

Dealing Number



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1. Lessor

B JUDE PROPERTIES PTY LTD
A.C.N. 603 062 675

GM Lawyers
PO Box 8075
Woolloongabba Qld 4102

Lodger
Code

2. Lot on Plan Description

LOT 91 ON RP 12150

Title Reference

16540202

3. Lessee

Given names

Surname/Company name and number

(include tenancy if more than one)

JAMMESO PTY LTD
A.C.N. 630 643 828

4. Interest being leased

Fee Simple

5. Description of premises being leased

The whole of the land

6. Term of lease

Commencement date/event: 01/01/2019

Expiry date: 31/12/2021 and/or Event:

#Options: 1 x 3 years

#Insert nil if no option or insert option period (eg 3 years or 2 x 3 years)

7. Rental/Consideration

Refer Attached Schedule

8. Grant/Execution

The Lessor leases the premises described in item 5 to the Lessee for the term stated in item 6 subject to the covenants and conditions contained in:- *the attached schedule; *. Option in registered Lease no. has not been exercised.

* delete if not applicable

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

B Jude Properties Pty Ltd A.C.N. 603 062 675

.....signature

.....full name

.....qualification

Witnessing Officer

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

21/12/18
Execution Date

Lessor's Signature

Bettina Ann Jude – Sole Director/Secretary

9. Acceptance

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

Jammeso Pty Ltd A.C.N. 630 643 828

.....signature

.....full name

.....qualification

Witnessing Officer

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

21/12/18
Execution Date

Lessee's Signature

Mesbah Jamali – Sole Director/Secretary

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ITEM SCHEDULE

- Item 1: PREMISES**
43 Gloucester Street, Highgate Hill, Qld, 4101
- Item 2: TERM**
Three (3) years
- Item 3: COMMENCEMENT DATE**
1 January 2019
- Item 4: RENT**
\$90,000,000 (plus GST) per annum
- Item 5: RENT REVIEWS**
- (a) **CPI Review Date**
 - Not applicable
 - (b) **Market Review Date**
 - Where the lease is renewed under Clause 18.1 or 18.2 if applicable, the first day of the first Rental Period of the relevant Option Term
 - (c) **Fixed Increase Adjustment Date**
 - The first day of the second and third Rental Periods of the Term.
 - Where the Lease is renewed under Clause 18.1 or 18.2 if applicable, the first day of the second and third Rental Periods of the Option Term
- Item 6: PERMITTED USE**
Office
- Item 7: OPTION TERMS**
- (a) First Option Term – Three (3) years
 - (b) Second Option Term – Nil
- Item 8: PUBLIC LIABILITY INSURANCE**
\$20,000,000.00
- Item 9: ADDRESS FOR SERVICE**
- (a) Lessor: B Jude Properties
Address: 56 Furorie Street, Sunnybank Hills, Qld, 4109
 - (b) Lessee: Jammeso Pty Ltd
Address: 10 Rosella Court, Wishart, Qld, 4122
- Item 10: GUARANTOR**
- Not applicable

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Item 11: BOND

An amount equivalent to three (3) months' rent (+ GST)

Item 12: BANK GUARANTEE

An amount equivalent to three (3) months' rent (+ GST)

Item 13: CPI REVIEW

On each CPI Review Date, the Rent for the ensuing Rental Period will be the greater of the following:

- (a) the Rent payable during the Rental Period prior to the relevant Review Date reviewed in accordance with the following formula:

$A \times B / C$

where:

A is the Rent payable by the Lessee for the Rental Period immediately prior to the current Review Date;

B is the CPI determined for the quarter ending immediately prior to the current Review Date;

C equals the CPI determined for the quarter ending immediately prior to commencement of the Rental Period last concluded; and

- (b) 104% of the Rent payable for the Rental Period immediately prior to the relevant Review Date.

Item 14: MARKET REVIEW

- 1 For a Rental Period commencing on a Market Review Date, the Rent payable will be determined in accordance with this Item 14.
- 2 At least 4 months before the Market Review Date, the Lessor must serve a notice on the Lessee (the "Review Notice") stating the amount the Lessor believes would be or is the current annual market rent value of the Premises as at that date.
- 3 The Rent for the ensuing Rental Period will be the sum specified in the Review Notice unless the Lessee within fifteen (15) Business Days of receiving the Review Notice (time being of the essence) by notice in writing to the Lessor (the "Lessee's Notice") disputes that the sum specified in the Review Notice will be or is the current market rent value of the Premises.
- 4 If the Lessee gives a Lessee's Notice and within fourteen (14) Business Days of receipt by the Lessor of the Lessee's Notice, the Lessor and the Lessee fail to agree upon the current market rent value of the Premises, either the Lessor or the Lessee may, by notice in writing to the other (the "Dispute Notice"), elect to have the Rent of the Premises determined by a valuer appointed by the parties (and if they do not agree on who to appoint within seven (7) Business Days of delivery of the Dispute Notice, then that valuer is to be nominated at either party's request by the president of the Institute).
- 5 The valuer appointed under Clause 4 of this Item (**valuer**):

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- (a) must be a full member of the Institute and has at least five years' experience of valuing premises of a like nature in the same market; and
- (b) at the time of appointment is both experienced and actively engaged in valuing premises of a like nature to the Premises;
- (c) must make and deliver his determination under Clause 4 of this Item within thirty (30) days of the appointment; and
- (d) will act as an expert and not as an arbitrator and his determination will be final and binding on the Lessor and the Lessee in the absence of any manifest error.

If the valuer does not comply with sub-clause (c) of this Clause 5, either party may apply to the President of the Institute for the appointment of a replacement valuer. The determination of the first valuer is of no effect unless it is received prior to the appointment of a replacement valuer.

- 6 In determining the annual market rent under Clause 4 of this Item, any valuer will:
- (a) take no account of any deleterious condition of the Premises or the Building if that results from any breach of this Lease by the Lessee;
 - (b) have regard to the terms and conditions of the Lease;
 - (c) have regard to the annual market rent value of any comparable premises in the general vicinity of the Premises;
 - (d) value the Premises as being fit for immediate occupation and use even if work has been carried out by the Lessee or any sub-lessee, licensee or assignee which has diminished the annual market rent value of the Premises;
 - (e) value the Premises as being available to be let by a willing landlord to a willing tenant as a whole without a premium but with vacant possession and subject to the provisions of the Lease (other than the amount of Rent reserved by the Lease but including provisions for rental review);
 - (f) take into account the value of all the Lessor's fixtures, fittings, plant and equipment within the Premises;
 - (g) assume that all covenants contained in the Lease to be performed by the Lessee have been fully performed and observed; and
 - (h) make no reduction on account of any concession otherwise required to secure a tenant or any period of Rent abatement.
- 7 The costs of the valuer's determination will be borne equally by the Lessor and the Lessee.
- 8 Despite any other provision of this Item or any other provision of the Lease, the Rent payable on and from any Market Review Date will not be less than the Rent paid or payable during the preceding Rental Period.

Item 15:

INTEREST RATE

3% above the Commonwealth Bank's overdraft reference rate on unsecured overdraft accommodation in excess of ONE HUNDRED THOUSAND DOLLARS (\$100,000.00).

Item 16

FIXED INCREASE ADJUSTMENT DATE

At each Fixed Increase Adjustment Date the Rent for the ensuing Rental Period will be the Rent

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payable during the Rental Period immediately prior to the relevant Review Date multiplied by 1.04.

Item 17 Rent Free Period

- The month of January 2019
- The month of January 2020
- The month of January 2021.

1. DEFINITIONS

Unless the context in this Lease otherwise requires:

“Air-Conditioning Equipment” means all electrical installations, ductwork, diffusers and other plant relating to the manufacture and reticulation of conditioned air.

“Appurtenances” means all stop-cocks, hydrants, fire hoses, alarm systems or other fire prevention and extinguishing equipment, water closets, toilets, greasetraps, water apparatus, wash basins, wash rooms, gas fittings, electrical fittings, Air-Conditioning Equipment and other services contained in or exclusively servicing the Premises.

“Authority” means any government department, local council, government or statutory authority, public or private utility or other public or private body, which has a right to impose a requirement (including a requirement that its consent be obtained) or charge a fee in connection with the Premises.

“Bond” means a cash bond in the amount specified in Item 11 of the Item Schedule.

“Building” means all improvements erected on the Land including any modifications, extensions or alterations to those improvements and includes all Appurtenances, floor coverings, partitions, ceilings and fixtures and fittings contained in the said building other than the Lessee's Fixtures.

“Business Day” means a week day that is not a Saturday, Sunday or not being a public holiday in Brisbane.

“Commencement Date” means the date specified in Item 3 of the Item Schedule

“CPI” means the Consumer Price Index (All Groups) for the City of Brisbane or the index officially substituted for it.

“CPI Review Date” means each date in Item 5(a) of the Item Schedule.

“Contamination” means a noxious or hazardous substance which makes or may make the Premises or the surrounding Environment unsafe or unfit for habitation or occupation by persons or animals or otherwise environmentally degraded.

“Dangerous Goods” means any item, substance or article which is either:

- prescribed as dangerous goods under the Carriage of Dangerous Goods by Road Act (1984); or
- capable of constituting a risk, threat or menace to persons or property.

“Environmental Law” means in connection with the Premises:

- all planning, environmental, noise, development, health, contamination, radiation, pollution, waste disposal laws, land management and all laws relating to Dangerous Goods or Hazardous Materials or to any aspect of the environment;
- all conditions of all consents, approvals, licences, permissions, permits issued under any such law; and
- regulations and any order, notice, direction or requirement of any Authority in relation to such matters.

“Financial Period” means the period or consecutive periods not exceeding twelve months selected by the Lessor from time to time for the purpose of calculating any charges (including Outgoings) specified in this Lease.

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"**Fixed Increase Adjustment Date**" means the dates in Item 5(c) of the Item Schedule.

"**First Option Term**" means the period specified in Item 7(a) of the Item Schedule.

"**Guarantor**" means the person or persons (if any) specified in Item 10 of the Item Schedule.

"**Hazardous Materials**" means:

- (a) any substance, gas, liquid, chemical, mineral or other physical or biological matter:
 - (i) which is or may become toxic, flammable, inflammable;
 - (ii) which is otherwise harmful to the environment or any life form; or
 - (iii) which may cause pollution, contamination or any hazard or increase in toxicity in the environment or may leak or discharge or otherwise cause damage to any person, property or the environment;
- (b) any items which are Dangerous Goods; or
- (c) any materials or compounds controlled, prohibited or regulated from time to time by any Environmental Law.

"**Institute**" means the Australian Property Institute Inc. (ARBN 007 505 866) (Queensland Division) or its successor.

"**Insolvency Event**" means the occurrence of any of these events in relation to the Lessee:

- (a) an application is made to a court for an order or an order is made that a body corporate be wound up; or
- (b) an application is made to a court for an order appointing a liquidator or provisional liquidator in respect of a body corporate, or one of them is appointed, whether or not under an order; or
- (c) except to reconstruct or amalgamate while solvent on terms approved by the Lessor, a body corporate enters into, or resolves to enter into, a scheme of arrangement or composition with, or assignment for the benefit of, all or any class of its creditors, or it proposes a re-organisation, moratorium or other administration involving any of them; or
- (d) a body corporate resolves to wind itself up, or otherwise dissolve itself, or gives notice of intention to do so, except to reconstruct or amalgamate while solvent on terms approved by the Lessor or is otherwise wound up or dissolved; or
- (e) a body corporate is or states that it is insolvent; or
- (f) as a result of the operation of section 459F(1) of the Corporations Act, a body corporate is taken to have failed to comply with a statutory demand; or
- (g) a body corporate is, or makes a statement from which it may be reasonably deduced by the Lessor that the body corporate is, the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act; or
- (h) it is otherwise unable to pay its debts; or
- (i) a body corporate takes any step to obtain protection or is granted protection from its creditors, under any applicable legislation or an administrator is appointed to a body corporate; or
- (j) a person becomes an insolvent under administration as defined in section 9 of the Corporations Act or action is taken which could result in that event; or
- (k) anything analogous or having a substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction and including deregistration or dissolution.

"**Item Schedule**" means the schedule at the commencement of the Lease bearing that heading.

"**Land**" means the land described in Item 2 of the Form 7 to this Schedule, and where the context so permits includes any part of the Land.

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"Lease" means the Form 7, this Schedule, the Item Schedule, and any annexures and any covenant or agreement expressed to be supplemental to this Lease and all variations to those documents.

"Lessee" includes the permitted assigns of the Lessee and in the event the Lessee is a corporation includes its successors and if the Lessee is a natural person includes the heirs, executors and administrators of the Lessee.

"Lessee's Covenants" means the obligations contained in the Lease whether expressly or implied by law or otherwise imposed by law and which must be observed or performed by the Lessee.

"Lessee's Employees" includes any of the Lessee's employees, contractors, agents or invitees who may at any time be on the Premises.

"Lessee's Fixtures" means all fixtures, fittings, plant, equipment, partitions, furniture, goods, chattels or other articles brought on the Premises from time to time by the Lessee.

"Lessor" means the person for the time being entitled to the reversion of the Premises and includes any person claiming through or under the Lessor.

"Market Review Date" means each date in Item 5(b) of the Item Schedule.

"Occupation Period" means the whole of the period during which the Lessee has occupied or does occupy the Premises whether pursuant to this Lease or any other lease or agreement between the parties.

"Outgoings" means the total of all amounts paid or incurred by the Lessor in any one Financial Period in respect of the Premises or any part of the Premises or in respect of the provision of any services to the Premises on account of:

- (a) rates, charges, and other levies at any time or from time to time payable to any Authority;
- (b) rates and charges at any time or from time to time payable to any Authority responsible for the provision or reticulation of water and/or sewerage and/or drainage services;
- (c) levies, contributions and/or other amounts at any time or from time to time payable to any Authority for or on account of fire protection services;
- (d) all rates, taxes (including but not limited to land tax), charges, assessments, outgoings and impositions (whether parliamentary, municipal or otherwise) at any time or from time to time and whether assessed, charged or imposed by or under Federal or State law or by any Authority and whether on a capital, revenue value or any other basis other than income tax or capital gains tax;
- (e) the cost of insurance premiums and other charges (including stamp duties) for insurance of the Premises against fire and such other risks determined by the Lessor in its absolute discretion including public liability insurance, consequential losses and loss of all rents received from the Premises in an amount or amounts and for periods determined by the Lessor;
- (f) the costs of operating, supplying, maintaining, repairing and renovating of all services from time to time provided by the Lessor for the Lessee, including all fees payable for the operation, maintenance, servicing and repair of Appurtenances;
- (g) the cost of repairs to and maintenance of the Premises other than expenditure incurred by way of rebuilding or additions to the Premises;
- (h) the costs of the provision of security and/or caretaking services to the Premises;
- (i) the costs of gardening and landscaping expenses of the Premises;
- (j) the costs of garbage and trade waste disposal;
- (k) the costs of managing, controlling and administering the Premises and the collection of Rent, Outgoings and other moneys; and
- (l) any other expenses properly and reasonably incurred in conduct of the Premises.

All such Outgoings will be calculated on an accrual and pre-payment basis and to that end will be deemed to have been paid at a time when the obligation to pay, debit or charge the same arose, despite the actual date of payment and any such outgoings, costs and expenses which are assessed at intervals or for periods other than a period of twelve (12) months or which may vary during each Financial Period shall be apportioned by the Lessor in so far as may be necessary to calculate the Outgoings for such period.

"Option Term" means the periods specified in Item 7 of the Item Schedule.

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"Permitted Use" means the use specified in Item 6 of the Item Schedule.

"Premises" means the premises described in Item 5 of the Form 7 in this document and includes the Building, all internal partitions, ceilings, Appurtenances, floor coverings, fixtures and fittings contained in or about the Premises but does not include the Lessee's Fixtures. The expression includes any part of the Premises.

"Rent" means an annual sum specified in Item 4 of the Item Schedule, as varied from time to time in the Lease.

"Rental Period" means each separate year of the Term or (if applicable) the Option Term, the first of such Rental Periods commencing on the Commencement Date and each subsequent Rental Period commencing on the corresponding day of each succeeding year.

"Review Date" means the dates specified in Item 5 of the Item Schedule.

"Requirements" means any Town Planning Conditions, notices, orders, directions, requirements, statutes, ordinances, proclamations, regulations, schemes, permits, by-laws or other regulatory requirements present or future affecting or relating to the Premises or the use of the Premises irrespective of whether the Requirement is addressed to the Lessor, the Lessee or any other person.

"Second Option Term" means the period specified in Item 7 (b) of the Item Schedule.

"Services" includes all services to the Premises or to the Lessee in connection with the Premises including electricity, gas, oil, fuel, any other power (including light), telecommunications, water and drainage services.

"Term" means the period specified in Item 2 of the Item Schedule commencing on the Commencement Date.

"Town Planning Conditions" means any conditions imposed by any Authority controlling the development and use of the Premises, among other things.

2. INTERPRETATION

Unless the context in this Lease otherwise requires:

- (a) every covenant agreement or obligation expressed or implied in this Lease (including any guarantee and indemnity) by which two or more persons covenant, agree, or are bound, binds those persons jointly and each of them severally. Every provision expressed or implied in this Lease (including any guarantee and indemnity) which applies to two or more persons applies to those persons jointly and each of them severally;
- (b) a reference to a statute, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them occurring at any time before or after the Commencement Date;
- (c) references to any right of the Lessor to have access to the Premises extend to all persons authorised by the Lessor including agents, professional advisers, contractors, workmen and others;
- (d) any covenant by the Lessee not to do any act or thing is deemed to include an obligation not to permit that act or thing to be done, and to use its best endeavours to prevent that act or thing being done by a third party.
- (e) any provision in this Lease requiring the consent or approval of the Lessor also requires the consent or approval of any mortgagee of the Premises and any superior Lessor where that consent is required. This Lease does not restrict the right of any mortgagee or superior Lessor to refuse any consent or approval.
- (f) words importing:
 - (i) the singular include the plural and vice versa; and
 - (ii) any gender includes the other genders;
- (g) if a word or phrase is defined cognate words and phrases have corresponding definitions;

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- (h) a reference to all parties, clauses, schedules or annexures shall, unless otherwise provided, be to the parties for the time being to this Lease and to the clauses, schedules or annexures of or to this Lease;
- (i) the headings are inserted in this Lease for convenience only and do not affect the interpretation;
- (j) a reference to a month is a calendar month;
- (k) if the word "including" or "includes" is used, the words: "without limitation" are deemed to immediately follow; and
- (l) every obligation or covenant (whether positive or negative) undertaken by any Party (including the Guarantor) will, despite the wording, be deemed to be and will be construed as if each obligation or covenant is a separate and independent covenant made by the Party undertaking the obligation and continuing (unless the context otherwise requires) throughout the term of this Lease and subsequently so long as it remains to be performed.

3. TERM

The Lessor leases the Premises to the Lessee for the Term subject to the provisions of this Lease.

4. HOLDING OVER

- (a) If the Lessee continues to occupy the Premises after expiry of the Term or (if applicable) the Option Term, with the Lessor's approval, it does so under a tenancy for a fixed term of one month and then for successive periods of one month each:
 - (i) which either party may terminate on one month's written notice in writing ending on any day; and
 - (ii) at a rent which is one twelfth of the total of the Rent payable during the previous Rental Period
- (b) Subject to sub-clause 4(a), the tenancy is on the same terms (including but not limited to clause 6) as this Lease except for those changes which:
 - (i) are necessary to make this lease appropriate for that tenancy (but any bond or bank guarantee required under this lease may not be reduced); or
 - (ii) the Lessor requires as a condition of giving its approval to the holding over.
- (c) On the termination of the tenancy the Lessee must give back the Premises in the condition required in clause 12.7.

5. RENT

5.1 Payment

In each Rental Period, the Lessee will pay to the Lessor the Rent by equal monthly instalments in advance on the first day of each month, without any formal or other demand and without set-off, counter-claim, withholding or deduction. If the Lessor requires, the Lessee will pay the Rent by way of electronic bank transfer other than by way of direct debit. In the case of any broken period of less than one (1) month the Lessee will, on the first day of each broken period, pay an amount ascertained by multiplying the number of days in the broken period by the Rent for the Rental Period of which it forms part and dividing the result by the number of days in the Rental Period.

5.2 Accord and Satisfaction

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

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5.3 Reviews

The Rent will be reviewed at each Review Date and calculated and determined in the manner specified in Items 13, 14 and 16 of the Item Schedule.

5.4 Calculating Rent

Pending determination of the Rent for any Rental Period the Lessee will continue to pay monthly instalments on account of the Rent at the same monthly rate at the end of the Rental Period last concluded and any necessary adjustment will be made within one (1) month of determining the Rent for the relevant Rental Period.

5.5 GST Indemnity

(a) Capitalised expressions which are not defined in this clause but which have a defined meaning in the GST Law have the same meaning in this clause.

(b) In this Lease:

(i) **GST Amount** means, in relation to a Payment, an 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 (being 10% when the GST Law commenced) or any lower rate notified from time to time by the person making the relevant Supply;

(ii) **GST Law** has the meaning given to that term in A New Tax System (Goods and Services Tax) Act 1999, or, if that Act is not valid or does not exist for any reason, means any Act imposing or relating to the imposition or administration of a goods and services tax in Australia and any regulation made under that Act;

(iii) **Payment** means:

- A. the amount of any monetary consideration (other than a GST Amount payable under this clause); and
- B. the GST Exclusive Market Value of any non-monetary consideration;

paid or provided by the Lessee for this lease or by the Lessor or the Lessee for any other Supply made under or in connection with this Lease and includes:

- C. any Rent or any other payments required under this Lease; and
- D. any amount payable by way of indemnity, reimbursement, compensation or damages.

(c) The parties agree that:

(i) all Payments have been set or determined without regard to the impact of GST;

(ii) if the whole or any part of a Payment is the consideration for a Taxable Supply for which the payee is liable to GST, the GST Amount in respect of the Payment must be paid to the payee as an additional amount, either concurrently with the Payment or as otherwise agreed in writing; and

(iii) the payee will provide to the payer a valid Tax Invoice.

(d) Despite any other provision of this Lease, if a Payment due under this Lease 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 GST forming part of the amount to be reimbursed or indemnified for which the other party can claim an Input Tax Credit.

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6. OUTGOINGS

6.1 Not In Use

- (a) Not in Use
- (b) Not in Use
- (c) Not in Use
- (d) Not in Use

6.2 Utilities

The Lessee will pay all charges for electricity, gas, water, oil and any other source or type of energy or fuel, telephone and other utilities and services to or from the Premises and must pay or reimburse any costs incurred by the Lessor in installing meters or sub-meters in the Premises for the measurement of the consumption of those services.

6.3 Lessee's Occupancy

The Lessee shall pay all amounts which are assessed, charged or imposed upon or in respect of or by virtue of the Lessee's occupancy of the Premises or the Lessee's business whether assessed against the Lessee or the Lessor. If assessed against the Lessee such amounts will be paid by the Lessee to the relevant Authority by the due date for payment and if assessed against the Lessor will be paid to the Lessor upon demand.

6.4 Other Services

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

7. OTHER CHARGES

7.1 Lease Costs

The Lessee shall on demand pay to the Lessor:

- (a) the Lessor's legal costs (on a solicitor and own client basis) of and incidental to the negotiation, preparation, execution, stamping and (if applicable) registration of this Lease to a maximum total of \$1,500 + GST plus reasonable third party outgoings;
- (b) all reasonable costs for obtaining the consent of any mortgagee of the land to this Lease;
- (c) all registration fees (if any) assessable against this Lease; and
- (d) plan preparation costs.

7.2 Other Costs

The Lessee shall on demand pay to the Lessor the Lessor's reasonable legal costs and disbursements in relation to:

- (a) any default or breach by the Lessee under the provisions of the Lease, including;
 - (i) the lawful determination or lawful attempted determination of the Lease;
 - (ii) the lawful re-entry or lawful attempted re-entry by the Lessor into the Premises;

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- (iii) the surrender of the Lease (including any stamp duties and registration fees thereon);
- (b) any application for consent of the Lessor or the Lessor's mortgagee whether that consent is or is not granted;
- (c) any proceedings brought by the Lessor to enforce performance by the Lessee of the Lessee's Covenants; and
- (d) any litigation to which the Lessor is made a party commenced by or against the Lessee (other than litigation between the Lessor and the Lessee) and arising directly or indirectly out of the Lessee's use or occupation of the Premises.

Other than in respect to clause 7.2(b), the Lessor's legal costs will be calculated on a solicitor and own client basis

7.3 Interest

In the event the Lessee does not make a payment on time, it must pay, on demand by the Lessor, interest at the rate set out in Item 15 of the Item Schedule on that amount from the due date for payment until it is paid. Interest is capitalised monthly if not paid and calculated on daily balances of the amount outstanding for the original payment and capitalised interest.

8. USE

8.1 Permitted Use

The Lessee must use the Premises only for the Permitted Use.

8.2 Representations as to Use

- (a) The Lessee represents to the Lessor that it has satisfied itself that the Premises, the Building and the Services are suitable for the Permitted Use.
- (b) The Lessee acknowledges the existence of the Town Planning Conditions.
- (c) The Lessee represents to the Lessor that the Lessee has made its own independent enquiry of the relevant Authority to satisfy itself that its proposed use of the Premises does not breach the Town Planning Conditions.
- (d) The Lessee acknowledges that a breach by it of the Town Planning Conditions will be a breach by it of an essential term of this Lease.
- (e) The Lessor does not give any warranty of any kind that the Premises are suitable for the purpose for which the Lessee intends to use them. Any warranty in relation to the Premises which is implied by law is excluded to the extent that the law permits the warranty to be excluded.
- (f) The Lessee must do everything necessary for the Lessee to use the Premises lawfully, including obtaining the consent of any relevant Authority which may be required for the Lessee to carry on its business in the Premises and the failure of the Lessee to do so does not relieve the Lessee of its obligation to pay Rent and to otherwise observe the Lessee's Covenants.
- (g) The Lessee represents and warrants to the Lessor that the Lessee is not and will not use the Premises to carry on a business involving the sale or hire of goods by retail or the provision of retail services within the meaning of the *Retail Shop Lease Act 1994 (Qld)*.

8.3 Compliance with Requirements

- (a) The Lessee must, at its own cost, punctually, fully and effectually comply with all Requirements relating to the Lessee's use or occupation of the Premises.

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- (b) The Lessee must:
- (i) promptly give to the Lessor a copy of any notice received by the Lessee relating to the Premises or the Lessee's use of the Premises; and
 - (ii) pay to the Lessor on demand all reasonable costs incurred by the Lessor in complying with any Requirements relating to the Lessee's use or occupation of the Premises.
- (c) The Lessee is not required by this clause to make any capital or structural improvements or alterations except where they are rendered necessary or desirable as a consequence of:
- (i) any act or omission on the part of the Lessee or the Lessee's Employees; or
 - (ii) the use of the Premises for the Permitted Use; or
 - (iii) the number or sex of persons employed by the Lessee at the Premises.

9. OBLIGATIONS OF THE LESSEE

9.1 Positive Obligations of Lessee

The Lessee must:

- (a) promptly inform the Lessor of damage to the Premises or of a faulty Service when it becomes aware of it;
- (b) conduct the Lessee's business in a proper and safe manner;
- (c) secure the Premises when they are unoccupied;
- (d) promptly notify the Lessor if the Lessee becomes aware of any threat to the Premises and comply with the Lessor's reasonable directions for the purpose of protecting property or persons on the Premises;
- (e) take, from time to time, all reasonable precautions to keep the Premises free of rodents, termites, insects, vermin and other pests;
- (f) promptly notify the Lessor and the proper authorities in the event any infectious disease happens upon the Premises which may require notification by virtue of any Statute, regulation or ordinance and fumigate and disinfect the Premises at the Lessee's expense;
- (g) at the Lessee's own expense, regularly clean the interior of the Building including the exterior plate glass of the Building to the reasonable satisfaction of the Lessor and keep the Premises free from rubbish and dirt and store all trade waste refuse and garbage in proper receptacles in the areas designated for the purpose and arrange for the regular removal of same from the Premises;
- (h) advise the Lessor promptly in writing of any known damage sustained to the Premises or the defective operation of any of the Appurtenances and/or Air-Conditioning Equipment within the Premises;
- (i) promptly, when asked by the Lessor (acting reasonably), do everything necessary to enable the Lessor to exercise its rights under this Lease; and
- (j) ensure that the Lessee's Employees comply with the Lessee's Covenants as are applicable to them and the obligation of proving that an obligation is not applicable to them will rest with the Lessee;

9.2 Negative Obligations of Lessee

The Lessee must not:

- (a) load the floors of the Premises in such a way as to exceed the maximum load weights;

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- (b) carry on, in or on the Premises any noxious or offensive act, trade, business, occupation or calling nor do any act or thing which is or may become an annoyance, nuisance, grievance or disturbance to any occupier or owner of any adjacent premises;
- (c) alter or interfere with the Appurtenances, use them for any purpose other than those for which they were constructed or provided or remove them from the Premises;
- (d) put up signs, advertisements, lights, blinds, awnings, antennae or receiving dishes without the prior written approval in writing of the Lessor which will not be unreasonably withheld or delayed including where the Lessee obtains any necessary approval of an Authority;
- (e) hole, mark or damage any of the floors, walls, ceilings, partitions or other parts of the Premises except so far as may be necessary for the erection of approved signs, notices, advertisements, blinds, awnings, etc;
- (f) store or use inflammable, volatile or explosive substances on the Premises except where the substances are required for the Permitted Use for the Lessee's business and in that case the Lessee must promptly notify the Lessor and comply with all relevant Requirements and the requirements of any Authority and the Lessor's insurer in respect of such storage or use;
- (g) affix nor attach anything to any wall or floor of the Premises causing any wall or floor to be overloaded without the Lessor's prior written approval which approval may be given subject to any conditions the Lessor sees fit but otherwise will not be unreasonably withheld or delayed;
- (h) hold or permit to be held any auction, bankruptcy or fire sale in the Premises;
- (i) keep any animal or bird on the Premises;
- (j) knowingly or negligently do anything on the Premises or bring or keep anything in the Premises whereby any policy of insurance relating to the Premises may be rendered void or voidable; and
- (k) knowingly or negligently do anything to overload, block or interfere with the Services nor use them for anything other than their intended purpose.

10. RISK AND INSURANCES

10.1 Release of Lessor

The Lessee occupies the Premises and uses the Building and the Land at its own risk. To the full extent permitted by law, the Lessee releases the Lessor for liability or loss arising from and costs incurred in connection with any of the following, unless expressly required by the Lease:

- (a) damage, loss, injury or death unless it is caused by the Lessor's negligence;
- (b) anything the Lessor is permitted or required to do under this Lease;
- (c) a Service not being available, being interrupted or not working properly for any reason;
- (d) the Lessor's plant and equipment not working or not working properly for any reason;
- (e) the Building not being clean or secure;
- (f) any fire, bomb threat or other emergency drill or the Lessee evacuating the Building because of any fire, bomb threat or other emergency;
- (g) the operation of any statute, regulation or notice issued by an Authority;
- (h) any strike, accident, riot, industrial action or civil disturbance;
- (i) the Lessor being required to investigate, test, evaluate, monitor, remediate, secure or manage any contamination or environmental matter concerning the Premises; and

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- (j) the negligent use, misuse, waste or abuse by the Lessee or by the Lessee's Employees of any Services to the Premises.

except to the extent caused or contributed to by the neglect or default of the Lessor, its employees, contractors or agents.

10.2 Indemnity

The Lessee is liable for and indemnifies and shall keep indemnified the Lessor against liability or loss arising from and costs incurred in connection with any of the following, unless expressly required by this Lease:

- (a) damage, loss, injury or death caused or contributed to by the act, negligence or default of the Lessee or of the Lessee's Employees;
- (b) any breach by the Lessee of this Lease;
- (c) any accident on or about the Premises not caused by the Lessor;
- (d) the overflow or leakage of water (including rain water) in or from the Premises caused or contributed to by the act, negligence or default of the Lessee or the Lessee's Employees;
- (e) the loss, damage or injury from any cause whatsoever to property or person caused or contributed to by the use of the Premises by the Lessee even though the use may be within the scope of the Permitted Use; and
- (f) the Lessor doing anything which the Lessee must do under this Lease but has not done or which the Lessor considers the Lessee has not done properly,

except to the extent caused or contributed to by the neglect or default of the Lessor, its employees, contractors or agents.

10.3 Independent Indemnities

Each indemnity is independent from the Lessee's other obligations and continue during this Lease and after it expires or is terminated. The Lessor may enforce an indemnity before incurring expense.

10.4 Lessor's Non-Liability for Loss or Damage

Despite any other provision of this Lease, the Lessor is not liable for any damage or loss the Lessee may suffer:-

- (a) by any act, default or neglect of the Lessor or any other persons on the Lessor's behalf and by its authority carrying out the powers, authorities and provisions contained in this Lease or otherwise in respect to the Building or the Premises; or
- (b) by reason of the Lessor neglecting to do something to the Building or the Premises and which, between the Lessor and the Lessee, the Lessor may be legally liable to do,

unless the Lessee has given to the Lessor written notice to do such thing and the Lessor has without reasonable cause failed within a reasonable time after such notice to take proper steps to comply with such notice.

10.5 Insurance

The Lessee must in connection with the Premises, maintain with insurers and keep current all of the insurances referred to in clause 10.6 and on terms approved by the Lessor who may not unreasonably withhold its approval.

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10.6 Policies

The Lessee must:

- (ii) insure against public liability in relation to the Premises and in relation to all operations of the Lessee with respect to the occupancy by the Lessee of the Premises for a sum not less than the sum specified in Item 8 of the Item Schedule for a single claim or for another minimum sum that the Lessor may reasonably require from time to time;
- (iii) insure all plate and other glass on the Premises or forming part of the boundary walls of the Premises against breakages;
- (iv) insure the Lessee's Fixtures for a sum equal to the full replacement value;
- (v) have other insurances which the Lessor's mortgagee reasonably requires from time to time;
- (vi) effect each policy with an independent insurer of good repute and apparent sound financial backing acceptable to the Lessor;
- (vii) give the Lessor a copy of any policy of insurance upon request by the Lessor; and
- (viii) give the Lessor a Certificate of Currency issued by the insurer before the Commencement Date and before each renewal date of the policy or at any other time notified by the Lessor to the Lessee in writing.

10.7 Lessor's Interest

Any policy effected by the Lessee in respect of the risks specified in Clause 10.6 must be taken out in either the joint names of the Lessor and the Lessee for their respective rights and interests or in the name of the Lessee but with the Lessor named as an interested party.

10.8 Fire Regulations

The Lessee must:

- (a) comply with insurance, sprinkler and fire alarm regulations; and
- (b) pay to the Lessor the cost of any alterations to the sprinklers or fire alarm installations (other than repairs or replacement of a capital or structural nature required prior to the Lessee's occupation of the Premises, which are the Lessor's responsibility) which may become necessary by reason of the Lessee's use of the Premises, the non-compliance by the Lessee with the regulations of any Authority, the requirements of the Insurance Council of Australia or of the Lessor's insurer.

10.9 Lessor's Insurance Excess

The Lessee shall pay to the Lessor on demand any extra or excess insurance premiums and other charges for insurances on the Premises required on account of extra risk caused by the Lessee or the Permitted Use or the Lessee's business or required by reason of any breach by the Lessee of its obligations under this Lease.

10.10 Lessor may insure

- (a) If the Lessee fails to maintain the insurances required by this clause 10, then without limiting any right of the Lessor, the Lessor may (but is not obliged to) effect and maintain those insurances.
- (b) The Lessor's costs in effecting and maintaining the insurances under clause 10.10(a) must be paid by the Lessee.

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10.11 Condition of Lessor's Liability

In the case of remedial breach the Lessor will not be or be deemed to be in default under this Lease unless the Lessee has given the Lessor written notice of the breach and the Lessor has failed, within a reasonable time, to take proper steps to rectify the breach, unless

- (i) in the case of defects that are not structural and not otherwise known to the Lessor, the Lessee has given to the Lessor written notice to do such thing and the Lessor has without reasonable cause failed within a reasonable time after such notice to take proper steps to comply with such notice; or
- (ii) the case of defects that are structural and not latent, the Lessee has given to the Lessor written notice to do such thing and the Lessor has without reasonable cause failed within a reasonable time after such notice to take proper steps to comply with such notice.

10.12 Lessors Insurance

The Lessor will effect and maintain throughout the term of this Lease (including any option or holding over periods) a comprehensive insurance policy for the full replacement value of the Building with a respectable and reputable insurer.

11. TRANSFER AND OTHER DEALINGS

11.1 No Assignment, Subletting etc

Subject, to clause 11.11, the Lessee must not transfer this lease, sublet, licence or otherwise part with possession of the Premises without the prior written consent of the Lessor.

11.2 Consent

The Lessor may not unreasonably withhold its consent to an assignment or sub-lease or licence if:

- (a) the Lessee satisfies the Lessor that the proposed transferee, sub-lessee, licensee or other person taking possession (each called in this clause **new tenant**):
 - (i) is financially sound and capable of performing the Lessee's obligations under this Lease and will be conducting the Permitted Use; and
 - (ii) is a respectable and responsible person, and
- (b) all Rent, and all other money payable by the Lessee then due has been paid and there is no existing unremedied breach of the Lessee's Covenants; and
- (c) The new tenant enters into a deed with the Lessor containing a covenant that the new tenant will comply with the Lessee's Covenants and that deed is prepared by the Lessor's solicitors at the cost of the Lessee; and
- (d) In the case of an assignee or sub-lessee which is a corporation, the Lessee procures execution of any guarantee required by the Lessor under Clause 11.3; and
- (e) the Lessee and the proposed new tenant comply with all the Lessor's reasonable requirements.

The Lessor may withhold its consent in its discretion if the proposed assignee or sublessee proposes to change the use of the Premises or the Lessee proposes to sublet only part of the Premises.

11.3 Corporate Assignee or Sub-Lessee

- (a) If the proposed new tenant is a corporation, the shares in which are not quoted on any stock exchange in Australia, it may be a term of the Lessor's consent to an assignment or sub-letting that the Directors and/or Shareholders of that corporation guarantee to the Lessor the observance and performance by the proposed new tenant of the Lessee's Covenants including payment of all Rent, and other moneys payable by the Lessee under this Lease.

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- (b) If the proposed new tenant is a subsidiary of a corporation the shares in which are not quoted on any stock exchange in Australia, it may be a term of the Lessor's consent to an assignment or sub-letting that the holding corporation guarantees to the Lessor the observance and performance by the proposed new tenant of the Lessee's Covenants including payment of all Rent, and other moneys payable by the Lessee under this Lease.
- (c) The guarantee will be in a form required by the Lessor and will be prepared by the Lessor's solicitors at the reasonable cost of the Lessee.

11.4 Bank Guarantee

The Lessee must procure from the proposed new tenant, whether or not the proposed new tenant is a corporation, a Bank Guarantee in accordance with clause 25.

11.5 Bond

The Lessee must procure from the proposed new tenant, whether or not the proposed new tenant is a corporation, a Bond in accordance with clause 23.

11.6 Release of Obligations

As long as the Lessee complies with clause 11, the Lessor shall release the Lessee from any further obligations under this Lease that is effective as and from the date of assignment of the Lease. For avoidance of doubt, this clause 11.6 shall not apply in the case of any liability arising prior to the date of the assignment.

11.7 Change in Control of Lessee

If:

- (a) the Lessee is a company which is not listed on the Australian Stock Exchange; and
- (b) there is a proposed change in shareholding of the Lessee or its holding company so that a different person or group of persons from that existing at the date the Lessee acquired its interest in this Lease will control the composition of the board of directors or more than 50% of the shares giving a right to vote at general meetings,

then that proposed change in control is treated as a proposed transfer of this Lease, the person or group of persons acquiring control is treated as the proposed new tenant and the Lessee may not make that change unless it obtains the Lessor's approval and complies with Clause 11.2.

11.8 Lessor's Costs

If the Lessee applies to the Lessor for the Lessor's consent under this Clause 11, the Lessee must pay to the Lessor all reasonable and proper professional and other costs and expenses incurred by the Lessor of and incidental to any reasonable and proper enquiry made by or on behalf of the Lessor as to the financial standing of the proposed new tenant.

11.9 Security

- (a) The Lessee must not mortgage, charge or otherwise encumber the Lessee's estate or interest under the Lease.
- (b) The Lessee may only create or allow to come into existence a lease or security affecting the Lessee's Fixtures with the Lessor's approval (which may not be unreasonably withheld or delayed). If the Lessor gives its approval, the Lessee must execute a waiver reasonably required by the Lessor.

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11.10 Caveats

- (a) Subject to clause 11.10(b), neither the Lessee or any agent nor any other person on behalf of the Lessee shall lodge a caveat affecting the Land or any part thereof. The Lessee shall not allow a caveat lodged by a person claiming through the Lessee to remain on the title to the land.
- (b) In the event the Lessee has paid the Lessor the Lease registration fees and has requested the Lessor to register the Lease, the Lessee may lodge a caveat to protect its interest until the Lease has been registered.

11.11 Licence/s to occupy

- (a) Subject to clause 11.11(b) and 11.11(c), the Lessor shall permit the Lessee to grant licence/s to occupy part of the Premises to any third party from time to time without obtaining the Lessor's prior written consent. The requirements in clauses 11.1 to 11.9 shall not apply if the Lessee grants licences/to occupy part of the Premises under this clause.
- (b) Any licensee granted a licence under clause 11.11(a) must not occupy the Premises for any use other than the Permitted Use. For the avoidance of doubt, the Lessee shall ensure that any licensee does not use any part of the Premises (including but not limited to the kitchen facilities) to prepare food for the purposes of carrying on a business.
- (c) Prior to granting any licence under clause 11.11(a), the Lessee must provide the Lessor with written details of the Licensee, including each of the following:
 - (i) Name of licensee;
 - (ii) Address of licensee;
 - (iii) Contract details for licensee; and
 - (iv) Nature of the business to be carried on by the licensee at the Premises.
- (d) This clause 11.11 is an essential term of this Lease.

12. REPAIR AND MAINTENANCE

12.1 Notice of Damage

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

12.2 Maintenance and Repair

The Lessee shall, at its own cost:

- (a) promptly make good any damage, breakage or defect to the Premises or the Services occasioned by want of care, misuse or abuse on the part of the Lessee or the Lessee's Employees or otherwise occasioned by any breach or default of the Lessee's Covenants;
- (b) keep the whole of the Premises and the Lessee's Fixtures in good and tenantable repair, order and condition having regard to their condition as at the Commencement Date, subject to fair wear and tear and damage by fire, lightning, storm, tempest, earthquake, explosion, riot, civil commotion, act of God or war;
- (c) promptly replace all broken exterior plate glass or other windows with glass of similar quality;
- (d) promptly repair and replace all damaged or broken heating, lighting, electrical equipment (including light globes and fluorescent tubes);
- (e) keep and maintain the doors, locks, windows and window fittings in good and efficient working order and condition and at the expiration or sooner determination of the Term return all keys to the Premises to the Lessor;

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- (f) promptly repair leaking taps and cisterns and clear blocked pipes within the Premises;
- (g) keep and maintain the wastepipes, drains and conduits originating within the Premises in clean, clear and free flowing condition between their points of origin and their entry in any trunk drain and shall at its own expense employ licensed tradesmen to clear any blockages which may occur therein. In addition the Lessee shall have regularly cleaned and serviced any grease trap provided for the exclusive use of the Premises;
- (h) keep and maintain any signs or advertisements painted or erected or affixed to the Premises in good repair and of good appearance; and
- (i) make good any damage caused to adjoining premises by any action of the Lessee or the Lessee's Employees,

other than repairs or replacements of a capital or structural nature which are the Lessor's responsibility, except those caused by any deliberate or negligent act or default on the part of the Lessee or the Lessee's Employees.

The parties acknowledge that the Lessee's obligations under this clause relate to the whole of the Occupation Period notwithstanding that the Occupation Period may have commenced prior to the Commencement Date.

12.3 Redecoration Works

- (a) During the last three (3) months of the Lessee's occupancy of the Premises, the Lessee shall restore the Premises to the condition the Premises was in as at the Commencement Date excepting fair wear and tear ("Redecorate, Redecoration Works").
- (b) Prior to carrying out any such Redecoration works, the Lessee must obtain the Lessor's approval to the types and colours of paints, materials and other treatments to be used in connection with such Redecoration works.
- (c) If the Lessee fails to Redecorate, the Lessor may Redecorate the Premises and recover the reasonable costs of such Redecoration from the Lessee.

12.4 Air-Conditioning Equipment

The Lessee must:

- (a) at the Lessee's cost, enter into and maintain a preventative maintenance contract for the regular servicing and maintenance of the Air-Conditioning Equipment in accordance with the manufacturer's recommendation; and
- (b) upon request at any time produce to the Lessor a copy of such contract.

12.5 External Areas

The Lessee must maintain all areas outside the Building in good order and condition. The Lessee will:

- (a) weed all gardens and landscaped areas;
- (b) mow all lawns and keep them neat and tidy; and
- (c) generally maintain the grounds neat and free from rubbish.

12.6 Alterations

- (a) The Lessee must not make any alterations to the Premises without the prior written approval of the Lessor (which, other than in regards to structural building works, must not be unreasonably withheld or delayed) and of each Authority whose approval is necessary to enable the work to be lawfully carried out.

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- (b) The Lessor may withhold approval in its discretion if the Lessee wishes to carry out structural building work.
- (c) The Lessee must give the Lessor plans and specifications for the proposed work and pay any reasonable fees charged by the Lessor's architect for advising on them.
- (d) The Lessee must undertake the work in accordance with the Requirements and of any Authority and otherwise in a good and workmanlike manner by qualified contractors.
- (e) At the end of the Lease upon the request of the Lessor, the Lessee must restore the Premises to the condition the Premises were in as at prior to the Lessee carrying out any works or alterations to the Premises under this clause 12.6.

12.7 Repair at end of Lease

Subject to clause 12.3, the Lessee must:

- (a) on the expiry or earlier determination of the Lease give the Premises back to the Lessor in good repair and working order having regard to their condition as at the Commencement Date and ensure that the Premises are clean and free from rubbish;
- (b) make good any damage then existing to the Premises caused by the Lessee or the Lessee's Employees to comply with this clause to the reasonable satisfaction of the Lessor subject only to reasonable wear and tear; and
- (c) remove any of the Lessee's signs displayed on the Premises and make good any damage caused by the installation of signs or their removal to the reasonable satisfaction of the Lessor.

12.8 Removal of Lessee's Fixtures

- (a) When the Lease ends, the Lessee must (if requested to do so by the Lessor) take the Lessee's Fixtures away from the Premises.
- (b) The Lessee must not damage the Premises by the removal and must promptly make good any damage to the reasonable satisfaction of the Lessor.
- (c) Lessee's fixtures which are not removed by that date will become the property of the Lessor.
- (d) The Lessor may, at the expense of the Lessee, remove and dispose of the Lessee's Fixtures if the Lessee does not take them away.

12.9 Work Place Health and Safety

- (a) The Lessee acknowledges and agrees that, for the purposes of any works carried out in the Premises, the Lessee is the person conducting the business or undertaking in relation to such works and that the Lessee is the person with management or control of the works.
- (b) The Lessee must, to the extent that it is personally responsible to do so, comply with the Workplace Health and Safety Act 2011 (Qld) (the "WHS Act") and use reasonable endeavours to ensure that any other person involved in carrying out the works complies with the WHS Act.
- (c) Notwithstanding Clause 12.9(a), in order to fulfil any of the Lessor's obligations under the WHS Act with respect to the works, the Lessee agrees to:
 - (i) Co-operate with the Lessor;
 - (ii) Use reasonable endeavours to ensure that any other persons involved in carrying out the works also co-operate with the Lessor ; and

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- (iii) To consult with, exchange information and work together with the Lessor in a co-operative and co-ordinated way to ensure that the Lessor's work health and safety obligations with respect to the works are fulfilled.
- (d) The Lessee indemnifies the Lessor against any liability of the Lessor under the WHS Act.
- (e) The provisions of this Clause apply regardless of whether the work is to be carried out under the supervision of the Lessor or any person nominated by the Lessor.

13. LESSOR'S COVENANTS

13.1 Quiet Enjoyment

Subject to the Lessor's rights, while the Lessee complies with its obligations under this lease, it may occupy the Premises during the Term without undue interference by the Lessor.

13.2 Rates and Taxes

The Lessor will subject to any right of recovery or reimbursement from the Lessee pay rates and taxes assessed on the Lessor in respect of the Premises.

13.3 Sale or Transfer of Land

If the Lessor sells or transfers any portion of the Land which the Premises forms part of, the Lessor must at its costs obtain a covenant from the purchaser or transferee agreeing to be bound by the terms of this Lease. This clause only applies if this Lease is unregistered.

13.4 Lessor's obligations

The Lessor must keep the Building structurally sound and watertight.

14. DEFAULT

14.1 Essential Terms

Each obligation of the Lessee to pay money and to provide security to the Lessor and its obligations under the following clauses are essential terms of this Lease (and other obligations under this Lease may also be essential terms):

- (a) to provide any security required under this Lease;
- (b) to pay Rent (Clause 5.1);
- (c) not in use;
- (d) to pay GST (Clause 5.5);
- (e) to use the Premises only for the Permitted Use (Clause 8.1);
- (f) to comply with Requirements (Clause 8.3);
- (g) to maintain and repair (Clause 12.2);
- (h) not to make alterations (Clause 12.6);
- (i) to insure (Clause 10.5); and
- (j) not to assign, sub-let or mortgage (Clauses 11.1 & 11.9).

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14.2 Lessor's Right to Terminate

The Lessor may terminate this Lease by giving the Lessee notice or by re-entry (after first giving any notice where required by law) if:

- (a) an Insolvency Event occurs; or
- (b) the Lessee does not comply with an essential term of the Lease; or
- (c) the Lessee is in breach of a Lessee's Covenant (which is not an essential term) and in the Lessor's reasonable opinion:
 - (i) the non-compliance can be remedied but the Lessee does not remedy it within a reasonable time after the Lessor gives the Lessee notice to remedy it;
 - (ii) the non-compliance cannot be remedied or compensated for; or
 - (iii) the non-compliance cannot be remedied but the Lessor can be compensated and the Lessee does not pay the Lessor compensation for the breach within a reasonable time after the Lessor gives the Lessee notice to pay it;
- (d) the Lessee repudiates its obligations under the Lease

14.3 Damages

- (a) If the Lessor terminates the Lease the Lessee indemnifies the Lessor against any liability or loss arising and any reasonable costs incurred (whether before or after termination), in connection with:
 - (i) the Lessee's breach of the Lease; or
 - (ii) the termination of the Lease,including the Lessor's loss of the benefit of the Lessee performing the Lessee's Covenants from the date of termination until expiry of the Lease.
- (b) Without limiting the Lessor's rights under sub-clause (a) of this Clause 14.3 and without prejudice to any other right or remedy, the Lessor may recover from the Lessee the aggregate of Rent, and other money payable by the Lessee for the unexpired residue of the Term less any amount the Lessor obtains, or could in the Lessor's opinion reasonably be expected to obtain by observing Clause 14.4.
- (c) The Lessor's entitlement to recover damages from the Lessee will not be affected or limited by any one or more of the following:
 - (i) if the Lessee abandons or vacates the Premises;
 - (ii) if the Lessor elects to re-enter or to terminate the Lease;
 - (iii) if the Lessor accepts the repudiation;
 - (iv) if the party's conduct constitutes a surrender by operation of law.

14.4 Lessor to Mitigate

The Lessor must take reasonable steps to mitigate its loss if the Lease is terminated.

14.5 Removal of Lessee's Fixtures

If the Lessor becomes entitled to re-enter the Premises, the Lessor may:

- (i) remove the Lessee's Fixtures at any time and store or sell them at the cost of the Lessee; or

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- (ii) treat the Lessee's Fixtures as being abandoned in which case they will become the property of the Lessor.

15. DAMAGE OR RESUMPTION

15.1 Damage to the Building or Premises

Clauses 15.2 to 15.5 will apply if:

- (a) the Building is damaged so that the Premises are substantially unfit for the use of the Lessee or substantially inaccessible; and
- (b) the damage has not been caused (in whole or in part) by the act, neglect or default of the Lessee or the Lessee's Employees; and
- (c) the rights under an insurance policy in connection with the Premises are not prejudiced or a policy is not cancelled or payment of a premium or claim is not refused by the insurer because of the act, negligence or default of the Lessee or the Lessee's Employees.

15.2 Abatement

The Lessee is not liable to pay Rent for the period that the Premises cannot be used or are inaccessible. If the Premises are still useable but the useability is diminished because of the damage, the Lessee's liability to pay Rent is reduced in proportion to the reduction in useability. The Lessee's obligation to repair and maintain the Premises will abate until the Premises have been restored or made fit for the occupant and use of the Lessee or acceptable to the Lessee as the case may be.

15.3 Dispute

Any dispute under this clause 15 as to the amount by which the Rent will reduce will be determined by a valuer who:

- (a) is appointed in accordance with clause 4 of Item 14 of the Item Schedule; and
- (b) is qualified in accordance with clauses 5(a) and (b) of Item 14 of the Item Schedule; and
- (c) acts as an expert and not as an arbitrator.

The parties must each pay half the valuer's costs.

15.4 Notice to Repair

If:

- (a) the Lessee wants the Lessor to repair the damage and gives the Lessor a damage notice within 14 days after the Premises are damaged; and
- (b) within three months after receiving the damage notice the Lessor does not give the Lessee a restoration notice stating that the Lessor intends to repair the damage,

then the Lessee may terminate this lease by giving a one month's notice to the Lessor.

15.5 Reinstatement

- (a) If the Lessor does not repair the damage within a reasonable time after giving the restoration notice, the Lessee may give the Lessor a termination notice stating that the Lessee will terminate this lease if the Lessor does not repair the damage within a reasonable time after receiving the termination notice. If the Lessor does not repair the damage within a reasonable time after receiving the termination notice, the Lessee may terminate this Lease by notice in writing to the Lessor.
- (b) If, in the Lessor's opinion, it is impractical or undesirable to repair the damage, then the Lessor may terminate this lease by giving a one month's notice to the Lessee.
- (c) If the Premises are totally destroyed, then either party may terminate this lease by giving one month's notice to the other.
- (d) Each party releases the other party from liability or loss arising from and costs incurred in connection with the termination of this lease under this clause 15 but not from any breach of this lease existing at the date of termination.

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- (e) The Lessor has no obligation to rebuild the Premises or any part of the Premises or make them fit for occupation.

15.6 Resumption

The Lessor or the Lessee may terminate the Lease (without compensation from either party) by written notice to the other if the Premises or any part of the Premises is taken for public purposes by a competent Authority so as to render the Premises substantially unfit for use by the Lessee or substantially inaccessible.

16. LESSOR'S FURTHER RIGHTS

16.1 Enter

At all reasonable times the Lessor may enter the Premises on reasonable notice to see if the Lessee is complying with its obligations under this Lease or to do anything the Lessor must or may do under this Lease, or to view the condition of the Premises generally. If the Lessor decides there is an emergency, the Lessor may enter at any time without notice.

16.2 Rectification

After giving the Lessee reasonable notice of what is to be done, the Lessor may do anything which the Lessee should have done under this Lease but which it has not done in accordance with that notice or which the Lessor considers it has not done properly, and may recover from the Lessee the cost thereof.

16.3 Other Work

In respect of any work which the Lessee is not liable to do under this Lease (including work to connect services to or from adjoining land), the Lessor may enter the Premises at reasonable times and on reasonable notice (except in an emergency, when no notice is required) and carry out that work. That may involve work required by law or by any Authority, or which the Lessor considers should be carried out. In so doing, the Lessor will, acting reasonably, cause as little disturbance to the Lessee's use of the Premises.

16.4 Services

The Lessor reserves the right to use, maintain and repair all Services and/or associated fixtures and fittings passing through the Premises and the Land.

16.5 Easements

For the purpose of providing access (whether public or private) to or egress from the Land or other land adjacent to the Land ("adjacent land") or the support of structures erected on adjacent land or the provision of Services to the Land or to adjacent land the Lessor reserves the right to enter into any arrangements or agreements with the owners, lessees, tenants or occupiers of adjacent land or with any public or other authority and for such purposes may dedicate, transfer, grant or create easements in favour of such persons and/or authorities and upon such terms and conditions as the Lessor thinks fit and the estate or interest of the Lessee under this Lease will be deemed to be subject to any such arrangement or agreement PROVIDED ALWAYS that the Lessor in exercising the rights reserved by this clause must not enter into any arrangement or agreement or dedicate, transfer, grant or create any easement, right or privilege in favour of any person other than the Lessee which will substantially and permanently derogate from the enjoyment of the rights conferred on the Lessee by this Lease.

16.6 Inspections

After giving reasonable notice, the Lessor may:

- (a) enter the Premises to show prospective purchasers, mortgagees or lessees through the Premises; and
- (b) display from the Premises a sign indicating that the Land is available for purchase; and

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- (c) display during the last six (6) months of the term a sign indicating that the Premises are available for lease.

16.7 Change of Lessor

Subject to clause 13.3 if the Lessor deals with its interest in the Land so that another person becomes the lessor the Lessor is released from its obligations under this Lease arising after it ceases to be Lessor.

16.8 Delegation

The Lessor may appoint agents or others to exercise any of its rights or perform any of its duties under this Lease. Communications from the Lessor override those from the agents or others if they are inconsistent. In exercising its powers under clause 16, the Lessor must endeavour to cause as little inconvenience to the Lessee as is practicable in the circumstances.

17. ENVIRONMENTAL COVENANT

If:

- (a) there is a breach of any Environmental Law relating to the Premises; or
(b) the Premises become affected by any Contamination,

after the Commencement Date as a consequence of:

- (c) the Lessee's use of the Premises; or
(d) the Lessee's negligence, act or omission,

the Lessee must, at its cost and acting reasonably remove the Contamination and do anything else necessary to comply with all Environmental Laws relating to the Premises and the Lessee shall indemnify and keep indemnified the Lessor against any liability, damages, loss, costs and expenses incurred or suffered by the Lessor by reason of a breach by the Lessee under this Clause 17. In this Lease, "Contamination" means a noxious or hazardous substance which makes or may make the Premises or the surrounding areas unsafe or unfit for habitation or occupation by persons or which otherwise adversely affects the Premises or the surrounding areas. The Lessee's obligations under this clause continue after the expiration or earlier determination of the Lease until all Contamination has been removed from the Land and all Environmental Laws complied with.

18. OPTION FOR A NEW LEASE

18.1 First Option to Renew

If, after the expiration of the Term, the Lessee wishes to take a lease of the Premises for the First Option Term and:

- (a) not more than six (6) months but not less than 3 months prior to expiry of the Term gives written notice to the Lessor to that effect;
(b) there is no subsisting breach by the Lessee of the Lessee's Covenants on the date of the Lessee giving notice under Clause 18.1(a);
(c) there is no subsisting breach by the Lessee of the Lessee's Covenants on the date of expiry of the Term,

then the Lessor will grant to the Lessee a lease of the Premises for the First Option Term ("**new lease**") on the following conditions:

- (d) the new lease will commence on the date next following expiry of the Term;
(e) the Rent for the First Option Term will be determined in accordance with Clause 18.3;

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- (f) the terms and conditions of the new lease will be the same as the Lease except this Clause 18.1 will be deleted; and
- (g) each party will bear their own costs of and incidental to the grant of the new lease.

18.2 Second Option to Renew

If after the expiration of the First Option Term, the Lessee wishes to take a lease of the Premises for the Second Option Term and:

- (a) not more than six (6) months but not less than 3 months prior to expiry of the Term gives written notice to the Lessor to that effect;
- (b) there is no subsisting breach by the Lessee of the Lessee's Covenants on the date of the Lessee giving notice under Clause 18.2(a);
- (c) there is no subsisting breach by the Lessee of the Lessee's Covenants on the date of expiry of the First Option Term,

then the Lessor will grant to the Lessee a lease of the Premises for the Second Option Term ("**new lease**") on the following conditions:

- (d) the new lease will commence on the date next following expiry of the First Option Term;
- (e) the Rent for the Second Option Term will be determined in accordance with Clause 18.3;
- (f) the terms and conditions of the new lease will be the same as the Lease except this Clause 18.2 will be deleted; and
- (g) each party will bear their own costs of and incidental to the grant of the new lease.

18.3 Rent

The Rent for the first and subsequent Rental Periods of the First Option Term and the Second Option Term will be reviewed at each Review Date and calculated and determined in the manner specified in Items 13 and 14 of the Item Schedule.

18.4 Guarantee

If at the date of the exercise of the option contained in Clause 18.1 or the option contained in clause 18.2 the obligations of the Lessee under the Lease are the subject of a guarantee and indemnity (guarantee), the Lessee must:

- (a) procure the persons who provided the guarantee to provide another in respect of the relevant option lease on the same terms apart from necessary changes;
- (b) produce the properly executed, valid and enforceable guarantee to the Lessor within thirty (30) days after the Lessor provides to the Lessee the documentation for the new guarantee for the relevant Option Term.

The time limit referred to in sub-paragraph (b) is essential. If the Lessee fails to comply with the time limit the Lessor may terminate the new lease by notice in writing to the Lessee.

19. TRUSTS

If the Lessee enters into the Lease as trustee of any trust ("Trust") then whether or not the Lessor may have notice of the Trust, the Lessee warrants with the Lessor as follows:

- (a) The Lessee has full and complete power and authority under the Trust to enter into the Lease and the provisions of the Trust do not purport to exclude or take away the right of indemnity of the Lessee against the

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Trust or the Trust fund and the Lessee must not release that right of indemnity or permit any breach of trust or be a party to any other action which might prejudice that right of indemnity;

- (b) The Lease extends to all rights and indemnities which the Lessee now or subsequently may have against the Trust and the Trust fund;
- (c) Despite anything in any deed of trust or settlement or other document contained the Lessee will be and at all times remain personally liable to the Lessor for the due performance, fulfillment and observance of the Lessee's Covenants; and
- (d) During the Term the Lessee will not, without the consent in writing of the Lessor, cause, permit or suffer to happen any of the following events;
 - (i) the removal, replacement or retirement of the Lessee as sole trustee of the Trust;
 - (ii) any alteration to or variation of the terms of the Trust;
 - (iii) any advancement or distribution of capital of the Trust; and
 - (iv) any re-settlement of the Trust property.

20. NOTICES AND APPROVALS

20.1 Method of Giving Notice

A notice, consent or approval must be:

- (a) in writing;
- (b) left at or posted to the address or sent to the facsimile number of the party as set out in Item 9(a) and Item 9(b) of the Item schedule, as varied by notice; and

20.2 Receipt

A notice or approval is taken to be given:

- (a) if sent by facsimile, on the day and at the time stated on the successful transmission report provided by the sender's facsimile machine; or
- (b) If sent by post, 3 Business Day after postage by the sender.

21. POWER OF ATTORNEY

21.1 Power of Attorney

In the event the right of re-entry has arisen the Lessor may, as the Lessee's attorney:

- (a) sign a surrender of this Lease;
- (b) procure the surrender to be registered;
- (c) sign a withdrawal of any caveat lodged by the Lessee; or
- (d) sign any other document concerning the Lease.

21.2 Appointment

The Lessee irrevocably appoints the Lessor and each of its officers as the Lessee's attorney to act under Clause 21.1.

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22. GENERAL PROVISIONS

22.1 Waiver and Variation to be in Writing

A provision of or a right under the Lease may not be waived or varied except in writing signed by whoever is to be bound.

22.2 Waiver

The following events do not constitute a waiver of any breach of the Lessee's Covenants or of the Lessor's rights under the Lease:

- (a) Acceptance by the Lessor of Rent or other money under the Lease before or after termination; or
- (b) Failure by the Lessor to exercise or a delay by the Lessor in exercising the right under Clause 14; or
- (c) The giving of any concession to the Lessee; or
- (d) An attempt by the Lessor to mitigate its loss,

For avoidance of doubt, an attempt by the Lessor to mitigate its loss is not a surrender of the Lease.

22.3 Demand

If the Lease does not specify a date for payment of any amount by the Lessee, then the Lessee must pay that amount within fourteen (14) days after the Lessor demands it.

22.4 Prior Breaches

The expiration or termination of the Lease does not affect any rights that may be exercised in connection with a breach of this Lease before then.

22.5 Severance

If the whole or any part of a provision of this lease is void, unenforceable or illegal in a jurisdiction, it is severed for that jurisdiction. The remainder of this lease has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause has no effect if the severance alters the basic nature of this lease.

22.6 Moratorium

To the extent permitted by law, the provisions of any law which would, but for this clause extend or postpone the date for the payment of money or abrogate, nullify, postpone or otherwise affect any right, power or remedy given to or accruing to the Lessor under the Lease does not apply to limit or affect the terms of the Lease.

22.7 Whole Agreement

The Lease contains the entire agreement between the parties and supercedes all previous correspondence and negotiations.

22.8 Governing Law

The Lease is governed by and construed in all respects in accordance with the laws of Queensland.

22.9 Counterparts

This Lease may consist of a number of counterparts and the counterparts taken together constitute one and the same instrument.

22.10 Exclusion of Implied Covenants

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The covenants, powers and provisions (if any) implied in leases by virtue of any law are not negated but will be deemed to be modified (where so permitted) to the extent of any inconsistency with the provisions of this Lease.

22.11 Lessor as Trustee

If at any time the Lessor holds an interest in the Premises as trustee then any liability of the Lessor:

- (a) is not personal;
- (b) is limited to the extent to which the Lessor is in fact indemnified out of the assets of the relevant trust; and
- (c) is not to be satisfied out of the Lessor's own assets or those which it holds on trust for any other person.

23. BOND

23.1 Payment of Bond

The Lessee must:

- (a) immediately on execution of this Lease pay to the Lessor a sum equal to the Bond, and
- (b) pay to the Lessor to be held in a trust account any amount appropriated by the Lessor under this Clause 23 within 7 days of receiving notice from the Lessor to do so.

23.2 Appropriation of Bond

If the Lessee does not pay the Rent, or other money owing by the Lessee to the Lessor under this Lease by or before the due date for payment, the Lessor may without notice appropriate to itself absolutely all or any part of the Bond as compensation in respect of unpaid Rent, or other money due and owing by the Lessee to the Lessor. The exercise of the Lessor's rights under this clause is not in substitution for or in derogation of any other rights the Lessor may have.

23.3 Assignment of Bond

If the Lessor's interest in the Premises is assigned or transferred, the Lessor may pay or transfer the Bond less all sums appropriated by it in accordance with this clause 23 to the assignee or transferee. Upon payment or transfer the Lessor will be discharged from all liability to the Lessee or to any other person in respect of the Bond.

24. MORTGAGEE

The Lessee acknowledges that the rights, powers, liabilities and obligations of all of the parties under this Lease are subject to the rights of any mortgagee under any mortgage which the Lessor has given or may in the future give on the security of the Land and in the event that the Land shall be subject to any mortgage (s) on the Commencement Date the Lessee shall accept the said Lease subject to the same and subject to the reasonable terms of any consent by the mortgagee. The Lessor shall if required by the Lessee (by written notice to the Lessor) procure the written consent of any such mortgagee to the Lease and the Lessee shall execute any form of consent which any such mortgagee may require.

25. BANK GUARANTEE

- (a) On or before 15 February 2019, the Lessee must deliver to the Lessor a bank guarantee (the "Guarantee") drawn in favour of the Lessor and its assigns for the sum specified in Item 12 of the Item Schedule. The Guarantee will be issued by any Australian trading bank approved by the Lessor and on terms reasonably acceptable to the Lessor including, but not limited to the following terms:
 - (i) the Guarantee will provide for the issuing bank to pay to the Lessor the value of the Guarantee or any portion thereof demanded by the Lessor from time to time without recourse to the Lessee; and

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- (ii) the Guarantee has a termination date of not less than three (3) months after the expiry date of the Lease.
- (b) Should the Lessee fail to pay to the Lessor Rent, or other moneys payable under this Lease within fourteen (14) days of the due date for payment in the case of Rent and 14 days after receiving notice from the Lessor in the case of other moneys payable under the Lease, but not otherwise, then without prejudice to the other rights of the Lessor herein contained the Lessor will be entitled by notice in writing from time to time to the issuing bank to demand payment of and recover the value of such Rent, or other moneys then due and payable by the Lessee to the Lessor.
- (c) The bank guarantee must be increased on any Market Review Date so as to ensure that it is in the amount as set out in Item 12 of the Item Schedule.
- (d) For the purpose of maintaining the value of the Guarantee, the Lessee will deliver to the Lessor within one (1) month of determination of the Rent payable for the first Rental Period of any Option Term a substitute guarantee for the sum specified in Item 12 of the Item Schedule using the Rent payable for the first Rental Period of the relevant Option Term. In exchange for the substituted Guarantee/s the Lessor will, in each case deliver to the Lessee the Guarantee then in its possession.
- (e) Upon request from the Lessee from time to time the Lessor will consent to the release of the Guarantee and its replacement with another Guarantee issued by a Bank carrying on business under the Laws of the Commonwealth of Australia on the same conditions.
- (f) If the drawer of the Guarantee or its replacement elects at any time to discharge its liability by paying to the Lessor all moneys that may become owing under the Guarantee or its replacement at any time when those moneys are not owing the Lessor will deliver to the Lessee upon request a bank cheque for the amount of the moneys so paid in advance in exchange for a replacement Guarantee that complies with the provisions of this clause 25 to be obtained by the Lessee.
- (g) If the Lessee shall, with the consent of the Lessor, assign its interest under this Lease then subject to the assignee of the Lessee delivering to the Lessor prior to the date of such assignment a Guarantee which complies with the provisions of this clause 25 then in such case the Lessor will return to the Lessee the Guarantee and the Lessee's obligations under this clause 25 shall thereby be released but otherwise the Guarantee or substitute Guarantees given by the Lessee to the Lessor will remain of and be in full force and effect until the amount thereof is paid to the Lessor or the expiration of the Term or any extension or renewal thereof whichever is the first to occur.
- (h) The Lessor may retain the Bank Guarantee for 3 months after the end of this Lease, unless the Lessee has then paid all moneys owing, and performed all the Lessee's other obligations under this Lease.
- (i) If the Lessor assigns its interest in this Lease or the Land, the Lessor may also assign the benefit of the Lessee's obligations under this clause and any Bank Guarantee which is then in place. The Lessee must, if requested by the Lessor, at the Lessee's cost either:
 - (i) sign a document with any assignee to perfect that assignment; or
 - (ii) provide a replacement Bank Guarantee in a form acceptable to the Lessor in favour of the assignee.
- (j) On receipt of the Guarantee by the Lessor, the Lessor will return to the Lessee the Bond and Item 11 of the Item Schedule will be deemed to read 'Not Applicable'.

26. GUARANTEE AND INDEMNITY

26.1 Consideration

The Guarantor gives this guarantee and indemnity in consideration of the Lessor agreeing to enter into this Lease at the request of the Guarantor. The Guarantor acknowledges the receipt of valuable consideration from the Lessor for the Guarantor incurring obligations and giving rights under this guarantee and indemnity.

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26.2 Guarantee

The Guarantor unconditionally and irrevocably guarantees to the Lessor the due and punctual performance and observance by the Lessee of the Lessee's Covenants and obligations:

- (a) under this lease, even if this Lease is not registered or is found not to be a lease or is found to be a lease for a term less than the Term; and
- (b) in connection with its occupation of the Premises,

including the obligations to pay money.

26.3 Indemnity

As a separate undertaking, the Guarantor unconditionally and irrevocably indemnifies and will keep indemnified the Lessor against all liability or loss arising from, and any costs, charges or expenses incurred in connection with:

- (a) the Lessee's breach of the Lessee's covenants or the Lessee's obligations under this Lease; or
- (b) the Lessee's occupation of the Premises,
including a breach of the obligations to pay money; or
- (c) a representation or warranty by the Lessee in this Lease being incorrect or misleading when made or taken to be made; or
- (d) a liquidator or trustee in bankruptcy disclaiming this Lease.

It is not necessary for the Lessor to incur expense or make payment before enforcing that right of indemnity.

26.4 Interest

The Guarantor agrees to pay interest on any amount payable under this guarantee and indemnity from when the amount becomes due for payment until it is paid in full. The Guarantor must pay accumulated interest at the end of each month without demand. Interest is calculated on daily balances at the rate set out in Item 15 of the Item Schedule.

26.5 Enforcement of Rights

The Guarantor waives any right it has of first requiring the Lessor to commence proceedings or enforce any other right against the Lessee or any other person before claiming under this guarantee and indemnity.

26.6 Continuing Security

This guarantee and indemnity is a continuing security and is not discharged by any one payment.

26.7 Guarantor Not Affected

The liabilities of the Guarantor under this guarantee and indemnity as a guarantor, indemnifier or principal debtor and the rights of the Lessor under this guarantee and indemnity are not affected by anything which might otherwise affect them at law or in equity including, but not limited to, one or more of the following:

- (a) the Lessor granting time or other indulgence to, compounding or compromising with or releasing the Lessee or any other Guarantor;
- (b) the Lessor allowing any concession to the Lessee;
- (c) acquiescence, delay, acts, omissions or mistakes on the part of the Lessor;

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- (d) any transfer of a right of the Lessor;
- (e) the Lessor not suing the Lessee;
- (f) the termination, surrender or expiry of, or any variation, assignment, subletting, licensing, extension or renewal of or any reduction or conversion of the Term of this Lease;
- (g) the Lessor exercising any other right under this Lease;
- (h) the invalidity or unenforceability of an obligation or liability of a person other than the Guarantor;
- (i) any change in the Lessee's occupation of the Premises;
- (j) this Lease not being registered;
- (k) this Lease not being effective as a lease;
- (l) this Lease not being effective as a lease for the Term;
- (m) the Lessee dies or becomes incompetent or insolvent;
- (n) any person named as Guarantor not executing or not executing effectively this guarantee and indemnity;
or
- (o) a liquidator or trustee in bankruptcy disclaiming this Lease.

26.8 Suspension of Guarantor's Rights

The Guarantor may not:

- (a) raise a set-off or counterclaim available to it or the Lessee against the Lessor in reduction of its liability under this guarantee and indemnity; or
- (b) claim to be entitled by way of contribution, indemnity, subrogation, marshalling or otherwise to the benefit of any security or guarantee held by the Lessor in connection with this Lease; or
- (c) make a claim or enforce a right against the Lessee or its property; or
- (d) prove in competition with the Lessor if a liquidator, provisional liquidator, receiver, administrator or trustee in bankruptcy is appointed in respect of the Lessee or the Lessee is otherwise unable to pay its debts when they fall due,

until all money payable to the Lessor in connection with the lease or the Lessee's occupation of the Premises is paid.

26.9 Reinstatement of Guarantee

If a claim that a payment to the Lessor in connection with this Lease or this guarantee and indemnity is void or voidable (including, but not limited to, a claim under laws relating to liquidation, administration, insolvency or protection of creditors) is upheld, conceded or compromised then the Lessor is entitled immediately as against the Guarantor to the rights to which it would have been entitled under this guarantee and indemnity if the payment had not occurred.

26.10 Costs

The Guarantor agrees to pay or reimburse the Lessor on demand for:

- (a) the Lessor's costs, charges and expenses in making, enforcing and doing anything in connection with this guarantee and indemnity including, but not limited to, legal costs and expenses on a full indemnity basis; and

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(b) all stamp duties, fees, taxes and charges which are payable in connection with this guarantee and indemnity or a payment, receipt or other transaction contemplated by it.

Money paid to the Lessor by the Guarantor must be applied first against payment of costs, charges and expenses under this clause 25.10 then against other obligations under this guarantee and indemnity.

26.11 Liability to Prevail

The liability of the Guarantor will continue until the Lessee has paid all Rent, and other moneys and performed all of the Lessee's Covenants. This guarantee and indemnity takes effect immediately upon its execution and continues to be of full effect whether or not the Lease is subsequently registered in the Titles Registry. References to "this Lease" include any unregistered lease, equitable lease, agreement for lease or periodic tenancy arising upon execution or acceptance by the Lessee of the instrument to which this guarantee is annexed or forms part of.

26.12 Assignment

If the Lessor assigns its interest in this Lease or the Land, the Lessor may also assign the benefit of the Guarantors obligations under this clause.

26.13 Deed

The Guarantor executes this guarantee as a deed.

27. PERSONAL PROPERTY SECURITIES ACT

27.1 Definitions

In this clause 27:

(a) **Lessor PPS Items** means any item of personal property which:

- (i) comprises part of the Lessor's property installed in the Premises;
- (ii) is owned or leased by the Lessor; and
- (iii) is situated on the Premises at any time during the term of this Lease;

(b) **PPS Act** means the *Personal Property Securities Act 2009* (Cth);

(c) **Lessee PPS Items** means any item of personal property:

- (i) which is owned or leased by the Lessee;
- (ii) which is situated on the Premises at any time during the Term; and
- (iii) in which the Lessor can require the Lessee to transfer ownership to the Lessor or in which the Lessee is required to transfer ownership to the Lessor after the end of the Term;

but it does not **include** any Lessor PPS Items.

(d) This Lease constitutes a PPS Lease within the meaning of the PPS Act.

(e) Words and expressions that are not defined in this Lease but which have defined meanings in the PPS Act have the same meaning as in the PPS Act.

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27.2 Lessee's Obligations

(a) The Lessee:

- (i) charges its interest in all Lessee PPS Items situated on the Premises from time to time in favour of the Lessor, as security for performance of the Lessee's obligations under this Lease (including the Lessee's obligations to transfer ownership in the whole or any part of the Lessee PPS Items to the Lessor);
- (ii) acknowledges and agrees that the charge granted by the Lessee under clause 27.2(a)(i) constitutes the grant of a Security Interest which the Lessor is entitled to register under the PPS Act and consents to the Lessor immediately registering the Security Interest on the PPS Register;
- (iii) acknowledges that the grant of this Lease also constitutes the grant of a Security Interest in the Lessor PPS Items in favour of the Lessor, which interest the Lessor is entitled to register under the PPS Act;
- (iv) must do all things required by the Lessor from time to time (including without limitation, signing any documents required by the Lessor to enable the Lessor to register its Security Interest and give effect to its Security Interest under the PPS Act and authorises the Lessor to insert the date and complete any blanks in any such document) and to otherwise perfect its Security Interest in the Lessee PPS Items and the Lessor PPS Items so that the Lessor's Security Interests have priority over any other Security Interest under the PPS Act in relation to the Lessee PPS Items and the Lessor PPS Items;
- (v) agrees to promptly provide such other information and details as the Lessor may require to enable it to complete or correct the PPS Register with respect to the Security Interest; and
- (vi) waives its right to receive notification of any registration event concerning that Security Interest under section 157(3) of the PPS Act.

(b) The Lessee:

- (i) warrants that it has not created a Security Interest in respect of any Lessor PPS Items on or prior to the execution of this Lease; and
- (ii) must not create a Security Interest in respect of any Lessor PPS Items or Lessee PPS Items in favour of any person other than the Lessor without the Lessor's prior written consent, which consent may be granted or withheld in the Lessor's absolute discretion.

(c) The Lessee must indemnify and hold harmless the Lessor against all claims, damages or loss incurred by the Lessor as a consequence of any breach by the Lessee of this clause 27.

(d) The Lessee acknowledges and agrees that:

- (i) it has no right under the PPSA to receive a copy of any "verification statement" or "financing charge statement" (as those terms are defined in a PPSA); and
- (ii) on the expiration or earlier termination of this Lease, the Lessee must sign (and procure any holder of a registered Security Interest to sign) any document that the Lessor considers necessary or desirable under or as a result of the PPS Act to discharge any registered Security Interest under the PPS Act in relation to the Lessee PPS Items and the Lessor PPS Items.

27.3 Assignment

- (a) If the Lessor consents to a transfer of this Lease, then in the assignment deed required by the Lessor, the transferee must acknowledge that the Lessor has a Security Interest in the Lessor PPS Items and the Lessee PPS Items and must provide its consent and covenant to the Lessor to comply with and perform the Lessee's obligations under this clause 27.3 and any other provision the Lessor deems necessary, and the Lessor must release any Security Interest registered over the Lessee PPS Items that is effective as and from the date of assignment of the Lease.

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27.4 Excluded Provisions

- (a) For the purposes of section 115(1) of the PPS Act, the Lessor and the Lessee agree that the following provisions of the PPS Act do not apply – section 95, to the extent that it requires the Lessor to give notice to the Lessee, section 118 – to the extent that it allows the Lessor to give notice to the Lessee, section 121(4), section 125, section 130, section 132(3)(d) section 132(4) and section 135.

27.5 Acknowledgment

- (a) The Lessor and the Lessee agree:
 - (i) the Lessee is the debtor for the purpose of section 275(6)(a) of the PPS Act;
 - (ii) neither of them will disclose information of the kind mentioned in section 275(1) of the PPS Act; and
 - (iii) this clause 27 constitutes a confidentiality agreement for the purposes of section 275(6)(a) of the PPS Act.

27.6 Essential Term

- (a) This clause 27 is an essential term of this Lease.

27.7 Inconsistency

- (a) In the event of an inconsistency of this clause 27 and any other provision of this Lease, the provisions of this clause 27 will prevail and that other provision will be read down and interpreted accordingly.

28. RENT FREE PERIOD

- (a) In the event the Lessee strictly complies with all of its obligations under this Lease and subject to clause 28(b), the Lessee will not be obliged to pay Rent in respect of each rent free period specified in Item 17 of the Item Schedule (the "Rent Free Period").
- (b) The concession granted under this clause will not be taken into account in determining any review of annual rental during the term of this Lease or during any extension or renewal thereof.

29. INVENTORY

- (a) The Lessee acknowledges and agrees that the items set out in Annexure "A" are and remain the property of the Lessor. The Lessee may use the items in Annexure "A" during the Term (and any option or holding over period) and must take reasonable care not to damage these items.
- (b) When the Lease ends, the Lessee shall yield up the items set out in Annexure "A" in the condition they were in as at the Commencement Date, fair wear and tear excepted.
- (c) The Lessee accepts the Premises on an "as is where is" basis and the Lessee acknowledges and agrees that the Lessor is not required to undertake any work to the Premises, or to remove any of the items listed in Annexure "A" unless otherwise mutually agreed between the Lessor and Lessee.

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Annexure "A"
Inventory

- Board room table with glass overlay
- 10 French provincial newly upholstered chairs
- One Large rectangular mirror
- One Samsung TV 1360 X 780 wall mounted
- 1600 X 470 two pack white side board
- 1310 X 470 two pack white side board
- Odeon rectangular chandelier by Timothy Oulton (coco republic)
- Two LCD Displays facing the street 960 X 560 LG
- Three Matching cushions in bay window setting
- Two pack reception desk with magazine displays and glass overlay
- Queen Anne round table
- Two Victorian chairs matching new upholstery
- One bar fridge
- Green wall in reception
- Fixed galley with 4 drawers and cupboard
- 1600 L desk caddy's X 10
- Desk drawers X 10 (3 draws)
- Work stations (upstairs – for 3 stations)
- Work stations (downstairs – for 5 stations)
- Brand new leather executive chrome chairs x 14
- Glass mounted sales boards X 6
- Middle work stations x 2 (one upstairs/one downstairs)
- Fisher & Paykel stainless steel fridge
- One microwave
- 8 x wall mounted fixed cupboards