

Dealing Number



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1. Lessor KPD HOLDINGS PTY LTD ACN 136 055 073 AS TRUSTEE UNDER INSTRUMENT 712 830 385	Lodger (Name, address, E-mail & phone number) John Drakos Solicitors PO Box 1413 COORPAROO DC QLD 4151 Email: john@jds.com.au Phone: (07) 3392 2000	Lodger Code 2062
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2. Lot on Plan Description LOT 42 ON RP 64321	County STANLEY	Parish YEERONGPILLY	Title Reference 12407094
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3. Lessee Given names	Surname/Company name and number	(include tenancy if more than one)
	CENTRAL DENTAL PTY LTD ACN 011 032 054 AS TRUSTEE	

4. Interest being leased
FEE SIMPLE

5. Description of premises being leased
THE WHOLE OF THE LAND

6. Term of lease	7. Rental/Consideration
Commencement date/event: 01 / 01 / 2015	See Schedule A
Expiry date: 31 / 12 / 2019	
#Options: 5 years	
#Insert nil if no option or insert option period (eg 3 years or 2 x 3 years)	

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 B.

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

.....signature

Sole Director/Director

.....full name

Director/Secretary

.....qualification

/ /

Witnessing Officer

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

Execution Date

Lessor's Signature

KPD HOLDINGS PTY LTD ACN 136 055 073
AS TRUSTEE UNDER INSTRUMENT 712 830 385

9. Acceptance

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

.....Signature

Sole Director/Director

.....full name

Director/Secretary

.....qualification

/ /

Witnessing Officer

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

Execution Date

Lessee's Signature

CENTRAL DENTAL PTY LTD ACN 011 032 054
AS TRUSTEE

SCHEDULE

Title Reference 50414005

10. Execution by Responsible Entity

The Responsible Entity acknowledges and agrees to be bound by the terms of Clause 21 of this Lease.

.....signature

Sole Director/Director

.....full name

Director/Secretary

.....qualification

/ /
Execution Date

Witnessing Officer

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

.....
Lessee's Signature

N DEFTEROS DENTAL PTY LTD
ACN 010 658 527

Title Reference 12407094

SCHEDULE A

This is the Schedule A referred to in Item 7 of the Lease.

A.1 Further Definitions

In this Lease unless the contrary intention appears:

"**Base Rent**" means the amount specified in **Schedule 1** as varied from time to time under the Provisions.

"**CPI Number**" means the All Groups Consumer Price Index Number for the City of Brisbane as determined by the Australian Bureau of Statistics or other authority or instrumentality having jurisdiction in the matter.

"**Criteria**" means the matters described in **Clause A.6**.

"**Current Market Rent**" means the amount per annum equivalent to the current market rental value of the Premises as at a relevant Market Review Date based on the Criteria.

"**Indexation Review Date**" means the date (and if more than one, each of the dates) specified in **Schedule 1**.

"**Market Review Area**" means the location described in **Schedule 1**.

"**Market Review Date**" means the date (and if more than one each of the dates) specified in **Schedule 1** and at the election of the Landlord the first day of any holding over period.

"**Quarter**" means any three month period ending 31 March, 30 June, 30 September or 31 December (as the case may be).

"**Review Date**" means each Indexation Review Date and/or Market Review Date (as the case may be).

"**Valuer**" means a person appointed by the Landlord under **Clause A.3** to determine the Current Market Rent.

A.2 Market Review

The Base Rent shall be reviewed on each Market Review Date to an amount being the greater of:

- (a) the Base Rent payable immediately preceding the Market Review Date; and
- (b) the Current Market Rent.

The determination of Current Market Rent shall take place under **Clauses A.3 to A.6**.

A.3 Determination of Current Market Rent

The Current Market Rent shall be agreed upon between the Landlord and Tenant and failing agreement within one month of the Market Review Date, the current market rental shall be determined by a Valuer taking into account the Criteria. The cost of the Valuer shall be borne by the Landlord and Tenant in equal shares.

A.4 Interim Current Market Rent

Until the Current Market Rent can be determined or agreed in accordance with **Clause A.3** the Tenant shall pay to the Landlord the Base Rent at the rate payable immediately preceding the Market Review Date. Any arrears of Base Rent shall be payable within 14 days of the determination and any request made by the Landlord.

A.5 Non-Waiver of Base Rent

Notwithstanding any other provision in this Lease the failure of the Landlord to negotiate or determine the Base Rent at the Market Review Date or to demand or collect any such Base Rent after the Market Review Date shall not prevent the Landlord at any time after the Market Review Date (whether or not the Lease shall have expired) from negotiating with the Tenant or having determined or from demanding or collecting from the Tenant (as the case may be) any such Rent.

A.6 Criteria for Determining the Current Market Rent

- (a) Current Market Rent shall be assessed, agreed or determined:
 - (i) having regard to the current market rental as at the relevant Market Review Date of any comparable premises in the Market Review Area, whether that current market rental has been agreed or determined upon a review of the rent payable or upon the grant of a demise in respect of those comparable premises;

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- (ii) assuming that the Premises can be put to the highest and best use possible at the relevant Market Review Date under the zoning of the Land and any consents under the relevant town plan (from time to time) whether or not that use is the same as the Permitted Use or the Tenant's Business;
 - (iii) having regard to the period which shall elapse between the relevant Market Review Date and the next Market Review Date or, if there is no further Market Review Date, the Expiry Date;
 - (iv) having regard to the length of the whole of the Term;
 - (v) assuming, if the Building is destroyed or damaged on or prior to the relevant Market Review Date, that the Building has been restored at such date under the Provisions;
 - (vi) having regard to the Provisions; and
 - (vii) having regard to any other matter which may be relevant to the determination unless excluded or negated under this **Clause A.6**. If the Current Market Rent is determined by the Valuer, the Valuer's decision as to what matters are relevant shall be binding upon the Landlord and the Tenant.
- (b) In assessing, agreeing upon or determining the Current Market Rent the following matters shall be disregarded so that the Current Market Rent is assessed, agreed upon or determined without any reduction on account of such matters:
- (i) any period of rent abatement or reduction or other concession, inducement or arrangement, of whatsoever nature, agreed to secure in whole or in part a tenant of any premises in the Market Review Area;
 - (ii) any period of rent abatement or reduction or other concession, inducement or arrangement, of whatsoever nature, agreed to secure in whole or in part the demise to the Tenant of the Premises;
 - (iii) any breach by the Tenant of any Provision on the Tenant's part which may adversely affect the condition or rental value of the Premises. If the Current Market Rent is determined by the Valuer, the Valuer's decision as to what breaches shall be disregarded shall be binding on the Landlord and the Tenant;
 - (iv) any alterations made to the Premises by the Tenant which may adversely affect the condition or rental value of the Premises. If the Current Market Rent is determined by the Valuer, the Valuer's decision as to what alterations shall be disregarded shall be binding upon the Landlord and the Tenant;
 - (v) the fact that part of the Term has elapsed as at the relevant Market Review Date;
 - (vi) any rent, fee or money received by any person under any sub-lease, sub-tenancy or occupation arrangement in respect of the Premises (other than this Lease); and
 - (vii) the value of any goodwill attributable to the Tenant's Business or any fixtures or fittings within the Premises owned, hired or leased (other than from the Landlord) by the Tenant.

A.7 Base Rent Modification

For the purposes of this **Part A** in the calculation of the Base Rent payable immediately preceding any Market Review Date there shall be disregarded any reduction in the amount of that Base Rent due to any agreement between the Landlord and the Tenant whether under the Provisions or elsewhere in respect of any rent free period or rent reduction period or due to any abatement of rent, suspension of the obligation to pay rent, or the delay in any prior review of the Base Rent.

A.8 Consumer Price Index Review

The Base Rent shall be reviewed on each Indexation Review Date to an amount being the greater of:

- (a) the Base Rent payable immediately preceding the relevant Indexation Review Date; and
- (b) an amount calculated under the following formula:

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

Where:

- A means the Base Rent payable on and from the relevant Indexation Review Date;
- B means the Base Rent payable immediately preceding the relevant Indexation Review Date;

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- C means the CPI Number for the Quarter immediately preceding the relevant Indexation Review Date; and
- D means the CPI Number for the Quarter immediately preceding the later of the Commencement Date and the Review Date which immediately precedes the relevant Indexation Review Date.

A.9 Modification of CPI Number

If:

- (a) the CPI Number or the method or manner of computation of the CPI Number is modified at any time in a substantial or significant manner;
- (b) the CPI Number is discontinued or abandoned; or
- (c) for any reason it is not possible to calculate the Base Rent under **Clause A.8(b)**,

the amount under **Clause A.8(b)** shall be calculated based upon the index or criteria nominated by the Australian Bureau of Statistics, on the application of the Landlord as best measuring the variation in the cost of living in the City of Brisbane for the period in question or, if the Australian Bureau of Statistics does not nominate such index or criteria within 20 Business Days after application by the Landlord, based upon such index or criteria nominated by a practising member in Queensland of the Institute of Chartered Accountants in Australia appointed by the Landlord.

A.10 Indexation Interim Base Rent

Pending the calculation under **Clause A.8** the Base Rent payable by the Tenant from the relevant Indexation Review Date shall be the amount referred to in **Clause A.8(a)**. That amount shall be payable as Base Rent until any calculation under **Clause A.8(b)** has effect. If the amount calculated under **Clause A.8(b)** is greater than the amount referred to in **Clause A.8(a)** the Tenant shall pay to the Landlord on demand the amount being the difference between the amount paid since the relevant Indexation Review Date and the amount which would have been payable had the amount so calculated been the amount paid from the relevant Indexation Review Date.

A.11 Base Rent Modification

For the purposes of this **Part A** in the calculation of the Base Rent payable immediately preceding any Indexation Review Date there shall be disregarded any reduction in the amount of that Base Rent due to any agreement between the Landlord and the Tenant whether under the Provisions or elsewhere in respect of any rent free period or rent reduction period or due to any abatement of rent, suspension of the obligation to pay rent, or the delay in any prior review of the Base Rent.

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SCHEDULE B

This is the Schedule B referred to in Item 8 of the Form 7.

1. DEFINITIONS

1.1 Definitions

In this Lease unless a contrary intention appears:

"Agreed Proportion" means the proportion that the floor area of the Premises bears to the Net Leasable Area expressed as a percentage to the nearest second decimal point. The Agreed Proportion as at the Commencement Date is specified in Schedule 1.

"Agreement" means the written agreement (if any) for the grant and acceptance of this Lease as described in Schedule 1.

"Air Conditioning Equipment" means all plant and equipment in the Premises used for the production and reticulation of chilled water or conditioned or circulating air and includes, without limitation, all compressors, condensers, chiller sets, pumps, pipework, switchboards, wiring, thermostats, controls, cooling towers, air handling units and duct work but does not include any Air Conditioning Equipment owned, hired or leased (other than from the Landlord) by the Tenant.

"Appurtenances" means all plant and equipment, water closets, lavatories, grease traps, plumbing, water apparatus, wash basins, bathrooms, gas fittings, electrical and communication fittings, apparatus and other services contained in the Premises and the Complex. The expression includes any part of the Appurtenances.

"Bank Guarantee" means an irrevocable and unconditional undertaking by a bank approved by the Landlord to pay an amount or amounts of money to the Landlord upon demand, without recourse to the Tenant, and containing such terms as the Landlord may think fit.

"Building" means the building within which the Premises are situated together with any modification, extension or alteration made from time to time to that building and includes, without limitation, all Appurtenances for the Building. The expression includes any part of the Building.

"Claims" means actions, demands, losses, injuries, damages, suits, judgments, injunctions, orders, decrees, costs and expenses of every description and includes, without limitation, consequential losses and damages.

"Commencement Date" means the first date specified in item 6 of the form 7 and repeated in Schedule 1.

"Common Areas" means those parts of the Complex not leased or licensed or intended to be leased or licensed to any person and intended by the Landlord for use by the tenants and licensees of the Complex and other persons in common with each other. The expression includes any part of the Common Areas.

"Complex" means the Land and all buildings and other structures and improvements erected or to be erected thereon and includes, without limitation, the Building and all Appurtenances. The expression includes any part of the Complex.

"Corporations Law" means the Corporations Law as defined in section 3 of the Corporations (Queensland) Act 1990 or appropriate corresponding legislation.

"Council" means the local authority or the council as constituted under either the Local Government Act 1993 or the City of Brisbane Act 1924 within the area (as defined by that legislation) in which the Premises are located.

"Default Rate" means the percentage rate per annum specified in Schedule 1 or such lower rate per annum nominated from time to time by the Landlord.

"Elevators" means the elevator cars, shafts, cables, motors, electrical installations and all associated plant, plant rooms, equipment, fixtures and fittings within the Premises.

"Equipment" means all plant and equipment in the Premises and includes, without limitation, the Air Conditioning Equipment and Fire Equipment but does not include any plant and equipment owned, hired or leased (other than from the Landlord) by the Tenant.

"Expiry Date" means the second date specified in item 6 of the form 7 and repeated in Schedule 1.

"Fire Equipment" means all stop cocks, hydrants, fire hoses, alarms, fire sprinkler systems or other fire prevention, extinguishing, warning or control equipment in the Premises.

"First Option Term" means the period (if any) specified in Schedule 1 commencing on the day after the Expiry Date.

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"**Incoming Tenant**" means the proposed assignee transferee or other occupant under any dealing under **Clause 13.1** and for the purposes of **Clauses 13.1(a), 13.1(b), 13.1(c), 13.1(e) and 13.1(f)**, includes, without limitation, any person or persons referred to in **Clause 13.2**.

"**Land**" means the land described in item 2 of the form 7.

"**Landlord**" means the lessor specified in item 1 of the form 7 and repeated in **Schedule 1** and its successors and assigns.

"**Lease**" means the lease of which this schedule forms part and includes, without limitation, the form 7 and all plans, appendices, forms and annexures comprising this Lease.

"**Managing Agent**" means the managing agent (if any) being a licensed real estate agent appointed from time to time by the Landlord to manage the Premises.

"**Net Leasable Area**" means those parts of the Complex leased or licensed or intended to be leased or licensed by the Landlord at a commercial rental or fee. The expression does not include any area leased or licensed or intended to be leased or licensed by the Landlord for storage or car parking purposes only.

"**Operating Expenses**" includes:

- (a) all rates, taxes, charges, assessments, outgoings, levies and impositions whatsoever assessed, charged or imposed in respect of the Complex (including State land tax) other than such of those rates, taxes, charges, assessments, outgoings and impositions payable directly by the Tenant under the Provisions or by any other tenant or any licensee of the Complex;
- (b) all insurance premiums, stamp duty, excesses and other charges payable on insurances (other than loss of profits insurance);
- (c) the cost of maintaining, lighting, cleaning, servicing and repairing the Common Areas;
- (d) all property management fees;
- (e) any other expenditure properly incurred in the security, management, operation, maintenance and repair of the Appurtenances, Building, Complex and Premises.

"**Option Exercise Period**" means the period (if any) described in **Schedule 1**.

"**Option Term**" means the period (if any) specified in **Schedule 1** commencing on the day after the Expiry Date and includes the First Option Term or Second Option Term or both, if any.

"**Permitted Use**" means the use specified in **Schedule 1**.

"**Premises**" means the premises described in item 5 of the form 7. The expression includes, without limitation, all Appurtenances, pillars, columns, pipes, internal partitions, ceilings, floor coverings, and other objects, fittings, fixtures and chattels installed or located from time to time in the Premises but does not include chattels owned, hired or leased (other than from the Landlord) by the Tenant. The expression includes any part of the Premises. The address of the Premises is specified in **Schedule 1**.

"**Provisions**" means any term, covenant, condition, proviso, stipulation, restriction, obligation, power, right, remedy or like provision of this Lease, whether express or implied, whether positive or negative and whether personal or running with the Land.

"**Public Liability Amount**" means the amount specified in **Schedule 1**.

"**Second Option Term**" means the period (if any) specified in **schedule 1** commencing on the day after the Expiry Date for the First Option Term.

"**Security Amount**" means the amount specified in or the amount calculated in the manner described in **Schedule 1**.

"**Statute**" means all statutes and all subordinate legislation thereunder whether specifically named or otherwise.

"**Tenant**" means the lessee specified in item 3 of the form 7 and repeated in **Schedule 1** and includes:

- (a) if the Tenant is a corporation, its successors and permitted assigns; and
- (b) if the Tenant is a natural person, his personal representatives, successors and permitted assigns and each of their personal representatives.

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"**Tenant's Associates**" means the Tenant's employees, agents, trade 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 Complex and any trespasser who may at any time be in or upon the Premises.

"**Tenant's Business**" means the business carried on from the Premises.

"**Term**" means the period specified in **Schedule 1** commencing on the Commencement Date and expiring by effluxion of time on the Expiry Date.

2. INTERPRETATION

2.1 References

In this Lease unless a contrary intention appears:

- (a) reference to a Statute extends to any statute amending consolidating or replacing the same;
- (b) reference to a Statute shall be a reference to a Queensland statute;
- (c) words importing persons include bodies corporate and government and semi-government authorities and departments;
- (d) words importing the singular number include the plural and vice versa;
- (e) words importing the masculine include the feminine and neuter genders and vice versa;
- (f) reference to any corporation, authority, association or body whether statutory or otherwise, if any such corporation, authority, association or body ceases to exist or is reconstituted re-named or replaced or the powers or functions thereof are transferred to any other corporation, authority, association or body shall be a reference to the corporation, authority, association or body which in the opinion of the Landlord is established or constituted in lieu thereof or as nearly as may be succeeding to the powers or functions thereof;
- (g) any headings and the list of contents contained in this Lease have been included for ease of reference only. This Lease shall not be construed or interpreted by reference to such headings or list of contents;
- (h) where two or more persons are Landlord or Tenant the Provisions shall bind each of them jointly and severally;
- (i) reference to a form, clause, provision, part, schedule, annexure or plan shall be a reference to that form clause, provision, part, schedule, annexure or plan in this Lease;
- (j) reference to a month shall be a reference to a calendar month; and
- (k) reference to writing shall be a reference to printing, painting, engraving, typewriting, lithography, photography and any other mode of representing or reproducing words in a visible form in the English language.

2.2 Implied Covenants

Any covenants implied by law (statutory or otherwise) are not negated but are deemed to have been modified (where so permitted) to the extent of any inconsistency with the Provisions.

2.3 Governing Law

Notwithstanding the residence or domicile of any party to this Lease, this Lease shall be governed by and construed in all respects in accordance with the law of Queensland.

2.4 Severability

The Provisions shall be construed, to the fullest extent permitted by law, so as not to be invalid, illegal or unenforceable in any respect. If a Provision is invalid, illegal or unenforceable:

- (a) that Provision shall, to the fullest extent permitted by law, be read down to the extent that it is not invalid, illegal or unenforceable, but if such Provision cannot be read down, it shall be deemed to be void and severable as if it were not a part of this Lease; and
- (b) the remaining Provisions shall not be affected or impaired.

Paragraph (a) of this clause shall have no effect if:

- (c) the application of such paragraph alters the basic nature of this Lease; and

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- (d) the Landlord makes an express election that such paragraph shall have no effect.

2.5 Notices

- (a) A written notice, demand, waiver, approval, consent, communication, statement or other document in connection with this Lease (in this clause "**Notice**") may:
- (i) in the case of a Notice given by the Landlord be signed under the common seal of the Landlord or the Managing Agent or under the hand of any director, attorney, solicitor, manager, secretary or other authorised officer for the time being of the Landlord or the Managing Agent; and
 - (ii) in the case of a Notice given by the Tenant be signed under the common seal of the Tenant or under the hand of any director, attorney, solicitor, manager, secretary or other authorised officer for the time being of the Tenant.
- (b) If a Managing Agent has been appointed by the Landlord any Notice to the Landlord is sufficiently served on or given to the Landlord if addressed to the Landlord and:
- (i) served personally on;
 - (ii) sent by prepaid registered post, airmail if outside of Australia, to; or
 - (iii) sent by telex or facsimile to:
- the Managing Agent at the Managing Agent's principal place of business for the time being in Queensland or at such place as the Landlord may nominate in writing from time to time.
- (c) If a Managing Agent has not been appointed by the Landlord any Notice to the Landlord is sufficiently served on or given to the Landlord if addressed to the Landlord and:
- (i) served personally on;
 - (ii) sent by prepaid registered post, airmail if outside Australia, to; or
 - (iii) sent by telex or facsimile to:
- the Landlord at the Landlord's principal place of business for the time being in Queensland or at such place as the Landlord may nominate in writing from time to time.
- (d) Any Notice to the Tenant is sufficiently served on or given to the Tenant if addressed to the Tenant and:
- (i) served personally on;
 - (ii) sent by prepaid post, airmail if outside Australia, to; or
 - (iii) sent by telex or facsimile to:
- the Tenant at:
- (iv) the Premises;
 - (v) the Tenant's principal place of business for the time being in Queensland;
 - (vi) such place as the Tenant may nominate from time to time for the service or delivery of Notices; or
 - (vii) the Tenant's registered office.
- (e) If the Tenant is more than one person the service or giving of a Notice under **Clause 2.5(d)** on or to any one such person is deemed to be service on all such persons.
- (f) A Notice sent by post, registered post, telex or facsimile is taken to be received:
- (i) in the case of a letter sent by post or registered post on the second Business Day after posting if posted in Australia and on the fifth Business Day after posting if posted outside Australia;
 - (ii) in the case of a telex on receipt by the sender of the answer back code of the addressee after transmission of the telex, if received before 5.00pm on a Business Day, otherwise on the next Business Day; and

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- (iii) in the case of a facsimile on production of a transmission report by the machine from which the facsimile was sent which indicates the facsimile was sent in its entirety to the facsimile number of the recipient if produced before 5.00pm on a Business Day, otherwise on the next Business Day.

For the purpose of **Clauses 2.5(f)(ii) and 2.5(f)(iii)** the time referred to is the time in the place to which the Notice is sent.

- (g) Unless a later time is specified in the Notice a Notice takes effect from the time it is actually received or taken to be received.
- (h) Section 347 of the *Property Law Act 1974* does not apply to this Lease.

3. GENERAL PROVISIONS

3.1 Payment of Money

Any money payable by the Tenant to the Landlord shall be paid to the Landlord or to such person on behalf of the Landlord or to the credit of the Landlord as the Landlord may direct in writing from time to time. A statement by the Landlord as to any money payable by the Tenant under the Provisions shall be prima facie evidence of the amount payable. The Tenant's obligation to pay any money to the Landlord under the Provision shall be absolute and unconditional and, except as otherwise specifically provided, shall not be subject to any abatement, reduction, set-off, defence or counter-claim.

3.2 Holding Over

If the Tenant with the Landlord's prior consent remains in occupation of the Premises after the Expiry Date the Tenant shall in the absence of any express contrary agreement hold the Premises as tenant from month to month. The Tenant shall pay a monthly rental equal to the Base Rent payable monthly as at the Expiry Date. The monthly tenancy shall otherwise be in accordance with the Provisions so far as they can be applied to a monthly tenancy including, without limitation, the provisions for variation of Base Rent and the payment and adjustment of Operating Expenses but without the benefit of any option to renew. The monthly rent shall be paid monthly in advance. The tenancy may be terminated by the Landlord or the Tenant by giving not less than 1 months prior written notice given at any time and taking effect at any time in accordance with such notice.

3.3 Moratorium Negatived

Unless application is mandatory by law any Statute order or moratorium shall not apply to this Lease so as to prejudicially affect rights, powers, remedies or discretions of the Landlord.

3.4 Tenant's Risk and Expense

The performance of any act, matter or thing which the Tenant is required or permitted to perform and the Tenant's occupation and use of the Premises shall be at the sole risk and expense of the Tenant unless otherwise specifically provided under the Provisions.

3.5 Measurement of Areas

Unless the contrary intention appears, where it is necessary to measure any area including, without limitation, the area of the Premises, the measurement shall be in accordance with the Property Council of Australia Method of Measurement. The expression "Property Council of Australia Method of Measurement" means the method for the measurement of buildings utilised by the Property Council of Australia at the Commencement Date for premises of the nature of the Premises. If no such method exists then the expression means such method as the Landlord may select from time to time as the most appropriate.

3.6 Power of Attorney

The Tenant irrevocably nominates and appoints the Landlord and each and every one of the Landlord's directors, secretaries and managers jointly and severally as the attorney of the Tenant to:

- (a) execute, stamp and register a transfer or surrender of this Lease or any lease granted under any Option Term;
- (b) appoint substitutes and, at the discretion of the Landlord or its directors, secretaries or managers in Queensland, to revoke such appointment and to appoint others; and
- (c) generally do, execute and perform any act, deed, matter or thing relative to the Premises, the Lease as fully and effectually as the Tenant could do.

This power of attorney shall not become exercisable by the Landlord unless the Tenant defaults in the observance or performance of one or more of the Provisions on the Tenant's part. Sufficient proof of such default shall for all purposes be a statutory declaration by an authorised person acting on behalf of the Landlord. The Tenant covenants to ratify and confirm

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all such acts, deeds, matters and things of the attorney and any substitute and to keep the attorney and any substitute indemnified for all fees, costs, charges and expenses in any way incurred or payable by any such attorney or substitute in the exercise of the powers contained in this power of attorney.

3.7 Tenant Not To Permit or Suffer Prohibited Matters

Wherever under the Provisions the Tenant is prohibited from doing any act matter or thing the Tenant is also prohibited from permitting or suffering such act matter or thing.

3.8 Guarantee and Indemnity

If there is a Guarantee and Indemnity required by the Landlord to be provided guaranteeing the performance, amongst other things, of the provisions on the Tenant's part and indemnifying the Landlord in respect of the tenant's breach of such provisions, then unless the Guarantee and Indemnity is duly executed, the Landlord may in writing notify the Tenant at any time before such Guarantee and Indemnity is duly executed that from the date referred to in such notice the Landlord is not bound by:

- (a) any grant of tenancy evidenced by this Lease;
- (b) the provisions on the Landlord's part; and
- (c) any other tenancy whatsoever in respect of the Premises.

If the Landlord gives notice under this clause, such notice shall have the effect of terminating this Lease on and from the date referred to in such notice and the Landlord may at any time thereafter re-enter the Premises. A statutory declaration by the Landlord or an employee or agent of the Landlord to such effect shall be sufficient evidence to any person concerned. If this Lease is registered at the time the Landlord gives notice under this clause, the Landlord may as attorney of the Tenant under the provisions execute, stamp and register a surrender of the Lease. This clause shall not affect the rights or liability of the Landlord and the Tenant prior to the date of termination under this clause.

3.9 Trustee Capacity

If on or after the Commencement Date the Premises are held by the Tenant upon the terms of any trust or are subject to any trust (all or any of which trusts are called in this clause "Trust") and whether or not the Landlord is aware of the Trust:

- (a) The Tenant accepts this Lease both as trustee of the Trust and in its personal capacity and is personally liable for the performance and observance of the provisions on the Tenant's part;
- (b) In the event of any unremedied default under the provisions on the Tenant's part, the Tenant shall take all necessary steps and proceedings to ensure that the assets of the Trust are made available for the purpose of rectifying such default and compensating the Landlord for Claims in respect of such default. The Tenant shall assign to the Landlord upon demand all rights of indemnity which the Tenant may have against the assets of the Trust;
- (c) The Tenant charges all assets of the Trust and the Tenant's right of indemnity against the assets of the Trust in favour of the Landlord with the payment of any amount which is or may be become payable to the Landlord under this Lease; and
- (d) The Tenant covenants that the Tenant has power and authority to enter into this Lease under the Trust and that the entering into this Lease by the Tenant is in the due administration of the Trust.

3.10 Consent of Landlord

Where under the Provisions the Landlord's consent is required such consent may be withheld or given with or without conditions by the Landlord in the Landlord's absolute discretion unless otherwise specifically provided under the provisions. The grant of any such consent must be in writing and if not in writing shall be of no effect.

3.11 Entire Agreement

The Provisions and the Agreement contain the entire agreement between the parties to this document. There are no other collateral agreements between the Landlord and the Tenant relating to the Premises notwithstanding any negotiations or discussions between the Landlord and the Tenant prior to the execution of this Lease. No representation made by the Landlord or its employees or agents concerning the Premises or the Complex shall be an implied term of this Lease or form the subject matter of a separate agreement subsidiary to or collateral with this Lease. The Tenant has not been induced to accept this Lease by any oral or other representations made by or on behalf of the Landlord or its employees or agents, which is not included in the Provisions. The Tenant does not rely on the Landlord for any matter or thing concerning the grant of this Lease except as is specifically set out in the Provisions.

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3.12 Consent of Mortgagee

In order to secure the consent of any mortgagee of the Land, the Tenant shall sign any form of consent document reasonably required by any mortgagee of the Land and the Tenant shall pay all costs including any reasonable legal costs of obtaining the consent of any mortgagee.

4. BASE RENT, OPERATING EXPENSES AND OTHER CHARGES

4.1 Payment of Base Rent

The Tenant shall pay to the Landlord in the manner directed by the Landlord in writing, without any demand the Base Rent as determined under the Provisions by equal monthly instalments in advance on or before the first day of each month. The first instalment shall be paid on or before the Commencement Date.

4.2 Payment of Operating Expenses

The Tenant shall pay to the Landlord upon demand the Agreed Proportion of the Operating Expenses.

4.3 Broken Periods

If the Term commences on a day other than the first day of a month or if this Lease is terminated (whether by effluxion of time or otherwise) on a day other than the last day of a month the Tenant shall pay to the Landlord in respect of such broken periods on the first day of such broken period a proportionate part of the Base Rent calculated by multiplying each of the Base Rent by the number of days in the broken period and dividing by 365.

4.4 Charges for Services

The Tenant shall pay all charges for electricity, gas, water, water access and sewerage access charges, pedestal charges, trade waste charges, telephone, air conditioning and for any other services used or consumed in the Premises and, if a separate meter is at any time installed to record the water and/or electricity consumed in the Premises, any meter rental and all charges for water and/or electricity consumed in the Premises. Such payments shall be paid to the assessing authority on or before the due date for payment if assessed directly against the Tenant but otherwise to the Landlord upon demand. In the case of a payment to the Landlord for electricity, the Tenant shall pay electricity charges calculated in accordance with the schedule of tariffs used from time to time by the assessing authority to which shall be added any fee payable by the Landlord for the reading of the meter.

4.5 Council Cleansing Dues

If the Council provides any cleansing or refuse service for the Premises (whether at the request of the Tenant or by requirement of the Council) the Tenant shall pay to the Council the cost of such service on or before the due date for payment if assessed directly against the Tenant but otherwise to the Landlord upon demand.

4.6 Fire Equipment Alteration

The Tenant shall pay to the Landlord upon demand the cost of any alteration to the Fire Equipment which is necessary by reason of the non-compliance by the Tenant with the recommendations of the Insurance Council of Australia Limited, any Statutory requirements or the insurance requirements of the Landlord.

4.7 Reimbursement Due to Alterations

If the Landlord effects any alterations or additions to the Premises or the Complex which may be:

- (a) required by virtue of the conduct of the Permitted Use;
- (b) required by virtue of the conduct of the Tenant's Business;
- (c) required by virtue of the number or sex of the Tenant's employees;
- (d) requested by the Tenant and consented by the Landlord;
- (e) necessary by reason of the non-compliance by the Tenant with the recommendations of the Insurance Council of Australia Limited, any Statutory requirements or the insurance requirements of the Landlord,

the Tenant shall pay to the Landlord upon demand the total cost to the Landlord of construction of such works including, without limitation, fees paid to architects quantity surveyors engineers and other consultants. If such works are effected for the benefit of other leased or licensed premises in the Complex as well as the Premises the amount payable by the Tenant to the Landlord under this clause shall be calculated by multiplying the total cost of such works by the area of the premises and dividing by the area of that part of the net leasable area which so benefits from such works. The Tenant shall deposit with the Landlord upon demand the cost of such works estimated by the Landlord before any such works are commenced.

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4.8 Costs of Lease

The Tenant shall pay to the Landlord upon demand:

- (a) the Landlord's legal costs of and incidental to the instructions for and the preparation, negotiation, execution, stamping (from time to time) and (if applicable) registration of this Lease;
- (b) the cost of preparation and registration of any plan included in this Lease;
- (c) the cost of any consent to the granting of this Lease including, without limitation, any mortgagee's consent;
- (d) any registration fees in respect of this Lease; and
- (e) all expenses payable from time to time on or with respect to this Lease.

The Landlord's legal costs shall be calculated on a solicitor and own client basis.

4.9 Stamp Duties

The Tenant shall pay upon demand all stamp duties and other duties assessed from time to time (whether generally or against the Landlord or the Tenant) on or in respect of this Lease. Any refund of stamp duty or other duty received shall belong to the party who bore the expense of that duty. If enquiries are made by any assessing authority with respect to determining the amount of stamp duty or other duty payable with respect to this Lease, the Tenant shall pay to the Landlord upon demand the costs and expenses of the Landlord of and incidental to providing all information requested and to all other associated attendances and correspondence relating to the enquiries including, without limitation, the Landlord's legal costs and disbursements. The Landlord's legal costs shall be calculated on a solicitor and own client basis.

4.10 Costs of Default

The Tenant shall pay to the Landlord upon demand the Landlord's legal costs and disbursements in relation to:

- (a) the Tenant's default or breach under the Provisions;
- (b) the termination or attempted termination of this Lease;
- (c) the re-entry or attempted re-entry by the Landlord into the Premises;
- (d) any proceedings brought by the Landlord to enforce the performance by the Tenant of the Provisions on the Tenant's part; and
- (e) any litigation to which the landlord is made a party commenced by or against the Tenant (other than litigation between the Landlord and the Tenant) and arising directly or indirectly out of the Tenant's use or occupation of the premises.

The Landlord's legal costs shall be calculated on a solicitor and own client basis.

5. SERVICES

5.1 Source of Light and Power

The Tenant shall not use any form of light power or heat other than electricity or gas supplied through meters. The Tenant may use auxiliary power or lighting (other than exposed flame) during any period of power failure or power restrictions.

5.2 Electrical Overloading

The Tenant shall not install any electrical equipment on or in the Premises that may overload the cables switchboards or sub-boards through which electricity is conveyed to the Premises without the Landlord's prior consent. If the Landlord grants such consent any alterations which are necessary to comply with the insurance requirements of the Landlord and the requirements of any relevant Statute shall be effected by the Landlord at the cost of the Tenant. The Tenant shall pay to the Landlord upon demand by the Landlord the cost to the Landlord of such alterations. The Tenant shall deposit with the Landlord upon demand the cost of such alterations estimated by the Landlord before any such alterations are commenced.

5.3 Air Conditioning Equipment

The Tenant:

- (a) shall at their own cost keep the Appurtenances, Equipment and the Landlord's fixtures and services, including the Air Conditioning Equipment located within and exclusively servicing the Premises maintained, serviced and in good repair, working order and condition and shall pay all operating costs and shall enter into and keep current at their

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own cost maintenance, service and repair contracts as are reasonably required by the Landlord for that purpose with contractors approved in writing by the Landlord and all costs charges and expenses payable under such contracts shall be payable by the Tenant to such person or company with whom such contracts is entered into.

- (b) shall keep the Appurtenances, Equipment and the Landlord's fixtures and services, including the Air Conditioning Equipment, fully maintained serviced and operated at the Tenant's expense and the Tenant shall pay all charges and expenses in maintaining repairing and servicing such Appurtenances, Equipment, Landlord's fixtures and services and Air Conditioning Equipment.
- (c) hereby acknowledges to the Landlord that the Landlord shall not be responsible to the Tenant in damages or in any other manner whatsoever as a result of any failure of the Appurtenances, Equipment, Landlord's fixtures and services and Air Conditioning Equipment to work in a proper and efficient manner nor shall the Landlord be liable to the Tenant in damages or otherwise. The Landlord shall be responsible for all capital repairs to the Air Conditioning Equipment.

5.4 Maintenance Contracts

If required by the Landlord from time to time, the Tenant shall effect at the date nominated by the Landlord and thereafter maintain a comprehensive maintenance and repair contract in respect of the Equipment or such components or items of the Equipment as may be nominated by the Landlord.

5.5 Evidence of Contracts

The Tenant shall deliver to the Landlord upon demand from time to time a copy of each maintenance and repair contract effected or required to be effected by the Tenant under the Provisions, the receipt for the last payment required under each such contract and written evidence to the Landlord's satisfaction that each such contract is current.

5.6 Tenant Not to Void Contract

The Tenant shall not do any act, matter or thing which may vitiate or render void or voidable any maintenance and repair contract effected or required to be effected by the Tenant under the Provisions.

5.7 Tenant's Maintenance Contracts

All maintenance and repair contracts effected or required to be effected by the Tenant under the Provisions:

- (a) shall be effected with a contractor first approved by the Landlord, such approval not to be unreasonably withheld;
- (b) shall be for such services, shall cover such risks and shall contain such conditions as are reasonably acceptable to or reasonably required from time to time by the Landlord;
- (c) shall have no alterations without the Landlord's prior consent; and
- (d) if required by the Landlord from time to time shall be effected in the names of the Landlord, the Tenant, the Landlord's mortgagee and any person having an interest in the Premises superior to that of the Landlord for their respective rights and interests.

5.8 Tenant's Maintenance Contract Payments

The Tenant shall pay to the contractor all charges payable in respect of any maintenance and repair contract effected by the Tenant under the Provisions on or before the due date for payment.

6. USE OF PREMISES

6.1 Permitted Use

The Tenant shall use and occupy the Premises for the purpose of the Permitted Use. The Tenant shall not use the Premises for any purpose other than the Permitted Use without the Landlord's prior consent.

6.2 Compliance with Statutes

The Tenant shall comply with and shall not breach any Statute relating to the Tenant, the Premises, the Permitted Use, the Tenant's Business and this Lease.

6.3 Licenses and Permits

The Tenant shall obtain maintain and renew from time to time as required by Statute all licences permits consents and registrations required for carrying on the Permitted Use and the Tenant's Business including, without limitation, any town

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planning consent. The failure of the Tenant to comply with this clause shall not relieve the Tenant of the obligation to pay Base Rent or other money under the Provisions and otherwise to observe and perform the Provisions.

6.4 Use of Appurtenances

The Tenant shall not use the Appurtenances for any purpose other than those for which they are provided. The Tenant shall not interfere with any Appurtenances without the Landlord's prior consent.

6.5 Erection of Signs

The Tenant shall not paint erect or affix any signs notices or advertisements on or to the exterior of the Premises or any part of the Complex without the Landlord's prior consent. Upon this Lease being terminated (whether by effluxion of time or otherwise) the Tenant shall remove all such signs notices and advertisements painted erected or affixed by the Tenant or by the Landlord at the request of the Tenant and shall make good any damage caused by the placing or removal of such signs notices or advertisements notwithstanding that the Landlord has granted its consent under this clause or painted erected or affixed the signs, notices or advertisements.

6.6 Erection of Fixtures and Fittings and Dividing Walls

The Tenant shall not affix, suspend or support any fixtures or fittings from or by any external wall of the Building or any internal structural wall or any dividing wall or partition separating the Premises from any other leased or licensed premises in the Building or from the Common Areas in the Building without the Landlord's prior consent. The Tenant shall make good any damage caused to any such wall or partition notwithstanding that the Landlord has granted its consent under this clause.

6.7 Holing of Walls

The Tenant shall not hole mark or damage any of the floors walls ceilings partitions or other parts of the Premises except so far as may be reasonably necessary for the erection of approved signs, notices, advertisements, fixtures and fittings.

6.8 Rodents and Vermin

The Tenant shall keep the Premises free and clear of rodents, termites, cockroaches and vermin.

6.9 Structural Overloading

The Tenant shall not permit the floors of the Premises to be broken strained or damaged by overloading the floors in any manner. The Tenant shall not load the ceiling or roof structure of the Premises or the Building without the Landlord's prior consent. The Tenant shall not install upon the Premises any safe, heavy machinery, compactus or other heavy plant and equipment without the Landlord's prior consent.

6.10 Compliance with Fire Regulations

The Tenant shall take such precautions against fire in respect of the Premises as are required under any Statute or by any relevant authorities or as shall be determined by the Landlord. The Tenant shall comply with all fire alarm, insurance and sprinkler requirements in respect of the use and occupation of the Premises.

6.11 Suitability of Premises

The Landlord does not expressly or impliedly promise that the design, shape, size or finishes of the Premises the Building and the Complex are or shall remain fit, suitable or adequate for the purposes of the Tenant. All promises implied by law as to the fitness, suitability and adequacy of the Premises, the Building and the Complex are expressly negated.

6.12 Cleaning

The Tenant shall clean the Premises at such intervals and to such standards as shall be reasonably nominated by the Landlord from time to time having regard to the Permitted Use. The Tenant shall not accumulate in or about the Premises any waste materials except for the purpose of Permitted Use.

6.13 Offensive or Illegal Conduct

The Tenant shall not carry on in the Premises any noxious, offensive or illegal business, occupation or practice, nor shall the Tenant do any act or thing which may be a nuisance or annoyance or cause damage or disturbance to the Landlord or the occupiers of nearby premises.

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7. MAINTENANCE AND REPAIR OF PREMISES

7.1 Condition of Premises

The Tenant shall keep, maintain and repair the Premises including, without limitation, all floors, walls, ceilings and Appurtenances in the Premises in as good and efficient repair order and condition as at the Commencement Date. The Tenant shall not be liable under this clause for fair wear and tear, structural repairs and any damage caused by fire, storm, flood, lightning, earthquake, tempest, act of God, riot, civil commotion, impact by aircraft or act of war and without any default, negligence or wilful act or omission on the part of the Tenant or the Tenant's Associates. Any such event shall not be excepted under this clause if any insurance moneys otherwise payable in relation to such event are irrecoverable through the default, negligence or wilful act or omission of the Tenant or the Tenant's Associates.

7.2 Inspection by Landlord

The Landlord and its servants, agents and contractors may at all reasonable times enter upon and view the state of repair of the Premises. The Landlord may leave upon the Premises a written notice requiring the Tenant to maintain, repair or replace within a reasonable time as specified in the notice any defects which are the responsibility of the Tenant.

7.3 Painting

During the last year of the Term and as often during the Term as is necessary in the reasonable opinion of the Landlord to preserve the good appearance of the Premises the Tenant shall:

- (a) paint, repaint, recover, clean or otherwise appropriately treat in a proper workmanlike manner and with materials and to standards and colours reasonably determined by the Landlord the walls ceilings and other parts of the Premises which have previously been painted, covered, cleaned or otherwise so treated; and
- (b) replace all floor coverings which in the reasonable opinion of the Landlord are worn or damaged and in need of replacement.

7.4 Drains and Wastes

The Tenant shall keep, maintain and repair the waste pipes drains and conduits originating in or connected to the Premises in a clear and free flowing condition. The Tenant shall employ licensed tradesmen to rectify any defect which may occur in such waste pipes, drains and conduits within the Premises. The Tenant shall clean regularly any grease traps (whether within the Premises or not) servicing the Premises exclusively. Any defect which may occur in such waste pipes drains and conduits between the external boundaries of the Premises and the point of entry into any trunk drain including sewerage pumping equipment shall be rectified by the Tenant unless the Tenant proves to the satisfaction of the Landlord that such defect is caused without default, negligence or wilful act or omission on the part of the Tenant or the Tenant's Associates.

7.5 Notice of Damage

The Tenant shall give to the Landlord written notice of any damage sustained to the Premises or any defect in the Appurtenances.

8. ALTERATIONS TO AND DAMAGE OR DESTRUCTION OF PREMISES

8.1 No Alteration Without Consent

The Tenant shall not make any alterations or additions to the Premises or the Complex without the Landlord's prior consent. The Landlord's consent shall not be unreasonably withheld where the alterations or additions to the Premises are required by Statute.

8.2 Abatement of Rent and Suspension of Covenant to Repair

If the Building is totally or partially destroyed or damaged without any default, negligence or wilful act or omission on the part of the Tenant or the Tenant's Associates whereby the Premises are rendered wholly or partially unfit for the occupation or use by the Tenant in the conduct of the Permitted Use, payment of the Base Rent or a proportionate part of the Base Rent according to the nature and extent of the destruction or damage sustained and the covenant to repair so far as it has relation to any such destruction or damage shall be suspended until the Premises are restored to a proper condition.

8.3 Landlord may Terminate or Reinstate

If the Building is substantially destroyed or damaged or if the Premises are totally or partially destroyed or damaged the Landlord may by written notice to the Tenant either terminate this Lease or elect to restore the Building and the Premises to a proper condition. The Landlord shall not be obliged to restore or rebuild the Building or the Premises according to the former specification so long as the floor area of the Premises is not substantially less than the floor area of the Premises immediately prior to such destruction or damage.

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8.4 Tenant may Terminate If no Reinstatement

If the Building is totally or partially destroyed or damaged without any default, negligence or wilful act or omission on the part of the Tenant or the Tenant's Associates whereby the Premises are rendered wholly unfit for the occupation or use by the Tenant in the conduct of the Permitted Use and the Landlord does not substantially commence to restore the Building and the Premises within a reasonable time from the date of such destruction or damage, the Tenant may at any time thereafter give to the Landlord 2 month's written notice of its intention to terminate this Lease. If such restoration is not substantially commenced within such 2 month period the Tenant may at any time thereafter before such restoration has been substantially commenced terminate this Lease by written notice to the Landlord. Upon receipt of such notice this Lease shall be terminated.

9. RESERVATIONS

9.1 Roof and Exterior

The Landlord may use the roof and exterior walls of the Complex for any purpose including, without limitation, the erection and display of advertising signs.

9.2 Right of Entry

The Landlord and its servants, agents and contractors may enter upon the Premises with all necessary materials and machinery to:

- (a) effect any alterations, maintenance or repairs which may be encumbent upon the Landlord by Statute or which the Landlord may wish to carry out for ensuring the safety or preservation of the Premises, the Complex or any adjacent premises. The right of entry for this purpose may be exercised at any time upon the Landlord giving to the Tenant not less than 24 hours prior notice provided that such prior notice shall not be required in an emergency as to which the Landlord shall be the sole judge;
- (b) allow prospective purchasers of the Complex to view the Premises. The right of entry for this purpose may be exercised at all reasonable times upon the Landlord giving to the Tenant reasonable prior notice;
- (c) inspect, service, remove, repair, install, maintain, alter or add to the appurtenances including, without limitation, the Air Conditioning Equipment, fire equipment, elevators and any water, gas, electricity, plumbing, communication and other services to the premises. The right of entry for this purpose may be exercised at any time upon the Landlord giving to the Tenant not less than 24 hours prior notice provided that such prior notice shall not be required in an emergency as to which the Landlord shall be the sole judge;
- (d) allow prospective Tenants of the premises to view the premises. The right of entry for this purpose may be exercised at all reasonable times after the expiry of the option exercise period upon the Landlord giving to the Tenant reasonable prior notice. The right of entry for this purpose shall not be exercised if the Tenant has exercised any option to renew under the provisions.

The Landlord shall carry out such works and services in such a manner so as to minimise as far as practicable any inconvenience or interruption to the conduct of the Permitted Use caused by such works or services. The Landlord may interrupt the services to the Premises for the purposes referred to in **Clause 9.2** upon the Landlord giving to the Tenant not less than 24 hours prior notice provided that such prior notice shall not be required in an emergency as to which the Landlord shall be the sole judge.

9.3 Licences

The Landlord may grant to any person a licence to use any part of the Common Areas (other than toilets) either exclusively or in common with others for such purposes for such periods and upon such terms as the Landlord may think fit.

9.4 Resumptions

This Lease shall not be affected by and the Landlord and the Tenant shall not have a right of termination of this Lease arising from any resumption of any part of the Premises or any agreement between the Landlord and any relevant authority with respect to any public service, utility or facility within the Premises unless the resumption or agreement directly results in the Premises being wholly and permanently unfit for occupation or use by the Tenant for the Permitted Use. In that event either the Landlord or the Tenant may terminate this lease by providing written notice to the other. The Landlord shall be solely entitled to any compensation payable unless there is a direct physical affectation to the Premises caused by such resumption in which event such compensation shall be divided between the Landlord and the Tenant in such manner as they may agree or failing agreement in such manner as may be determined by arbitration.

9.5 Grant of Easements

The Landlord may enter into any arrangements or agreements with any of the owners, tenants or occupiers of land adjacent to or in the vicinity of the Premises (in this clause "Adjacent Land") or with any relevant authority for the purpose of providing

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public or private access to the Premises or the Adjacent Land or the support of structures erected or to be erected on the Land or the Adjacent Land or the provision of services to the Premises or the Adjacent Land. The Landlord may for such purposes dedicate, transfer, grant or create easements rights or privileges in favour of such persons or authorities upon such terms as the Landlord may think fit. This Lease shall be subject to any such arrangement or agreement. In exercising the rights under this clause the Landlord shall not enter into any arrangement or agreement or dedicate, transfer, grant or create any easement right or privilege in favour of any person or authority, other than the Tenant, which substantially and permanently derogates from the enjoyment of the rights conferred on the Tenant under the Provisions.

10. COMMON AREAS

10.1 Use of Common Areas

Subject to the Landlord's rights under the Provisions the Tenant and the Tenant's Associates may, in common with others having like rights:

- (a) use the vestibules, footways, passages and stairways in the Common Areas; and
- (b) use the toilets, washrooms, tea rooms and other facilities provided by the Landlord for the tenants of the Complex,

for the purposes for which they are provided. The Tenant shall not use the Common Areas for any other purpose. The Tenant shall not obstruct any part of the Common Areas and shall not park any motor vehicle on any part of the Complex except in such places and during such times as the Landlord may nominate.

10.2 Closure of Common Areas

The Landlord may restrict access to the Common Areas and may close off the entrances or exits to the Complex but not so as to prevent reasonable access by the Tenant to the Premises.

10.3 Car Park

The Tenant shall use the car park only for the purposes of parking motor vehicles. The Tenant shall not use the car park for storage purposes or for the conduct of their Permitted Use under **Clause 6.1**.

11. LIABILITIES AND INDEMNITIES

11.1 Release of Landlord

The Tenant and the Tenant's Associates shall occupy and use the Premises and the Complex at the risk of the Tenant and not at the risk of the Landlord. The Landlord, its servants, agents and contractors shall not be liable to the Tenant and the Tenant's Associates for any Claims suffered or incurred by the Tenant or the Tenant's Associates howsoever caused except to the extent caused or contributed to by any negligence or wilful act or omission of the Landlord.

11.2 Interruption of Services

The Landlord, its servants, agents and contractors shall not be liable to the Tenant and the Tenant's Associates for any Claims suffered or incurred by the Tenant or the Tenant's Associates as a result of any malfunction, failure to function or interruption of the Appurtenances or the water, gas, electricity, Air Conditioning Equipment, communications or other services to the Complex from any cause whatsoever except to the extent that any loss is caused or contributed to by the negligent or wilful act or omission of the Landlord.

11.3 Tenant to Notify the Landlord

The Landlord shall not be liable to the Tenant for any Claims suffered or incurred by the Tenant or the Tenant's Associates caused or contributed to by the breach of the provisions on the Landlord's part by the Landlord, the center manager or any of their employees or agents and for which (as between the Landlord and the Tenant) the Landlord might be liable unless the Tenant has given to the Landlord written notice of such breach and the Landlord, without reasonable cause, has failed within a reasonable time to take proper steps to rectify such breach.

11.4 Indemnities

The Tenant indemnifies and shall continue to indemnify the Landlord, its servants, agents and contractors against and in respect of all Claims suffered or incurred by the Landlord or for which the Landlord becomes liable whether during or after the Term caused or contributed to by:

- (a) the negligence or wilful act or omission of the Tenant or the Tenant's Associates;
- (b) the default of the Tenant or the Tenant's Associates under the Provisions;

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- (c) the overflow, leakage or escape of water, fire, gas, electricity or other harmful agent or substances in or from the Premises;
 - (d) the failure of the Tenant to notify the Landlord of any defect in the Appurtenances of which the Tenant is aware or ought reasonably to have been aware; or
 - (e) the use of the Premises and the Complex by the Tenant or the Tenant's Associates,
- except to the extent caused or contributed to by the negligence or wilful act or omission of the Landlord.

12. INSURANCES

12.1 Tenant's Insurances

The Tenant shall effect at the Commencement Date and thereafter maintain:

- (a) a public liability insurance policy to cover legal liability to third parties in respect of the death of or injury to persons and damage to property sustained in or near the Premises bearing an endorsement whereby the indemnity under the insurance policy is extended to include such risks of an insurable nature for which the Tenant is obliged to indemnify the Landlord under **Clause 11.4**;
- (b) a plate and other glass insurance policy against damage covering all plate and other glass in the Premises or in any wall forming part of the Premises for full replacement value;
- (c) industrial special risk insurance covering the Tenant's property in the Premises for its full value; and
- (d) any other insurance the Landlord reasonably requires from time to time in amounts and for perils against which a prudent Tenant would protect itself in similar circumstances.

12.2 Tenant's Premiums and Evidence of Insurance

The Tenant shall pay to the insurer all premiums and charges payable in respect of any insurance policy effected by the Tenant under the Provisions on or before the due date for payment. The Tenant shall deliver from time to time to the Landlord upon demand a copy of each insurance policy effected or required to be effected by the Tenant under the Provisions, the receipt for the last premium and a certificate of currency.

12.3 Tenant's Insurance Policies

The insurance policies effected or required to be effected by the Tenant under the Provisions:

- (a) shall be effected with an insurer first approved by the Landlord, such approval not to be unreasonably withheld;
- (b) shall be for an amount as is acceptable to or required from time to time by the Landlord and shall cover such risks and contain such conditions as are reasonably acceptable to or reasonably required from time to time by the Landlord. The public liability insurance policy under **clause 12.1** shall, at the Commencement Date, be for an amount not less than the Public Liability Amount;
- (c) shall have no exclusions endorsements or alterations without the Landlord's prior written consent; and
- (d) shall be effected in the name of the Tenant and will note the interest of the Landlord, the Landlord's mortgagee and any person having an interest in the Complex superior to that of the Landlord for their respective rights and interests.

12.4 Tenant Not To Void Insurance

The Tenant shall not bring or do any act, matter or thing upon or keep any matter or thing in the Premises or the Complex which may:

- (a) increase the rate of any insurance premium in respect of the Premises or the Complex or on any property in the Premises or the Complex;
- (b) vitiate or render void or voidable any insurance in respect of the Premises or the Complex;
- (c) conflict with any statutes relating to fire or any insurance policy in respect of the Premises or the Complex; or
- (d) in any way create any actual or potential fire hazard in or near the Premises or the Complex.

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12.5 Benefit of Landlord's Insurance

The Tenant shall not have any interest in or be entitled to any benefit under any insurance policy effected by the Landlord unless the Tenant is expressly named in such policy.

13. ASSIGNMENT SUB-LETTING AND MORTGAGES

13.1 Restriction on Assignment

The Tenant shall not assign or transfer the Tenant's estate or interest in this Lease (including part of such estate or interest) without the Landlord's prior consent. The Landlord's consent shall not be unreasonably refused or withheld if the following conditions are satisfied:

- (a) the Tenant proves to the satisfaction of the Landlord that the Incoming Tenant is a respectable and financially responsible person;
- (b) the Tenant pays to the Landlord the Landlord's costs and expenses including, without limitation, the Landlord's legal costs and disbursements in relation to the investigation of the Incoming Tenant and otherwise relating to the proposed dealing;
- (c) the Tenant pays to the Landlord all money payable by the Tenant up to the date of completion of such dealing and there is not at any time prior to the date of completion of such dealing any unremedied breach of the Provisions on the Tenant's part which has not been waived by the Landlord;
- (d) the Incoming Tenant by deed covenants with the Landlord to observe and perform the Provisions on the Tenant's part. Such deed shall be prepared and, if necessary, stamped by the Landlord's solicitors at the cost of the Tenant and shall be on such terms and with such parties as the Landlord's solicitors may require. The deed may include, without limitation, a power of attorney by the Incoming Tenant in favour of the Landlord;
- (e) if the Incoming Tenant is a corporation other than a corporation whose shares are quoted by Australian Stock Exchange Limited a guarantee and indemnity is provided by any holding company (as defined under the Corporations Law) and the directors and shareholders of the Incoming Tenant and of any such holding company whereby the Landlord obtains the benefit of a guarantee and indemnity in respect of the due and punctual performance of:
 - (i) the Provisions on the Tenant's part; and
 - (ii) the covenants on the Incoming Tenant's part contained in the deed under **Clause 13.1(d)**.

Such guarantee and indemnity shall be prepared and, if necessary, stamped by the Landlord's solicitors at the cost of the Tenant and shall be on such terms and with such parties as the Landlord's solicitors may require; and

- (f) the Tenant and the guarantors under any guarantee and indemnity given in support of the obligations of the Tenant by deed covenant with the Landlord that the Tenant shall not be released from the obligations of the Tenant under the Provisions and the guarantors shall not be released from the obligations of the guarantors contained in such guarantee and indemnity for the balance of the Term, any holding over and any option to renew which may be exercised.

13.2 Corporate Ownership

For the purpose of this Part 13 where the Tenant is a corporation (other than a corporation whose shares are quoted by Australian Stock Exchange Limited) an assignment shall occur if there is any change in the issued capital or voting rights of the Tenant which alters the effective control of 50% or more of the issued capital or voting rights of the Tenant.

13.3 Restriction of Sub-Letting

The Tenant shall not sub-let or in any manner part with possession of the Premises (including part of the Premises) other than under **Clause 13.1**. For the purpose of this Lease parting with possession includes, without limitation, permitting any licensee, franchisee or concessionaire to conduct business in the Premises.

13.4 Restriction on Mortgaging

The Tenant shall not mortgage charge or otherwise encumber the Tenant's estate or interest in this Lease (including part of such estate or interest) without the Landlord's prior consent.

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14. LANDLORD'S TITLE

14.1 Quiet Enjoyment

If the Tenant strictly observes and performs the Provisions on the Tenant's part, the Tenant shall peaceably hold and enjoy the Premises during the Term without any interruption by the Landlord or by any person rightfully claiming through under or in trust for the Landlord.

14.2 Landlord's Successors and Assigns

If a person other than the Landlord becomes entitled either by operation of law or otherwise to receive the Base Rent and other money payable under the Provisions that person shall have the benefit of the Provisions on the Tenant's part. Upon demand by the Landlord and at the cost of the Landlord the Tenant shall enter into a covenant with that other person in that regard upon such terms as the Landlord may reasonably require.

15. TENANT'S DEFAULT

15.1 Definition of Default

If:

- (a) any money payable by the Tenant to the Landlord is unpaid after the due date for payment whether or not any demand has been made;
- (b) any money payable by the Tenant to the Landlord upon demand is unpaid after 7 days of the making of demand;
- (c) the Tenant does not observe or perform any of the Provisions on the Tenant's part and such failure continues for 7 days;
- (d) a receiver, a manager and receiver or an official manager is appointed in respect of the Tenant or the Tenant's estate or interest in this Lease or any security holder takes or attempts to take possession of the assets or undertaking of the Tenant; or
- (e) the Tenant being a corporation goes into liquidation or provisional liquidation or enters into an arrangement or composition with its creditors within the meaning of the Corporations Law,

the Tenant shall be in default.

15.2 Forfeiture of Lease

If the Tenant is in default the Landlord may without limitation to any other method of termination and after giving prior notice where required by law or the Provisions, immediately or at any time thereafter:

- (a) re-enter into and take possession of the Premises in the name of the whole (by force if necessary) and eject the Tenant and all other persons from the Premises and repossess and enjoy the Premises as of its first and former estate. Upon such re-entry this Lease shall be terminated;
- (b) by written notice to the Tenant terminate this Lease. Upon such notice being given this Lease shall be terminated; or
- (c) by written notice to the Tenant terminate this Lease and elect to convert the unexpired portion of the Term into a tenancy from month to month. Upon such notice being given this Lease shall be terminated. After such termination the Tenant shall hold the Premises from the Landlord as tenant from month to month. The Tenant shall pay a monthly rent equal to the Base Rent payable monthly at the date of giving such notice. The monthly tenancy shall otherwise be in accordance with the Provisions so far as they can be applied to a monthly tenancy including, without limitation, the provisions for variation of Base Rent and the payment of Operating Expenses but without the benefit of any option to renew. The monthly rent shall be paid monthly in advance. The monthly tenancy may be terminated by the Landlord or the Tenant by giving not less than 1 months prior written notice given at any time and taking effect at any time in accordance with such notice.

The termination of the Lease shall not effect or limit the entitlement of the Landlord to recover damages.

15.3 Damages

The Tenant shall compensate the Landlord for any loss or damage suffered as a result of the breach or default of the Tenant under the Provisions. The Tenant's obligation to compensate the Landlord is not in substitution for or derogation of any other right the Landlord may have.

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15.4 Interest on Overdue Money

If the Tenant does not pay to the Landlord:

- (a) any money payable under the Provisions upon demand within 7 days of the making of demand; or
- (b) any other money payable under the Provisions on the due date for payment,

the Tenant shall pay to the Landlord interest on such money or on so much of such money as shall remain unpaid from the due date for payment until and including the date the money is paid and also upon any judgment which the Landlord may obtain against the Tenant from the due date for payment until and including the date the judgment is satisfied. The interest shall be calculated at the Default Rate. The interest shall accrue on a daily basis, shall be paid on the first day of each month where an amount was payable in the preceding month or months and shall be capitalised on the first day of each month.

15.5 Non-Waiver

The Landlord's failure to act in respect of any default or breach of the Tenant shall not be or be construed as a waiver of that default or breach. Any custom or practice which may develop between the Landlord and the Tenant in the administration of this Lease shall not be construed to waive or to lessen the right of the Landlord to require the strict performance or observance by the Tenant of the Provisions or to exercise any rights given to the Landlord in respect of any such default or breach. Any waiver by the Landlord must be in writing and if not in writing shall be of no effect.

15.6 Landlord may Rectify

If the Tenant does not pay any money as required under the Provisions to any person other than the Landlord or if the Tenant does not perform any obligation under the Provisions the Landlord may as the agent of the Tenant for such purpose, make such payment or perform such obligation and incur such costs as may be necessary to perform such obligation. The Landlord shall not be under any obligation to make such payment or perform such obligation. The Tenant shall pay to the Landlord upon demand the full amount of any payments made and costs incurred by the Landlord under this clause.

15.7 Removal of Contents

Upon the termination of this Lease the Landlord may remove from the Premises any contents, including, without limitation, plant, equipment, stock-in-trade and other fixtures, chattels and fittings of the Tenant, and store the contents in a public warehouse or otherwise. The Landlord shall not by such action be guilty of conversion or trespass or become liable for any loss or damage occasioned to such contents. The Tenant shall bear all risks in respect of such removal and storage. The Tenant shall pay to the Landlord upon demand all costs in respect of such removal and storage.

16. TENANT'S PROPERTY

16.1 Tenant to Yield Up

When this Lease is terminated (whether by effluxion of time or otherwise) the Tenant shall yield up the Premises in the order and condition required under **Clause 7.1**.

16.2 Tenant's Right to Remove Property

If the Tenant is not in default under the Provisions the Tenant may remove from the Premises prior to the Expiry Date any property owned, hired or leased (other than from the Landlord) by the Tenant or the Tenant's Associates, provided that such removal can be effected without causing any substantial or structural damage to the Premises and the Complex. The Tenant shall make good any damage caused to the Premises and the Complex by such removal.

16.3 Tenant's Obligation to Remove Property

Upon demand by the Landlord the Tenant shall remove from the Premises within 7 days from the later of:

- (a) the termination of this Lease (whether by effluxion of time or otherwise); and
- (b) the making of demand,

such items of property owned, hired or leased (other than from the Landlord) by the Tenant or the Tenant's Associates as nominated by the Landlord. The Tenant shall make good any damage caused to the Premises and the Complex by such removal. Upon demand by the Landlord the Tenant shall reinstate any alterations made to the Premises by the Tenant or any previous tenant of the Premises so that the Premises are converted back to the original condition of the Premises prior to such alterations.

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16.4 Landlord's Right to Remove Property

If the Tenant has not removed the property referred to in **Clauses 16.2 or 16.3** the Landlord may remove such property and make good any damage and reinstate any alterations. The Tenant shall pay to the Landlord upon demand the costs to the Landlord of such removal, making good or reinstatement.

16.5 Abandoned Fittings and Goods

If any property referred to in **Clauses 16.2 and 16.3** owned by the Tenant, is not removed by the Tenant under **Clauses 16.2 or 16.3** the Tenant shall be deemed to have abandoned the Tenant's interest and proprietary rights in such property and the Landlord, at the election of the Landlord as notified in writing to the Tenant, shall from the date specified in the Landlord's notice of election be deemed to be the full legal and beneficial owner of such property free of all encumbrances, charges and other claims whatsoever. Until the Landlord elects under this clause the Landlord may deal with that property under **Clause 15.7**.

17 FIRST OPTION FOR RENEWAL

17.1 Conditions of Exercise of First Option

If the Tenant desires a further lease of the Premises for the First Option Term, **Clause 17.2 and 17.3** shall apply if:

- (a) the Tenant gives written notice of exercise of option to the Landlord during the Option Exercise Period;
- (b) this Lease has not been terminated or surrendered;
- (c) there is not at the time of giving the notice under **Clause 17.1(a)** or thereafter prior to the Expiry Date any unremedied breach of the Provisions on the Tenant's part which has not been waived by the Landlord; and
- (d) the Tenant has at all times during the Term strictly observed and performed the Provisions on the Tenant's part.

17.2 Grant of First Option Term

Subject to **Clauses 17.1 and 17.5** the Landlord shall grant to the Tenant and the Tenant shall accept from the Landlord a further lease of the Premises for the First Option Term upon the same terms, with the necessary changes, as are contained in this Lease except for:

- (a) this **Clause 17.2** which shall be omitted;
- (b) the Base Rent payable during the First Option Term which shall be determined under the Provisions contained in **Schedule 1**; and
- (c) any other alterations and additions which the Landlord may reasonably require.

17.3 Execution of Lease for First Option

If the Lease for the First Option Term is granted the Tenant shall execute and deliver to the Landlord or the Landlord's solicitors a new lease or, if the First Option Term is for a term of 3 years or less, at the election of the Landlord, a deed of renewal in respect of such Option Term within 20 Business Days of the delivery of such lease or deed by the Landlord or the Landlord's solicitors to the Tenant or the Tenant's solicitors. Such lease or deed shall be prepared, stamped and (if the First Option Term is greater than 3 years) registered by the Landlord's solicitors at the cost of the Tenant. If the Base Rent for the First Option Term has not been determined by the commencement date of the First Option Term the Tenant shall pending such determination and the execution of the lease or deed be bound by the terms of the lease for the First Option Term on the Tenant's part. Subject to the Provisions contained in **Schedule 1**, if the Base Rent for the First Option Term has not been determined by the commencement date of the First Option Term then pending such determination the Tenant shall pay Base Rent at the rate payable as at the Expiry Date. Upon such determination the Landlord and the Tenant shall promptly make any necessary adjustment.

17.4 Power of Attorney for First Option

The Tenant irrevocably nominates and appoints the Landlord and each and every one of the Landlord's directors, secretaries, managers and nominees in Queensland jointly and severally as the attorney of the Tenant to:

- (a) execute, stamp and, if necessary, register the lease for the First Option Term;
- (b) appoint, substitutes and, at the discretion of the Landlord or its directors, secretaries or managers in Queensland, to revoke such appointment and to appoint others;
- (c) use the name of the Tenant; and

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- (d) generally do, execute and perform any act, deed, matter or thing relative to the lease for the First Option Term as fully and effectually as the Tenant could do.

This power of attorney shall not become exercisable by the Landlord unless the Tenant defaults in the observance or performance of the obligation to execute and deliver the lease for the relevant First Option Term under **clause 18.3**. Sufficient proof of such default shall for all purposes be a statutory declaration by an authorised person acting on behalf of the Landlord. The Tenant covenants to ratify and confirm all such acts, deeds, matters and things of the attorney and any substitute and to keep the attorney and any substitute indemnified for all fees, costs, charges and expenses in any way incurred or payable by any such attorney or substitute in the exercise of the powers contained in this power of attorney.

17.5 Guarantee and Indemnity for First Option

If a person has guaranteed the Tenant's performance of the Provisions on the Tenant's part or has indemnified the Landlord in respect of the Tenant's breach or default under such Provisions the Landlord may require the Tenant to procure such person to guarantee the performance of the Tenant's obligations under the lease for the First Option Term and to indemnify the Landlord in respect of the Tenant's breach or default under such lease. Any such guarantee and indemnity shall be prepared and, if necessary, stamped by the Landlord's solicitors at the cost of the Tenant and shall be on such terms and with such parties as the Landlord's solicitors may require. If the Tenant does not procure the execution of such guarantee and indemnity the notice given under **Clause 17.1(a)** shall, at the election of the Landlord, be of no effect. In the event of such election the Tenant shall not be entitled to any lease for the First Option Term.

18 SECOND OPTION FOR RENEWAL

18.1 Conditions of Exercise of Second Option

If the Tenant desires a further lease of the Premises for the Second Option Term, **Clause 18.2** and **18.3** shall apply if:

- (a) the Tenant gives written notice of exercise of option to the Landlord during the Option Exercise Period;
- (b) this Lease has not been terminated or surrendered;
- (c) there is not at the time of giving the notice under **Clause 18.1(a)** or thereafter prior to the Expiry Date any unremedied breach of the Provisions on the Tenant's part which has not been waived by the Landlord; and
- (d) the Tenant has at all times during the Term strictly observed and performed the Provisions on the Tenant's part.

18.2 Grant of Second Option Term

Subject to **Clauses 18.1** and **18.5** the Landlord shall grant to the Tenant and the Tenant shall accept from the Landlord a further lease of the Premises for the Second Option Term upon the same terms, with the necessary changes, as are contained in this Lease except for:

- (a) this **Clause 18.2** which shall be omitted;
- (b) the Base Rent payable during the Second Option Term which shall be determined under the Provisions contained in **Schedule 1**; and
- (c) any other alterations and additions which the Landlord may reasonably require.

18.3 Execution of Lease for Second Option

If the Lease for the Second Option Term is granted the Tenant shall execute and deliver to the Landlord or the Landlord's solicitors a new lease or, if the Second Option Term is for a term of 3 years or less, at the election of the Landlord, a deed of renewal in respect of such Option Term within 20 Business Days of the delivery of such lease or deed by the Landlord or the Landlord's solicitors to the Tenant or the Tenant's solicitors. Such lease or deed shall be prepared, stamped and (if the Second Option Term is greater than 3 years) registered by the Landlord's solicitors at the cost of the Tenant. If the Base Rent for the Second Option Term has not been determined by the commencement date of the Second Option Term the Tenant shall pending such determination and the execution of the lease or deed be bound by the terms of the lease for the Second Option Term on the Tenant's part. Subject to the Provisions contained in **Schedule 1**, if the Base Rent for the Second Option Term has not been determined by the commencement date of the Second Option Term then pending such determination the Tenant shall pay Base Rent at the rate payable as at the Expiry Date. Upon such determination the Landlord and the Tenant shall promptly make any necessary adjustment.

18.4 Power of Attorney for Second Option

The Tenant irrevocably nominates and appoints the Landlord and each and every one of the Landlord's directors, secretaries, managers and nominees in Queensland jointly and severally as the attorney of the Tenant to:

- (a) execute, stamp and, if necessary, register the lease for the Second Option Term;

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- (b) appoint, substitutes and, at the discretion of the Landlord or its directors, secretaries or managers in Queensland, to revoke such appointment and to appoint others;
- (c) use the name of the Tenant; and
- (d) generally do, execute and perform any act, deed, matter or thing relative to the lease for the Second Option Term as fully and effectually as the Tenant could do.

This power of attorney shall not become exercisable by the Landlord unless the Tenant defaults in the observance or performance of the obligation to execute and deliver the lease for the Second Option Term under **Clause 18.3**. Sufficient proof of such default shall for all purposes be a statutory declaration by an authorised person acting on behalf of the Landlord. The Tenant covenants to ratify and confirm all such acts, deeds, matters and things of the attorney and any substitute and to keep the attorney and any substitute indemnified for all fees, costs, charges and expenses in any way incurred or payable by any such attorney or substitute in the exercise of the powers contained in this power of attorney.

18.5 Guarantee and Indemnity for Second Option

If a person has guaranteed the Tenant's performance of the Provisions on the Tenant's part or has indemnified the Landlord in respect of the Tenant's breach or default under such Provisions the Landlord may require the Tenant to procure such person to guarantee the performance of the Tenant's obligations under the lease for the Second Option Term and to indemnify the Landlord in respect of the Tenant's breach or default under such lease. Any such guarantee and indemnity shall be prepared and, if necessary, stamped by the Landlord's solicitors at the cost of the Tenant and shall be on such terms and with such parties as the Landlord's solicitors may require. If the Tenant does not procure the execution of such guarantee and indemnity the notice given under **Clause 18.1(a)** shall, at the election of the Landlord, be of no effect. In the event of such election the Tenant shall not be entitled to any lease for the Second Option Term.

19 GOODS AND SERVICES TAX

19.1 Consideration is GST Exclusive

It is agreed that the Base Rent, Operating Expenses and all other amounts agree to be paid by the Tenant to the Landlord, being the consideration for the supply in this Lease, is exclusive of GST.

19.2 Consideration to be Increased for GST

It is agreed that if the Landlord is liable by law for any GST in respect of the consideration for the supply in this Lease the consideration payable under this Lease will increase by an amount calculated as:

$A \times R$

Where:

A is the amount of the consideration payable; and

R is the rate of GST

19.3 Payment of GST by Tenant

The amount of the increase in the consideration determined by **Clause 19.2** shall be paid by the Tenant at the same time and in the same manner as the payment of Base Rental, Operating Expenses and all other amounts agreed to be paid under this Lease.

19.4 Alteration of GST Liability

If for any reason the GST liability of the Landlord as determined for the purposes of **Clause 19.2** is increased or decreased then the consideration otherwise payable by the Tenant shall be increased or decreased by the same amount.

19.5 Operating Expenses

If the Landlord is entitled to an input tax credit under the GST Law for any Operating Expenses or other payment referred to in **Clause 4.2** then the GST exclusive consideration payable by the Tenant to the Landlord in respect of that Operating Expenses or payment is the amount of the Operating Expenses or payment incurred by the Landlord less the GST input credit claimed or claimable by the Landlord.

19.6 Tax Invoices

As a condition for the payment by the Tenant to the Landlord of any rent for any month or for any other payment in respect of which GST is payable by the Tenant to the Landlord shall serve on the Tenant a document that is a tax invoice for the

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purposes of the GST Law or such other document as may be required to enable the Tenant to obtain an input tax credit under the GST Law.

19.7 Interpretation

In this Clause:

- (a) "GST" means the Goods and Services Tax as provided for by the GST Law;
- (b) "GST Law" means *A New Tax System (Goods and Services Tax) Act 1999* as amended or replaced from time to time and any associated legislation including without limitation delegated legislation;
- (c) "Rate of GST" means the rate of GST payable by the Landlord under the GST Law; and
- (d) any expression used that is defined in the GST Law has that defined meaning.

20 PERFORMANCE SECURITY

20.1 Bank Guarantee

The Tenant shall:

- (a) deliver to the Landlord on or before the earlier of:
 - (i) the Tenant's execution of this Lease; and
 - (ii) the Commencement Date,

an unconditional Bank Guarantee in favour of the Landlord which is unlimited as to duration (or which may contain an expiry date that expires seven (7) months after the Expiry Date) for the Security Amount;

- (b) deliver to the Landlord on or before the later of:
 - (i) each Review Date; and
 - (ii) 5 business days after the date of completion of the review of the Base Rent as at that Review Date,

a further unconditional Bank Guarantee in favour of the Landlord which is unlimited as to duration (or which may contain an expiry date that expires seven (7) months after the Expiry Date) so that the aggregate of the amount available under the Bank Guarantee held by the Landlord under this clause and any sum held by the Landlord under **Clause 20.2** as at that date bears to the base Rent payable from that date the same proportion as the Security Amount bears to the Base Rent as at the Commencement Date; and

- (c) where the Landlord makes demand under any Bank Guarantee held by the Landlord under this clause or appropriates any sum held by the Landlord under **Clause 20.2**, deliver to the Landlord a further unconditional Bank Guarantee in favour of the Landlord which is unlimited as to duration (or which may contain an expiry date that expires seven (7) months after the Expiry Date) equal to the amount demanded or appropriated by the Landlord.

20.2 Security Deposit

The Landlord may accept from the Tenant a sum of money in full (or part) satisfaction of the Tenant's obligations to deliver any Bank Guarantee under **Clause 20.1**. Subject to the Landlord's rights under **Clause 20.3**, the Landlord shall invest or cause to be invested any sum held by the Landlord under this clause in any form of investment nominated by the Landlord and permitted by law. If the Tenant exercises any option for renewal the Landlord may retain and invest any sum held by the Landlord under this clause. The interest accrued on the investment shall be paid from time to time to the Landlord and the Tenant equally. The Landlord or the person making the investment may deduct from the Tenant's share of accrued interest:

- (a) any money payable by the Tenant to the Landlord under the Provisions. Any amount so deducted shall be paid to the Landlord; and
- (b) the sums as are reasonably necessary from time to time to defray the administrative and professional costs in relation to the investment.

The Tenant shall bear all risks in respect of the investment. If any money held by the Landlord under this clause is invested as at 30 June in any year then at that date the Landlord and the Tenant shall be entitled equally to the interest then accrued. The Landlord and the Tenant authorise the person making the investment to prepare and lodge any taxation returns necessary in respect of the investment and to pay from the interest accrued or the sum invested any tax assessed in respect of the investment. The Landlord and the Tenant acknowledge that the tax file provisions of the Income Tax Assessment Act

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1936 shall apply to the investment and that if the Landlord and the Tenant do not disclose their tax file number then the investment body may deduct tax from the interest earned. If the Landlord and the Tenant do not provide their tax file number and full address within 15 Business Days after demand, then the person making the investment is authorised to make the investment without notifying the investment body of the relevant tax file number. Where the investment is required to be reinvested the Landlord and the Tenant authorise the person making the investment to disclose any tax file numbers previously supplied by the Landlord and the Tenant to the investment body at the time of reinvestment.

20.3 Claim on Performance Security

The Landlord may, from time to time:

- (a) make demand under any Bank Guarantee held by the Landlord under **Clause 20.1**;
- (b) appropriate any sum held by the Landlord under **Clause 20.2**; or
- (c) exercise the Landlord's rights under **Clauses 20.3(a) and 20.3(b)**,

as compensation in respect of any breach of the Provisions on the Tenant's part. The exercise of the Landlord's rights under this Clause is not in substitution for or derogation of any other rights the Landlord may have.

21 LIMITATION OF LIABILITY

21.1 Interpretation

In this clause:

- (a) "Custodian" means KPD Holdings Pty Ltd A.C.N. 136 055 073;
- (b) "Fund" means N Deferos Dental Pty Ltd Superannuation Fund;
- (c) "Responsible Entity" means N Deferos Dental Pty Ltd A.C.N. 010 658 527.

21.2 Limitation of Liability of Custodian

- (a) The Custodian enters into this Lease only as agent of the Responsible Entity. The Custodian can only act in accordance with the terms of the agreement under which it is appointed as the Responsible Entity's agent and is not liable under any circumstances to any party under this Lease. This limitation of the Custodian's liability applies despite any other provision of this Lease and extends to all liabilities and obligations of the Custodian in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Lease.
- (b) The Custodian is not obliged to do or refrain from doing anything under this Lease (including, without limitation, incur any liability) unless the Custodian's liability is limited in the same manner as set out in this **clause 21.2**.
- (c) No attorney, agent, receiver or receiver and manager appointed in accordance with this Lease has authority to act on behalf of the Custodian in a way which exposes the Custodian to any liability.

21.3 Limitation of Liability of Responsible Entity

- (a) The Responsible Entity enters into the obligations in this Lease only in its capacity as the responsible entity of the Fund and in no other capacity. A liability arising under or in connection with this Lease can be enforced against the Responsible Entity only to the extent to which it can be satisfied out of the interest of the Fund out of which the Responsible Entity is actually indemnified for the liability. This limitation of the Responsible Entity's liability applies despite any other provision of this Lease and extends to all liabilities and obligations of the Responsible Entity in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to those obligations.
- (b) Subject to **clauses 21.3(c) to (f)**, the parties other than the Responsible Entity may not take any action to seek recourse to any assets of the Fund held by the Responsible Entity in any capacity other than as responsible entity of the Fund, including seeking the appointment of a receiver (except in relation to the property of the Fund, a liquidator, an administrator or any similar person to the Responsible Entity or prove in any liquidation, administration or arrangement of or affecting the Responsible Entity (except in relation to the property of the Fund)).
- (c) The provisions of this **clause 21.3** do not apply to any obligation or liability of the Responsible Entity to the extent that it is not satisfied because:
 - (i) under the deed constituting the Fund or by operation of law there is a reduction in the extent of the Responsible Entity's indemnification out of the assets of the Fund as a result of the Responsible Entity's fraud, negligence or breach of trust; or

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- (ii) the Responsible Entity failed to exercise any right of indemnity it has under the deed constituting the Fund in respect of that obligation or liability.
- (d) No act or omission of the Responsible Entity (including any related failure to satisfy its obligations under this Lease) will be considered fraud, negligence or breach of trust of the Responsible Entity for the purpose of this **clause 21.3** to the extent to which the act or omission was caused or contributed to by any failure by any other person (other than a person referred to in section 601FB(2) of the *Corporations Act 2001* (Cth)) to fulfil its obligations relating to the Fund by any other act or omission of any such other person.
- (e) No attorney, agent, receiver and manager appointed by any person in accordance with this agreement has authority to act on behalf of the Responsible Entity in a way which exposes the Responsible Entity to any personal liability and no act or omission of any such person will be considered fraud, negligence or breach of trust of the Responsible Entity for the purpose of this **clause 21.3**.
- (f) The Responsible Entity is not obliged to enter into any commitment or obligation under this agreement unless the Responsible Entity's liability is limited in the same manner as in this **clause 21.3**.

21.4 Change of Custodian

If the Responsible Entity appoints a new custodian as the custodian of the assets of the Fund and that custodian becomes the registered proprietor of the Land, then:

- (a) **clause 21.2** extends to the new custodian without limitation; and
- (b) the parties release the outgoing custodian from any liabilities and obligations under this Lease as Landlord after that entity ceases to be the custodian of the Fund.

21.5 Change of Responsible Entity

If there is a change in the responsible entity of the Fund, the parties must, at the Responsible Entity's request, enter into a deed releasing the Responsible Entity from, and novating to the new responsible entity, the rights, liabilities and obligations of the Responsible Entity under this Lease. The Responsible Entity must pay the reasonable legal costs in connection with entering into that deed.

21.6 Transfer of the Land

If the Land ceases to be an asset of the Fund:

- (a) **clauses 21.1, 21.2 and 21.3** cease to apply; and
- (b) the parties release the Responsible Entity and the Custodian of the Fund from all liability in connection with this Lease arising after the Land ceases to be an asset of the Fund.

22 SPECIAL CONDITIONS

22.1 Landlord and Tenant to be Bound

The Landlord and Tenant agree to be bound by the Special Conditions in **schedule 1**.

22.2 Inconsistency of Special Conditions

Where there is a discrepancy or inconsistency between a part of this lease and any Special Condition then the Special Condition shall prevail to apply to resolve the discrepancy or inconsistency.

SCHEDULE

Title Reference 12407094

SCHEDULE 1

LEASE DETAILS

Agreement:		Not Applicable
Landlord:	Form 7	KPD HOLDINGS PTY LTD ACN 136 055 073 AS TRUSTEE UNDER INSTRUMENT 712 830 385
Landlord's address for service:	Clause 3.10	Address: PO Box 644 Mount Gravatt Qld 4122
		Facsimile:
		E-mail:
Tenant:	Form 7	CENTRAL DENTAL PTY LTD ACN 011 032 054 AS TRUSTEE FOR THE NICHOLAS DEFTEROS FAMILY TRUST
Tenant's address for service:	Clause 3.10	Address: PO Box 644 Mount Gravatt Qld 4122
		Facsimile:
		E-mail:
Premises Address:	Clause 1.1	1403 Logan Road, Mount Gravatt
Term:	Form 7	Five (5) years
Commencement Date:	Form 7	1 January 2015
Expiry Date:	Form 7	31 December 2019
Base Rent:	Clause 4.1	\$90,000.00 plus GST per annum or \$7,500.00 plus GST per calendar month
Indexation Review Date:	Clause A.19	1 January 2016, 1 January 2017, 1 January 2018, 1 January 2019, 1 January 2021, 1 January 2022, 1 January 2023, 1 January 2024
Market Review Date:	Clause A.2	1 January 2020
Market Review Area:	Clause A.6	Brisbane
Agreed Proportion:	Clause 4.2	Not Applicable
Permitted Use:	Clause 6.1	Dental Surgery
Public Liability Amount:	Clause 12.3	\$20,000,000.00
Default Rate:	Clause 15.4	15%
Security Amount:	Part 20	\$24,750.00 or such other amount so that the Security Amount is at all times equal to the sum of three (3) months Base Rent including GST
Option Exercise Period:	Clause 17.1	The period being not less than six (6) months prior to the Expiry Date
First Option Term:	Clause 17.1	Five (5) years
First Option Term Commencement Date:	Clause 17.2	1 January 2020
First Option Term Expiry Date:	Clause 17.2	31 December 2024
Second Option Term:	Clause 18.1	Not Applicable
Second Option Term Commencement Date:	Clause 18.2	Not Applicable

SCHEDULE

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Second Option Term Expiry Date:	Clause 18.2	Not Applicable
Special Conditions:	Clause 22	Not Applicable