

LEAS 202

Dealing Number

Duty Imprint



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1. Lessor R & K WERCHON INVESTMENTS PTY LTD ACN 100 304 596 AS TRUSTEE UNDER INSTRUMENT NO. 710257028	Lodger (Name, address, E-mail & phone number) Lodger Code Bradley & Bray Solicitors PO Box 243 NAMBOUR Q 4560 Tel: (07) 5441 1400 005
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2. Lot on Plan Description	County	Parish	Title Reference
Lot 10 on CP Y16434	Canning	Maroochy	18338181

3. Lessee	Given names	Surname/Company name and number	(Include tenancy if more than one)
		PIONEER COFFEE ROASTERY PTY LTD ACN 112 871 342	

4. Interest being leased
Fee Simple

5. Description of premises being leased
The part of the building hatched in black on the attached plan

6. Term of lease Commencement date/event: 01/05/2011 Expiry date: 30/04/2014 and/or Event: *Options: 3 years # Insert nil if no option or insert option period (eg 3 years or 2 x 3 years)	7. Rental/Consideration see schedule
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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.
* delete if not applicable

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

R & K WERCHON INVESTMENTS PTY LTD
ACN 100 304 596

..... signature		<i>R W Werchon</i>
..... full name		Director
..... qualification	28, 6, 11	<i>[Signature]</i>
	Execution Date	Director Lessor's Signature

Witnessing Officer
(Witnessing officer must be in accordance with Schedule 1 of the 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.

PIONEER COFFEE ROASTERY PTY LTD
ACN 112 871 342

..... signature		<i>[Signature]</i>
..... full name		Sole Director
..... qualification	3, 6, 11	<i>[Signature]</i>
	Execution Date	Lessee's Signature

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

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REFERENCE SCHEDULE

- Item 1 **Term:**
THREE (3) YEARS
- Item 2 **Rent**
FORTY THOUSAND AND TWO HUNDRED DOLLARS (\$40,200.00) per annum plus GST
- Item 3 **Review Date(s) (CPI/Market/Fixed):**
- | | |
|----------------------------------|--|
| (a) CPI Review Dates | 1 May, 2012; 1 May, 2013; 1 May, 2015; 1 May, 2016 |
| (b) Market Review Dates | 1 May, 2014 |
| (c) Fixed Increase Dates | NOT APPLICABLE |
| (i) Fixed Increase Dates | |
| (ii) Fixed Increase Percentage | |
- Item 4: **Agreed Proportion**
Not applicable
- Item 5: **Percentage Rental**
Intentionally deleted
- Item 6: **Permitted Use**
Coffee Shop and Roastery
- Item 7: **Insurance - Public Risk**
\$20,000,000.00
- Item 8: **Option Term**
1 May, 2014 to 30 April, 2017
- Item 9: **Bank Guarantee**
Not applicable
- Item 10: **Guarantors**
JOHN DANIEL COOPER of 92 Lindsay Road, Buderim 4556

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1 INTERPRETATION

1.1 Terms and Reference Schedule

- (a) Terms in **bold** in the Reference Schedule have the meaning shown opposite.
- (b) Item numbers refer to those in the Reference Schedule unless stated otherwise.

1.2 Definitions

In this Lease, unless a contrary intention appears:

"**Act**" means the Retail Shop Leases Act 1994.

"**Agreed Proportion**" means the percentage in Item 4 being the proportion that the area of the **Premises** bears to the Lettable Area.

"**API**" means the Australian Property Institute (Inc) Queensland Division.

"**Bank Guarantee**" means an unconditional and irrevocable undertaking by a bank for the amount in Item 9 on terms acceptable to the **Landlord**.

"**Building**" means all buildings and improvements on the **Land** of which the **Premises** form part including the **Land**.

"**Car Park**" means those parts of the **Building** nominated by the **Landlord** for the parking of cars including all ramps and driveways and all rooms servicing the **Car Park**.

"**Commencement Date**" means the day inserted in Item 6 of the Form 7.

"**CPI**" means the Consumer Price Index (All Groups) for Brisbane published by the Australian Bureau of Statistics. If that index no longer exists, "**CPI**" means an index that the president of the **API** decides best reflects changes in the cost of living in the relevant city in which the **Premises** are located.

"**Expiry Date**" means the day inserted in Item 6 of the Form 7.

"**Financial Year**" means 1 July to 30 June.

"**Land**" means the property described in Item 2 of the Form 7.

"**Landlord**" means the party described in Item 1 of the Form 7.

"**Landlord's Property**" means any property owned by the **Landlord** in or on the **Building**.

"**Lettable Area**" means the parts of the **Building** the **Landlord** has leased or licensed or can lease or licence at a commercial rent or fee.

"**Outgoings**" means all the **Landlord's** expenses for the operation, maintenance and repair of the **Building** and charges, levies, premiums, rates or taxes payable by the **Landlord** because it is the owner or occupier of the **Building** or the **Land**. The **Outgoings** include, but will not be limited to, all costs associated with:

- (a) rates, taxes and charges payable to any government or other authority including charges for water;
- (b) cleaning costs and materials;
- (c) rubbish removal;
- (d) light and power charges;
- (e) airconditioning and ventilation;
- (f) lifts and escalators;

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- (g) fire protection and prevention;
- (h) security;
- (i) insurance premiums;
- (j) repairs and maintenance;
- (k) costs for the control of pests, vermin or insects or other similar infestation;
- (l) costs of maintaining gardens;
- (m) management costs;

but do not include:

- (o) expenditure of a capital nature, including the amortisation of capital costs;
- (p) contributions to a depreciation or sinking fund;
- (q) insurance premiums for loss of profits;
- (r) the Landlord's contributions to merchants' associations and centre promotion funds (if any);
- (s) payment of interest and charges on amounts borrowed by the Landlord.

"Premises" means the premises described Item 5 of the Form 7 including the **Building**.

"Renewed Lease" means a **Lease** of the **Premises** for the relevant period set out in Item 8 on the terms set out in Clause 15.

"Rent" means the amount in Item 2 as varied under this **Lease**.

"Rental Year" means each year of the Term.

"Services" means all gas, electricity, telephone, water, sewerage, fire prevention, ventilation, airconditioning, hydraulic, elevator and security services and all other utilities, services or systems provided in the **Building**.

"Tenant" means the party described in Item 3 of the Form 7.

"Tenant Associates" means the **Tenant's** employees, agents, contractors, customers, clients, visitors (with or without invitation), sub-tenants, licensees, and invitees who may at any time be in or upon the **Premises** or the **Land** and any trespasser who is in or upon the **Premises**.

"Tenant's Property" means all fixtures, fittings, equipment, stock and other articles in the **Premises** owned by the **Tenant**.

"Valuer" means a Valuer appointed by the Present of the **API**.

1.3 Reference

- (a) Reference to:
 - (i) the singular includes the plural and the plural includes the singular;
 - (ii) a person includes a body corporate; and
 - (iii) a party includes the party's executors, administrators, successors and permitted assigns.
- (b) If a party consists of more than one person, this **Lease** binds them jointly and each of them severally.

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(c) Headings are for convenience only and do not form part of this Lease or affect its interpretation.

1.4 **Not to Allow or Permit**

If this Lease provides that the Tenant must not do something, then the Tenant must not allow or permit that thing to be done.

2 **RENT AND OTHER PAYMENTS**

2.1 **Payments**

The Tenant must pay to the Landlord:

- (a) the Rent;
- (b) charges for Services to the Premises during the Term;
- (c) stamp duty assessed on the Lease and costs of registering the Lease;
- (d) the Landlord's reasonable expenses incurred in obtaining the consent of the Landlord's mortgagee to the Lease and costs of survey fees associated with registration of the Lease;
- (e) all reasonable costs and expenses incurred by the Landlord in relation to any notice given to the Tenant in accordance with this Lease, lawful determination or attempted determination of this Lease, the surrender of this Lease, the granting of any consents, proceedings lawfully brought by the Landlord to enforce the Tenant's performance and obligations under this Lease;
- (f) any reasonable additional or unusual charges and expenses incurred by the Landlord at the request of the Tenant;
- (g) any tax or levy in the nature of a goods and services tax or consumption tax or other tax levied directly on or relating to the supply of a service under this Lease during the Term; and
- (h) any other payments arising from the Tenant's use of the Premises.

2.2 **Manner of Payment of Rent**

The Tenant must pay the Rent;

- (a) for the period commencing on 1 May, 2011 and thereafter by equal monthly instalments in advance on the first day of each month;
- (b) the first payment must be made on the Commencement Date; and
- (c) if necessary the first and last instalments must be apportioned on a daily basis.

2.3 **Percentage Rent**

Intentionally deleted

2.4 **Agreed Proportion of Outgoings**

N/V
The Tenant will pay the Agreed Proportion of Outgoings immediately upon request of the landlord. Any Outgoings assessed at intervals or for periods that do not fall wholly within the term of this Lease will be apportioned as necessary.

The Landlord, in addition to the right to require immediate reimbursement in respect of the Outgoings, may prior to the commencement of any Accounting Period furnish to the Tenant an estimate of the amount required to be paid by the Tenant to the Landlord in respect of that Accounting Period. The Tenant will pay the estimated amount by equal periodic payments during that Accounting Period on the monthly dates appointed by this Lease for the payment of the Annual Rent, the first of those periodic payments to be paid on the next day appointed for the payment of the annual rent following the

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notification by the Landlord to the Tenant of its estimate . At the end of each Accounting Period an adjustment will be made between the Landlord and the Tenant by the payment of any deficiency by the Tenant to the Landlord or the refunding or crediting of any excess by the Landlord to the Tenant as the case may be. The amount of the equal periodic payments required to be paid by the Tenant as provided in this clause will be calculated by dividing the Landlord's estimate of the amount due for that accounting Period by the number of days appointed for payment of the annual rent remaining in that accounting Period after the date on which the Landlord furnishes to the Tenant its estimate.

2.5 Other Payments

The Tenant must make all other payments promptly to the relevant assessing authority if assessed directly against the Tenant but otherwise to the Landlord upon receipt of an invoice.

2.6 Manner of Payments

Payments must be made as the Landlord directs.

2.7 Charges for Electricity

The Tenant acknowledges that if the Landlord supplies electricity to the Tenant as provided in the Electricity Act 1994 and Section 244 of the Electricity Regulations 1994 that the Landlord has elected to recover the cost of it from the Tenant as provided in that Act.

2.8 Additional Rent

If the Tenant is late in paying the Landlord any money, the Landlord may charge the Tenant additional rent calculated on any late payments at the rate of one percent (1%) per month or any part of a month. All additional rent charged must be paid on demand.

3 RENT REVIEWS

3.1 CPI Review

Where **CPI Review Dates** are inserted in Item 3(a) the Rent must be reviewed on each **CPI Review Date** to an amount represented by A where:

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

Where B = the **CPI** for the quarter ending immediately before the relevant **CPI Review Date**
C = the **CPI** for the quarter one year before the quarter in B, and
D = the **Rent** payable immediately before the **CPI Review Date**.

3.2 Market Review

- (a) Where **Market Review Dates** are inserted in Item 3(b) the **Rent** must be reviewed on each **Market Review Date** to an amount equal to the higher of the current market rent determined in accordance with Clause 3.2(b) or the **Rent** for the last **Rental Year** for the **Premises**.
- (b) The current market rent must be agreed upon between the **Landlord** and the **Tenant**. If agreement on the current market rent is not reached by one month after the relevant **Market Review Date** the current market rent must be determined by a **Valuer**, to be agreed upon by the **Landlord** and the **Tenant** or failing agreement, as nominated by the Chief Executive as defined in the **Act**.
- (c) The **Valuer** must determine the current market rent in accordance with the **Act**.
- (d) The costs of the **Valuer** must be borne equally by the **Landlord** and the **Tenant**.

3.3 Fixed Review

Where **Fixed Increase Dates** are inserted in Item 3(c)(i) from and including each **Fixed Increase Date** the **Rent** increases by the corresponding percentage set out in Item 3(c)(ii).

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3.4 Payment of Rent Prior to Review

- (a) Until a determination of **Rent** is made, the **Tenant** must pay the **Rent** payable before the date of the relevant review.
- (b) Any variation in **Rent** resulting from a review takes effect on the relevant review date.
- (c) Within fourteen (14) days of a determination, the **Landlord** must refund any overpaid **Rent** or the **Tenant** must pay any shortfall.

4 USE OF THE PREMISES

4.1 Use of Premises

- (a) The **Tenant** must bring the **Premises** into active and bona fide use for the **Permitted Use** and for no other purpose.
- (b) The **Landlord** does not warrant that the **Premises** are suitable for any purpose or may be used for the **Permitted Use**.

4.2 Conduct

The **Tenant** must not:

- (a) use the **Premises** for annoying, offensive or illegal acts which cause annoyance, nuisance, grievance, damage or disturbance to the occupants of adjacent premises or to the **Landlord**;
- (b) hold any auction or similar sale in the **Premises**;
- (c) use any form of power other than gas, electric current or gas supplied through meters;
- (d) overload the **Services**;
- (e) damage the **Landlord's Property**;
- (f) alter the **Premises**, install any partitions or equipment or do any building work;
- (g) do anything that may invalidate the **Landlord's** insurance or increase the **Landlord's** premiums;
- (h) display, paint or erect any signs, save standard lawful business signage;
- (i) knowingly use the **Landlord's Property** for any purpose other than those for which they were designed;
- (j) interfere with any drains, water supply, gas, electrical, plumbing, airconditioning equipment or other services or any of the **Landlord's Property**;
- (k) bring any heavy machinery, plant or equipment onto the **Premises** unless it is reasonably necessary for the **Permitted Use** and in any case must not overload the floors, walls or ceilings;
- (l) make holes, deface or damage floors, walls or ceilings or other parts of the **Premises**;
- (m) install any vending or amusement machines;
- (n) use or install any product or property in the **Premises** likely to cause damage.

4.3 Consent

The **Tenant** may seek the **Landlord's** written consent to any of the matters in Clause 4.2 which can be granted or refused at the **Landlord's** discretion.

4.4 Tenant's Obligation

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The **Tenant** must:

- (a) obtain and maintain all permits or consents required from any government authority to carry on the **Permitted Use** in the **Premises**;
- (b) keep the **Premises** free from vermin;
- (c) obey any rules made by the **Landlord** relating to the operation, safety, use, occupation and management of the **Building**;
- (d) immediately notify the **Landlord** of any damage to, defect or disrepair in the **Services** or the **Landlord's Property**;
- (e) immediately notify the **Landlord** of any infectious diseases notifiable to the relevant health authority occurring on the **Premises** of which it is aware;
- (f) immediately provide the **Landlord** with copies of all notices, which it is required to serve on or receive pursuant to any legislation relating to the **Premises**;
- (g) at the expiration or sooner determination of the **Term** return all keys of the **Premises** to the **Landlord**;
- (h) lock all exterior doors and windows in the **Premises** and the **Building** when the **Premises** or the **Building** are not being used;
- (i) keep the **Premises** open for business during the core trading hours of the **Building** as nominated by the **Landlord**;
- (j) pay all charges, assessments or impositions which may be levied in respect of the **Premises** during the **Term** and arising as a result of the use and occupation of the **Premises** by the **Tenant**;
- (k) pay all water charges relating to the **Premises**, as separately metered, or otherwise;
- (l) pay any additional charges imposed by the local council for the provision of extra rubbish bin/s service/s.

4.5 **Licence to Use Paved Area**

The Lessor grants to the Lessee during the continuance of this Lease the right for its customers to use the paved area adjacent to the leased premises for tables and chairs provided that the Lessee nor its servants, agents, licensees or invitees shall not unduly obstruct the paved area and the Lessee shall be responsible for compliance with the Local Council regulations and any other regulations that may apply to that use. The Lessee's insurances must include the paved area. The provisions of the Lease shall apply to the paved area mutatis mutandis as if the paved area was included in the demised premises.

5 **MAINTENANCE AND REPAIR**

5.1 **Repair**

The **Tenant** must:-

- (a) keep the **Premises**, including all signage, in good repair and condition except for fair wear and tear;
- (b) fix any damage caused by the **Tenant** or the **Tenant's Associates** use;
- (c) repair, maintain or replace all glass in the **Premises**, the doors locks windows and window fittings, all broken, faulty or blown light tubes and associated electrical apparatus in the **Premises**;
- (d) during the last year of the **Term**, and more often if reasonably required by the **Landlord** having regard to the condition of the **Premises**, paint or treat the walls, ceilings and other painted or treated surfaces of the interior of the **Premises** with 2 coats of first quality paint or other treatment in a proper and workmanlike manner, in the original colours or in such other colours approved by the **Landlord**. If any surfaces of the interior of the **Premises** consist of stained or treated timber or

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brick which is not painted, the **Tenant** must obtain the approval of the **Landlord** prior to painting or treating those surfaces or bricks.

5.2 Cleaning

- (a) The **Tenant** must:
- (i) keep the **Premises** clean and tidy, consistent with the nature of the business conducted on the **Premises**;
 - (ii) keep the **Tenant's Property** clean and tidy.

5.3 Landlord's Right to Inspect and Repair

- (a) Upon giving the **Tenant** 2 days notice in writing, the **Landlord** may inspect or carry out repairs, maintenance, or building work in or around the **Premises** at any reasonable time. In an emergency, the **Landlord** may enter at any time without giving the **Tenant** notice.
- (b) The **Landlord** may carry out any of the **Tenant's** obligations under this **Lease** if the **Tenant** does not carry them out on time or as reasonably directed by the **Landlord**. If the **Landlord** does so, then the **Tenant** must pay the **Landlord's** expenses.

5.4 Tenant's Works

- (a) The **Tenant** must not carry out any building work without the **Landlord's** consent. The **Landlord** cannot unreasonably refuse to give its consent if:
- (i) the **Landlord** approves the **Tenant's** drawings and specifications for the works;
 - (ii) the **Tenant** and the **Landlord** agree on the type, quality, colour and size of the materials to be used;
 - (iii) the **Landlord** reasonably approves of the **Tenant's** builder.
- (b) The **Tenant** must:
- (i) pay for any work approved under Clause 5.4(a);
 - (ii) indemnify the **Landlord** against all injury or damage to the **Premises** or the **Building** caused by those works; and
 - (iii) maintain the works.

5.5 Landlord's Fitout

If the **Landlord** has provided any fitout to the **Premises** then:

- (a) that fitout is **Landlord's Property**;
- (b) the **Tenant** must not damage any fitout provided by the **Landlord** or install any additional fitout without the consent of the **Landlord** which must not be unreasonably withheld;
- (c) if during the **Term** of this **Lease** or any renewed term, any fitout provided by the **Landlord** needs to be replaced because of fair wear and tear, then the **Landlord** will replace that fitout with fitout of a like quality;
- (d) If during the **Term** of this **Lease** or any renewed term, the **Tenant** requires any fitout by the **Landlord** to be replaced for reason other than fair wear and tear, the **Landlord** or the **Tenant** with the **Landlord's** consent will replace that fitout at the cost of the **Tenant**;

6 ASSIGNMENT AND SUBLETTING

6.1 No Dealing

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The **Tenant** may only assign, sublet, mortgage, charge or deal with the **Lease** or the **Premises** with the **Landlord's** consent. Section 45 of the **Act** shall not apply.

6.2 **Landlord's Consent**

The **Landlord** must not unreasonably withhold its consent if:

- (a) the **Landlord** is satisfied that the new tenant is suitable, respectable, responsible and financially secure and is capable of carrying out the **Tenant's** obligations under this **Lease**;
- (b) the **Tenant** and the new tenant signs any agreement and gives any security which the **Landlord** reasonably requires;
- (c) the **Tenant** complies with any other reasonable requirements of the **Landlord**;
- (d) the **Tenant** is not in breach of the **Lease**;
- (e) the **Tenant** releases the **Landlord** from all claims the **Tenant** has or may have in respect of this **Lease**;
- (f) the **Tenant** pays the **Landlord's** reasonable costs and expenses of giving its consent including legal costs, stamp duty and registration fees

6.3 **Deemed Assignment**

If the **Tenant** is a corporation, any change in the principal shareholding or composition of the board of directors altering the effective control or control of one half or greater of the shares or the board is an assignment of this **Lease** and must be dealt with in accordance with this **Lease**.

7 **LANDLORD'S RIGHTS AND OBLIGATIONS**

7.1 **Rules**

The **Landlord** may make rules relating to the **Building** and **Common Areas** dealing with:

- (a) their use, care and cleanliness;
- (b) the preservation of good order;
- (c) the comfort of persons;
- (d) the location of garbage and refuse pending its removal;
- (e) the closure of any part outside normal business hours;
- (f) the external appearance;
- (g) the control and operation of the **Car Park**;
- (h) the administration and control of the **Building** and the **Common Areas**.

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7.2 **Quiet Enjoyment**

Provided the **Tenant** complies with the terms of this **Lease** the **Tenant** may peaceably hold and enjoy the **Premises** during the continuance of this **Lease** without any interruption by the **Landlord** or any other person lawfully claiming under the **Landlord**.

7.3 **Insurance**

The **Landlord** must insure the **Building** (but excluding all additions to the **Premises** carried out by the **Tenant** and the **Tenant's Property**) for its full replacement value and keep it insured unless the insurance becomes void or voidable through or by reason of some default by the **Tenant** keep it insured.

7.4 **Rates and Taxes**

The **Landlord** must pay all **Outgoings** not payable by the **Tenant** or other occupant of the **Building**.

7.5 **Services**

The **Landlord** must do everything reasonable to ensure the **Services** and **Landlord** supplied fixtures, fittings and equipment operate efficiently during normal working hours but the **Landlord** is not liable if they do not.

7.6 **Directory Boards**

Any directory boards provided by the **Landlord** are under its control.

7.7 **Consent of Mortgagee**

The **Landlord** must obtain from any mortgagee a consent in writing to this **Lease**. The **Tenant** must sign any form of consent required by the mortgagee.

8 **RISK**

8.1 **Own Risk**

The **Tenant** occupies and uses the **Premises** at its own risk. The **Tenant** also carries out building work in the **Premises** at its own risk.

8.2 **Release**

The **Tenant** releases to the fullest extent permitted by Law, the **Landlord** and its agents, employees and contractors from all claims and demands resulting from any accident, damage, loss, injury or death occurring in the **Premises** or on any part of the **Land** except to the extent that it is caused by the **Landlord's** deliberate act or negligence.

8.3 **Indemnity**

Without limiting Clause 8.2 the **Tenant** indemnifies the **Landlord** and its agents, employees and contractors against any claims or demands caused by:

- (a) the **Tenant's** deliberate act or negligence;
- (b) the **Tenant's** use or occupation of the **Premises** or the **Land**; or
- (c) any personal injury or damage sustained by any person in or about the **Premises** or the **Building**.

8.4 **Insurance**

The **Tenant** must effect and keep current:

- (a) a public liability insurance policy in respect of the **Premises** in the names of the **Landlord** and all persons having superior or concurrent title to the **Landlord** and the **Tenant** for their respective interests in an amount set out in Item 7 or any higher amount that the **Landlord** may from time to

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time reasonably require with an insurance company approved by the **Landlord** (such approval not to be unreasonably withheld);

- (b) a policy of insurance in the names of the **Landlord** and the **Tenant** for their respective interests to cover:
 - (i) the full replacement value of plate glass in the **Premises**; and
 - (ii) industrial special risks for the **Tenant's Property**, with an insurance company approved by the **Landlord** (such approval not to be unreasonably withheld); and
- (c) workers compensation including employer's liability insurance (unlimited cover).

8.5 Evidence of Insurance

The **Tenant** must give the **Landlord**:

- (a) a duplicate copy of each such policy immediately it is effected
- (b) a copy of the receipt issued for payment of each premium within 5 business days of it being paid; and
- (c) a copy of the certificate of currency when requested.

8.6 Notice of Accident

The **Tenant** must give the **Landlord** written notice of any accident in or want of repair to the **Premises** or defect in any **Services** of which the **Tenant** is aware.

8.7 Conduct Voiding Insurance

The **Tenant** must not knowingly do or permit to be done or omit to do any act in the **Premises** or on the **Common Areas** which:

- (a) may render void or voidable any insurances on the **Building**; or
- (b) may cause the rate of premium on any such insurance policies to be increased or be liable to be increased. The **Tenant** must do or permit to be done immediately upon request by the **Landlord**, everything necessary to ensure the continuance of any insurances effected by the **Landlord**. The **Tenant** must pay to the **Landlord** upon demand any increased premiums caused by the **Tenant** or the **Tenant's Associates**.

9 DEFAULT AND TERMINATION

9.1 Essential Terms

The essential terms are:

- (a) **Rent** and other payments [Clause 2];
- (b) Use of **Premises** [Clause 4.1];
- (c) Conduct [Clause 4.2];
- (d) **Tenant's Obligations** [Clause 4.4];
- (e) Repair [Clause 5.1];
- (f) Cleaning [Clause 5.2];
- (g) Obtain consent before assignment, subletting, mortgaging or charging [Clause 6.1];
- (h) Risk [Clause 8];

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- (i) Bank Guarantee [Clause 16].

9.2 **Default**

The **Tenant** is in default of this **Lease** if:

- (a) it breaches an essential term of this **Lease**;
- (b) it repudiates its obligations under this **Lease**;
- (c) it is insolvent;
- (d) its interest under this **Lease** is attached or taken in execution under any legal process; or
- (e) it does not comply with any other term of this **Lease** within a reasonable time after receiving notice from the **Landlord** to do so.

9.3 **Termination of Tenancy**

If the **Tenant** is in default and does not remedy the default within the time stated in any notice from the **Landlord**, the **Landlord** may do any one or more of the following without prejudice to any other right which it may have against the **Tenant**:

- (a) by notice to the **Tenant**, convert this **Lease** to a month to month tenancy on the terms of this **Lease** as far as they can be applied to a monthly tenancy;
- (b) by notice to the **Tenant**, terminate the **Lease** and take possession of the **Premises**;
- (c) recover from the **Tenant** any loss suffered by the **Landlord** due to default of the **Tenant**; and
- (d) exercise any of its other legal rights.

9.4 **Damages**

If the **Tenant** breaches an essential term of this **Lease** and the **Landlord** terminates the **Lease**, the **Landlord** may recover all money payable by the **Tenant** under the **Lease** up to the **Expiry Date**. The **Landlord** must take reasonable steps to mitigate its loss.

10 **EXPIRY OF TERM**

10.1 **Tenant's Obligations**

On expiry of the **Term** or earlier termination the **Tenant** must:

- (a) vacate the **Premises** in good repair and clean condition, fair wear and tear excepted;
- (b) remove all the **Tenant's Property** from the **Premises**;
- (c) repair any damage caused by removal of the **Tenant's Property**;
- (d) return all keys, security passes and cards held by the **Tenant** or the **Tenant's Associates**; and
- (e) paint the **Premises** with two coats of first quality paint in a workmanlike manner in colours approved in writing by the **Landlord**.

Title Reference [18338181]

10.2 **Failure to Remove Tenant's Property**

If the **Tenant** does not remove the **Tenant's Property** on expiry or earlier termination, the **Landlord** may:

- (a) remove and store the **Tenant's Property** at the **Tenant's** risk and expense; or
- (b) treat the **Tenant's Property** as being abandoned, in which case title in the **Tenant's Property** passes to the **Landlord** who may deal with it as it thinks fit without being liable to account to the **Tenant**.

10.3 **Power of Attorney**

- (a) The **Tenant** irrevocably appoints the **Landlord** and each and every one of its directors to be the attorney of the **Tenant** to act at any time after the power to take possession of the **Premises** has been exercised.
- (b) The attorney may:
 - (i) execute and register (if necessary) a transfer or surrender of the **Lease** or a withdrawal of any caveat lodged by the **Tenant** affecting the **Land** together with any other documents needed to register those dealings; and
 - (ii) do all things which the **Tenant** is required to do under this **Lease**.
- (c) The **Tenant** must ratify and confirm anything the attorney lawfully does and must pay the **Landlord's** reasonable expenses incurred in exercising the powers under Clause 10.3.

11 **MONTHLY TENANCY**

11.1 **Monthly Tenancy**

If the **Tenant** continues to occupy the **Premises** after the **Expiry Date** in accordance with this **Lease**:

- (a) The **Tenant** does so as a monthly tenant on the same conditions as at the last day of the **Term**; and
- (b) either party may terminate the monthly tenancy by giving to the other one month's written notice expiring on any day.

12 **DAMAGE AND DESTRUCTION**

12.1 **Rent Reduction**

If the **Building** is damaged or destroyed and the **Tenant** or the **Tenant's Associates** have not caused or contributed to such damage or destruction and as a result the **Premises** are wholly or partially unfit for use or the **Tenant** cannot gain access to the **Premises** then from the date that the **Tenant** notifies the **Landlord** of the damage or destruction until the date that the **Premises** are again fit for use and accessible the **Landlord**:

- (a) must reduce the **Rent, Agreed Proportion of Outgoings** and any other money payable to the **Landlord** by a reasonable amount depending on the type and extent of damage or destruction; and
- (b) cannot require the **Tenant** to clean, repair or maintain until the **Premises** are fit for use and accessible.

12.2 **Tenant May Terminate**

If an event of damage or destruction occurs as referred to in clause 12.1, the **Tenant** may terminate this **Lease** by 30 days notice to the **Landlord** unless:

- (a) within 3 months of the event causing damage or destruction, the **Landlord** notifies the **Tenant** that the **Premises** will be reinstated; and

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- (b) the **Landlord** carries out reinstatement works within a reasonable time having regard to the extent of the damage.

12.3 **Landlord May Terminate**

If the **Landlord** considers the damage to the **Premises** renders it impractical or undesirable to reinstate the **Premises**, the **Landlord** may terminate this **Lease** by giving written notice to the **Tenant**.

12.4 **No Obligation to Rebuild**

The **Landlord** is not obliged to restore the **Building** or **Premises** according to the former specifications so long as the layout and dimensions of the **Premises** and **Services** are not substantially different.

12.5 **Dispute Resolution**

- (a) The **Tenant** is entitled to dispute the reasonableness of any reduction of rent and other moneys.
- (b) Any dispute as to the extent and reasonableness of any reduction in **Rent** and other moneys must be determined by an independent **Valuer** appointed by the president of the **API** at the request of either party.
- (c) In making the determination, the appointed **Valuer** acts as an expert and the determination is final and binding on both parties.
- (d) The cost of the determination must be paid by the parties equally unless otherwise decided by the appointed **Valuer**.

12.6 **Antecedent Rights**

Termination under Clause 12 or any other provision of this **Lease** does not effect either parties' accrued rights before termination.

13 **SALE BY LANDLORD**

- 13.1 Before transferring any interest in the **Land**, the **Landlord** must obtain a signed deed from the transferee containing covenants in favour of the **Tenant** that the transferee will be bound by the terms of this **Lease** and will not transfer its interest in the **Land** unless it obtains a similar deed from its transferee. This Clause 13.1 does not apply if this **Lease** is registered.

14 **GENERAL**

14.1 **Landlord May Rectify**

If the **Tenant** does not perform any obligation under this **Lease** the **Landlord** may perform that obligation as agent of the **Tenant** and the full cost to the **Landlord** of performing that obligation is payable by the **Tenant** to the **Landlord** on demand.

14.2 **Notices**

To be valid or effective a notice or document must be:

- (a) in writing;
- (b) left at, posted by registered post or sent by facsimile to the **Tenant** at the **Premises** or at the address last notified by the **Tenant**; and
- (c) delivered to, posted by registered post or sent by facsimile to the **Landlord** at the address last notified by the **Landlord**.

14.3 **Waiver Negatived**

Failure by the **Landlord** to exercise any power or right under this **Lease** can not be such to be construed or deemed a waiver of the relevant power or right unless it is in writing.

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14.4 **Entire Agreement**

This Lease:

- (a) contains the entire agreement and understanding between the parties on everything connected with the subject matter of this **Lease**; and
- (b) supersedes any prior agreement or understanding on anything connected with that subject matter.

14.5 **Severability**

If any provision of this **Lease** or its application to any person or circumstance is or becomes unenforceable, illegal or void the remaining provisions are not affected.

14.6 **Property Law Act Sections do not Apply**

Sections 105, 107 and 109 of the Property Law Act 1974 do not apply to this **Lease**.

14.7 **Statutes and Regulations**

Reference to statutes regulations ordinances or by-laws include all statutes regulations ordinances or by-laws amending consolidating or replacing the same.

14.8 **Governing Law**

This **Lease** is governed by and construed in accordance with Queensland law.

14.9 **Saturdays, Sundays and Public Holidays**

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

15 **OPTION FOR FURTHER TENANCY**

15.1 **Exercise of Option**

If **Option Terms** have been inserted in Item 8 the **Landlord** must grant a **Renewed Lease** of the **Premises** to the **Tenant** for the relevant **Option Term** if the **Tenant**:

- (a) gives notice to that effect to the **Landlord** not less than 3 months before the **Term** expires; and
- (b) has not breached any of the terms of this **Lease**.

15.2 **Terms of Renewed Lease**

The **Renewed Lease** must be on the same terms as this **Lease** except:

- (a) the term will be that specified for the relevant **Option Term**;
- (b) the date of commencement will be the day after expiry of the **Term**;
- (c) the rent will be an amount determined under Clause 3.2 as if the last day of the **Term** was a **Market Review Date**;
- (d) the amount of public liability insurance in Item 7 of the Reference-Schedule will be an amount reasonably required by the **Landlord**;
- (e) the **Bank Guarantee** in Item 9 will be an amount reasonably required by the **Landlord**;
- (f) the **Option Terms** in item 8 will be amended by deleting the option for which the **Renewed Lease** is being granted;
- (g) Clause 15 will be omitted from the **Renewed Lease** when no relevant **Option Terms** remain in Item

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8 of the Reference Schedule or the **Tenant** does not comply with Clause 15.1.

15.3 Dispute

If rent is not determined at the commencement date of the **Renewed Lease**, the **Tenant** must pay the **Rent** and any adjustment will be made on determination of the relevant rent.

16 BANK GUARANTEE

16.1 If a **Bank Guarantee** has been inserted in Item 9 the **Tenant** must deliver the **Landlord** before the **Date of Commencement** the **Bank Guarantee**.

16.2 If the **Tenant** does not comply with any of its obligations under this **Lease**, the **Landlord** may call on the **Bank Guarantee**.

16.3 If the **Landlord** makes demand on the **Bank Guarantee** the **Tenant** must provide a replacement **Bank Guarantee** equal to the amount claimed by the **Landlord**.

16.4 The **Landlord** must return the **Bank Guarantee** to the **Tenant** within 2 months of expiration of the **Term** unless:

- (a) the **Landlord** has started proceedings against the **Tenant**; or
- (b) the **Tenant** is holding over with the **Landlord's** consent.

17 GOODS AND SERVICES TAX

17.1 The terms of this Clause shall apply regardless of any other provision of this **Lease**.

17.2 The amount of rent and any other amounts stated or to be calculated pursuant to the provisions of this **Lease** are exclusive of GST.

17.3 Should the **Landlord** be required or elect to be registered pursuant to the GST law then:

- (1) the rent payable at that time and thereafter shall be increased by the amount of GST payable by the **Landlord**;
- (2) the amount the **Tenant** shall pay as the prescribed percentage of the outgoings in respect of each outgoing shall be increased to include GST and for this purpose the amount of any outgoing shall be:-
 - (a) the actual amount payable by the **Landlord** to the supplier of the outgoing less
 - (b) any amount shown on the tax invoice provided by the supplier of a GST component of the price and which may be claimed by the **Landlord** as an input tax credit plus
 - (c) the GST payable on the value of that taxable supply made by the **Landlord**.
- (3) If the **Landlord** makes any other taxable supply pursuant to the GST law then the amount the **Tenant** must pay for that supply is increased by the GST payable on that supply.

17.4 Definitions

In this **Lease** the following terms shall have the meanings given to them in Division 195 of A New Tax System (Goods and Services Tax) Act 1999 unless the context indicates otherwise:

- (1) GST
- (2) GST law
- (3) Tax Invoice
- (4) Input tax credit
- (5) registered
- (6) taxable supply.

18. GUARANTEE AND INDEMNITY

Title Reference [18338181]

- 18.1 **IN CONSIDERATION** of the **Landlord** at the request of the **Guarantor** entering into this **Lease** with the **Tenant** the **Guarantor** covenants and agrees with the **Landlord** that:
- (1) it will be liable jointly and severally with the **Tenant** for the due and punctual payment of all **Rent** and other moneys to be paid by the **Tenant** under this **Lease** and for the due performance and observance by the **Tenant** of all the covenants terms and conditions of this **Lease** on the part of the **Tenant** to be performed and observed;
 - (2) the **Guarantor** indemnifies the **Landlord** from and against all losses damages costs and expenses which the **Landlord** may suffer or incur in consequence of any breach or nonobservance of any of the covenants terms and conditions of this **Lease** on the part of the **Tenant** to be performed or observed and the **Guarantor** agrees that it will remain liable to the **Landlord** under this indemnity notwithstanding as a consequence of any breach or nonobservance the **Landlord** has exercised any of its rights under this **Lease** including its rights of re-entry and notwithstanding that the **Tenant** (being a corporation) may be wound up or dissolved or (being a natural person) may be declared bankrupt and notwithstanding that the guarantee given by the **Guarantor** may for any reason be unenforceable either in whole or in part;
 - (3) on any default or failure by the **Tenant** to observe and perform any of the covenants terms and conditions of this **Lease** the **Guarantor** will immediately on demand by the **Landlord** pay all **Rent** and other moneys and make good to the **Landlord** all losses damages costs and expenses sustained or incurred by the **Landlord** by reason or in consequence of any default in performing or observing any of the covenants terms and conditions of this **Lease** and the **Guarantor** will also pay to the **Landlord** interest at the Stipulated Rate from the time of any **Rent** or other moneys respectively falling due to the date of payment added without the necessity of any prior demand having been made on the **Tenant**;
 - (4) the liability of the **Guarantor** under this guarantee and indemnity will not be affected by the granting of time or any other indulgence to the **Tenant** or by any assignment or purported assignment of the interest of the **Tenant** under this **Lease** or by the compounding compromise release abandonment waiver variation or renewal of any of the rights of the **Landlord** against the **Tenant** or by any variation of this **Lease** or by the filling-up of this **Lease** by the **Landlord** or its solicitors under the terms of any agreement for lease or by any neglect or omission to enforce those rights or by any other thing which under the law relating to sureties would or might but for this provision release the **Guarantor** in whole or in part from its obligations under this guarantee and indemnity;
 - (5) notwithstanding that as between the **Guarantor** and the **Tenant** the **Guarantor** may be a surety only, nevertheless as between the **Guarantor** and the **Landlord** the **Guarantor** is deemed to be a primary debtor and contractor jointly and severally with the **Tenant**;
 - (6) to the fullest extent permitted by law the **Guarantor** hereby waives such of its rights as surety or indemnifier (legal equitable statutory or otherwise) as may at any time be inconsistent with any of the provisions of this guarantee and indemnity;
 - (7) the covenants and agreements made by the **Guarantor** are not conditional or contingent in any way or dependent upon the validity or enforceability of the covenants and agreements of any other person and remain binding notwithstanding that any other person does not execute this **Lease** or this guarantee and indemnity;
 - (8) the obligations of the **Guarantor** under this guarantee and indemnity continue until all **Rent** and other moneys payable under this **Lease** have been paid and until all other obligations and indemnities have been performed observed and satisfied and those obligations will not be reduced or affected by any notice to quit given by either **Party** to this **Lease** or the death insolvency liquidation or dissolution of the **Tenant** or the **Guarantor** or either of them;
 - (9) the **Guarantor** does not execute this guarantee and indemnity as a result of or by reason of any promise representation statement information or inducement of any nature or kind given or offered to the **Guarantor** by the **Landlord** or on the **Landlord's** behalf whether in answer to any enquiry by or on behalf of the **Guarantor** or not and (except as provided in this guarantee and indemnity) the **Tenant** was not prior to the execution of this guarantee and indemnity by the **Guarantor** and is not subsequently under any duty to disclose to the **Guarantor** or to do or execute any act matter or thing relating to the affairs of the **Tenant** or its transactions with the **Landlord**;

Title Reference [18338181]

- (10) in the event of the **Tenant** during the term of this **Lease** entering into liquidation (or being a person, entering into bankruptcy) and the liquidator or trustee in bankruptcy disclaiming this **Lease**, or if the **Tenant** should be dissolved, the **Guarantor** will accept from the **Landlord** a lease of the **Premises** for a term equal in duration to the residue remaining unexpired of the term of this **Lease**, the new lease to contain the same **Tenant's** and **Landlord's** covenants respectively and the same provisos and conditions in all respects (including the proviso for re-entry) as are in this **Lease** contained together with such other covenants provisos and conditions as the **Landlord** may reasonably require and on the execution by the **Landlord** of the further lease the **Guarantor** will pay all costs of the further lease (including all costs of and incidental to the preparation execution and stamping of the lease and all stamp duty and registration fees) and will immediately execute and deliver to the **Landlord** the lease in triplicate;
- (11) in the event of a further lease of the **Premises** being granted by the **Landlord** to the **Tenant** (including to any successors of the **Tenant** or to its permitted assigns) consequent upon the exercise of any option to renew contained in this **Lease** or in the event of the **Landlord** granting to the **Tenant** any extension of the term of this **Lease**, then this guarantee and indemnity will be deemed to extend to the further lease or the extension of the term as the case may be and will be read and construed as if the further lease were this **Lease** and the tenant holding under it were the **Tenant** referred to in this **Lease**;
- (12) all notices or demands to be given or made to or upon the **Guarantor** will be deemed to be duly given and served on the **Guarantor** if signed by the **Landlord** or the solicitors for the **Landlord** or if the **Landlord** is a corporation then by any officer of the corporate **Landlord** or the solicitors for the corporate **Landlord** and delivered to the **Guarantor** (or if there is more than one **Guarantor** then to any one or more of them) personally or if the **Guarantor** is a corporation then to any person at its registered office or principal place of business in this **State** or if left at the last known place of business or abode of the **Guarantor** or if left at or sent to the **Guarantor** through the post in a prepaid envelope addressed to the **Guarantor** at the address (if any) of the **Guarantor**. A notice or demand which is posted will be deemed to have been served on the **Guarantor** on the day following the date of posting;
- (13) in the event of the invalidity of any part or provision of this guarantee and indemnity that invalidity will not affect the validity or the enforceability of any other part or provision of this guarantee;
- (14) where there is more than one person or corporation which together constitute the **Guarantor** to this **Lease**, the obligations and liabilities of each of those persons or corporation are joint and several;
- (15) this guarantee takes effect forthwith upon its execution and continues to be of full effect whether or not the **Lease** is subsequently registered in the Department of Natural Resources. References to this **Lease** include any equitable lease agreement for lease or periodic tenancy arising upon execution or acceptance by the **Tenant** of the instrument to which this guarantee is annexed;
- (16) in the event of the **Landlord** transferring the **Land** or otherwise assigning the **Landlord's** rights and obligations as **Landlord** under this **Lease** the **Landlord's** rights under this guarantee (whether or not there is any express assignment of the rights) will be deemed to be assigned to the owner from time to time of the **Land** or other assignee of the **Landlord's** rights and obligations.

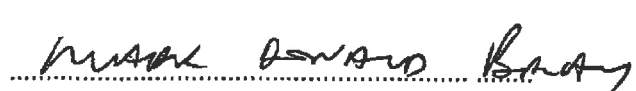
SIGNED, SEALED AND DELIVERED

by the said JOHN DANIEL COOPER

this 30th day of JUNE 2011

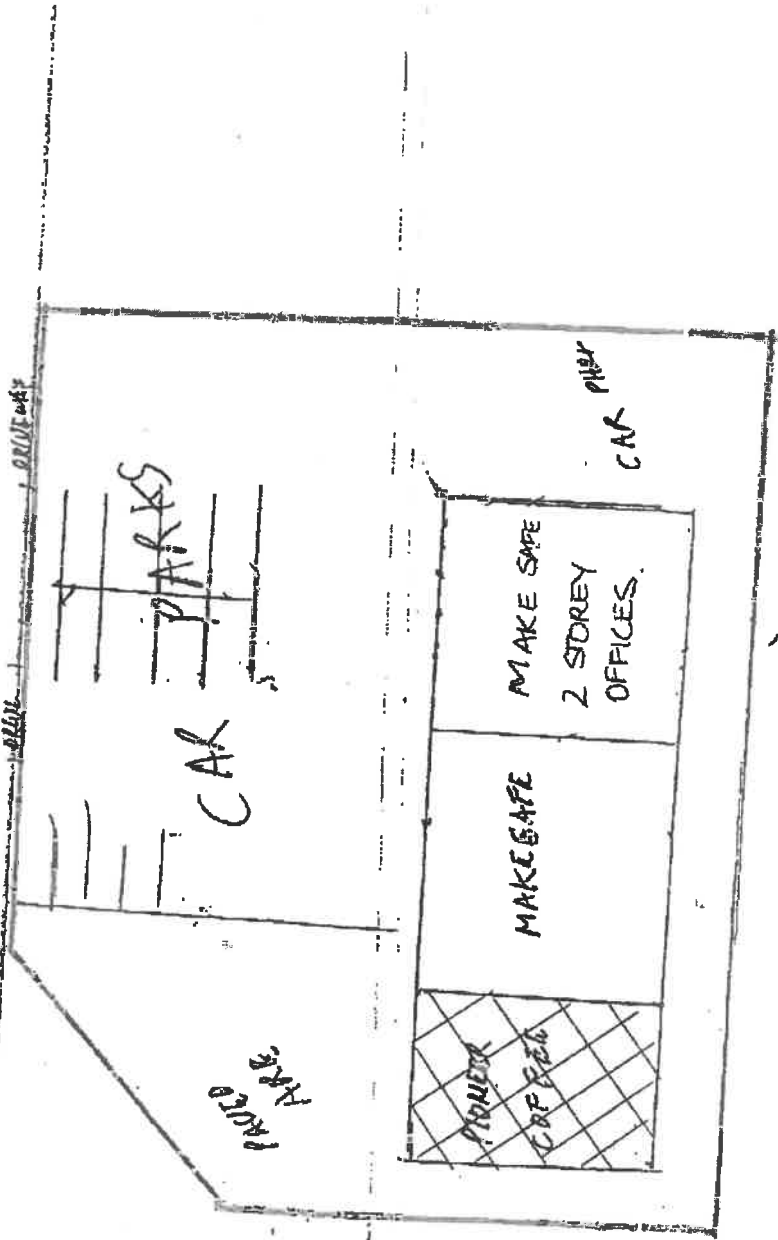


.....
A Justice of the Peace/Solicitor/Commissioner for Declarations



.....
(full name to be printed)

Title Reference I183381811



DEED OF ASSIGNMENT

THIS DEED made this 1ST day of August 2012.

BETWEEN: R & K WERCHON INVESTMENTS PTY LTD ACN 100 304 596 as
Trustee under instrument(hereinafter called "the Lessor") of the First Part;

AND: ~~PIONEER~~ ^{PIONEER} COFFEE ROASTERY PTY LTD ACN 112 871 342 (hereinafter
called "the Assignor") of the Second Part;

AND: J & K COFFEE ROASTERY PTY LTD ACN 159 389 447 (hereinafter
called "the Assignee) of the Third Part.

WHEREAS the Assignor is the Lessee from the Lessor under Agreement dated the 28 June 2011 for the premises described therein to the Assignor and whereas the Assignor agreed to assign to the Assignee all their right title and interest as Lessee in and to the said Lease.

NOW THIS DEED WITNESSETH AS FOLLOWS:

1. In consideration of and pursuant to the said Agreement the Assignor does hereby transfer, set over and assign to the Assignee all their right title and interest in and to the said Lease Agreement as from the effective date hereof.
2. The effective date hereof shall be the 31 July 2012.
3. The Assignor DOES HEREBY COVENANT AND AGREE with the Assignee to indemnify and keep indemnified the Assignee in respect of all or any liability on the part of the Lessee under the said Lease Agreement prior to the effective date.
4. The Assignor DOES HEREBY COVENANT AND AGREE with the Assignee that it shall not commit any ~~breach~~ ^{BREACH} of the terms and conditions of the said Lease agreement up to and including the effective date.
5. The Assignee DOES HEREBY ACCEPT the assignment of the Lease and COVENANTS AND AGREES with the Assignor and the Lessor that they will from the

effective date fully observe, perform and fulfil the several covenants, agreements, conditions, restrictions, provisions and reservations in the Lease Agreement contained and on the part of the Lessee thereunder to be observed, performed and fulfilled as if they were the original Lessee named therein AND to indemnify and keep indemnified the Assignor in respect thereof against all claims, actions, suits, demands or costs which may arise under the Lease Agreement from and after the effective date.

6. The Assignee hereby irrevocably makes, nominates and appoints the Lessor to be the attorney of the Assignee for and on behalf of and in the name of and as the act and deed of the Assignee to execute a surrender of the said Lease and to do all things necessary to complete the surrender thereto without any payment of compensation therefore to the Assignee PROVIDED ALWAYS that such power of attorney shall be exercisable only after default shall have been made by the Assignee as Lessee under the said Lease Agreement entitling the Lessor to re-enter upon the premises thereby demised and/or to determine the Lease or tenancy thereby created AND if the said Lease shall cease and determine from any cause whatsoever sufficient proof shall be the Statutory Declaration of the Lessor and the Assignee hereby ratifies and confirms and agrees to ratify and confirm whatsoever the said attorney shall do in or about the premises by virtue of these presents.

7. The Lessor in consideration of the Assignee executing this Deed of Covenant DOES HEREBY CONSENT to the within Assignment of Lease and the Lessor DOES HEREBY CONFIRM AND CERTIFY:

- (a) That there has not been and is presently no existing breach of the covenants, conditions or obligations on the part of the Lessee contained in the said Lease Agreement.
- (b) That the Lessor shall fulfil all the covenants, conditions and obligations contained in the said Lease Agreement on the part of the Lessor to be observed, performed and fulfilled (including the covenants for options and covenants to obtain from

any purchaser of the freehold a covenant that such purchaser will be bound by the terms and conditions of the Lease Agreement including the option for renewal) as though such purchaser was the original Lessor named in the Lease Agreement and as though the Assignee was the original Lessee named in the said Lease.

IN WITNESS WHEREOF the parties hereto have caused these presents to be executed on the day and year first hereinbefore written.

SIGNED SEALED AND DELIVERED by
the said **R & K WERCHON INVESTMENTS**
PTY LTD ACN 100 304 596
as Lessor in the presence of:

) Rw Werchon
) Director
) [Signature]
) Director

[Signature] (Dec 58052)

A Justice of the Peace

SIGNED SEALED AND DELIVERED by
the said **PIONEER COFFEE ROASTERY**
PTY LTD ACN 112 871 342
as Assignor in the presence of:

) J.D. Cooper
) Sole Director

[Signature]

A Justice of the Peace SOLICITOR

SIGNED SEALED AND DELIVERED by
the said **J & K COFFEE ROASTERY**
PTY LTD ACN 159 389 447
as Assignee in the presence of:

) J.R. Bennett
) Sole Director

[Signature] (Dec)

A Justice of the Peace

DATED this day of 2012

BETWEEN:

**R & K WERCHON INVESTMENTS PTY LTD
ACN 100 304 596**

AND:

***PIONEER*
~~PIONEER~~ COFFEE ROASTERY PTY LTD
ACN 112 871 342**

AND:

**J & K COFFEE ROASTERY PTY LTD
ACN 159 389 447**

DEED OF ASSIGNMENT

**WELSH & WELSH
SOLICITORS
8 QUEEN STREET
NAMBOUR QLD 4560**

TELEPHONE: (07) 5441 5555

Deed of Extension and Variation of Lease

LESSOR: R & K WERCHON INVESTMENTS PTY
LTD ACN 100 304 595 AS TRUSTEE
UNDER INSTRUMENT 710257028

LESSEE: PIONEER COFFEE ROASTERY PTY LTD
ACN 112 871 342

GUARANTOR: JOANNE LINDA BENNETT



Bradley & Bray | SOLICITORS
Serving the Sunshine Coast for over 30 years

1st Floor, 15 Ann Street, Nambour
PO Box 243, Nambour Q 4560
P: 07 5441 1400
F: 07 5441 1414

DEED OF EXTENSION & VARIATION OF LEASE

THIS DEED made the 28th day of April 2014

BETWEEN: R & K WERCHON INVESTMENTS PTY LTD ACN 100 304 595 as Trustee under Instrument 710257028 of PO Box 1460, Buderim in the State of Queensland ("the Lessor")

AND: J & K COFFEE ROASTERY PTY LTD ACN 159 389 447 of Unit 1, 41 Pioneer Road, Yandina in the State of Queensland ("the Lessee")

AND: JOANNE LINDA BENNETT of 75-79 Old Coach Way, Ninderry in the State of Queensland ("the Guarantor")

RECITALS:

- A. By a lease dated 28 June, 2011 together with any deeds of assignment, covenant or extension (if any) in relation thereto ("the Lease") the Lessor agreed to let and the Lessee agreed to take the premises more particularly described in the Lease ("the Demised Premises") to be held by the Lessee as tenant for the term at the rent and subject to the covenants contained in the Lease.
- B. The Lessor has agreed to lease and the Lessee has agreed to take the Demised Premises for a further term at the rent and subject to the covenants contained in this Deed.
- C. The Lessee has exercised their option contained in Clause 15 of the Lease.
- D. The Guarantor wants to extend the operation of the guarantee contained in a Deed of Covenant on Assignment of Lease and Lessor's Consent dated 28 August, 2012 ("the Deed of Guarantee") in favour of the Lessor for the further term.
- E. The Lessor and the Lessee have agreed to amend the Lease as provided in Paragraph 4 below.

NOW THIS DEED WITNESSES as follows:

1. Extension of Term

In consideration of the rent reserved by this Deed and the covenants contained in this deed the Lessor **HEREBY LEASES** the Demised Premises to the Lessee to be held by the Lessee as tenant for a further term of 3 YEARS commencing notwithstanding the date hereof on 1 May, 2014 at the annual rent of FORTY-TWO THOUSAND SIX HUNDRED AND TWENTY-FIVE DOLLARS AND TWENTY CENTS (\$42,625.20) plus GST payable monthly in advance by equal instalments of THREE THOUSAND FIVE HUNDRED AND FIFTY-TWO DOLLARS AND TEN CENTS (\$3,552.10) plus GST on the same terms as those contained in the Lease with such variations and modifications as are effected by this Deed.

2. Performance of Lease

The Lessor and the Lessee covenant to perform and observe during the further term granted by this Deed all the covenants agreements and conditions contained in the Lease and which are on their respective parts required to be performed and observed.

3. Lease to be Binding as Varied

Subject only to any variations contained in this Deed and such other alterations (if any) as may be necessary to make the Lease consistent with this Deed the Lease remains in full force and effect and is to be read and construed and be enforceable as if the terms of this Deed were inserted in it by way of addition or substitution as the case may be.

4. Variation of Lease

The Lessor and the Lessee do hereby agree to amend and vary the Lease as follows:-

(a) Item 6 of the Form 7 Lease shall be read and construed as follows:

"6. Term of lease

Commencement date: 01/05/2014

Expiry date: 30/04/2017

Options: 3 years"

(b) Item 2 of the Reference Schedule to the Lease shall be read and construed as follows:

"Item 2: **Rent**

FORTY-TWO THOUSAND SIX HUNDRED AND TWENTY-FIVE DOLLARS
AND TWENTY CENTS (\$42,625.20)"

(c) Item 3 of the Reference Schedule to the Lease shall be read and construed as follows:

"Item 3: **Review Date(s) (CPI/Market/Fixed):**

(a) **CPI Review Dates** 1 May, 2015; 1 May, 2016; 1 May, 2018;
1 May, 2019

(b) **Market Review Dates** 1 May, 2017

(c) **Fixed Increase Dates** Not applicable

(i) Fixed Increase Dates

(ii) Fixed Increase Percentage"

(d) Item 8 of the Reference Schedule to the Lease shall be read and construed as follows:

"Item 8: **Option Term**

1 May, 2017 to 30 April, 2020"

(e) Item 10 of the Reference Schedule to the Lease shall be read and construed as follows:

"Item 10: **Guarantors**

JOANNE LINDA BENNETT of 75-79 Old Coach Way, Ninderry QLD 4561"

5. Costs

The Lessor will pay the costs of and incidental to the preparation and execution of this Deed and any ancillary documents pursuant to the terms of the *Retail Shop Leases Act 1994*.

6. Guarantor's Consent

The Guarantor hereby requests and consents to the further term and to every variation to the Lease contained in this Deed or which is necessary to make the Lease consistent with this Deed and the Guarantor agrees that its liability under the Deed of Guarantee will continue throughout the further term and will not be affected or discharged by the further term and/or any variation.

7. Interpretation

In this deed except where inconsistent with the context:

"the Guarantor" means in the case of a corporation the Guarantor its successors and assigns and in the case of a natural person that person and the executors administrators and assigns of that person or if more than one those persons their and each of their respective executors administrators and assigns;

"the Lessee" means in the case of a corporation the Lessee its successors and permitted assigns and in the case of a natural person that person and the executors administrators and permitted assigns of that person or if more than one person those persons their and each of their respective executors administrators and permitted assigns;

"the Lessor" means in the case of a corporation the Lessor its successors and assigns and in the case of a natural person that person and the executors administrators and assigns of that person or if more than one person those persons their and each of their respective executors administrators and assigns.

EXECUTED AS A DEED

EXECUTED by R & K WERCHON INVESTMENTS PTY LTD
ACN 100 304 696 AS TRUSTEE UNDER INSTRUMENT NO.
710267028 as Lessor in accordance with s.127 of the
Corporations Act


.....

ROBERT WILLIAM WERCHON
Director


.....

KIRSTEN ANNE WERCHON
Director

EXECUTED by J & K COFFEE ROASTERY PTY LTD
ACN 159 389 447 as Lessee in accordance with s.127
of the Corporations Act


.....
JOANNE LINDA BENNETT
Sole Director

SIGNED SEALED AND DELIVERED by JOANNE
LINDA BENNETT as Guarantor in the presence of:


.....

Kalwoot J.P. (Qual) No 10347 10/4/2014.

A Justice of the Peace/Solicitor/Commissioner for Declarations

Deed of Extension and Variation of Lease

LESSOR: R & K WERCHON INVESTMENTS PTY LTD
ACN 100 304 595 AS TRUSTEE UNDER
INSTRUMENT 710257028

LESSEE: JULIETOSCAR PTY LTD ACN 159 389 447

GUARANTOR: JOANNE LINDA BENNETT



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1st Floor, 15 Ann Street, Nambour
PO Box 243, Nambour Q 4560
P: 07 5441 1400
F: 07 5441 1414

DEED OF EXTENSION & VARIATION OF LEASE

THIS DEED made the 19th day of March 2018

BETWEEN: R & K WERCHON INVESTMENTS PTY LTD ACN 100 304 595 AS TRUSTEE UNDER INSTRUMENT 710257028 of PO Box 1460, Buderim in the State of Queensland ("the Lessor")

AND: JULIETOSCAR PTY LTD ACN 159 389 447 of Unit 1, 41 Pioneer Road, Yandina in the State of Queensland ("the Lessee")

AND: JOANNE LINDA BENNETT of 75-79 Old Coach Way, Ninderry in the State of Queensland ("the Guarantor")

RECITALS:

- A. By a lease dated 28th June, 2011 together with any deeds of assignment, covenant or extension (if any) in relation thereto ("the Lease") the Lessor agreed to let and the Lessee agreed to take the premises more particularly described in the Lease ("the Demised Premises") to be held by the Lessee as tenant for the term at the rent and subject to the covenants contained in the Lease.
- B. The Lessor has agreed to lease and the Lessee has agreed to take the Demised Premises for a further term at the rent and subject to the covenants contained in this Deed.
- C. The Lessee has exercised their option contained in Clause 15 of the Lease.
- D. The Guarantor wants to extend the operation of the guarantee contained in the Deed of Covenant on Assignment of Lease & Lessor's Consent dated 28th August, 2012 ("the Deed of Guarantee") in favour of the Lessor for the further term.
- E. The Lessor and the Lessee have agreed to amend the Lease as provided in Paragraph 4 below.

NOW THIS DEED WITNESSES as follows:

1. Extension of Term

In consideration of the rent reserved by this Deed and the covenants contained in this deed the Lessor hereby leases the Demised Premises to the Lessee to be held by the Lessee as tenant for a further term of THREE (3) YEARS commencing notwithstanding the date hereof on 1st May, 2017 at the annual rent of FORTY-FOUR THOUSAND SEVEN HUNDRED AND SEVENTY-TWO DOLLARS AND SEVENTY-TWO CENTS (\$44,772.72) plus GST payable monthly in advance by equal instalments of THREE THOUSAND SEVEN HUNDRED AND THIRTY-ONE DOLLARS AND SIX CENTS (\$3,731.06) plus GST on the same terms as those contained in the Lease with such variations and modifications as are effected by this Deed.

2. **Performance of Lease**

The Lessor and the Lessee covenant to perform and observe during the further term granted by this Deed all the covenants agreements and conditions contained in the Lease and which are on their respective parts required to be performed and observed.

3. **Lease to be Binding as Varied**

Subject only to any variations contained in this Deed and such other alterations (if any) as may be necessary to make the Lease consistent with this Deed the Lease remains in full force and effect and is to be read and construed and be enforceable as if the terms of this Deed were inserted in it by way of addition or substitution as the case may be.

4. **Variation of Lease**

The Lessor and the Lessee do hereby agree to amend and vary the Lease as and from 1st May, 2017 as follows:-

(a) Item 6 of the Form 7 Lease shall be read and construed as follows:

"6. **Term of lease**

Commencement date: 01/05/2017

Expiry date: 30/04/2020

Options: 2 x 3 years"

(b) Item 2 of the Reference Schedule to the Lease shall be read and construed as follows:

"Item 2 **Rent**

FORTY-FOUR THOUSAND SEVEN HUNDRED AND SEVENTY-TWO DOLLARS AND SEVENTY-TWO CENTS (\$44,772.72) per annum plus GST"

(c) Item 3 of the Reference Schedule to the Lease shall be read and construed as follows:

"Item 3 **Review Date(s)**

(a) **CPI Review Dates:** 1 May, 2018; 1 May, 2019;
1 May, 2021; 1 May, 2022;
1 May, 2024; 1 May, 2025

(b) **Market Review Dates:** 1 May, 2020; 1 May, 2023

(c) **Fixed Increase:** Not applicable

(i) **Fixed Increase Dates:**

(ii) **Fixed Increase Percentage:"**

(d) Item 8 of the Reference Schedule to the Lease shall be read and construed as follows:

"Item 8: **Option Term**

2 x 3 years"

5. **Costs**

The Lessor will pay the costs of and incidental to the preparation and execution of this Deed and any ancillary documents pursuant to the terms of the *Retail Shop Leases Act 1994*.

6. **Guarantor's Consent**

The Guarantor hereby requests and consents to the further term and to every variation to the Lease contained in this Deed or which is necessary to make the Lease consistent with this Deed

and the Guarantor agrees that its liability under the Deed of Guarantee will continue throughout the further term and will not be affected or discharged by the further term and/or any variation.

7. Interpretation

In this deed except where inconsistent with the context:

"the Guarantor" means in the case of a corporation the Guarantor its successors and assigns and in the case of a natural person that person and the executors administrators and assigns of that person or if more than one those persons their and each of their respective executors administrators and assigns;

"the Lessee" means in the case of a corporation the Lessee its successors and permitted assigns and in the case of a natural person that person and the executors administrators and permitted assigns of that person or if more than one person those persons their and each of their respective executors administrators and permitted assigns;

"the Lessor" means in the case of a corporation the Lessor its successors and assigns and in the case of a natural person that person and the executors administrators and assigns of that person or if more than one person those persons their and each of their respective executors administrators and assigns.


EXECUTED AS A DEED

EXECUTED by R & K WERCHON INVESTMENTS PTY LTD

ACN 100 304 596 as Lessor in accordance with s.127 of the Corporations Act



ROBERT WILLIAM WERCHON
Director



KIRSTEN ANNE WERCHON
Director


EXECUTED by JULIETOSCAR PTY LTD

ACN 159 389 447 as Lessee in accordance with s.127 of the Corporations Act



JOANNE LINDA BENNETT
Sole Director

SIGNED SEALED AND DELIVERED by JOANNE LINDA BENNETT as Guarantor in the presence of:





A ~~Justice of the Peace/Solicitor~~ Commissioner for Declarations