

Dealing Number



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<b>1. Lessor</b> PETER JAMES FLEMING AND SONIA SHAREE FLEMING AS TRUSTEE OF P & S SUPERANNUATION FUND	<b>Lodger</b> (Name, address E-mail & phone number) Bedford & Associates 29 Takalvan Street Bundaberg QLD 4670 Tel: 07 4153 5858 Ref: GMD:0285/14 Email: info@bedfordlawyers.com.au	<b>Lodger Code</b> BG 901
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<b>2. Lot on Plan Description</b> LOT 47 ON CPM PH 13990	<b>Title Reference</b> 17780138
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<b>3. Lessee</b> Given names	Surname/Company name and number	(include tenancy if more than one)
	<b>WORKWAYS AUSTRALIA LIMITED</b> ABN 50 957 582 595	

**4. Interest being leased**  
Fee Simple

**5. Description of premises being leased**

THE WHOLE OF THE LAND AND IMPROVEMENTS ON THE LOT DESCRIBED IN ITEM 2 ABOVE

<b>6. Term of lease</b> Commencement date/event: 01/04/2018 Expiry date: 31/03/2021 and/or Event: #Options: 1 X 3 YEAR OPTION #Insert nil if no option or insert option period (eg 3 years or 2 x 3 years)	<b>7. Rental/Consideration</b> SEE ATTACHED SCHEDULE
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**8. Grant/Execution**

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

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

..... signature		
..... full name		
..... qualification	/ /	.....
<b>Witnessing Officer</b>	<b>Execution Date</b>	<b>Lessor's Signature</b>
(Witnessing officer must be in accordance with Schedule 1 of the Land Title Act 1994 eg Legal Practitioner, JP, C Dec)		

**9. Acceptance**

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

..... signature		
..... full name		
..... qualification	17 / 4 / 18	.....
<b>Witnessing Officer</b>	<b>Execution Date</b>	<b>Lessee's Signature</b>
(Witnessing officer must be in accordance with Schedule 1 of the Land Title Act 1994 eg Legal Practitioner, JP, C Dec)		

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**OPERATIVE PART**

**1. Definitions and interpretation**

**1.1 Definitions**

In this Lease:

"**Activity**" means any undertaking, development, work or use, in, on, under or emanating from the Premises, and includes the storage, transportation, leak, escape, removal, discharge, release or disposal of any Contaminant in, on, under, to, from or emanating the Premises.

"**Authority**" includes any governmental or semi-governmental or local government authority, administrative or judicial body or tribunal, department, commission, public authority, agency, minister, statutory corporation or instrumentality.

"**Claims**" means costs, liability, loss, damage, actions, suits, claims or demands.

"**Commencement Date**" means the date specified in *Item 6*.

"**Contamination**" means a solid, liquid, gas, odour, heat, sound, vibration, radiation or substance which makes or may make the Land, the Premises or the surrounding environment unsafe or unfit for use, habitation or occupation by persons or animals or otherwise environmentally degraded and "**Contaminant**" has a corresponding meaning.

"**CPI Adjustment Date**" means each of the dates specified in *Item 10(a)*.

"**Environmental Law**" means a Law relating to the environment, including but not limited to a law relating to the use of land, planning, environmental assessment, environmental heritage, water, water catchments, pollution of air, soil, ground water or water, noise, soil, chemicals, pesticides, hazardous substances, the ozone layer, waste, dangerous goods, building regulation, occupation of buildings, public health, occupational health and safety, environmental hazards, any aspect of protection of the environment or the enforcement or administration of any of those Laws (whether that Law arises under statute or the common law or pursuant to any environmental licence, permit, licence, approval, notice, decree, order or directive of any Authority or otherwise).

"**GST**" means GST within the meaning of the GST Act.

"**GST Act**" means the *A New Tax System (Goods and Services Tax) Act 1999* (as amended).

"**Institute**" means the Division of Australian Property Institute in the State in which the Premises are located.

"**Item**" means an item in **Schedule A**.

"**Land**" means the land specified in *Item 3*.

"**Landlord**" means the entity described in Item 1 the assigns executors or administrator of the Landlord or being a body corporate also successor and assigns and reversioner immediately expectant upon the term created by this lease.

"**Landlord's Associates**" includes each of the Landlord's employees, servants, contractors, agents, licensees, tenants and invitees.

"**Laws**" means all statutes or the common law and all requirements which may be made or notices or orders

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which may be given by any Authority, in force from time to time.

**"Market Review Date"** means each of the dates specified in *Item 10(b)*.

**"Named Tenant"** means the entity described in *Item 2*, including the Tenant the executors administrators of the Tenant or being a body corporate its successor and assigns.

**"Permitted Use"** means the use described in *Item 8*.

**"Premises"** means the premises specified in *Item 4*.

**"Property Manager"** means the person from time to time performing the duties of Property Manager of the Tenant.

**"Related Tenant"** means:

1. a company in which the Named Tenant has a controlling interest;
2. a company in which the Named Tenant holds, beneficially or otherwise, 50% or more of the issued shares;
3. a company in which the Named Tenant has contributed 50% or more of its paid up capital; or
4. any related body corporate of the Named Tenant within the meaning of the Corporations Act 2001.

**"Rent"** means the rent payable under *clause 3*.

**"Tenant's Associates"** includes each of the Tenant's employees, servants, contractors, agents and invitees.

**"Tenant's Fixtures"** means all fixtures, fittings, plant, signage, machinery and equipment installed in the Premises by the Tenant.

**"Term"** means the period specified in *Item 5* and any holding over.

## 1.2 Interpretation

In this Lease:

- (a) headings are for convenience only and do not affect interpretation;

and unless the context indicates a contrary intention:

- (b) an obligation or liability assumed by, or a right conferred on, 2 or more parties or 2 or more persons comprising a party binds or benefits all of them jointly and each of them severally;
- (c) if a party consists of more than one person, this deed binds them jointly and each of them severally;
- (d) the expression **"person"** includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (e) the expression **"month"** means calendar month;

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- (f) a reference to any party includes that party's executors, administrators, successors and permitted assigns, including any person taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
- (g) a reference to any document (including this Lease) is to that document as varied, novated, ratified or replaced from time to time;
- (h) a reference to any statute or to any statutory provision includes any statutory modification or re-enactment of it or any statutory provision substituted for it, and all ordinances, by-laws, regulations, rules and statutory instruments (however described) issued under it;
- (i) words importing the singular include the plural (and vice versa), and words indicating a gender include every other gender;
- (j) references to parties, clauses, schedules, exhibits or annexures are references to parties, clauses, schedules, exhibits and annexures to or of this Lease, and a reference to this Lease includes any schedule, exhibit or annexure to this Lease;
- (k) where a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (l) the word "includes" in any form is not a word of limitation; and
- (m) a reference to "\$" or "dollar" is to Australian currency.

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**2. Grant****2.1 Term, Premises, Rent**

The Landlord leases the Premises to the Tenant subject to any encumbrances affecting the Land, for the Term, at the Rent and on the terms and conditions set out in this Lease.

**2.2 Implied Terms**

The covenants, powers and provisions otherwise implied in this Lease by virtue of any Laws are, to the extent possible, hereby negated.

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**3. Rent****3.1 Payment of Rent**

The Tenant shall pay free of all deductions Rent specified in *Item 7* (as may be reviewed in accordance with *clause 3.2*) to the Landlord at its address appearing in this Lease or as the Landlord otherwise directs in writing, by equal monthly instalments in advance, on the 1st day of each month, having made any necessary adjustment for broken periods.

**3.2 Review and Adjustment of Rent**

The Rent shall be reviewed and adjusted at the times and in the manner provided in *Item 10*.

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#### **4. Other payments**

##### **4.1 Service Charges**

The Tenant shall pay all charges for telephone, gas, electricity, water connected or supplied to the Premises and all other charges and impositions imposed by any public utility or Authority for the supply of any service to the Premises, provided that where there is no separate meter for recording or measuring in respect of the Premises any of the services or substances supplied to the Premises, the Landlord shall if so required by the Tenant arrange for the installation of the meter at the cost of the Landlord.

##### **4.2 Rates and other Charges**

The Tenant shall pay, or reimburse to the Landlord, to the extent permitted by law, all municipal, sewerage and water rates, land tax and other charges, local authority outgoings or assessments which may, at any time during the Term be levied or imposed on the Premises or any part. This clause does not include any structural repairs or maintenance or any special levies not ordinarily imposed on the Land or related to the occupancy of the Tenant under this Lease. In the case of land tax the Tenant's liability is limited to the amount which would have been payable:

- (a) if the Premises were the only land owned by the Landlord and the Landlord were not an absentee owner;
- (b) or, if the Land is located in New South Wales, as if the Premises were the only land owned by the Landlord, were not subject to a special trust, and the Landlord were not a concessional company; and;
- (c) if the Landlord were not subject to any assessment for further tax pursuant to any legislation dealing with contracts to evade tax or any other special rate of tax.

In any other case, if such rates, taxes or charges are not separately assessed, the Tenant's proportion shall be the same proportion that the area of the Premises bears to the area of the land the subject of the relevant assessment.

##### **4.3 Costs**

Each party shall be responsible for payment of their own legal costs, charges and expenses in relation to the preparation, negotiation and completion of this Lease and the Tenant shall pay the Landlord's reasonable costs, charges and expenses of:

- (a) any consent required under this Lease (except the consent of a mortgagee); and
- (b) any default by the Tenant in performing the covenants contained in this Lease.

##### **4.4 Stamp Duty**

The Tenant shall pay all stamp duty assessed on this Lease and any renewal and all registration fees (if any).

##### **4.5 Interest on Overdue Payments**

The Tenant shall pay interest to the Landlord on any amount payable by it under this Lease and remaining unpaid for more than 14 days for all amounts except rental (on which interest shall be payable from the due date for payment), from the due date for payment until the amount is paid, on demand in writing. The interest rate to be applied to each daily balance is the rate equal to 2% per annum above the rate chargeable by the

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Landlord's principal bankers on unsecured overdraft accommodation exceeding \$100,000.

**4.6 GST**

(a) **GST Definitions**

Expressions set out in italics in this clause bear the same meaning as those expressions in the GST Act.

(b) **Amounts otherwise payable do not include GST**

Except where express provision is made to the contrary, and subject to this *clause 4.6*, the consideration payable by any party under this Lease represents the *value* of any taxable supply for which payment is to be made.

(c) **Liability to pay any GST**

Subject to *clause 4.6(e)*, if a party makes a taxable supply in connection with this Lease for a consideration, which, under *clause 4.6(b)* or *clause 4.6(d)*, represents its value, then the party liable to pay for the taxable supply must also pay, at the same time and in the same manner as the value is otherwise payable, the amount of any GST payable in respect of the taxable supply.

(d) **Reimbursements**

If this Lease requires the Tenant to pay, reimburse or contribute to an amount paid or payable by the Landlord in respect of an acquisition from a third party for which the Landlord is entitled to claim an input tax credit, the amount required to be paid, reimbursed or contributed by the Tenant will be the value of the acquisition by the Landlord plus, if the Landlord's recovery from the Tenant is a taxable supply, any GST payable under *clause 4.6(c)*.

(e) **Tax Invoice**

A party's right to payment under *clause 4.6(c)* is subject to a valid tax invoice being delivered to the party liable to pay for the taxable supply.

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**5. Repair, care and inspection of premises**

**5.1 Repair**

The Tenant shall maintain and clean the Premises and keep the Premises (including the non-structural mechanical services) in a good and tenantable state of repair (having regard to their condition as at the Commencement Date) excepting always:

- (a) fair wear and tear;
- (b) damage by fire unless caused by the negligent act, omission or default of the Tenant;
- (c) damage by lightning, flood, tempest, explosion, earthquake, aircraft, riot, civil commotion or any other cause beyond the control of the Tenant; and
- (d) damage covered by insurance pursuant to *clause 10.2*.



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**5.2 Notification of Defects and Breakages**

The Tenant shall, on becoming aware, promptly give written notice to the Landlord of any structural breakage, defect or damage to the Premises.

**5.3 Landlord's Right to Enter**

- (a) On receiving reasonable prior notice from the Landlord, the Tenant shall permit the Landlord or a person authorised by the Landlord to enter the Premises during normal business hours in the company of a representative of the Tenant to:
- (i) effect any repairs or maintenance to the Premises; or
  - (ii) not more than twice in any year, view the state of repair and condition of the Premises.
- (b) Notwithstanding any other provision of this Lease, the Landlord shall not exercise any power to enter or re-enter the Premises or seek to do any work in or on the Premises without:
- (i) first giving reasonable notice to the Tenant;
  - (ii) identifying the Landlord's Associates who propose to enter or re-enter the Premises and for whom the Tenant may require to obtain security clearance;
  - (iii) complying with the reasonable security and safety requirements of the Tenant;
  - (iv) be accompanied by a representative of the Tenant; and
  - (v) ensuring the Landlord shall cause as little inconvenience to the Tenant as is practicable, provided that in the case of an emergency no notice shall be required.

**5.4 Make Good Defects**

The Tenant shall make good any defects and wants of repair constituting a breach of the Tenant's covenants to repair the Premises within a reasonable time after receiving written notice from the Landlord of those defects and wants of repair. If the Tenant fails to commence the works within a reasonable time or fails to proceed diligently with the execution of the works, it shall be lawful for the Landlord or the Landlord's Associates, to enter the Premises to complete such works at the Tenant's expense, in accordance with *clause 5.3*.

**5.5 Acts Required by Law**

The Tenant shall comply with all Laws affecting or relating to the use of the Premises but the Tenant shall have no obligation to:

- (a) do anything which would have been required irrespective of the Tenant's particular use or occupation of the Premises; or
- (b) assess, monitor, repair, abate, mitigate or clean up any Contamination or the source of any Contamination where the Contamination or source occurs or arises as a result of or from the acts or omissions of the Landlord or previous occupiers of the Premises or due to conditions existing on the Premises prior to the Commencement Date.

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**5.6 Exceptions**

Nothing in this clause 5 shall impose any obligation on the Tenant to:

- (a) do any work of a structural nature; or
- (b) replace any electrical or mechanical installation or equipment which fails to operate properly and requires replacement or which has reached the end of its economic usefulness,

unless caused by the negligent act, omission or default of the Tenant. Any dispute as to whether items of a capital nature have reached the end of their economic usefulness shall be referred to a structural engineer, or other suitably qualified person appointed by the parties or, failing agreement on who to appoint, by the President for the time being of the Institute at the request of either party, whose opinion shall be conclusive proof and whose costs shall be borne equally by the parties.

**5.7 Condition Report**

Intentionally deleted

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**6. Use and limitations of use of premises**

**6.1 Permitted Use**

The Tenant shall not use the Premises for any purpose other than the Permitted Use.

**6.2 Hazardous Substances**

The Landlord acknowledges that the Tenant may use or store on the Premises fuels, lubricants or chemicals which might normally be expected to be found at premises used for the Permitted Use including substances and goods which may be hazardous.

**6.3 Licences and Permits**

The Landlord shall, at the Tenant's expense, do everything reasonably required by the Tenant to assist the Tenant to obtain any consents, permits, approvals or licences for such substances.

**6.4 To Let Signs and Prospective Tenants**

Unless the Tenant has exercised an option to renew the Term, the Tenant shall, during the last 3 months of the Term allow:

- (a) prospective tenants to inspect the Premises (subject to clause 5.3(b)); and
- (b) the Landlord to affix and exhibit a sign indicating that the Premises are "to let" in a position which the parties agree is reasonable without obscuring any exterior window in the Premises or detracting from the Tenant's signs.

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**7. Tenant's works**

**7.1 No Alterations, Additions or Installations**

The Tenant shall not, without the prior consent in writing of the Landlord make any structural alteration or addition in or to the Premises and shall observe and comply with all reasonable requirements of the Landlord

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and with all Laws in making any such alteration or addition.

**7.2 Partitioning and Other Equipment**

The Tenant shall bear the cost of:

- (a) all additional internal partitions and related equipment and facilities required by the Tenant within the Premises; and
- (b) all additional lights, power outlets, switches, telephone outlets and any relocation of or alteration to thermal alarms, sprinklers, air-conditioning, plumbing or other associated equipment which may be required by reason of the installation of any partitions.

**7.3 Tenant's Signs**

The Tenant may erect and maintain in, on or over the Premises any signs (including illuminated signs) logos, advertisements or notices relating to the Tenant, or any Related Tenant or any sub-tenant of the Tenant, or the nature or conduct of the business on the Premises, subject only to obtaining any necessary approvals or permits from the Authorities.

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**8. Expiry**

**8.1 Yield Up Premises**

Subject to *clause 8.2*, on the expiry or sooner determination of the Term, the Tenant shall peaceably surrender and yield up to the Landlord the Premises in a condition consistent with the Tenant's obligations in this Lease.

**8.2 Removal of Tenant's Fixtures**

The Tenant may (and shall if required by the Landlord), prior to or within a reasonable time after the expiration or sooner determination of the Term, remove and carry away from the Premises the Tenant's Fixtures and shall make good any damage caused by such removal.

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**9. Release and indemnities**

**9.1 Release**

The Tenant will occupy the Premises at its own risk and hereby releases the Landlord from:

- (a) all Claims as a consequence of any accident, damage, death, injury or loss occurring in the Premises; and
- (b) all responsibility or liability for any accident, damage, death, injury or loss suffered by the Tenant or the Tenant's Associates as a result of any accident, breakage, leakage, defect, omission or event in the Premises,

to the extent that they have not been caused by the negligence, default or wilful act or omission on the part of the Landlord or the Landlord's Associates.

**9.2 Indemnities**

The Tenant indemnifies and will keep indemnified the Landlord from and against all Claims suffered by or made against the Landlord or the Landlord's Associates as a consequence of:

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- (a) the negligent use, misuse or abuse by the Tenant or the Tenant's Associates of services and facilities servicing the Premises;
- (b) the overflow or leakage of water (excluding rain water) in or from the Premises which has its origin within the Premises and is caused or contributed to (and to that extent only) by any act or omission on the part of the Tenant or the Tenant's Associates; and
- (c) any loss, damage or injury caused or contributed to (and to that extent only) by the use or occupation of the Premises by the Tenant or the Tenant's Associates or by any wilful act or omission, negligence, breach of covenant or default on the part of the Tenant or the Tenant's Associates.

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**10. Insurance**

**10.1 Not to Void Insurance**

The Tenant shall not knowingly do or allow to be done any act, matter or thing whereby any insurance in respect of the Premises may be vitiated or rendered void or voidable or whereby any premium on any insurance shall be liable to be increased.

**10.2 Tenant's Insurances**

The Tenant:

- (a) shall ensure that the interests of the Tenant noting the Landlord as an interested party in the Premises are covered by an insurance policies with respect to public liability, fire and industrial risk and loss of rent insurance as specified in *Item 11*;
- (b) shall ensure that the insurance cover is maintained throughout the Term;
- (c) if requested by the Landlord, shall produce to the Landlord, within 21 days of a written request (but not more than once in each year), a letter confirming the currency of the policies, the sum insured, the due date for renewal and the interests noted on the policies; and
- (d) shall pay any excess payable on any claim made against a policy (except where such excess is imposed as a consequence of the negligence, default or wilful act or omission on the part of the Landlord or the Landlord's Associates).

**10.3 Glass**

The Tenant shall replace, at its own expense, any plate glass in the Premises which may be broken or damaged from time to time.

**10.4 Insurance on Assignment**

If the interest of the Named Tenant is assigned to any person other than a Related Tenant, *clauses 10.2 and 10.3* shall cease to apply from the date of assignment and the following provisions shall apply in their place:

**"10.2 Tenant's Insurances**

The Tenant shall:

- (a) effect and keep in full force during the Term the following insurances:

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- (i) a public liability policy for the sum of \$10,000,000 or such other amount as the Landlord shall reasonably require from time to time; and
- (ii) a policy insuring all plate glass in the Premises
- (b) pay all premiums as and when they fall due, failing which the Landlord may pay the premiums and recover the cost from the Tenant on demand;
- (c) within 30 days of the due date for payment of each premium and whenever required by the Landlord, produce the insurance policies or certificates of currency relating to the insurance to the Landlord; and
- (d) on demand, reimburse or pay to the Landlord all premiums and associated charges payable by the Landlord in respect of the insurance of the Premises against fire and other casualty risks and loss of rent insurance for a period of 12 months."

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**11. Landlord's covenants**

**11.1 State of Premises**

The Landlord warrants that:

- (a) as at the Commencement Date the Premises are or will be clean and in good order and repair and free from latent defects;
- (b) any works which the Landlord is to effect for the benefit of the Tenant, prior to or during the Term, will be carried out in a proper and workmanlike manner using suitable materials and will cause as little inconvenience as possible to the Tenant's use and occupation of the Premises;
- (c) the Premises (including any floors, driveways and paved areas) existing at the Commencement Date and all alterations and additions made by the Landlord prior to or during the Term are or will be of sound and solid construction and capable of withstanding the Permitted Use of the Premises; and
- (d) without limiting the generality of the foregoing, all functional parts of the Premises, including doors, windows, ventilating, lighting, heating and cooling equipment, water, sewerage, drainage, electricity and gas facilities and appliances, fire fighting and safety equipment, lifts, joists and telecommunications equipment, will give good and trouble-free service and operation throughout the Term, subject only to fulfilment by the Tenant of its obligations in regard thereto under this Lease.

**11.2 Quiet Enjoyment**

The Landlord covenants with the Tenant that the Tenant may, on due payment of the rent and observance of the terms and conditions of this Lease, peaceably possess and enjoy the Premises during the Term without any interruption or disturbance by the Landlord, the Landlord's Associates or any other person claiming under or through the Landlord.

**11.3 Landlord's Obligations**

The Landlord shall:

- (a) **Maintenance, Repairs and Replacement**
  - (i) maintain the Premises in a structurally sound and watertight condition;

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- (ii) promptly effect any repairs which are not the responsibility of the Tenant under this Lease;
  - (iii) replace any electrical or mechanical installation or equipment which fails to operate properly and requires replacement or has reached the end of its economic usefulness;
  - (iv) keep the main drains and pipes servicing the Premises unblocked and in good repair; and
  - (v) maintain the services referred to in *clause 11.1(d)* in good working order and in accordance with *clause 11.4* and if any of the services referred to in *clause 11.1(d)* service the Premises without forming part of the Premises, the Landlord will maintain those services in good working order and in accordance with *clause 11.4*.
- (b) **Rates and Taxes**
- subject to any right of recovery or reimbursement from the Tenant, pay all rates, taxes and charges levied or charged on the Premises or on the Landlord in respect of the Premises;
- (c) **Consent of Mortgagee**
- at its own expense, procure the consent of any mortgagee of the Premises, which consent shall be in a form reasonably acceptable to the Tenant and which shall:
- (i) continue in respect of any extension or renewal of the Term;
  - (ii) acknowledge the right of the Tenant to remove its fixtures and fittings; and
  - (iii) not impose any additional obligations on the Tenant.

**11.4 Acts Required by Law**

To the extent that compliance with any Laws is not the obligation of the Tenant under this Lease then, whether such Laws require compliance by the Tenant or the Landlord:

- (a) the Landlord shall comply with such Laws; and
- (b) the Landlord indemnifies and will keep indemnified the Tenant for any Claims suffered by or made against the Tenant as a consequence of non-compliance with such Laws by the Landlord.

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**12. Default, re-entry and termination****12.1 Termination and Re-Entry on Default, etc.**

If:

- (a) the Rent or any part is unpaid for 14 days after written demand for payment has been made;
- (b) the Tenant fails to remedy any material breach or default in the due and punctual observance and performance of any of the Tenant's covenants in this Lease, after 28 days' written notice has been given (or such longer period as is reasonable in the circumstances);
- (c) an order is made or a resolution is effectively passed for the winding up of the Tenant (except for

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the purpose of reconstruction or amalgamation);

- (d) the Tenant makes an assignment for the benefit of or enters into an arrangement or composition with its creditors or stops payment or is unable to pay its debts; or
- (e) execution is levied against the Tenant and is not discharged or stayed within 30 days,

then, notwithstanding that the Landlord may not have exercised any of its rights under this clause in respect of a previous breach or default by the Tenant of a like nature, the Landlord may, subject only to the provisions of the section referred to in the third column of *Appendix B* of the legislation referred to in the second column of *Appendix B* opposite the jurisdiction in the first column of *Appendix B* in which the Property is located (referred to in this clause as the "relevant section"), immediately or at any time afterwards re-enter the Premises or any part in the name of the whole and have again and repossess and enjoy the same as of its former estate and thereupon the Landlord shall be freed and discharged from any action, suit, claim or demand by or obligation to the Tenant under or by virtue of this Lease (except in relation to any antecedent breach) and the Term shall absolutely determine but without prejudice to any action or other remedy which the Landlord has or might or otherwise could have for arrears of Rent or breach of covenant or for damages as a result of any such event **PROVIDED THAT** in the case of a breach of any covenant or condition to which the relevant section applies, 28 days is hereby fixed as the time within which the Tenant is to remedy such breach if it is capable of remedy or to make reasonable compensation in money to the satisfaction of the Landlord for the breach.

**12.2 Essential Terms of Lease**

- (a) The covenants by the Tenant contained or implied in *clauses 3.1, 4.2, 5.1, and 14.1* are essential terms of this Lease notwithstanding acceptance by the Landlord of arrears of Rent or of any late payment of Rent or any waiver by the Landlord in respect of the Tenant's continuing obligation to pay Rent during the Term of this Lease.
- (b) The Tenant shall be liable to the Landlord for any loss or damage suffered by the Landlord resulting from any breach of an essential term of this Lease.
- (c) Nothing contained in this clause shall be interpreted or construed as negating or modifying the obligation of the Landlord to mitigate any loss.

**12.3 Landlord to Mitigate Loss**

If the Tenant repudiates this Lease then, whether or not the Landlord elects to terminate this Lease, the Landlord shall use its best endeavours to mitigate any loss.

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**13. Damage or destruction of premises**

**13.1 Abatement of rent**

If:

- (a) the Premises are totally or partially destroyed, damaged or made inaccessible by fire, lightning, flood, tempest, explosion, earthquake, aircraft, riot, civil commotion or any other cause beyond the control of the Tenant so as to be unfit for the reasonable occupation and use by the Tenant

the Landlord shall in the event of partial damage and, if required by the Tenant by notice in writing ("**Notice of Requirement to Rebuild**") and subject to the approvals by the appropriate Authorities, rebuild and reinstate or replace the Premises and the Rent and other money payable under this Lease, or a fair proportion

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according to the nature and extent of the damage sustained, shall be suspended until the Premises shall be again rendered fit for occupation and use.

The Landlord is under no obligation to rebuild in the event that the Premises is totally destroyed or so damaged as to be wholly unfit for occupation or will effectively prevent the economical use of the Premises by the Tenant for a period reasonably calculated to exceed, 60 days. If this occurs then:

- (b) all Rent and other money payable under this Lease shall be suspended until the Premises shall be again rendered fit for occupation and use (should the Premises be rebuilt by the Landlord and clause 13.4 otherwise applies.
- (c) the Tenant may, within 45 days after the date of destruction or damage by written notice to the Landlord, terminate this Lease from the date of such notice but without prejudice to the rights that may have accrued to either party prior to termination.

**13.2 Dispute**

A dispute arising out of this clause shall be referred for determination by a qualified valuer appointed at the request of either party by the President or other senior office bearer for the time being of the Institute who shall act as an expert and not as an arbitrator and whose costs shall be borne equally by parties.

**13.3 Application of Insurance**

Intentionally deleted

**13.4 Determination in the event of destruction**

Intentionally deleted

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**14. Assignments etc.**

The Tenant shall not:

- (a) assign or transfer this Lease or any interest in it;
- (b) underlet or part with possession of the Premises or any part; or
- (c) declare itself to be trustee of any legal or equitable estate or interest in this Lease or transfer or divest itself of any beneficial interest,

without the prior written consent of the Landlord. The Landlord shall not unreasonably withhold its consent to an assignment, sub-lease or licence to a proposed tenant or licensee who the Tenant proves, to the reasonable satisfaction of the Landlord, to be solvent, respectable and responsible and capable of complying with the terms and conditions of this Lease. So long as the Named Tenant or a Related Tenant is the Tenant, it may, at any time and without complying with the provisions of this clause, assign or transfer this Lease or, underlet or part with possession of the Premises to a Related Tenant.

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**15. Overholding**

If the Tenant continues to occupy the Premises after the expiration or sooner determination of the Term or any renewal of the Term without objection by the Landlord, the Tenant shall become a monthly tenant of the Landlord at a monthly rent equivalent to one twelfth of the Rent payable by the Tenant at the expiration or sooner determination of the Term or any renewal of the Term and otherwise on the same terms and conditions



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as are contained in this Lease, which tenancy may be determined by either party giving one month's written notice to the other without reference to the commencement of the tenancy.

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**16. Option**

If the Tenant wishes to take a lease of the Premises for any further term identified in *Item 9(a)* ("**Further Term**") and:

- (a) not less than 3 months prior to the expiration of the Term gives written notice to the Landlord to that effect;
- (b) as at the date of the notice is not in breach or default of any of the Tenant's covenants in this Lease in any material respect, notice of which breach or default has been given to the Tenant; and
- (c) is not in default, prior to the expiration of the Term, notice of which default has been given to the Tenant,

the Landlord will grant a new lease ("**New Lease**") of the Premises to the Tenant for the Further Term at an initial Rent to be agreed, or failing agreement to be determined in accordance with *Item 9(b)* and otherwise subject to the same terms and conditions as are contained in this Lease except for the exclusion of the reference to the Further Term.

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**17. Environmental**

**17.1 Asbestos Warranty**

The Landlord:

- (a) represents and warrants that it has prior to the earlier of the Commencement Date or the date upon which the Tenant takes possession of the Premises, disclosed in writing to the Tenant the existence and details of all asbestos affecting the Premises, including production of a true and complete copy of all asbestos registers and other records relating to asbestos;
- (b) represents and warrants that as at the Commencement Date it is complying with any Laws relating to the existence of any asbestos on or near the Premises;
- (c) acknowledges that the Tenant has entered into this Lease in reliance on this warranty;
- (d) indemnifies and will keep indemnified the Tenant and the Tenant's Associates against any Claims suffered by or made against the Tenant or the Tenant's Associates by reason of a breach by the Landlord of this warranty; and
- (e) without limiting the generality of the foregoing, shall comply promptly, at its expense, with the terms of any present or future Laws affecting the Premises and any notice served on the Landlord or the Tenant by the Environment Protection Authority, Health Department, Municipal or other Authority incidental to the existence, removal or remediation of any asbestos in the Premises.

**17.2 Environmental Warranty**

The Landlord:

- (a) represents and warrants that as at the Commencement Date:

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- (i) the Premises and the Land are free from any patent or latent Contamination;
  - (ii) there are no underground storage tanks located within the Premises;
  - (iii) there are no pending, proposed or threatened Claims from any Authority or any person under any Environmental Law with respect to the Premises or any Activity by the Landlord or any prior owner or occupier of the Premises;
  - (iv) the Premises do not form part of any list of sites prepared by an Authority which requires, or requires investigation of the need for, any action or work to be taken in respect of any Activity, nor are the Premises the subject of any proposal to be included in any such list; and
  - (v) there is and has been no Activity which would entitle an Authority to issue a notice, order or direction under an Environmental Law requiring the Tenant to undertake any action or work in relation to the Premises;
- (b) acknowledges that the Tenant has entered into this Lease in reliance on this warranty;
  - (c) indemnifies and will keep indemnified the Tenant and the Tenant's Associates against any Claims suffered by or made against the Tenant or the Tenant's Associates by reason of a breach by the Landlord of this warranty; and
  - (d) without in any way limiting the generality of the foregoing, shall assume responsibility for all Contamination of the Land and the Premises and anything incidental to them including compliance with any Environmental Law, except where the Contamination has been caused by or has arisen as a consequence of the Tenant's particular use of the Premises or the negligence or wilful act of the Tenant or the Tenant's Associates.

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**18. Notices****18.1 Notices**

Any notice, demand or other document to be given or served by either party under this Lease shall be valid and effectual if signed by an attorney or solicitor of that party (or in the case of the Landlord, the Landlord's managing agent) or any person authorised by the party.

**18.2 Service of Notices**

Without prejudice to any other means of giving notice, a notice, demand or other document to be served under this Lease shall be sufficiently served on:

- (a) the Tenant, if it is left addressed to or forwarded by prepaid letter to the Property Manager at his or her business address for the time being in Mount Isa or such other address for service as may from time to time be notified in writing by the Tenant to the Landlord, provided an acknowledgment of delivery is obtained; and
- (b) the Landlord, if it is forwarded by prepaid letter addressed to the Landlord at the Landlord's address stated in this Lease or such other address for service as may from time to time be notified in writing by the Landlord to the Tenant.

A notice forwarded by post shall be deemed to have been served on the addressee when it should have been

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received by that party in due course of post.

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**19. General**

**19.1 Consent of Landlord**

In each case where the doing or executing of any act, matter or thing by the Tenant under this Lease is dependant on the consent or approval or the like of the Landlord:

- (a) the consent or approval of the Landlord shall not be unreasonably conditioned, withheld or delayed; and
- (b) the Tenant shall reimburse the Landlord, on demand, for any reasonable fees paid by the Landlord to consultants engaged by the Landlord to examine or advise on any application made by the Tenant for the consent or approval, whether or not the Landlord's consent is given.

**19.2 Waiver Negatived**

- (a) Failure to exercise or enforce or a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by Law or under this Lease by any party will not in any way preclude, or operate as a waiver of any exercise or enforcement, or further exercise or enforcement of that or any other right, power or remedy provided by Law or under this Lease.
- (b) No waiver of a breach of any term of this Lease will operate as a waiver of another breach of that term or of a breach of any other term of this Lease.

**19.3 Entire Agreement**

To the extent permitted by law, in relation to the subject matter of this Lease, this Lease:

- (a) embodies the entire understanding of the parties, and constitutes the entire terms agreed on between the parties; and
- (b) supersedes any prior written or other agreement between the parties.

**19.4 Severability**

If the whole or any part of a provision of this Lease is void, unenforceable or illegal it is severed. The remainder of this Lease continues to have full force and effect.

**19.5 Governing Law**

This Lease is governed by and will be construed according to the Laws of the State or Territory in which the Premises are situated.

**19.6 Jurisdiction**

Each party irrevocably submits to the non-exclusive jurisdiction of the courts of the State or Territory in which the Premises are situated.

**19.7 Further Acts**

Each party will promptly do and perform all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that party) required by law or reasonably requested by any other party to

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give effect to this Lease.

**19.8 Right of Enforcement**

It is not necessary for a party to incur expense or to make any payment before enforcing a right of indemnity conferred by this Lease.

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**20. Agreed Amendments**

**20.1 Amendments**

Despite any other provision of this Lease, the parties agree that this Lease is amended by the amendments (if any) set out in Schedule B.

**20.2 Inconsistencies**

To the extent of any inconsistency between the terms of this Lease and any amendments set out in **Schedule B**, **Schedule B** prevails.

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## APPENDIX A

(Clauses 3.2 and 16)

### PART ONE CPI RENT ADJUSTMENT

#### 1.1 CPI Adjustment

The Rent payable shall be adjusted with effect from each CPI Adjustment Date in accordance with the following formula:

$$X = \frac{R \times C2}{C1}$$

where:

- $X$  = the revised Rent;
- $R$  = the Rent payable during the year immediately preceding the relevant CPI Adjustment Date;
- $C1$  = the Index Number for the quarter ending immediately prior to the Commencement Date or, where a rent review has taken place, the CPI Adjustment Date or the Market Review Date immediately preceding the CPI Adjustment Date; and
- $C2$  = the Index Number for the quarter ending immediately prior to the CPI Adjustment Date.

"Index Number" means:

- (a) the Consumer Price Index (All Groups) for the capital city of the State in which the Premises are situated ("City") published from time to time by the Australian Bureau of Census and Statistics; or
- (b) if there is any suspension or discontinuance in the publication of the Consumer Price Index, then, until publication of the Consumer Price Index is resumed, such other index reflecting fluctuations in the cost of living in the City agreed by the parties, or failing agreement, as determined by the President of the Institute or his or her nominee on request of either party as reflecting fluctuations in the cost of living in the City, whose decision shall be final and binding upon the parties, who shall act as an expert and not as an arbitrator and whose costs shall be borne equally between the parties.

#### 1.2 Payment of CPI Adjusted Rent

If the Rent payable from the relevant CPI Adjustment Date has not been ascertained by that date, then, within 14 days after any adjustment in the Rent has been ascertained, the Tenant or the Landlord (as the case may be) shall pay to the other party the difference between the Rent payable immediately before the CPI Adjustment Date and the Rent so adjusted for the period commencing on the CPI Adjustment Date and ending on the last day of the period to which Rent is then payable by the Tenant.

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**PART TWO**  
**MARKET RENT REVIEWS**

**1.1 Market Review**

The Rent payable shall be reviewed with effect from each Market Review Date.

**1.2 Landlord's Notice**

The Landlord must give the Tenant a notice stating the Landlord's assessment of the current annual market rent of the Premises on each Market Review Date ("**Landlord's Notice**") not earlier than 6 months before and not later than 3 months before the Market Review Date.

**1.3 Tenant's Notice**

The Rent from and including the relevant Market Review Date is the amount stated in the Landlord's Notice unless the Tenant gives the Landlord a notice, disagreeing with that amount ("**Tenant's Notice**") within 21 days after the Landlord's Notice is given.

**1.4 Disputes over Rent Review**

If the parties do not agree on the current annual market rent of the Premises to apply from the relevant Market Review Date within 21 days after the Tenant's Notice is given, then the current annual market rent must be decided by a valuer who:

- (a) is appointed, instructed and whose costs are paid equally by the parties (but if the parties do not agree on who to appoint within 21 days after the Tenant's Notice is given, that valuer is to be nominated at either party's request by the President of the Institute);
- (b) is a full member of the Institute;
- (c) at the time of appointment has a least 5 years experience in and is actively engaged in valuing similar premises;
- (d) must be instructed to decide what is the current annual market rent that would be reasonably expected to be paid for the Premises on the relevant Market Review Date:
  - (i) assuming the Premises were unoccupied;
  - (ii) having regard to the terms of this lease including the Permitted Use;
  - (iii) having regard to the use to which the Premises are actually put by the Tenant;
  - (iv) taking in account concessions paid or offered to the Tenant at the commencement of this Lease;
  - (v) disregarding the goodwill of the Tenant's business;
  - (vi) disregarding the value of the Tenant's fixtures and fittings on the Premises except to the extent that they have been contributed to by the Landlord; and
  - (vii) having regard to any other matters relevant to the assessment of the current annual market rent;

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- (e) must be instructed to give a written valuation setting out what was taken into account, what was disregarded, their respective weightings and any other adjustments, within 1 month after being appointed; and
- (f) acts as an expert and not as an arbitrator and whose decision is final and binding.

The amount decided by the valuer is the Rent from and including the relevant Market Review Date.

**1.5 Payment of Rent**

Until the Rent is determined, the Tenant shall continue to pay the Rent at the rate applying immediately prior to the Market Review Date.

**1.6 Adjustment of Reviewed Rent**

If the Rent payable from the relevant Market Review Date has not been determined by that date then, within 14 days after the determination of the Rent, the Tenant or the Landlord (as the case may be) shall pay to the other party the difference between the Rent payable immediately before the Market Review Date and the rent determined for the period commencing on the Market Review Date and ending on the last day of the period to which Rent is then payable by the Tenant.

**1.7 Rent May be Less**

The Rent payable by the Tenant after a Market Review Date may be less than the Rent payable by the Tenant immediately prior to the Market Review Date, it being intended that the Rent reviewed shall be the true current annual market rent of the Premises as at the relevant Market Review Date.

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**APPENDIX B**

(Clause 12.1)

<b>Jurisdiction</b>	<b>Act</b>	<b>Section</b>
Victoria	Property Law Act 1958	146(1)
New South Wales	Conveyancing Act 1919	129(1); 133A(2)
Queensland	Property Law Act 1974	124(1)
Western Australia	Property law Act 1969	81(1)
South Australia	Landlord and Tenant Act 1936	10
Tasmania	Conveyancing and Law of Property Act 1884	15(1)
Northern Territory	Law of Property Act 1999	137
Australian Capital Territory	Forfeiture and Validation of Leases Act 1905	4



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**Schedule A**

- Item 1                      **LANDLORD**
- Peter James Fleming and Sonia Sharee Fleming** as trustee of  
P & S Superannuation Fund  
of 144 Kleidons Road, Bundaberg, Queensland 4670
- Item 2                      **TENANT**
- WORKWAYS AUSTRALIA LIMITED**  
ABN 50 957 582 595  
280 Main Street, Bairnsdale Vic 3685
- Item 3                      **LAND**  
The whole of Lot 47 on CP MPH13990 County Rochedale Parish  
Haslingden
- Item 4  
(Clause 1.1)                **PREMISES**  
The Land and the improvements on it and all fixtures, fittings, plant,  
machinery and equipment (if any) pertaining to it belonging to the  
Landlord.
- Item 5  
(Clause 1.1)                **TERM**  
Three (3) Years from the Commencement Date
- Item 6  
(Clause 1.1)                **COMMENCEMENT DATE**  
1 April 2018
- Item 7  
(Clauses 1.1 & 3.1)        **INITIAL RENT**  
\$102,004.20 per annum (being \$8,500.35 per month) (GST  
inclusive)
- Item 8  
(Clause 6.1)                **USE OF PREMISES**  
Personal Development Learning
- Item 9  
(Clause 16)                **FURTHER TERMS**  
(a) One further terms of three (3) years  
  
(b) Rent for the first year of any Further Term will be determined in  
accordance with Part 2 of *Appendix A*.
- Item 10  
(Clause 3.2)                **RENT REVIEW AND ADJUSTMENT METHOD AND DATES**  
Rent will be reviewed and adjusted in accordance with Parts 1 and 2  
of Appendix A on the following dates:  
  
(a) CPI Adjustment Dates - Nil

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(b) Market Review Dates Nil

(c) On each anniversary of the commencement date –  
3% increase per year.



Item 11  
(Clause 10.2)

**INSURANCE DETAILS**

**1. Industrial Special Risks**

Insured: Parties with an insurable interest.

**b. Consequential Loss**

Interest insured: Rent payable by the Tenant following damage by an Insured Peril.

Maximum claim: An amount equal to 6 months' Rent.

**2. Public Liability**

Insured: The Tenant and policy extended to cover the Landlord's interests in respect of this Lease.

Interest insured: Legal liability of the Landlord and Tenant to third parties arising solely from the Tenant's occupancy of the Premises.

Maximum claim: \$10,000,000

Item 12

**DATE OF LEASE**

The 01 day of April  
2018

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## **Schedule B**

### **Agreed Amendments (Clause 20)**

#### **Part 1**

The following clauses are added to the lease:

#### **1. Hazardous products chemicals etc.**

- 1.1 No hazardous products or chemicals are to be stored by the Tenant on the Premises other than in accordance with any dangerous goods licence or other authority held by the Tenant.
- 1.2 The Tenant may store no more than 40 litres of fuel on the Premises.

#### **2. Mechanical equipment**

- 2.1 The Tenant must ensure that the mechanical equipment on the Premises and any appliances are serviced in accordance with the manufacturer's requirements.

#### **3. Air-conditioning equipment**

- 3.1 The Tenant must throughout the term or any further term engage a suitably qualified air conditioning contractor on a regular maintenance contract to ensure that the air-conditioning equipment in the Premises is serviced at the stated intervals in accordance with the manufacturer's requirements (including replacement of filters, belts and other consumables) and to repair as required during the term excluding major mechanical faults.
- 3.2 The Tenant must provide a copy of such air conditioning maintenance contract or any renewal thereof to the Landlord within fourteen (14) days.

#### **4. Bank Guarantee**

- 4.1 The Tenant must provide an unconditional Bank Guarantee acceptable to the Landlord at the time of execution of the Lease equivalent to three (3) month's inclusive of GST as a bond to secure the payment by the Tenant of the rent and the performance by the Tenant of the other terms, covenants and conditions of the Lease. The Bank Guarantee must not expire before the expiration of this Lease. The Tenant may pay by way of cash if preferred, in which case the cash shall be held in a trust account as security under this Lease.
- 4.2 Upon termination of the Lease and the Tenant performing the other terms, covenants and conditions of the Lease the Bank Guarantee shall be returned by the Landlord to the Tenant within fourteen (14) days.

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**Schedule C**

**Plans and Specifications**

**THE LEASE IS OF THE WHOLE OF THE LAND AND IMPROVEMENTS ON THE  
LOT**