

103-105 Main South Rd
Reynella

Jannie

Summary

15 years lease to G8 + options to 2044

G8 Education - ASX listed 500+ centres

4% pa increases + 'ratchet' provisions

Property Details

Long 15 year lease to G8 Education to October 2029

G8 Education Ltd: largest ASX listed childcare provider with over 500 centres across Australia and Singapore

Three further 5 year options to October 2044

Fixed 4% annual rent increases plus 'ratchet' provisions at market review ensuring guaranteed rental growth

Tenant pays all outgoings including land tax and management fees

Well maintained child care facility with recent internal and imminent external upgrade

Strategic 1,349 sqm main road site within Reynella's commercial precinct, 300 metres from Reynella Primary School and only 19km south from Adelaide's CBD

Net Income: \$112,486 pa + GST

As of purchase date - 20th/06/2018

Auction 11am AEST Wednesday 20 June 2018

River Room, Crown Casino, Melbourne

Featured Details

Current Tenant	Tenanted
Gross Building Area	1 sqm
Land Size	1,349 sqm
Rent Period	Annually

Contact Details

100 000 + 605 12/2 Nov 2014 15

104

15

108 160

16

112 486

17

tindallgaskbentley
lawyers

28 September 2018

Kleidon Property Trust No. 2
7 Finnegan Place
PELICAN WATERS QLD 4551



BY EXPRESS POST

Dear Dianne,

Purchase of 103-105 Main South Road Reynella
Our Ref: GEK 182976

I refer to previous communications.

I enclose;

1. Lessor's copy of memorandum of lease 12214659;
2. Lessor's copy of memorandum of extension of lease 12214661;
3. Two forms of release of charge by National Australia Bank Ltd (one to Juice Assets Pty Ltd and one to Juice Assets Unit Trust) – releasing their interest in any goods which were included in the sale to you.

You need not do anything with any of these documents, but you should keep them secure for future reference.

I confirm that I am still attempting to obtain the deed of assignment of the lessor's interest in the lease from the vendor's solicitors, and will advise further in that regard in due course.

Yours faithfully,
TINDALL GASK BENTLEY

Per: *Gekahl*

GILES KAHL
Senior Lawyer
gkahl@tgb.com.au

Please reply to Adelaide office

Encl.

SCHEDULE

ITEM 1:	<p>VENDOR/S</p> <p>Name/s: JUICE ASSETS PTY LTD</p> <p>ACN / ABN / ARSN (if any): 168 782 198</p> <p>Mailing address: Finlaysons, 81 Flinders Street, Adelaide SA 5000</p> <p>Ph: 08 8235 7416 Email: austin.wakeham@finlaysons.com.au</p>
ITEM 2:	<p>PURCHASER/S</p> <p>Name/s: DIRET SUPER PTY LTD ATF KLEIDON PROPERTY TRUST No. 2.</p> <p>ACN / ABN / ARSN (if any): 160643336</p> <p>Mailing address: 7 FINNEGAN PLACE, PELICAN WATERS, QLD 4551</p> <p>Ph: 0417716907 Email: di.kleidon@bigpond.com</p> <p>(If not otherwise stated, any 2 or more Purchasers will be deemed to purchase the Land as joint tenants)</p>
ITEM 3:	<p>LAND</p> <p>The whole of the land comprised in Certificates of Title Volume 6149 Folios 924 and 926, being Allotments 139 and 140 in Deposited Plan 6590, situated at 103-105 Main South Road, Reynella SA 5161</p>
ITEM 4:	<p>INCLUDED PROPERTY (Personal property included in the Sale)</p> <p>All buildings and other fixed improvements on and in the Land, subject to Item 5</p> <p>Other—</p> <p>If any of the Included Property is sold subject to a Third Party Interest or hire agreement to be assigned to the Purchaser, specify details below:</p> <p>(1) In law, a sale of freehold land includes fixtures upon that land. If in doubt, identify an asset as Included Property or as Excluded Property.</p> <p>(2) If agricultural or horticultural land, consider any crop still growing at Settlement.</p>
ITEM 5:	<p>EXCLUDED PROPERTY</p> <p>(a) Any of the Lessee's and third parties' fixtures, fittings and other improvements on or in the Land;</p> <p>(b) any of the Vendor's, Lessee's and third parties' chattels and other items on or in the Assets (if any); and</p> <p>(c) any item which is the property of any Authority or service provider.</p>
ITEM 6:	<p>TENANCIES, EXCEPTIONS AND RESERVATIONS</p> <p>Lease No. 12214659 (as varied and extended by Extension of Lease No. 12214661) See Annexure A – Special Conditions</p> <p>Specify any Tenancy or Third Party Interest (disregarding any other Permitted Interest as defined in this contract) to be taken over by the Purchaser.</p>

MEMORANDUM OF EXTENSION OF LEASE

LEASE BEING EXTENDED

Memorandum of Lease dated *13th October* 2014 between MKS Childcare Pty Ltd ACN 102 607 661 and G8 Education Ltd ACN 123 828 553 lodged contemporaneously herewith

CERTIFICATE(S) OF TITLE OVER WHICH LEASE IS REGISTERED

The whole of the land comprised in Certificates of Title Volume 5149 Folio 84 and Volume 5252 Folio 58

LESSOR (Full name and address)

JUICE ASSETS PTY LTD ACN 168 782 198 of 352 Bay Road, Cheltenham VIC 3192

LESSEE (Full name and address)

G8 EDUCATION LTD ACN 123 828 553 of 159 Varsity Parade, Varsity Lakes QLD 4227

CONSIDERATION (Words and figures)

By mutual consent and for no monetary consideration

FOR THE ABOVE CONSIDERATION THE TERM OF THE ABOVE MEMORANDUM OF LEASE SHALL BE EXTENDED:

TERM

COMMENCING AT 12.00AM ON *17 October 2029*
AND
EXPIRING AT 1.00AM ON *17 October 2029*

UPON THE SAME TERMS AND CONDITIONS AS ARE EXPRESSED OR IMPLIED IN THE ABOVE MEMORANDUM OF LEASE EXCEPT WITH THE VARIATIONS LISTED IN THE VARIATIONS PANEL.

CONSENTS

VARIATIONS

THE LESSOR HEREBY EXTENDS the Lease and **THE LESSEE ACCEPTS** the Lease for the extended term **SUBJECT TO AND ON** the same terms and conditions as are expressed or implied in the Lease except for the following **VARIATIONS**:

1. the Lessor and the Lessee acknowledge and agree that this Memorandum of Extension of Lease for one (1) hour is made in part fulfilment of the Lessee's right to renew the Lease for the first further term of five (5) years pursuant to clause 16 of the Lease, and is without prejudice to the right of the Lessee to exercise such right of renewal in respect of the remaining period of the first further term being five (5) years less one (1) hour pursuant to clause 16 of the Lease;
2. Item 8 of the Reference Schedule on page 51 of the Lease is deleted and replaced with the following words and figures:
"One Hundred Thousand Dollars (\$100,000.00) plus GST per annum"; and
3. Special Conditions 1 and 2 of Item 15 of the Reference Schedule on page 52 of the Lease are deleted and replaced with the following words:
"Intentionally Deleted".

In all other respects the terms and conditions of the Lease (as varied pursuant to this Memorandum of Extension of Lease) shall remain unaltered and in full force and effect.

MEMORANDUM OF EXTENSION OF LEASE**LEASE BEING EXTENDED**

Memorandum of Lease dated *16th October* 2014 between MKS Childcare Pty Ltd ACN 102 607 661 and G8 Education Ltd ACN 123 828 553 lodged contemporaneously herewith

CERTIFICATE(S) OF TITLE OVER WHICH LEASE IS REGISTERED

The whole of the land comprised in Certificates of Title Volume 5149 Folio 84 and Volume 5252 Folio 58

LESSOR (Full name and address)

JUICE ASSETS PTY LTD ACN 168 782 198 of 352 Bay Road, Cheltenham VIC 3192

LESSEE (Full name and address)

G8 EDUCATION LTD ACN 123 828 553 of 159 Varsity Parade, Varsity Lakes QLD 4227

CONSIDERATION (Words and figures)

By mutual consent and for no monetary consideration

TERM

FOR THE ABOVE CONSIDERATION THE TERM OF THE ABOVE MEMORANDUM OF LEASE SHALL BE EXTENDED:

COMMENCING AT 12.00AM ON *17 October 2029*
AND
EXPIRING AT 1.00AM ON *17 October 2029*

UPON THE SAME TERMS AND CONDITIONS AS ARE EXPRESSED OR IMPLIED IN THE ABOVE MEMORANDUM OF LEASE EXCEPT WITH THE VARIATIONS LISTED IN THE VARIATIONS PANEL.

CONSENTS

DATED THIS 18th DAY OF October 2014

EXECUTION


EXECUTION BY THE LESSOR:

EXECUTED by **JUICE ASSETS PTY LTD** ACN 168)
782 198 in accordance with section 127(1) of the)
Corporations Act 2001 (Cth):)

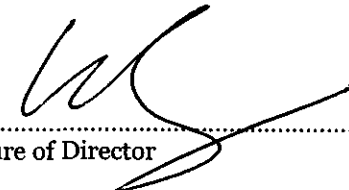

.....
Signature of John West Collins
Sole Director

EXECUTION BY THE LESSEE:

EXECUTED by **G8 EDUCATION LTD** ACN 123 828)
553 in accordance with section 127(1) of the)
Corporations Act 2001:)


.....
Signature of Director

CHRISTOPHER JOHN SCOTT
.....
Name of Director


.....
Signature of Director

CHRISTOPHER PAUL SACRE
.....
Name of Director / **SECRETARY**

Lessors Copy

12214661

16:14 17-Oct-2014

Fees: \$0.00

LANDS TITLES REGISTRATION
OFFICE
SOUTH AUSTRALIA

MEMORANDUM OF EXTENSION
OF LEASE

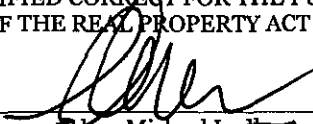
FORM APPROVED BY THE REGISTRAR-GENERAL

**BELOW THIS LINE FOR OFFICE &
STAMP DUTY PURPOSES ONLY**

Prefix
EL
Series No
4

38

BELOW THIS LINE FOR AGENT USE ONLY

CERTIFIED CORRECT FOR THE PURPOSES OF THE REAL PROPERTY ACT 1886
 Adam Michael Ludlow Solicitor

Austin Robert Wakeham
AR

AGENT CODE

Lodged by: FINL

Correction to: FINL

TITLES, CROWN LEASES, DECLARATIONS ETC. LODGED WITH
INSTRUMENT (TO BE FILLED IN BY PERSON LODGING)

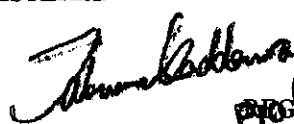

1.
2.
3.
4.

PLEASE ISSUE NEW CERTIFICATE(S) OF TITLE AS FOLLOWS

1.
2.
3.
4.

DELIVERY INSTRUCTIONS (Agent to complete)
PLEASE DELIVER THE FOLLOWING ITEM(S) TO THE
UNDERMENTIONED AGENT(S)

ITEM(S)	AGENT CODE
	FINL

CORRECTION	PASSED
REGISTERED	12 NOV 2014
  REGISTRAR-GENERAL SOUTH AUSTRALIA	

AML:423591-4

3907336 V1

Lessors Copy

12214661

16:14 17-Oct-2014

Fees: \$0.00

LANDS TITLES REGISTRATION
OFFICE
SOUTH AUSTRALIA

MEMORANDUM OF EXTENSION
OF LEASE

FORM APPROVED BY THE REGISTRAR-GENERAL

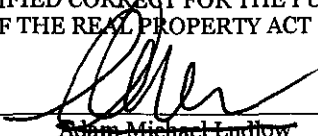
**BELOW THIS LINE FOR OFFICE &
STAMP DUTY PURPOSES ONLY**

Prefix
EL
Series No
6

38

BELOW THIS LINE FOR AGENT USE ONLY

CERTIFIED CORRECT FOR THE PURPOSES
OF THE REAL PROPERTY ACT 1886



~~Adam Michael Ludlow~~ Solicitor

Austin Robert Wakeham
[Handwritten signature]

AGENT CODE

Lodged by: FINL

Correction to: FINL

TITLES, CROWN LEASES, DECLARATIONS ETC. LODGED WITH
INSTRUMENT (TO BE FILLED IN BY PERSON LODGING)



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PLEASE DELIVER THE FOLLOWING ITEM(S) TO THE
UNDERMENTIONED AGENT(S)

ITEM(S)	AGENT CODE
	FINL

CORRECTION	PASSED
REGISTERED 12 NOV 2014  	

Release

Secured Party NATIONAL AUSTRALIA BANK LIMITED ABN 12 004 044 937 ("We")

Grantor: JUICE ASSETS PTY LTD
ABN/ACN/ARBN 168 782 198

Security Interest: Any security interest (including a "security interest" as defined under the *Personal Property Securities Act 2009* (Commonwealth) ("PPSA")) held by the Secured Party in respect of the Released Property.

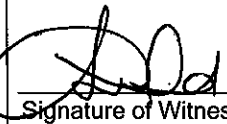

Date:

Released Property MORTGAGE OVER PROPERTY LOCATED AT 103-105 MAIN ROAD SOUTH, REYNELLA SA MORE PARTICULARLY DESCRIBED IN VOLUME AND FOLIO 6149/924 & 6149/926

The Released Property is released from the Security Interest on the date of this deed.

Nothing in this deed releases, terminates or otherwise affects any debts or liabilities of the Grantor or any other person secured by the Security Interest to the extent such debts or liabilities remain outstanding at the date of this deed or arise after the date of this deed.

Executed by the Secured Party as a deed poll

Executed on behalf of NATIONAL AUSTRALIA BANK LIMITED by its Attorney who holds the position of Level 3 Attorney under Power of Attorney dated 1 March 2007 in the presence of:  Signature of Witness DEONE MICHELLE SUTHERLAND Name of Witness (BLOCK LETTERS))	 Signature of Attorney
		LESLEY ANNE McLEOD Full name of Attorney (BLOCK LETTERS)

Secured Party Contact Details

Phone Number: (07) 5581 2220
Fax details: (13) 0088 0176
Reference Number: 414315894

CERTIFICATES OF TITLE BEING LEASED

The whole of the land comprised in Certificates of Title Volume 5149 Folio 84 and Volume 5252 Folio 58

ESTATE AND INTEREST

Estate in fee simple

ENCUMBRANCES

Nil

LESSOR (Full name and address)

MKS CHILDCARE PTY LTD ACN 102 607 661 of c/- Lloyds Solicitors, GPO Box 187 Brisbane QLD 4001

LESSEE (Full name, address and mode of holding)

G8 EDUCATION LTD ACN 123 828 553 of 159 Varsity Parade, Varsity Lakes QLD 4227

TERM OF LEASE

FIFTEEN (15) YEARS commencing on 17th of October 2014 and expiring at midnight on 16th of October 2029, together with three (3) rights of renewal of five (5) years each

02/10
12/14

RENT AND MANNER OF PAYMENT (OR OTHER CONSIDERATION)

Refer to clause 4 of the attached covenants

OPERATIVE CLAUSE (a) delete the inapplicable

The lessor LEASES TO THE LESSEE the land (a) ABOVE/~~HEREINAFTER~~ described and the LESSEE ACCEPTS THIS LEASE of the land for the term and at the rent stipulated, subject to the covenants and conditions expressed (a) herein/~~in Memorandum No —~~ and to the powers and covenants implied by the Real Property Act, 1886 (except to the extent that the same are modified or negated below).

DEFINE THE LAND BEING LEASED INCORPORATING THE REQUIRED EASEMENT(S) ETC

Not Applicable

IT IS COVENANTED BY AND BETWEEN THE LESSOR AND THE LESSEE as follows:
(Covenants, where not deposited, to be set forth on insert sheet(s) and securely attached)

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LEASE AGREEMENT

PARTIES **MKS CHILDCARE PTY LTD** ACN 102 607 661 of c/- Lloyds Solicitors, GPO Box 187
Brisbane QLD 4001 ("**the Landlord**")

G8 EDUCATION LTD ACN 123 828 553 of 159 Varsity Parade, Varsity Lakes
QLD 4227 ("**the Tenant**")

Introduction

- A. The Landlord is the owner of the Land.
- B. The Tenant wishes to lease the Premises from the Landlord and the Tenant wishes to take a lease of the Premises from the Landlord.
- C. The Landlord and Tenant have agreed to enter into a lease of the Premises for the Term on the following terms and conditions.

It is agreed:

1. Definitions and interpretation

1.1 Reference Schedule

Terms appearing in bold in the Reference Schedule have the meanings given below them.

1.2 Definitions

In this Lease unless the context otherwise requires:

- 1) **Act** means the Children's Services Act 1985 and any other current child care or services legislation and regulations applicable to South Australia and any replacement Law.
- 2) **Adjacent Lease** means the Memorandum of Lease entered into between Maria Donato as lessor and the Tenant as lessee in relation to a the whole of the Adjacent Property, dated on or around the date of this Lease.
- 3) **Adjacent Property** means the whole of the land comprised in Certificates of Title Volume 5308 Folios 49 and 149, commonly known as 99-101 Main South Road, Reynella.
- 4) **Air Conditioning Equipment** means the plant, piping, electrical installations, ductwork, diffusers and all other equipment used to heat, cool, circulate and extract air throughout the Building.
- 5) **Australian Property Institute** means the Australian Property Institute Incorporated South Australian Division or its successor or other organisation replacing it.
- 6) **Authority** includes any:
 - (a) government or semi-government authority in any jurisdiction, whether federal, state, territorial or local;
 - (b) provider of public utility services, whether statutory or not; and
 - (c) other person, authority, instrumentality or body having jurisdiction, rights, powers,

duties or responsibilities over the Premises or any part of them or anything in relation to them;

- 7) **Building** means all improvements erected on the Land and the Landlord's Fixtures, including any modifications, extensions or alterations to those improvements.
- 8) **Business Day** means a day that is not a Saturday, Sunday or public holiday in South Australia.
- 9) **Claim** means any claim, demand, remedy, suit, injury, damage, loss, cost, liability, action, proceeding or right of action.
- 10) **Commencement Date** means that date in Item 4.
- 11) **Control** of a corporation includes the direct or indirect power to directly or indirectly:
 - (a) direct the management or policies of the corporation; or
 - (b) control the membership of the board of directors,whether or not the power has statutory, legal, practical or equitable force or is based on statutory, legal or equitable rights and whether or not it arises by means of trusts, agreements, arrangements, understandings, practices, the ownership of any interest in shares or stock of that corporation or otherwise.
- 12) **Cost** means the amount of any cost, charge, expense, outgoing, payment or other expenditure of any nature incurred by or on behalf of the Landlord.
- 13) **Default Rate** means the rate which is the total of 2% and the rate per annum charged by the Landlord's principal bankers for overdraft accommodation for amounts exceeding \$100,000 determined on the first day of each month for the period for which interest is to be calculated.
- 14) **GST** means the goods and services tax imposed by the GST Law including, where relevant, any related interest, penalties, fines or other charge.
- 15) **GST Amount** means the amount arrived at by multiplying the payment, or the relevant part of a payment if only part of a payment is the consideration, for a Taxable Supply, by the appropriate rate of GST prescribed under the GST Law from time to time.
- 16) **GST Law** has the meaning given to that term in the *A New Tax System (Goods and Services Tax) Act 1999* and includes any Australian Taxation Office public rulings.
- 17) **Holding Company** has the meaning given to it in the *Corporations Act 2001*, amended by replacing the words "more than half" with "50% or more" wherever they appear.
- 18) **Insolvency Event** means the happening of any of these events in relation to a party (**Defaulting Party**):
 - (a) the Defaulting Party suspends payment of its debts;
 - (b) where the Defaulting Party is a body corporate:
 - (i) the Defaulting Party becomes an externally-administered body corporate under the *Corporations Act 2001*;
 - (ii) steps are taken by any person towards making the Defaulting Party an externally-administered body corporate (but not where the steps taken consist of making an application to a court and the application is withdrawn or dismissed within 14 days);

- (iii) a controller (as defined in section 9 of the *Corporations Act 2001*) is appointed to any of the property of the Defaulting Party or any steps are taken for the appointment of such a person (but not where the steps taken are reversed or abandoned within 14 days);
 - (iv) the Defaulting Party is taken to have failed to comply with a statutory demand within the meaning of section 459F of the *Corporations Act 2001*; or
 - (v) a resolution is passed for the reduction of capital of the Defaulting Party or notice of intention to propose such a resolution is given, without the prior written consent of the other party;
- (c) where the Defaulting Party is a natural person:
- (i) the Defaulting Party authorises a registered trustee or solicitor to call a meeting of his or her creditors or proposes or enters into a deed of assignment or deed of arrangement or a composition with any of his or her creditors;
 - (ii) a person holding a security interest in assets of the Defaulting Party enters into possession of or takes control of any of those assets or takes any steps to enter into possession of or take control of any of those assets; or
 - (iii) the Defaulting Party commits an act of bankruptcy; or
 - (iv) an event happens analogous to an event specified in clauses 1.2(14)(a) to 1.2(14)(c) to which the law of another jurisdiction applies and the event has an effect in that jurisdiction similar to the effect which the event would have had if the law of Australia applied.
- 16) **Keys** means keys, access cards and other means of access from time to time used for the Building or any part of it.
- 17) **Land** means the Land described in Item 14.
- 18) **Landlord** includes:
- (a) in the case of a company, its successors, substitutes and assigns; and
 - (b) in the case of a person, that person's executors, administrators and assigns;
- 19) **Landlord's Fixtures** includes but is not limited to:
- (a) all plant and equipment (mechanical or otherwise) including Air Conditioning Equipment, fittings, fixtures, partitions, furniture, furnishings, window coverings, blinds, floor coverings, light fittings and other goods in or comprising any part of the Premises owned or supplied by the Landlord;
 - (b) any playground equipment owned or supplied by the Landlord;
 - (c) stop cocks, fire hoses, hydrants, fire prevention aids and other firefighting equipment and systems located in or comprising any part of the Premises or servicing the Premises owned or supplied by the Landlord; and
 - (d) drains, basins, sinks, showers, toilets and urinals in the Building.
- 20) **Law** includes any requirement of any statute, rule, regulation, proclamation, order in council, ordinance or by-law whether Commonwealth, state, territorial or local.

- 21) **Lease** means this lease as amended from time to time.
- 22) **OH & S Act** means the Laws relating to occupational health and safety that apply to the Premises and the use of them.
- 23) **Permitted Use** means that use in Item 11.
- 24) **Premises** means the premises described in Item 3 and includes the whole of the Land, the Building and the Landlord's Fixtures.
- 25) **Redecorate** includes:
 - (a) washing down the exterior and interior of the Building;
 - (b) treatment as previously treated of all external and internal surfaces of the Building to a specification previously approved by the Landlord; and
 - (c) replacing carpet or curtains, as required because of the Tenant's use and occupation of the Premises.
- 25) **Reference Schedule** means the schedule at clause 20 of this Lease.
- 26) **Rent** means the amount stated in Item 8 as varied from time to time.
- 27) **Requirement** means any requirement, notice, order, direction, recommendation, consent, stipulation or similar notification received from or given by any Authority or under any Law, whether in writing or otherwise and regardless of to whom it is addressed or directed.
- 28) **Service Approval** means any service approval, approval in principle or licence required under the Act to enable the Tenant to conduct the Permitted Use from the Premises.
- 29) **Services** means:
 - (a) all services of any nature from time to time provided to the Premises or available for use by the Tenant, including any energy source, lighting, gas, fuel, electricity, power, telephone, water, sewerage, ventilation, drainage, air conditioning, hydraulic, elevator and security services;
 - (b) all fixtures, fillings, appliances, plant and equipment, fire services, sprinkler systems or devices and all other services or systems provided in the Premises or available for the Tenant's use, whether or not they are also Landlord's Fixtures; and
 - (c) any services or systems from time to time utilised for access to the Premises;
- 29) **Tenant** includes:
 - (a) in the case of a company, its successors and permitted assigns; and
 - (b) in the case of a person, that person's executors, administrators and permitted assigns;
- 30) **Tenant's Employees** includes the Tenant's employees, contractors, agents, consultants and invitees.
- 31) **Tenant's Fittings** includes all fixtures, fittings, plant, equipment, signs, partitions and goods of all kinds which are in or on the Premises during the Term and are not owned by the Landlord.

- 32) **Term** means the initial term granted by the Landlord (unless sooner determined) from the Commencement Date to and including the Termination Date and any extension or renewal of such initial term, together with any period of holding over.
- 33) **Termination Date** means that date in Item 5.
- 34) **Valuer** means a person who is:
 - (a) a fellow or an associate of not less than 5 years' standing of the Australian Property Institute and active in the market for valuing premises substantially similar to the Premises at the time of that person's appointment; and
 - (b) has at least 5 years' immediate past experience in valuing premises substantially similar to the Premises.

1.3 Interpretation

- 1) Reference to:
 - (a) one gender includes the others;
 - (b) the singular includes the plural and the plural includes the singular;
 - (c) a person includes a body corporate;
 - (d) a party includes the party's executors, administrators, successors and permitted assigns;
 - (e) a statute, regulation, code or other law or a provision of any of them includes:
 - (i) any amendment or replacement of it; and
 - (ii) another regulation or other statutory instrument made under it, or made under it as amended or replaced;
 - (f) month or monthly means calendar month or calendar monthly;
 - (g) a right includes a remedy, right or power;
 - (h) clauses, schedules and annexures will be construed as references to clauses of and schedules and annexures to this Lease;
 - (i) an Item is to an item in the Reference Schedule; and
 - (j) money is to Australian dollars, unless otherwise stated.
- 2) **"Including"** and similar expressions are not words of limitation.
- 3) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.
- 4) Headings and any table of contents or index are for convenience only and do not form part of this Lease or affect its interpretation.
- 5) A provision of this Lease must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of the Lease or the inclusion of the provision in the Lease.
- 6) If an act must be done on a specified day which is not a Business Day, it must be done instead on the next Business Day.

- 7) Every obligation undertaken by a party to this Lease will be deemed to be and be construed as a covenant by that person.

1.4 Parties and Capacity

- 1) If a party consists of more than 1 person, this Lease binds each of them separately and any 2 or more of them jointly.
- 2) An obligation, representation or warranty in favor of more than 1 person is for the benefit of them separately and jointly.
- 3) In addition to and despite all other warranties, expressed or implied, in this Lease, the Tenant warrants and covenants that:
 - (a) it is empowered to enter into this Lease and to do all things that will be required by this Lease;
 - (b) all things have been done or will be done as may be necessary to render this Lease legally enforceable in accordance with its terms and fully valid and binding on it; and
 - (c) all authorisations by any Authority that are required or will be required in connection with the execution and delivery of, the performance of obligations under or the validity or enforceability of, this Lease have been obtained or effected and are or will be fully operative and in full force and effect.

1.5 Severability

- 1) As far as possible all provisions of this Lease will be construed so as not to be unenforceable, illegal or void in any respect.
- 2) If any provision of this Lease is unenforceable, illegal or void, that provision must, as far as possible, be read down to the extent necessary to ensure that it is not unenforceable, illegal, or void and so as to give it a valid operation of a partial character.
- 3) If any provision or part of it cannot be read down, or if any provision in this Lease is unenforceable, illegal or void or makes this Lease or any part of it unenforceable, illegal or void, then that provision is severed and the rest of this Lease remains in force.

1.6 Whole Agreement

- 1) This Lease:
 - (a) is the entire agreement and understanding between the parties on everything connected with the subject matter of this Lease; and
 - (b) supersedes any prior agreement or understanding on anything connected with that subject matter.
- 2) Each party has entered into this Lease without relying on any information or advice given or statement made (whether negligently or not) by any other party or any person purporting to represent that party.

1.7 Organisations

- 1) Where:
 - (a) there is a reference to an Authority; and
 - (b) the Authority is reconstituted, reconstructed, privatised, ceases to exist or is

replaced or its powers or functions are transferred to another entity;

the reference must be read as being to the reconstituted, reconstructed or privatised entity or an entity established or constituted in replacement of or which succeeds to the relevant powers and functions of or which serves substantially the same purposes or has substantially the same objects as the Authority.

- 2) Reference to the president of an Authority will, in the absence of a president, be read as reference to the senior officer for the time being of the Authority or any other person fulfilling the duties of president.

1.8 Landlord's consent

Unless otherwise stated, if the Landlord's consent or approval is required, consent or approval must not be unreasonably withheld. Landlord's consent or approval is not effective unless it is in writing.

1.9 Written notices

If a provision of this Lease requires a notice to be given by a party, it must be in writing.

1.10 Prohibitions and restrictions

Where the Tenant is either prohibited by this Lease from doing something, or is not permitted to do something under this Lease, that prohibition or restriction extends to:

- (a) prohibiting the Tenant from consenting to any other person or entity to do anything that the Tenant is prohibited from doing; and
- (b) restricting the Tenant from in any way consenting to any other person or entity to do anything that the Tenant is not permitted to do.

1.11 No caveat

- 1) The Tenant must not:
 - (a) lodge a caveat on title to the Land; and
 - (b) allow a caveat lodged by a person claiming through the Tenant to remain on title to the Land.

2 Intentionally Deleted

3 Term and holding over

3.1 Term

The Landlord grants to the Tenant and the Tenant takes a lease of the Premises for the Term commencing on the Commencement Date and ending on the Termination Date on the terms of this Lease.

3.2 Holding over

- 1) The Tenant must only occupy the Premises after the Termination Date:
 - (a) having first obtained the prior written consent of the Landlord to do so; or
 - (b) under a lease arising from the valid exercise of an option to renew.

- 2) If the Tenant continues to occupy the Premises after the Termination Date with the written consent of the Landlord (except under a lease arising from the valid exercise of an option to renew):
 - (a) the Tenant will occupy the Premises as a monthly tenant at rental equal to one-twelfth of the Rent at the Termination Date, payable monthly in advance and with the first of the monthly payments to be made on the day following the Termination Date;
 - (b) without limiting any other right of the Landlord, the monthly tenancy can be terminated at any time by either the Landlord or the Tenant giving 1 months' notice to the other, expiring on any date;

and otherwise the tenancy will continue on the terms and conditions of this Lease, as they apply to the monthly tenancy but any bank guarantee or security deposit will not be reduced and the Landlord may require other changes in its absolute discretion as a condition of giving its consent to the continued occupation.

3.3 Tenant in default

Despite anything in this clause 3, if the Tenant is in default in respect of such monthly tenancy, then such monthly tenancy may be terminated by the Landlord on not less than seventy two (72) hours written notice to the Tenant.

4 Rent and rent reviews

4.1 Rent

- 1) The Tenant must pay the Rent to the Landlord:
 - (a) without demand;
 - (b) without any deduction, counterclaim or right of set-off; and
 - (c) otherwise in accordance with Item 8.
- 2) The first instalment of Rent must be paid on or before the Commencement Date.

4.2 Payment method

All Rent and other amounts due under this Lease must be paid by direct transfer to the bank account notified to the Tenant by the Landlord from time to time and in the absence of any such notification, to the place and in the manner directed by the Landlord from time to time.

4.3 Rent review definitions

In this clause 4:

- 1) **Index number** means the Consumer Price Index (All Groups) for Adelaide published from time to time by the Australian Statistician and if the Australian Statistician updates the reference base of the index number, the index number must be appropriately adjusted so as to preserve the intended continuity of calculation by using the appropriate arithmetical factor determined by the Australian Statistician.
- 2) **Market review date** means each of the dates (if any) stated in Item 10.
- 3) **Quarter** means a 3 month period.
- 4) **Review date** means each of the dates (if any) stated in Item 9.

4.4 Rent reviews

The Rent must be reviewed on each review date in accordance with the type of review set out in Item 9 for the relevant review date.

4.5 CPI rent review

- 1) The Rent must be reviewed on each review date to an amount represented by A in the following formula:

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

Where B = the index number released for the quarter ending immediately prior to the relevant review date.

C = the index number release for the quarter ending immediately prior to the later of the Commencement Date or the last review date; and

D = the Rent payable immediately prior to the review date.

- 2) If the Consumer Price Index (All Groups) for Adelaide is suspended or discontinued:
- (a) the words "index number" will mean the price index substituted by the Australian Statistician; or
 - (b) if no price index is substituted, the words "index number" will mean an index which the parties agree most closely reflects changes in the cost of living; and
 - (c) if the parties cannot agree on a substitute index within 10 Business Days after a party notifies the other that the Consumer Price Index (All Groups) for Adelaide has been suspended or discontinued and that no price index has been substituted, the president of the Australian Institute, at the request of either party, may appoint an expert to determine a substitute index which most closely reflects changes in the cost of living and the words "index number" will mean that index.
- 3) If the Consumer Price Index (All Groups) for Adelaide is suspended or discontinued the Tenant must pay Rent payable at the relevant review date pending the determination of a substitute index or an increase of Rent in accordance with this clause 4.5.
- 4) If the Consumer Price Index (All Groups) for Adelaide is suspended or discontinued and the expert appointed under clause 4.5(2) is unable to determine a substitute index within 20 Business Days after being appointed, the method of adjustment of Rent in relation to an index number will cease and the Rent will be increased by 4% per annum on each review date.

4.6 Market rent review

- 1) The Landlord may vary the Rent to an amount which it considers to be the market rent for the Premises at the market review date by notice to the Tenant (**Landlord's notice**) at any time in the period beginning 12 months before and ending 3 months before the market review date.
- 2) Within 10 Business Days after service of the Landlord's notice, the Tenant may serve on the Landlord a notice (**Tenant's notice**) disputing the amount stated in the Landlord's notice, stating the amount which the Tenant considers to be the market rent for the Premises and requiring the market rent to be determined under clauses 4.6(3) to 4.9. Without limiting any other circumstances in this Lease where time is of the essence, time is of the essence in respect of the giving of the Tenant's notice.

- 3) If the Tenant fails to give the Tenant's notice within the 10 Business Days required by clause 4.6(2), the Rent payable until the next review date will be the amount set out in the Landlord's notice.
- 4) Within 5 Business Days of service of the Tenant's notice, the Landlord and the Tenant either personally or by their representatives must meet and attempt to agree the market rent payable for the Premises at the relevant market review date.
- 5) If the Landlord and the Tenant have not agreed on the market rent for the Premises within 5 Business Days after service of the Tenant's notice,
 - (a) the dispute must be referred for determination by a Valuer to be nominated by the president of the Australian Property Institute at the request of either the Landlord or the Tenant;
 - (b) the appointed Valuer must give notice of acceptance of appointment to the Landlord and the Tenant;
 - (c) the Valuer must as a condition of accepting the appointment agree to make a written determination of the market rent:
 - (i) within 30 Business Days of appointment;
 - (ii) in accordance with this clause 4; and
 - (iii) that sets out reasons for that determination;
 - (d) the Valuer must make a determination of the market rent as at the market review date, acting as an expert and not as an arbitrator;
 - (e) the Valuer's determination will be final and binding on the Landlord and the Tenant;
 - (f) the Valuer's Costs must be paid by the Landlord and the Tenant equally; and
 - (g) either Party may pay the Valuer's Costs and recover one-half of the amount paid from the other party.

4.7 Landlord's and tenant's submissions

- 1) A Valuer who accepts appointment under clause 4.6 may confer with the Landlord and the Tenant and may require either party to supply information which the Valuer considers relevant to the determination.
- 2) Any request for information must be complied with promptly in writing by the party to whom it is directed, who will make a copy of that information available to the other party.
- 3) Either party may supply the Valuer with other information which it considers relevant and, if it does so, must make a copy of that information available to the other party.
- 4) Information may be provided on a confidential basis and, if so, the party receiving it and the Valuer must treat the information as confidential and must not use that information other than for the purposes of clause 4.6.
- 5) The Landlord and the Tenant may make written submissions to the Valuer in relation to the market rent within 15 Business Days of receipt of written notice of the Valuer's acceptance of that person's appointment.
- 6) A party making a written submission must at the same time make a copy of it available to the other party.

4.8 Valuer's criteria

- 1) In determining the market rent as at a market review date and subject to clauses 4.8(2) and 4.8(3), the Valuer may take into account any matters the Valuer considers relevant including taking into account or disregarding any written submissions received from the Landlord or the Tenant.
- 2) In determining the market rent as at a market review date, the Valuer must disregard:
 - (a) any goodwill attributable to the Premises by reason of the trade, business or activity carried on by the Tenant and the value of the Tenant's Fittings;
 - (b) any money received under any sublease, sub tenancy agreement or occupational arrangement in respect of the Premises (whether approved or not);
 - (c) any inducement provided or to be provided to the Tenant in connection with the granting of this Lease;
 - (d) any inducement then being provided or to be provided to any other tenant in relation to the taking of a lease of any other premises; and
 - (e) anything (including part of a submission received from the Landlord or the Tenant) which is not consistent with the matters to be disregarded or taken into account under this clause 4.8 or accepted valuation methodology.
- 3) In determining the market rent as at a market review date, the Valuer must take into account the following matters or, where the context requires, make the following assumptions:
 - (a) the provisions of this Lease;
 - (b) the Term and any option for renewal (disregarding the elapsed part of the Term);
 - (c) the rent and outgoings paid or payable in respect of other premises of a quality, nature, size and location substantially similar to the Premises;
 - (d) assume that the Tenant has observed and performed all of the provisions of this Lease;
 - (e) assume that the Premises are fit for the Permitted Use and are capable of being licensed, approved or sanctioned by the relevant Authorities for the purposes of licensing or government funding; and
 - (f) adopt the number of licensed childcare places at the Commencement Date, or any higher number of licensed childcare places permitted under both the childcare license and any planning approval as at the market review date.

In this clause 4.8, **inducement** includes any inducement or incentive provided by the Landlord in respect of the Tenant's entry into this Lease or any renewal of this Lease and includes any payment, transfer of property, fit-out of premises or provision of services, assumption of obligation, rent moratorium or reduction, loan or gift.

4.9 Minimum rent

Regardless of any other provision of this Lease if the Rent is being reviewed to market, the Rent from the market review date will be the greater of the amount determined under clause 4.6 and the Rent payable during the period immediately preceding the market review date and for the avoidance of doubt the Rent payable from any review date will never be less than the Rent payable prior to that review date.

4.10 Payment of rent pending review

- 1) Until the determination of Rent has been made under clause 4.6, the Tenant must pay Rent at the rate of 90% of the amount stated in the Landlord's notice or the Rent payable at the date of the Landlord's notice, whichever is the greater.
- 2) Any variation in Rent as the result of review under clauses 4.5 or 4.6 will take effect on and from the review date.
- 3) Within 10 Business Days of the determination, the Landlord must refund any overpaid Rent or the Tenant must pay any shortfall.

4.11 Fixed increase in Rent

On each review date for which a fixed percentage increase is specified in Item 9 the Rent payable on and from the relevant review date will be the Rent payable immediately before that review date increased by 4%.

4.12 Cap on market rent

Despite anything to the contrary, the Landlord and Tenant agree that the market rent cannot be more than 10% above the rent payable in the previous year.

4.13 Pro rata reduction if planning laws change

If at any time during the Term, there is a change to any Law which results in the Tenant having to reduce the number of licensed childcare places, the Tenant and Landlord agree that there will be a pro rata reduction in the Rent payable from the date the number of licensed childcare places is reduced and the Rent payable from this date is calculated as follows:

$$\text{New Rent} = \frac{\text{Rent immediately before change in Law} \times \text{Reduced number of licensed places}}{\text{Number of licensed places before change in Law}}$$

Despite anything to the contrary, the Landlord and Tenant agree that the New Rent calculated under this clause 4.13 cannot be reduced by more than 10% than the rent payable immediately prior to the pro rata reduction.

5 Operating expenses

5.1 Outgoings Definitions

In this clause 5:

- 1) **Accounting Period** means any period not exceeding twelve (12) months from time to time selected by the Landlord for the purpose of calculating the Outgoings.
- 2) **Outgoings** means all amounts paid by the Landlord (or for the payment of which the Landlord may be or become liable) in any Accounting Period in respect of the ownership, insurance, operation, repair, maintenance and management of the Premises, whether by direct assessment or otherwise, including but not limited to all costs and expenses of and incidental to any one or more or all of the following heads of expenditure, but excluding expenses of a capital nature or works of a structural nature:
 - (a) all rates, taxes, special levies and other assessments or whatever nature (including land tax assessed on a single holding basis, unless the Landlord is prohibited by statute from recovering the same from tenants under leases) payable to the local and all other Authorities relating to the Premises, any use or occupation of the Premises, any Services (including fire protection services) from time to time provided by any such Authority, and for waste and general rubbish removal from the Premises including any excess charges, and for the provision, reticulation and discharge of any water, sewerage or drainage

services, including all excess water charges and meter rents (including, without limitation, any taxes or levies payable under the *Emergency Services Funding Act 1998* and *Water Industry Act 2012*);

- (b) any repair, maintenance or servicing and all other running costs and expenses of any plant or other equipment in the Premises (including the Landlord's Fixtures) including all fees and premiums payable to any specialist contractors or other consultants;
- (c) any repair or maintenance of or to the Premises including:
 - (i) any operation, supply, repair and maintenance of any Services that may from time to time be provided by the Landlord for the Premises; and
 - (ii) expenditure for repair and maintenance items as determined by the Landlord's accountants;
- (d) providing any other services (including the costs and expenses of any electricity or other sources of energy consumed) in the Premises that are not paid directly by the Tenant;
- (e) any management and operation that may be provided by an arm's length third party for the Premises, including all fees and commissions payable by the Landlord to any agent for any general management or other operation of the Premises and the collection of any rent or other moneys, no matter how disbursed;
- (f) all Costs of purchasing, hiring, maintaining and servicing all outdoor gardens, lawns, potted shrubs, planted and landscaped areas on the Land;
- (g) all insurance costs incurred pursuant to clause 12.6; and
- (h) all levies and other contributions payable from time to time by the Landlord to any body corporate that may be constituted at law as a result of any subdivision that may apply in respect of the Land but excluding any amount that is already included by reason of another paragraph in this definition and excluding contributions to any sinking fund.

The Outgoings shall be calculated on an accrual and pre-payment basis and all amounts referred to in this definition shall be deemed to have been paid at the time when the obligation to pay the same arose despite any actual date of payment. Any amount that is assessed at intervals or for periods outside the relevant Accounting Period shall be apportioned on a daily basis. Any statement by the Landlord or its agent as to the amount of the Outgoings shall be prima facie evidence of the same. If any such costs and expenses relate to the Premises and other land or buildings not within the Premises, the Landlord shall have the right at any time to apportion and allocate to the Premises and include within the Outgoings such part of the same that may in the reasonable opinion of the Landlord relate to the Premises alone.

5.2 Payment of Outgoings

- 1) The Tenant shall pay to the Landlord throughout the Term in addition to the Rent the Outgoings for the relevant Accounting Period.
- 2) The Landlord, in addition to its right at any time to require immediate reimbursement of the Outgoings may at any time prior to or after commencement of the relevant Accounting Period, give to the Tenant an estimated statement of the Outgoings for that Accounting Period (**Annual Estimate**). In that case the Tenant shall pay instalments of the Outgoings by equal monthly instalments in advance at the same times and in the same manner as instalments of Rent in accordance with the Annual Estimate.
- 3) The Landlord shall, after the expiration of the Accounting Period in question, deliver to the Tenant a fully itemised statement of the total of the Outgoings actually incurred

by the Landlord during the relevant Accounting Period (**Outgoings Statement**). The Outgoings Statement shall, except in the case of prima facie error, be final and binding on the parties to this Lease.

- 4) Within ten (10) Business Days after delivery by the Landlord to the Tenant of the Outgoings Statement an adjustment shall (if necessary) be made between the Landlord and the Tenant with payment to or crediting by the Landlord as the case may require of any deficiency or excess of the Outgoings for the relevant Accounting Period.
- 5) The Landlord may at any time and from time to time adjust the Annual Estimate. The first instalment of the Outgoings (as adjusted) shall be paid by the Tenant to the Landlord on the first day of the month next following the date of service on the Tenant of a notice in writing from the Landlord of the same.

6 Damage and destruction

6.1 Definitions

In this clause 6:

- 1) **Reinstatement notice** means a notice given by the Landlord to the Tenant of the Landlord's intention to carry out the reinstatement works.
- 2) **Reinstatement works** means the work necessary to:
 - (a) reinstate the Premises; or
 - (b) make the Premises fit for occupation and use or accessible by the Tenant.

6.2 Abatement

- 1) If the Premises are damaged or destroyed so as to render any part of the Premises wholly or substantially:
 - (a) unfit for occupation and use by the Tenant; or
 - (b) inaccessible having regard to the nature and location of the Premises and the normal means of access to them;

then subject to this clause 6.1 from the date that the Tenant notifies the Landlord of the damage or destruction (**damage notice**):

- (c) the Rent;
 - (d) any other money payable by the Tenant; and
 - (e) the covenant to repair and maintain;
- will abate according to the nature and extent of the damage or destruction sustained until the Premises are:
- (f) restored;
 - (g) made fit for the Tenant's occupation and use; or
 - (h) made accessible.
- 2) The Landlord must notify the Tenant of the extent of the abatement within 5 Business Days after receipt of the damage notice.

- 3) The Tenant must notify the landlord of any disagreement with or dispute about the extent of the abatement within 5 Business Days after receipt of the Landlord's notice (time is of the essence in respect of the giving of the damage notice and the Tenant's notice under this clause 6.2(3)).
- 4) There is no disagreement or dispute about the extent of the abatement if the Landlord does not receive a notice under clause 6.2(3).
- 5) If there is a disagreement or dispute about the extent of the abatement, then:
 - (a) within 5 Business Days of service of the Tenant's notice under clause 6.2(3), the Landlord and the Tenant either personally or by their representatives must meet and attempt to agree the extent of the abatement;
 - (b) if the Landlord and the Tenant have not agreed on the extent of the abatement within 5 Business Days after service of the Tenant's notice;
 - (i) the dispute must be referred for determination by a Valuer to be nominated by the president of the Australian Property Institute at the request of either the Landlord or the Tenant;
 - (ii) the appointed Valuer must give notice of acceptance of appointment to the Landlord and the Tenant;
 - (iii) the Valuer must as a condition of accepting the appointment agree to make a written determination of the extent of the abatement:
 - (A) within 30 Business Days of appointment;
 - (B) in accordance with this clause 6.2; and
 - (C) that sets out reasons for that determination;
 - (c) the Valuer must make a determination of the abatement as at the date of the damage or destruction, acting as an expert and not as an arbitrator;
 - (d) the Valuer's determination will be final and binding on the Landlord and the Tenant;
 - (e) the Valuer's Costs must be paid by the Landlord and the Tenant equally; and
 - (f) either Party may pay the Valuer's Costs and recover one-half of the amount paid from the other party.
- 6) Until the determination of abatement has been made under clause 6.2(5), the Tenant must comply with the Landlord's notice under clause 6.2(2).
- 7) Within 10 Business Days after the determination, the Landlord must refund any overpayment or the Tenant must pay any shortfall.

6.3 Termination

- 1) The Landlord may terminate this Lease by notice to the Tenant within 3 months after a damage notice has been received.
- 2) Either party may terminate this Lease by notice to the other unless the Landlord:
 - (a) within 3 months after receiving the damage notice, gives the Tenant a reinstatement notice; and
 - (b) subsequently diligently proceeds within a reasonable time to commence the

reinstatement works.

- 3) The Landlord may decide whether or not to carry out any reinstatement works in its absolute discretion.

6.4 Tenant may terminate

- 1) If the Landlord gives a reinstatement notice to the Tenant and fails to commence the reinstatement works within a reasonable time, the Tenant may give the Landlord notice of the Tenant's intention to terminate this Lease (**termination notice**).
- 2) If the Landlord does not commence the reinstatement works within a reasonable time after receipt of the termination notice, the Tenant may end this Lease by giving not less than 1 month's notice to the Landlord and, at the expiration of that period, this Lease ends.
- 3) If the Landlord commences reinstatement works to the Premises, it must use its reasonable endeavours to complete the reinstatement works within a reasonable time.

6.5 Exceptions

Clauses 6.2, 6.3 and 6.4 will not apply where:

- (a) the damage or destruction was caused or contributed to, or arises from any act, negligence or default of the Tenant or the Tenant's Employees; or
- (b) an insurer under any policy effected by the Landlord refuses indemnity or refuses or reduces the sum payable under the policy.

6.6 Landlord not obliged to reinstate

Nothing in this Lease obliges the Landlord to reinstate any part of the Premises or any means of access to them.

6.7 Proceeds of insurance and release

If the Premises are damaged or destroyed and the Lease ends under this clause 6:

- (a) no liability will attach to either party because this Lease ends under this clause 6 but the Lease ending will be without prejudice to the rights of either party for any antecedent breach or non-observance of any provision of this Lease;
- (b) the Tenant's right and interest is immediately surrendered to the Landlord; and
- (c) the Tenant will have no interest in any insurance proceeds (other than in respect of any policies for public risk and Tenant's Fittings effected by it under clause 11).

7 Use of the premises

7.1 Permitted use

The Tenant must not use, occupy or permit the Premises to be used or occupied for any purpose other than as stated in Item 11.

7.2 Restrictions on use

Without limiting any other obligation or restriction in this Lease, the Tenant must:

- (a) not use the Premises for the sale or hire of goods by retail or the retail provision of services;

- (b) not use the Premises as a residence;
- (c) not keep any animals or birds in the Premises;
- (d) at its expense, keep the Premises free and clean of pests, insects and vermin and in default the Landlord may employ pest exterminators to carry out any pest extermination at the Tenant's expense, payable to the Landlord on demand;
- (e) not carry on any noxious or offensive act, trade, business, occupation or calling in the Premises;
- (f) not cause annoyance, nuisance, grievance, damage or disturbance to occupiers of adjacent premises;
- (g) not hold any auction, bankrupt or fire sale on the Premises;
- (h) not make any disturbing or irritating noises including installing or using any appliance, engine or machine which causes or may be likely to cause noise or vibration outside the Premises; and
- (i) not prepare or cook (or permit to be prepared or cooked) any food in the Premises except as required under the Permitted Use and in the ordinary course of the Tenant's business operations.

7.3 Laws and requirements

- 1) The Tenant:
 - (a) must, at its expense, comply with all Laws and Requirements and obtain and comply with the consents or approvals of any Authority which may be necessary or appropriate for the Tenant's business and the Permitted Use; and
 - (b) must not by any act or omission cause or permit any consent or approval referred to in clause 7.3(1)(a) to lapse or be revoked.

7.4 Compliance with laws and requirements

- 1) At its expense, the Tenant must comply with and observe all Laws and Requirements concerning:
 - (a) the Premises or any of the Tenant's Fittings or both; and
 - (b) the use or occupation of the Premises including any which arise as a result of the gender or number of persons in the Premises;

whether or not the Law or Requirement is addressed to, or required to be complied with by, the Landlord or the Tenant or both or by any other person.

- 2) If any Law or Requirement is notified to or served upon the Tenant, it must immediately provide a complete copy to the Landlord.
- 3) The Tenant must obtain the Landlord's consent before complying with any Law or Requirement under clause 7.4(1).

7.5 Landlord's rights if tenant fails to comply

The Landlord may:

- 1) without prejudice to any of its other rights in respect of non-compliance, elect to either wholly or partially comply with any Law or Requirement under clause 7.4 at the Tenant's expense; and

- 2) if it exercises any rights under clause 7.5(1), elect to have the balance of any Law or Requirement complied with by the Tenant.

7.6 Exterior signs

- 1) The Tenant must not erect, paint, write or attach any sign upon any part of the Premises without the Landlord's prior consent (which will not be unreasonably withheld).
- 2) Any sign erected, painted, written or attached upon any part of the Premises:
 - (a) must comply with all Laws and Requirements; and
 - (b) if erected, painted, written or attached without first obtaining the Landlord's prior consent, may be taken away by the Landlord without notice and any damage made good at the Tenant's Cost, payable to the Landlord on demand.
- 3) If any sign is erected, painted, written or attached upon any part of the Premises, when this Lease ends it must be removed and taken away by the Tenant and the Premises returned to their original condition at the Tenant's expense.
- 4) The Tenant must maintain all permitted signage in a good state of repair and in good working order during the Term.

7.7 Overloading

- 1) The Tenant must not place, store or use any heavy articles or materials in the Premises without first obtaining the Landlord's consent.
- 2) The Landlord may prescribe the maximum weight and position of any heavy article, materials or machinery to be used in the Premises and the safe floor loading of the Building.
- 3) Damage to any part of the Premises caused by movement (including removal) or placement of any heavy article, material or machinery must be repaired by the Tenant or, if the Landlord elects, by the Landlord at the Tenant's expense.
- 4) The Tenant must pay on demand all of the Landlord's Costs of repairing any damage caused to the Premises by movement or placement of any heavy article, material or machinery.
- 5) The Tenant must not install any equipment in the Premises that may overload any Services.
- 6) If the Landlord upgrades the Services to accommodate any equipment which the Tenant wishes to install, the Tenant must pay to the Landlord on demand the Costs of any alterations.
- 7) The Landlord may require the Tenant to pay the estimated Costs of the alterations to any Service before the alterations are commenced.
- 8) The Tenant must only use machinery or equipment on the Premises for the movement or placement of any heavy article, material or machinery which has pneumatic or cushioned tyres.

7.8 Drains and waste pipes

- 1) The Tenant must not use any Landlord's Fixture or any other part of the Premises other than for its intended purpose or place in it any substance that it was not designed to receive.
- 2) The Tenant must pay to the Landlord on demand the Costs of repairing any damage

to the Landlord's Fixtures or the Premises arising from misuse of the Landlord's fixtures by the Tenant or the Tenant's Employees.

- 3) The Tenant must not dispose of anything out of the windows or doors of the Premises or down any lift shafts or passages (including light passages) of the Premises.

7.9 Antennae and radios

The Tenant must not:

- (a) without the landlord's prior consent (which will not be unreasonably withheld), affix any television or radio mast, antennae, satellite dish or similar device to any part of the Premises; or
- (b) use or operate any sound or picture producing equipment in the Premises if it is audible or visible from outside the Premises.

7.10 Rubbish accumulation

1) The Tenant must not:

- (a) deposit waste, unwanted or used articles or rubbish anywhere on the Premises except in proper receptacles; or
- (b) place anything on any external windowsill or ledge of the Premises.

2) The Tenant must keep the Premises clean and not permit any accumulation of unwanted property or rubbish in them.

3) The Tenant must not burn any rubbish or waste on the Premises.

7.11 For sale signs

1) The Landlord may:

- (a) place advertisements and signs on any part of the Premises it reasonably considers appropriate if the Premises are for sale or lease (but, in the case of "for lease", only if there are no further options to renew or the Tenant has not exercised an option to renew the term of the Lease); and
- (b) show any interested persons through the Premises after giving the Tenant 2 Business Days' notice.

2) The Landlord must use reasonable endeavours to minimise any inconvenience to the Tenant when exercising its rights under this clause 7.11(1)(b).

7.12 Thermal or fire detectors, sprinklers and alarms

1) The Tenant must not interfere with or obstruct or hinder access to any air-conditioning, fire alarm, sprinkler system or security system installed in, on or servicing the Premises.

2) If any thermal or fire detectors are required to be installed in the Premises by any Law or Requirement because of the Tenant's use of the Premises (including because of the number of persons in the Premises), they must be installed at the Tenant's expense.

3) The Tenant:

- (a) is responsible for complying at its own cost with all insurance, sprinkler and fire alarm regulations and any guidelines issued by the Insurance Council of

Australia in respect of the Tenant's particular use and occupation of the Premises and in respect of any partitions, racking or other plant and equipment which may be erected or brought onto the Premises by or on behalf of the Tenant; and

- (b) must pay to the Landlord on demand the Landlord's Costs of any alteration to any Services which may become necessary by reason of those regulations or any alterations required as a result of clause 7.12(3)(a).

7.13 Doors and windows

- 1) The Tenant must lock all exterior doors and fasten all exterior windows of, on and in the Premises whenever the Premises are not occupied and whenever this is prudent at other times.
- 2) The Tenant must not erect or install window coverings, blinds, awnings, screens or other window furnishings without first obtaining the Landlord's consent.
- 3) All window coverings, blinds, awnings, screens or other window furnishings installed must be of low-flammable material and comply with all Laws and Requirements.

7.14 Emergency procedures

- 1) The Tenant must:
 - (a) comply with all requirements of the Landlord for the Tenant and the Tenant's Employees to participate in emergency evacuation procedures and emergency evacuation drills for the Building;
 - (b) not make or permit any of the Tenant's Employees to make any claim against the Landlord arising from participation in any of those procedures or drills; and
 - (c) indemnify the Landlord against any claim against the Landlord arising from participation in any of those procedures or drills.
- 2) The Landlord must use reasonable endeavours to minimise any disturbance caused to the Tenant in its occupation and use of the Premises in relation to any of the procedure and drills referred to in clause 7.14(1).

7.15 Keys

- 1) The Tenant must only provide Keys to the Tenant's Employees.
- 2) The Tenant must keep a current list of all recipients of any Keys from time to time.
- 3) The Tenant must immediately provide the Landlord with a copy of the list referred to in clause 7.15(2) on request.
- 4) The Tenant must return all Keys held by the Tenant during its occupancy, whether provided by the Landlord or made or provided by the Tenant for its own use, when this Lease ends.

7.16 Cleaning

The Tenant must:

- (a) keep the Premises thoroughly clean and tidy;
- (b) keep the Premises free from dirt and rubbish, store all trade waste, shop refuse and garbage in proper receptacles and arrange for its regular removal from the Premises; and
- (c) keep the Tenant's Fittings clean and maintained in good order and condition.

7.17 Special services

The Tenant shall pay to the Landlord on demand the amount of any additional Costs incurred by the Landlord in having any alterations, repairs, maintenance or other works carried out in respect of the Premises outside the normal working hours of the tradesmen concerned or in providing any additional Services for the Tenant.

7.18 Prohibition on marking or holing of walls etc

The Tenant shall not cut, make holes in, mark, deface, drill or damage the walls, floors, ceilings or any other part of the Building except so far as may be reasonably necessary for the carrying out of any alterations or additions to the Premises approved by the Landlord.

7.19 Outdoors, lawns and trees

The Tenant shall:

- (a) maintain, cultivate, regularly water and properly care for all lawns, trees, gardens, potted shrubs, landscaped and other planted areas in the Premises (including the regular mowing of all lawns);
- (b) maintain, keep safe to the highest possible standard and properly care for all outdoor play equipment on or about the Premises (including the regular mowing of all lawns); and
- (c) not cut down, fell, destroy or otherwise remove any trees, shrubs or other plants in the Premises, save where there is a reasonable prospect of damage from dead, dying or unsafe trees and the Tenant obtains the Landlord's prior consent (which will not be unreasonably withheld) to the cutting down or other removal of the same.

8 Assignment and subletting

8.1 No dealing with the premises

Subject to clause 8.2, the Tenant must not:

- (a) assign, transfer, mortgage, charge or otherwise deal with this Lease or its interest in the Premises; or
- (b) sublet, part with possession of or grant any licence affecting the Premises (including a licence to manage the business carried on at the Premises).

8.2 Assignment and subletting permitted

1) The Landlord must not unreasonably withhold its consent to an assignment of the whole of the Lease or a subletting or licensing of the whole of the Premises if the Tenant first makes a written application to the Landlord for consent and the following conditions have been satisfied:

- (a) the Tenant:
 - (i) gives to the Landlord not less than ten (10) Business Days prior written notice of the same together with a true deed of assignment, transfer, trust deed, sublease, licence, and other documents and information as may be relevant to the same or required by the Landlord; and
 - (ii) proves to the reasonable satisfaction of the Landlord that the assignee is a respectable,

responsible, solvent, fit and suitable person capable of adequately carrying on the Permitted Use under this Lease, the onus of proving the same being upon the Tenant;

- (b) all Rent and other moneys then payable by the Tenant to the Landlord under this Lease have been paid to the Landlord and there is not then any existing, unremedied breach of any covenant by the Tenant under this Lease;
- (c) the Tenant pays to the Landlord all reasonable costs (including legal costs on a solicitor and own client basis) and expenses incurred by the Landlord (whether or not any proposed assignment licence or sublease proceeds to completion) of and incidental to the proposed assignment or sublease or licence;
- (d) in the case of a proposed assignment, the assignee:
 - (i) signs a deed with the Tenant and the Landlord to be bound by all the covenants of the Tenant under this Lease and appoints the Landlord its attorney for any purpose that the Tenant has appointed the Landlord its attorney under this Lease (such deed to be prepared and stamped by the Landlord at the cost of the Tenant and otherwise to contain such covenants as the Landlord may reasonably require); and
 - (ii) supplies such additional security as the Landlord may reasonably require in respect of the performance of the incoming Tenant under this Lease which may include a Bank Guarantee and corporate and personal guarantees;
- (e) in the case of a proposed sublease or licence:
 - (i) the sublease or licence contains the same covenants as this Lease save for such variations as are required by the changed circumstances and is approved by the Landlord; and
 - (ii) supplies such additional security as the Landlord may reasonably require in respect of the performance of the incoming occupant under the sublease or licence which may include a Bank Guarantee and corporate and personal guarantees;
- (f) in any case where the assignee sublessee or licensee is a corporation (which is not listed on the Australia Stock Exchange) and a trustee of any trust or any of the same, the Tenant procures such persons as the Landlord may require (which may in the case of a corporate assignee sublessee or licensee include the directors and principal shareholders of such corporation or any of them and which may in the case of a trust include the unit holders, trustees, directors and principal shareholders of any corporate unit holder, or any of them) to execute a joint and several guarantee and indemnity in favour of the Landlord in respect of the performance by the assignee, sublessee or licensee of all the covenants of the Tenant under this Lease or of the assignee, sublessee or licensee, assignment, sublease or licence (as the case may be), such deed to be prepared by the Landlord at the cost of the Tenant and otherwise to contain such covenants as the Landlord may reasonably require; and
- (g) the Tenant, the Guarantor and the assignee sublessee or licensee otherwise comply with all other reasonable requirements of the Landlord in relation to the documentation, stamping and (if required by the Landlord or at law) registration of the proposed assignment sublease or licence.

- 2) The Tenant is released from its obligation to the Landlord under this Lease on and from the date the proposed assignment becomes effective. This clause only applies while ever G8 Education Limited is the Tenant and does not apply in respect of any antecedent breach by the Tenant.
- 3) Despite any other provision of this Lease, any Law or any Requirement, the Landlord may withhold its consent in its absolute discretion:
 - (a) to a sublease or licence of part of the Premises only;
 - (b) if the transfer of all or part of an interest will bring the Lease or Premises under the Retail and Commercial Leases Act 1995;
 - (c) if a change to the Permitted Use of the Premises is proposed; or
 - (d) if the Landlord cannot for any reason obtain satisfactory consent to the proposed transfer of interest from a mortgagee or other necessary party.

8.3 Change in ownership or control

If there is a proposed change in Control of the Tenant or the Tenant's Holding Company and the Tenant is a company which is not listed on the Australian Stock Exchange, then:

- (a) that proposed change in Control is treated as a proposed assignment of this Lease to an incoming tenant;
- (b) the person or entity proposed to acquire Control is treated as an incoming tenant; and
- (c) clause 8.2 applies.

8.4 Charges over tenant's fittings or lease

- 1) Without the Landlord's prior consent, the Tenant must not create or allow to come into existence any mortgage, charge, lease or other security over, or in any way deal with its interest in, this Lease.
- 2) The Landlord's consent will not be unreasonably withheld:
 - (a) if the form of consent to create or deal with any interest is in a form reasonably acceptable to the Landlord;
 - (b) the Tenant pays the Landlord's Costs in relation to it; and
 - (c) at the date of the proposed dealing, the Tenant is not in default under this Lease.

8.5 Retail Leases Legislation

The parties agree that the Landlord will not be seen as acting unreasonably where it refuses consent to an assignment of this Lease if such assignment would result in this Lease becoming subject to the Retail and Commercial Leases Act 1995.

9 Utilities

9.1 Source of light and power

The Tenant must only use light, power or heat generated by electrical current or gas supplied through meters except in the case of failure of supply when the Tenant may only use other safe sources of energy.

9.2 No alterations to electrical installations

- 1) The Tenant must not make any alterations or additions to the electrical installations or wiring on the Premises without the Landlord's prior consent.
- 2) The Tenant must not install any electrical equipment which overloads the cables, switchboards or sub-boards through which electricity is conveyed to the Premises.

9.3 Electricity, gas, water and other charges

- 1) The Tenant shall pay:
 - (a) all charges for electricity, gas, water, telephones, internet and other utilities consumed on or supplied to the Premises from time to time during the Term, and (where relevant) the cost of installation of meters and all meter rental (if any) in respect of measuring the same; and
 - (b) to the extent that the same are not already payable as Outgoings all taxes, charges and other assessments that may at any time during the Term be assessed directly in respect of this Lease or any payment, supply or other transaction under this Lease or directly in respect of the Premises or any use or occupation of the same, and whether assessed by or against the Landlord or directly against the Tenant.
- 2) If any such assessment is made directly against the Tenant, the same shall be paid by the Tenant to the relevant Authority not later than the due date for payment. If any such assessment is made by or directly against the Landlord, the same shall be paid by the Tenant to the Landlord within ten (10) Business Days of being billed by the Landlord for the same.

10 Maintenance, repairs, alterations and additions

10.1 Tenant to repair and maintain

- 1) The Tenant shall at all times during the Term keep and maintain the Premises in good condition (having regard to the age of the Premises and the condition of the Premises as at the Commencing Date).
- 2) The Tenant's obligations under clause 10.1(1) and (2) do not apply to:
 - (a) fair wear and tear;
 - (b) the roof of the Building;
 - (c) the structure of the Building;
 - (d) any defect in the Premises;
 - (e) any matter covered by defect rectification obligations during a defects liability period under a building contract to erect any part of the Building;
 - (f) any matter covered by any warranties or maintenance agreements in favour of the Landlord;
 - (g) matters beyond the control of the Tenant; or
 - (h) damage caused by any risk in respect of which the Landlord has effected or is obliged to effect insurance,

except to the extent that repairs are required as a result of any negligent act or omission

of the Tenant and the Landlord is unable to recover the cost of rectifying the damage under any insurance policy (where otherwise recoverable) because of the negligent act or omission of the Tenant.

- 3) Save for damage caused through fair wear and tear, the Tenant shall at its cost to the reasonable satisfaction of the Landlord:
- (a) immediately repair any damage done to the Premises caused by any act, omission, neglect, default or misconduct of the Tenant, but without prejudice to any other right or remedy of the Landlord under this Lease;
 - (b) immediately replace any glass in or about the Building that may be damaged or broken with glass of at least the same quality and gauge or, where specified by the Landlord or by statute, the quality, type and gauge so specified;
 - (c) replace any damaged or non-operative electric light bulbs, globes, tubes, associated fittings and other means of illumination within the Building;
 - (d) repair all Landlord's Fixtures including all window coverings and blinds from time to time in the Building or the Premises as the case may be that may be broken or damaged;
 - (e) Redecorate whenever reasonably required by the Landlord within three (3) months of written request for the same but not more than once during every period of five (5) years since Redecoration last occurred and in any case Redecorate during the last three (3) months of the Term; and
 - (f) replace (where in the reasonable opinion of the Tenant it is uneconomical to continue to repair):
 - (i) Air-Conditioning Equipment;
 - (ii) window coverings and blinds;
 - (iii) carpet and floor coverings;
 - (iv) playground equipment; and
 - (v) kitchen appliances and appurtenances.
- 4) The Tenant shall:
- (a) keep all Tenant's Fittings clean and shall be responsible for all repair, maintenance and insurance of the same; and
 - (b) effect and maintain with reputable specialist contractors, comprehensive service, maintenance and repair contracts on such terms and conditions as the Landlord may reasonably require in respect of all Landlord's Fixtures (including the Air Conditioning Equipment and fire equipment) in the Premises.

10.2 Landlord's right of inspection

The Landlord may at all reasonable times upon reasonable prior written notice to the Tenant (except prior notice shall not be required in the case of emergency as to which the Landlord shall be the sole judge) enter the Premises and view the state of repair and condition of the same.

10.3 Enforcement of repairing obligations

The Landlord may at any time and from time to time do all or any of the following:

- 1) serve on the Tenant a written notice of any failure by the Tenant to carry out any of its obligations to repair, maintain, replace, clean or Redecorate the Premises; and
- 2) require the Tenant to carry out any such repair, maintenance, replacement, cleaning or to Redecorate within a reasonable time. In default of the Tenant doing so, the Landlord may, without prejudice to any other rights or remedies of the Landlord, and without any further notice to the Tenant, enter the Premises and carry out all or any of such works at any time and in such manner as the Landlord may in its sole discretion see fit, without any liability on any account whatever to the Tenant.

10.4 Landlord may enter to repair

If:

- (a) the Landlord wishes at its sole discretion to carry out any repair, maintenance, alteration, addition, installation or other work in respect of the Premises considered necessary or desirable by the Landlord or in relation to anything that the Landlord may be obliged to do under this Lease; or
- (b) any Authority requires any repair, maintenance, alteration, addition, installation or other work to be undertaken in respect of the Premises that the Landlord may in its sole discretion elect to do or permit to be done and for which the Tenant is not liable under this Lease;

then the Landlord may at all reasonable times upon giving to the Tenant reasonable prior written notice (except prior notice shall not be required in the case of emergency as to which the Landlord shall be the sole judge) enter the Premises and carry out any such repair, maintenance, alteration, addition, installation or other work without any liability on any account whatever to the Tenant. In so doing, the Landlord shall use all reasonable endeavours to cause as little inconvenience to the Tenant as is reasonably practicable.

10.5 Alterations or additions to the Premises

- 1) The Tenant shall not make any proposed alteration, addition or installation in or to any of the Building or the Premises or any fixtures, fittings, plant, equipment, partitions or other articles and chattels of all kinds owned or supplied by or on behalf of the Landlord, the Tenant or any other person in or about the Premises without the prior written consent of the Landlord.
- 2) In seeking any such consent of the Landlord to the Tenant's works, the Tenant shall submit full plans and specifications in reasonable detail to the Landlord. The Landlord shall (unless otherwise notified to the Tenant in writing) require as a condition of its consent that:
 - (a) the Tenant's works shall be supervised by the Landlord or a person approved by the Landlord;
 - (b) the Tenant's works shall be carried out at the cost of the Tenant in a proper and workmanlike manner to the reasonable satisfaction of the Landlord by a registered builder having a current public liability insurance policy for an amount not less than \$20 million per occurrence and workers' compensation insurance approved by the Landlord;
 - (c) the materials to be used in carrying out the Tenant's works shall be new and of such a standard as to type, quality, colour and size approved by the Landlord;
 - (d) the Tenant shall pay to the Landlord on demand all reasonable costs and expenses of the Landlord in considering the Tenant's works and supervising the same, including the fees of any architect or other building consultant engaged

by or on behalf of the Landlord whether or not any approval shall in any case be granted;

- (e) the Tenant shall obtain and keep current all necessary approvals and permits from the relevant Authorities necessary to enable the Tenant's works to be lawfully carried out, and shall produce to the Landlord complete copies of all such approvals and permits;
- (f) upon completion of the Tenant's works, the Tenant shall immediately obtain and produce to the Landlord all unconditional certificates of compliance with all relevant statutes and of satisfactory completion of the Tenant's works issued or required to be issued by the relevant Authorities; and
- (g) the Tenant shall pay to the Landlord on demand all reasonable costs and expenses incurred or likely to be incurred by the Landlord in connection with the Tenant's works, including any resulting modification or variation to the Premises.

10.6 Tenant's obligations on expiration of Term

- 1) The Tenant shall on the expiration or earlier termination of the Term deliver up the Premises to the Landlord in the order and condition described in clause 10.1.
- 2) The Tenant shall on or before the actual date of expiration of the Term by effluxion of time, remove all Tenant's Fittings, signage and other articles and chattels of all kinds the property of the Tenant and of any other person from the Premises (or such part of the Tenant's Fittings as the Landlord may require). However, the Tenant must not remove any Landlord's Fixtures unless the Landlord otherwise requires. In carrying out any removal, the Tenant must not cause any damage to the Premises. The Tenant shall remove all rubbish and leave the Premises in a neat and tidy condition.
- 3) If the Tenant does not remove the Tenant's Fittings under clause 10.6(2) or the Landlord terminates this Lease by reason of default by the Tenant, the Tenant shall within seven (7) days written notice from the Landlord remove the Tenant's Fittings (or such part of the same as the Landlord may require) from the Premises. Failing such removal, the Landlord may without further notice and without prejudice to any other rights, then treat the Tenant's Fittings as if the Tenant had abandoned its interest in the same and had become the sole property of the Landlord. The Landlord may then remove or otherwise deal with the Tenant's Fittings in such manner as the Landlord may think fit without being liable in any way to account to the Tenant for the same.
- 4) The Tenant shall repair to the reasonable satisfaction of the Landlord any damage whatever caused to the Premises by any such removal. The Tenant shall if required by the Landlord reinstate any alterations made by the Tenant to the Premises so that the Premises shall be converted back to its good repair and condition as at the Commencement Date, failing which the Landlord may at its option and at the cost of the Tenant itself repair any damage and reinstate any alterations.
- 5) The Tenant must pay to the Landlord on demand a fee equal to the Rent divided by 365 for each day from the date this Lease ends to the date on which the Tenant's Fittings are removed from the Premises by either the Landlord or the Tenant.

10.7 Occupational Health & Safety

The Landlord appoints the Tenant, and the Tenant accepts the appointment, as principal contractor for the purposes of the OH & S Act in relation to any proposed work at the Premises and the Landlord authorises the Tenant to exercise such management or control of the workplace to the extent necessary to discharge the Tenant's responsibilities as principal contractor under the OH & S Act.

11 Insurance and indemnities

11.1 Insurance

- 1) At all times during the Term, the Tenant must effect and keep current with an insurance company nominated by the Tenant and approved by the Landlord (such approval not to be unreasonably withheld):
 - (a) a public liability insurance policy in respect of the Premises having endorsement to include the risks and indemnities in an amount of not less than \$20 million or any higher amount that the Landlord may from time to time reasonably require the Tenant by notice in writing to effect for any single claim, accident or event;
 - (b) worker's compensation including employer's liability insurance (unlimited cover); and
 - (c) insurance in respect of all plate and other glass in or otherwise enclosing the Premises.

11.2 Landlord may insure

- 1) If the Tenant fails to maintain the insurances required by this clause 11, then without limiting any right of the Landlord, the Landlord may (but is not obliged to) effect and maintain those insurances.
- 2) The Landlord's Costs in effecting and maintaining the insurances under clause 11.2(1) must be paid by the Tenant.

11.3 Tenant's insurances

The Tenant must ensure that all policies of insurance effected or required to be effected by the Tenant under this clause 11:

- (a) are taken out with an independent and reputable insurer approved by the Landlord;
- (b) are for an amount, cover risks and contain conditions which are typical for the child care industry;
- (c) are on an occurrence, not a claims made, basis;
- (d) have no exclusions, endorsements or alterations unless first approved by the Landlord; and
- (e) note the Landlord's interest in the policy (if permitted by the insurer).

11.4 Payment and production of insurance policies

- 1) The Tenant must promptly pay all premiums and other money payable in respect of its insurances.
- 2) If requested by the Landlord, the Tenant must on each and every anniversary of the Commencement Date give to the Landlord copies of all renewals of policies of insurance which the Tenant is required to effect under this clause 11 and the receipt or other evidence of up to date payment of the premium.

11.5 Effect on the landlord's insurance

- 1) Without the Landlord's prior consent, the Tenant must not do or omit to do anything to or upon the Premises which may:
 - (a) increase the rate of any insurance on the Premises or any property on the Premises;

- (b) vitiate or render void or voidable or prejudice any insurance on the Premises or any property in the Premises; or
 - (c) Landlord's insurer relating to fire, fire safety or fire prevention or any insurance policy in respect of the Premises or any property in them.
- 2) The Tenant must pay to the Landlord all extra insurance Costs on the Premises on account of the extra risk caused by the Tenant's use or occupation of the Premises.
 - 3) The Landlord's acceptance of any extra insurance Costs will not constitute a waiver of any breach of this clause 11.5 by the Tenant.

11.6 Inflammable substances and fire regulations

The Tenant must not store, inflammable, volatile or explosive substances (whether liquid, gas or solid) on the Premises.

11.7 Tenant's risk

- 1) All property at the Premises is at the Tenant's sole risk.
- 2) The Tenant occupies and uses the Premises at the Tenant's risk.
- 3) The Landlord, its employees and agents are not liable for any Claim by the Tenant, the Tenant's Employees or any person which may arise from:
 - (a) any fault in the construction or state of repair of the Premises or any part of it or the Landlord's Fixtures;
 - (b) any defect in the Services or the Landlord's Fixtures; or
 - (c) the flow, overflow, leakage, condensation or breakdown of any water, air conditioning, gas, oil or other source of energy or fuel from or in any part of the Premises; or
 - (d) from any other cause except as to the extent caused by the act, negligence or default of the Landlord, its employees, contractors, invitees or agents.

11.8 Release

- 1) To the full extent permitted by Law, the Tenant releases the Landlord, its employees and agents from and Costs incurred in relation to liability for any Claim in respect of or arising from:
 - (a) a Service being interrupted, not being available or not working or not doing so properly;
 - (b) the Landlord's Fixtures not working or not doing so properly; or
 - (c) damage or injury to any person or property on the Premises,

other than to the extent that the Claim results from the negligence, act or default of the Landlord, its employees, contractors, invitees or agents.

11.9 Indemnities

- 1) The Tenant is responsible for and indemnifies the Landlord against liability or loss arising from, and cost incurred in connection with:
 - (a) damage, loss, injury or death caused or contributed to by the act, negligence or default of the Tenant or the Tenant's Employees; and

- (b) the Landlord doing anything the Tenant must do under this Lease but has not done, or that the Landlord considers the Tenant has not done properly,

except to the extent contributed to by the Landlord's, its employees, contractors, invitees or agent's negligence, act or default.

- 2) Amounts due under the indemnity in clause 11.9(1) must be paid by the Tenant to the Landlord on demand.

12 Landlord's covenants and additional rights

12.1 Quiet enjoyment

If the Tenant performs and observes all its obligations under this Lease and subject to the Landlords' rights, the Tenant may use the Premises without interruption or disturbance from the Landlord or any person claiming by, through or under the Landlord.

12.2 Landlord to pay rates

The Landlord shall pay all rates and taxes payable in respect of the Premises save all rates and taxes (if any) that the Tenant may have covenanted to pay in whole or in part.

12.3 Tenant to have access to the Premises

Save to the extent of any reservation or other provision of this Lease, the Landlord shall permit the Tenant at all times during the Term 24 hour access to the Premises for the purposes of conducting the Permitted Use but not for any other purpose.

12.4 Additional rights

The Landlord may in addition to any express rights and to the full extent permitted by law:

- (a) do anything to comply with any Law or Requirement of any Authority;
- (b) enter the Premises at reasonable times on reasonable notice to determine if the Tenant is complying with its obligations under this Lease and to do anything that the Landlord may or must do under this Lease;
- (c) if it decides there is an emergency, enter the Premises at any time without notice and stop the Tenant from entering the Premises;
- (d) after giving the Tenant reasonable notice, do anything which the Tenant should have done under this Lease but which it has not done or which the Landlord considers it has not done properly; and
- (e) appoint agents or others to exercise any of its rights or perform any of its duties under this Lease, on the condition that communications from the Landlord prevail over communications from others if they are inconsistent.

12.5 Land and Building operation

- 1) To the extent that the Tenant is not obliged to under this Lease, the Landlord must keep the Premises in good repair (having regard to the age of the Premises) which includes carrying out structural repairs.
- 2) The Landlord's obligations under this clause 12.5 include:
 - (a) any work required to keep the Building wind and waterproof;
 - (b) any necessary work to prevent the ingress of water and/or moisture to the floor;

- (c) to replace waste pipes, drains and sewerage pipes when repair becomes uneconomical or impractical or the item has reached the end of its effective life; and
- (d) to resurface any car parks, roads, paths or access ways when reasonably required and repaint the line markings consequential upon resurfacing.

12.6 Insurance

The Landlord must keep current during the Term those insurances in connection with the Land and Building which a prudent owner of a Land and Building like the Land and Building would take out, including but not limited to, building insurance, loss of rent and owner's public liability Insurance.

13 Default and termination

13.1 Essential terms of this lease

- 1) The following are essential terms of this Lease:
 - (a) each obligation of the Tenant to pay money;
 - (b) each obligation of the Tenant under clause 7;
 - (c) each obligation of the Tenant under clause 8;
 - (d) each obligation of the Tenant under clause 10;
 - (e) each obligation of the Tenant under clause 11;
 - (f) each obligation of the Tenant under clause 15;
 - (g) each obligation of the Tenant under clause 19;and
 - (h) the Tenant to not be subject to an Insolvency Event.
- 2) Other obligations of the Tenant under this Lease may also be essential terms.

13.2 Forfeiture of lease

- 1) The Landlord may rescind this Lease by notice to the Tenant or re-entry if the rent is more than 14 days overdue.
- 2) If the Tenant fails to comply with any provision of this Lease, the Landlord may give the Tenant notice specifying the breach and requiring the Tenant, within the time fixed by clause 13.2(4), to:
 - (a) remedy the breach; or
 - (b) make compensation in money for the breach.
- 3) The Landlord may rescind this Lease by notice to the Tenant or re-entry if the Tenant fails within the time fixed by clause 13.2(4) to remedy a breach the subject of a notice under clause 13.2(2), if it is capable of remedy, or to make reasonable compensation in money, to the satisfaction of the Landlord, for the breach.
- 4) For the purposes of section 10 of the *Landlord and Tenant Act 1936*, the time fixed for the purposes of this clause 13.2 is 14 days, except in the case of non-payment of rent, in which case the time fixed for the purposes of clause 13.2 is 7 days.

13.3 Waiver

- 1) No waiver by the Landlord will be effective unless it is in writing.
- 2) The Landlord's failure to notify the Tenant of any default or to otherwise act on any default by the Tenant must not be construed as waiving the default.
- 3) No custom or practice which evolves between the parties will constitute a waiver or lessen the Landlord's right to insist upon the Tenant's strict performance or observance of any provision of this Lease or to exercise any of the Landlord's other rights.
- 4) Regardless of the Landlord's knowledge at the time, a demand by it for Rent or other money payable under this Lease or the subsequent acceptance of Rent or other money will not constitute a waiver of any earlier default by the Tenant.
- 5) No single or partial exercise of any right, power or remedy will preclude any other or further exercise of that or any other right, power or remedy.
- 6) No attempt by the Landlord to mitigate its loss will be a waiver of any breach of or the Landlord's rights under this Lease.

13.4 Tender after termination

In the absence of any election by the Landlord, any money tendered by the Tenant after termination of this Lease and accepted by the Landlord will be applied:

- (a) firstly, on account of any unpaid Rent and other money due under this Lease at the date of termination; and
- (b) secondly, on account of the Landlord's Costs in relation to the termination.

13.5 Interest on overdue money

- 1) The Tenant must pay interest to the Landlord at the Default Rate on any Rent, Costs or other money not paid when due to the Landlord.
- 2) Interest will:
 - (a) accrue from day to day and be calculated daily;
 - (b) be capitalised on the last day of each month;
 - (c) be payable on demand or, if no earlier demand is made, on the first Business Day of each month where an amount arose in the preceding month or months; and
 - (d) be computed from the date for payment of the Rent, Costs or other money, or in the case of an amount by way of reimbursement or indemnity the date of the outlay or loss, until payment.
- 3) Any Costs, loss or damage for the unexpired residue of the Term suffered by the Landlord as a result of the Tenant's repudiation may be recovered as damages at any time.
- 4) The Landlord's entitlement to recover damages from the Tenant or any other person will not be limited or affected by any of the following:
 - (a) if the Tenant abandons or vacates the Premises;
 - (b) if the Landlord elects to re-enter the Premises or terminate this Lease;
 - (c) if the Landlord accepts the Tenant's repudiation; or

- (d) if the parties' conduct (or that of any of their servants or agents) constitutes or may constitute a surrender by operation of law.

13.6 Landlord to mitigate damages

- 1) The Landlord's entitlement to damages will be assessed on the basis that the Landlord has observed the obligation to mitigate damages.
- 2) The Landlord's conduct in mitigating its damages will not of itself constitute acceptance of the breach or repudiation or a surrender by operation of Law.

13.7 Calculation of damages

Following repudiation by the Tenant if the Landlord terminates this Lease then, without prejudice to any other right or remedy, the Landlord may recover the difference between the aggregate of Rent payable by the Tenant for the unexpired residue of the Term less any amount the Landlord obtains by observing clause 13.6.

13.8 Condition precedent

Despite anything to the contrary contained or implied in this Lease or under any Law, the Landlord shall not be in default under this Lease or be regarded as having repudiated this Lease in any manner whatever unless the Tenant shall have given the Landlord written notice of such default or repudiation, and the Landlord shall have then failed within 14 days of receiving such notice to take proper steps to rectify the same.

14 Miscellaneous

14.1 Notices

- 1) Any notice by a party under this Lease will be valid if signed by an officer, manager or solicitor of that party.
- 2) The Tenant must promptly notify the Landlord of the address of the Tenant and any Guarantor and update the notice if any changes occur.
- 3) Any notice that the Landlord elects to serve on the Tenant will be sufficiently served if:
 - (a) served personally or addressed to the Tenant and left at the Premises; or
 - (b) forwarded by prepaid security post to the Tenant's last known registered office, place of business or residence.
- 4) Any notice to the Landlord will be sufficiently served if:
 - (a) served personally;
 - (b) forwarded by prepaid security post addressed to the Landlord.
- 5) All notices must be addressed to the Landlord at the address stated in this Lease or, if another address is later nominated by the Landlord, then at that address.
- 6) Any notice sent by post will be deemed to have been served on the second Business Day after the day it was posted.

14.2 Costs

Without limiting any other obligation of the Tenant to pay money to the Landlord, the

Tenant must pay or reimburse the Landlord on demand for:

- 1) the Landlord's reasonable Costs in connection with:
 - (a) any consent required under this Lease;
 - (b) any assignment, subletting, licensing or other dealing by the Tenant with this Lease or an interest in or associated with it.
 - (c) any renewal; and
 - (d) any surrender or termination of this Lease.
- 2) the Landlord's Costs in relation to any default by the Tenant or the Tenant's Employees in observing, performing or enforcing the provisions of this Lease including the Costs of seeking advice in relation to any such default.
- 3) any negotiations, alterations or changes to this Lease requested or required by the Tenant;
 - (a) everything the Tenant does or is supposed to do under this Lease; and
 - (b) all stamp duty (including fines and penalties) and registration fees,and whether or not any proposed dealing, renewal, change, litigation or other event contemplated by this clause 14.2 proceeds.

14.3 Easements

- 1) For the purpose of:
 - (a) provision of access to the Premises;
 - (b) the support of structures erected on the Land or adjoining land; or
 - (c) any Service,

the Landlord may dedicate, grant, transfer or otherwise enter into any arrangement in relation to the Premises as the Landlord thinks fit, provided it does not unreasonably derogate from the quiet enjoyment granted in this Lease.

- 2) This Lease will be deemed to be subject to any right granted by the Landlord under this clause 14 and the Tenant must promptly sign all other documents and give all consents required of it as may be necessary to enable the Landlord to give effect to the dedication, grant, transfer or other arrangement.

14.4 Consolidation or subdivision

If the Landlord wishes to carry out a consolidation or subdivision of any land as a result of which the Premises will then comprise the whole or part of a consolidated or subdivided lot, then despite anything to the contrary in this Lease:

- (a) the Tenant must provide the Landlord with written consent to the consolidation or subdivision in a form reasonably required by the Landlord;
- (b) this Lease will be subject to all rights, reservations, terms and powers referred to in the relevant subdivision legislation and the plan of subdivision (if applicable) and the Tenant must comply with them; and
- (c) the Tenant must promptly sign all other documents and give all consents required of it as may be necessary to enable the Landlord to give effect to the consolidation or subdivision.

14.5 Landlord's liability

Save to the extent that this Lease or a mandatory rule of law may otherwise expressly provide:

- (a) the Landlord shall not be required to do anything or supply any service to or carry out any repair, maintenance or other work (whether structural or otherwise) in respect of the Premises; and
- (b) in any case the Landlord shall not be liable to the Tenant or to any other person for any loss, injury, damage (including damages for any loss of profits),

compensation, abatement of any rental or other moneys, costs or expenses or on any other account whatever by reason of any reservation or exercise of any right of the Landlord under this Lease, any operation, interruption or cessation of any service to the Premises, or by making or failing to make any repairs, alterations or additions to the Premises.

14.6 No agency relationship

The relationship between the Landlord and the Tenant is that of landlord and tenant, and any other relationship (including that of partnership, joint venture and principal and agent) is negated.

14.7 Severance

If any provision of this Lease is or becomes invalid, illegal or unenforceable, the provision shall so far as possible be read down to give it a valid operation of a partial character. If that is not possible the provision shall be severed and the remaining provisions shall not in any way be affected or impaired by the same.

14.8 Assignment by Landlord

If the Landlord transfers or otherwise assigns any interest in the Premises and in this Lease or any of the same, to the extent that any transferee or assignee is responsible for compliance with any covenants of the Landlord under this Lease, the transferring Landlord is released from its obligations under this Lease arising after it ceases to have an interest in the Premises.

14.9 Bind all signatories

This Lease shall bind each of the signatories to this Lease, notwithstanding that any one or more of such persons may not have executed or may never execute this Lease, or that any such execution may be or become void or voidable.

14.10 Benefit of covenants

If any person other than the Landlord becomes entitled to receive any rent or other moneys payable under this Lease whether by operation of law or by direction of the Landlord or otherwise, such person shall, without further written agreement, have the benefit concurrently with the Landlord of all covenants of the Tenant and the Guarantor under this Lease and under any other document executed by the Tenant and the Guarantor or any of them in favour of the Landlord in connection with this Lease. The Tenant and the Guarantor or such of them as the Landlord may require shall at the cost of the Landlord enter into such covenants with the Landlord and such other person or any of them as the Landlord may require in confirmation of the same.

14.11 Mortgage by the Landlord

- 1) The Landlord may at any time mortgage, charge or otherwise encumber the reversion and this Lease shall be deemed to be subject to the same.
- 2) The Tenant and the Guarantor shall on the written request of the Landlord do all

things and execute and deliver to the Landlord such form of consent containing such covenants as the Landlord may reasonably require or in the standard form required by the mortgagee in order to procure the consent of any mortgagee of the Landlord to this Lease.

14.12 Foreign ownership

The Tenant covenants that the Tenant is not a person to whom the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and any other relevant legislation governing the foreign ownership of land or any interest in land applies.

14.13 Documentation

The Tenant and the Guarantor expressly and irrevocably authorise the Landlord and the solicitors for the Landlord and any of them to complete this Lease and any guarantee by inserting any words or figures or by initialing, executing or correcting the same and (if necessary) inserting any sketch plan in this Lease identifying the location of the Premises. This clause shall also apply in the same manner in respect of any further or other documents executed or required to be executed by the Tenant and the Guarantor or any of them under or pursuant to this Lease.

14.14 Special Conditions

The Special Conditions (if any) contained in Item 15 form part of this Lease. If any of the Special Conditions are inconsistent with or ambiguous to the terms of this Lease, the Special Conditions shall prevail over the terms of this Lease to the extent of such inconsistency or ambiguity.

15 Guarantees

15.1 Issue and review of bank guarantee

The Tenant must:

- (a) on or before executing this Lease, arrange for the issue of an unconditional and irrevocable bank guarantee that may have an expiry date (being the date that is 6 months after the last day of the term) by a financial organisation approved by (such approval not to be unreasonably withheld) and in favour of the Landlord for the amount stated in Item 12 as security for performance by the Tenant of its obligations under this Lease;
- (b) upon the request of the Landlord, at each review date under clause 4 or at the later determination of each Rent review, provide a replacement or additional bank guarantee so that the total amount guaranteed bears to the Rent payable from each review date the same proportion as the amount stated in Item 12 bears to the Rent as at the Commencement Date;
- (c) ensure that any bank guarantee is kept current and enforceable and will not expire until at least 2 months after the Termination Date or after the date of termination of any further term arising from the exercise of an option to renew in this Lease or any further lease; and
- (d) if the Landlord makes demand on any bank guarantee, provide a replacement bank guarantee for the amount demanded by the Landlord on demand by the Landlord.

15.2 Default

- 1) Any bank guarantee provided in connection with this Lease is additional security for the performance of the Tenant's obligations under this Lease.

- 2) The Landlord may apply the bank guarantee or any part of it to remedy or partly remedy any default by or breach of the Tenant's obligations under this Lease.

15.3 Transfer

- 1) If at any time during the Term the Landlord transfers the Landlord's interest in the Land the tenant must promptly at the request and reasonable cost of the Landlord provide the Landlord with a replacement bank guarantee in favour of the transferee.
- 2) The Tenant authorises the Landlord to deliver the bank guarantee and any replacement guarantee held by the Landlord under this clause 15 to the transferee.

15.4 Guarantee and indemnity

- 1) In consideration of the Landlord granting this Lease to the Tenant at the Guarantor's request, the Guarantor guarantees to the Landlord prompt performance and observance of all of the Tenant's covenants and obligations contained or implied in this Lease.
- 2) If the covenant or obligation of the Tenant is to pay money, the Landlord may recover that money from any Guarantor as a liquidated debt.
- 3) Clauses 15.4 to 15.14 do not apply while ever G8 Education Limited (ACN 123 828 553) is the tenant.

15.5 Indemnity

In addition to the Guarantors' liability under clause 15.4, the Guarantor indemnifies the Landlord against:

- (a) all losses incurred by the Landlord;
- (b) all liabilities incurred by the Landlord; and
- (c) all Costs incurred by the Landlord in connection with a demand, action, arbitration or other proceeding (including mediation, compromise, out of court settlement or appeal),

arising directly or indirectly as a result of or in connection with any use, occupation, breach or default by the Tenant under this Lease or any extension or renewal of the Term.

15.6 Liability of guarantor

The Landlord's rights and a Guarantor's liability under clauses 15.4 and 15.5 will not be prejudiced or affected by:

- (a) the granting of any time, credit, forbearance, indulgence or concession by the Landlord to the Tenant or any Guarantor;
- (b) any absolute or partial release of the Tenant or any Guarantor or any compromise with the Tenant or any Guarantor;
- (c) any variation of this Lease, extension or renewal of the Term, holding over or continued occupation of the Premises by the Tenant;
- (d) any composition, compromise, release, discharge, arrangement, abandonment, waiver, variation, relinquishment or renewal of any security or right by the Landlord;
- (e) any assignment of this Lease or sublease of any part of the Premises;
- (f) the termination of this Lease;

- (g) the fact that the Rent or any other money may not be recoverable, may cease to be recoverable or may never have been recoverable or that any transaction affecting the Rent or the obligations contained in this Lease is or was wholly or partially void, voidable or unenforceable;
- (h) any failure to sue or agreement not to sue or any dealing, act or omission (whether constituting a waiver, election, estoppel or otherwise) by the Landlord with respect to the Rent, other money payable or the obligations under this Lease;
- (i) any fact, circumstance, legal disability or incapacity which would otherwise release the Tenant or any Guarantor from its obligations;
- (j) non-execution of this Lease by one or more of the persons named as Guarantor or the unenforceability of this guarantee and indemnity against one or more of the Guarantors;
- (k) the exercise or purported exercise by the Landlord of its right of re-entry; or
- (l) any other matter or thing which, but for this clause, would modify or abrogate the liability of the Guarantor.

15.7 Irrevocable

This guarantee and indemnity is irrevocable and will remain in force until the Tenant has performed and observed all of its obligations under this Lease.

15.8 Guarantor liable regardless of any law

- 1) The Guarantor's liability will not be discharged by any payment to the Landlord which is later avoided by Law.
- 2) If that happens, the Landlord, the Tenant and the Guarantor will be restored to their respective rights as if the payment had not been made.

15.9 Indemnity on disclaimer

If a liquidator disclaims this Lease, the Guarantor is responsible for and indemnifies the Landlord against any resulting cost, loss, liability, expense or Claim by the Landlord for or arising out of the residue of the Term.

15.10 Guarantor not prove in liquidation

- 1) The Guarantor must not prove or claim in any liquidation, composition, arrangement or assignment for the benefit of creditors until the Landlord has received payment in full of all money payable to it by the Tenant.
- 2) The Guarantor must hold any proof, claim or dividend received by it on trust for the Landlord.

15.11 Guarantee to continue

- 1) If the Landlord sells the Premises subject to this Lease or otherwise assigns or transfers this Lease, the benefit of this guarantee and indemnity extends to the transferee and continues concurrently for the benefit of the Landlord despite the transfer, unless the Landlord releases the Guarantor in writing.
- 2) Without limiting any other provision of this Lease, this guarantee and indemnity covers the period while the Tenant occupies or is entitled to occupy the Premises as tenant or holds an equitable interest over the Premises under an agreement for lease or as a periodical tenant.
- 3) This guarantee and indemnity extends to any further term granted pursuant to this

Lease and if a further term is granted, each Guarantor undertakes to the Landlord to promptly execute a deed on terms reasonably required by the Landlord confirming that this guarantee and indemnity applies for that further term.

15.12 Trustee as guarantor

- 1) If the Guarantor acts as trustee of a trust, the Guarantor enters into this guarantee and indemnity personally and in its capacity as trustee of that trust.
- 2) The Guarantor must cause any successor of the Guarantor and any person who becomes a trustee of the trust jointly with the Guarantor to execute all documents required by the Landlord to ensure that this guarantee and indemnity is binding on them.
- 3) The Guarantor warrants to the Landlord that:
 - (a) it is the sole trustee of the trust and no action has been taken to remove or replace it;
 - (b) the copies of the trust deed and any other documents relating to the trust and the constitution of the Guarantor have been delivered to the Landlord before the Guarantor executed this guarantee and indemnity and they are true copies of those documents as in force at the date of this guarantee and indemnity;
 - (c) the documents delivered to the Landlord contain full particulars of all the terms of the trust;
 - (d) it has power under the trust deed to execute and perform its obligations under this guarantee and indemnity;
 - (e) all necessary action has been taken to authorise the execution and performance of this guarantee and indemnity under the trust deed and the constitution of the Guarantor;
 - (f) this guarantee and indemnity is executed and all transactions relating to this Lease are or will be entered into as part of the due and proper administration of the trust and are or will be for the benefit of the beneficiaries;
 - (g) it is not in default under the trust deed;
 - (h) no vesting date for the trust fund has been determined;
 - (i) it has complied with all fiduciary obligations directly or indirectly imposed on it;
 - (j) it has a right to be indemnified out of the assets of the trust in respect of all of its obligations and liabilities incurred by it under this guarantee and indemnity; and
 - (k) each of the warranties contained in this clause 15.12(3) will remain true as long as this guarantee and indemnity remains in force.
- 4) Except with the prior written consent of the Landlord, the Guarantor must:
 - (a) ensure that the trust deed is not varied, terminated or revoked;
 - (b) not retire as trustee of the trust or appoint any new or additional trustee;
 - (c) not default in its duties as trustee of the trust;
 - (d) not exercise any power to appoint new beneficiaries or class of beneficiaries;

- (e) not vest or distribute or advance any capital of the trust to any beneficiary;
- (f) not sell any of the property of the trust except in the ordinary course of the ordinary conduct of its business; and
- (g) not do anything which effects or facilitates the resettlement of the trust funds.

15.13 General warranty of capacity

In addition to and despite all other warranties, express or implied, in this guarantee and indemnity, the Guarantor warrants and covenants that:

- (a) it is empowered to enter into this guarantee and indemnity and to do all things that will be required by this Lease;
- (b) all things have been done or will be done as may be necessary to render this guarantee and indemnity legally enforceable in accordance with its terms and fully valid and binding on it; and
- (c) all authorisations by any Authority (whether in Australia or not) that are required or will be required in connection with the execution and delivery of, the performance of obligations under or the validity or enforceability of, this guarantee and indemnity have been obtained or effected and are or will be fully operative and in full force and effect.

15.14 Representations and warranties

The Guarantor warrants that it has relied only upon its own enquiries and investigations in relation to all matters referred to in this Lease and not on any representation or warranty by or on behalf of the Landlord.

16 Option of renewal

16.1 Option

If Item 7 contains a proposed further term or terms, the Landlord is only obliged to grant a further lease of the Premises to the Tenant only if the Tenant:

- (a) gives notice to the Landlord stating that the Tenant wants a new lease of the Premises for the next option term specified in Item 7;
- (b) the Landlord receives that notice no later than the day that is 12 months before the Termination Date;
- (c) is not in breach of this Lease, both when the Tenant gives that notice and throughout the period from giving the notice to the Termination Date;
- (d) has not been in repeated or persistent breach of this Lease during the Term; and
- (e) delivers to the Landlord before the Termination Date all replacement securities required under clause 15 to secure the Tenant's obligations under the new Lease.

16.2 New lease

Any further lease referred to in clause 16.1 will be on the same terms and conditions as this Lease, but subject to those variations required under clause 16.3.

16.3 Terms of further lease

- 1) In a further lease, the Reference Schedule will be completed as follows:

Item 4 Commencement Date:	The day after the Termination Date of this Lease.
Item 5 Termination Date:	The last day of the term of the next further lease in Item 7.
Item 6 Term:	The terms of the next further lease in Item 7.
Item 7 Option to Renew:	If the particulars of more than one further lease are specified in Item 7, the particulars of the further lease first specified will be deleted.
Item 8 Rent:	An amount to be agreed between the Landlord and the Tenant and, failing agreement, 3 months before the Term expires, an amount to be determined by following the procedure set out in clause 4.6 to clause 4.10.
- 2) The Landlord will make other changes to the Reference Schedule that may be necessary to reflect the exercise of the option in accordance with this Lease.

16.4 Omission of this clause

This clause 16 will be omitted from any further lease that is created by the exercise of the last option to renew.

16.5 Parties to sign further lease

Without limiting clause 16.1, the Landlord, the Tenant and the Guarantor must sign the further lease within a reasonable time after service on the Landlord of a notice under clause 16.1(1).

16.6 Further Guarantee by the Guarantor

If the performance of the Tenant under this Lease is guaranteed by any Guarantor, the Tenant shall contemporaneously with execution by the Tenant of such further lease documents for any further term at its cost procure the Guarantor to execute and deliver (and the Guarantor covenants to properly execute and deliver) to the Landlord a further joint and several guarantee and indemnity in favour of the Landlord in respect of the performance of the Tenant under such further lease documents, containing the same terms and conditions as the guarantee given by the Guarantor under this Lease, together with such modifications as the Landlord may reasonably require because of the changed circumstances. Failing that any such renewal of this Lease for a further term shall (at the election of the Landlord) be of no force or effect and the Landlord shall not be obliged to grant any such further lease for any further term, nor make any payment to the Tenant in respect of the same.

17 Goods and service tax

- 1) Words used in this clause 17 which have a particular meaning in the GST Law have the same meaning in this clause, unless the context otherwise requires.
- 2) Regardless of any other provision of this Lease, if GST or a similar value added tax is imposed on any supply made to the Tenant under or in accordance with this Lease, the amount the Tenant must pay for that supply is increased by the amount of that GST or value added tax.

- 3) If the whole or any part of a payment is for a Taxable Supply for which the Landlord is liable to GST:
 - (a) the GST Amount in respect of the payment must be paid to the Landlord as an additional amount, either concurrently with the payment or as otherwise agreed in writing; and
 - (b) the Landlord will provide the Tenant with a tax invoice.
- 4) Despite any other provision of this Lease, if a payment of any money due under this Lease (including any contribution to operating expenses) is a reimbursement or indemnification by one party of an expense, loss or liability incurred or to be incurred by the other party, the payment shall exclude any part of the amount to be reimbursed or indemnified for which the other party can claim an Input Tax Credit.
- 5) If the GST Law treats part of a supply as a separate supply for the purpose of determining whether GST is payable on that part of the supply or for the purpose of determining the tax period to which that part of the supply is attributable, that part of the supply is to be treated as a separate supply.
- 6) Any reference to GST payable by the Tenant includes any corresponding GST payable by the representative member of any GST group of which the Tenant is a member.

18 Service Approval

18.1 Valid approval

The Tenant must or must keep the Service Approval current and in full force and effect in the name of the Tenant and must not do or allow anything which may or will cause:

- (a) the Service Approval to be varied in terms of the number of licensed places; or
- (b) the Service Approval to expire, become void or become liable to be forfeited, suspended, cancelled, revoked, taken away or not renewed; or
- (c) the Tenant to be disqualified or prevented from obtaining or holding the Service Approval.

18.2 Renewal of Service Approval

The Tenant must do all acts and things as shall be necessary to procure the renewal of the Service Approval.

18.3 Centre Closure

If the Tenant proposes to close the child care centre business being operated from the Premises the Tenant must give the Landlord no less than 30 days written notice before the date on which the child care centre business is to be closed and the Service Approval returned to the relevant Authority.

18.4 Service Approval

The Tenant must provide the Landlord with a copy of the Service Approval to operate the various child care activities carried out on the Premises when requested by the Landlord. The Tenant must promptly notify the Landlord if:

- (a) the Service Approval is suspended or cancelled; or
- (b) the Authority responsible for administering Service Approval has notified the Tenant that the suspension or cancellation of the Service Approval is imminent

and the Tenant has exhausted all rights to object or appeal against such suspension or cancellation.

19 Management Agreements

19.1 Conditions of consent to appointment

If the Tenant (or any subsequently approved assignee or sublessee) proposes to appoint a manager or agent or some other third party to conduct or assist in the management of the Permitted Use from the Premises the consent of the Landlord must be obtained with such consent not to be unreasonably withheld if:

- 1) the Tenant:
 - (a) gives to the Landlord not less than fourteen (14) days prior written notice of the same together with a true copy of any contract to be entered into with the proposed manager or agent or other third party; and
 - (b) proves to the reasonable satisfaction of the Landlord that the proposed manager or agent or other third party is a respectable, responsible, solvent, fit and suitable person experienced in and capable of adequately carrying on the Permitted Use or any part of it under this Lease or the function they are appointed to perform, the onus of proving the same being upon the Tenant;
- 2) all Rent and other moneys then payable by the Tenant to the Landlord under this Lease have been paid to the Landlord and there is not then any existing, unremedied breach of any covenant by the Tenant under this Lease;
- 3) the Tenant pays to the Landlord all reasonable costs (including legal costs on a solicitor and own client basis) and expenses incurred by the Landlord in determining whether consent should be withheld or granted (whether or not any proposed appointment proceeds to completion) including all administrative and other costs of the Landlord of and incidental to the proposed appointment; and
- 4) the Tenant covenants in writing with the Landlord that the appointment of a manager or agent or some other third party by the Tenant under this clause 19 shall be supplementary to this Lease and shall not in any way relieve or otherwise affect the continuing liability of the Tenant and the Guarantor or any of them under this Lease notwithstanding the appointment.

20 Adjacent Lease

20.1 Termination of Adjacent Lease

Notwithstanding anything else set out in this Lease, the parties acknowledge and agree that:

- 1) the Tenant is in occupation of the Adjacent Property as lessee pursuant to the Adjacent Lease;
- 2) if the Tenant is in breach of the Adjacent Lease it will be deemed a breach of this Lease by the Tenant;
- 3) if the Tenant exercises a right (or rights) of renewal for a further term (or terms) under the Adjacent Lease, the Tenant agrees to contemporaneously validly exercise its right (or rights) of renewal to extend this Lease for the same term in accordance with clause 16 of this Lease;
- 4) if the Adjacent Lease terminates for any reason, this Lease shall immediately terminate; and

- 5) in the event that the Adjacent Lease terminates as a result of the breach or default of the Tenant under the Adjacent Lease, the provisions of clauses 13.4, 13.6 and 13.7 of this Lease shall apply (without prejudice to any other rights of the Lessor).

20.2 Termination of this Lease

Notwithstanding anything else set out in this Lease, the parties further acknowledge and agree that:

- 1) pursuant to the terms of the Adjacent Lease, the termination of this Lease will result in the termination of the Adjacent Lease; and
- 2) in the event that this Lease terminates in such circumstances as to give rise to a liability of the Landlord to pay damages or compensation to the Tenant, the Landlord acknowledges and agrees that such damages or compensation shall include an amount to compensate the Tenant for any losses reasonably suffered by the Tenant as a result of the corresponding termination of the Adjacent Lease (but only to the extent that such loss is not suffered or incurred as a result of a breach of either this Lease and/or the Adjacent Lease by the Tenant).

21 Reference Schedule

Item 1 **Landlord**

MKS CHILDCARE PTY LTD ACN 102 607 661 of c/- Lloyds Solicitors, GPO
Box 187 Brisbane QLD 4001

Item 2 **Tenant**

G8 EDUCATION LTD ACN 123 828 553 of 159 Varsity Parade, Varsity Lakes
QLD 4227

Item 3 **Premises**

The whole of the land comprised in Certificates of Title Volume 5149 Folio 84 and
Volume 5252 Folio 58

Item 4 **Commencement Date**

of 2014

Item 5 **Termination Date**

of 2029 (subject to the terms of this Lease)

Item 6 **Term**

Initial term of fifteen (15) years

Item 7 **Option to Renew**

Three (3) further terms of five (5) years each

Item 8 **Rent**

As and from the Commencement Date, the Rent for the first year of the term shall be
calculated and paid monthly in advance representing 12% of the prior months gross
income of the Child Care Centre conducted by the Tenant in the Premises plus GST,
and otherwise upon the terms contained in Special Condition 1 of Item 15 below.

Item 9 **Review Dates**

On each anniversary of the Commencement Date the Rent shall be increased by
4% per annum fixed increase provided for in clause 4.11

Option Terms

On each anniversary of the Commencement Date, other than the first year of each
further term, the Rent shall be increased by fixed increases of 4% per annum.

Item 10 **Market Review Dates**

On the commencement of each further term (if any)

Item 11 **Permitted Use of Premises**

Child Care Centre

Item 12 **Bank Guarantee Amount**

Three (3) months' rent plus GST, which guarantee shall contain an expiry date which is a date 6 months after the last term

Item 13 **Guarantor**

Not applicable

Item 14 **Land**

The whole of the land in Certificates of Title Volume 5149 Folio 84 and Volume 5252 Folio 58, commonly known as 103-105 Main South Road, Reynella SA 5161

Item 15 **Special Conditions**

1. All rental payments will be calculated on the basis of the previous month's gross income from the Child Care Centre conducted by the Tenant in the Premises, and for the first month of the Term, shall be based on the gross income of the business conducted by the previous Tenant in the Premises, for the month immediately prior to the Commencement Date. Such calculations will be provided monthly by the Tenant to the Landlord in writing, with respect to the Rent to be paid in advance to the Landlord by the Tenant, and will incorporate particulars of the gross income received for the prior month (including, without limitation copies of all documentation evidencing the gross income of the Tenant's (or previous Tenant's) business reasonably required by the Landlord). In the event the Landlord disputes or queries the gross income as disclosed by the Tenant, the Landlord may at its discretion and its cost, seek and obtain an audit of the disputed gross income by the Landlord's nominated auditor. In the event the auditor so nominated determines there is a shortfall of 1.5% or more between the stated gross income and the gross income determined by the auditor, the Tenant shall pay the shortfall to the Landlord on demand, together with the rent unpaid and the costs of the audit. In such an event, the Landlord shall also be entitled to have all previous gross income calculations supplied by the Tenant audited, at the Tenant's cost, on the same basis as set out above, including, without limitation, any determined shortfalls in payments by the Tenant being payable as one sum, to the Landlord, upon demand.
2. For the purposes of Special Condition 1 above, "**gross income**" shall mean all income received by the Tenant in respect of the Child Care Centre conducted by the Tenant in the Premises, exclusive of GST, prior to the deduction of any costs or expenses whatsoever (except GST).
3. For the purposes of the first review of Rent on the first anniversary of the Commencement Date of this Lease, the aggregate monthly instalments paid by way of Rent for the period of the year leading up to that first review date, will constitute the base Rent for the purposes of that review.

CONSENTS OF MORTGAGEES AND SECTION 32 DEVELOPMENT ACT 1993 CERTIFICATION

Not Applicable

This Lease does not contravene section 32 of the Development Act 1993

DATED THE16th.....DAY OFOctober.....2014

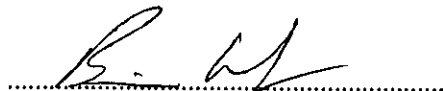
EXECUTION

EXECUTION BY LESSOR:

EXECUTED by **MKS CHILDCARE PTY LTD**)
ACN 102 607 661 in accordance with section 127(1) of)
the *Corporations Act 2001*:



.....
Signature of Director



.....
Signature of Director/Secretary

DAVID GRAHAM BARRETT

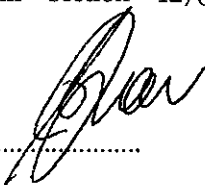
.....
Name of Director

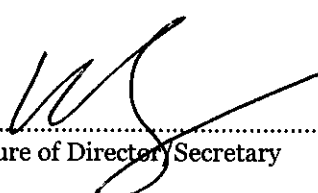
BIRISM VICTOR WALEMYER

.....
Name of Director/Secretary

EXECUTION BY LESSEE:

EXECUTED by **G8 EDUCATION LTD** ACN 123 828)
553 in accordance with section 127(1) of the)
Corporations Act 2001:


.....
Signature of Director


.....
Signature of Director/Secretary

CHRISTOPHER JOHN SCOTT

.....
Name of Director

CHRISTOPHER PAUL SACRE

.....
Name of Director/Secretary

*NB: A penalty of up to \$2000 or 6 months imprisonment applies for improper witnessing

Lessors Copy

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16:14 17-Oct-2014

Fees: \$0.00

Series No

2

3A

LANDS TITLES REGISTRATION OFFICE SOUTH AUSTRALIA

MEMORANDUM OF LEASE

FORM APPROVED BY THE REGISTRAR-GENERAL

BELOW THIS LINE FOR OFFICE & STAMP DUTY PURPOSES ONLY

BELOW THIS LINE FOR AGENT USE ONLY

CERTIFIED CORRECT FOR THE PURPOSES OF THE REAL PROPERTY ACT 1886

Handwritten signature of Austin Robert Winkler and title Solicitor/Registered Conveyancer

AGENT CODE

Lodged by:

Correction to:

TITLES, CROWN LEASES, DECLARATIONS ETC. LODGED WITH INSTRUMENT (TO BE FILLED IN BY PERSON LODGING)

- 1.
2.
3.
4.

PLEASE ISSUE NEW CERTIFICATE(S) OF TITLE AS FOLLOWS

- 1.
2.
3.
4.

DELIVERY INSTRUCTIONS (Agent to complete) PLEASE DELIVER THE FOLLOWING ITEM(S) TO THE UNDERMENTIONED AGENT(S)

Table with 2 columns: ITEM(S), AGENT CODE. Row 1 contains 'FINL' under AGENT CODE.

Approval No: 154-2K

Stamp area containing 'CORRECTION', 'PASSED', 'REGISTERED', date '12 NOV 2014', and Registrar General's signature and seal.