

1, 89 Motivation Drive
Wangara WA 6065
(Complex)

301120

JAYJAAN PTY LTD
(ACN 169 412 962)
AS TRUSTEE FOR
JOSEPH SUPERANNUATION FUND
(ABN: 24 533 296 330)
("Lessor")

AND

THE FLANGE COMPANY PTY LTD
(ACN: 108 934 032) (ABN: 52 108 934 032)
("Lessee")

AND

GARRY LLEWELLEN GLASKIN
ALLAN DAVID MACKINNON
("Guarantor/s")

DEED OF LEASE

CHARTHILL LEGAL COMMERCIAL & PROPERTY LAWYERS

2B/39 INNOVATION CIRCUIT WANGARA WA 6065

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THIS DEED of LEASE is made the _____ day of _____ 2020

BETWEEN

JAYJAAN PTY LTD (ACN 169 412 962) AS TRUSTEE FOR JOSEPH SUPERANNUATION FUND (ABN: 24 533 296 330) care of Ayers Real Estate, Post Office Box 223, Madeley, Western Australia
(hereinafter referred to as the "Lessor")

AND

THE FLANGE COMPANY PTY LTD (ACN: 108 934 032) (ABN: 52 108 934 032) of Unit 2, 19 Dillington Pass, Landsdale, Western Australia
(hereinafter referred to as the "Lessee")

AND

GUARANTOR:

GARRY LLEWELLEN GLASKIN of U9,/96 Moore Street, Trinity Beach, Queensland **and ALLAN DAVID MACKINNON** of 10 Louise Street, Nedlands, Western Australia
(hereinafter referred to as the "Guarantor")

OPERATIVE PROVISIONS:

1. LEASE

The Lessor leases the Premises to the Lessee for the Term commencing on the Commencement Date at the Rent subject to any prior encumbrances noted on the title to the Land but reserving to the Lessor the Reservations and also subject to the covenants conditions, terms and restrictions contained in this Lease but together with the non-exclusive right to use the Common Areas.

2. PAYMENT BY THE LESSEE OF RENT

RENT

- 2.1 The Lessee must pay the Rent to the Lessor at the time and in the manner set out in Item 5 without any prior demand and without any abatement or set off whatsoever.
- 2.2 The Lessee must pay the same amounts of money as would have been payable at the time they would have been payable by the Lessee under sub-clause 2.1 had this Lease (in registrable form) been registered against the title to the Premises, whether or not a common law tenancy arises or has arisen from entry into occupation of the Premises by the Lessee and payment of rent by the Lessee to the Lessor.

3. REVIEW OF RENT

- 3.1 The Rent shall be reviewed on the Rent Review Dates.
- 3.2 On review the Rent payable by the Lessee shall be such Rent as determined in the manner provided in Item 7.
- 3.3 The Lessor shall not by reason of its failure to have the Rent determined in the manner provided in the Schedule forfeit its right to have the Rent reviewed as at the Rent Review Date at any time after the Rent Review Date and the payment of and receipt for rent at a lesser amount will not prejudice the Lessor's right to later require a rent review and demand a payment or a refund of any additional rent or rent overpaid by the Lessee as a result of that review.
- 3.4 The Rent so determined shall be payable by calendar monthly instalments calculated to the nearest cent by dividing the Rent by twelve (12) and the reference to this Lease to the monthly instalments of the Rent payable by the Lessee to the Lessor shall be varied accordingly.
- 3.5 Until the Rent has been determined on each Rent Review Date the Lessee shall pay the Rent payable immediately prior to the Rent Review Date and upon the Rent having been determined pursuant to this Clause the Lessee covenants to pay the new Rent and will pay any adjustment in the Rent between the Rent Review Date and the date of determination within fourteen (14) days after receipt by the Lessee of a notice stating the amount due and its computation.
- 3.6 The Rent so determined shall not be less at the Rent Review Date than the highest Rent payable by the Lessee during any previous period of this Lease.

4. PAYMENTS BY LESSEE OF RATES AND TAXES AND OTHER MONEY

- 4.1 The Lessee must pay the Outgoings:
- 4.1.1 within fourteen (14) days of written demand to the Lessor or to the assessing authority as the case may be not later than the due date for the payment of such sums, or
- 4.1.2 if the Lessor in its absolute discretion directs by calendar monthly instalments in advance payable at the same time and in the same manner as the Rent.
- 4.2 The Lessor may in its discretion vary its direction from time to time as to in which manner the Lessee is to pay the Outgoings as set out in sub-clauses 4.1.1 and 4.1.2 above.
- 4.3 If the Lessor directs the Lessee to pay the outgoings or any part of the Outgoings, by monthly instalments then the Lessor shall notify the Lessee in writing prior to:

- 4.3.1 the commencement of this Lease an estimate of the Outgoings for the Preliminary Period;
 - 4.3.2 June next following the commencement of this Lease and prior to 30 June in each year during the term or as soon as practicable thereafter the estimated amount of the Outgoings for each succeeding year of this Lease in respect of the Premises.
- 4.4 Payments on account of Outgoings shall be calculated and paid by the Lessee to the Lessor as follows:
- 4.4.1 payment on account of Outgoings shall be paid monthly in advance commencing on the commencement date of the Lease and thereafter on the dates for payment of the Rent if such rental is paid monthly and otherwise on the first day of each month of the calendar. Should the period in respect of which Outgoings are being estimated not be a full twelve (12) months the Outgoings shall be pro-rated as appropriate;
 - 4.4.2 if the Lessor shall not have given the notice specified in Clause 4.3 before the commencement of an Outgoings period then monthly payments on account of Outgoings shall continue to be payable in the amount payable immediately before the commencement of such Outgoings period until the date upon which an instalment on account of Outgoings is payable next following the date of such notice whereupon the amount of any difference in instalments on account of Outgoings shall be paid with or deducted from that payment and if necessary subsequent payments on account of Outgoings.
- 4.5 As soon as possible after 30 June in each year during the term of this Lease the Lessor shall certify as to the amount of the Outgoings and the amount payable by the Lessee as Outgoings under Clause 4.4 and notice thereof shall be given by the Lessor to the Lessee; if such amount is greater than the amount paid on account of Outgoings the difference shall be paid by the Lessee to the Lessor within fourteen (14) days of receipt of notice of the Lessor's certificate. If such amount is less than the amount paid as aforesaid the Lessee shall be credited with the difference and may deduct the same from the next ensuing payment or payments of Outgoings PROVIDED THAT if this Lease has then expired or otherwise determined such amount shall be paid by the Lessor to the Lessee.
- 4.6 If any such Outgoings shall not be separately and wholly assessed or charged against the Premises then the Lessee shall pay to the Lessor within fourteen (14) days of written demand thereof that proportion thereof that the area of the Premises (as certified by the Lessor) bears to the total lettable area of the premises covered by the relevant assessment or charge (as certified by the Lessor) PROVIDED ALWAYS that any Land Tax and Metropolitan Region Improvement Tax payable by the Lessee hereunder shall be further apportioned on the basis that the Premises

are the only land of which the Lessor is the owner within the meaning of the Land Tax Assessment Act 1976.

- 4.7 The Lessee must pay when due all charges for the supply of electricity, gas, water, sewerage and telephone services metered and consumed in or on the Premises.
- 4.8 The Lessee must punctually pay the expenses of operating and maintaining any heating or air-conditioning equipment exclusively serving the Premises.
- 4.9 The Lessee must pay on demand all costs, charges and expenses (including solicitors' costs on a full indemnity basis and the costs of any consultants or agents) incurred by the Lessor as a result of or in connection with:
- 4.9.1 any breach or default by the Lessee under this Lease;
 - 4.9.2 the lawful exercise of any right power or remedy of the Lessor under this Lease;
 - 4.9.3 the preparation and service of any notice required to be served under the provisions of this Lease or under the provisions of the Property Law Act 1969;
 - 4.9.4 the re-entry into possession of the Premises;
 - 4.9.5 the forfeiture or the surrender of this Lease including any action for relief against forfeiture;
 - 4.9.6 any inspections of the Premises following the expiration or earlier determination of this Lease.
- 4.10 The Lessee must pay to the Lessor on demand interest at the rate specified in Item 8 on any Rent Outgoings or other money payable to the Lessor by the Lessee which remain unpaid for fourteen (14) days after the due date for payment, with interest to be calculated from the relevant due date and to accrue on a daily basis until paid.
- 4.11 The Lessee must pay to the Lessor all the Lessor's costs fees and expenses incurred by the Lessor in respect of or incidental to the collection of rent including Outgoings and the control security administration and management (including without limiting the generality of the foregoing fees payable to the Lessor's Managing Agents) (if any) of the Premises.
- 4.12 LEGAL COSTS OF LEASE
- The Lessee must pay the costs of the Lessor's Solicitors of and incidental to the instructions for and preparation execution and stamping of this Lease in triplicate and any stamp duties payable on it and (if necessary) obtaining any authorisations or approvals of any other body statutory or otherwise including any approvals or

consents required pursuant to the Planning and Development Act 2005.

5. USE AND OCCUPATION OF PREMISES BY THE LESSEE

5.1 USE

The Lessee must:

- 5.1.1 not use the Premises for any purpose other than the purpose or use specified in Item 9 without the prior written consent of the Lessor;
- 5.1.2 not use the Premises as a residence;
- 5.1.3 not keep any animals or birds in the Premises;
- 5.1.4 not do or carry on in the Premises any offensive trade, business or occupation, anything which is unlawful or anything which causes or may cause nuisance or damage to the occupiers or owners of any nearby premises or to the Lessor;
- 5.1.5 not hold any auction, bankrupt or fire sale on the Premises;
- 5.1.6 not at any time to use or suffer or permit the Premises or any part thereof to be used for any illegal or immoral purpose;
- 5.1.7 not to use any car parking bays, or driveways or any common areas serving the Premises to carry out any work or other business operations and will not store any goods, vehicles, rubbish, waste or any other matter or thing in any car park or driveway or on any of the common areas serving the Premises;
- 5.1.8 satisfy itself that its proposed usage of the Premises conforms to all State and/or Local Authority laws, regulations or requirements currently in force and obtain all necessary approvals and consents from all relevant Authorities and comply with all relevant laws, by-laws and regulations relating to the permitted use of the Premises;
- 5.1.9 occupy the Premises and use the Premises at the Lessee's own risk and the Lessee hereby releases to the full extent provided by law the Lessor and its agents contractors other tenants and employees from all claims and demands of every kind resulting from any accident damage or injury occurring therein unless to the extent caused by a wilful act or omission of the Lessor;
- 5.1.10 not install any electrical equipment which will overload the cables, switchboards and other equipment that supplies electricity to the Premises. If any installations by the Lessee result in overloading that

equipment, the Lessee is liable:

- (i) for the costs of repairing any damage;
- (ii) for ensuring that the Lessor's equipment is repaired and restored to working order;
- (iii) if necessary, to disconnect the Lessee's installations or alter or upgrade the electrical supply system at the Lessee's cost, in order that it will suffice for the additional load imposed by the Lessee's installations.

5.1.11 not overload the floors of the Premises;

5.1.12 not place or allow to be placed or maintained on the roof or on any exterior part of the Premises any television or wireless antennae or mast or other apparatus or any awning or canopy;

5.1.13 not use or permit to be used the lavatories grease traps and other sanitary appliances installed in the Premises for any purpose other than that for which they were constructed and not throw or cause or allow to be thrown any sweepings rubbish rags ashes tea leaves or other substances in them;

5.1.14 use its best endeavours to protect and keep safe the Premises and any property in the Premises from theft or robbery and keep all doors windows and other openings closed and securely fastened when the Premises are not open for business.

5.2 SIGNS

5.2.1 The Lessee must not without the Lessor's prior written approval (which must not be unreasonably withheld) and with the prior approval of and in conformity with the requirements of any local or other authority place or permit to be placed or maintained on any part of the Premises or on any window, door, wall or the roof of the Premises any trade or business name plate placard poster sign advertisement or notice AND PROVIDED FURTHER THAT the Lessee before the end or sooner determination of the term or any extension thereof at his cost shall if required by the Lessor remove all trade or business name plates placards posters signs advertisements and notices so affixed painted or exhibited making good all damage caused by their installation or removal to the satisfaction of the Lessor.

5.3 NO ALTERATIONS

- 5.3.1 The Lessee must not without the Lessor's written consent, cut demolish remove damage or make any external or internal additions or alterations to the roof walls floors partitions ceilings fixtures fittings foundations or supports, or alter the elevation plan or architectural appearance of the Premises.
- 5.3.2 In the event that the Lessee wishes to install any additional partitioning or non-structural improvements (the "works") to the Premises the Lessee must first submit to the Lessor plans and specification of the works for the Lessors' consent (which consent must not be unreasonably withheld). The construction of the works are to be carried out by the Lessee and at the Lessees expense in a proper and workmanlike manner to a professional trade standard. At the expiration or earlier determination of the Lease the Lessee agrees at the direction of the Lessor (in the absolute discretion of the Lessor) to either remove the works and make good any damage caused to the Premises by the installation or removal of the works or leave the works in the Premises without any payment or compensation from the Lessor.

5.4 REPAIRS AND MAINTENANCE

The Lessee must at its own cost:

- 5.4.1 maintain replace repair and keep the Premises in a good and substantial state of repair and condition (fair wear and tear excepted) including but not limited to any roller or garage doors, coolrooms and oil separators and the gutters downpipes shutters doors locks fastenings windows fixtures and fittings and also all water electrical gas lighting plumbing heating and sewerage fixtures fittings and installations and other permanent fixtures;
- 5.4.2 repair maintain service and if necessary replace or supply parts and materials necessary for preventative service and maintenance of such heating or air- conditioning equipment;
- 5.4.3 have the heating or air-conditioning regularly serviced by an appropriately qualified air-conditioning technician, and keep in force with a reputable firm of air conditioning contractors a fully comprehensive maintenance contract covering all routine repairs servicing maintenance and replacement of parts;
- 5.4.4 at the expiration of this Lease or its earlier determination or as and when required by the Lessor provide to the Lessor service reports relating to the air conditioning equipment prepared by a qualified air conditioning

technician;

- 5.4.5 keep and maintain the waste pipes drains and conduits originating in the Premises or connected thereto and the grease traps, tanks and leach drains serving the Premises in a clean clear and free flowing condition and at the Lessee's own expense employ licensed tradesmen to clear any blockages which may occur therein within the external boundaries of the Premises and clean regularly any grease traps tanks and leach drains (whether within the Premises or not) serving the Premises exclusively and not without the prior consent of the Lessor interfere with any drainage or water supplies facilities to or upon the Premises or with any of the appurtenances thereto;
- 5.4.6 repair any damage caused to the boundary fences, car-parking, kerbing, hardstand and driveway areas by the Lessee or the Lessee Agents;
- 5.4.7 keep any gardening or landscaped areas well cultivated and watered and if necessary replace any plants that may die and keep and maintain any reticulation in good working order and condition and replace any worn out or damaged pumps or items of reticulation;
- 5.4.8 repair and if necessary repaint or retexture any graffiato surface of the Premises that is damaged or requires repair because of any act or omission of the Lessee or the Lessee Agents;
- 5.4.9 within one month prior to the expiration of the Lease have any air conditioning plant or evaporative cooling equipment and systems, any fire equipment and any roller doors and motors serving such rollerdoors serviced by a qualified technician and provide to the Lessor receipts for such servicing;
- 5.4.10 repair and regularly service any gantry crane located in the Premises (whether installed by the Lessor or the Lessee) and provide to the Lessor annual reports in respect to the maintenance of such gantry crane.

PROVIDED HOWEVER that in the event that any Air Conditioning or hot water systems installed by the Lessor cannot be economically repaired by the Lessee, and the Lessee has complied with its obligations to maintain set out in this clause the Lessor will replace such air conditioning or hot water systems at the Lessors own cost.

5.5 CLEANING AND PEST CONTROL

The Lessee must at its own cost

- 5.5.1 keep and maintain the Premises and the immediate surroundings and any

common and service areas used by the Lessee well cleaned and drained and in good sanitary condition and clear of rubbish and debris and properly disinfected;

- 5.5.2 cause the Premises including the walls ceilings floors windows doors and exterior surfaces to be cleaned in a proper and workmanlike manner;
- 5.5.3 keep the Premises free from pests termites white ants birds insects animals rodents and vermin and if necessary at their own cost employ from time to time or periodically or if so directed by the Lessor professional pest controllers or exterminators for that purpose;
- 5.5.4 not permit the accumulation of rubbish or waste upon the Premises or the common area of the building complex of which the Premises form part and on the request and direction of the Lessor or his agent forthwith to remove such rubbish or waste;
- 5.5.5 have the Premises inspected and if required treated by a licensed pest controller during the one month period prior to the expiration or earlier determination of this Lease or prior to the Lessee vacating the Premises and provide to the Lessor receipts for such inspection and treatment;
- 5.5.6 during the one month period prior to the expiration or earlier determination of this Lease or prior to the Lessee vacating the Premises have the carpets or floor coverings in the Premises and the windows of the Premises professionally cleaned.

5.6 NO CONTAMINATION OF LAND

- 5.6.1 The Lessee covenants that, during the continuance of this Lease, the Lessee will:
- 5.6.2 not use or permit to be used or stored at the Premises any Hazardous Materials or radioactive materials, toxic chemicals, wastes or substances except in concentrations and quantities permitted by the relevant statutory authorities and in accordance with any licences, permits or authorisations required by law and in accordance with the conditions imposed by such authorities or under their permission;
- 5.6.3 not permit any hazardous materials, petroleum product, oil, grease, or any noxious, dangerous or poisonous chemical or substance to be discharged through the pipes of the water or sewerage service at the Premises or into any nearby stream or river or into or under the soil, and to discharge them only as permitted by the relevant statutory authorities, as required by law and in accordance with any conditions imposed by those authorities;

- 5.6.4 control and restrict the emission of smoke or odours at and from the Premises in accordance with the applicable legislation, regulations and the requirements of statutory authorities;
- 5.6.5 not use the Premises in an excessively noisy or noxious or offensive manner;
- 5.6.6 not bring or permit to be brought into or upon the Premises or any common and service areas that serve the Premises any grease oils and/or other chemicals which may stain any part of the Premises or any common or serviced areas unless such grease, oil and or other chemicals are used in the normal course of the Lessee's business and are stored and handled in compliance with any regulation or permits by the relevant statutory authorities and in compliance with any conditions imposed by those authorities;
- 5.6.7 not use plant or machinery in the Premises so as to constitute a nuisance or disturbance to the Lessor or to other lessee of the building, due to noise, vibration, odours or otherwise;
- 5.6.8 comply with the demands, notice and requirements of the regulatory authorities in respect of contamination of the premises caused by the Lessee or by occupiers of the premises, including notices to remediate the Premises;
- 5.6.9 notify the Lessor within fourteen (14) days after receiving any demand or notice from a regulatory authority in respect of contamination of the Premises;
- 5.6.10 The Lessee agrees to indemnify the Lessor against any liability, loss, damage, expense or claim which the Lessor may incur as a consequence of the breach by the Lessee of any obligation under this clause, including fines, legal costs, consultants' fees and remediation costs.

5.7 COMPLIANCE WITH LEGISLATION

The Lessee must at its own cost:

- 5.7.1 comply with and obey all notices requisitions and orders which may be legally made or given in respect of the Premises and in respect of any business carried on by the Lessee in the Premises under any statute State or Federal or any regulation by-law order requisition for the time being in force affecting the Premises; and
- 5.7.2 observe perform discharge execute and take such sanitary measures and construct such works and make such amendments alterations and additions (including structural alterations and additions) to the Premises

as shall be occasioned or required by reason of the nature of the business conducted or to be conducted on the Premises as shall be required by any statute by-law regulation order or requisitions made pursuant to the Acts or by any requisitions or requirements of any Fire Underwriter's Association or other body corporate or authority having power or control over electrical water or gas installations or fixtures or dealing with insurance matters provided always that this Clause shall be subject to Clause 9.3 hereof. Without limiting the foregoing the Lessees obligations under this clause include the carrying out any repairs alterations or works to or the provision of residual current devices fire or smoke alarms or other emergency services in or for the Premises.

5.8 PAINTING

The Lessee must at the times, as set out in Item 10:

- 5.8.1 paint with (2) coats of good permanent paint of a quality and of colours first approved by the Lessor in a proper professional workmanlike manner and carried out by a registered painter all such parts of the inside and outside of the Premises as have been previously painted,
- 5.8.2 after every such painting to tuck point grain varnish distemper stop whiten and colour all such parts of the Premises as shall have been previously so dealt with,
- 5.8.3 re-paper with suitable good quality paper to be approved by the Lessor all such parts of the Premises as were papered at the commencement of this Lease.

5.9 FLOOR COVERINGS

In respect of floor coverings in the Premises which have been installed by the Lessor or which are the Lessor's property:

- 5.9.1 The Lessee shall not remove any floor coverings from the Premises without the Lessor's written consent and only in accordance with any conditions of such consent,
- 5.9.2 The Lessee shall not contravene the conditions of any guarantee by the supplier or manufacturer of the floor coverings of which the Lessor shall have advised the Lessee,
- 5.9.3 The Lessee shall use the floor coverings in conjunction with the normal and permitted use of the Premises with care and shall avoid damage to the floor coverings by staining or through excessive wear and tear, including from furniture and equipment placed on the floor coverings,

- 5.9.4 The Lessee shall, whenever the condition of the floor coverings requires it, and not less than once during every year of the lease term, and on the expiration or earlier determination of the term, cause the floor coverings to be cleaned by cleaning contractors,
- 5.9.5 The Lessee is responsible for the cost of repair or replacement rendered necessary by the negligence or default of the Lessee, the Lessee's employees or others using the Premises, but not for reasonable wear and tear,
- 5.9.6 The Lessee shall promptly advise the Lessor of any damage to the floor coverings.

5.10 ADDITIONAL CLAUSES

The Lessee must comply with all the special or additional terms covenants and conditions (if any) set out in the Schedule hereto.

5.11 INCREASE IN LESSOR'S INSURANCE PREMIUMS

The Lessee must not bring or permit to be brought into or upon the Premises or any part thereof any goods or do or permit or suffer or omit to be done in the Premises anything which may invalidate or affect any Insurance Policy taken out by the Lessor or cause increased or extra premiums to be paid in respect thereof PROVIDED ALWAYS and without prejudice to the Lessor's other remedies hereunder the Lessee shall forthwith on demand pay to the Lessor any increased premiums and/or damages and/or expenses incurred by reason of the breach or non-observance of this covenant or by reason of the Lessee's use of the Premises (whether or not it is a use allowed by the provisions of this Lease).

5.12 INFORMATION BY LESSEE

Should any damage occur to the Premises or should the Lessee receive any notice from any statutory public municipal authority with respect to the Premises forthwith to give notice thereof in writing to the Lessor.

5.13 OCCUPATIONAL SAFETY AND HEALTH

- 5.13.1 The Lessee agrees that, for the purposes of the Occupational Safety and Health Act 1984 of Western Australia, the Lessee has control of the Premises.
- 5.13.2 By this clause the Lessee releases and indemnifies and agrees to keep indemnified the Lessor from and against all actions, claims, demands, losses, damages, costs and expenses for or in respect of which the Lessor shall or may be or become liable by reason of the Occupational Safety and Health Act 1984 of the State in respect of the Premises and its use.

6. LESSOR'S RIGHT TO INSPECT

The Lessee must permit the Lessor and his agents with or without workmen or others at all reasonable times to enter upon the Premises and to view their condition and upon notice given by the Lessor the Lessee must carry out any repairs required by the Lessor in accordance with and pursuant to the covenants in that behalf contained in this Lease PROVIDED HOWEVER that if any maintenance or repairs required to be carried out by the Lessee pursuant to this Lease have not been carried out to the reasonable satisfaction of the Lessor, the Lessor may (but is not obliged to) carry out or cause to be carried out and continue to carry out, such repair or maintenance and include the cost of such repair and maintenance as an item in the Outgoings.

7. RULES AND REGULATIONS

The Lessee must observe obey and conform to all reasonable rules and regulations from time to time made by the owners for the time being of the Complex with regard to the conduct and management of the building complex as a whole and for the benefit of the Complex generally including without limiting the generality of the foregoing any rules or regulations governing the allocation, arrangement and use of any parking facilities.

8. ASSIGNMENTS

The Lessee must not mortgage charge assign sublet or part with the possession of or grant a licence to any person to use or occupy the Premises or any part of them and the provisions of Sections 80 and 82 of the Property Law Act 1969 as amended are hereby expressly excluded PROVIDED ALWAYS the Lessor hereby agrees that in the event that the Lessee desires to transfer or assign the whole of the Premises to any person the Lessor shall not unreasonably withhold his consent to such assignment provided that:

- 8.1 the proposed assignee or transferee is a respectable and responsible person firm or corporation of sound financial standing and with at least equal trading potential as the Lessee and is conducting a business substantially similar to that of the Lessee (proof of which shall be on the Lessee);
- 8.2 the Lessee and the assignee or transferee execute an assignment or transfer of this Lease to which the Lessor is a party in such form as the Lessor and his Solicitors shall approve and prepare and the covenants and agreements of which assignment or transfer shall be supplementary to these presents and shall not in any way relieve or be deemed to relieve the Lessee or the Lessee's Guarantor (if any) from his liability under this Lease or any assignment or transfer thereof PROVIDED ALSO that the Lessor may as a condition of his consent require that:
 - (a) where the proposed assignee or transferee is a company or corporation require that the covenants by the assignee or transferee with the Lessor contained therein shall be guaranteed by all the Directors and principal shareholders of such company or corporation; and

- (b) a bond or bank guarantee is provided in an amount to the Lessor's satisfaction.
- 8.3 all rent then due or payable shall have been paid and there shall not be any existing unremedied breach of the covenants conditions and agreements in these presents contained;
- 8.4 the Lessee at its expense withdraws any caveat lodged by it against the Land;
- 8.5 the Lessee pays to the Lessor all proper costs charges and expenses incurred by the Lessor of and incidental to any enquiries which may be made by or on behalf of the Lessor as to the responsibility solvency fitness and suitability of any proposed assignee or transferee and the reasonable and proper costs and expenses relating to the preparation and execution of the assignment or transfer referred to in clause 8.2 above;
- 8.6 for the purpose of this Clause if the Lessee shall be a company or corporation the transfer or assignment by the shareholder of the company of the shareholding to any person firm or company which alters the effective control of the Lessee shall be deemed to be an assignment of the whole of the Premises.

9. LESSEE'S INDEMNITY

- 9.1 The Lessee must (except to the extent caused by the Lessor) indemnify and hold indemnified the Lessor from and against all actions claims demands losses damages costs and expenses which the Lessor may sustain or incur or for which the Lessor may become liable whether during or after the term in respect of or arising from:
 - 9.1.1 loss damage or injury from any cause whatsoever to property or person within or without the Premises occasioned or contributed to by the neglect or default of the Lessee or any employee agent contractor sublessee or other person claiming through or under the Lessee to observe or perform any of the covenants conditions regulations and restrictions on the part of the Lessee under the Lease whether positive or negative expressed or implied;
 - 9.1.2 the neglect use or misuse waste or abuse by the Lessee or any employee contractor agent sublessee or any other person claiming through or under the Lessee of any water gas or electricity or other services to the Premises;
 - 9.1.3 the overflow leakage or escape of water fire gas electricity or any other harmful agent whatsoever in or from the Premises caused or contributed to by any act or omission on the part of the Lessee its employees agents contractors sublessee or other persons claiming through or under the Lessee;

- 9.1.4 the failure of the Lessee to notify the Lessor of any defect in any of the air- conditioning equipment or other appurtenances in the Premises;
- 9.1.5 loss damage or injury from any cause whatsoever to property or persons and the death of any person caused or contributed to by the use of the Premises by the Lessee or any employees contractors agents sublessees or other persons claiming through or under the Lessee;
- 9.1.6 loss damage costs actions claims and demands which may be sustained or suffered by or recovered or made against the Lessor by the Lessee or by any employee client customer visitor invitee or licensee of the Lessee for any injury the Lessee or any such employee client customer visitor invitee or licensee may sustain in or upon or when entering or leaving the Premises or any part of the Premises.

9.2 INSURANCE

During the Term the Lessee must take out and keep in force at all times the Insurance Policies set out in Item 11, in the name of the Lessee and noting any interest of the Lessor and any Mortgagee of the Premises as may be applicable and upon demand by the Lessor give to the Lessor copies of the policies of insurance and proof that the premiums thereon have been paid.

9.3 COMPLY WITH INSURANCE

The Lessee must:

- 9.3.1 promptly comply with all the terms warranties and conditions of any policy taken out by the Lessee or the Lessor or requirements of the insurer relating to any such policy with respect to the Premises and not do or fail to do any act or thing that may cause the premium to be increased or cause the insurance to be prejudiced or liable to be cancelled or avoided or whereby any claim on the policy may be reduced or payment withheld either in whole or in part,
- 9.3.2 in the event of any damage or loss to the Premises allow the Lessor alone to have the full power to receive payment of insurance monies and to settle compromise or enforce any claim against any Insurance Company or for all monies payable under any insurance or compensation,
- 9.3.3 pay to the Lessor forthwith upon demand any excess deducted by any Insurer on any claim made by the Lessor under the policies effected by the Lessor pursuant to the provisions of the Lease, and
- 9.3.4 comply at all times in the Lessee's use of the Premises with the requirements of the relevant authorities and all laws and regulations for

the time being relating to fires and the provisions of any and every relevant statute regulation and ordinance. If the Lessee shall do or permit to be done any act matter or thing which has the effect of invalidating or avoiding any Policy of Insurance taken out by or effected hereunder for the benefit of the Lessor then the Lessee shall be responsible for any damage or loss which the Lessor may suffer or incur as a result thereof.

10. CAVEATS AND REGISTRATION

- 10.1 The Lessee must not lodge an absolute caveat against the Land. The Lessee may lodge one "subject to claim" caveat noting the interest of the Lessee under this lease and which is restricted in its application to only that part of the Land being the Premises. This lease is to take effect according to its terms notwithstanding that this lease is never registered with Landgate.
- 10.2 The Lessee must withdraw any caveat lodged by or on behalf of the Lessee over the Land on the expiry or sooner determination of the Term.
- 10.3 In consideration of the Lessor granting this lease to the Lessee, the Lessee irrevocably appoints the Lessor and every officer of the Lessor as defined by the Corporations Law, to be the attorney of the Lessee, in the name and on behalf of the Lessee, and as the act and deed of the Lessee on the expiry or sooner determination of the Term to sign and lodge at Landgate, Perth:
- 10.3.1 a withdrawal of any absolute caveat lodged by or on behalf of the Lessee;
- 10.3.2 a withdrawal of any caveat lodged by or on behalf of the Lessee and not withdrawn on the expiry or sooner determination of the Lessee;
- 10.3.3 a surrender of this lease;
- and the Lessee:
- 10.3.3.1 undertakes to ratify all that the attorney does or causes to be done under or by virtue of this clause; and
- 10.3.3.2 indemnifies the Lessor in respect of:
- 10.3.3.2.1 any loss arising from any act done under or by virtue of this clause; and
- 10.3.3.2.2 the Lessor's costs and expenses of and incidental to:
- 10.3.3.2.2.1 the withdrawing of any caveat lodged by or on behalf of the Lessee affecting the Land; and
- 10.3.3.2.2.2 registering this lease in order to exercise the power of attorney contained in this clause.

- 10.4 the Lessor will if requested in writing by the Lessee and if the Lessee first pays to the Lessor the anticipated costs to be incurred by the Lessor in registering this Lease including the costs of obtaining the consent of any mortgagee and any mortgagee's consent fee, the cost of production of the certificate of title to the Land and any mortgagee's production fee, the costs in preparing any plans required to put this Lease in registerable form, registration fees paid at Landgate to register the Lease and any other costs or disbursements incidental to the registration of the Lease.

11. SURRENDER OF PREMISES

- 11.1 The Lessee must at the expiration or sooner determination of this Lease at its own cost:
- 11.1.1 deliver up possession of the Premises to the Lessor in a clean and tidy condition and in good and substantial repair order and condition in accordance with the covenants contained in this Lease,
 - 11.1.2 surrender all keys, cards, security access devices for the Premises to the Lessor,
 - 11.1.3 inform the Lessor of all combinations on locks safes and vaults (if any) in the Premises,
 - 11.1.4 remove from the Premises all fixtures, fittings, floor coverings, antennae, signs and notices which shall have been erected or installed by the Lessee during or prior to the Term or purchased from any previous tenant of the Premises other than any Air Conditioning Equipment owned or installed by the Lessee, Fire Equipment, shop fronts, wall basins, toilet and plumbing equipment data cabling and electrical cabling and GPO points and other fixtures which in the opinion of the Lessor form an integral part of the building of which the Premises forms part. The Lessee's obligations to observe or perform this covenant shall survive the expiration or other termination of this Lease. The Lessee shall immediately make good to the satisfaction of the Lessor any damage caused to the Premises by the removal of any of the aforesaid items.
 - 11.1.5 If the Lessee has made any additions or alterations to the Premises, reinstate the Premises, if so required by the Lessor, to the condition they were in as at the Commencement Date.
 - 11.1.6 Until the Lessee has delivered up possession of the Premises and the keys to the Premises in accordance with the provisions of the Lease the Lessee shall pay to the Lessor in addition to any other monies payable under this Lease or at law or in equity liquidated damages per day of 1/365 of the Rental payable at the date of termination or expiration of the Lease for each day that elapses between the termination or expiration of the term

of the Lease until the provisions of this Clause have been complied with in full to the absolute satisfaction of the Lessor.

11.2 COMPENSATION FOR BREACH OF ESSENTIAL TERM

The Lessee must compensate the Lessor in respect of any breach of an essential term of this Lease and the Lessor is entitled to recover damages from the Lessee in respect of such breaches. The Lessor's entitlement under this Clause is in addition to any other remedy or entitlement to which the Lessor is entitled (including to terminate this Lease).

11.3 NOTICE FOR RELETTING AND SALE

The Lessee must at all times during the three (3) months immediately preceding the determination of the term to permit the Lessor or the Lessor's agents to affix upon any part of the Premises a notice for reletting or for sale of the same and during such three (3) months to permit intending tenants purchasers and others with written authority from the Lessor or the Lessor's agent at all reasonable times of the day to enter and view the Premises AND ALSO at all reasonable times during the term to permit the Lessor or the Lessor's Agent to affix upon any part of the Premises a notice for sale of the reversionary interest in the Premises and to permit prospective purchasers of the land and buildings which the Premises form part with the written authority of the Lessor to inspect and examine the same.

12. LESSOR'S COVENANTS

The Lessor HEREBY COVENANTS AND AGREES with the Lessee as follows:-

12.1 QUIET ENJOYMENT

That the Lessee paying the reserved Rent and observing and performing the several covenants and stipulations on his part herein contained shall peaceably hold and enjoy the Premises without any interruption by the Lessor or any person lawfully claiming under him.

12.2 RATES AND TAXES

To pay all rates taxes charges and other outgoings (other than those hereinbefore made payable by the Lessee) payable in respect of the Premises and the building complex of which the Premises form part.

12.3 INSURANCE

During the continuance hereof to take out and to keep in force at all times the Insurance Policies set out in the Schedule under Item 12 in the names of the Lessor and any Mortgagee of the Premises as may be applicable.

13. MUTUAL COVENANTS

IT IS HEREBY AGREED AND DECLARED by and between the parties hereto as follows:

13.1 RE-ENTRY UPON DEFAULT

If the Rent hereby reserved or any part thereof or any monies payable by the Lessee hereunder shall at any time be unpaid for seven (7) days after becoming payable (whether formally demanded or not),

or

if any covenant on the Lessee's part herein contained being an essential term of this Lease shall not be punctually performed and observed and such default shall continue for fourteen (14) days after written notice thereof shall have been served on the Lessee by the Lessor or his solicitor or agent,

or

if the Lessee shall commit a breach of any covenant (other than an essential term) herein contained or implied and the Lessee shall fail to remedy the breach or make compensation in money for the breach within twenty-eight (28) days after written notice thereof shall have been served on the Lessee by the Lessor or his solicitor or agent,

or

if any person shall be in occupation of the Premises or in receipt of the rents and profits thereof other than the Lessee or an approved assignee sublessee or licensee,

or

if the Premises shall be deserted or

vacated, or if: -

13.1.1 the Lessee requests or if the Lessee is a body corporate the directors of the Lessee request or resolve to request the appointment of a receiver or receiver and manager;

13.1.2 the Lessee is a body corporate and the directors of the Lessee request, or resolve to request, the appointment of a controller;

13.1.3 a receiver or receiver and manager of any of the property of the Lessee is appointed;

13.1.4 the Lessee is a body corporate and a controller of any of the property of

the Lessee is appointed;

- 13.1.5 the Lessee is a body corporate and the directors of the lessee appoint, or resolve to appoint, an administrator of the Lessee;
- 13.1.6 the Lessee is a body corporate and an administrator is appointed, of the Lessee;
- 13.1.7 a compromise or arrangement is made between the Lessee and a creditor of the Lessee;
- 13.1.8 an application is made to a court for an order summoning a meeting of any class of creditors of the Lessee;
- 13.1.9 the Lessee is a body corporate and an application is made, an order is made, or, a resolution is passed, or a meeting is convened for the purpose of considering a resolution, for the Lessee to be wound up unless the winding up is for the purpose of reconstruction; or
- 13.1.10 the Lessee:
 - 13.1.10.1 becomes insolvent;
 - 13.1.10.2 admits in writing the inability of the Lessee to pay its debts; or
 - 13.1.10.3 is deemed to be insolvent;
- 13.1.11 execution is levied on, or other lawful process is issued against, any property of the Lease;
- 13.1.12 judgment is obtained against the Lessee in any court which remains unsatisfied for twenty (20) Business Days from its date and without lodgement of notice of appeal having been made within the proper time;
- 13.1.13 the Lessee is a body corporate and:
 - 13.1.13.1 an investigation is commenced under section 13 of the Australian Securities and Investments Commission Act 1989 to investigate the affairs of the Lessee;
 - 13.1.13.2 the Lessee being or stating that it is unable to pay all of its debts from its own money as and when they become due and payable, within the meaning of section 95A of the Corporations Act;
 - 13.1.13.3 an event has occurred which would constitute grounds on which the Lessee could be wound up by a court having jurisdiction to do so pursuant to sections 459C(2) or 461 of the

Corporations Act 2001;

13.1.13.4 an application is made or notice given or other procedure commenced for the dissolution or cancellation of the registration of the Lessee or having a similar effect to the dissolution or cancellation of the registration of the Lessee;

Or

13.1.13.5 steps are taken under sections 601AA or 601AB of the Corporations Act to cancel the registration of the Lessee;

13.1.14 an event mentioned in this clause in relation to the Lessee occurs in relation to the Guarantor; or

13.1.15 the Guarantor seeks to exercise a right of subrogation against the Lessee.

THEN AND IN ANY OF THE SAID CASES it shall be lawful for the Lessor at any time thereafter but without prejudice to any claim which the Lessor may have against the Lessee to determine this tenancy and demise and if thought fit to re-enter upon the Premises or any part thereof in the name of the whole and resume possession thereof.

13.2 ESSENTIAL TERMS

The covenants by the Lessee contained or implied in:

13.2.1 Clause 2 to pay the Rent at the times and in the manner therein provided;

13.2.2 Clause 5 to use the Premises for the purpose of conducting the business or businesses set out in Item 9;

13.2.3 Clause 8 not to transfer or assign without permission;

13.2.4 Clause 5.4 to repair the Premises and clause 5.5 to keep Premises clean;

13.2.5 Clauses 4 and 9.2 to pay rates and taxes and insurance premiums;

are (subject to the proviso in this sub-clause) essential terms of this Lease the breach non-observance or non-performance of any one or more of such covenants terms and conditions shall be deemed to be a fundamental breach of the provisions of this Lease on the part of the Lessee to be observed and performed PROVIDED THAT the presence of this Clause in this Lease shall not mean or be construed as meaning that there are no other essential terms of this Lease.

13.3 LESSOR'S RIGHT TO LIQUIDATED DAMAGES

Should the Lessor terminate this Lease following any fundamental breach (as defined in Clause 13.2) or pursuant to Clause 13.1 hereof without prejudice to any

other right or remedy of the Lessor herein contained or implied it is expressly agreed and declared that the Lessor shall be entitled to recover from the Lessee as and by way of liquidated damages for such breach the aggregate of the Rent and Outgoings and any other monies which would have been payable by the Lessee for the unexpired residue of the term but for such determination less the aggregate of the Rent Outgoings and any other monies which the Lessor by taking proper steps to relet the Premises shall obtain or could reasonably be expected to obtain by reletting the Premises for the unexpired residue of the term after such determination PROVIDED THAT in so doing the Lessor shall not be required or be obliged to offer or accept in respect of such reletting terms covenants conditions or stipulations which are the same or similar to the terms covenants conditions or stipulations herein contained or implied.

13.4 NO WAIVER CONSTITUTED

13.4.1 After the Lessee is in default or breach under this Lease, the demand or acceptance of rent by the Lessor does not preclude the Lessor from any rights or remedies under the Lease, including enforcing or terminating the Lease.

13.4.2 The Lessor's failure to enforce any of the Lessee's obligations under this Lease and to terminate this Lease, does not waive the Lessors entitlements to require the Lessee to observe all obligations under this Lease to enforce that and all other obligations and to terminate this Lease.

13.4.3 The acceptance by the Lessor of late payment of Rent or rates, taxes and outgoings or the waiver by the Lessor of performance of some of the Lessee's obligations under this Lease, temporarily or permanently, is not a waiver of any other or subsequent breach or default by the Lessees,

13.4.4 Determination of this Lease on any basis does not affect the Lessor's rights and remedies for earlier breaches by the Lessee of its obligations under this Lease.

13.5 LESSOR'S REMEDIES

13.5.1 In the event that the Lessee's conduct (whether acts or omissions) constitutes a repudiation of the Lease (or of the Lessee's obligations under the Lease) or constitutes a breach of any Lease covenants the Lessee covenants to compensate the Lessor for the loss or damage suffered by reason of the repudiation or breach;

13.5.2 The Lessor shall be entitled to recover damages against the Lessee in respect of repudiation or breach of covenant for the damage suffered by the Lessor during the entire term of this Lease;

- 13.5.3 the Lessor's entitlement to recover damages shall not be affected or limited by any of the following:-
- 13.5.4 if the Lessee shall abandon or vacate the Premises;
- 13.5.5 if the Lessor shall elect to re-enter or to terminate the Lease;
- 13.5.6 if the Lessor shall accept the Lessee's repudiation;
- 13.5.7 if the parties' conduct shall constitute a surrender by operation of law;
- 13.5.8 the Lessor shall be entitled to institute legal proceedings claiming damages against the Lessee in respect of the entire term including the periods before and after the Lessee has vacated the Premises and before and after the abandonment termination repudiation acceptance of repudiation or surrender by operation of law referred to in Paragraph 13.5.3 whether the proceedings are instituted either before or after such conduct;
- 13.5.9 in the event of the Lessee vacating the Premises whether with or without the Lessor's consent the Lessor shall be obliged to take reasonable steps to mitigate his damages and to endeavour to lease the Premises at a reasonable rent and on reasonable terms. The Lessor's entitlement to damages shall be assessed on the basis that the Lessor should have observed the obligation to mitigate damages contained in this paragraph. The Lessor's conduct taken in pursuance of the duty to mitigate damages shall not by itself constitute acceptance of the Lessee's breach or repudiation or a surrender by operation of law.

13.6 LESSOR'S RIGHT TO REMEDY DEFAULTS

If the Lessee shall make default in the observance and performance of any covenant on the part of the Lessee herein contained or implied it shall be lawful for the Lessor and his servants or agents (without derogating however from the powers rights and authorities of the Lessor) on default to make such payments and construct such work alterations and things abate such nuisance performance discharge and execute such orders requisitions or requirements and repair cleanse paint maintain drain and keep the Premises as may be requisite in accordance with any covenant herein contained or implied in respect of which default shall have been made and the costs thereof shall be repaid by the Lessee to the Lessor on demand and until repayment shall bear and include interest at the rate as specified in Item 8 from the date when such costs were incurred by the Lessor.

13.7 TOTAL OR PARTIAL DESTRUCTION

- 13.7.1 Subject to clause 13.7.2, if the Premises shall during the Term or any renewal thereof be destroyed or substantially damaged so as to require

rebuilding or reconstruction, then the Lessor must within twelve (12) months of the destruction or damage, commence to expeditiously rebuild and reconstruct the Premises in accordance with the requirements of any Relevant Authority and otherwise in accordance with plans and specifications first approved by the Lessor.

- 13.7.2 The Lessor shall not be obliged to rebuild or reconstruct the Premises if the Lessor's insurance policy in respect of the Premises has been voided due to any act, omission or default of the Lessee. In those circumstances, the Lessor may, by notice in writing to the Lessee, terminate this Lease as from the date of the giving of the notice without prejudice to the Lessor's or the Lessee's rights in respect of any antecedent breach of any of the covenants in this Lease.
- 13.7.3 If all or any parts of the Premises shall at any time during the Term or any renewal thereof be destroyed or so damaged as to render the Premises unfit for occupation or use then (unless the damage or destruction was caused by or in consequence of any act or default of the Lessee or any insurance policy in respect of the Premises shall have been forfeited or payment of any policy moneys refused by or in consequence of any act or default of the Lessee) the Rent or any fair and just proportion according to the nature and extent of the damage sustained shall from the date of such damage or destruction and until the Premises shall be reinstated and made fit for occupation and use be suspended and cease to be payable.
- 13.7.4 Any dispute concerning this provision shall be determined by a single arbitrator in accordance with the provision of the Commercial Arbitration Act 2012 (Western Australia) PROVIDED THAT the Rent shall be paid without any abatement until the date of the award of the arbitrator or agreement between the parties (whichever is the earlier) whereupon the Lessor will refund to the Lessee any Rent overpaid by the Lessee. Either party may be represented by a solicitor or barrister in any arbitration proceedings.

14. LESSOR NOT LIABLE

The Lessor shall not be liable to the Lessee in respect of any loss or damage suffered by the Lessee by reason of or arising out of any act neglect or default of any other tenant or occupier of the Complex or any malfunction or breakdown in or interruption of or to the water gas or electricity services the Air Conditioning Equipment Fire Equipment lifts escalators or any of the appurtenances contained in the Premises or in the Complex or from the breakage lockage or overflow of any sewer waste drains conduits cables wires gutters down pipes or stormwater drains from any cause whatsoever.

14.1 LESSEE TO REMOVE FIXTURES

14.1.1 If the Lessee on or before the expiration of the Term (or any term) or earlier determination of this Lease) fails to remove any fittings fixtures equipment furnishings things stock or other property belonging to the Lessee from the Premises they shall be deemed abandoned by the Lessee and shall be and become the property of the Lessor unless the Lessor shall deposit them in a public warehouse or deliver them to the Lessee or otherwise dispose of them pursuant to Clause 14.2.

14.1.2 In the event that the Lessee requires access to the Premises after the Lease has expired or been terminated to remove anything as permitted by the terms of this Lease the Lessor may if requested in writing by the Lessee within seven (7) days of the expiration or termination of the Lease grant a reasonable time (not exceeding seven Business Days) for the Lessee to remove all such permitted items PROVIDED such removal can only be carried out on a Business Day and FURTHER PROVIDED that the Lessee first undertakes to remove all of its equipment furnishings things stock or other property AND the Lessee first pays to the Lessor or the Lessor's managing agent:

- (a) the estimated cost of the Lessor or the Lessor's managing agent attending the Premises to oversee such removal and close the Premises,
- (b) a bond to cover the cost of making good any damage to the Premises that may be caused by the removal,
- (c) a daily licence fee equivalent to the Rent and Outgoings (calculated on a daily basis) that would have been payable by the Lessee if the Lease had not been terminated,
- (d) any legal or other costs incurred by the Lessor in regard to granting and supervising access to the Premises by the Lessee.

14.2 LESSOR'S RIGHT TO REMOVE FIXTURES

Any fittings fixtures equipment furnishings things stock or other property deemed abandoned by the Lessee pursuant to the provisions of clause 14.1 may at the option of the Lessor:

- 14.2.1 be deposited in a public warehouse or elsewhere at the cost and for the account of the Lessee;
- 14.2.2 be removed to the Lessee's last known abode, place or business or address and there or as near thereto as possible to leave the same at the risk in every respect of the Lessee;
- 14.2.3 be disposed of in any other way that the Lessor in their absolute discretion

thinks fit (including but not limited to their sale) in which case the costs of such removal and/or disposal and the cost of making good those parts of the Premises occasioned by such removal shall be borne by the Lessee and payable to the Lessor upon demand and the Lessor shall not be liable for any loss or damage occasioned thereby and the Lessor shall not be liable in any cause or action including (but without limiting the generality of the foregoing) in conversion detinue or trespass to goods by reason thereof.

14.3 LESSOR'S POWER TO REPAIR

The Lessee will permit the Lessor and the agents of the Lessor at any time or times during the term (in case the Lessor shall in the Lessor's discretion deem it necessary desirable or expedient so to do) to carry out or make any rebuilding of or repairs alterations additions or improvements to the Premises or any part of them or to any part of the building complex of which the Premises form part and for that purpose to enter with or without contractors and agents and their workmen servants and others into and upon such parts of the said Premises as may be necessary or convenient for the purpose of executing and completing such rebuilding repairs alterations additions improvements and works and to erect scaffolding or other building structures over and above or in front of the Premises and the Lessee will facilitate and not in any way impede or obstruct the carrying out or completion of such rebuilding repairs alterations additions improvements or works and any of them and shall not nor will claim any compensation or abatement of the Rent for or in respect of any such rebuilding repairs alterations additions improvements or any of the works done in connection therewith or in any way relating thereto provided that the Lessor and the agents of the Lessor shall do all such works and things with due despatch and cause as little damage and inconvenience to the Lessee as possible.

14.4 AIR CONDITIONING

- (a) To the extent of the Lessee's control over the same at all times use and regulate the Air Conditioning Equipment to ensure that the Air Conditioning Equipment is employed to the best advantage in the conditions from time to time prevailing and not install in the Premises any electrical or other equipment or appliance which will generate excessive heat loads and shall forthwith remove any equipment which in the opinion of the Lessor's consultant engineer is interfering with the performance of the Air Conditioning Equipment;
- (b) Not have any claim against the Lessor arising from any inability or failure on the part of the Lessor to operate or maintain the Air Conditioning Equipment at any time or times for any reason whatsoever and to the extent to which the Lessor has control over the same the use and operation of the Air Conditioning Equipment shall at all times be at the discretion of the Lessor;

- (c) Not in any way interfere with or adjust or tamper with the controls of the Air Conditioning Equipment without the approval of the Lessor first obtained where such interference adjustment or tampering would affect any part of the Complex other than the Premises.

14.5 CLEANING OF PREMISES BY THE LESSOR

Notwithstanding anything to the contrary contained or implied in Clause 5.5 the Lessor reserves to itself the right for itself or its contractors to clean the Premises and to charge the Lessee therefor pursuant to the provisions of this Lease and for this purpose in the event of the lessor such exercising such right the Lessee shall permit the Lessor and its employees agents and contractors access to the Premises at all reasonable times and from time to time to carry out such cleaning.

15. OPTION TO RENEW LEASE

- 15.1 If during the Term the Lessee shall not have been in breach of the Lessee's covenants herein contained the Lessee shall have the option to be exercised by giving to the Lessor written notice in that behalf not more than six (6) months and not less than three (3) months before the expiration of the term of obtaining a renewal of the term for a further period as set out in Item 13 at the Rent determined as set out in Item 7 but otherwise upon the same terms and conditions as are herein contained except this option of renewal.
- 15.2 If during the first renewed term of the Lease the Lessee shall not have been in breach of the Lessee's covenants herein contained the Lessee shall have the option to be exercised by giving to the Lessor written notice in that behalf not more than six (6) months and not less than three (3) months before the expiration of the first renewed term of obtaining a renewal of the term for a further period as set out in item 14 at the Rent determined as set out in Item 7 but otherwise upon the same terms and conditions as are herein contained except this option of renewal.
- 15.3 If during the second renewed term of the Lease the Lessee shall not have been in breach of the Lessee's covenants herein contained the Lessee shall have the option to be exercised by giving to the Lessor written notice in that behalf not more than six (6) months and not less than three (3) months before the expiration of the second renewed term of obtaining a renewal of the term for a further period as set out in Item 15 at the Rent determined as set out in Item 7 but otherwise upon the same terms and conditions as are herein contained except this option of renewal.
- 15.4 The Lessee and Guarantor (if any) must execute upon demand by the Lessor a deed recording the extension of this lease to be prepared by the Lessor's Solicitors at the cost in all respects of the Lessee.

16. HOLDING OVER

If the Lessee shall upon the expiration of the Term hold over the Premises with the consent of the Lessor the tenancy shall be and continue as a monthly tenancy on the same terms as are set out in this Lease insofar as they are applicable (except that the Rent shall be increased by 5%) and in the event that with the Lessor's consent the Lessee holds over for a period in excess of one year the Rent shall be increased by a further 5% on each anniversary of the expiration of the Term and shall be determined at the expiration of one month's written notice by either party to the other given at any time.

17. CHARGE

The Lessee hereby charges all its right title and interest in any freehold or leasehold property which the Lessee, and if the Lessee consists of two or more persons or entities any one of the Lessee, now has or may hereafter acquire with payment of the Rent and Outgoings and any loss or damage incurred by the Lessor due to any breach by the Lessee of any of the terms and conditions of this Lease AND the Lessee shall do all such acts matters and things and execute all such documents as the Lessor may require in its absolute discretion at any time and from time to time to further secure the rights or interests of the Lessor in the property hereby charged at the cost and expense of the Lessee in all respects.

18. SEVERABILITY

To the extent that any term covenant or proviso or any part of a term covenant or proviso herein contained shall be void at law or in equity upon any grounds or shall be deemed to be void or prohibited by any applicable law (including but not affecting the generality of the foregoing the Competition and Consumer Act 2010 such term covenant condition or proviso or part thereof shall to such extent be ineffective and inoperable without making this Lease void either wholly or in part or invalidating or modifying the remaining terms covenants conditions or provisos of this Lease which shall continue in full force and effect as if the term covenants conditions or provisos or the part or parts thereof which are void or prohibited have not been included in this Lease as from the commencement hereof.

19. REGISTERED PROPRIETOR

The Lessor shall have no liability whatsoever to the Lessee during the term of this Lease or any extension or renewal hereof pursuant to this Lease from the time that the Lessor ceases to be the registered proprietor of the Premises.

20. STRATA LOT

20.1 The Lessee acknowledges and agrees that if the Premises are a Lot or form part of a Lot on a Strata Plan or should the Lessor elect to register a Strata Plan in respect of the whole or part of the Land including the Premises, the following provisions of this clause 20 shall apply.

20.2 Forthwith upon receiving a request to do so from the Lessor the Lessee shall

withdraw any caveat lodged by the Lessee and in consideration of the Lessor granting this Lease, the Lessee hereby irrevocably appoints the Lessor and each and every one of the directors and other officers of the Lessor jointly and severally to be the agent and attorney of the Lessee to sign and register a withdrawal of any such Caveat. The Lessee may lodge a "subject to claim" caveat to replace the caveat so withdrawn after the registration of the Strata Plan. The Lessor shall pay the Lessee's reasonable costs of withdrawal and re-lodgement.

20.3 The following words have these meaning in clause 20:-

"Act" means the Strata Titles Act 1985.

"Registered Proprietor" means the Registered Proprietor of a Lot comprised in the Strata Plan

20.4 When in clause 20 the words **"building"**, **"council"**, **"Lot"**, **"Strata Company"**, **"Strata Plan"**, **"Strata Scheme"** AND **"Unit entitlement"** have the meaning given in the Act.

20.5 The grant of this Lease is subject to all easements, rights, reservations and powers mentioned in the act and affecting the Premises so far as they are not excluded or modified.

20.6 In this Lease:-

Common Areas includes anything contained in the common property.

20.6.1 where the Premises form part only or a Lot, the Lessee's proportion of the Outgoings will be the lettable area of the Premises as a proportion of the lettable area of that Lot; and

20.6.2 the Lessee's proportion of any item of expenditure in the nature of Outgoings which in the opinion of the Lessor is solely attributable to the Premises or the Lot of which the Premises form part will be 100% of that item of expenditure.

Outgoings INCLUDE:-

20.6.3 all contributions levied by the Strata Company pursuant to the Act; to the extent they are imposed by Clause 4 and contained in the Outgoings by the Lessee and not otherwise paid, and

20.6.4 all management fees and expenses paid or payable by the Lessor to a managing agent appointed in relation to the Strata Company as well as management fees and expenses paid or payable by the Lessor to a managing agent appointed by the Lessor to administer and manage the Premises.

- 20.7 Notwithstanding the inclusion of the Premises in any insurance of the building by the Strata Company, the Lessor may elect to separately and additionally insure the Premises and recover from the Lessee the premiums for that insurance as an Outgoing.
- 20.8 The Lessee is to comply with the Act and the By-Laws of the Strata Company and hereby covenants to pay all contributions levied under the Act to the extent they are imposed by Clause 4 herein and contained in the Outgoings payable by the Lessee and not paid direct to the Lessor.
- 20.9 Neither this Lease nor the Term is affected by any order made by the Supreme Court under Part III of the Act varying the Strata Scheme or substituting a new Strata Scheme or terminating the Strata Scheme unless the order is for the termination of the Strata Scheme in consequence of damage to or the destruction of the building.
- 20.10 The Lessee has no claim or rights against the Lessor in consequence of the exercise by the Strata Company of any of the Strata Company's rights, duties or powers under the Act.
- 20.11 If any right or power granted to the Lessor or obligation imposed upon the Lessor under this Lease may only be exercised or carried out by the Strata Company or with the approval of the Strata Company, then that right or power may only be exercised by or with the approval of the Strata Company; and the Lessor has no duty to perform or observe that obligation but must use reasonable endeavours to endure that the Strata Company carries out or observes that obligation. For the purposes of this provision "reasonable endeavours" is limited to the exercise by the Lessor of its voting rights in relation to the act or matter in question.

21. NO WARRANTIES AND LESSOR NOT LIABLE

- 21.1 The Lessor does not expressly or impliedly warrant that the Premises are now or will remain suitable or adequate for all or any of the purposes of the Lessee and all warranties (if any) as to the suitability and adequateness of the Premises implied by law or in equity are hereby expressly negated and the Lessee shall be deemed to have made and relied entirely upon his own enquiries and knowledge as to the suitability of the Premises.
- 21.2 The Lessor is not liable in respect of any loss liability cost or expense resulting from:
- 21.2.1 any act or omission of the Lessee or the Lessee's Agents or any other tenant of the Complex or any other person in the Complex (whether there lawfully or not);
 - 21.2.2 any malfunction breakdown interruption or failure in relation to the supply of services (including but not limited to Air Conditioning Equipment) to the Premises or to any part of the Complex;

- 21.2.3 any other accident damage or malfunction affecting the Premises or the Complex including but not limited to any leaks blocked drains pipes or conduits any overflow or ingress of water or any breaking wires or cables;
- 21.2.4 damage to or loss of Lessee's stock or other possessions and any property or loss of life or injury to any person in the Premises or in or near the Complex due to any cause; or
- 21.2.5 the neglect or omission of the Lessor to do any act or thing to or in respect of the Premises or any other part of the Complex which as between the Lessor and the Lessee the Lessor might be legally liable to do unless:
 - (i) the Lessee gives the Lessor notice in writing of that act or omission; and
 - (ii) the Lessor has without reasonable cause failed within a reasonable time thereafter to take proper steps to rectify that act or omission.

21.3 The Lessee acknowledges and agrees that the condition and working order of the power/data/phone cabling and outlets in the Premises is unknown. The Lessee takes the power/data/phone cabling and outlets in the condition they are at the Commencement Date and agrees that the Lessor will have no obligation to put the power/data/phone cabling and outlets into working order or to replace them if they cannot be repaired or put into working order.

22. PARTIES BOUND

- 22.1 This Deed shall be binding upon each person who has executed it notwithstanding:
 - 22.1.1 the failure of any other person named as a party to execute it;
 - 22.1.2 the failure of any other person named as a Guarantor to the Deed to execute this Deed;
 - 22.1.3 the avoidance or unenforceability of any part of this Deed; or
 - 22.1.4 the avoidance or unenforceability wholly or in part of this Deed against any person named as party to it.

23. NOTICES

- 23.1 Any notice or statement to be given or demand to be made on either party under this Lease:
 - 23.1.1 will be effectively signed on behalf of a party if it is executed by that party, any of its officers, its solicitor or its managing agent; and

23.1.2 may be served

- (a) by being delivered personally or being left at or posted in a prepaid envelope or wrapper to the address of the other party specified in this Lease or the registered office or place of business or residence of the other party last known to the sender or by being sent to the other party by facsimile transmission to the facsimile number of the other party specified in this Lease or last notified to the sender;
- (b) pursuant to Section 135 of the Property Law Act 1969;
- (c) in the case of the Lessee, by leaving it for or posting it to him/her/it or them at the Premises.

23.1.3 A demand or notice if:

- (a) posted, will be deemed to be received 2 Business Days after posting; and
- (b) sent by facsimile transmission - will be deemed to be received at the time shown in the transmission report at the time that the whole facsimile was sent;
- (c) sent by email - will be deemed to be received at the time shown in the transmission report of the time that the email was sent.

24. DEFINITIONS

In this Lease unless the context otherwise requires the expressions:

"Air-Conditioning Equipment" means all compressors condensers chiller sets pumps pipeworks switchboards wiring thermostats controls cooling towers air handling units and duct work used for the production and reticulation of chilled water and conditioned air for the Complex.

"Business Day" means any day except a Saturday, Sunday or Public Holiday in Western Australia.

"Commencement Date" means the date so described in Item 3.

"Common Areas" means those parts of the Land and the buildings erected on the Land that the Lessor in its absolute discretion intends to be for the use of the lessees of the Land and their employees agents customers invitees in common with the Lessor and the employees lessees tenants occupiers and customers of the Lessor and all other persons authorised by the Lessor and are so designated from time to time by the Lessor including driveways and car

parking areas.

"Complex" means the Land, Common Areas and all improvements erected and constructed on the Land and all the Lessor's fixtures fittings plant and machinery therein from time to time and includes the Premises.

"Consumer Price Index" means the Consumer Price Index (All Groups) for the City of Perth as calculated and published by the Australian Bureau of Statistics or if the Australian Bureau of Statistics ceases to publish the Index or substantially alters the method of computation of that Consumer Price Index the Lessor shall utilize such figures in place thereof as the Lessor shall reasonably determine and in so determining the Lessor shall utilize an Index which is as near to the Consumer Price Index as is reasonably possible.

"Current Market Rental" means:

- (a) If the Retail Shops Act does not apply to this Lease the best current open market annual rental value that can be reasonably obtained for the Premises:-
- (b) on the basis that the Premises are available for leasing for the term and any additional options for renewal and disregarding the fact that part of the term will have elapsed at the Rent Review Date;
- (c) on the terms and conditions and for the permitted use contained in this Lease but having regard to any other use to which the Premises may be lawfully put;
- (d) on the basis that the covenants on the part of the Lessee in this Lease have been fully performed at the Rent Review Date;
- (e) without taking into account the Lessee's trade fixtures and fittings and any other improvements and installations erected or installed at the Lessee's expense;
- (f) having regard to current open market annual rental values of comparable premises whether vacant or occupied and whether any rental value thereof has been arrived at through new lettings or rent reviews or renewals of existing tenancies or otherwise;
- (g) in the event that the Premises have been damaged destroyed assuming that the Premises have been reinstated;

but ignoring:-

- (h) any rent free period financial contribution or other concession customarily or likely to be offered to new tenants of vacant premises;
- (i) any value attaching to goodwill created by the Lessee's occupation of the Premises;
- (j) any value attaching to any licence or permit the property of the Lessee in respect

of the business carried on by the Lessee at the Premises;

- (k) any deleterious condition of the Premises if such conditions result from any work carried out on the Premises by the Lessee or by any breach of any terms of this Lease by the Lessee.
- (l) if the Retail Shops Act applies to this Lease the meaning given to Market Rent in the Retail Shops Act.

"Guarantor" means and includes where the Guarantor is a person such person and his executors administrators and assigns and where two or more persons are the Guarantor means and includes such persons and each of them and their and each of their executors administrators and assigns.

"Land" means the land described in Item 2.

"Item" means an item of the Schedule to this Lease.

"Lease Year" means:

- (a) the period commencing at midnight on the day preceding the Commencement Date and expiring at midnight on 30th June next ensuing (which period is sometimes also called "the Preliminary Period");
- (b) each consecutive period of twelve (12) months from and including 1st July to the next 30th June during the Term; or
- (c) the period from and including 1st July immediately preceding the Expiry Date and expiring at midnight on the Expiry Date (which period is sometimes also called "the Final Lease Year") as the case may be.

"Lessee" means and includes where the Lessee is a person such person and his executors administrators and assigns and sublessees and where two or more persons are the Lessee means and includes such persons and each of them and their and each of their executors administrators and assigns and sublessees and where the lessee is a corporation means and includes such corporation and its successors and assigns and sublessees and where two or more corporations are the Lessee means and includes such corporations and their respective successors and assigns and sublessees and this definition shall apply mutatis mutandis when the Lessee is a combination of both person or persons and corporation or corporations.

"Lessee' s Agents" means and includes any employee, contractor, invitee, licensee or agent of the Lessee.

"Lessor" means and includes the Lessor and the reversioner for the time being immediately expectant upon the term hereby created.

"Person" includes a person firm and/or corporation or other body corporate.

"Preliminary Period" shall mean the period commencing at midnight on the day preceding the commencement date of this Lease and terminating at midnight on 30 June next following the commencement date of this Lease.

"Premises" means the premises and Lessor's chattels described in Item 1.

"Rent" means the annual amount as set out in Item 4 as varied under this Lease and being the agreed monetary consideration for the right to use and occupy the Premises in accordance with the terms covenants and conditions contained in this Lease.

"Rent Review Dates" means the dates set out in Item 6.

"Reservations" means the use by the Lessor of the exterior walls and or party walls (if any) and roof of the Premises and the right to install maintain keep use repair alter and replace all pipes ducts conduits and wires leading through or upon the Premises and to pass or run gas water heat electricity or other power in and through such pipes ducts conduits and wires and at all times to enter into and upon the Premises PROVIDED THAT in exercising such rights the Lessor will not interfere with the Lessee in the Lessee's use and occupation of the Premises more than reasonably necessary.

"Retail Shops Act" means the Commercial Tenancy (Retail Shops) Agreements Act 1985 as amended.

"Special Conditions" means the special conditions of this Lease, if any, set out in Item 18;

"Term" means the period from and including the Commencement Date to and including the expiry date described in Item 3 and where the context requires means any extension or renewal of the Term and any period of holding over.

"Outgoings" shall include:

- (a) Local Authority Rates, Water Corporation of Western Australia Rates, Land Tax (including M.R.I.T.) [on a single holding basis] and all other legislative or regulatory fees, assessments, impositions and duties now or at any future time chargeable or assessable in respect of the Premises.
- (b) Water Consumption, Sewer Volume, Electricity, Gas, Telephone and all other consumption based fees for utilities and services (including meter rentals) now or at any future time used or charged against or in respect of the Premises.
- (c) The total amount expended by the Lessor including provisions and adjustments appropriate for the financial year in which the amounts are expended in respect of the whole of the building complex including the common areas of which the Premises form part including any additions to the building complex (and not otherwise the direct responsibility of the Lessee within the terms of this Lease or otherwise) and in particular the outgoings described below:-

- (d) cleaning of Complex including gutters and common area and window cleaning and rubbish removal;
- (e) grounds maintenance and repairs;
- (f) building and roof maintenance and repairs and all costs of general maintenance, upkeep and repairs to the Complex including painting of and to the Complex;
- (g) hot water system running maintenance and repairs;
- (h) all contributions levied by the Strata Company on the Lessor pursuant to the Act and in respect to the Premises including all contributions payable to the administrative fund established by the Strata Company under the Act to cover the costs, charges and expenses for the operation, maintenance, control and management of the Common Property or the building or buildings comprised in the Strata Plan and whether or not these contributions are levied on a periodical basis to the extent that the Lessee has not paid or contributed to them as outgoings under any other provision of this Lease, and any special levies or contributions to a sinking fund established by the Strata Company to cover repairs or maintenance or any similar purpose whether such repairs, maintenance or similar purposes are of a regular or intermittent nature;
- (i) gardening, landscaping and reticulation maintenance and repairs;
- (j) Water Authority Fire Service fees;
- (k) Property management fees and associated costs and disbursements
- (l) Air-conditioning running costs of providing air conditioning to the Complex and includes all charges and expenses for electricity and other sources of energy and fuel used or consumed in the operation of the Air Conditioning Equipment and fees or premiums payable under any maintenance or service contracts whether comprehensive or otherwise and including the costs (when payable separately from any maintenance or service contract) of replacement of major or substantial items of plant or equipment comprised in the Air Conditioning Equipment;
- (m) all costs and charges for garbage removal and trade waste disposal from the Complex;
- (n) all maintenance costs and inspection charges of and for any fire equipment installed in or serving the Complex;
- (o) all costs of administration and management of the Complex;
- (p) all costs of controlling and eradicating pests in the Complex;
- (q) all other expenses incurred by the Lessor in the operation inspection or

maintenance of the Premises and the Complex;

- (r) all costs of cleaning and all charges and expenses for electricity and other sources of power used or consumed in the common areas;
- (s) the premium or premiums on the Insurance Policies taken out by the Lessor under Item 12.

"Valuer" means a licensed and independent Valuer with a minimum of 10 years' experience who is a member of the Australian Property Institute (Inc) (W.A. Division).

26. INTERPRETATION

26.1 In this Lease unless the context otherwise requires:

- 26.1.1 Reference to any Act or Statute (State or Federal) shall include all statutory amendments and re-enactments thereof for the time being in force.
- 26.1.2 The singular number includes the plural number and the masculine gender includes the feminine gender and the neuter gender and vice versa.
- 26.1.3 A covenant entered into by more than one person shall be deemed to be entered into by those persons jointly and each of them severally.
- 26.1.4 The headings to the Clauses and Subclauses and paragraphs are inserted for ease of reference only and shall not affect the interpretation or construction of this Lease.
- 26.1.5 If this Lease is a lease to which the Retail Shops Act applies then the provisions of this Lease are deemed to apply subject to the provisions of that Act and to the extent that any right power remedy obligation or liability is prohibited or made void by or is contrary to that Act it will not apply.
- 26.1.6 The words "including", "for example" or "such as" when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind.
- 26.1.7 "This Lease" is a reference to this Lease and to any renewal or extension of it or holding over under it.
- 26.1.8 If a period of time dates from a given day or the day of an act or event, it is to be calculated exclusive of that day.

27. FAILURE OR DELAY IS NOT WAIVER

Failure to exercise or delay in exercising any right, power or privilege in this Lease by the Lessor does not operate as a waiver of that right, power or privilege.

28. CONSTRUCTION

No rule of construction applies to disadvantage the Lessor because the Lessor was responsible for the preparation of, or seeks to rely on, this Lease or any part of it.

29.1 CONSENTS AND APPROVALS

The Lessor may exercise a right or remedy or, give or refuse its approval or consent in any way it considers appropriate (including by imposing conditions), unless this lease expressly states otherwise.

29.2 LANDLORD MAY ACT BY AGENT

All acts and things which the Lessor is required or empowered to do under this Lease, may be done by the Lessor or any solicitor, agent, contractor or employee of the Lessor.

29.3 RIGHT TO GRANT OTHER LEASES

The Lessor reserves the right to grant any lease or leases of other parts of the Complex for the same purpose or purposes for which the lessee is entitled to use the Premises for the time being pursuant to this lease and any such grant may be made without compensation to the Lessee and without affecting the liability of the Lessee to perform observe and comply with the terms covenants and conditions on the part of the Lessee to be performed and observed hereunder.

30. GUARANTEE

The Guarantor HEREBY COVENANTS AND AGREES with the Lessor that in consideration of the Lessor having agreed at the Guarantor's request to accept the Lessee as the Lessee of the Premises and to execute this Lease at the Rent and upon the terms and conditions herein contained the Guarantor HEREBY GUARANTEES to the Lessor the due and punctual payment by the Lessee to the Lessor of any monies which may become due and payable to the Lessor by the Lessee directly or indirectly pursuant to the terms of this Lease and any variation thereof and also the due observance and performance of all other terms and conditions expressed or implied in this Lease and on the part of the Lessee to be observed and performed and also hereby indemnifies the Lessor and agrees to keep him indemnified from and against all losses damages costs and expenses suffered or incurred by the Lessor by reason of any breach or non-performance by the Lessee of any of such terms and conditions on the part of the Lessee to be observed and performed or by reason of disclaimer of this Lease by a liquidator, administrator or trustee of the Lessee AND for the avoidance of doubt the Guarantor hereby agrees that by this Guarantee the Guarantor guarantees due and punctual payment by the Lessee not only of the Rent reserved (and other monies) but also

of the amounts of money referred to in sub-clause 2.2 of the Lease.

31. GUARANTOR'S COVENANTS

31.1 The Guarantor FURTHER COVENANTS AND AGREES that:

- 31.1.1 If the Lessee shall make default in the payment of the Rent, the Outgoings or any other monies payable under this Lease or any parts thereof for the space of seven (7) days the Guarantor will as principal debtor upon written demand by the Lessor or his agent or solicitor pay to the Lessor the money which shall be so in arrear.
- 31.1.2 If the Lessee shall make default in the due and punctual performance or observance of any of the terms covenants and conditions of the within Lease on the part of the Lessee to be performed and observed the Guarantor will as principal debtor on demand pay to the Lessor all losses damages expenses and costs which the Lessor shall be entitled to recover by reason of such default.
- 31.1.3 This guarantee and indemnity shall continue for the duration of this Lease and for any extension or renewal thereof and any holding over thereunder and shall extend to the acts and defaults of the Lessee during such duration extension renewal or holding over.
- 31.1.4 Any payment made to the Lessor and later avoided by any statutory provision shall be deemed not to have discharged the Guarantor's liability and in any such event the Lessor the Lessee and the Guarantor shall be restored to the rights which each respectively would have had if the payment had not been made.
- 31.1.5 The Lessor may proceed against the Guarantor without first having proceeded against the Lessee without affecting the liability of the Guarantor as herein provided.
- 31.1.6 The liability of the Guarantor shall not be abrogated prejudiced or affected by the granting of time credit or any indulgence or concession to the Lessee or by any compounding compromise release abandonment waiver variation relinquishment or renewal of any contractual rights duties guarantees or indemnities on the part of the Lessee or by any omission or neglect or by any other dealing matter or thing which but for this provision could or might operate to abrogate prejudice or affect the guarantee it being the intention of the parties hereto that the guarantee and obligations of the Guarantor herein shall be absolute and unconditional in any and all circumstances.
- 31.1.7 This guarantee and indemnity shall and will not be affected by any laches acts omissions or mistakes on the part of the Lessor.

- 31.1.8 That until the Lessor shall have received in full all Rent Outgoings and other sums of money due from the Lessee under this Lease or further Lease the Guarantor shall be bound by this guarantee and indemnity and in the event of the Lessee becoming bankrupt or entering into any scheme or arrangement in favour of creditors or being a company entering into liquidation either voluntarily or involuntarily the Guarantor shall not be entitled to prove or claim against the official receiver or liquidator in competition with the Lessor so as to diminish any dividend or any payment which the Lessor may receive but may prove or claim for and on behalf of the Lessor if so authorised by the Lessor and any such proof or claim by or on behalf of the Lessor shall not prejudice or affect the right of the Lessor to recover from the Guarantor any payment of Rent or Outgoings or other sums of money to be made by the Lessee to the Lessor under this Lease.
- 31.1.9 This guarantee and indemnity is to continue to be binding upon the Guarantor notwithstanding:
- 31.1.10 the death bankruptcy insolvency or liquidation (as the case may be) of the Lessee or the Guarantor or any one or more of them;
- 31.1.11 any change or alteration in the constitution of the Lessor the Lessee or the Guarantor;
- 31.1.12 the happening of any matter or thing which under the law relating to sureties would but for this provision have the effect of releasing the Guarantor from this guarantee or of discharging this guarantee.
- 31.1.13 In the event of any part of this Lease being severed in accordance with the provisions in that behalf contained or implied in this Lease then the Guarantor shall not be entitled to rely on or claim the benefit of any such severance.
- 31.1.14 This guarantee and indemnity extends to all extensions of this Lease and any new Lease of the Premises.
- 31.1.15 The liability of the Guarantor is not effected by an assignment or variation of this lease with or without the consent of the Guarantor or whether or not this lease is registered.
- 31.1.16 If the benefit of this Lease is transferred or assigned by the Lessor to any person the benefit of this guarantee and indemnity extends to and is taken to be assigned and enforceable by the Lessors transferee or assignee.

- 31.1.17 This guarantee and indemnity extends to claims by the Lessor for the Lessor's loss or damage in the event of the Lessee abandoning or vacating the Premises or the Lessor electing to re-enter or to terminate the Lease.
- 31.1.18 A reference in clause 30 and in this clause 31 to "this Lease" includes a reference to any tenancy or other rights whether legal or equitable under which the Lessee occupies or is entitled to occupy the Demised Premises, including a tenancy for a fixed term, a periodic tenancy or a tenancy at will.
- 31.1.19 The Guarantor hereby charges all its right title and interest in any freehold or leasehold property which the Guarantor and if the Guarantor consists of two or more persons or entities any one of the Guarantor now has or may hereafter acquire with payment of the Rent and Outgoings and any loss or damage incurred by the Lessor due to any breach by the Lessee of any of the terms and conditions of this Lease AND the Guarantor shall do all such acts matters and things and execute all such documents as the Lessor may require in its absolute discretion at any time and from time to time to further secure the rights or interests of the Lessor in the property hereby charged at the cost and expense of the Guarantor in all respects.

32. TRUSTEE PROVISIONS

- 32.1 Where the Lessee or the Guarantor or both of them is or are now acting or in the future may act as Trustee the Lessee and Guarantor jointly and severally covenant with and warrant to the Lessor that the Lessee or the Guarantor or both of them (as the case may be) has or have or will have full powers pursuant to its Memorandum and Articles and its Deed of Trust (hereinafter generally and together (if more than one) called the "Trust") under which it purports to act when entering into this Lease.
- 32.2 The Lessee and the Guarantor further jointly and severally covenant that:
- 32.2.1 the Trust is lawfully and validly constituted and all deeds and other instruments in respect thereof have been properly executed;
- 32.2.2 the Trust is and throughout this Lease will remain unrevoked and not varied;
- 32.2.3 the assets of the Trust as well as the assets of the Lessee and the Guarantor will at all times be available to satisfy the obligations of the Lessee under this Lease;
- 32.2.4 the consents or approvals of all parties necessary to execute this Lease so as to bind the property of the Trust have been obtained and all necessary conditions precedent for that purpose have been met;

- 32.2.5 that no one has taken or threatened nor is the Guarantor or the Lessee aware of any one who is likely to take action to have the Trust wound up or otherwise administered by action brought in any Court of competent jurisdiction or to charge the Lessee or the Guarantor or any person at any time connected with the Lessee or the Guarantor or acting on behalf or purportedly on behalf of the Lessee or the Guarantor with any breach of trust or misappropriation of trust monies in connection with the Trust;
- 32.2.6 that no facts are known to the Lessee or to the Guarantor whereby the trust might be wound up voluntarily or otherwise or the Trustee thereof changed or the assets of the Trust vested in any other person or that the Trust may cease to operate or be deprived of funds prior to expiration of the Term.
- 32.3 The Guarantor HEREBY AGREES UNCONDITIONALLY that it shall indemnify and keep indemnified the Lessor from and against all losses costs claims expenses and damages of any nature whatsoever directly or indirectly sustained or reasonably expected to be sustained by the Lessor from or out of the breach of any of the warranties contained in this Clause.

33. BOND

- 33.1 The Lessee shall upon the signing hereof deposit with the Lessor the sum specified in Item 16 as a security for the due and punctual observance and performance of all the covenants obligations and provisions on the part of the Lessee contained herein. The Lessee must increase the amount of the security at the same time and in the same proportion as the Rent is increased from time to time in accordance with this Lease. The Lessee must provide the Lessor or the Lessor's agent with the amount of the increased Bond within seven (7) days of the relevant increase in the Rent whether or not requested by the Lessor.
- 33.2 If at any time during the term of this Lease or of any extension or renewal thereof the Lessee fails to observe and perform any of the covenants obligations and provisions of this Lease on its part to be observed and performed the Lessor may appropriate and apply so much or the whole of the deposit as may be necessary in the opinion of the Lessor to compensate the Lessor for loss or damage sustained or suffered by reason of such breach by the Lessee.
- 33.3 Any such appropriation by the Lessor of the deposit or any part thereof hereunder shall not operate to waive the Lessee's breach.
- 33.4 Should the deposit or any portion thereof be appropriated by the Lessor as aforesaid then the Lessee shall upon demand by the Lessor and within seven (7) days from the date thereof pay to the Lessor the amount of the sum so appropriated and if not so paid the Lessor may recover same from the Lessee as a liquidated debt.

- 33.5 Should the Lessee comply with all of the said covenants obligations and provisions and duly and punctually pay all of the rental hereby reserved and all other sums payable by the Lessee to the Lessor hereunder the deposit less any sums appropriated by the Lessor in accordance with this Clause and not paid by or received from the Lessee shall be refunded to the Lessee on the expiration of the term of this Lease or of any extension or renewal thereof or upon the sooner determination of this Lease.
- 33.6 The Lessor shall be at liberty to pay the deposit less any sums appropriated by the Lessor in accordance with this Clause and not paid by or received from the Lessee to any assignee or transferee of the Lessor's interest in the Premises if such interest of the Lessor is assigned or transferred and thereupon the Lessor shall be discharged from all liability to the Lessee or any other person with respect to such deposit.

34. GOODS AND SERVICES TAX AND/OR SIMILAR TAXES

- 34.1 In this Clause:- "GST" refers to goods and services tax under A New Tax System (Goods and Services) Act 1999 (GST Act) and the terms used have the meanings as defined in the GST Act.
- 34.2 It is agreed that rent and all other amounts agreed to be paid by the Lessee to the Lessor, being the consideration for the supply expressed in this Lease, are exclusive of GST.
- 34.3 In respect of any liability of the Lessor for GST under this Lease, and the renewal or extension of this Lease including rent, rates, outgoings, or any consideration for any other taxable supply the Lessee covenants to pay to the Lessor at the same time as any payment is made involving the Lessor in GST liability, the additional amount of GST, together with the payment to which it relates.
- 34.4 The Lessee's liability under 34.3 is to reimburse the full amount of GST, disregarding and excluding the Lessor's entitlement to input tax credits or other credits or reimbursements for GST.
- 34.5 In respect of each payment by the Lessee under 34.3, the Lessor agrees to deliver to the Lessee, as required under the GST Act, tax invoices in a form which complies with the GST Act and the regulations, to enable the Lessee to claim input tax credits in respect of the taxable supply.

35. ENTIRE AGREEMENT

The covenants and provisions contained in this Lease expressly or by statutory implication cover and comprise the whole of the agreement between the parties hereto and except as expressly otherwise stated herein it is agreed and declared that no further or other covenants or provisions whether in respect of the Premises or otherwise shall be deemed to be implied herein or to arise between the parties hereto by way of collateral or other agreement.

36. BANK GUARANTEE

- 36.1 On or before the date the Lessee executes this Deed and prior to the Lessee being granted possession of the Premises, the Lessee must deliver to the Lessor an unconditional and irrevocable Bank Guarantee drawn on a bank with a branch office in Perth Western Australia and governed by West Australian Law, in favour of the Lessor which is not limited by an expiry or termination date in the sum of **\$ Nil**. The Bank Guarantee will be security for the performance by the Lessee under the Lease.
- (a) If the Lessee does not comply with any of its obligations under the Lease (including during any extension or holding over), whether the Lease is registered or not, then the Lessor may call on the Bank Guarantee without notice to the Lessee.
 - (b) If the Lessor calls on the Bank Guarantee, then no later than seven (7) days after the Lessor gives the Lessee a notice asking for it, the Lessee must deliver to the Lessor a replacement or additional Bank Guarantee so that the amount of that guarantee is the amount of **\$ Nil** at the time of request.
 - (c) If the Lessee assigns the Lease with the consent of the Lessor, and if:
 - (i) the Lessee has:
 - a paid all money payable by the Lessee accrued up to and including the assignment date; and
 - b performed all other obligations under the Lease arising for performance both prior to the assignment date and arising out of or in relation to the assignment, including procurement of a deed of covenant from the Lessee; and
 - (ii) The Lessor has received a Bank Guarantee in respect of the Lessee's obligations as Lessee in the terms of this clause 36 the Lessor will release the Bank Guarantee provided by the Lessee and deliver it to the Lessee for cancellation.
 - (d) If the Lessor ceases to be the landlord, the Lessee promptly after being requested to do so by either the Lessor or the new landlord is to arrange for the Bank Guarantee to be replaced with a Bank Guarantee in favour of the new landlord. The Lessee will not be obliged to provide a replacement Bank Guarantee if the terms and conditions of the existing Bank Guarantee extend to, are for the benefit of and may be called upon by any successor in title of Lessor.

- (e) The costs of the issue, maintenance or variation of a Bank Guarantee including stamp duty assessed on the Bank Guarantee are to be paid by the Lessee on demand.
- (f) The Lessee agrees with the Lessor that the amount of the Bank Guarantee will be increased by the same proportion that the Rent has been increased from the commencement date every 2 years during the Term or any extension or renewal thereof.

37. EXECUTION BY COUNTERPART

This Lease may be executed by the parties in counterparts and by facsimile or scanned emailed copies. The counterparts taken together will constitute one Deed.

SCHEDULE

ITEM 1: PREMISES

ALL THAT the premises known and described as **Unit 1, 89 Motivation Drive, Wangara, Western Australia** and for identification purposes hachured on the plan attached as Annexure "A"

LESSORS CHATTELS

Front office area with wall split air conditioner, floor covering, painted and partitioned walls, power/data/phone points (working condition unknown), warehouse with power outlets (working condition unknown), painted walls and floor, lighting, mezzanine (load rating and suitability unknown), toilet and kitchenette as inspected

ITEM 2: LAND

Lot 1 on Strata Plan **39693** being the whole of the land in Certificate of Title Volume **2501 Folio 935**

ITEM 3: TERM

Two (2) years

Commencement Date: **4 December 2020**

Expiry Date: **3 December 2022**

ITEM 4: RENT

\$21,100.00 per annum, plus outgoings, plus GST

ITEM 5: PAYMENT OF RENT

Monthly in advance by equal calendar monthly instalments without deduction and without demand on the 1st day of each consecutive month during the term of the Lease and any renewal or extension thereof by direct credit/deposit into a bank account of the Lessor or the Lessor's Agent as nominated from time to time or as the Lessor may otherwise direct in writing the first monthly payment being due on **4 December 2020**.

ITEM 6: RENT REVIEW DATES

The Rent shall be reviewed on **4 December 2021** and thereafter at the expiration of every successive period of TWELVE (12) months during the term and any extension or renewal thereof.

ITEM 7: MANNER OF REVIEW

The Lessor and Lessee agree upon the Rent payable from the Rent Review Date the Rent shall be:-

- (a) On the Rent Review Date/s being the **4 December 2021 4 December 2023 December 2025**
 - (i) the Rent determined by increasing the Rent paid for the immediately preceding period by **3%**.

- (b) On the Rent Review Dates being the **4 DECEMBER 2022 and 4 DECEMBER 2024** (which dates shall be known as a Market Review Date) the greater of:
 - (i) the Rent determined by increasing the Rent paid for the immediately preceding period by **3%**; or
 - (ii) the Current Market Rental determined having regard to the following provisions:
 - (a) at any time not earlier than three months before or no later than twelve (12) months after each Market Review Date the Lessor must notify the Lessee in writing (Lessor's Notice) of the Lessor's assessment (Lessor's Assessment) of the Rent payable for the Premises for the period following that Market Review Date which shall be the Current Market Rental of the Premises;
 - (b) if the Lessee considers the Current Market Rental assessed by the Lessor in the Lessor's Assessment not to be the Current Market Rental of the Premises, the Lessee may notify the Lessor in writing (Lessee's Notice) within fourteen (14) days of receipt by the Lessee of the Lessor's Notice that the Lessee disagrees with the Lessor's Assessment;
 - (c) the Lessee, in the Lessee's Notice, must state the Lessee's reasons for disagreeing with the Lessor's Assessment;
 - (d) if the Lessee does not within the period specified in (b) (immediately above) provide the Lessor with the Lessee's Notice, the Lessee is deemed to have agreed with the Lessor's Assessment and the Rent specified in the Lessor's Assessment applies;
 - (e) if the Lessee provides the Lessor with the Lessee's Notice within the period referred to in (b) (immediately above), the Lessor and the Lessee must negotiate in good faith with a view to agreeing on the Current Market Rental for the period in question;
 - (f) if the Lessor and the Lessee are unable to agree on the Current Market Rental within fourteen days of receipt by the Lessor of the Lessee's Notice (Negotiation Period), the Rent payable from the relevant Market Review Date must be determined in the following manner:

- (i) within seven (7) days of the termination of the Negotiation Period, the Lessor and the Lessee shall agree on the appointment of a Valuer having at least ten (10) years' experience in the valuation of comparable premises of a similar size and in a similar location in the Perth metropolitan area (Expert);
- (ii) if the parties are unable to agree on the identity of the Expert within the period referred to in (i) (immediately above), either party may refer the question of the appointment of the Expert to the President for the time being of the Australian Property Institute Inc (WA Division), who shall be requested to appoint the Expert within fourteen (14) days of such request being received;
- (iii) within fourteen (14) days of the appointment of the Expert (Submissions Period), the Lessor and the Lessee must provide the Expert with written submissions (Submissions) relating to the Market Rent of the Premises from the relevant Market Review Date;
- (iv) within twenty-one (21) days of receipt of the Submissions, or in any event not later than twenty-one (21) days after the termination of the Submissions Period, notwithstanding that the Lessor or the Lessee may have failed to make the Submissions within the Submissions Period, the Expert must issue a written determination (Determination) of the Rent from the relevant Market Review Date accompanied by reasons for the Determination and must provide the Lessor and Lessee with copies of the Determination;
- (v) in reaching the Determination, the Expert may but is not obliged to take account of the Submissions and must act as an expert and not as an arbitrator;
- (vi) the Determination is final and binding upon the Lessor and the Lessee; and
- (vii) all costs incurred by the Expert in making the Determination must be borne by the Lessor and the Lessee in equal shares unless the rent as determined by the Expert is greater than or equal to the rent specified in the Lessor's Notice in which case the Lessee must pay the costs incurred by the Expert in making the Determination.

ITEM 8: RATE OF INTEREST

12% per annum

ITEM 9: PERMITTED USE OF PREMISES

Warehouse and distribution of steel flanges

ITEM 10: PAINTING [Clause 5.8]

During the last three (3) months of the term and during the last three (3) months of any renewal or extended term or as and when the condition thereof requires (in the reasonable opinion of the Lessor) and in any event on the earlier determination of this Lease.

ITEM 11: INSURANCE TO BE TAKEN OUT BY LESSEE AND PAID FOR BY LESSEE

- a. A Lessee's Public Liability Insurance Policy with a Cover of not less than that specified in Item 17 hereto.
- b. A Policy insuring all the Lessor's fixtures against loss or damage by fire fusion explosion lightning flood earthquake storm tempest war civil commotion damage from aircraft and other usual and necessary risks in the full replacement value thereof.
- c. A Policy insuring all the Lessee's stock, equipment, fixtures and fittings against loss or damage by fire fusion explosion lightning flood earthquake storm tempest war civil commotion damage from aircraft and other usual and necessary risks in the full replacement value thereof.
- d. A Policy insuring all plate and other glass windows doors and other Lessor's installations in or upon the building complex of which the Premises form part or the Premises against loss damage breakage or destruction to the full replacement value thereof.

ITEM 12: INSURANCE TO BE TAKEN OUT BY LESSOR AND PAID FOR BY LESSEE

- a. A Policy or Policies insuring the building or the building complex of which the Premises form part (whichever is applicable) for the replacement value thereof against loss or damage by fire lightning thunderbolt storm tempest rainwater water earthquake flood impact explosion aircraft riots strikes burglary and an actual or attempted entry for that purpose and other malicious acts and to include additional clauses of extra cost of removal of debris reinstatement alteration and occupancy architects' fees automatic reinstatement capital additions hazardous goods temporary removal and such other risks including public risk insurance for the building with cross liabilities which may be effected by the Lessor on behalf of itself and all other tenants or occupiers of the building as may seem to the Lessor to be reasonably necessary or expedient.
- b. A policy insuring for loss of rental in respect of the Premises covering a period of 12 months.

- c. Breakdown and replacement insurance in respect of all the Lessor's air conditioning equipment of a similar nature to and including the Air Conditioning Equipment, the Fire Equipment and all plant and machinery in the Complex.
- d. Lessor's public liability Insurance and workers' compensation insurance.
- e. Any other insurance reasonably effected by the Lessor in relation to any risk associated with the Lessor's ownership of or interest in the Complex

PROVIDED ALWAYS that if any such insurances shall not be separately assessed or charged against the Premises then the Lessee shall pay to the Lessor within 7 days of written demand thereof that proportion thereof that the area of the Premises bears to the total lettable area covered by the relevant insurance premiums.

- A. A Policy or Policies insuring the building or the building complex of which the Premises form part (whichever is applicable) for the replacement value thereof against loss or damage by fire lightning thunderbolt storm tempest rainwater water burglary and an actual or attempted entry for that purpose and other malicious acts and to include additional clauses of extra cost of removal of debris reinstatement alteration and occupancy architects' fees automatic reinstatement capital additions hazardous goods temporary removal and such other risks including public risk insurance for the building with cross liabilities which may be effected by the Lessor on behalf of itself and all other tenants or occupiers of the building as may seem to the Lessor to be reasonably necessary or expedient.
- B. A policy insuring for loss of rental in respect of the Premises covering a period of 12 months.
- C. Lessors Public Liability Insurance and workers' compensation insurance.
- D. Breakdown and replacement insurance in respect of all the Lessor's air conditioning equipment of a similar nature to and including the Air Conditioning Equipment, the Fire Equipment and all plant and machinery in the Complex.
- E. Any other insurance effected by the Lessor in relation to any risk associated with the Lessor's ownership of or interest in the Complex

PROVIDED ALWAYS that if any such insurances shall not be separately assessed or charged against the Premises then the Lessee shall pay to the Lessor within 7 days of written demand thereof that proportion thereof that the area of the Premises bears to the total lettable area covered by the relevant insurance premiums.

ITEM 13: FIRST RENEWED TERM

Two (2) years commencing on 4 December 2022 and expiring on 3 December 2024

ITEM 14: SECOND RENEWED TERM

Two (2) years commencing on 4 December 2024 and expiring on 3 December 2026

ITEM 15: THIRD RENEWED TERM

Nil

ITEM 16: BOND**\$7,000.00****ITEM 17: AMOUNT OF INDEMNITY INSURANCE**

\$20,000,000

ITEM 18: SPECIAL OR ADDITIONAL TERMS AND CONDITIONS**18.1 RENT-FREE PERIOD**

- (a) The Lessor grants to the Lessee a **RENT FREE PERIOD OF One (1) month** which shall be the **period, 4th December 2020 to the 3rd January 2021**. (The Rent Waiver Period).
- (b) If the Lessee fails to complete the **initial twenty four (24) MONTHS** of the initial Term of the lease for whatever reason, the Lessee must pay the Lessor on demand, rent for the entire Rent Waiver Period, such rent being calculated in accordance with the provisions of this Lease.
- (c) Outgoings are applicable in relation to the Rent Waiver Period in this circumstance.

18.2 DEPOSIT PAYABLE

Prior to the commencement of the lease and possession of the premises, the Lessee must pay the following deposit in full:

	Net \$	GST \$	TOTAL \$
2 (TWO) month's Rent in advance	3,516.66	351.66	3,868.32
Security Bond	7,000.00	Nil	7,000.00
Preparation of Solicitors Lease costs	900.00	90.00	990.00
Property Condition Report	250.00	25.00	275.00
Miscellaneous search fees	120.00	12.00	132.00
Sub Totals	11,803.02	480.30	
GRAND TOTAL PAYABLE			\$12,283.32

IN WITNESS WHEREOF the parties hereto have hereunto set their hands to this Deed the day and year first hereinbefore written.

Lessee:

Executed by **THE FLANGE COMPANY PTY LTD**)
(ACN: 108 934 032) (ABN: 52 108 934 032))
by authority of its Directors in accordance)
with Section 127 of the Corporations Act)

GARRY LLEWELLEN GLASKIN _____
Full Name of Sole Director

Director's Signature

Guarantor/s:

SIGNED by the said **GARRY LLEWELLEN**)
GLASKIN in the presence of:-)

.....

Witness (Signature)

Name in full

Address

Lessor:

Executed by JAYJAAN PTY LTD)
(ACN 169 412 962))
AS TRUSTEE FOR)
JOSEPH SUPERANNUATION FUND)
(ABN: 24 533 296 330))
by authority of its Directors in accordance)
with Section 127 of the Corporations Act)

JOSEPH CHEEDHAPARAMBIL _____
Full Name of Director

Director's Signature

JESSIE JOSEPH _____
Full Name of Director

Director's Signature

SANJAY JOSEPH _____
Full Name of Director

Director's Signature

PLAN

