

# **SiDCOR**

## **COMMERCIAL LEASE**

**LESSOR: VALMADRE PROPERTY PTY LTD -**

**ACN 649 555 564**

**LESSEE: VALMADRE HOMES PTY LTD - ACN 164 525 197**

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## LEASE AGREEMENT

This Lease Agreement ("**Lease**") is dated: 22/3/22

### **PARTIES:**

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**Lessor:** VALMADRE PROPERTY PTY LTD - ACN 649 555 564 of 50 Hunter Street, Newcastle, NSW 2300

**Lessee:** VALMADRE HOMES PTY LTD - ACN 164 525 197 of 254 SHEOAK DRIVE, YALLINGUP, WA 6282

### **RECITALS:**

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- A. The Lessor is the owner of the premises described in in **Item 3 of Schedule A** and as shown in the plan annexed as **Schedule C** (if any) ("**Leased Premises**").
- B. The Lessee wishes to lease the Leased Premises on the terms shown in the Operative Parts, including but not limited to the obligation of the Lessee to maintain the Premises and pay Rent on a timely basis to the Lessor.
- C. The Lessor agrees to lease the Leased Premises on the terms shown in the Operative Parts, including but not limited to the obligation of the Lessor to grant quiet enjoyment to the Lessee, on the performance of the Lessee of its obligations.
- D. The parties agree to the lease of the Leased Premises on the terms contained in the Operative Parts.

### **OPERATIVE PARTS:**

#### **1. DESCRIPTION OF PREMISES**

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The parties hereby agree that the premises dealt with in this Lease is the Leased Premises described in **Item 3 of Schedule A and as shown in the plan annexed as Schedule C** (if any).

#### **2. GRANT OF LEASE**

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- 2.1 The Lessor, in consideration for the payment of the Annual Rent as set out in **Item 4A of Schedule A**, as reviewed in accordance with the terms of **Item 4B of Schedule A** and subject to the covenants and terms shown in the Operative Parts, agrees to lease the Leased Premises to the Lessee.
- 2.2 The Lessee hereby leases and agrees to take possession of the Leased Premises from the Lessor for the duration of the Term.

#### **3. LEASE TERM**

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- 3.1 The term ("**Term**") of this Lease shall commence on the 1 January 2022 ("**Commencement Date**"), and shall continue for 3 year(s) ("**Date of Expiry**"), unless terminated earlier in accordance with the terms and conditions of this Lease or extended in accordance with Clause 4.

#### **4. EXTENSION OF LEASE**

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- 4.1 The Lessor grants the Lessee an option to renew this Lease for the period of 3 year(s) after the expiration of the Term ("**Further Term**"), exercisable provided the Lessee is not in default of any term of the Agreement at or before the expiration of the Term.

- 4.2 To exercise the option to renew the Lease for the Further Term, the Lessee must give written notice to the Lessor of such intention at least 90 (ninety) days prior to the Date of Expiry set out in **Item 2B of Schedule A**.

## **5. DETERMINATION OF RENT**

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- 5.1 For the duration of the Term, the Lessee must pay the Lessor the Annual Rent, at such place and in such manner as the Lessor shall from time to time direct by notice to the Lessee as determined below:
- (a) **Annual Rent:** For each 12 (twelve) month period during the Term, the Annual Rent shall be \$42,225 (as increased in accordance with sub-clause 5.1(c));
  - (b) **Payment of Annual Rent:** The parties agree that the Annual Rent shall be payable in equal monthly instalments in advance of on the first day of each and every calendar annual anniversary during the Term (and any Further Term if applicable), and for any portion of a month not equal to a full calendar month, the monthly instalment shall be the pro-rated portion of the Annual Rent for that calendar month (calculated as the Annual Rent amount divided by 365 days, multiplied by the number of days equal to the portion of the calendar month). On the first day of the calendar month immediately following the Commencement Date, the Lessee shall pay to the Lessor the pro-rated monthly rent for any portion of the preceding calendar month included in the Term, in addition to the advance payment for the following calendar month; and
  - (c) **Annual Rent Increase:** The Annual Rent will increase as shown in Schedule A on the anniversary of the Commencement Date of the Lease, in each succeeding year of the Term (and any Further Term if applicable) on the terms shown at **Item 4B of Schedule A**. The following terms shall apply to each Rental Review (to the extent appropriate by **Item 4B of Schedule One**):
    - (i) **Market Rate Review:** If the Rental Review is undertaken based on a "**Market Review**" in **Item 4B of Schedule A**, such term shall refer to the determination by the Lessor of the Fair Market Value of the Leased Premises at the review date. If the Lessee consents to such amount, then the Rental Review shall be determined on such basis. If the Lessee objects to the amount, then the Fair Market Value shall be determined by an independent valuer appointed by agreement between the Lessor and Lessee or failing agreement nominated by the proper officer of the division of the Australian Institute of Valuers in the state in which the Leased Premises are situated, and such valuer shall be deemed an expert and not an arbitrator and their decision shall be final and binding on both parties, and their expenses shall be shared equally by the Lessor and the Lessee, provided always that if the independent valuer's Market Rate Review determination is less than the Rent payable immediately before the Review, then the Lessor and Lessee agree that the new Rent shall default to that Rent payable immediately before the Review. The valuer must not take into account the value of the goodwill created by the Lessee's occupation and/or the value of the Lessee's fixtures and fittings;
    - (ii) **CPI Review:** If the Rental Review is undertaken based on an amount equivalent to "**CPI**" (abbreviated for Consumer Price Index) in **Item 4B of Schedule A**, the reference shall be to the percentage increase(s) in the All Groups Consumer Price Index of the capital of the State in which the Leased Premises are situated, between the start of a term (for example, the Commencement Date) and review date (for example, the anniversary of the first year of the term, and each year thereafter). A reference to an "**annual**" CPI review, shall mean the calculation shall be calculated on the anniversary of each year of the Lease, and a reference

to an alternate review period; however, a CPI Review may be conducted on such terms as are shown at **Item 4B of Schedule A**. If the Consumer Price Index ceases to be published for the capital of the State or in general, then the parties agree the Consumer Price Index shall refer to such other index as shall be published to replace the Consumer Price Index in such capital. If there be no other index, then the parties agree the reference to the Consumer Price Index shall be to such other index as shall apply to the fluctuations in the costs of living in the capital state in which the Premises are situated; and

- (iii) **Fixed Percentage Review:** If the Rental Review is undertaken based on a fixed percentage, then the Rent Review shall be determined by multiplying the Rent by the fixed percentage amount.

## **6. USE OF LEASED PREMISES BY LESSEE**

- 6.1 The Leased Premises may be occupied and used by the Lessee exclusively as a commercial property for the Permitted Use set out in **Item 5 of Schedule A**. The Lessee is granted no right to use the Leased Premises for residential or any purpose other than the Permitted Use.
- 6.2 The Lessee agrees to occupy and use the Leased Premises at the sole risk of the Lessee, and the Lessor shall not (other than through negligence or omission attributable to the Lessor) be liable to the Lessee for any damage to the plant, equipment, fixtures, fittings, merchandise, stock in trade or any other property of any description of or in the possession of the Lessee and contained in or about the Leased Premises, occasioned by water, heat, fire, electricity, vermin, explosion, tempest riot, civil commotion, bursting pipes or by the entry of water from any source whatsoever or by the operation, non-operation or malfunction of the air-conditioning, fire equipment (if any) or the elevators (if any), or by any other cause whatsoever, nor for any loss of profits resulting therefrom and notwithstanding that the same may occur by reason of any defect in the construction of the Leased Premises (or any part thereof), or by reason of any act or omission by any contractor of the Lessor or any tenant of another premises in the building, or any member of the public.
- 6.3 Nothing herein shall give the Lessee the right to use any portion of the Leased Premises for any purpose other than the Permitted Use or to sublease, assign, or license the use of the Leased Premises to any sub-lessee, assignee, or licensee, which or who shall use any portion of the Leased Premises for any use other than the Permitted Use.
- 6.4 The Lessee must conduct its business in a lawful and reputable manner consistent with good business practice.

## **7. RESTRICTIONS ON USE**

- 7.1 The Lessee shall not:
  - (a) use the Leased Premises in any manner that will increase the risks covered by insurance on the Leased Premises and result in an increase in the rate of insurance or a cancellation of any insurance policy, even if such use may be in furtherance of the Lessee's business purposes;
  - (b) keep, use, or sell anything prohibited by any policy of fire insurance covering the demised premises, and shall comply with all requirements of the insurers applicable to the demised premises necessary to keep in force the fire and liability insurance; and/or

- (c) interfere with any drains, water supply, gas electrical, plumbing or other services contained in or about the Leased Premises or any of the appurtenances therein, without the prior written consent of the Lessor.

## **8. WASTE, NUISANCE, OR UNLAWFUL ACTIVITY**

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- 8.1 The Lessee shall not allow any waste or nuisance on the Leased Premises, or allow the Leased Premises to be used for any unlawful activity.
- 8.2 All blockages which may occur in any waste pipes or drains originating within the Leased Premises shall be cleared by licensed tradesmen employed by the Lessor and all reasonable costs thereof incurred by the Lessor shall be paid by the Lessee to the Lessor within 7 (seven) days of production of an invoice.

## **9. DELAY IN DELIVERING POSSESSION**

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- 9.1 This Lease shall not be rendered void or voidable by the inability of the Lessor to deliver possession to the Lessee.
- 9.2 The Lessor shall not be liable to the Lessee for any loss or damage suffered by reason of such a delay after the Commencement Date.
- 9.3 In the event of a delay in delivering possession after the Commencement Date, the rent for the period of such delay will be deducted from the total rent due under this Lease Agreement. No extension of this Lease Agreement shall result from a delay in delivering possession.

## **10. BOND**

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- 10.1 The Lessee is to pay a bond of \$0.00 ("**Bond**") as security for the full and faithful performance by the Lessee of the terms of this Lease Agreement required to be performed by the Lessee.
- 10.2 Subject to relevant State laws or authorities, the Bond shall be returned to the Lessee after the expiration of this Lease, provided the Lessee has fully and faithfully carried out all of its obligations to return the Leased Premises to the state and condition in which it was originally leased.
- 10.3 In the event of a bona fide sale of the property of which the Leased Premises are a part, the Lessor shall have the right to transfer the Bond to the purchaser to be held under the terms of this Lease Agreement, and the Lessor shall be released from all liability for the return of such security to the Lessee.

## **11. OUTGOINGS**

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- 11.1 It is agreed between the Lessor and the Lessee in terms of meeting outgoings of the Leased Premises as per **Schedule B** (if any).

## **12. IMPROVEMENTS BY THE LESSEE**

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- 12.1 The Lessee may have prepared plans and specifications for the construction of improvements, and, if so, such plans and specifications are attached hereto in the Schedule and incorporated herein by reference. The Lessee shall obtain all certificates, permits, licenses and other authorisation of governmental bodies or authorities which are necessary to permit the construction of the improvements on the demised premises and shall keep the same in full force and effect at the Lessee's cost.
- 12.2 The Lessee shall negotiate, let and supervise all contracts for the furnishing of services, labour, and materials for the construction of the improvements on the

demised premises at its cost. All such contracts shall require the contracting party to guarantee performance and all workmanship and materials installed by it for a period of one year following the date of completion of construction. The Lessee shall cause all contracts to be fully and completely performed in a good and workmanlike manner, all to the effect that the improvements shall be fully and completely constructed and installed in accordance with good engineering and construction practice.

- 12.3 During the course of any construction under this Clause, the Lessee shall, at its cost, keep in full force and effect a policy of builder's risk and liability insurance in a sum equal, from time to time, to three times the amount expended for construction of the improvements. All risk of loss or damage to the improvements during the course of construction shall be on the Lessee with the proceeds from insurance thereon payable to the Lessor.
- 12.4 Upon completion of construction, the Lessee shall, at its cost, obtain an occupancy permit and all other permits or licenses necessary for the occupancy of the improvements and the operation of the same as set out herein and shall keep the same in force.
- 12.5 Nothing herein shall alter the intent of the parties that the Lessee shall be fully and completely responsible for all aspects relating to the construction of the improvements of the Leased Premises and for the payment of all costs associated therewith.
- 12.6 The Lessor shall be under no duty to investigate or verify the Lessee's compliance with the provisions herein. Moreover, neither the Lessee nor any third party may construe the permission granted to the Lessee hereunder to create any responsibility on the part of the Lessor to pay for any improvements, alterations or repairs occasioned by the Lessee.
- 12.7 The Lessee shall keep the Leased Premises free and clear of all liens and, should the Lessee fail to do so, or to have any liens removed from the Leased Premises within 7 (seven) days of notification to do so by the Lessor, in addition to all other remedies available to the Lessor, the Lessee shall indemnify and hold the Lessor harmless for all costs and expenses, including solicitor's fees, occasioned by the Lessor in having said lien removed from the Leased Premises. Such costs and expenses shall be billed to the Lessee monthly and shall be payable by the Lessee within 14 (fourteen) days thereafter.

### **13. UTILITIES**

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- 13.1 The Lessee agrees to be responsible for all charges associated with the consumption of services supplied to the Leased Premises including electricity, telephone, gas, internet and any deposits payable thereon.
- 13.2 Not limiting the generality of Clause 13.1, the Lessee shall pay for the connection of all services supplied in the Lessee's name unless provided otherwise in **Schedule B**.

### **14. FIXTURES**

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- 14.1 All personal property, furnishings and equipment presently and all other trade fixtures installed in or hereafter by or at the expense of the Lessee and all additions and/or improvements, exclusive of structural, mechanical, electrical, and plumbing, affixed to the Leased Premises and used in the operation of the Lessee's business made to, in or on the Leased Premises by and at the expense of the Lessee and susceptible of being removed from the Leased Premises without damage, unless such damage be repaired by the Lessee, shall remain the property of the Lessee and the Lessee may, but shall not be obligated to, remove the same or any part thereof at

any time or times during the term hereof, provided that the Lessee, at its sole cost and expense, shall make any repairs occasioned by such removal.

#### **15. DAMAGE TO LEASED PREMISES**

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- 15.1 **Damage to Leased Premises:** In the event the Leased Premises (or part thereof) is damaged or destroyed during the Term, the Lessee is responsible for all repairs or restorations required (other than those cause by the negligence of the Lessor).
- 15.2 **Notice of Damage:** The Lessee shall advise the Lessor promptly in writing of any damage sustained to the Leased Premises (or any part thereof) or the defective operation of any of the appurtenances therein.
- 15.3 **Abatement or Adjustment of Rent:** If the whole or any part of the Leased Premises shall be damaged or destroyed by fire, storm, flood, tempest, civil commotion or war, without any neglect or default on the part of the Lessee, during the Term, then the rent and other charges, if any, shall be abated or adjusted, as the case may be, in proportion to that portion of the Leased Premises of which the Lessee shall be deprived on account of such damage or destruction and the work of repair, restoration, rebuilding, or replacement or any combination thereof, of the improvements so damaged or destroyed, shall in no way be construed by any person to effect any reduction of sums or proceeds payable under any rent insurance policy.

#### **16. MAINTENANCE, REPAIRS AND ALTERATIONS**

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- 16.1 **Repairs to Leased Premises:** The Lessor may effect repairs to the Leased Premises (or any part thereof) in any manner and at any time that the Lessor may think fit. All such repairs shall be carried out in such manner to cause as little inconvenience to the Lessee as possible, and the Lessor or any person or persons authorised by the Lessor (including without limitation builders, electricians, plumbers or other maintenance workers) may at any time enter upon the Leased Premises for the purpose of making such repairs.
- 16.2 **Lessee's Maintenance and Repairs:** The Lessee assumes the risks of the Leased Premises. The Lessee is obligated to make all reasonable repairs and conduct such maintenance as may be required by the Lessor from time to time, to ensure the Leased Premises are kept in good order and condition. The Lessee shall not be obligated to repair damage caused as a result of the negligence of the Lessor, its employees, agents, or contractors.
- 16.3 **Failure to Repair:** If the Lessee shall at any time default in the performance or observance of any of the covenants on the part of the Lessee herein contained or implied for or relating to the repair of the Leased Premises it shall be lawful for the Lessor to enter upon the Leased Premises and repair the same at the expense of the Lessee in accordance with the covenants and provisions of this Lease, subject to the restrictions imposed legislatively by the state of Western Australia in respect thereto provided the Premises qualify as a "retail shop", or the Premises are subject to legislation of such state in respect to "retail shops".
- 16.4 **Lessee's Alterations:** The Lessee shall have the right, at its sole expense, from time to time, to redecorate the Leased Premises and to make such non-structural alterations and changes in such parts thereof as the Lessee shall deem expedient or necessary for its purposes; provided, however, that such alterations and changes shall neither impair the structural soundness nor diminish the value of the Leased Premises. The Lessee may make structural alterations and additions to the Leased Premises provided that the Lessee has first obtained the consent thereto of the Lessor in writing, and the Lessee indemnifies the Lessor for any and all costs associated therewith, including but not limited to the restoration of the Leased Premises on the vacation by the Lessee, the costs of approvals, insurance and



worker's compensation matters associated with the construction, and alike. The Lessor shall be at liberty to impose such further conditions the Lessor deems reasonable, having regard to the impact of the proposed alternations to the use of the building(s) generally, the impact on the costs or other liabilities associated with the alterations (including but not limited to impositions to insurance) and the potential obligations and burdens caused to the Lessor as a consequence of the alternations, including but not limited to the inconvenience and/or frustration of dealing with Council and other public or semi-public authorities for the purpose of obtaining any licenses or permits for the making of such alterations in, to or upon the building, structures and/or other property which are incorporated with, or annexed in some manner to, the Leased Premises.

- 16.5 **Permits and Expenses:** The Lessee agrees that it will procure all necessary permits for making any repairs, alterations, or other improvements for installations, when applicable.
- 16.6 **Indemnity as to Maintenance, Repairs and Alterations:** The Lessee indemnifies and holds harmless the Lessor for any and all cost, injury, loss, claims or damage to any person or property occasioned by or arising out of the doing of any such work by the Lessee, its employees, agents or contractors.
- 16.7 **Quality Assurance:** The Lessee warrants that any and all repairs, maintenance and alternations will be performed by licensed and qualified professionals and that the materials will be of good quality and will comply with all governmental requirements.

## **17. LESSEE'S COVENANTS**

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17.1 The Lessee covenants and agrees as follows:

- (a) to procure any licenses and permits required for any use made of the Leased Premises by the Lessee, and upon the expiration or termination of the Lease, to remove its goods and effects and those of all persons claiming under it, and to yield up peaceably to the Lessor the Leased Premises in good order, repair and condition in all respects;
- (b) to permit the Lessor and its agents to examine and inspect the Leased Premises at reasonable times and to show the Leased Premises to prospective purchasers of the Leased Premises and to provide the Lessor, if not already available, with a set of keys for the purpose of said examination, provided that the Lessor shall not thereby unreasonably interfere with the conduct of the Lessee's business;
- (c) to permit the Lessor to enter the Leased Premises to inspect such repairs, improvements, alterations or additions thereto as may be required under the provisions of this Lease;
- (d) to not assign, sub-let, grant any license over or part with the possession of any portion of the Leased Premises to a third party without the prior written consent of the Lessor; and
- (e) to not make or cause to be made any structural or other alterations or additions to the Leased Premises without the prior written consent of the Lessor, provided that the Lessee shall restore the Leased Premises to its original condition at the Commencement Date (unless agreed otherwise in writing with the Lessor) upon termination of this Lease, and repair all damage occasioned thereby to the Leased Premises.

## **18. INDEMNITY BY THE LESSEE**

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18.1 The Lessee shall hold the Lessor harmless and indemnify the Lessor from all injury, loss, claims or damage to any person or property while on the Leased Premises, unless caused by the wilful acts or omissions or gross negligence of the Lessor, its employees, agents, licensees or contractors.

## **19. SIGNAGE**

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19.1 **Exterior Signs:** The Lessee shall have the right, at its sole risk and expense and in conformity with applicable laws and ordinances, to erect and thereafter, to repair or replace signs on any portion of the Leased Premises, providing that the Lessee shall remove any such signs upon termination of this Lease, and repair all damage occasioned thereby to the Leased Premises.

19.2 **Interior Signs:** The Lessee shall have the right, at its sole risk and expense and in conformity with applicable laws and ordinances, to erect, maintain, place and install its usual and customary signs and fixtures in the interior of the Leased Premises, providing that the Lessee shall remove any such signs and fixtures upon termination of this Lease, and repair all damage occasioned thereby to the Leased Premises.

## **20. INSURANCE**

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20.1 **Insurance:** For the duration of the Term, the Lessee shall at its sole cost and expense, take out and maintain in full force and effect the following insurances with respect to the Leased Premises:

- (a) **Property:** Insurance upon all property situated in the Leased Premises owned by the Lessee or for which the Lessee is legally liable and on all fixtures and improvements in the Leased Premises, such policies to be for an amount not less than the full replacement and reinstatement cost;
- (b) **Plate Glass:** Insurance against damage to or breakage of all plate glass in the Leased Premises;
- (c) **Public Liability Insurance:** Insurance with limits of not less than \$10 million for injury or death from one accident and \$10 million property damage insurance, insuring the Lessor and the Lessee against injury to persons or damage to property on or about the Leased Premises; and
- (d) **General:** Any other form or forms of insurance as the Lessor or the Lessor's mortgagee reasonably requires from time to time in amounts and for perils against which a prudent tenant would protect itself in similar circumstances.

20.2 **Certificate of Insurance:** A copy of the policy or a certificate for each insurance policy held by the Lessee with respect of the Leased Premises shall be delivered to the Lessor on or before the Commencement Date and no such policy shall be cancellable without thirty (30) days prior written notice to the Lessor.

20.3 **Proceeds:** In the event of any damage to or destruction of the Leased Premises, the Lessee shall adjust the loss and settle all claims with the insurance companies issuing such policies. The Lessee indemnifies the Lessor, and assigns to the Lessee irrevocable such of the insurance proceeds as may be necessary to repair, restoration, rebuilding or replacement, or any combination thereof, of the Leased Premises or of the improvements in the Leased Premises. Any insurance proceeds in excess of which shall be necessary for such repair, restoration, rebuilding, replacement or any combination thereof shall be the sole property of the Lessor subject to any rights therein of the Lessor's mortgagee, and if the proceeds necessary for such repair, restoration, rebuilding or replacement, or any combination thereof shall be inadequate to pay the cost thereof, the Lessee shall suffer the deficiency and indemnify the Lessor.

20.4 **Reservation to Remedy:** The Lessee agrees that if the Lessee fails to take out or maintain in force any of the insurance policies required in Clause 20.1, or should any such insurance policies not be taken out with a reputable insurance provider, the Lessor may, without assuming any obligation in connection therewith, to effect such insurance at the sole cost of the Lessee and all outlays by the Lessor shall be immediately payable by the Lessee to the Lessor on demand, without prejudice to any other rights and remedies of the Lessor under this Lease.

## **21. CONDEMNATION**

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21.1 **Total Taking:** If, after the execution of this Lease and prior to the expiration of the Term hereof, the whole of the Leased Premises shall be taken under power of condemnation by any public or private authority, or conveyed by the Lessor to said authority in lieu of such taking, then this Lease and the Term hereof shall cease and terminate as of the date when possession of the Leased Premises shall be taken by the taking authority and any unearned rent or other charges, if any, paid in advance, shall be refunded to the Lessee.

21.2 **Partial Taking:** If, after the execution of this Lease and prior to the expiration of the Term hereof, any public or private authority shall, under the power of condemnation, take, or the Lessor convey to said authority in lieu of such taking, property which results in a reduction by 25% or more of the area in the Leased Premises, or of a portion of the Leased Premises that substantially interrupts or substantially obstructs the conducting of business on the Leased Premises; then the Lessee may, at its election, terminate this Lease by giving the Lessor notice of the exercise of the Lessee's election within thirty (30) days after the Lessee shall receive notice of such taking. In the event of termination by the Lessee of this Lease and the Term hereof shall cease and terminate as of the date when possession shall be taken by the appropriate authority and any unearned rent or other charges, if any, paid in advance, shall be refunded to the Lessee.

21.3 **Restoration:** In the event of a taking in respect of which the Lessee shall not have the right to elect to terminate this Lease or, having such right, shall not elect to terminate this Lease, this Lease and the term thereof shall continue in full force and effect and the Lessor, at the Lessor's sole cost and expense, shall restore the Leased Premises, to the same or substantially similar condition as were in place prior to such taking.

21.4 **The Award:** All compensation awarded for any taking, whether for the whole or a portion of the Leased Premises, shall be the sole property of the Lessor whether such compensation shall be awarded for diminution in the value of, or loss of, the leasehold or for diminution in the value of, or loss of, the fee in the Leased Premises, or otherwise. The Lessee hereby assigns to the Lessor all of the Lessee's right and title to and interest in any and all such compensation. However, the Lessor shall not be entitled to and the Lessee shall have the sole right to make its independent claim for and retain any portion of any award made by the appropriating authority directly to the Lessee for loss of business, or damage to or depreciation of, and cost of removal of fixtures, personality and improvements installed in the Leased Premises by, or at the expense of the Lessee, and to any other award made by the appropriating authority directly to the Lessee.

## **22. MORTGAGEE'S CONSENT**

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22.1 In consideration of the Lessor granting this Lease to the Lessee, the Lessee covenants and agrees with the Lessor for the benefit of all existing and future mortgagees of the Leased Premises (or any part thereof) ("**Mortgagee**") that the consent of the Mortgagee to this Lease shall be subject to the following conditions and provisions:

- (a) such consent shall be without prejudice to the rights, powers and remedies of the Mortgagee and its assigns under the relevant mortgage document, until such mortgage document is duly discharged;
- (b) that so long as the Mortgagee or its assigns is or are registered as Mortgagee of the Leased Premises, the Lessee shall obtain the consent or approval of the Mortgagee or its assigns in addition to the consent or approval of the Lessor in all cases where the consent or approval of the Lessor is required; and
- (c) the Mortgagee shall be in no way bound to perform and shall not incur any liability in respect of the covenants and agreements expressed or implied hereunder.

### **23. QUIET ENJOYMENT**

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23.1 The Lessor covenants and agrees that upon the Lessee paying the rent and observing and performing all of the terms, covenants and conditions on the Lessee's part to be observed and performed hereunder, that the Lessee may peacefully and quietly have, hold, occupy and enjoy the Leased Premises in accordance with the terms of this Lease without hindrance or disturbance from the Lessor or any persons lawfully claiming through the Lessor.

### **24. GOOD TITLE**

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24.1 The Lessor warrants and represents, upon which warranty and representation the Lessee has relied in the execution of this Lease, that the Lessor has authority to enter into this Lease in respect to the Leased Premises.

24.2 It shall be the Lessee's responsibility to obtain any and all necessary licenses required for the Leased Premises. The Lessee indemnifies the Lessor from any and all liability, expense and/or damage associated with such License, including but not limited to the application for such License(s) and the conduct of the Lessee's use of the Leased Premises generally.

### **25. GOODS AND SERVICES TAX (GST)**

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25.1 The Lessor shall provide the Lessee with a tax invoice in relation to any taxable supply made to the Lessee who shall pay to the Lessor the applicable GST in addition to the cost of the supply.

25.2 Rent is inclusive of GST, unless Rent is expressed to be exclusive of GST.

25.3 The Lessor shall pass to the Lessee the benefit of any input tax credits received by the Lessor in relation to any amount payable by the Lessee to the Lessor.

### **26. INTEREST ON OVERDUE MONEY**

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26.1 In the event of any Rent or other money due by the Lessee under this Lease remaining unpaid for a period of 14 (fourteen) days after its due date then the Lessee shall pay to the Lessor interest at the rate specified in **Item 4C of Schedule A** on that amount calculated from the due date until the date of payment and the Lessor will be entitled to recover that amount as a liquidated debt, as if the interest were Rent in arrears.

### **27. COSTS**

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27.1 The Lessee shall pay the Lessor's legal costs and disbursements of this Lease and of any guarantee, surrender or assignment thereof, except in which the state in which the Leased Premises is situated prohibits the Lessor from recovering its legal costs and disbursements from the Lessee.

## **28. HOLDING OVER**

28.1 In the event that the Lessee shall continue occupancy of the Leased Premises after the expiration of the Term (and any Further Term as applicable) without any agreement in writing between the Lessor and the Lessee with respect thereto, such occupancy shall not be deemed to extend or renew the Term of the Lease, but such occupancy shall continue as a tenancy at will, from month to month, upon the covenants, provisions and conditions herein contained. The rent due and payable shall be the Annual Rent in effect during the Term of this Lease as extended or renewed, prorated and payable for the period of such occupancy.

## **29. DISPUTE RESOLUTION**

- 29.1 **Right to Terminate:** In the event that the Lessee fails to make payment of the Monthly Rent on three (3) or more occasions, or on any one (1) occasion for a period of more than ninety (90) days, then the Lessor reserves the right to terminate the Lease immediately in writing, with the same force and effect as though the date so specified were the date herein originally fixed as the termination date of the Term of this Lease, and all rights of Lessee under this Lease and in and to the Leased Premises shall expire and terminate, and the Lessee shall remain liable for its obligations under this Lease arising up to the date of such termination. Termination of the Lease in such a manner shall not prejudice the Lessor's right to pursue any other remedies available to it.
- 29.2 **Dispute Resolution:** It is agreed that, if at any time a dispute shall arise between the parties, each will use all reasonable endeavours to first resolve such disputes outside of Court.
- 29.3 **Costs of Litigation:** In the event that dispute resolution proceedings result from or arise out of this Lease or the performance thereof, the parties agree to reimburse the prevailing party's reasonable solicitor's fees, court costs, and all other expenses, whether or not taxable by the court as costs, in addition to any other relief to which the prevailing party may be entitled.
- 29.4 **Third Party Litigation:** In the event that the Lessor shall, without fault on its part, be made a party to any litigation commenced by or against the Lessee (other than litigation between the Lessor and Lessee) and arising directly or indirectly out of the Lessee's occupancy of the Leased Premises, the Lessee shall pay to the Lessor on demand all legal fees and disbursements (on a solicitor client basis) incurred by the Lessor in connection therewith.
- 29.5 **Limitation of Liability:** No action shall be filed more than one (1) year subsequent to the date the cause(s) of action actually accrued, regardless of whether damages were otherwise as of said time calculable.
- 29.6 **Enforcement Costs:** If the Lessor files an action to enforce any provision contained in this Lease, or for breach of any covenant or condition contained herein, the Lessee shall to pay the Lessor for all reasonable solicitor fees for the services of the Lessor's solicitor in the action, as fixed by the court.
- 29.7 **Injunction:** In the event of breach by the Lessee, and in addition to any and all other remedies available to the Lessor, the Lessor may seek injunctive relief, regardless of whether the Lessor can demonstrate that no adequate remedy exists at law in the relevant jurisdiction.
- 29.8 **Lessee's Right to cure Lessor's Default:** In the event that the Lessor shall fail, refuse or neglect to pay any mortgages, liens or encumbrances, the judicial sale of which might affect the interest of the Lessee hereunder, or shall fail, refuse or neglect to pay any interest due or payable on any such mortgage, lien or encumbrance, the

Lessee may pay said mortgages, liens or encumbrances, or interest or perform said conditions and charge to the Lessor the amount so paid and withhold and deduct from any rents herein reserved such amounts so paid, and any excess over and above the amounts of said rents shall be paid by the Lessor to the Lessee.

### **30. WAIVER**

30.1 Failure of either party to enforce any provision of this Lease, shall not be deemed to be a waiver by said party of any of its rights hereunder. No waiver by either party at any time, express or implied, of any breach of any provision of this Lease shall be deemed a waiver of a breach of any other provision of this Lease or a consent to any subsequent breach of the same or any other provision. If any action by either party shall require the consent or approval of the other party, the other party's consent to or approval of such action on any one occasion shall not be deemed a consent to or approval of said action on any subsequent occasion or a consent to or approval of any other action on the same or any subsequent occasion. Any and all rights and remedies which either party may have under this Lease or by operation of law, either at law or in equity, upon any breach, shall be distinct, separate and cumulative and shall not be deemed inconsistent with each other, and no one of them, whether exercised by said party or not, shall be deemed to be an exclusion of any other, and any two (2) or more or all of such rights and remedies may be exercised at the same time.

### **31. NOTICES**

31.1 All notices, demands, actions, court proceedings or other correspondence ("**Notices**") authorised or required hereunder must be in writing and shall be given by mailing the same by pre-paid Registered Post and any such Notice shall be deemed to have been given two (2) Business Days after the postage date. If the Notice is intended for the Lessor, the same will be mailed to the address provided in **Item 1A of Schedule A**, or such other address as the Lessor may hereafter designate by notice to the Lessee. If the Notice is intended for the Lessee, the same shall be mailed to the address provided in **Item 1B of Schedule A**, or such other address or addresses as the Lessee may hereafter designate by notice to the Lessor.

### **32. FORCE MAJEURE**

32.1 In the event that either party is delayed or hindered in or prevented from the performance of any act (other than the Lessee's obligation to make payments of rent, additional rent, and other charges required hereunder), by reason of strikes, lockouts, unavailability of materials, failure of power, restrictive governmental laws or regulations, riots, insurrections, the act, failure to act, or default of the other party, war or other reason reasonably beyond its control, then performance of such act shall be excused for the period of the delay and the period for the performance of such act shall be extended for a period equivalent to the period of such delay.

32.2 For the avoidance of doubt, notwithstanding the foregoing, lack of funds shall not be deemed to be a cause reasonably beyond control of either party.

### **33. SEVERABILITY**

33.1 If any term or provision of this Lease or the application hereof to any person or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

### **34. RELATIONSHIP OF THE PARTIES**

34.1 Nothing contained herein shall be deemed or construed by the parties hereto nor by any third party as creating the relationship of principal and agent or of partnership or of a joint venture between the parties hereto, it being understood and agreed that neither any provision contained herein, nor any acts of the parties hereto, shall be deemed to create any relationship between the parties hereto other than the relationship of Lessor and Lessee.

### **35. BROKERAGE**

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35.1 No party has acted as, by or through a broker in the effectuation of this Agreement, except as set out hereinafter.

### **36. ENTIRE AGREEMENT**

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36.1 This Lease (together with any schedules attached hereto) contains the entire and only agreement between the parties, and any prior statements or representations (whether written, oral or otherwise) not contained in this Lease shall not have any force and effect.

36.2 This Lease shall not be modified in any way except in writing executed by both parties.

### **37. GOVERNING LAW**

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37.1 All matters pertaining to this Lease (including its interpretation, application, validity, performance and breach) are governed by and must be construed in accordance with the laws of state in which the Leased Premises are situated.

37.2 The parties submit to the non-exclusive jurisdiction of the Courts of Western Australia.

### **38. RELIANCE ON FINANCIAL STATEMENT**

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38.1 The Lessee shall, if requested by the Lessor, furnish concurrently with the execution of this Lease, a Financial Statement of the Lessee prepared by an accountant (if notice in writing is given by the Lessor to the Lessee).

38.2 The Lessee represents and warrants that all information contained in such Financial Statement is complete, true, and correct and acknowledges the Lessor has relied upon the accuracy of Financial Statement.

38.3 Should there be found to exist any inaccuracy within the Financial Statement which adversely affects the Lessee's financial standing, or should the Lessee's financial circumstances materially change, the Lessor may:

- (a) demand, as additional security, an amount equal to an additional 3 (three) months' rent, which additional security for the obligations of the Lessee under this Lease;
- (b) require a fully executed guarantee by a third party in a form acceptable to the Lessor;
- (c) elect to terminate the Lease immediately by written notice; or
- (d) such further remedy determined reasonable by the Lessor in the circumstances.

### **39. INTERPRETATION**

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39.1 In the interpretation of this Lease:

- (a) references to legislation or provisions of legislation include changes or re-enactments of the legislation and statutory instruments and regulations issued under the legislation;
- (b) words defined in Schedule A attached hereto shall be capitalised in the body of the Lease;
- (c) words denoting the singular include the plural and vice versa, words denoting individuals or persons include bodies corporate and vice versa, references to documents or agreements also mean those documents or agreements as changed, novated or replaced, and words denoting one gender include all genders;
- (d) grammatical forms of defined words or phrases have corresponding meanings;
- (e) parties must perform their obligations on the dates and times fixed by reference to the capital city of the state or territory in which the Leased Premises is situated;
- (f) reference to an amount of money is a reference to the amount in the lawful currency of the Commonwealth of Australia;
- (g) if the day on or by which anything is to be done is a Saturday, a Sunday or a public holiday in the place in which it is to be done, then it must be done on the next business day;
- (h) references to a party are intended to bind their executors, administrators and permitted transferees;
- (i) obligations under this Lease affecting more than one party bind them jointly and each of them severally;
- (j) the titles of any provision or section of this Lease are for convenience only and are not a part of this Lease and do not in any way limit or amplify the terms and provisions of this Lease; and
- (k) except as in this Lease otherwise provided, the terms and provisions of this Lease shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.



**EXECUTION**

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The Lease is executed as an Agreement by the parties.

**The Lessor**

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VALMADRE PROPERTY PTY LTD - ACN 649 555 564 of 50 Hunter Street, Newcastle, NSW 2300 by being signed by the persons authorised to sign on behalf of the company pursuant to section 127 of the Corporations Act 2001 (Cth):

  
\_\_\_\_\_  
Georgina Valmadre  
Director

Dated: 22/3/22

  
\_\_\_\_\_  
Michael John Valmadre  
Director

Dated: 22/3/22

**The Lessee**

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VALMADRE HOMES PTY LTD - ACN 164 525 197 of 254 SHEOAK DRIVE, YALLINGUP, WA 6282 by being signed by the persons authorised to sign on behalf of the company pursuant to section 127 of the Corporations Act 2001 (Cth):

  
\_\_\_\_\_  
Michael John Valmadre  
Sole Director and Secretary

Dated: 22/3/22

## SCHEDULE A

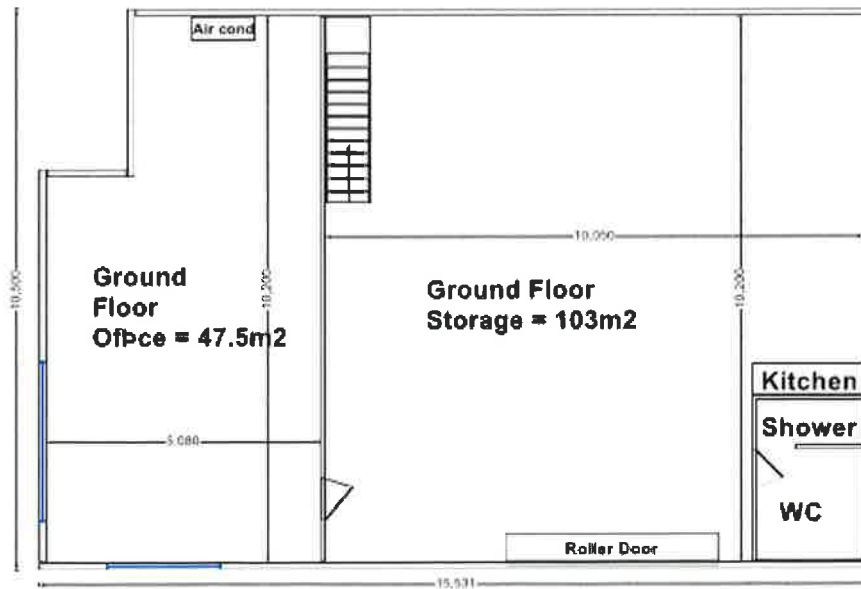
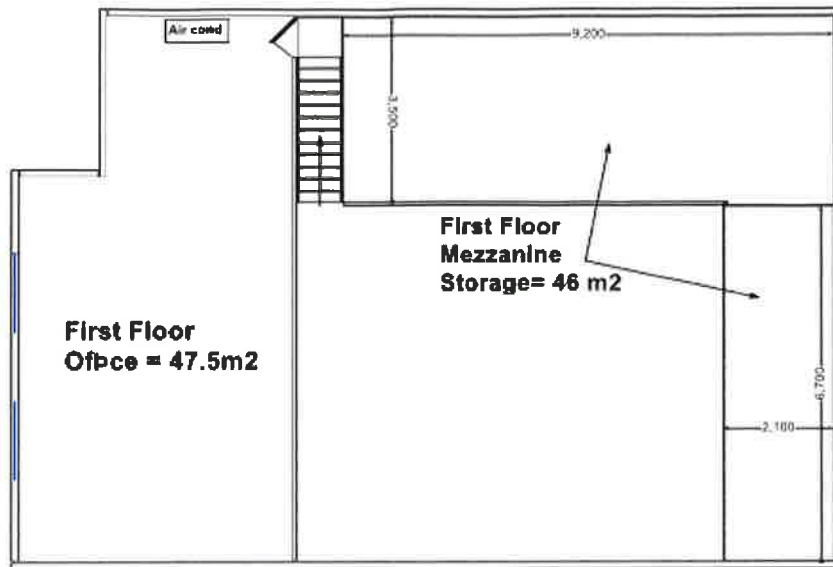
### REFERENCES

<b>Item 1: Parties</b>	<b>A - Lessor:</b> VALMADRE PROPERTY PTY LTD - ACN 649 555 564 of 50 Hunter Street, Newcastle, NSW 2300
	<b>B - Lessee:</b> VALMADRE HOMES PTY LTD - ACN 164 525 197 of 254 SHEOAK DRIVE, YALLINGUP, WA 6282
<b>Item 2: Term</b>	<b>A - Commencement Date:</b> 1 January 2022
	<b>B - Date of Expiry:</b> 3 year(s)
	<b>C - Renewal Options:</b> 3 year(s)
<b>Item 3: Leased Premises</b>  (as shown in Schedule C)	<b>A - Street Address:</b> UNIT 3, 16 GRIFFIN DRIVE, DUNSBOROUGH, WA 6281
<b>Item 4: Rent</b>	<b>A - Annual Rent GST Not Applicable (Lessor is not registered for GST):</b> \$42,225
	<b>B - Annual Rent Increase:</b> in line with the Consumer Price Index (CPI)
	<b>C - Interest on Overdue Money:</b> Not Applicable
<b>Item 5: Permitted Use</b>	Building Company Office
<b>Item 6: Outgoings</b>	<b>As set out in Schedule B.</b>

**SCHEDULE B  
OUTGOINGS**

<b>Outgoing</b>	<b>Responsible Party</b>
<b>Water Drainage and Sewerage Rates:</b>	Tenant
<b>Local Authority Rates:</b>	Tenant
<b>Land Tax:</b>	Tenant
<b>Interest Charges on Outstanding Rates and Taxes:</b>	Tenant
<b>Water Consumed Beyond Allowance:</b>	Tenant
<b>Fire Services:</b>	Tenant
<b>Cleaning Rubbish Removal:</b>	Tenant
<b>Ground Repairs and Maintenance:</b>	Tenant
<b>Building Repairs and Maintenance of a Non-Structural Nature:</b>	Tenant
<b>Building Insurance:</b>	Tenant
<b>Plate Glass Insurance and Public Liability Insurance (minimum \$10,000,000):</b>	Tenant
<b>Property Management Fees:</b>	Tenant
<b>Common Area Lighting and Power:</b>	Tenant
<b>Security:</b>	Tenant
<b>Toilet Requisites:</b>	Tenant
<b>Hot Water Systems Running and Repairs and Maintenance:</b>	Tenant
<b>Electricity and Gas and Telephone Services Consumed in the Leased Premises:</b>	Tenant
<b>Air-Conditioning (Running, Repairs and Maintenance):</b>	Tenant
<b>Lift Running and Repairs and Maintenance:</b>	Tenant
<b>Strata Levy:</b>	Tenant

**SCHEDULE C -  
PLANS AND SPECIFICATIONS OF LEASED PREMISES**



**Unit 3 / 16 Griffon Drive, DUNSBOROUGH  
Floor Plan**