

MEMORANDUM OF LEASE

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| CERTIFICATES OF TITLE BEING LEASED Whole of land in Certificate of Title Volume 6176 Folio 265 | |
| ESTATE AND INTEREST In fee simple | ENCUMBRANCES M |
| LESSOR L.A. PROPERTY GROUP PTY LTD ACN 134 255 844 of 214 Melbourne Street, North Adelaide SA 5006 | |
| LESSEE LAURENCE MARK CONDO and ANNA TERESA CONDO ABN 95 976 341 609 C/- Peter Hayes & Associates, 217 Fullarton Road, Eastwood SA 5063 | |
| TERM OF LEASE COMMENCING ON 26 August 2016 EXPIRING at midnight on 25 August 2021 ONE RIGHT TO EXTEND OF 5 YEARS. | |

RENT AND MANNER OF PAYMENT (OR OTHER CONSIDERATION)

The Rent payable by the Lessee will be the greater of:

- (a) \$60,000 before GST subject to review in accordance with Item 1 of the Schedule; or
- (b) 30% of Accounting Gross Revenue before GST,

payable in equal monthly instalments, the first to be paid on the Commencement Date and thereafter in advance on the first Business Day of each month and pro rata for any period of less than a month.

At any time the Lessee may choose to pay 6 monthly rental instalments in advance at a discount of five percent (5%) or twelve monthly rental instalments in advance at a discount of ten percent (10%).

OPERATIVE CLAUSE

The Lessor leases to the Lessee the land above described and the Lessee accepts this lease of the land for the term and at the rent stipulated, subject to the covenants and conditions expressed herein and to the powers and covenants implied by the Real Property Act 1886 (except to the extent that the same are modified or negated below).

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

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

SCHEDULE

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| ITEM 1 | <p>Rent reviews: The Existing Rent will be reviewed at the following times, in the following manner:</p> <ul style="list-style-type: none"> • on and from each Review Date during the Term, except every 5th and 10th Review Date – Existing Rent plus CPI (see clause 2 of this Item 1); and • on the 5th and 10th Review Dates – Market Review (see clause 1 of this Item 1). <p>1. For a Market Review, the Rent will be reviewed to Current Market Rent as follows:</p> <ol style="list-style-type: none"> a. at any time being not more than three (3) months before the relevant Review Date the Lessor may give notice to the Lessee setting out the amount which the Lessor assesses to be the Current Market Rent and unless within fourteen (14) days from the date on which the Lessor gives that notice to the Lessee (in respect of which time will be of the essence) the Lessee gives notice to the Lessor that the Lessee disputes such assessment then the Current Market Rent will be as assessed by the Lessor; b. if, within the time period required by subclause 1a. above, the Lessee gives notice to the Lessor that the Lessee disputes the Lessor's assessment of the Current Market Rent, the annual rent for the Land will be the Current Market Rent as determined by a Valuer, and the Valuer's appointment will include a requirement that the Valuer accept instructions to undertake the determination on the following basis: <ol style="list-style-type: none"> i. immediately on appointment the Valuer must notify the parties in writing of the fact of such appointment and the Valuer's acceptance of it; ii. the Valuer must seek written submissions from the Lessor and the Lessee or their duly authorised representatives as to the matters to which the Valuer should have regard in making the determination; iii. the Valuer must give consideration to those submissions before making the determination provided that the submissions are made within the time nominated by the Valuer; iv. immediately on making the determination the Valuer must dispatch to the parties a copy of the determination which must be a "speaking" valuation setting out the matters (if relevant including without limitation incentives and concessions) which the Valuer has considered and the full reasons for the determination; v. the determination must be made within thirty (30) days following the Valuer's acceptance of the appointment; and vi. if the Valuer fails to make the determination within thirty (30) days after accepting the appointment or becomes incapacitated or dies or resigns from the appointment then another Valuer may be appointed to act in accordance with this clause; c. all costs incurred in connection with the valuation must be paid by the parties equally; d. the reviewed annual rent finally determined in accordance with this document will be payable as and from the relevant Review Date and any adjustment necessary in respect of any underpayment of any instalment paid after any Review Date at the rate previously applicable must be paid by |
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the Lessee immediately upon the new Rent applicable being agreed or determined (as the case may be);

- e. the failure of the Lessor to require, or notify the Lessee of, a review of the Rent as at and from any Review Date will not prevent the Lessor at any subsequent time from requiring the Rent to be reviewed pursuant to this clause as at and from the Review Date.

- 2. For a review of Existing Rent plus CPI, the Existing Rent on and from the relevant Review Date will be the amount being the product of this formula:

$$(A \times \frac{B}{C})$$

where:

- A** is the Existing Rent
- B** is the CPI published for the calendar quarter ended immediately before the Review Date
- C** is the CPI published for the calendar quarter ended immediately before the previous Review Date or if there was no previous Review Date, the Commencement Date.

PART A - PRELIMINARY

1. DICTIONARY

In this document

Accounting Gross Revenue means the gross revenue of the Business determined in accordance with Australian Accounting Standards issued by the Accounting Standards Board for the income year ending on the immediately preceding 30 June;

Accounting Period means:

- (a) the period starting on the Commencement Date and ending on the next 30 June;
- (b) each subsequent period of 12 months starting on 1 July; and
- (c) the period starting on 1 July immediately before the termination of the Tenancy and ending on the termination of the Tenancy.

Business means the fishing business carried on from time to time by the Lessee and in connection with which the Premises is used;

Business Day means a day other than:

- (a) a Saturday, Sunday;
- (b) a day which is a public holiday in South Australia (within the meaning of the *Holidays Act 1910*); or
- (c) a day that falls between Christmas and the following New Year's Day.

Commencement Date means the date the original term of the Tenancy commences as stated on the panel form at the front of this document.

CPI means the Consumer Price Index (all groups index for Adelaide) published by the Australian Statistician under the *Census and Statistics Act 1905*. If after its first publication for any reference period of time that Index is revised, use only the first publication.

Current Market Rent means the annual Rent that can reasonably be obtained for the Premises in the open market by a willing but not anxious landlord but adjusted on the basis that:

- (a) the parties have observed all of the terms of this Tenancy;
- (b) taking into consideration:
- (c) current rent values in respect of new tenancies of vacant premises similar to the Premises;
- (d) current rent values in respect of rent reviews during current tenancies of premises similar to the Premises;
- (e) the value of permanent structural improvements erected or installed on the Premises and which the Lessee may not remove at the expiry of the Term;
- (f) but ignoring:
- (g) any value attaching to the Lessee's trade fixtures and fittings on the land; and

(h) the fact that part of the Term has elapsed at the review date.

Default Rate means at any time the rate of interest two percentage points above the Loan Index Rate for commercial loans charged by the Commonwealth Bank of Australia Limited ABN 48 123 123 124.

Existing Rent means the annual Rent payable immediately prior to the Review Date.

GST, input tax credit, taxable supply and tax invoice have their meaning in *A New Tax System (Goods and Services Tax) Act 1999 (GST Act)*.

Lessee means the person named as lessee in the panel form at the front of this document and includes a permitted assignee of the rights and obligations of that person under this document, and where there are more than one means each of them jointly and severally.

Lessee's Agent means an officer, employee, contractor, agent, sub-lessee, licensee, customer, or other invitee of the Lessee.

Lessor means the person named as lessor in the panel form at the front of this document and includes an assignee of the rights and obligations of that person under this document, and where there are more than one means each of them jointly and severally.

Lessor's Agent means an officer, employee, contractor, agent or invitee of the Lessor except the Lessee or a person who is also a Lessee's Agent.

Lessor's Outgoings mean the Lessor's outgoings properly and reasonably incurred, or to be incurred, on account of the costs or expenses of holding, operating, repairing or maintaining the Premises, excluding:

- (a) if at the time the RCLA applies to the Tenancy by force of law, a kind of cost or expense the RCLA prohibits being recoverable from the Lessee under this document;
- (b) capital expenditure, but without prejudice to any particular obligation of the Lessee under this document to make capital expenditure:
 - (i) to make good damage to the Premises arising when the Lessee is in possession or entitled to possession of the Premises;
 - (ii) to fit or refit the Premises;
 - (iii) to provide fixtures, plant or equipment; or
 - (iv) contribute to a sinking fund to cover major items of repair or maintenance;
- (c) any amount to the extent to which the Lessor is entitled to input tax credit;
- (d) taxation on net income or gains of the Lessor;
- (e) interest on money borrowed or raised by the Lessor.

Premises mean the whole or any part of the land described in the panel form at the front of this document as the certificate of title being leased, and includes any improvements, plant, equipment, fixtures or fittings on it for the time being and owned or controlled by the Lessor.

Rent means that rent payable under this document specified in the panel form at the front of this document.

Review Date means each anniversary of the Commencement Date.

RCLA means *Retail and Commercial Leases Act 1995*, as amended from time to time.

Schedule means the schedule in this document.

Service Infrastructure means cables, wires, pipes, sewers, drains, ducts, plant and equipment by which electricity, gas, air conditioning or ventilation, water, sewer, fire prevention, computer, security, telephone, garbage or waste disposal or other services are provided to the Premises.

Tenancy means the right to possession of the Premises now granted by the Lessor to the Lessee.

Term means the period of the Tenancy.

Valuer means a natural person:

- (a) independent of each party to this document;
- (b) with at least 60 months current and continuous experience as a valuer of land or rental value for premises comparable to the Premises in this State at the date of their appointment;
- (c) who is appointed by agreement between the parties or, failing agreement, appointed by the most senior executive officer for the time being of the Australian Property Institute (South Australia and Northern Territory Division) (or successor organisation); and
- (d) who in that role acts as an expert and not as an arbitrator.

Expressions defined elsewhere in this document have those meanings.

2. INTERPRETATION:

In this document:

- 2.1 neuter includes masculine and feminine and *vice versa*;
- 2.2 singular includes plural and *vice versa*; reference to a person includes a natural person, a corporation and partnership and *vice versa*;
- 2.3 headings do not affect construction; no rule of construction applies to the disadvantage of a party because that party put forward this document or any portion of it; and
- 2.4 another grammatical form of a defined word has a corresponding meaning.

3. RCLA

- 3.1 The RCLA applies to the Tenancy whether or not the RCLA would so apply by force of law. In addition, subject to clause 1, this document imports such of RCLA section 3 (Interpretation) insofar as necessary to give meaning to expressions the RCLA would include in this document.
- 3.2 If a provision of this document is or becomes inconsistent with the RCLA, that provision must be read down or failing that severed from this document to the extent of the inconsistency.

PART B - TENANCY

4. TENANCY RIGHTS

Subject to this document, during the Tenancy, the Lessee has right to exclusive possession of the Premises, and right to quiet enjoyment of the Premises.

PART C - TERM

5. ORIGINAL TERM

The original Term is as stated in the panel form at the front of this document.

6. EXTENSION OF THE TERM

The Tenancy is extended for **FIVE (5)** years on the same provisions as this document (excepting this clause) if and only if:

6.1 between 6 and 3 calendar months (both inclusive) before the original Term ends (before any holding over), the Lessor receives written notice from the Lessee that the Lessee unconditionally extends the Tenancy; and

6.2 both on the date the Lessor receives the above notice and on the last day of the original Term:

6.2.1 the Lessee is not in default under this document; and

6.2.2 the Lessor is not otherwise entitled to give notice of intention to terminate the Tenancy.

This clause is personal to the original Lessee and may be exercised only by the original Lessee or (if the Lessor in writing consented to each successive assignment pursuant to the provisions of this document) by a successor in title of the original Lessee.

7. HOLDING OVER

If after the Term the Lessee occupies the Premises with the Lessor's consent:

7.1 the Lessee is a monthly tenant of the Lessor;

7.2 either party may terminate the monthly tenancy on at least 20 Business Days' written notice (whether or not ending at the end of any calendar month);

7.3 the monthly rent is 1/12th the annual Rent applicable at the end of the Term, plus 3%;

7.4 the provisions of this document apply, with necessary variations, to the monthly tenancy.

8. EARLY TERMINATION

The Lessor may terminate the Tenancy by written notice to the Lessee:

8.1 where:

8.1.1 the Lessor serves on the Lessee a notice in writing specifying a particular breach by the Lessee of this document and, if the breach is capable of remedy, requiring the Lessee to remedy the breach, and in any case requiring the Lessee to make compensation in money for the breach; and

8.1.2 the Lessee fails within 20 Business Days thereafter to remedy the breach if it is capable of remedy, and to make reasonable compensation in money to the satisfaction of the Lessor for the breach; or

8.2 if the Lessee is deregistered, suffers the appointment of a controller over any of its property, suffers the appointment of a provisional liquidator, or (other than for the purposes of solvent reconstruction) becomes an externally-administered body corporate (all within the meaning of the *Corporations Act 2001*).

9. LESSOR'S REMEDIES

9.1 Rights of termination in this document do not prejudice the general law rights of the Lessor to any other remedy.

9.2 Each of clauses 12 (rent), 16 (outgoings), 21 (permitted use), 24 (maintenance and repair) and 35 (assignment, subletting, mortgage) is an essential term of this document a breach of which by the Lessee is a repudiation by the Lessee of this document and the Tenancy.

9.3 The acceptance by the Lessor of arrears or a late payment is not a waiver of the essentiality of the Lessee's obligation to pay a past or future amount on time.

9.4 The Lessor may recover damages against the Lessee in respect of repudiation or breach of this document for damage suffered by the Lessor for the entire Term despite:

9.4.1 the Lessee abandoning or vacating the Premises;

9.4.2 the Lessor electing to re-enter or to terminate the estate of the Lessee;

9.4.3 the Lessor accepting the Lessee's repudiation; or

9.4.4 conduct constituting a surrender of the Tenancy by operation of law.

9.5 The Lessor must use reasonable efforts to mitigate any loss they suffer because of the Lessee's breach of this document. Steps taken by the Lessor to mitigate their loss are not an acceptance of the Lessee's breach or repudiation or a surrender of this document or the Tenancy.

10. VACATING THE PREMISES

At the termination of the Tenancy for any reason:

10.1 the Lessee at their cost must in respect of the supply by third parties of electricity or other services to the Premises or the Lessee in connection with the use of the Premises:

10.1.1 cause the supplier to ascertain the amount owing to and including the date of the termination, and immediately pay that amount; and

10.1.2 (unless otherwise directed in writing by the Lessor) do all things necessary to transfer to the Lessor (or nominee) the benefit of those services;

10.2 (unless otherwise agreed by the Lessor) within 3 Business Days the Lessee at their cost must remove from the Premises and make good any damage caused thereby all the Lessee's property as has not become a landlord's fixture of the Land, and in default the Lessor may within a reasonable time elect:

- 10.2.1 that the Lessee has conveyed all or some of that property (other than goods) to the Lessor free of security interests and for no compensation; and / or
- 10.2.2 at the Lessee's cost, to remove any balance of that property and make good any damage caused thereby;
- 10.3 the Lessee must give to the Lessor copies of the records of maintenance or repair or alterations to the Premises effected by or for the Lessee;
- 10.4 the Lessee must give to the Lessor possession of the Premises in that state of condition and repair which clause 24 requires (as to which, at the Lessee's cost, the Lessor may obtain a Valuer's opinion which shall be conclusive), and in default pay to the Lessor any reasonable costs or expenses incurred or to be incurred by the Lessor in making good;
- 10.5 the Lessee must give to the Lessor all keys and security access codes to the Premises;
- 10.6 subject to *Landlord and Tenant Act 1936* section 10 if it applies, the Lessor may re-enter the Premises and, if this document is then registered, as attorney of the Lessee execute, stamp and register at the Lands Titles Registration Office a surrender of this document.

PART D - RENT

11. ABATEMENT FOR DAMAGED PREMISES

If during the Tenancy the Premises are damaged, the Lessee's obligations under this document to maintain and repair the Premises are suspended during a period during which the Premises cannot be used under this document or are inaccessible due to that damage.

12. ABOUT RENT

Rent accrues from day to day and is payable by the Lessee to, or as last directed by, the Lessor at the times and in the instalments stated on the panel form at the front of this document and without need for demand.

13. ORIGINAL RENT

In the period up to the first Review Date, Rent is the amount stated as the rent on the panel form at the front of this document.

14. RENT REVIEWS

On and from each Review Date, Rent is such amount as the parties might agree in writing, or failing agreement at least 20 Business Days before the Review Date, such amount that is determined under a method of review applicable to that Review Date in Item 1 of the Schedule, and:

- 14.1 the reviewed Rent operates from the Review Date until the next Review Date or the termination of the Tenancy, whichever is earlier;
- 14.2 if the reviewed Rent is determined after the Review Date:
 - 14.2.1 pending the determination, the Lessee must pay Rent at the rate payable for the period immediately before the Review Date; and
 - 14.2.2 on the reviewed Rent being determined, the Lessee must pay any shortfall or be credited with any excess; and

- 14.3 a failure or neglect of either party to initiate or require a review of the Rent as at any Review Date does not prevent a party from requiring that review after that time but to take effect from that Review Date, unless the parties agree otherwise in writing.

PART E - OUTGOINGS

15. DIRECT SERVICES

The Lessee must pay directly to suppliers when due any costs for the supply of services to, or consumed in or in relation to, the Premises separately or in relation to the occupation or conduct of business from the Premises.

16. LESSOR'S OUTGOINGS

In case of any Lessor's Outgoings to which clause 15 does not apply:

- 16.1 the Lessor must give copies of relevant invoices or assessments to the Lessee before due; and
- 16.2 the Lessee must pay the same to, or as directed by, the Lessor no later than the date due for payment as stated in the applicable invoice or assessment.

PART F - TRANSACTION COSTS

17. INITIAL COSTS

The Lessee must pay to the Lessor:

- 17.1 if this document is to be registered, any government fees for that registration;
- 17.2 one-half of the other reasonable legal or other expenses incurred by the Lessor in connection with the preparation or registration of this document, including any costs or expenses charged by a mortgagee for producing a duplicate certificate of title over which this document is to be registered, or for consenting to this document;

18. FUTURE COSTS

The Lessee must pay to the Lessor on demand (and, if required, in advance) all reasonable legal or other expenses incurred or to be incurred by the Lessor in connection with:

- 18.1 the preparation, stamping or registration of any instrument varying, extending or surrendering this document; and / or
- 18.2 a default or breach of this document by the Lessee, including the preparation and service of any notices and whether or not the Lessor proceeds to sue the Lessee or terminate the Tenancy or the default or breach is thereafter made good.

PART G - ABOUT THE PREMISES

19. LESSEE'S WORKS

Where the Lessee (with or without the Lessor's consent) causes to be carried out in relation to the Premises any fitout, refurbishment, alteration, addition, signage, maintenance, repair or other works, the Lessee must have that work carried out:

- 19.1 at their cost and risk;

- 19.2 in compliance with applicable laws or, to any extent there are no such laws, any applicable Australian Standard;
- 19.3 using items and materials of an appropriate standard and in conformity with any reasonable written directions given by the Lessor as to quality, appearance, finishes or placement.

20. LESSEE'S FIXTURES

At any time during the Tenancy (including any holding over), the Lessee may remove from the Premises all or any fixtures, fittings, plant or equipment (including partitions) on the Premises as are in the nature of trade or tenant's fixtures brought on or in the Premises by the Lessee (or acquired by the Lessee from a predecessor in possession to the Lessee), provided that within 10 Business Days the Lessee must make good any damage to the Premises caused thereby.

PART H - USE

21. PERMITTED USE

The Lessee must not at any time allow the whole or any of the Premises to be used for any purpose other than as a workshop, warehouse or office, or any other use permitted by the Lessor in writing from time to time (such permission not to be unreasonably withheld or delayed).

22. MANNER OF USE

The Lessee in occupying or using the Premises must not at any time contravene any law, nor without the Lessor's prior written consent allow:

- 22.1 a nuisance, interference or inconvenience to others;
- 22.2 the Premises to be other than in a reasonably clean, hygienic and tidy condition;
- 22.3 the Premises to encourage rodents, vermin, pests or insects;
- 22.4 there to be brought or kept in the Premises anything hazardous to people or property unless such hazardous thing is of a quantity, stored, handled or sold in the normal course of an electrical workshop or office;
- 22.5 to be obstructed any fire prevention equipment;
- 22.6 any locks, keys, access cards, tokens, passwords or codes for the security of the Premises provided by the Lessor to be changed, lost, copied or disclosed to a person not having a proper interest therein;
- 22.7 any burglar alarm on the Premises to be inactive whenever the Premises are unoccupied;
- 22.8 there to be affixed or erected (including painted) on the Premises' exterior any plant, equipment, notice or sign;
- 22.9 unsafe loads or stresses to be placed on a floor, wall or ceiling;
- 22.10 interference with or overloading of any Service Infrastructure.

23. NOTICES AS TO THE PREMISES

Within 2 Business Days, the Lessee must notify the Lessor of:

- 23.1 any structural fault in the Premises of which the Lessee becomes aware;
- 23.2 any material damage or material loss of function in the Premises or any Service Infrastructure of which the Lessee becomes aware, such as any leaks in a roof, inoperable locks on external doors or windows, broken glass;
- 23.3 anything else of which the Lessee becomes aware that might endanger the Premises or the safety of any person in it;
- 23.4 any notice or directive from government to the Lessee or other occupier of the Premises in connection with their occupation or use of the Premises.

PART I - MAINTENANCE & REPAIR

24. MAINTENANCE & REPAIR BY THE LESSEE

Subject to clause 25, at all times the Lessee must at their cost maintain the Premises in as good condition and repair as at the date the Lessee first went into occupation of the Premises (or in the case of items later brought onto the Premises, as at that date).

25. EXCLUSIONS

The Lessee's obligation under clause 24 excludes:

- 25.1 any defect or want of repair in the Premises as at the date the Lessee first went into occupation of the Premises;
- 25.2 any maintenance or repair to the extent caused by ordinary wear and tear;
- 25.3 any maintenance or repair to the extent caused by act of God (including storm, flood, tempest, earthquake), fire, civil disturbance or inevitable accident beyond the control of the Lessee (except to any extent the Lessor is unable to recover insurance money from their insurer for the damage by reason of the wrongful act or negligence of the Lessee or a Lessee's Agent);
- 25.4 any maintenance or repair to the extent caused by the wrongful act or negligence of the Lessor or a Lessor's Agent; and
- 25.5 capital expenditure (except any in making good loss or damage to the Premises arising when the Lessee is in possession or is entitled to possession of the Premises and attributable to the wrongful act or negligence of the Lessee or a Lessee's Agent).

26. PAINTING

On the 5th Review Date, and, if the Term is extended, in the last 12 months of the extended Term (before any holding over), the Lessee must repaint the interior walls, partitions and ceiling of the Premises (or so much of them as previously were painted) with such paint as first approved by the Lessor and by qualified tradespeople in a proper and workmanlike manner.

PART J - ALTERATIONS

27. ALTERATIONS BY THE LESSEE

Except with the Lessor's prior written consent, the Lessee must not make an alteration or addition to the Premises.

28. ALTERATIONS BY THE LESSOR

The Lessor at their cost may make an alteration, addition or refurbishment to the whole or any part of the Premises and / or the Service Infrastructure as the Lessor thinks desirable, and may for that purpose enter upon the Premises.

PART K - RISK

29. EXCLUSION OF WARRANTIES

The Lessor does not warrant, represent, or give other assurance:

- 29.1 the Premises will, for the duration of the Tenancy, be structurally suitable for the business of the Lessee;
- 29.2 the Premises can be lawfully used for any purpose;
- 29.3 the Premises or any facilities or services are suitable for any purpose;
- 29.4 as to the nature and quality of any of the Lessor's fittings, plant, equipment or accessories and any facilities or services to be provided; or
- 29.5 of anything else except to any extent stated expressly in this document or implied by mandatory operation of law.

30. LESSOR'S LIABILITY

Subject to the other provisions in this document:

- 30.1 the Lessee occupies the Premises at their own risk;
- 30.2 the Lessor is not liable to the Lessee for any interruption or variation or defect in any services to the Premises except to any extent caused by the wrongful act or negligence of the Lessor or a Lessor's Agent;
- 30.3 the Lessor is not liable to the Lessee for any loss or damage caused by water being upon or coming in the Premises (whether from rain or an escape from the Service Infrastructure) except to any extent caused by the wrongful act or negligence of the Lessor or a Lessor's Agent; and
- 30.4 the Lessor is not obliged to enforce any rights it has against third parties in relation to the Premises.

31. INSURANCE OF THE LESSEE

31.1 At all times during the Tenancy, the Lessee must insure:

- 31.1.1 plate glass in the Premises against breakage and other severe damage (including scratches and graffiti) for full replacement value;

- 31.1.2 for public liability in respect of the Premises for at least \$20,000,000 per event (or such higher amount as notified by the Lessor acting reasonably);
- 31.1.3 the property of the Lessee upon the Premises against loss or damage for full replacement value.
- 31.2 An insurance policy under this clause must note the Lessor's interest and any other party the Lessor nominates as an insured, and contain terms to the effect that the insurer agrees:
 - 31.2.1 the expression "the insured" (or similar) includes the Lessor and nominee as if a separate policy of insurance had been issued to each of them (subject always to the overall sum insured not being increased);
 - 31.2.2 not to require the Lessor or nominee to contribute to any premium, deductible or excess;
 - 31.2.3 that a notice of claim given to the insurer by any insured is notice of claim given by every insured;
 - 31.2.4 not to cancel, suspend or otherwise prejudice the insurance cover without first giving each insured at least 14 days' prior written notice.
- 31.3 If at any time the Lessor requires, and to the extent required, within 5 Business Days the Lessee must give to the Lessor a certificate of currency and a copy of any insurance policy this clause requires.
- 31.4 In the event of an occurrence that may give rise to a claim under an insurance policy this clause requires:
 - 31.4.1 within 5 Business Days, the Lessee must notify the Lessor, and thereafter keep the Lessor informed of developments concerning the claim;
 - 31.4.2 the Lessee must diligently prosecute the claim, and pay promptly any deductible or excess;
 - 31.4.3 if the claim is in connection with loss or damage for which the Lessee is liable to the Lessor, the Lessee must:
 - (a) apply any proceeds of the policy received in making good the loss or damage to the reasonable satisfaction of the Lessor (or, if that is not practicable or is not permitted under a security interest over the Premises, hold such proceeds upon trust for the Lessee and the Lessor pending any reasonable directions by the Lessor); and
 - (b) if proceeds of the policy are insufficient to make good the loss or damage, pay the shortfall to the Lessor.

This clause does not derogate from *Law of Property Act 1936* section 118.

32. INSURANCE OF THE LESSOR

The Lessee must not allow anything that might prejudice a claim under an insurance policy of the Lessor for the Premises, or increase the premium or deductible or excess payable on such insurance policy.

33. INDEMNITY

As a continuing obligation, the Lessee indemnifies and holds harmless the Lessor and the Lessor's Agents jointly and also severally against:

- 33.1 loss of, or damage to, property of the Lessor or a Lessor's Agent;
 - 33.2 claims by any person against the Lessor or a Lessor's Agent in respect of personal injury or death, or loss of or damage to any property,
- in connection with the Lessee or (so far as can be applicable) a Lessee's Agent:
- 33.3 entering, leaving, occupying or using the Premises;
 - 33.4 bringing on, installing or using in the Premises any fixtures, plant or equipment not owned and controlled by the Lessor;
 - 33.5 failure to observe or perform this document; or
 - 33.6 negligence.

The Lessee's liability to indemnify a person reduces proportionally to the extent that the wilful default or negligence of that person contributed to the loss, damage, death or injury.

The Lessee is not liable to indemnify for loss, damage, death or injury to the extent caused by a structural defect in the Premises, if the defect was not caused or contributed to by the wilful default or negligence of the Lessee or a Lessee's Agent.

PART L - DEALINGS WITH THE TENANCY

34. ASSIGNMENT BY THE LESSOR:

If the Lessor transfers their interest in the Premises:

- 34.1 the transferee succeeds to all the rights and obligations of the Lessor under this document as remain to be enjoyed or performed; and
- 34.2 the transferor is released from all future obligations under this document.

35. ASSIGNMENT, SUBLEASE OR MORTGAGE BY THE LESSEE

- 35.1 Except with the Lessor's prior written consent, the Lessee must not:
 - 35.1.1 assign the whole or any of their interest in the Tenancy;
 - 35.1.2 grant a sub-lease, licence or concession for the whole or a part of the Premises;
 - 35.1.3 part with or share possession of the whole or a part of the Premises; or
 - 35.1.4 grant a mortgage, charge, lien or pledge over the whole or any of their interest in this document or the Tenancy.

36. DEEMED ASSIGNMENT BY THE LESSEE

For the purpose of clause 35.1.1, the Lessee **assigns** their interest in the Tenancy if:

- 36.1 the Lessee disposes in favour of a third party any of their legal or beneficial interest in the Tenancy; or
- 36.2 if the Lessee is or includes a company (but not a listed corporation or subsidiary of a listed corporation) (all within the meaning of the *Corporations Act 2001*) and there is a change of control as applied to that company, where **control** has the same meaning as in *Corporations Act 2001* section 50AA and a **change of control** means:
 - 36.2.1 if any person who controls, or any number of persons who together control, such company at the date of this document (or the date such company becomes bound by this document, if later) subsequently ceases or together cease, to control such company; or
 - 36.2.2 if any person acquires, or any number of persons together acquire, control of that company; or
- 36.3 if the Lessee is a partnership and any of the partners change other than by the death or dissolution of a partner.

PART M - THE LESSOR

37. ACCESS

The Lessor and the Lessor's Agents may access the Premises:

- 37.1 at times the Lessor and Lessee might agree;
- 37.2 after business hours, to secure and lock the Premises if unoccupied and left unsecured;
- 37.3 during business hours on at least 1 Business Day's notice, to inspect the Premises;
- 37.4 for the Lessor to carry out any work this document allows;
- 37.5 at any time without notice in an emergency to inspect the Premises and take any steps the Lessor thinks desirable to correct or limit the emergency;
- 37.6 during business hours on at least 1 Business Day's notice to affix reasonable notices to the exterior of the Premises to show that the Premises are for sale, and / or to allow prospective buyers to inspect the Premises;
- 37.7 during business hours on at least 1 Business Day's notice to allow existing or prospective mortgagees of the Premises to inspect the Premises; and
- 37.8 in the last 3 calendar months of the Tenancy (and during any holding over), during business hours on at least 1 Business Day's notice to affix reasonable notices to the exterior of the Premises to show that the Premises are for lease and to allow prospective lessees to inspect the Premises.

38. CONSENTS AND APPROVALS

Except to any extent otherwise stated in this document, a consent or approval of the Lessor:

- 38.1 may be refused or not be considered unless and until the Lessee makes request in writing to the Lessor and pays to the Lessor a reasonable sum (as estimated by the Lessor) for reasonable legal or other expenses incurred or to be incurred in connection with such request for consent or approval, whether or not consent or approval is given or the request is withdrawn;

38.2 is effective only if in writing signed by the Lessor or their agent;

38.3 may be conditional.

39. DEFAULTS

If the Lessee is in default under this document:

39.1 at the Lessee's cost, the Lessor may remedy or attempt to remedy the default; and / or

39.2 the Lessor may pursue any other remedy for the default.

40. RECOVERY

The Lessor may recover from the Lessee as unpaid Rent:

40.1 any money due to the Lessor under this document;

40.2 damages for breach by the Lessee of this document; and

40.3 any legal costs or expenses (on a full indemnity basis) incurred by the Lessor by reason of a breach by the Lessee of this document, whether or not the breach is remedied.

41. PERSONS CLAIMING THROUGH THE LESSOR

The rights of the Lessor in connection with the Tenancy may be exercised by:

41.1 a successor in title of the original Lessor while entitled to the reversion; and

41.2 a mortgagee of the Lessor in possession of the Premises while in possession,

provided the person complies with the terms and conditions of this document.

PART N - PAYMENTS

42. GST

42.1 If the Lessor is or becomes liable to pay GST in respect of their taxable supply under this document, the consideration payable by the Lessee to the Lessor for that taxable supply must be increased by an amount equal to the amount of the GST imposed or to be imposed in respect of that taxable supply. Any additional amount so payable must be paid at the same time as when the consideration for the relevant taxable supply is required to be paid by the Lessee, conditional upon the Lessor having issued a tax invoice for the taxable supply.

42.2 If the Lessor incurs a cost or expense (a **Taxed Outgoing**) to be reimbursed (wholly or in part) by the Lessee, the amount recoverable from the Lessee is the sum of:

42.2.1 the amount in fact paid or payable by the Lessor for the Taxed Outgoing;

42.2.2 minus any input tax credit allowed or allowable to the Lessor for that taxable supply;

42.2.3 plus an amount equal to any GST the Lessor is liable to pay in respect of that Taxed Outgoing as a taxable supply by the Lessor to the Lessee.

43. PAYMENTS IN GROSS

The Lessee must not under this document withhold a payment, deduct an amount from a payment nor make a payment with conditions or qualifications for any reason including setoff (in law or in equity), counterclaim or taxes.

44. PAYMENT METHODS

All money payable by the Lessee to the Lessor under this document must be paid by cheque payable to the Lessor or a person last nominated in writing by the Lessor or, at the Lessor's option, by electronic funds transfer in clear funds to an account (with a bank or credit union) in Australia last nominated in writing by the Lessor.

45. APPROPRIATION OF PAYMENTS

The Lessor may apply money they receive from the Lessee in any priority and against any money then due by the Lessee as the Lessor decides.

46. DEFAULT INTEREST

If a party fails to pay an amount due at the time required by this document, that party is liable to pay interest on that shortfall or excess at the Default Rate for the period on and from the date the amount was due to the date the shortfall is paid.

47. ABOUT COSTS

Except to any extent this document provides otherwise:

- 47.1 a party must bear the costs of observing or performing their obligations under this document;
- 47.2 a payment due by the Lessee to the Lessor is payable within 7 days of demand; and
- 47.3 legal costs are recoverable on an indemnity basis.

PART O - MISCELLANEOUS

48. VALUATIONS

A valuation which this document requires or the parties otherwise agree should be made must be made by the Valuer, acting as an expert and not as an arbitrator and whose fees the Lessor and Lessee must pay in equal shares. A decision of the Valuer in compliance with this document is final and binding on the parties.

49. VICARIOUS LIABILITY

As between these parties:

- 49.1 the Lessee is liable to the Lessor for anything done or not done by a Lessee's Agent that if done or not done by the Lessee would breach this document;
- 49.2 the Lessor is liable to the Lessee for anything done or not done by a Lessor's Agent that if done or not done by the Lessor would breach this document.

50. REGISTRATION

If it is intended to register this document under the *Real Property Act 1886*, a failure to register at all, or within any time or with any priority does not affect the obligations of the parties.

51. AMENDMENT

This document may only be amended by agreement in writing signed by the parties.

52. ENTIRE AGREEMENT

52.1 This document is executed as a deed, and is the whole contract between the parties about the Tenancy.

52.2 This document includes any terms implied by mandatory operation of law.

53. NOTICES

To be effective, notice under this document must be in writing, signed by or for the party giving it, and given to the other party either:

53.1 by registered post to the recipient's last known place of business or residence, and is given at the time at which the letter would be delivered in the ordinary course of post;

53.2 by a means allowed by the *Electronic Transactions Act 2000* (includes by email to the recipient's last known email address), and is given when that Act specifies;

53.3 as permitted by a statute applicable to the recipient.

CONSENTS OF MORTGAGEES AND SECTION 32 DEVELOPMENT ACT 1993 CERTIFICATION

This lease does not contravene the provisions of section 32 of the *Development Act 1993*.

DATED.....

EXECUTION

LESSOR

EXECUTED by)
L.A. PROPERTY GROUP PTY LTD)
ACN 134 225 844)
in accordance with Section 127(1) of the)
Corporations Act by the authority of its director:)

.....
Director

.....
Director/Company Secretary

LESSEE

.....
Signature of the LESSEE

.....
Signature of the LESSEE

.....
Signature of WITNESS – Signed in my presence by the
LESSEES who are either personally known to me or
have satisfied me as to their identity. *

.....
Print Full Name of Witness (BLOCK LETTERS)

.....
Address of Witness

.....
Business hours telephone number

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

LANDS TITLES REGISTRATION
OFFICE
SOUTH AUSTRALIA

MEMORANDUM OF LEASE

FORM APPROVED BY THE REGISTRAR-GENERAL

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

| |
|------------|
| Prefix |
| L |
| Series No. |
| |

BELOW THIS LINE FOR AGENT USE ONLY

| |
|---|
| <p>CERTIFIED CORRECT FOR THE PURPOSES OF THE REAL PROPERTY ACT 1886</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">Solicitor/Registered Conveyancer</p> |
|---|

AGENT CODE

Lodged by:

Correction to: WALLMANS LAWYERS WALL571

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

1.
2.
3.
4.

PLEASE ISSUE NEW CERTIFICATE(S) OF TITLE AS FOLLOWS

1.
2.
3.
4.

DELIVERY INSTRUCTIONS (Agent to complete)

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

| ITEM(S) | AGENT CODE |
|---------|------------|
| | |
| | |
| | |
| | |

| | |
|-------------------|--------|
| CORRECTION | PASSED |
| REGISTERED | |
| REGISTRAR-GENERAL | |