2**.

Outgoings means Rates and Taxes and Other Operating Expenses.

Outgoings Period means each successive period during the Term ending at each 30 June and at the expiration of this Lease.

Permitted Use means the use described in **Item 10**.

Premises means the Building and the Land and includes any Lessor's fixtures, fittings, furnishings, plant and equipment at any time in the premises.

Rates and Taxes has the meaning given to it in **Schedule 2**.

Rent means Base Rent and where applicable, the rent payable on any holding over under clause 9.8.

Review Date means each CPI Review Date, each Fixed Percentage Review Date and each Market Review Date.

Security Deposit means the amount (if any) specified in **Item 15** as adjusted pursuant to clause 11.4.

Start Date means the commencement date of the initial term of this lease specified in **Item 6** of Form 7

Term means the period commencing on the date in **Item 6** and expiring at midnight on the date in **Item 7**, and where applicable, the period of holding over under clause 9.8.

2 **Interpretation:** The Index and headings are for guidance only and do not affect the interpretation of this Lease. This Lease is governed by Queensland law. In interpreting this Lease, no rule of construction applies to the disadvantage of a party because that party put forward this Lease.

3 **Miscellaneous references:** In the interpretation of this Lease reference to:

- (a) any gender includes every gender;
- (b) singular includes plural and vice versa;
- (c) month means named calendar month;
- (d) persons include bodies corporate and other legal entities;
- (e) a Part, clause, schedule or an Item is, unless the context otherwise requires, a reference to a Part, clause or schedule of this Lease or an Item in the Reference Schedule;
- (f) any body (other than a party to this Lease) which ceases to exist, is reconstituted, renamed or replaced or has its powers transferred, refers to the body established in its place or which serves substantially the same objects as or succeeds to its powers; and
- (g) the president of a body means the person acting as the president (or other principal officer) at the relevant time.

4 **Covenants - joint and several:** Any covenant, indemnity or agreement by TWO (2) or more persons as Lessee or as Covenantor binds them collectively and individually.

5 **Lessee not to permit prohibited matters:** Where the Lessee is prohibited from doing any act, matter or thing, it is also prohibited from permitting or suffering the act, matter or thing and it must ensure that the Lessee's Agents do not breach the prohibition. Despite the preceding sentence, the Lessee is not responsible for the actions of its invitees (other than agents, contractors, employees and sub-contractors) outside the Premises.

6 **Exclusion of implied covenants and powers:** Sections 58, 105, 107 and 109 of the Property Law Act 1974 do not apply to and are not implied in this Lease unless they are expressly included.

7 **No partnership, agency or joint venture:** Nothing in or under this Lease creates the relationship of partners, principal and agent or joint venturers between the Lessor and the Lessee.

8 **Enforceability of powers etc:** Any law which prejudicially affects any party's powers, discretions, remedies, rights or obligations (**Powers**) is excluded to the extent lawfully permissible. If any Power

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cannot be given full effect, that Power must be severed or read down to maintain (as far as possible) all other provisions of this Lease.

9 Whole agreement is contained in this Lease: This Lease comprises the whole of the agreement between the parties in respect of its subject matter.

10 Consent and approval of Lessor: Unless expressly stated in a particular provision, the Lessor must not unreasonably withhold its consent or approval under this Lease (but may give it subject to reasonable conditions). Any consent or approval by the Lessor must be in writing.

11 Condition before Lessor liable: Despite anything in this Lease to the contrary, the Lessor is not in default in its obligations unless the Lessee has given notice to the Lessor of the default and the Lessor has failed within a reasonable time after notice to take proper steps to rectify the default in accordance with this Lease.

12 References to Manager: Any notice or thing which must be delivered or given to the Manager or any payment or request which must be made to the Manager, must be delivered, given or made to the Manager or such other person as may be nominated from time to time by the Lessor by notice to the Lessee. The Manager may exercise the Lessor's powers, discretions and rights and make any determination which may be made by the Lessor under this Lease unless the Lessor itself notifies the Lessee to the contrary.

13 Effect of execution: Each Lessee and Covenantor is bound by this Lease even though:

- (a) any other Lessee or Covenantor has not executed or may never execute this Lease or the execution of this Lease by any other Lessee or Covenantor is or may become void or voidable, or
- (b) this Lease has not been registered or may never be registered and despite any obligation the Lessor may have to register it.

This Lease is a deed, even if it is not registered. Any term of this Lease in favour of the head-lessor, the Manager or any other third party (for example a release from liability or an indemnity) may be enforced by them or by the Lessor on their behalf without prior notice of their acceptance of the benefit of that term. In addition to, and without limiting the effect of the foregoing, for the purposes of section 55 of the *Property Law Act 1974* (Qld), the head-lessor, Manager or other third party (as the case may be) is a 'beneficiary' in relation to the benefit of that term.

14 Notices:

- (a) In this Lease, reference to notice means notice in writing.
- (b) Any notice or other writing served by the Lessor is valid and effective if signed by the Lessor or the Manager or signed by an attorney, director, company secretary, authorised officer or solicitor of the Lessor or the Manager or by the Manager's general manager of the Premises.
- (c) Any notice or other writing is sufficiently served on the Lessee (or Covenantor) if served personally or if forwarded to the Lessee (or Covenantor) by courier, facsimile or post to the Premises or the last address of the Lessee (or Covenantor) known to the Lessor or the Manager.
- (d) Unless the Lessor otherwise notifies the Lessee, any notice or writing is sufficiently served on it if served on the Manager.
- (e) If any notice or other writing is served on a day which is not a Business Day or is after 5.00pm (addressee's time) it is deemed to be served on the next Business Day.

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Schedule 2 - Particulars of outgoings

Section A – Rates and Taxes

Rates and Taxes means all rates and taxes [provided that land tax is to be calculated on the basis that the Land is the only land owned by the Lessor, and "taxes" do not include land tax (to the extent that its recovery from the Lessee is prohibited by law) or the Lessor's income tax or capital gains tax], assessments and charges (including charges for water and sewerage, drainage, trade waste and fire and ambulance services), fees and levies (excluding levies for the use of areas as car parking spaces) and impositions and duties of any authority, body, department, government or instrumentality assessed, charged, imposed or levied in respect of the Premises or services to the Premises (regardless of ownership).

Section B – Other Operating Expenses

Other Operating Expenses means all Costs which the Lessor, acting in good faith, determines are paid or payable for or attributable to insuring, repairing, maintaining, managing, administering, supervising, keeping secure or providing services for the Premises, except:

- (a) any commission or similar charge paid to any person in connection with letting or licensing any part of the Premises,
- (b) any Rates and Taxes,
- (c) in relation to repairs and maintenance and any structural work, Costs treated by the Lessor (in good faith) in its accounting statements as capital expenses (but a repair by replacement of parts not comprised in structural works or treated as capital expenses is to be included in Other Operating Expenses).

Without limiting this definition, Other Operating Expenses include:

1 Insurance

Insurance premiums, stamp duty and brokers fees for:

- (a) insurance of the Premises (but not to the extent that such insurance exceeds its full insurable reinstatement value),
- (b) insurance of the Premises and the Lessor and the Manager against other risks relating to the Lessor's interest in the Premises as the Lessor deems necessary or desirable (including public liability, consequential and economic loss, machinery breakdown and any other insurance incidental to ownership, repair, maintenance, management and security of the Premises), and
- (c) workers compensation insurance for people performing functions in relation to the Premises (where applicable, adjusted to reflect the proportion of time spent in relation to the Premises and to other activities).

2 Repairs and maintenance

- (a) Costs of maintaining and repairing the Premises, plant rooms, cleaners' rooms, security or fire control rooms, other service or utility areas in the Premises, service ducts and risers (and fixtures, fittings and furnishings in them) (including painting them) except for repairs that are comprised of structural works or treated as capital expenses.
- (b) Costs of carrying out safety and environmental audits in respect of the Premises .

3 Services

Costs of maintaining and repairing (including repair by replacement of parts) the following in or of the Premises and providing services in respect of:

- (a) the Elevators;
- (b) the air-conditioning plant and equipment;
- (c) the fire protection services, sprinkler and fire alarm installations,
- (d) diesel generators;
- (e) building automation systems;
- (f) landscaping, planting, weeding and maintaining any gardens, lawns, plants and flowers,
- (g) security, control, tenant liaison services and systems for the Premises ,
- (h) control of pests in Common Areas,
- (i) operations management services for the Premises, and
- (j) all other services provided in respect of the Premises .

4 Management

A management fee or charge to cover the Lessor's Cost of having the Premises managed.

5 Energy Costs

All Costs for electricity, gas, oil and any other source or type of energy, power or fuel in respect of the Premises.

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Schedule 3 - Reviews of base rent

1 Interpretation and time to be of the essence

- (a) In this Schedule, unless the context otherwise requires:
Criteria means the criteria in clause 13(a);
Current Base Rent means the annual market rent of the Premises as at the subject Market Review Date, on the basis of clause 13;
Lessee's Notice means a notice complying with clause 4 and served on the Lessor in accordance with that clause;
Lessor's Notice means a notice served on the Lessee in accordance with clause 2(a);
Valuer and **Umpire** means a person satisfying the criteria in clause 3 and appointed as a valuer or umpire pursuant to this Schedule; and
a reference to a clause is a reference to a clause in this Schedule.
- (b) In this Schedule, time is of the essence. Failure to observe any time limit in this Schedule is a failure to discharge the relevant obligation or exercise the relevant right.
- (c) When agreed or determined in accordance with this Schedule, the Current Base Rent is binding on the parties to this Lease.
- (d) In this Schedule, a reference to the appointment of a Valuer or an Umpire means that the Valuer or Umpire accepts its appointment in writing.

2 Reviews of Base Rent - Lessor's notice

- (a) The Lessor may at any time in the period commencing THREE (3) months before a Market Review Date and expiring on the next Market Review Date (or, if there is no following Market Review Date under this Lease or under any lease referred to in **Item 8**, the expiration of the Term), serve on the Lessee a notice reviewing the Base Rent to an amount which the Lessor determines to be the Current Base Rent as at the subject Market Review Date.
- (b) The amount notified in the Lessor's Notice is the Base Rent on and from the subject Market Review Date unless and until there is agreement or a determination to the contrary pursuant to this Schedule, at which time the agreed or determined amount will become the Base Rent payable on and from the subject Market Review Date.
- (c) Despite sub-clause (b), if the Lessee serves notice in accordance with clause 4, then (on an interim basis) the Base Rent on and from the subject Market Review Date will be the greater of the Base Rent current immediately prior to the subject Market Review Date and NINETY per cent (90%) of the amount notified in the Lessor's Notice.
- (d) The Lessee must pay that interim Base Rent until there is written agreement or a determination to the contrary under this Schedule.
- (e) The Lessor's Notice is binding on the parties (except in the case of manifest typographical error). Except as provided in clause 4, it must not be challenged due to any failure (or alleged failure) by the Lessor to have proper regard to the Criteria or due to any other reason.

3 Essential qualifications of valuer and umpire

- (a) Each Valuer and Umpire must be a person who is a full member of the API at all times during his appointment under this Lease and who has (at the date of his appointment) not less than FIVE (5) years' practice as a registered valuer valuing commercial office premises in the central business district of the City of Brisbane. Any purported appointment as a Valuer or Umpire of a person not so qualified is ineffective.
- (b) In agreeing or determining the Current Base Rent, each Valuer and Umpire must act as an expert and not as an arbitrator. Any laws relating to arbitration do not apply.

4 Dispute by lessee of reviewed amount - Lessee's notice

If, within FIFTEEN (15) Business Days after service of the Lessor's Notice, the Lessee serves on the Lessor a notice disputing that the amount notified in the Lessor's Notice is the Current Base Rent and setting out the amount which the Lessee considers to be the Current Base Rent, then the Lessor and the Lessee must try to agree the Current Base Rent within TEN (10) Business Days after service of the Lessee's Notice.

5 Lessee appoints valuer and notifies Lessor - First Appointment Date

- (a) If the Current Base Rent is not agreed under clause 4, the Lessee may appoint, within TWENTY (20) Business Days after service of the Lessee's Notice, a Valuer to determine the Current Base Rent.
- (b) If a Valuer is so appointed by the Lessee, the Lessee must (within the same TWENTY (20) Business Days) serve notice on the Lessor naming the Valuer. The date of service of that notice is the **First Appointment Date**.

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- 6 **Effect of Lessee's failure to appoint or notify**
If the Lessee serves a Lessee's Notice and then does not appoint a Valuer and serve notice in accordance with clause 5, the Base Rent on and from the subject Market Review Date is the amount notified in the Lessor's Notice. A determination of the Base Rent under this clause is a determination of the Current Base Rent.
- 7 **Lessor appoints valuer and notifies Lessee - Second Appointment Date**
(a) The Lessor may appoint, within TEN (10) Business Days after the First Appointment Date, a Valuer to determine the Current Base Rent.
(b) If a Valuer is so appointed by the Lessor, the Lessor must (within the same TEN (10) Business Days) serve notice on the Lessee naming the Valuer. The date of service of that notice is the **Second Appointment Date**.
- 8 **Effect of Lessor's failure to appoint or notify**
(a) If the Lessor does not appoint a Valuer and serve notice in accordance with clause 7, the Lessor must then request the President of the API to promptly appoint (on behalf of the Lessor and the Lessee) a Valuer to determine the Current Base Rent within TWENTY (20) Business Days of his appointment date and to promptly notify the Lessor and the Lessee by notice of the amount determined and the reasons for the determination.
(b) The President of the API must promptly notify the Lessor and the Lessee of the Valuer's appointment and his appointment date.
(c) If a Valuer appointed under this clause does not comply with sub-clause (a), the Lessor must request a further appointment under this clause.
- 9 **Determination by Valuers**
(a) If the Lessor and the Lessee each properly appoint a Valuer and give notice under clauses 5 and 7, each Valuer must:
(i) within TEN (10) Business Days of the Second Appointment Date agree and appoint an Umpire with the other Valuer, and
(ii) within TWENTY (20) Business Days of the Second Appointment Date meet with the other Valuer and try to agree the Current Base Rent.
(b) If the Valuers agree the Current Base Rent within THIRTY FIVE (35) Business Days of the Second Appointment Date, the Valuers (or either of them) must promptly notify the Lessor and the Lessee in writing of the amount agreed.
(c) If, for any reason, the Valuers do not agree the Current Base Rent within those THIRTY FIVE (35) Business Days, the Current Base Rent must be determined under clause 10. The Valuers are deemed not to have agreed the Current Base Rent if notification is not given in accordance with sub-clause (b) to the Lessor and the Lessee within FORTY (40) Business Days of the Second Appointment Date.
- 10 **Determination by Umpire if Valuers do not agree**
(a) If the Valuers do not agree (or are deemed not to have agreed) under clause 9, either (or both) Valuer(s) must promptly instruct the Umpire agreed and appointed by them under clause 9(a)(i) to determine the Current Base Rent.
(b) The Umpire must determine the Current Base Rent within TWENTY (20) Business Days of first being instructed under sub-clause (a) or of being appointed under sub-clause (e).
(c) In making his determination the Umpire must consider any written assessment of the Valuers given to him within TEN (10) Business Days of first being instructed under sub-clause (a) or of being appointed under sub-clause (e).
(d) On making a determination of the Current Base Rent the Umpire must promptly notify each of the Lessor and the Lessee by notice of the amount determined.
(e) If the Valuers fail to agree and appoint an Umpire under clause 9(a)(i), if the Umpire is not instructed in accordance with sub-clause (a) or if any Umpire fails to comply with sub-clauses (b), (c) and (d), then either Valuer (or both of them) may request the President of the API to promptly appoint (on behalf of the Lessor and the Lessee) an Umpire to determine the Current Base Rent within TWENTY (20) Business Days of his appointment. The President of the API must promptly notify the Lessor and the Lessee of the Umpire's appointment and the appointment date.
(f) Sub-clauses (b) to (f) (inclusive) apply to any Umpire appointed under sub-clause (e).
- 11 **Adjustment of Base Rent once agreed or determined**
(a) If the Current Base Rent agreed or determined exceeds the interim Base Rent payable under clause 2(c), the Lessee must pay to the Lessor, within TWENTY (20) Business Days of the agreement or determination the difference between the Current Base Rent from the subject Market Review Date and the interim Base Rent paid since the subject Market Review Date.

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- (b) If the Current Base Rent agreed or determined is less than the interim Base Rent payable under clause 2(c), the Lessor must pay to the Lessee, within TWENTY (20) Business Days of the agreement or determination the difference between the interim Base Rent paid since the subject Market Review Date and the Current Base Rent from the subject Market Review Date.
- 12 **Costs of Valuers and Umpire**
- (a) Each party must pay all the costs, fees and expenses of the Valuer appointed by it.
- (b) The costs, fees and expenses of the Umpire and of any Valuer appointed under clause 8 must be borne:
- (i) totally by the Lessee, if the Current Base Rent determined by that Valuer or the Umpire is greater than or equal to the amount notified in the Lessor's Notice;
 - (ii) totally by the Lessor, if the Current Base Rent determined by that Valuer or the Umpire is less than or equal to the amount notified in the Lessee's Notice; and
 - (iii) by the Lessor and the Lessee in equal shares, if the Current Base Rent determined by that Valuer or the Umpire is between the amounts notified by the Lessor and the Lessee in their respective notices.
- 13 **Criteria for determining the current Base Rent**
- (a) The annual market rent of the Premises at the subject Market Review Date must (subject to sub-clause (b)) be determined on the basis of the following Criteria:
- (i) **Comparable rents:** rents as at the Market Review Date in respect of any comparable premises;
 - (ii) **Use of Premises:** the Permitted Use as at the Market Review Date;
 - (iii) **Condition of Premises:** any adverse effect on the condition or rental value of the Premises arising out of a breach of this Lease by the Lessee (or any sub-lessee or Lessee's Predecessors) is deemed not to have occurred;
 - (iv) **Period between reviews:** the period which will elapse between the Market Review Date and the next Market Review Date (if any);
 - (v) **Length of term:** the length of the whole of the Term, to the intent that the fact that part of the Term may have elapsed as at the Market Review Date must not be taken into account;
 - (vi) **Destruction or damage:** that if the Premises has been destroyed, damaged, rendered inaccessible or are being refurbished or are in need of repair, they are deemed to have been fully repaired and restored;
 - (vii) **Failure of Services:** that if there has been any failure of the services to or in the Premises, they are deemed to have been fully repaired and restored;
 - (viii) **Option for Further Term:** that the value to a lessee of any option(s) for a further term expressed in this Lease must be taken into account;
 - (ix) **No reduction:** that despite any other provision of this Lease, the Current Market Rent of the Premises must not be less than the Base Rent current immediately prior to the Market Review Date (such Base Rent determined as if no abatement or reduction were in effect) ;
 - (x) **Goodwill:** that the value of any goodwill attached to the Premises due to the Lessee's occupation of or business in the Premises must not be taken into account;
 - (xi) **Sub-lettings:** that rents in respect of any sub-letting of or concessional occupational arrangement in respect of the Premises or any comparable premises must not be taken into account;
 - (xii) **Lessee's fixtures:** that the value of the Lessee's Equipment must not be taken into account;
 - (xiii) **Incentives:**
 - (A) it is to be assumed that if an Incentive is given by a lessor to a lessee, a higher rent is expected to be paid over the term of the lease than would otherwise have applied;
 - (B) when comparing rentals under leases of comparable premises, the respective amounts of any Incentive in relation to those leases must be taken into account (for example, rent for a lease where no Incentive or a lesser (comparative) Incentive has been given than that given in respect of this Lease should be notionally adjusted upwards for the purposes of comparison);
 - (C) in this paragraph **Incentive** means any abatement, concession, inducement or reduction (in respect of rent, fitout or otherwise) paid, payable, granted or allowed to a tenant or associated person in respect of a new tenancy or the renewal or extension of an existing tenancy (but it does not include any

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- value attributable to any period of access or occupation by a tenant for fitout or for any other reason, granted prior to the commencement of a lease);
- (xiv) **Willing but not anxious:** that this Lease is in place and is between a willing but not anxious lessor and a willing but not anxious lessee enjoying or entitled to enjoy actual possession of the whole of the Premises as at the Market Review Date; and
 - (xv) **Ready for occupation:** that the Premises are ready for immediate occupation and use.
- (b) Despite any other provision of this Schedule, any person may take into account any other criteria which may, in that person's opinion, be relevant to his determination of the annual market rent of the Premises as at the subject Market Review Date, but must not take into account anything (including, in the case of the Umpire, any written assessment of a Valuer) which is not consistent with the Criteria listed in sub-clause (a) (which are in random order and no significance or priority is to be attached to that order).

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