

LANDS TITLES REGISTRATION OFFICE

SOUTH AUSTRALIA

LEASE

FORM APPROVED BY THE REGISTRAR-GENERAL

PRIORITY NOTICE ID	
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PURPOSES ONLY**

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AGENT CODE

LODGED BY:

CORRECTION TO: METRO CONVEYANCING MCSA

SUPPORTING DOCUMENTATION LODGED WITH INSTRUMENT
(COPIES ONLY)

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LEASE

PRIVACY COLLECTION STATEMENT: The information in this form is collected under statutory authority and is used for maintaining publicly searchable registers and indexes. It may also be used for authorised purposes in accordance with Government legislation and policy requirements.

LAND DESCRIPTION

The whole of the land comprised in Certificate of Title Register Book
Volume 5866 Folio 995

ESTATE & INTEREST

IN FEE SIMPLE

LESSOR (Full name and address)

RAMEY DEVELOPMENTS PTY LTD (ACN 160 163 977) of 40 Cedar Avenue Brighton SA 5048

LESSEE (Full name, address and mode of holding)

SOUTHERN LANDSCAPE & BUILDING SUPPLIES PTY LTD (ACN 122 406 535)
of 11 Commercial Road Sheidow Park SA 5158

TERM

COMMENCING ON THE 1st DAY OF NOVEMBER 2018

AND

EXPIRING ON THE 31st DAY OF OCTOBER 2021

Together with two (2) Rights of Renewal as set out in clause 34 herein

RENT AND MANNER OF PAYMENT (or other consideration)

The Lessee shall pay the Lessor an annual rent of ONE HUNDRED AND TWO THOUSAND DOLLARS (\$102,000.00) plus GST by equal monthly payments in advance of \$8,500.00 each plus GST (and proportionately for any period of less than one month), subject to review at the times and in the manner set out in clause 33. The first payment shall be made on the 1st day of November 2018 followed by a payment on the 1st day of each calendar month during the term of this Lease or any extension of it.

IT IS CONVENANTED BY AND BETWEEN THE LESSOR AND THE LESSEE as listed herein:

(Covenants, where not deposited, to be set forth on insert sheet(s) and securely attached)

OPERATIVE CLAUSE **Delete the inapplicable*

The Lessor LEASES TO THE LESSEE the land (a) ~~*above~~ ~~*hereinafter~~ 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 / *in Memorandum No. _____~~ and to the powers and covenants implied by the *Real Property Act 1886* (except to the extent that the same are modified or negatived below).

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

N/A

CONSENTS OF MORTGAGEES AND SECTION 32 DEVELOPMENT ACT 1993 CERTIFICATION

THE LESSOR DOES NOT WARRANT THAT THE PREMISES YOU ARE ABOUT TO LEASE, WILL FOR THE DURATION OF YOUR LEASE, BE STRUCTURALLY SUITABLE FOR THE TYPE OF BUSINESS THAT YOU INTEND TO CARRY ON.

Westpac Banking Corporation as Mortgagee under and by virtue of Memorandum of Mortgage Number 11859018 consents to the within lease

DATED.....

CERTIFICATION **Delete the inapplicable*

Lessor(s)

*The Prescribed Person has taken reasonable steps to verify the identity of the lessor.

*The Prescribed Person holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.

*The Prescribed Person has retained the evidence to support this Registry Instrument or Document.

*The Prescribed Person has taken reasonable steps to ensure that the Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Signed by:

Vicki Spyropoulos
Registered Conveyancer
for: Metro Conveyancing (SA) Pty Ltd
on behalf of the Lessor

Executed by the Lessor:

RAMEY DEVELOPMENTS PTY LTD
(ACN 160 163 977)
pursuant to Section 127 of the
Corporations Act 2001*

.....
Marie-Belle Ximena Ramey
Sole Director / Sole Secretary

Lessee(s)

*The Prescribed Person has taken reasonable steps to verify the identity of the lessee.

*The Prescribed Person holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.

*The Prescribed Person has retained the evidence to support this Registry Instrument or Document.

*The Prescribed Person has taken reasonable steps to ensure that the Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Signed by:

Vicki Spyropoulos
Registered Conveyancer
for: Metro Conveyancing (SA) Pty Ltd
on behalf of the Lessee

Executed by the Lessee:

SOUTHERN LANDSCAPE & BUILDING SUPPLIES PTY LTD
(ACN 122 406 535)
pursuant to Section 127 of the
Corporations Act 2001*

.....
Timothy Arthur Fletcher Taylor
Sole Director / Sole Secretary

1 DEFINITIONS AND INTERPRETATION

In this instrument

- 1.1 Words importing the masculine gender shall be deemed to include the feminine and neuter genders and vice versa.
- 1.2 Words importing the singular shall include the plural and vice versa.
- 1.3 A reference to a person shall be deemed to include a corporate body and vice versa.
- 1.4 If the word "Lessee" includes more than one person then the liability of the lessees shall be joint and several.
- 1.5 "The Premises" means the whole of the land described on the face of this Lease and includes the buildings and other improvements on it and the Lessor's fixtures and fittings in it.
- 1.6 Where the Premises is portion of the land in a Certificate of Title it means the portion of the building described on the face of this Lease or in the plan annexed to it and shall be all that area comprised within the inside faces of the walls ceilings and floors.
- 1.7 "Permitted Person" means an agent, employee, licensee or invitee of the Lessee, any person visiting the Premises with the express or implied consent of an agent, employee, licensee or invitee of the Lessee, or any other person claiming through the Lessee.
- 1.8 "Strata Corporation Maintenance Fund" means a fund set up by authority of the Strata Corporation (whether in existence at the commencement of this Lease or created at a later date) for the purposes of maintaining the strata scheme of which the Premises forms part in good and presentable condition and includes strata management fees, payment for gardening, cleaning, removal of rubbish, repairs to common property, maintenance and servicing of air-conditioning plant, maintenance of car parking areas and walkways, insurance premiums for building, public liability and any other risks deemed necessary by the Strata Corporation, electricity consumed in the common property and sign writing.
- 1.9 "Management fees" means those fees charged by an agent appointed by the Lessor for the collection of rents and other amounts payable by the Lessee and for the payment of accounts on behalf of the Lessor and for the general management and maintenance of the Premises.
- 1.10 "CPI number" means the All Groups Consumer Price Index Number for the City of Adelaide as prepared by the Australian Bureau of Statistics.
- 1.11 "Schedule" means the schedule which is at the end of this Lease.
- 1.12 Headings are for convenience of reference only and may not be construed or interpreted as part of this Lease.

2 PAYMENT OF RENT, SERVICES AND COST OF LEASE

- 2.1 The Lessee shall pay the rent free from exchange deduction or abatement.
- 2.2 The rent shall be paid to the Lessor at the address specified on the face of this Lease or at such other place as the Lessor may direct.
- 2.3 Without prejudice to the rights powers and remedies of the Lessor under this Lease the Lessee shall pay to the Lessor interest at a rate equal to two per centum (2%) per annum above the overdraft interest rate charged from time to time by the Commonwealth Bank of Australia in respect of commercial loans, on any money due but unpaid 14 days after it became due and payable by the Lessee to the Lessor on any account whatsoever under this Lease such interest to be calculated from the due date for payment until payment in full and the interest shall be recoverable in the same manner as rent in arrears.
- 2.4 The costs of this Lease shall be paid as follows:
- 2.4.1 The Lessor and the Lessee shall each pay one half of the reasonable costs of and incidental to the preparation of the Lease and any consent or production fees charged by a mortgagee.
- 2.4.2 The Lessee shall pay all other fees including stamp duty registration fees surveyor's fees and the costs of and incidental to the preparation and stamping of any guarantee required by the Lessor.
- 2.5 The Lessee shall pay all charges for gas oil telephone water and all other similar services supplied either by the Lessor or any other person or authority to or consumed in or for the Premises.
- 2.6 **Electricity**
- 2.6.1 If at any time during the Term the Lessor supplies electricity to the Premises then:
- 2.6.1.1 the Lessee must pay the Lessor's charges for that electricity (subject always to any provisions in the Electricity Regulations);
- 2.6.1.2 the Lessor will comply with the requirements of the Electricity Regulations in respect of the provision of the electricity;
- 2.6.1.3 the Lessor will not be liable to the Lessee for any interruption of the electricity supply to the Premises unless the interruption is caused by the negligence of the Lessor.
- 2.6.2 Nothing in this Lease places any obligation on the Lessor to supply electricity to the Premises unless such supply is expressly agreed in writing by the Lessor and the Lessee.

3 LESSOR'S CONSENT TO ASSIGN

- 3.1 The Lessee shall not assign this Lease without the prior written consent of the Lessor.
- 3.2 The Lessor shall not withhold its consent unless:
- 3.2.1 the proposed assignee proposes to change the use of the Premises from that described in Item 1 of the Schedule or
 - 3.2.2 the proposed assignee is unlikely to be able to meet the financial obligations of the Lessee under this Lease or
 - 3.2.3 the proposed assignee's retailing skills are inferior to those of the Lessee or
 - 3.2.4 the Lessee has not complied with the requirements of the following sub-clause.
- 3.3 A request for the Lessor's consent under this clause must be in writing and the Lessee must provide to the Lessor such information as the Lessor reasonably requires about the financial standing and business experience of the proposed assignee.
- 3.4 The Lessor must deal with a request for consent under this clause expeditiously and if the Lessee has complied with the requirements of the preceding sub-clause and the Lessor has not given to the Lessee written notice consenting or withholding consent to the request within 42 days, the Lessor will be taken to have consented to the assignment.
- 3.5 The Lessee must pay the reasonable costs incurred by the Lessor for legal or other expenses in connection with the giving of his/her consent under this clause.
- 3.6 The Lessee must give a true copy of any assignment document to the Lessor within a reasonable time after such assignment.

3.7 **Transfer of Shares In Companies**

This clause only applies if the Lessee is a company not listed on the Australian Stock Exchange.

- 3.7.1 The following words and expressions have the meanings ascribed to them:
- (a) "Share Transfer" means any transfer, allotment or change in the beneficial interest in the shares of the Lessee;
 - (b) "Original Shareholders" means those persons who at the Commencement Date together hold the whole of the beneficial interest in all of the issued shares in the Lessee;
 - (c) "New Shareholders" means those persons, other than Original Shareholders, who hold any interest in the issued shares of the Lessee at any time during the Term.

3.7.2 If any Share Transfer results in either:

3.7.2.1 new Shareholders holding or being beneficially entitled to hold more than fifty percent (50%) of the issued shares of the Lessee; or

3.7.2.2 the Original Shareholders holding or being beneficially entitled to hold less than fifty percent (50%) of the issued shares of the Lessee,

then the Share Transfer shall be deemed to be an assignment of this Lease which shall require the consent of the Lessor which consent shall be subject to the provisions of clauses 3.1 to 3.6.

3.7.3 If any person is appointed as a new director of the Lessee during the Term then:

3.7.3.1 the Lessee shall immediately advise the Lessor in writing of that person's appointment, name and address; and

3.7.3.2 the Lessee shall promptly cause that person to give and execute a deed of guarantee prepared by the Lessor's solicitors guaranteeing the due and punctual payment to the Lessor of the rent and any other money due to the Lessor under this Lease without deduction, and the observance and performance of the Lessee's Covenants.

4 LESSOR'S CONSENT TO SUBLET ETC

4.1 The Lessee shall not sublet or part with possession of the Premises or allow it or any part of it to be sublet or put into possession of any person or persons without the prior written consent of the Lessor.

4.2 The Lessor shall not withhold his/her consent provided that:

4.2.1 Any underlease or subletting agreement entered into by the Lessee with the consent of the Lessor shall contain similar provisions to those contained in this Lease.

4.2.2 The Lessee is not then in default of the performance and observance of any covenant or agreement contained in this Lease.

4.2.3 Suitable documentation is produced to the Lessor evidencing the nature character and reputation of the person to whom it is proposed to sublet and then that person covenants directly with the Lessor (if so required by the Lessor) to observe and perform the covenants conditions obligations and stipulations on the part of the Lessee contained in this Lease.

4.2.4 Such reasonable costs as are incurred by the Lessor in satisfying its self as to the Lessee's compliance with this clause, of making any inspection of the Premises, of making enquiries concerning the proposed dealing of the persons concerned and of the preparation

perusal and stamping of the documents deemed necessary by the Lessor will be borne by the Lessee.

- 4.2.5 The Lessee gives to the Lessor a true copy of all agreements to be entered into in respect of any proposed dealing with the Lease or the Premises.
- 4.2.6 The Lessor may as a condition of considering the Lessee's request for consent to any dealing referred to above require the Lessee to pay to it such sum of money as is estimated by the Lessor's architect or engineer to be required to comply with the covenants and conditions contained in this Lease and in particular with those relating to the state of repair and cleanliness and painting of the Premises including the costs of the architect or engineer of inspecting the Premises.

5 LESSOR'S RIGHT OF RE-ENTRY

5.1 Where

- 5.1.1 the rent or any part of it shall be unpaid for 14 days after the due date for payment and remains unpaid 14 days after the Lessor has served a notice of demand on the Lessee or
- 5.1.2 the Lessee commits or permits to occur any breach or default in the due and punctual observance of any of the covenants obligations and provisions of this Lease and such breach or default is not remedied within 14 days of the Lessee being given notice of such breach or default or
- 5.1.3 execution is levied against the Lessee and not discharged within 14 days or
- 5.1.4 the Lessee is declared bankrupt and has a sequestration order made against his/her estate or
- 5.1.5 the Lessee enters into an arrangement under Part X of the Bankruptcy Act 1966

then and in any one or more of such events the Lessor shall have the right to re-enter the Premises or any part of it and repossess and enjoy it as of the Lessor's former estate and interest free from any right interest or claim of the Lessee or of any person claiming by through or under the Lessee.

- 5.2 Without prejudice to any right of action or other remedy which the Lessor has or might otherwise have for arrears of rent or breach of covenant or for damages as a result of the happening of any of the events referred to in the preceding sub-clause the Lessor shall be discharged from any action suit claim or demand by or obligation to the Lessee under or by virtue of this Lease.
- 5.3 Any chattels or other property left on the Premises by the Lessee at the expiration of this Lease or any extension or renewal of it or at the sooner determination of the term may be removed by the Lessor and stored

wherever the Lessor may think fit at the cost and risk of the Lessee and the Lessor shall not be responsible in any way to the Lessee or to any person or company claiming through the Lessee for any accidental loss or damage caused by such removal or storage.

6 LESSOR GRANTED POWER OF ATTORNEY

If any of the events described in the preceding clause happen which entitle the Lessor to re-enter and take possession of the Premises and to determine this Lease and if the Lessor complies with all statutory provisions as to the exercise of rights of forfeiture (of which the statutory declaration of any officer of the Lessor shall be prima facie evidence) the Lessee IRREVOCABLY APPOINTS the Lessor to be his/her attorney for the purpose of giving full effect to the power of re-entry to sign a surrender of this Lease and to record this Power of Attorney and to do anything which may be required or proper to give it full effect according to the Real Property Act or any law for the time being in force in the State of South Australia and whatever the attorney shall lawfully do or purport to do or have done by virtue of the appointment is now ratified and confirmed.

7 LESSOR MAY RECOVER COSTS FROM LESSEE

The reasonable costs incurred in the recovery of rent due and unpaid and interest on it and the Lessor's reasonable costs and expenses incurred in remedying or attempting to remedy any breach of the Lessee's covenants including professional charges worker's wages and the amount paid by the Lessor by way of damages and penalties resulting from such breach whether by law or otherwise shall be treated as additional rent falling due and payable on the date on which such rent interest costs expenses wages charges damages or penalties become due and owing and the Lessor's rights and remedies under this Lease expressed or implied by law for the recovery of rent shall attach to such expenses.

8 WAIVER OF BREACHES

No waiver by the Lessor of any one breach by the Lessee of any covenant obligation or provision contained or implied in this Lease shall operate as a waiver of another breach by the Lessee of the same or of any other covenant obligation or provision contained or implied in this Lease.

9 PROPER USE OF THE PREMISES

9.1 Maintenance Repair etc

9.1.1 The Lessee shall maintain replace repair clean and keep the whole of the Premises and all the Lessor's fixtures and fittings in good and substantial repair order and condition (fair wear and tear and destruction or damage by any cause the subject of insurance excepted) and in particular shall tend water and maintain the garden areas on the Premises (if any).

9.1.2 The Lessee shall at the expiration or sooner determination of this Lease peaceably surrender to the Lessor the Premises and every part of it together with the Lessor's fixtures in good and substantial

repair and condition and where appropriate in good working order as they are now (damage or destruction by any cause the subject of insurance excepted).

- 9.1.3 This sub-clause shall not impose on the Lessee any obligation in respect of any structural maintenance replacement or repair except where it is rendered necessary by any act or omission of the Lessee or any person on the Premises by lawful license of the Lessee or by the use of the Premises by the Lessee.

9.2 Regular cleaning

The Lessee shall have the Premises cleaned regularly and properly by persons approved by the Lessor and shall keep the Premises clean and free from dirt and rubbish.

9.3 Lessee to maintain its own fixtures etc

The Lessee shall keep and maintain clean and in good order repair and condition all of the Lessee's fixtures and fittings to the extent necessary to prevent any hazard to or deterioration in the condition of the Premises.

9.4 Lessee to make good damage

The Lessee shall make good any breakage defect or damage to the Premises and any facility on it caused by lack of care misuse or abuse by the Lessee or any person on the Premises by lawful license of the Lessee or otherwise caused by any breach or default by the Lessee (except usual wear and tear).

9.5 Lessee to comply with laws

9.5.1 The Lessee shall comply with all laws proclamations orders or regulations present or future affecting or relating to the Lessee's use of the Premises and with all requirements which may be made or notices or orders which may be given by any public or local authority over or in respect of the use of the Premises and keep the Lessor indemnified in respect of all things set out in this sub-clause.

9.5.2 The preceding sub-clause shall not impose on the Lessee any obligation in respect of any structural maintenance replacement or repair except where it is rendered necessary or desirable as a direct or indirect result of any act or omission by the Lessee or any person on the Premises by lawful license of the Lessee or by the use of the Premises by the Lessee.

9.6 Drains to be used for proper purpose

The Lessee shall not use nor permit any person on the Premises by lawful license of the Lessee to use the lavatories toilets sinks drains and other plumbing facilities on the Premises for any purpose other than that for which they were constructed or provided and shall not deposit or permit to be deposited in them any rubbish or other material and shall immediately make good any damage.

9.7 Premises not to become unsanitary

- 9.7.1 The Lessee shall not allow the Premises to be in an unsanitary condition within the meaning of the Health Act or to be in a condition that does not comply with the provisions relating to public health and safety contained in the Local Government Act or the Industrial Code and at the Lessee's cost shall perform and fulfil or have performed and fulfilled all the duties and obligations relating to the Premises or its use imposed by all such Acts and Code and any other law affecting the Premises or its occupation and carry out promptly and efficiently the requirements lawfully made by any local government authority board or person under any such Act or Code and indemnify the Lessor against all actions proceedings claims demands charges penalties and expenses arising from the non-performance or non-observance of any such duties and obligations or the non-compliance with any such requirements.
- 9.7.2 The preceding sub-clause shall not impose on the Lessee any obligation in respect of any structural maintenance replacement or repair except where it is rendered necessary or desirable as a direct or indirect result of any act or omission by the Lessee or any person on the Premises by lawful license of the Lessee or by the use of the Premises by the Lessee.

9.8 Fire Regulations

- 9.8.1 The Lessee shall take such precautions against fire on the Premises as are or may be required under any law in force now or in the future or which may be required by any public or local authority and also at the Lessee's expense to do all other things in relation to fire safety as are or may be required to be done either by the owner or occupier of the Premises by any public or local authority under any law in force now or in the future.
- 9.8.2 The preceding sub-clause shall not impose on the Lessee any obligation in respect of any structural maintenance replacement or repair except where it is rendered necessary by any act or omission of the Lessee or any agent contractor subtenant employee or invitee of the Lessee or by the use of the Premises by the Lessee notwithstanding that such use of the Premises may be within the scope of the permitted use.

9.9 Vermin

The Lessee shall exterminate all rats mice and other vermin or pests on the Premises and take all necessary steps to prevent breeding of all rats mice and other vermin or pests on the Premises.

9.10 Noxious Chemicals

- 9.10.1 The Lessee shall not without first obtaining the Lessor's written consent bring or allow to be brought onto the Premises any dangerous noxious toxic volatile explosive or inflammable substance or compound whether in solid liquid or gaseous form

except for those used for the usual conduct of the Lessee's business.

- 9.10.2 The Lessor's consent shall in no way exonerate the Lessee from or operate as a waiver of the Lessee's obligations under any clause in this Lease requiring the Lessee to insure the Premises.

9.11 Lessee to repaint

9.11.1 Notwithstanding anything to the contrary contained in this Lease the Lessee will at the end of each period specified in Item 6 of the Schedule from the date of commencement of this Lease or any period of extension or renewal of it or immediately prior to the expiration or sooner determination of the term and any extension or renewal of it in a proper and skilful manner and in colours and in accordance with specification to be approved by the Lessor paint or have painted all parts of the interior of the Premises and the Lessor's partitions fixtures and fittings which are normally painted.

9.11.2 If the Lessee is in default of its obligations to repaint the Lessor may on giving 7 days' written notice to the Lessee of his/her intention to do so have the interior of the Premises painted its contractors or nominees and any money reasonably spent by the Lessor for the painting shall be repaid to the Lessor immediately on demand and shall be an addition to the rent and other money reserved to the Lessor by virtue of this Lease.

9.12 Air-conditioning

9.12.1 For the purpose of this sub-clause "air-conditioning plant" means any plant machinery services and equipment for heating cooling or circulating air or the control of appliances relating to them which are operated by the Lessor on the Premises or in any part of the building of which the Premises forms part.

9.12.2 The Lessee shall pay to the Lessor a proportion equal to that referred to in Item 2 of the Schedule of all costs and expenses relating to the operation maintenance and repair of all air-conditioning plant which serves or operates on the Premises or is installed or operated for the benefit of the Lessee in any part of the building of which the Premises forms part.

9.12.3 The use operation and control of the air-conditioning plant shall at all times be at the discretion of the Lessor and the Lessor shall use its best endeavours to keep such plant in operation during normal business hours but the Lessor shall not be under any liability to the Lessee or any other person for any inability or failure to use operate or control such air-conditioning plant at any time for any reason.

9.12.4 The Lessee shall at all times comply with and observe the reasonable requirements of the Lessor relating to the air-conditioning plant and will not at any time or in any way interfere with the air-conditioning plant or its operation or do or permit to be done anything in relation to the use or ventilation of the Premises

which might interfere with or impair the efficient operation of the air-conditioning plant.

10 LESSOR'S RIGHT TO INSPECT

- 10.1 The Lessee shall permit the Lessor and his/her agents at all reasonable times on giving to the Lessee reasonable notice (except in the case of emergency when no notice shall be required) to enter the Premises and view its state of repair and the Lessor may then serve on the Lessee a notice in writing of any defect the repair of which is within the Lessee's obligations under this Lease requiring the Lessee to repair the defect within a reasonable time and in default of the Lessee doing so it shall be lawful but not obligatory for the Lessor to enter and make the required repairs and for that purpose the Lessor and his/her architects contractors workers and agents may enter onto the Premises and remain there for the purpose of making the repairs and any reasonable expenses and costs of carrying out such work shall immediately on demand be paid by the Lessee to the Lessor.
- 10.2 The Lessee shall permit the Lessor and his/her agents at all reasonable times on giving to the Lessee reasonable notice to carry out repairs renovations maintenance modifications extensions or alterations to the Premises deemed necessary or desirable by the Lessor and for any of these purposes to enter the Premises with or without the Lessor's architects contractors workmen and agents.
- 10.3 The Lessee shall permit the Lessor and his/her agents at all reasonable times on giving to the Lessee reasonable notice to enter the Premises to show it to prospective purchasers and to display on the Premises where the Lessor shall think fit at any time a "For Sale" notice containing the name and address of the Lessor and/or his/her authorised agent and the Lessee will not remove the notice without the written consent of the Lessor.
- 10.4 The Lessee shall permit the Lessor and his/her agents at all reasonable times within the 3 months immediately before the termination of this Lease on giving to the Lessee reasonable notice to enter the Premises to show it to prospective tenants and to display on the Premises where the Lessor shall think fit at any time during the period a "To Let" notice containing the name and address of the Lessor and/or his/her authorised agent and the Lessee will not remove the notice without the written consent of the Lessor.
- 10.5 The Lessor shall ensure that any notice erected pursuant to the preceding 2 sub-clauses shall not obliterate any sign or notice legitimately displayed on the Premises by the Lessee.

11 QUIET ENJOYMENT

The Lessor covenants with the Lessee that if the Lessee pays the rent duly and punctually and observes and performs the covenants obligations and provisions of this Lease the Lessee may peaceably possess and enjoy the Premises for the term granted and any extension or renewal of it without any interruption or disturbance from the Lessor or from any other person or persons lawfully claiming through from or under the Lessor.

12 NOTICE OF ALTERATIONS AND REFURBISHMENT

The Lessor shall not carry out any alteration or refurbishment of any building of which the Premises forms part if such work is likely to adversely affect the business of the Lessee unless:

- 12.1 the Lessor has notified the Lessee in writing of the proposed work at least one month before it is commenced or
- 12.2 the work is necessitated by an emergency and the Lessor has given the Lessee the maximum period of notice that is reasonably practicable in the circumstances.

13 LESSEE TO BE COMPENSATED FOR DISTURBANCE

13.1 If the Lessor:

- 13.1.1 substantially inhibits access to the Premises or
- 13.1.2 takes action that will substantially inhibit or alter the flow of customers to the Premises or
- 13.1.3 unreasonably takes action that may significantly disrupt or adversely affect the Lessee's business or
- 13.1.4 fails to take reasonable steps to prevent or stop anything which is within the Lessor's control which may significantly disrupt or adversely affect the Lessee's business or
- 13.1.5 fails to rectify any breakdown of plant or equipment under the Lessor's care or maintenance or
- 13.1.6 (if the Premises is a shop within a retail shopping centre as defined in the Retail and Commercial Leases Act 1995) fails to clean maintain or repair the retail shopping centre

and the Lessor does not rectify the matter as soon as reasonably practicable after being requested in writing by the Lessee to do so the Lessor is liable to pay the Lessee reasonable compensation for loss or damage suffered by the Lessee as a consequence.

- 13.2 The provisions of this clause shall not apply if the Lessor has acted reasonably in a case of emergency or in compliance with a duty imposed by or under an Act or as a result of a requirement imposed by a public or local authority acting under the authority of an Act.

14 LESSEE'S INSURANCES

14.1 Plate Glass Insurance

- 14.1.1 The Lessee shall at his/her expense immediately insure and keep insured during the continuance of this Lease against breakage in the joint names of the Lessor and the Lessee in such office as the Lessor shall approve all the plate glass on the Premises for its

replacement value and shall on demand deliver the policy of such insurance to the Lessor and produce the receipt or certificate of currency for every premium to the Lessor.

14.1.2 The Lessee shall spend all money received under such insurance in reinstating such of the plate glass as may be broken and in case the money shall be insufficient he/she shall make good the deficiency.

14.2 **Public Risk Insurance**

The Lessee shall immediately effect and keep current during the continuance of this Lease a Public Risk Policy for not less than \$20,000,000.00 in respect of the Premises in the joint names of the Lessor and the Lessee for their respective rights and interests with a company approved by the Lessor and shall on demand deliver the policy of such insurance to the Lessor and produce the receipt or certificate of currency for every premium to the Lessor.

15 **BUILDING INSURANCE AT LESSEE'S EXPENSE**

15.1 The Lessor shall immediately at the Lessee's expense insure and keep insured all the buildings and improvements and the Lessor's fixtures and fittings and other property comprised within the Premises against loss or damage by fire storm tempest earthquake and such other risks as the Lessor deems necessary under a policy or policies providing for complete reinstatement and for their replacement value as determined by the Lessor in his/her absolute discretion.

15.2 The Lessee shall immediately on receipt of an account from the Lessor reimburse the Lessor for any premiums incurred in effecting such insurance provided that where the Premises comprises portion of a building the Lessee's proportion of the premiums shall be an amount equivalent to the proportion referred to in Item 2 of the Schedule.

15.3 The Lessee shall not at any time during the term do or permit to be done anything in or on the Premises whereby any insurance in respect of the Premises may be vitiated or rendered void or voidable.

16 **PREMISES DAMAGED**

Where the whole or any part of the Premises shall be destroyed or damaged by fire or otherwise during the term so as to be unfit for use by the Lessee:

16.1 A just proportion of the rent and outgoings according to the nature and extent of the damage sustained by the Premises shall cease and be suspended until the Premises shall have been put in condition by the Lessor for use and occupation by the Lessee.

16.2 If the Lessor and the Lessee fail to mutually agree the proportion of the rent and outgoings to be suspended within one month of the date of destruction or damage it shall be determined by a person appointed by agreement between the parties or failing agreement by a person appointed by the

President for the time being of the Australian Property Institute (SA Division) Inc who shall be deemed to act as an expert and not as an arbitrator and whose costs shall be shared equally by the Lessor and the Lessee.

- 16.3 The Lessee shall not be relieved of the obligation to pay rent if the damage results from the wrongful act or negligence of the Lessee or an employee or agent of the Lessee unless the Lessor is insured against loss of rent under an insurance policy and the Lessee contributes to the insurance premium.
- 16.4 If the Lessor fails to repair the damage within a reasonable time after the Lessee requests the Lessor in writing to do so the Lessee shall have the right to terminate this Lease by giving not less than 7 days' written notice to the Lessor and the term shall cease on the giving of such notice without prejudice to the rights of either party for any antecedent breach of covenant.
- 16.5 If the Lessor notifies the Lessee in writing that he/she considers that the destruction or damage is such to make its repair impracticable or undesirable then either the Lessor or the Lessee may terminate this Lease by giving not less than 7 days' written notice to the other and on the giving of the notice neither party shall have any claim for or right to recover any damages from the other by reason of such termination but without prejudice to the rights of either party for any antecedent breach of covenant.

17 **SIGNS, ANTENNAE ETC**

- 17.1 The Lessee shall not without the Lessor's written approval affix or allow to be affixed to the Premises any sign advertisement name or notice or erect or place on or in the Premises any radio or television aerial or antennae or any loudspeakers film screens or similar devices or equipment.
- 17.2 The Lessee shall not without the Lessor's written approval use or permit to be used any radio television or other similar media or equipment which may be heard or seen from outside the Premises.
- 17.3 The Lessee shall on vacating the Premises or otherwise at the request of the Lessor immediately remove any signs advertisements names or notices erected displayed painted affixed or exhibited on the Premises by or on behalf of the Lessee and make good any damage or disfigurement caused by such removal.

18 **ALTERATION TO PREMISES**

- 18.1 The Lessee shall not without the Lessor's written approval make any alteration or addition to the Premises or install or alter any partitioning work fixed equipment or other fixed installation on the Premises.
- 18.2 Where the Lessor gives his/her consent the materials and design shall first be approved by the Lessor or his/her architects and such work equipment or installation shall be carried out in accordance with the approval and any reasonable fees payable to the Lessor's architects for approval and inspection shall be paid by the Lessee on demand.

- 18.3 All partitioning work equipment and installations except where they are the Lessor's fixtures and/or fittings shall remain the property of the Lessee who shall be responsible for their maintenance and in the case of any plant or equipment for their repair and running costs and such partitioning work equipment and installations may and if so required by the Lessor shall be removed by the Lessee at or immediately prior to the expiration of this Lease but the Lessee shall in such removal cause no damage to the Premises and shall reinstate it to the condition it was in prior to the installation.

19 **INSTALLATION OF APPLIANCES**

- 19.1 Without affecting the generality of the preceding sub-clause the Lessee shall not without the Lessor's written approval install any water gas or electrical fixtures equipment or appliances or any apparatus for lighting air-conditioning heating cooling or ventilating the Premises other than kitchen appliances for the preparation of food and beverages and other appliances and equipment reasonably necessary for the Lessee's business or mark paint drill or in any way deface the walls ceilings partitions floors or other parts of the Premises.
- 19.2 In the event that the Lessee installs electrical plant equipment or appliances that are in the opinion of the Lessor likely to overload the cables switchboards or sub-boards through which electricity is conveyed to the Premises and other tenancies in the same building then any alterations which may be necessary to comply with the requirements of the Lessor's insurers and of other laws regulations or by-laws relating to them shall be effected by the Lessor at the Lessee's expense and the entire cost of such alterations shall be paid by the Lessee on demand.
- 19.3 The Lessor may require the Lessee to deposit with the Lessor the estimated cost of the alterations referred to in the preceding sub-clause before any such alterations are commenced and the Lessee shall not operate any such plant equipment or appliance until all the alterations have been completed and tested to the satisfaction of all relevant authorities.

20 **NOTICE TO LESSOR OF DEFECT**

The Lessee shall give to the Lessor prompt written notice of any circumstances including any accident to or defect in or want of repair in any service to or fitting in the Premises of which the Lessee is aware and which might cause any danger risk or hazard to the Premises or any person on it.

21 **HEAVY EQUIPMENT**

- 21.1 The Lessee shall not without the Lessor's written approval bring onto the Premises any heavy machinery or other plant or equipment not reasonably necessary or proper for the conduct of the Lessee's use of the Premises and in no event shall the Lessee bring onto the Premises any heavy machinery or other plant or equipment of such nature or size as to cause or in the reasonable opinion of the Lessor be likely to cause any structural or other damage to the floors or walls or any other parts of the Premises nor shall such machinery or plant and equipment be of such construction or

manufacture as to cause or emanate from it any noise vibration noisome or noxious odour fume or gas that could pervade the Premises or escape from it to the discernible notice of any person outside the Premises.

- 21.2 The Lessor's consent shall in no way exonerate the Lessee from or operate as a waiver of the Lessee's obligations under any clause in this Lease requiring the Lessee to insure the Premises.
- 21.3 Before bringing any heavy machinery or other plant or equipment onto the Premises the Lessee shall inform the Lessor of the Lessee's intention to do so and the Lessor may direct the routing installation and location of all such machinery plant and equipment and for this purpose the Lessor may employ the services of his/her architects or engineers to ascertain the safest and most favourable and convenient method of routing installing and locating the machinery and the Lessee shall observe and comply with all directions that the Lessor may reasonably give.
- 21.4 Any reasonable fees payable to the Lessor's architects or engineers for any approval or inspection shall be paid by the Lessee to the Lessor on demand.

22 INDEMNITY TO LESSOR

The Lessee shall indemnify and keep indemnified the Lessor against each action, suit, claim, proceeding or demand by any person in respect of the following:

- 22.1 any loss, damage or injury whether to property or to any person and including any costs or expenses which may arise directly or indirectly out of the Permitted Use or the occupation of the Premises by the Lessee or of any business or activity carried on or permitted on the Premises or by any act, omission, neglect or default by the Lessee or any Permitted Person;
- 22.2 the negligent use, misuse, waste or abuse by the Lessee or any Permitted Person of the water, gas, electricity, oil, lighting or other services and facilities appurtenant to the Premises;
- 22.3 any overflow or leakage of water (including the mains water) in or from the Premises if such overflow or leakage is attributable to any act or omission on the part of the Lessee or a Permitted Person; and
- 22.4 any loss, damage, liability, expense, Legal Fee or other fee, cost, claim or demand of any nature caused by or arising from any breach of the Lessee's Covenants, or any act, omission, neglect or default of the Lessee or any Permitted Person.

23 LESSEE RELEASES LESSOR FROM LIABILITY

- 23.1 The Lessee shall occupy use and keep the Premises at his/her risk and the Lessee releases to the full extent permitted by law the Lessor from all claims demands and damages resulting from any accident damage or injury occurring on the Premises except where caused by any wilful or negligent act of the Lessor and the Lessee expressly agrees that the Lessor shall have no obligations or liability for any loss or damage to the fixtures fittings or

personal property of the Lessee except where such loss or damage derives from a wilful or negligent act of the Lessor.

23.2 Notwithstanding the implication or rule of law to the contrary the Lessor shall not be liable to the Lessee for any loss or damage suffered by the Lessee for any malfunction failure or interruption of or to the water gas electricity power telephone air-conditioning fire prevention and fire safety systems contained in or appurtenant to the Premises or for the blockage of any sewers wastes drains gutters downpipes or stormwater drains from any cause except where such loss or damage has been caused by a wilful or negligent act of the Lessor.

24 **REMOVAL OF LESSEE'S FIXTURES**

The Lessee shall at or prior to the expiration of the term or any extension or renewal of it remove and carry away from the Premises all signs notices fixtures plant equipment fittings and other articles on the Premises in the nature of trade or tenants' fixtures brought onto the Premises by the Lessee as the Lessee's own property and the Lessee in such removal shall not damage the Premises and shall immediately make good any damage which the Lessee may cause.

25 **HOLDING OVER**

If the Lessee holds over after the expiration or sooner determination of the term or any extension or renewal of it with the consent of the Lessor the Lessee shall become a monthly tenant only of the Lessor which tenancy may be terminated by the Lessee or the Lessor by one calendar month's written notice expiring at any time, at a monthly rental equivalent to a monthly proportion of the total annual rent payable under this Lease at the expiration or sooner determination of the term or any extension or renewal of it and otherwise on the same terms and conditions as those contained in this Lease which are applicable to a monthly tenancy.

26 **NO PROMISES OR REPRESENTATIONS**

The Lessee acknowledges and declares that no promise representation warranty assurance or undertaking has been given by the Lessor in respect of the suitability of the Premises for any purpose to be carried out on it.

27 **COMPULSORY ACQUISITION**

The Lessor and the Lessee agree and declare that if the Lessor shall receive notice of any proposed resumption or acquisition of the Premises or any substantial part of it by any public or local authority the Lessor shall be at liberty to terminate this Lease on giving not less than 60 days' written notice to the Lessee of his/her intention to do so.

28 **NOTICES**

Any notice required to be served under this Lease shall be sufficiently served on the Lessee if served personally or if addressed to the Lessee and left on the Premises or sent by certified post to the Lessee's last known place of business, registered office or residence and shall be sufficiently served on the Lessor if served personally or if

addressed to the Lessor and left at or sent by certified post to the Lessor's last known place of business, registered office or residence and any notice sent by post shall be deemed to be given 48 hours after the time of posting.

29 **APPROPRIATION**

The Lessor shall have the sole power of appropriating any money paid by the Lessee to the Lessor or received by the Lessor on account of the Lessee either towards any money owing or payable by the Lessee to the Lessor or for which the Lessee is responsible or liable to the Lessor either as principal or surety or otherwise, whether secured or unsecured, or in or towards any money owing or payable under this Lease and in such order of priority as the Lessor shall in his/her absolute and sole discretion think fit with power to vary such appropriation and so that failing such appropriation by the Lessor or until such appropriation shall be made any such money paid by the Lessee or received by the Lessor shall be applied:

29.1 firstly, towards any unsecured debt or liability of the Lessee

29.2 secondly, towards any costs or expenses of the Lessor whether provided for in this Lease or not

29.3 thirdly, towards any payment made by the Lessor under this Lease or under any power or authority contained in it

29.4 fourthly, in or towards any interest due or payable under this Lease and

29.5 fifthly, towards any instalment of rent due or payable

and so that the Lessee's power of appropriation is negated.

30 **STATUTORY NOTICES**

If the Lessee receives a notice order or requirement given by a public or local authority under a law regulation or by-law the Lessee covenants with the Lessor to send him/her a copy of the notice order or requirement within 7 days from the date of receipt.

31 **PERMITTED USE**

The Lessee shall not use the Premises or permit it to be used otherwise than for the purpose referred to in Item 1 of the Schedule or do or permit to be done anything which may be or become unlawful or immoral or an annoyance or nuisance or damage to the Lessor or to any other person near the Premises.

32 **RATES AND TAXES**

32.1 The Lessee shall pay to the Lessor within 7 days after the Lessor makes demand for it any sum or sums paid or payable by the Lessor for rates, taxes (including Council Rates, Water and Sewerage Rates and Emergency Services Levy) but excluding State Land Tax) Management Fees, Strata Corporation Maintenance Fund Contributions (where applicable) and all other outgoings and impositions chargeable to or payable in respect of the Premises.

- 32.2 If there is no separate rate tax assessment levy or charge for the Premises the Lessee shall pay an amount equivalent to the proportion referred to in Item 2 of the Schedule of the total amount of such rates taxes and other charges for the whole of the land comprised in the Certificate or Certificates of Title of which the Premises is a portion.

33 RENT REVIEWS

- 33.1 The rent and instalments shall be reviewed on the days referred to in Item 3 of the Schedule (hereinafter referred to as "the Rent Review Date" as applicable) when the annual rent and the instalments shall on written notice being given to the Lessee by the Lessor be increased to an amount not exceeding the amount arrived at by using the following formula:

N = C multiplied by **A** and divided by **B**

where

N is the rent to be paid from the Rent Review Date

C is the annual rent for the year immediately prior to the Rent Review Date (disregarding any rent free period or other incentive)

A is the Consumer Price Index Number for Adelaide -All Groups ("the CPI Number") for the quarter year expiring immediately before the Rent Review Date and

B is the CPI Number for the quarter year which expired immediately before the commencement of the calendar year which immediately preceded the Rent Review Date

- 33.2 The rent reviews under this sub-clause shall be carried out as at the date mentioned above and the rent instalments varied from such date and any adjustment necessary for the underpayment of any instalment paid after such date at the rate previously applicable shall be paid by the Lessee to the Lessor immediately on the reviewed annual rent being determined.

- 33.3 The time method and manner of payment of rent set out on page 2 of this Lease shall as far as applicable apply to the annual rent so agreed or determined.

- 33.4 If the Lessor has failed to seek a rent review in respect of any annual rent review to be conducted pursuant to this clause the Lessor shall nevertheless be entitled to seek such review at any time during the continuance of the said term or any renewal thereof.

34 RIGHT OF RENEWAL AT CURRENT MARKET RENT

- 34.1 Where the Lessee

34.1.1 has observed and performed the covenants contained in this Lease and in particular has paid the rent on or before the specified times and

34.1.2 gives the Lessor notice of his/her desire to renew the Lease not more than 6 months or less than 3 months before the expiration of the term of this Lease and

34.1.3 agrees to pay the Lessor's reasonable costs

the Lessor covenants with the Lessee to grant to the Lessee a lease of the Premises for a renewed term referred to in Item 4 of the Schedule commencing at the expiration of the term subject to the covenants and conditions contained in this Lease except for the exclusion of this clause giving the Lessee any further right of renewal.

34.2 The annual rent and the instalments to be paid by the Lessee for the first year of the renewed term shall be the current annual market rent for the Premises as mutually agreed between the Lessor and the Lessee but failing agreement the annual rent shall be determined by a valuation carried out by a person appointed by agreement between the parties or failing agreement by a person appointed for that purpose by the President for the time being of the Australian Property Institute (SA Division) Inc who shall be deemed to act as an expert and not as an arbitrator and whose costs shall be shared equally between the Lessor and the Lessee.

34.3 The valuer shall be instructed to ignore the value of the goodwill created by the Lessee's occupation of the Premises and the Lessee's fixtures and fittings on the Premises when determining the annual rent.

34.4 The rent review under this sub-clause shall be carried out as at the date of commencement of the renewed term and the rent instalments varied from such date and any adjustment necessary in respect of any underpayment of any instalment paid after such date at the rate previously applicable shall be paid by the Lessee to the Lessor immediately on the reviewed annual rent being agreed or determined as the case may be.

34.5 The time method and manner of payment of rent set out on page 2 of this Lease shall as far as applicable apply to the annual rent so agreed or determined.

35 EARLY DETERMINATION OF CURRENT MARKET RENT

35.1 If the preceding clause grants to the Lessee a right or rights of renewal of the Lease at the current market rent the Lessee may by written notice to the Lessor request a determination of the current market rent not more than 6 months and not less than 2 months (or 3 months and 30 days respectively if the term of this Lease is 12 months or less) before the last day on which the right of renewal may be exercised, if the Lessor and the Lessee have not at that time already agreed the amount of rent for the renewed term.

35.2 If the Lessee makes a request for a determination in accordance with this clause the amount of current market rent shall be determined as at the time of the request in accordance with the preceding clause and the period within which the Lessee must exercise the right of renewal shall be varied so that the last day on which it may be exercised shall be 21 days after the

determination of rent is made and notified to the Lessee in writing or the last day of the Lease whichever is the earlier.

- 35.3 The costs of the determination of current market rent shall be shared equally between the Lessor and the Lessee unless the Lessee does not exercise his/her right of renewal in which case the costs shall be paid by the Lessee.

36 LESSOR'S INTENTIONS AT END OF LEASE

- 36.1 Not less than 6 months and not more than 12 months before the expiry of this Lease (or 3 months and 6 months respectively if the term of this Lease is 12 months or less) the Lessor shall by written notice to the Lessee either:

36.1.1 offer a renewal or extension of this Lease on terms to be specified in the notice or

36.1.2 inform the Lessee that the Lessor does not propose to offer the Lessee a renewal or extension of this Lease or

36.1.3 inform the Lessee that the Lessor does not propose to offer the Lessee a renewal or extension of this Lease but that the Lessor intends to allow the Lessee to remain on the Premises as a monthly tenant.

- 36.2 If the Lessor fails to give the required notice to the Lessee and before the end of the term of this Lease the Lessee gives written notice to the Lessor requesting an extension of the Lease, the term of the Lease shall be extended for 6 months from the time the Lessor gives the required notice.

- 36.3 During an extension of this Lease under the preceding sub-clause the Lessee may terminate the Lease by giving not less than one month's written notice to the Lessor.

37 LESSOR'S CONSENTS

Where this Lease requires the Lessee to obtain the Lessor's consent for any reason, the Lessor shall not unreasonably or capriciously withhold that consent.

38 ESSENTIAL TERMS

- 38.1 Clauses 2, 3, 9, 14, 16, 17, 18, 19, 20, 21, 31 and 32 are essential terms of this Lease.

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

- 38.3 The Lessor shall be entitled to recover damages against the Lessee for repudiation or breach of covenant and for the damage suffered by the Lessor during the entire term of the Lease.

- 38.4 The Lessor's entitlement to recover damages shall not be affected by or limited by any of the following:

- 38.4.1 if the Lessee shall abandon or vacate the Premises
 - 38.4.2 if the Lessor shall elect to re-enter the Premises or to terminate the Lease
 - 38.4.3 if the Lessor shall accept the Lessee's repudiation
 - 38.4.4 if the parties conduct shall constitute a surrender by operation of law.
- 38.5 The Lessor may institute legal proceedings for the recovery of damages before or after the occurrence of any of the events referred to in the preceding sub-clause.
- 38.6 If the Lessee vacates the Premises whether with or without the Lessor's consent the Lessor shall be obliged to take reasonable steps to mitigate his/her damages and to endeavour to lease the Premises at a reasonable rent and on reasonable terms.
- 38.7 The Lessor's entitlement to damages shall be assessed on the basis that the Lessor shall have observed the obligation to mitigate damages contained in this sub-clause.
- 38.8 The Lessor's conduct pursuant to its duty to mitigate damages shall not by itself constitute acceptance of the Lessee's breach or repudiation or surrender by operation of law.

39 **COMMON AREAS**

If the Premises is portion of the land in a Certificate or Certificates of Title:

- 39.1 the Lessee and the Lessee's employees and agents in common with the Lessor and all other authorised persons shall have the right to use any toilets marked on the plan referred to on the face of this Lease
- 39.2 the Lessee and the Lessee's employees agents customers and invitees in common with the Lessor and all other authorised persons shall have the right to pass and repass with or without motor vehicles laden or unladen over along and across any carpark areas adjoining the Premises and to stand motor or other vehicles in the carpark areas subject to the Lessor's directions
- 39.3 the Lessee and the Lessee's employees agents customers and invitees in common with the Lessor and all other authorised persons shall have the right to pass and repass over along and across any walkways adjoining the Premises.

40 **RENT EXCLUDES GST**

In this clause:

- 40.1 "GST" refers to goods and services tax under A New Tax System (Goods and Services) Act 1999 (GST Act) and the terms used have the meanings as defined in the GST Act.
- 40.2 It is agreed that rent and all other amounts agreed to be paid by the Lessee to the Lessor, being the consideration for the supply expressed in this Lease, are exclusive of GST.

- 40.3 In respect of any liability of the Lessor for GST under this Lease, and the renewal or extension of this Lease including for rent, rates, outgoings, or any consideration for any other taxable supply, the Lessee covenants to pay to the Lessor, at the same time as any payment is made involving the Lessor in GST liability, the additional amount of GST, together with the payment to which it relates.
- 40.4 The lessee's liability under clause 40.3 is to reimburse the full amount of GST, disregarding and excluding the Lessor's entitlement to input tax credits or other credits or reimbursements for GST.
- 40.5 Notwithstanding clause 40.4, if the Lessor is entitled to an input tax credit in relation to any amount recoverable from the Lessee under clause 40.3, the amount payable by the Lessee shall be reduced by the amount of the input tax credit that the Lessor has received or claims and is entitled to receive.
- 40.6 In respect of each payment by the Lessee under 40.3, the Lessor agrees to deliver to the Lessee, as required under the GST Act, tax invoices in a form which complies with the GST Act and the regulations, to enable the Lessee to claim input tax credits in respect of the taxable supply.

41 COST OF LEASE PLAN IF LEASE IS TO BE REGISTERED

- 41.1 The parties acknowledge that this Lease cannot be registered at the Lands Titles Office until an appropriate lease plan is prepared and registered with the General Registry Office in Adelaide or the Lands Titles Office Adelaide as the case may require.
- 41.2 If the Lessee advises the Lessor in writing that the Lessee desires the Lease to be registered, then the Lessor shall engage a licensed surveyor to prepare and register a lease plan depicting the location of the Premises in a form that can be registered.
- 41.3 Upon the registration of the lease plan as contemplated by clause 41.1, the Lessee authorises the Lessor to insert by hand:
- 41.3.1 the description of the Certificate of Title being leased on the front page of the Lease; and
 - 41.3.2 the description of the Premises.
- 41.4 All costs incurred by the Lessor pursuant to clause are to be paid by the Lessee including, but not limited to:
- 41.4.1 the licensed surveyor's fees; and
 - 41.4.2 any fee incurred when lodging the lease plan for registration.

42 **BANK GUARANTEE**

- 42.1 It is hereby expressly acknowledged by the parties that it shall be an essential term and condition of this Lease that the Lessee shall procure and produce to the Lessor prior to the commencement of this lease an unconditional and irrevocable bank guarantee from an Australian trading bank in favour of the Lessor ("Bank Guarantee") with a view to securing the performance of the Lessee pursuant to the terms of this Lease for an amount equivalent to three (3) months ("the specified period") commencing rate of rent (without allowance for any incentive) plus outgoings (if payable by the Lessee) and GST ("the specified amount") payable from time to time pursuant to this Lease.
- 42.2 The specified amount of the Bank Guarantee shall be adjusted in accordance with any movement in the rate of rent (and if applicable, outgoings) so payable within 14 days of the written request of the Lessor provided that the Lessor may not so request an adjustment to the specified amount more often than once every two (2) years during the term or extended term of this Lease.
- 42.3 The Lessor shall return the Bank Guarantee to the Lessee only upon the Lessor being satisfied that the Lessee has satisfied all Lessee covenants herein. In the event that the Lessor calls at any time upon all or part of the only of the guaranteed funds thereby receiving those funds so called upon, then the Lessee shall be obliged to procure a replacement Bank Guarantee in favour of the Lessor within 14 days of written notice by the Lessor to the Lessee such that the Lessor is again then in possession of a Bank Guarantee totalling the specified amount.
- 42.4 Failure by the Lessee to procure and maintain the Bank Guarantee as set out herein shall entitle the Lessor to terminate this lease, having first given the Lessee 14 days written notice of such intention to so terminate. Such notice requirement shall not prejudice in any way the Lessor's other rights and remedies pursuant to this Lease and at law.

43 **ENTIRE AGREEMENT**

The covenants, provisions, terms and agreements contained in this Lease or implied by statute comprise the whole of the agreement between the Lessor and the Lessee and the Lessor and the Lessee mutually agree and declare that no other terms will be implied or arise between the parties by reason of any promise, representation, warranty or undertaking given or made by either party to the other on or prior to the signing of this Lease.

SCHEDULE

ITEM 1 - PERMITTED USE

(Clause 31)

Supply Yard

ITEM 2 - PROPORTION OF OUTGOINGS (where not separately assessed)

(Clauses 9.12, 15 and 32 - if applicable)

Not Applicable

ITEM 3 - RENT REVIEW DATES

(Clause 33)

The 1st day of November in the years 2019 & 2020
and if the Lessee exercises its options to renew, on
the 1st day of November in the years 2022, 2023, 2025 & 2026

ITEM 4 - RENEWED TERM

(Clause 34)

Three (3) years commencing 1st day of November 2021

ITEM 5 - SECOND RENEWED TERM

(Clause 34)

Three (3) years commencing 1st day of November 2024

ITEM 6 - REPAINTING PERIOD

(Clause 9.11)

Not Applicable