

LEASE

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LAND DESCRIPTION

The whole of the land comprised in Certificate of Title Volume 6133 Folio 94

ESTATE & INTEREST

In fee simple

LESSOR (Full name and address)

SLAMBS PTY LTD ACN 637 105 081 of 64 French Street, Netherby South Australia 5062

LESSEE (Full name, address and mode of holding)

ALEDEN PTY LTD ACN 116 113 887 of 1 Mary Avenue, Normanville South Australia 5204

TERM

TERM Five years

COMMENCING ON

AND

EXPIRING ON

together with the rights of renewal, if any, set out in clause 5 of this Lease

RENT AND MANNER OF PAYMENT (or other consideration)

The annual Rent is **TWENTY THOUSAND AND EIGHT HUNDRED DOLLARS (\$20,800.00)**, exclusive of GST, and is subject to review at the times and in the manner set out in this Lease.

The Lessee must pay the Rent in equal monthly instalments in advance equal to 1/12th of the Rent, with the first instalment on the Commencement Date and thereafter on the first day of each subsequent month of the Term (adjusted proportionately for any period of less than one month).

IT IS COVENANTED 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

The Lessor LEASES TO THE LESSEE the land 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 negated below).

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

Not applicable

CONSENTS OF MORTGAGEES AND SECTION 32 DEVELOPMENT ACT 1993 CERTIFICATION

This Lease does not contravene Section 32 of the Development Act 1993

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PART 1 - DEFINITIONS AND INTERPRETATIONS

1. Definitions

In this Lease, unless inconsistent with the context:

- 1.1 **Accounting Period** means a period of 12 months ending on 30 June in any year of the Term regardless of any part of the 12 month period falling outside the Term;
- 1.2 **Air Conditioning Plant** means all of the plant and equipment associated with ventilation, air conditioning, heating or cooling in or serving the Premises;
- 1.3 **Authority** means any governmental, municipal, statutory or public department, office, agency or body having legal authority in relation to the Premises or to the use or occupation of or a Service provided to the Premises;
- 1.4 **Business Day** means any week day except a public holiday in South Australia;
- 1.5 **Claim** means any claim, demand, remedy, suit, injury, Cost, Loss, action, proceeding, right of action, claim for compensation and claim for abatement of rent obligation;
- 1.6 **Commencement Date** means the date specified in Item 5;
- 1.7 **Costs** means any cost, charge, expense, outgoing, payment or other expenditure of any nature (whether direct, indirect or consequential and whether accrued or paid) and, where appropriate, includes reasonable fees and disbursements payable to contractors, consultants and lawyers;
- 1.8 **CPI Review Date** means each date set out in Item 9(a), if any;
- 1.9 **Event of Default** means an event of default described in clause 38.1;
- 1.10 **Essential Term** means an essential term of this Lease described in clauses 37.1 and 37.2;
- 1.11 **Existing Rent** means the Rent payable under this Lease immediately before a given Review Date;
- 1.12 **Fair Wear and Tear** has its usual meaning except that:
 - (a) failure of or damage to a light globe or fluorescent tube; and
 - (b) soiling or wearing of an area of carpet or floor covering to an extent greater than that consistent with normal use of the Premises,is not included as damage attributable to fair wear and tear;
- 1.13 **Fire Equipment** means all stop-cocks, hydrants, alarms, drench curtains, fire sprinkler systems, hoses, extinguishers, and other fire prevention equipment on or serving the Premises;
- 1.14 **Further Term** means the further term specified in Item 7, if any, and granted to the Lessee pursuant to clause 5.1;
- 1.15 **GST** has the meaning given to it in the GST Act;
- 1.16 **GST Act** means *A New Tax System (Goods and Services Tax) Act 1999*;
- 1.17 **Lease** means this Memorandum of Lease including the attached schedule;
- 1.18 **Leases Act** means the *Retail and Commercial Leases Act 1995 (SA)*;
- 1.19 **Legislation** means any Act of Parliament (Federal or State), any Regulation under any Act, any by-law or order of an Authority;
- 1.20 **Lessee** means each person named in Item 2;

- 1.21 **Lessee's Covenants** means the covenants, agreements, and obligations contained or implied in this Lease or imposed by Legislation or law to be observed and performed by any person other than the Lessor;
- 1.22 **Lessee's Plant** means all fittings, furnishings, furniture, floor coverings, window treatments, partitions, counters, light and electrical fittings, cupboards, cabinets, plant, equipment, machinery, tools, signs, hoardings and any other chattels which are in or on the Premises during the Term but are not the property of the Lessor;
- 1.23 **Lessor** means each person named in Item 1;
- 1.24 **Lessor's Plant** means all fittings, furnishings, furniture, floor coverings, window treatments, partitions, counters, light and electrical fittings, cupboards, cabinets, plant, equipment, machinery, tools, signs, hoardings and any other chattels which are the property of the Lessor, or to which the Lessor has the right of possession, and which are situated on or about the Premises during the Term;
- 1.25 **Lessor's Remedies** means the remedies available to the Lessor under clause 39.1(a);
- 1.26 **Locks** means all locks, keys to locks, latches or similar security devices in or about the Premises whether supplied or obtained by the Lessor or by the Lessee;
- 1.27 **Loss** means accident, loss, expense, damage injury or liability;
- 1.28 **Managing Agent** means any person appointed by the Lessor from time to time to manage the Premises on the Lessor's behalf;
- 1.29 **Money Payable** means the Rent, Outgoings and any other money payable by the Lessee under this Lease;
- 1.30 **Outgoings** means the total amounts paid or payable by the Lessor relating to an Accounting Period in connection with the ownership, management, operation and maintenance of the Premises, whether or not by direct assessment, including the costs referred to in Item 14;
- 1.31 **Party** means the Lessor or the Lessee according to the context;
- 1.32 **Permitted Person** means:
- (a) an agent, contractor, employee, licensee or invitee of the Lessee;
 - (b) any person visiting the Premises with the express or implied consent of any person mentioned in paragraph (a); and
 - (c) any other person claiming through the Lessee;
- 1.33 **Permitted Use** means the use of the Premises described in Item 10;
- 1.34 **Premises** means the land described in Item 4 and includes all buildings and improvements (including the Lessor's Plant) erected or located on the Premises from time to time;
- 1.35 **Property Institute** means the Australian Property Institute Incorporated South Australian Division;
- 1.36 **Proposed Lessee** means any person to whom the Lessee proposes to transfer or assign the Lessee's interest in this Lease;
- 1.37 **Rates and Taxes** means:
- (a) council rates and charges including rubbish removal rates and charges;
 - (b) if permitted by Legislation, land tax under the *Land Tax Act 1936 (SA)* calculated on a single holding basis;

- (c) water, drainage and sewerage rates including meter rents, charges for the disposal of stormwater and water charges;
 - (d) emergency services levy;
 - (e) Save the River Murray Levy; and
 - (f) all other similar rates, taxes, charges, assessments or impositions, levied, charged, assessed or imposed from time to time in respect of any part of the Premises or the ownership or occupation of any part of the Premises but excluding any income or capital gains tax;
- 1.38 **Rent** means the annual rent specified in Item 8 as reviewed and varied from time to time under this Lease;
- 1.39 **Review Date** means the dates specified in Item 9;
- 1.40 **Services** means all gas, electricity, telephone, water, sewerage, Fire Equipment, ventilation, Air Conditioning Plant, hydraulic, elevator and security services and all other services or systems provided at or serving the Premises or available for the Lessee's use;
- 1.41 **Special Conditions** means the special conditions, if any, detailed in Item 15;
- 1.42 **Term** means the term of this Lease as specified in Item 6, and includes any Further Term or period of holding over;
- 1.43 **Termination** means the expiry by effluxion of time or sooner determination of the Term;
- 1.44 **terms of this Lease** means the terms, covenants, conditions and warranties contained or implied in this Lease and any or each of them as the context may require;
- 1.45 **Unfit for Occupation** means that the Premises are so destroyed or damaged as to:
- (a) render the Premises substantially unfit for occupation and use by the Lessee;
 - (b) make the Premises inaccessible; or
 - (c) interfere substantially with the Lessee's rights under this Lease to use the Premises exclusively; and
- 1.46 **Valuer** means a valuer who:
- (a) is a full member of the Property Institute of at least five years standing; and
 - (b) has had at least five years practical experience in South Australia in the valuation of:
 - A. commercial, retail and industrial properties; and
 - B. properties similar to the Premises.

2. Interpretation

2.1 Marginal Notes and Headings

Marginal notes and headings in this Lease must not be incorporated within the terms of this Lease and will not limit, affect or alter the interpretation of any of the terms of this Lease.

2.2 Construction

In the interpretation of this Lease, unless inconsistent with the context:

- (a) words denoting the singular include the plural and vice versa;

- (b) words denoting one gender include the other gender;
- (c) the word “includes” or “including” is not a word of limitation;
- (d) a reference to:
 - A. a clause, Part or Item means a reference to the relevant clause, Part or Item in this Lease;
 - B. a person includes a corporate body;
 - C. a Party includes the heirs, executors, administrators and permitted assigns and successors;
 - D. a professional body includes a successor to or substitute for that body;
 - E. month means a calendar month;
 - F. a statute includes a regulation, by-law, requisition or order made under that statute and any amendment or replacement from time to time in force; and
 - G. a breach of the Lessee’s Covenants includes each and any breach, default, neglect or omission affected by or on behalf of the Lessee or by a Permitted Person;
- (e) a covenant by the Lessee not to do or omit to do any act or thing includes a covenant:
 - A. not to suffer that act or thing to be done or omitted to be done by a Permitted Person; and
 - B. to do everything necessary to ensure that that act or thing is not done or omitted to be done; and
- (f) any term of this Lease which imposes an obligation on the Lessee to pay money for any purpose, incorporates wherever it is possible in the context, an obligation to promptly:
 - A. discharge any relevant liability to pay money if that liability was incurred in respect of the Premises;
 - B. reimburse the relevant amount of money to the Lessor if the Lessor pays an amount which should be paid by the Lessee; and
 - C. indemnify and keep indemnified the Lessor from and against any liability to pay the relevant amount of money.

2.3 Special Conditions

- (a) The Special Conditions bind the Parties.
- (b) If there is any inconsistency between the terms of this Lease and a Special Condition, the Special Condition prevails to the extent of that inconsistency.

2.4 Severance

If any term of this Lease is or becomes void or unenforceable at law or in equity by reason of any illegality, ambiguity or otherwise then, so far as may reasonably be possible, that term of this Lease is severed from this Lease and this Lease will otherwise continue in full force and effect.

2.5 Joint and Several Liability

If a Party comprises two or more persons, the covenants and agreements on their part bind and must be observed and performed by them jointly and each of them severally and may be enforced against any one or any two or more of them.

2.6 Leases Act

The Leases Act applies to this Lease unless Item 12 contains the words "Not Applicable".

PART 2 - GRANT AND TERM

3. Grant

3.1 Agreement

The Lessor leases the Premises to the Lessee subject to:

- (a) the payment of the Rent and other Money Payable; and
- (b) the observance and performance of the Lessee's Covenants,

for the Term commencing on the Commencement Date and ending on the day of Termination.

4. Holding Over

4.1 Monthly Tenant

If the Lessee continues in possession of the Premises after Termination with the Lessor's consent then the Lessee does so as a monthly tenant.

4.2 Terms

Subject to clauses 4.3 and 4.4, the relevant terms of this Lease apply to that monthly tenancy.

4.3 Monthly Rent

The Lessee must pay to the Lessor a monthly Rent equal to 1/12th of the Rent payable by the Lessee immediately prior to Termination, increased by 5%.

4.4 Termination

- (a) The Lessor or the Lessee may terminate the monthly tenancy on any day by giving at least one month's notice to the other.
- (b) If the Lessee defaults in the performance of its obligations under the monthly tenancy, the Lessor may terminate the monthly tenancy by giving 24 hours' notice to the Lessee.

5. Right of Renewal

5.1 Further Term

If the Lessee wishes to renew this Lease for the Further Term and the Lessee:

- (a) is not in breach of any of the Lessee's Covenants; and
- (b) serves the Lessor with notice that it wishes to renew this Lease not less than three months and not more than six months prior to the expiration of the then current Term,

then the Lessee may renew this Lease for the Further Term on the terms of this clause 5.

5.2 Exercise

- (a) If this right of renewal is lawfully exercised, the Lessee holds the Premises subject to the terms of this Lease and for the Rent determined in accordance with Part 3.
- (b) The right of renewal contained in this clause may be exercised on the number of occasions, if any, specified in Item 7.

5.3 Renewal Documents

The Lessor will prepare and the Lessee must promptly execute and return to the Lessor an extension of this Lease on terms consistent with this clause and otherwise on such terms as the Lessor may reasonably require.

PART 3 - RENT AND RENT REVIEW

6. **Rent**

6.1 Payment of Rent

The Lessee must pay the Rent to the Lessor by equal monthly instalments in advance.

6.2 Instalments

The Lessee must pay:

- (a) the first instalment on the Commencement Date; and
- (b) thereafter an instalment on the first day of each subsequent month of the Term.

7. **CPI Review**

7.1 Formula

The Rent will vary on each CPI Review Date to a rent determined by the following formula:

$$\text{Rent} = \frac{\text{CPI 2} \times \text{Existing Rent}}{\text{CPI 1}}$$

Where:

- (a) **CPI 1** means the Consumer Price Index (All Groups) for the City of Adelaide for the quarter ending immediately before the immediately preceding Review Date; and
- (b) **CPI 2** means the Consumer Price Index (All Groups) for the City of Adelaide for the quarter ending immediately before the relevant CPI Review Date.

7.2 Change in Index

- (a) If there is a change or alteration in the basis or method of calculation of the Consumer Price Index (All Groups) at any relevant time then:
 - A. the Lessor and Lessee must agree on such alterations as may reasonably be required to preserve the intended continuity of the calculation; and
 - B. if the Lessee and the Lessor do not agree on any required alteration, then, at the request of either the Lessor or the Lessee, the President for the time being of the Institute of Chartered Accountants in Australia, South Australian Branch, may nominate a chartered accountant whom the Lessor and the Lessee must appoint to determine that dispute and the amount of the said index at any time or from time to time.
- (b) The chartered accountant appointed in accordance with this clause will be deemed to be acting as an expert and not as an arbitrator, and the decision will be final and binding on the Lessor and the Lessee.

- (c) The chartered accountant's Costs must be paid by the Lessor and the Lessee in equal shares.

8. Rent Review

8.1 Formula

The Rent will vary on each Review Date to a rent determined in accordance with this clause 7.

8.2 Agreement on Rent

- (a) The Lessor may serve a notice on the Lessee (**Lessor's Notice**) which states the Lessor's assessment of the Rent to apply from the Review Date at any time within six months before and 12 months after a Review Date.
- (b) If the Lessee disputes the Rent stated in the Lessor's Notice, then the Lessee must serve a notice on the Lessor (**Lessee's Notice**) within 10 Business Days after the Lessor serves the Lessor's Notice.
- (c) If the Lessee does not serve a notice in accordance with clause 8.2(b), then the Rent from the Review Date is as stated in the Lessor's Notice.
- (d) If the Lessee does serve a notice in accordance with clause 8.2(b), the Lessor and the Lessee must attempt to resolve their dispute about the Rent payable from the Review Date within 10 Business Days of service of the Lessee's Notice.

8.3 Appointment of Valuer

- (a) If the Lessor and the Lessee do not agree on the Rent payable from the Review Date within 10 Business Days after the Lessee serves the Lessee's Notice, then the Rent will be determined by a Valuer:
 - A. appointed by the Lessee and the Lessor;
 - B. who will be deemed to be acting as an expert and not as an arbitrator; and
 - C. whose decision will be final and binding on the Lessor and the Lessee.
- (b) In default of agreement as to the appointment of a Valuer, then at the request of either the Lessor or the Lessee, the President for the time being of the Property Institute may nominate a Valuer whom the Lessor and the Lessee must appoint for the purposes of this clause.
- (c) The Valuer's Costs must be paid by the Lessor and the Lessee in equal shares.

8.4 Valuation

In determining the current market rent of the Premises, the Valuer:

- (a) may take into account any matters considered relevant, including any written submissions from the Lessor or the Lessee;
- (b) must assume that:
 - A. the Lessor is a willing but not anxious landlord;
 - B. the Lessee is a willing but not anxious tenant;
 - C. the Lessee has observed all the Lessee's Covenants as at the Review Date;
 - D. the Premises are vacant but fit for immediate occupation; and
 - E. the Premises are offered with the Permitted Use;

- (c) must take into consideration:
 - A. the terms of this Lease;
 - B. current rents payable for other premises of a quality, nature, size and location similar to the Premises;
 - C. the goodwill, if any, attributable to the location and other physical characteristics of the Premises;
 - D. the value of the Lessor's Plant and the value of any fitout or other tenancy works provided by the Lessor; and
 - E. the balance of the Term, including any Further Term, available to the Lessee; and
- (d) must not take into account:
 - A. the value of the personal goodwill, if any, created by the Lessee's occupation of the Premises;
 - B. any value attributable to the Premises as a consequence of the Lessee's Plant;
 - C. any state of disrepair of the Premises if that condition resulted from any works carried out or not carried out on the Premises by the Lessee or from the Lessee's breach of any of the Lessee's Covenants; and
 - D. any incentive or inducement that is given, or has been offered, to:
 - i. the Lessee in respect of the Premises; or
 - ii. to tenants, or prospective tenants, in respect of adjacent, nearby or similar premises.

8.5 Written Report

The Valuer must give to the Lessor and the Lessee a written report within 20 Business Days of the Valuer's appointment containing:

- (a) detailed reasons for the determination; and
- (b) the matters taken into account in making the determination of Rent.

9. Payment of Rent Pending Review

9.1 Existing Rent until Review

- (a) Until the Rent is reviewed and determined in accordance with this Part, the Lessee must continue to pay the Existing Rent.
- (b) Once the Rent is determined, the Lessor and the Lessee must make an appropriate adjustment between themselves to reflect any difference between the Existing Rent and the Rent determined for the period between the relevant Review Date and the date on which the Rent is determined.

9.2 No Estoppel

- (a) The Lessor may initiate a review of the Rent under this Part at any time after the relevant Review Date.
- (b) A failure by the Lessor to initiate a review and determination of the Rent prior to the relevant Review Date will not create an estoppel against the Lessor.

PART 4 - OUTGOINGS AND OTHER EXPENSES

10. Outgoings

10.1 Actual Statement

- (a) The Lessor must determine the Outgoings payable by the Lessee in respect of each Accounting Period.
- (b) As soon as possible after the expiration of each Accounting Period, the Lessor must provide an itemised statement to the Lessee containing particulars of the actual Outgoings payable by the Lessee.
- (c) The statement is conclusive unless either the Lessor or the Lessee notifies the other of a manifest error within 20 Business Days of its service.

10.2 Payment of Actual Outgoings

The Lessee must pay the Outgoings within 10 Business Days after the service of the statement referred to in clause 10.1(b).

10.3 Payment of Outgoings by Instalments

- (a) Notwithstanding clauses 10.1 and 10.2, the Lessor may notify the Lessee of the Lessor's estimate of the Outgoings payable by the Lessee for any period not exceeding one year in advance of the estimate.
- (b) During this period, the Lessee must pay the Lessor on each occasion that an instalment of the Rent is payable by the Lessee to the Lessor, 1/12th of the Outgoings estimate.
- (c) As soon as may be convenient after each Accounting Period, the Lessor will provide to the Lessee an audited statement of the actual Outgoings for the Accounting Period then ended as compared to the Outgoings estimate.

10.4 Final Adjustment of Outgoings

If the total amounts paid by the Lessee pursuant to clause 10.3(b) in respect of an Accounting Period are:

- (a) less than the actual amount of the Outgoings payable by the Lessee for that Accounting Period, the Lessee must pay the difference within 14 days of the Lessor furnishing an audited statement to the Lessee in accordance with clause 10.3(c); or
- (b) greater than the actual amount of the Outgoings payable by the Lessee for that Accounting Period, the Lessor will credit the difference to the Lessee's account.

10.5 Leases Act

If the Leases Act applies, the Lessor will comply with its obligations regarding the provisions of information to the Lessee and the reconciliation of the estimated and actual Outgoings.

11. Other Expenses

11.1 Rates and Taxes

The Lessee must pay all Rates and Taxes levied, charged, assessed or imposed in respect of any part of the Premises, its occupation by the Lessee and the Lessee's Plant to the extent that it is not included as Outgoings.

11.2 Direct Expenses

- (a) The Lessee must pay for all charges, fees and expenses for all Services which are supplied by any person, including the Lessor, in respect of the Premises or in relation to any business of the Lessee or any activity in or occupation of the Premises by the Lessee to the extent that it is not included as Outgoings.
- (b) The Lessor may install in or about the Premises any meters necessary for measuring the Services at the Lessee's Cost.
- (c) If no meters are installed, a statement in writing given by the Lessor as to any amount payable by the Lessee pursuant to this clause is prima facie evidence of the matters so stated.

11.3 Strata and Community Corporation Costs

If at any time during the Term, the Premises are part of a strata scheme or a community scheme as defined in the relevant Legislation, and to the extent that it is not included as Outgoings, the Lessee must pay all those levies, fees and costs that are associated to the lot or the lot holder within the relevant strata scheme or community scheme and are attributable to the Premises.

12. Costs of Lease

12.1 Payable

Subject to clause 12.2, the Lessee must pay the Lessor's Costs incurred in connection with:

- (a) the negotiation, preparation, execution and stamping of this Lease;
- (b) attending to registration of the Lease, including preparation of a survey plan, if necessary;
- (c) all stamp duty and registration fees incurred in connection with this Lease or any dealings with this Lease, including any fines and penalties payable as a consequence of any neglect or default of the Lessee;
- (d) any consent required under this Lease, including any mortgagee or encumbrancee of the Premises;
- (e) any assignment, subletting or dealing with this Lease; and
- (f) the exercise of any right of renewal under this Lease.

12.2 Excluded by Leases Act

If the Leases Act applies to this Lease, the Lessee is not obliged to pay any amount under clause 12.1 which the Leases Act excludes the Lessor from recovering.

13. Money Payable

13.1 Terms

The Lessee must pay all Moneys Payable to the Lessor under this Lease:

- (a) on or before the time the payment is due or, if this Lease does not specify a particular time for payment, within five Business Days of demand;
- (b) without set-off, counter-claim, withholding or deduction;
- (c) to the Lessor or as the Lessor directs; and
- (d) in the manner the Lessor may notify to the Lessee from time to time.

13.2 Apportionment

If necessary, the Lessor and the Lessee must apportion any payment of Moneys Payable relating to:

- (a) a period of less than one complete month; or
- (b) a period that is not within the Term (or any other occupation of the Premises by the Lessee),

on a daily basis.

13.3 Debt or Rent

All Moneys Payable by the Lessee to the Lessor under this Lease which are due and unpaid are recoverable as a debt or as rent in arrears.

14. Interest on Arrears

14.1 Interest Payable

If the Lessee does not pay any Money Payable to the Lessor under this Lease on time, the Lessee must pay late fees to the Lessor on the outstanding amount:

- (a) at the rate of 2% per annum above the overdraft interest rate charged by the Lessor's usual banker at the due date for payment on a balance of over \$100,000.00; and
- (b) from the date the payment was due until the date the payment is made in full.

15. Goods and Services Tax

15.1 Definitions

In this clause 15:

GST Increase Date means the date on and from any Legislation increase in the rate of GST;

GST Rate means in relation to a Supply under this Lease, the rate at which the GST is imposed on the Supply;

Supply means taxable supplies and taxable importations within the meaning of the GST Act; and

Tax Invoice has the same meaning as that term has in the GST Act.

15.2 Exclusive of GST

Unless otherwise stated, all amounts payable under this Lease are exclusive of GST.

15.3 Increased Amount

- (a) If GST is imposed on any Supply under this Lease:
 - A. any amount payable to the Lessor by the Lessee in respect of the Supply is increased by the product of the GST Rate and that amount; and
 - B. subject to clause 15.4, the Lessee must pay the increased amount to the Lessor for the Supply at the same time and in the same manner as the amount payable is otherwise payable.
- (b) If GST is imposed on any Supply under this Lease and the GST Rate subsequently increases:

- A. with effect from each GST Increase Date, any amount payable to the Lessor by the Lessee in respect of the Supply is increased by the product of the increase in the GST Rate and that amount; and
- B. subject to clause 15.4, the Lessee must pay the increased amount to the Lessor for the Supply at the same time and in the same manner as the amount payable is otherwise payable.

15.4 Tax Invoice

Any increases in the amounts payable to the Lessor by the Lessee pursuant to clause 15.3 are not payable by the Lessee until the Lessor provides to the Lessee a Tax Invoice.

PART 5 - USE OF PREMISES

16. Use

16.1 Permitted Use

Unless the Lessor consents to any other use, the Premises must be used only for the Permitted Use.

16.2 No Warranty

The Lessor does not give and the Lessee acknowledges that the Lessee does not rely on:

- (a) any warranty, representation or undertaking as to the fitness, quality, condition or suitability of the Premises for the Permitted Use or any other purpose;
- (b) any warranty as to the use to which the Premises may be put; or
- (c) any warranty that for the duration of the Term, the Premises will be structurally suitable for the type of business which the Lessee intends to carry on.

17. Act and Regulations

17.1 Prohibited by Legislation

The Lessee accepts this Lease subject to any prohibitions or restrictions on the use of the Premises under any Legislation.

17.2 Compliance

- (a) The Lessee must ensure compliance with the provisions of all Legislation which relate to the Premises, the Lessee's Plant and the Lessee's use and occupation of the Premises.
- (b) The Lessee must promptly give to the Lessor after its receipt, any notice issued under any Legislation or by any other person relating to the Premises, the Lessee's Plant and the Lessee's use and occupation of the Premises.

17.3 Licences

The Lessee must keep all licences, approvals, certificates and permits required to use the Premises for the Permitted Use in force during the Term.

18. Conduct of Business

18.1 Manner

The Lessee must conduct or cause to be conducted the Lessee's business and all activities of the Lessee associated with the Premises, in a reasonable and businesslike manner and with all due care and consideration for the public.

18.2 Quality

All of the Lessee's Plant must be of good quality and appearance and in harmony with the Premises and the Lessor's Plant.

18.3 Maintain possession

Unless the Lessor first consents, the Lessee must maintain possession of the Premises during the Term and must not allow the Premises, or a substantial part, to be vacant or unattended for any period exceeding five consecutive Business Days.

19. Trading Hours

19.1 Lessee's Hours

Subject to clause 17.2(a), the Lessee may keep the Premises open and accessible to the public during such times as the Lessee may determine from time to time.

20. Prohibitions

20.1 General

The Lessee must not:

- (a) allow any noxious, noisome or offensive art, trade, business, occupation or calling to be carried on or in the Premises;
- (b) allow any act or thing on the Premises which becomes an annoyance, nuisance, grievance, damage or disturbance to any occupier or owner of any adjoining land;
- (c) permit any use of the Premises which may cause any damage to the Premises, whether structural or otherwise, excepting Fair Wear and Tear;
- (d) do anything to overload or interfere with the Premises' facilities or Services or use them for anything other than their intended purpose;
- (e) use the Premises as a residence;
- (f) keep any animals in the Premises;
- (a) hold or permit any auction or public meeting in the Premises; and
- (g) do anything to pollute the Premises or its environment.

20.2 Heavy Equipment and Noxious Substances

Unless the Lessor first consents, the Lessee must not allow to be brought on to the Premises:

- (a) any heavy, large or cumbersome machinery, plant, equipment or other items of any weight, nature or size that may cause any damage to the Premises, whether structural or otherwise; or
- (b) any dangerous, noxious, toxic, volatile, explosive or inflammable substance or compound whether in solid, liquid or gas form.

20.3 Lessor's Plant - No Damage

Unless the Lessor first consents, the Lessee must not alter, modify, deface, damage or move from or about the Premises any of the Lessor's Plant.

20.4 Attachment and Removal of Plant

- (a) Unless the Lessor first consents, the Lessee must not:
 - A. attach the Lessee's Plant to the Premises in any manner; or
 - B. remove from the Premises any part of either the Lessor's Plant or the Lessee's Plant that is attached to the Premises at any time.
- (b) If the Lessor consents to the Lessee attaching or removing any part of either the Lessor's Plant or the Lessee's Plant then the Lessee must immediately cause to be made good in a tradesmanlike manner any damage to the Premises caused by the attachment or removal.

21. Services

21.1 Air Conditioning Plant

The Lessee must not use or install any heating or cooling device or machine which in the Lessor's opinion interferes with the efficient running of the Air Conditioning Plant or increase its running costs.

21.2 Separate Air Conditioning

If the Premises are serviced by a separate air conditioning unit, the Lessee must:

- (a) pay when due all Costs associated with running, using, maintaining, servicing, repairing, conducting preventative maintenance and powering that air conditioning unit; and
- (b) for the duration of the Term, enter and keep current:
 - A. an agreement with a competent contractor for the inspection, service and maintenance of the air conditioning unit; and
 - B. an insurance policy,each with a party and on terms consented to by the Lessor.

21.3 Fire Protection

The Lessee must:

- (a) take all reasonable precautions against fire in the Premises;
- (b) treat Fire Equipment with care;
- (c) comply with all relevant fire standards or codes applicable to the Premises and the Permitted Use as may be required by Legislation; and
- (d) pay all Costs associated with the maintenance and repair of the Fire Equipment.

21.4 Telephones

- (a) The Lessee must first obtain the Lessor's consent before the Lessee attaches to or removes from the Premises any telephonic or telegraphic equipment.
- (b) The Lessee must not cancel or allow to lapse any telephonic or telegraphic rental equipment on the Premises.

- (c) If requested by the Lessor, on Termination, the Lessee must assign to the Lessor or the Lessor's nominee, any subscription, lease or rental agreement of any telephonic or telegraphic equipment on the Premises.

22. Signs and Other Devices

22.1 Consent for Signs

- (a) The Lessee must first obtain the Lessor's consent before it paints, attaches, erects, places or displays any sign, hoarding, display or advertisement on the Premises.
- (b) Subject to Part 8, the Lessor will consent to any reasonable request of the Lessee pursuant to this clause if the sign, hoarding, display or advertisement which the Lessee seeks to paint, attach, erect, place or display on the Premises:
 - A. is of good quality and condition;
 - B. is in harmony with the appearance and construction of the Premises; and
 - C. is not in breach of any Legislation or the requirements of an Authority.

22.2 Removal of Signs

On Termination, the Lessee must:

- (a) remove all signs, hoardings, displays or advertisements that have been painted, attached, erected, placed or displayed on the Premises during the Term; and
- (b) cause to be repaired and made good in a proper and tradesmanlike manner any damage to the Premises arising from the removal of any sign, hoarding, display or advertisement.

22.3 Other Devices

The Lessee must first obtain the Lessor's consent before it:

- (a) attaches, erects or places any aerial or antennae or any loudspeaker, film screens or similar devices on the Premises; or
- (b) uses any radio, television or other like media equipment which may be heard or seen from outside the Premises.

23. Security and Locks

23.1 Security

The Lessee must:

- (a) use its best endeavours to protect the Premises and any property located within the Premises from theft or vandalism; and
- (b) secure the Premises including locking each door and window when the Premises are not in use.

23.2 Locks

- (a) All Locks which are fitted to the Premises from time to time are the sole property of the Lessor.
- (b) In consideration of the Lessor granting this Lease the Lessee agrees to assign to the Lessor any Locks which are obtained by the Lessee during the Term.
- (c) The Lessee must first obtain the Lessor's consent before the Lessee changes, alters, removes or fits any Lock on the Premises, or cuts, makes, obtains, or parts with possession of any key to any Lock.

- (d) If reasonably requested by the Lessor, the Lessee must replace any existing Locks which are fitted to the Premises with Locks of a type and nature approved by the Lessor.

PART 6 - MAINTENANCE, REPAIRS AND CLEANING

24. Duties

24.1 Conditions on Commencement

The Lessee acknowledges that the Premises were in good and substantial repair on the Commencement Date.

24.2 Lessee's General Duty

- (a) The Lessee must promptly and regularly cause to be done in a proper workmanlike manner whatever cleaning, maintenance, repair, replacement, painting and refurbishment may be necessary from time to time to keep the Premises (including the Lessor's Plant) in clean and in good and substantial repair and working order throughout the Term.
- (b) The Lessee may engage any competent and efficient cleaner for the purposes of this clause 24.2.

24.3 Lessee's General Duty - Exclusions

Subject to clause 24.4, the Lessee will not be liable:

- (a) to repair, replace or amend any damage to the Premises caused by:
 - A. Fair Wear and Tear; or
 - B. damage covered by insurances taken out by the Lessor in respect of the Premises; or
- (b) for structural repair.

24.4 Lessee's General Duty - Inclusions

The Lessee will be responsible:

- (a) to repair, replace or amend any damage to the Premises where:
 - A. the damage arises from a breach of the Lessee's Covenants or any other omission, neglect or default of the Lessee; or
 - B. any money from an insurance policy is irrecoverable because of a breach of the Lessee's Covenants; and
- (b) for structural repair if that repair or replacement is made necessary by either:
 - A. a breach of the Lessee's Covenants or any other omission, neglect or default of the Lessee; or
 - B. the Lessee's use of the Premises or the nature of its business.

24.5 Lessee's Specific duties

The Lessee must:

- (a) keep the Lessee's Plant clean and maintained in good order and condition;
- (b) keep the Premises clean, tidy and free from all rubbish, dirt, pests (including white ants), animals (except guide dogs for the blind or deaf) and vermin;

- (c) not allow the Premises to be in an unsanitary or unhygienic condition, whether within the meaning of any Legislation or otherwise;
- (d) remove all graffiti, posters, drawings and paintings placed or applied to any part of the Premises including exterior doors, windows or walls of the Premises;
- (e) promptly repair or replace:
 - A. broken glass; and
 - B. damaged or broken light globes, fluorescent tubes and electrical equipment;
- (f) store all rubbish and waste materials in proper receptacles and arrange for the regular removal of all waste materials from the Premises;
- (g) maintain in good working order all drains, sewers, sinks, gutters, downpipes, plumbing, water pipes, gas pipes, cisterns, toilets, basins, taps and all related fittings in the Premises and keep them clear of any blockage and accumulation of waste; and
- (h) cause all cigarette butts, ashes, cigarette packages, matches and other associated litter emanating from the smoking of cigarettes, cigars or pipes smoked by the Lessee or any Permitted Person to be placed in proper receptacles.

25. Notice to Repair

25.1 Notice

The Lessor may give notice to the Lessee to repair any defect or to do any work which the Lessee is obliged to do if there is during the Term any of the following:

- (a) any defect in the Premises;
- (b) any want of repair in the Premises; or
- (c) any other work to be done by the Lessee in respect of either the Premises or the Lessor's Plant and that work is not done in a satisfactory manner.

25.2 Immediate Action

If the Lessor gives a notice pursuant to this clause, the Lessee must immediately repair the defect or want of repair or do whatever work is required.

25.3 Right of Lessor to Remedy

If the Lessee fails to complete any works referred to in clause 25.1 within such time as the Lessor may reasonably specify then:

- (a) the Lessor may either personally or by any servant, agent or contractor repair the defect by whatever means the Lessor may deem fit; and
- (b) the Lessee must pay all reasonable Costs incurred by the Lessor in respect of such works.

26. Notice of Defects

26.1 Prompt Notice

The Lessee must promptly notify the Lessor of any defect, damage or want or repair to the Premises or the Lessor's Plant of which the Lessee is aware or reasonably should have been aware or which may cause any danger or hazard to the Premises or any person on the Premises.

PART 7 - REDECORATION

27. Paint and Decorate

27.1 Intervals

The Lessee must paint and decorate the Premises at each of the following times:

- (a) immediately upon the lawful Termination of the Lease by the Lessor pursuant to the Lessor's Remedies; and
- (b) not less than one month nor more than three months prior to the expiration of the Term.

27.2 Obligations

The obligation to paint and decorate the Premises pursuant to this clause 27 includes an obligation to:

- (a) clean and prepare all surfaces to be decorated;
- (b) treat as previously treated all interior and exterior surfaces of the Premises; and
- (c) restore and repair (if reasonably required) the Lessor's Plant.

27.3 Requirements

The painting and decoration required by this clause must be done:

- (a) with good quality materials first consented to by the Lessor in relation to the quality and colour of the materials; and
- (b) by the Lessee or an agent of the Lessee consented to by the Lessor promptly, in a proper and workmanlike manner and at the Lessee's Cost.

27.4 Failure to Decorate

If the Lessee fails to paint and decorate in accordance with this clause 27, the Lessor may do so at the Lessee's Cost.

PART 8 - ALTERATIONS TO THE PREMISES BY THE LESSEE

28. Alterations by Lessee

28.1 Consent

The Lessee must first obtain the Lessor's consent if it wants to make any necessary or desirable alterations (including an addition, modification or improvement) to the Premises.

28.2 Requirements

Any alterations carried out by the Lessee must be carried out:

- (a) promptly;
- (b) in accordance with:
 - A. the approved plans, drawings and specifications;
 - B. any relevant consents and approvals; and
 - C. the reasonable requirements and directions of the Lessor or the Lessor's architect and any Authority; and
- (c) if required by the Lessor:

- A. by experienced contractors and tradesmen consented to by the Lessor; and
- B. under the supervision of a person nominated by the Lessor.

28.3 Costs

The Lessee is responsible for all Costs of undertaking the alteration, including all Costs incurred by the Lessor of and incidental to the alteration (including the Lessor's architect and supervisor's fees).

28.4 Lien

The Lessee must not cause or allow any lien or charge to be made in respect of any claim for costs arising out of the alteration.

28.5 Reinstatement

- (a) If the Lessee fails to comply with this clause 28, the Lessor may give the Lessee a notice requiring it to reinstate the Premises to their former condition.
- (b) If the Lessee fails to comply with the notice under clause 28.5, the Lessor may undertake the necessary work and the Lessee will be responsible for all the Lessor's Costs of doing the work.

28.6 Alterations May Remain in Premises after Term

If the Lessor and the Lessee agree in writing that any alterations effected during the Term by the Lessee will remain in the Premises after Termination, then after Termination all such alterations become the sole property of the Lessor.

28.7 Mandatory Alterations

If due to the Permitted Use and by reason of the operation of any Legislation, the Premises must be altered in any way (including the provision of any amenities such as toilets or washrooms for customers or staff of the Lessee) then, subject to the other clauses in this Part, the Lessee must, at its Cost, promptly effect such alterations as are necessary to comply with such Legislation.

PART 9 - DAMAGE TO PREMISES

29. Unfit for Occupation

29.1 Notice

If the Premises are Unfit for Occupation, the Lessor may within two months after the Premises becoming Unfit for Occupation give notice to the Lessee that:

- (a) it considers the damage is such as to make its repair impracticable or undesirable; or
- (b) it intends to reinstate the damage and provide a reasonable estimate on how long that reinstatement is estimated to take.

29.2 No Obligation

The Lessor is not obliged at any time to:

- (a) reinstate any structural damage or deterioration to the Premises; or
- (b) reinstate the Premises if the Premises are at any time Unfit for Occupation.

29.3 Termination

- (a) If the Lessor gives notice under clause 29.1(a), either the Lessor or the Lessee may terminate this Lease without compensation by giving no less than five Business Days' notice to the other.
- (b) If the Lessor fails to:
 - A. give the Lessee a notice under clause 29.1(b); or
 - B. reinstate the damage within a reasonable period of time, being no less than the time estimated by the Lessor in a notice given under clause 29.1(b), following the Lessee's request to do so,then the Lessee may terminate this Lease without compensation by giving not less than five Business Days' notice to the Lessor, unless the reinstatement is substantially completed within that five Business Day period.

29.4 Abatement of Rent

If the Premises are Unfit for Occupation, the Rent and Outgoings, or a fair and just proportion of them according to the nature and extent of the damage sustained, will abate and cease to be payable from the date of damage or destruction until the Premises are reinstated and are no longer Unfit for Occupation.

29.5 Valuer

- (a) If the Lessor and the Lessee do not agree upon a fair proportion of the Rent and Outgoings to be paid pursuant to this clause, then the fair proportion may be determined by a Valuer:
 - A. appointed by the Lessee and the Lessor;
 - B. who will be deemed to be acting as an expert and not as an arbitrator; and
 - C. whose decision will be final and binding on the Lessor and the Lessee.
- (b) In default of agreement as to the appointment of a Valuer, then at the request of either the Lessor or the Lessee, the President for the time being of the Property Institute may nominate a Valuer whom the Lessor and the Lessee must appoint for the purposes of this clause.
- (c) The Valuer's Costs must be paid by the Lessor and the Lessee in equal shares.

29.6 Exceptions

The Lessee is not entitled to any rights under this clause 29 where:

- (a) the damage or destruction causing the Premises to be Unfit for Occupation arises from the Lessee's act, neglect or default; or
- (b) payment of insurance money in respect of the damage or destruction causing the Premises to be Unfit for Occupation is refused or withheld in whole or in part as a result of the Lessee's act, neglect or default.

29.7 Rights Preserved on Termination

Termination under this Part does not affect a Party's rights in respect of any prior breach.

PART 10 - INSURANCE

30. By Lessor

30.1 Insurance of Premises

The Lessor may insure the Premises against any risk (including loss of rent) which the Lessor may deem desirable from time to time for damage or destruction caused by means of any combination of events which cause damage to the Premises including, fire, flood, lightning, storm, earthquake, war, explosion, civil commotion, vandalism, malicious damage or Act of God.

30.2 Reasonable Amount

The Lessor may insure the Premises pursuant to this clause for whatever reasonable amount the Lessor may deem appropriate from time to time.

31. By Lessee

31.1 Types

(a) The Lessee must during the Term insure:

- A. all plate glass and other glass on the Premises for the full and reasonable cost of the repair and the replacement of that glass;
- B. for any public risk or risk to other parties including insurance against any liability for any Loss to any person or to any property which arises directly or indirectly from any use of the Premises for at least the amount specified in Item 11 or such reasonable amount as the Lessor may specify in writing from time to time; and
- C. any other insurance policy reasonably required by the Lessor.

(b) The Lessee will be responsible to insure the Lessee's Plant in or on the Premises from time to time.

31.2 Policies

The Lessee must effect each insurance policy required under clause 31.1(a):

- (a) in the names of the Lessor and the Lessee for their respective interests; and
 - (b) with a solvent insurer of good repute,
- and on such other terms as the Lessor may reasonably require.

31.3 Evidence

If requested at any time by the Lessor, the Lessee must produce receipts, certificates or other evidence of payment of the premiums or other fees.

31.4 Non-compliance

If the Lessee does not enter into or maintain the insurance policies referred to in clause 31.1(a) then the Lessor may enter into those policies of insurance and all Costs in doing so will be payable by the Lessee.

31.5 Lessee to Comply with Policies of Insurance

The Lessee must not do anything which may:

- (a) increase the premium payable; or
- (b) allow the insurer to refuse a claim,

under any insurance policy taken out in respect of the Premises.

PART 11 - RELEASE AND INDEMNITY

32. Release

32.1 Risk

The Lessee agrees to occupy and use the Premises at the risk and expense of the Lessee.

32.2 Release

The Lessee releases, to the full extent permitted by Legislation or law, the Lessor and its employees, agents and contractors from any Claim resulting from any Loss in connection with:

- (a) the Premises;
- (b) any property in, on or around the Premises; and
- (c) any person on the Premises,

unless caused by the wilful or negligent action of the Lessor.

33. Indemnity to Lessor

The Lessee indemnifies and must keep indemnified the Lessor from all Claims for which the Lessor may or becomes liable for in connection with:

33.1 Loss from any cause whatsoever to property or persons caused or contributed to by:

- (a) the use or the occupation of the Premises by the Lessee or any Permitted Persons;
- (b) a breach of the Lessee's Covenants or any other act, omission, neglect or default of the Lessee or any Permitted Person; or
- (c) any incident occurring anywhere on or near any part of the Premises;

33.2 the exercise or attempted exercise of any of the Lessor's rights or remedies under this Lease;

33.3 any negligent use, misuse, waste or abuse by the Lessee or any Permitted Person of the facilities and Services appurtenant to the Premises; and

33.4 any overflow or leakage of water (including the mains water) in or from the Premises, except if and to the extent that the Claim arises because of the Lessor's default or negligence.

PART 12 - TRANSFER, ASSIGNMENT AND SUBLETTING

34. No dealings

34.1 Personal

This Lease is personal to the Lessee.

34.2 Consent to Dealings

Unless the Lessor first consents, the Lessee must not:

- (a) transfer or assign this Lease;
- (b) grant a sublease, licence or concession in respect of the Premises;
- (c) part with possession of the whole or part of the Premises; or
- (d) mortgage, charge or encumber any interest in this Lease or the Lessee's Plant.

35. Transfer or Assignment

35.1 Consent

If the Lessee wishes to transfer or assign this Lease, the Lessee must:

- (a) give to the Lessor prior notice of its intention to transfer or assign this Lease pursuant to clause 34.2(a), including the following details:
 - A. the full name and address of the Proposed Lessee; and
 - B. the date of the proposed transfer or assignment;
- (b) not be in default under this Lease other than a default that has been waived by the Lessor; and
- (c) prove to the Lessor's reasonable satisfaction that the Proposed Lessee is:
 - A. respectable, responsible and solvent; and
 - B. capable of observing and performing the Lessee's Covenants.

35.2 Further Information

If requested by the Lessor, the Lessee must also provide:

- (a) a detailed written statement, supported by such other evidence as may reasonably be requested by the Lessor, outlining the nature, character, reputation, financial status, business experience, assets and liabilities of the Proposed Lessee and (if the Proposed Lessee is a body corporate) the directors and shareholders of the Proposed Lessee; and
- (b) true copies of all documents and contracts that are relevant to the proposed transfer or assignment.

35.3 Conditions of Consent

The Lessor may, as a condition of granting its consent, require the Lessee to hand to the Lessor before the transfer or assignment takes place:

- (a) in a form and on terms acceptable to the Lessor:
 - A. a covenant from the Proposed Lessee and any incoming guarantor to comply with all the Lessee's Covenants;
 - B. any securities which the Lessor reasonably requires in respect of the Proposed Lessee's obligations under this Lease, including bank guarantees and personal guarantees and indemnities;
 - C. a release from the Lessee of any existing or subsequent claims under this Lease; and
 - D. an indemnification from and against any Loss suffered by the Lessor as a result of any breach of the Lessee's Covenants by the Proposed Lessee; and
- (b) copies of each insurance policy required in accordance with clause 31.1(a).

35.4 Consideration

Where the Lessee complies with its obligations under clauses 35.1 to 35.3, the Lessor will not unreasonably withhold the granting of its consent.

35.5 Timeframe

The Lessor must grant or refuse consent by notice given as soon as practicable and in any event within 42 days of receiving a written request from the Lessee.

35.6 Transfer of Shares in Companies

- (a) Any change in the beneficial ownership or control of a majority of the company's shares constitutes an assignment of this Lease and will require the Lessor's prior consent or else the Lessee will be in breach of clause 34.2(a).
- (b) The Lessor may grant its consent if the Lessee:
 - A. is not in default under this Lease other than a default which has been waived by the Lessor;
 - B. proves to the Lessor's reasonable satisfaction that the new directors or shareholders are:
 - i. respectable, responsible and solvent; and
 - ii. capable of observing and performing the Lessee's Covenants; and
 - C. if required by the Lessor, obtains personal guarantees and indemnities from the new directors or shareholders in a form and on terms acceptable to the Lessor.
- (c) This clause 35.4 does not apply if the Lessee is a company listed on the Australian Stock Exchange, except if, as a result of the change, the company will no longer be listed.

36. **Costs of Dealing with Lease**

The Lessee must pay all the Lessor's Costs of and incidental to:

- 36.1 the consideration of the Proposed Lessee and any transfer or assignment by the Lessee of this Lease or of the Lessee's interest in this Lease;
- 36.2 any sublease, licence or concession by the Lessee; or
- 36.3 any mortgage, charge or encumbrance of the Lessee's interest in this Lease or the Lessee's Plant.

PART 13 - DEFAULT, RE-ENTRY AND TERMINATION

37. **Essential Terms**

37.1 Specified

Each of the Lessee's Covenants which are expressed or implied in the clauses specified in Item 13 are Essential Terms.

37.2 Unspecified

Other Lessee Covenants in this Lease may also be Essential Terms.

37.3 Treated as Repudiation

If there is a breach or default by the Lessee in respect of any Essential Term, the Lessor may treat such a breach or default as a repudiation by the Lessee of the terms of this Lease.

38. Events of Default

38.1 Types

An Event of Default will occur on any of the following events:

- (a) there is a breach or default by the Lessee of an Essential Term;
- (b) any Money Payable is not paid in full for a period of five Business Days after the Money Payable is due to be paid to the Lessor;
- (c) there is a breach of the Lessee's Covenants and:
 - A. the breach cannot be remedied;
 - B. the breach cannot be remedied but the Lessor can be compensated and the Lessee does not pay to the Lessor the compensation for the breach within a reasonable time after the Lessor gives the Lessee notice to pay it; or
 - C. the breach can be remedied but the Lessee does not remedy it within a reasonable time after the Lessor gives notice to the Lessee requiring its remediation;
- (d) the Lessee, being a natural person, becomes bankrupt or commits any act of bankruptcy in accordance with the *Bankruptcy Act 1966 (Cth)* or cannot pay his or her debts as they fall due;
- (e) if the Lessee is a company, any ground exists on which a court may order the winding up of the Lessee pursuant to any provision of the *Corporations Act 2001 (Cth)*;
- (f) any mortgage, encumbrance, lien, debenture or floating or other charge is given or made without the Lessor's written consent over any of the assets or undertaking of the Lessee and having priority to the payment of Money Payable;
- (g) any liquidator, provisional liquidator, administrator, receiver or manager is appointed of the Lessee or of any of the assets or undertaking of the Lessee;
- (h) the Lessee agrees to enter into any composition with or assignment of property for the benefit of the Lessee's creditors other than for the purpose of amalgamation or restructure with the Lessor's prior consent;
- (i) the Lessee or any director or secretary of the Lessee is convicted of any offence which is committed on or arises out of the Permitted Use or out of any activity on or associated with the Premises; or
- (j) any writ or warrant of execution or other process for the execution of any judgement for the payment of moneys including any order for the appointment of a receiver is levied on or imposed on any chattels or property on the Premises.

38.2 Landlord and Tenant Act Notice

The Lessor and the Lessee agree that:

- (a) in the case of an Event of Default where notice is required to be given under Section 10 of the *Landlord and Tenant Act 1936 (SA)*, the period of 10 Business Days is a reasonable period for the Lessee to:
 - A. remedy any such default; or
 - B. make compensation to the satisfaction of the Lessor; and
- (b) in the case of non-payment of Rent, no notice is required, before the Lessor can exercise any of the Lessor's Remedies.

39. Remedies

39.1 Lessor's Remedies

- (a) If an Event of Default occurs, then subject to clause 38.2, the Lessor may exercise any of the following Lessor's Remedies:
 - A. by notice to the Lessee, the Lessor may Terminate this Lease, take possession of the Premises and eject the Lessee and any other person on the Premises;
 - B. without Terminating this Lease, the Lessor may take possession of the Premises, eject the Lessee and any other person on the Premises and retain possession of the Premises until each breach of the Lessee's Covenants has been rectified. In all other respects the terms of this Lease will continue until this Lease expires or is otherwise Terminated; or
 - C. by notice to the Lessee, the Lessor may Terminate this Lease without prejudice to the Lessor's right to sue the Lessee in damages and convert the Lessee's occupation of the Premises to a monthly tenancy. From that time, the Lessee will hold the Premises as a tenant from month to month in accordance with clause 4.
- (b) The Lessor's Remedies may be exercised:
 - A. in addition to any other right or remedy which the Lessor may have under this Lease, at law, in equity or otherwise;
 - B. either with or without prior notice (subject to any terms of this Lease or Legislation which may require notice); and
 - C. individually or in combination of any other of the Lessor's Remedies or any other remedy which the Lessor may have at law or in equity.

39.2 Damages - General

- (a) The Lessee must compensate the Lessor in respect of, and the Lessor is entitled to recover damages for:
 - A. any breach of a Lessee's Covenant;
 - B. the early termination of this Lease;
 - C. the recovery of the Premises; or
 - D. the ejectment of the Lessee or any other person from the Premises, or for any other remedy or relief.
- (b) The Lessor's entitlement under this clause is in addition to any other right or remedy which the Lessor may have under this Lease, at law, in equity or otherwise.

39.3 Damages - Repudiation

- (a) The Lessee must compensate the Lessor, and, the Lessor is entitled to recover damages for all Loss suffered by reason of or arising from the repudiation by the Lessee of the terms of this Lease, including:
 - A. for the Loss suffered by the Lessor by reason of the repudiation; and
 - B. for the loss of the benefit of the Lessee performing the Lessee's Covenants from the date of Termination until the end of the Term.
- (b) The Lessor's entitlement under this clause is in addition to any other right or remedy which the Lessor may have under this Lease, at law, in equity or otherwise

39.4 Not Limited

The Lessor's entitlement to recover damages from the Lessee or any other person will not be limited or affected by any of the following:

- (a) if the Lessee abandons or vacates the Premises;
- (b) if the Lessor elects to re-enter the Premises or terminate this Lease;
- (c) if the Lessor accepts the Lessee's repudiation; or
- (d) if a Party's conduct constitutes or may constitute a surrender by operation of law.

39.5 Mitigate Loss

- (a) If the Lessor terminates this Lease, the Lessor must take reasonable steps to mitigate its Loss.
- (b) The Lessor's conduct in mitigating its Loss does not constitute acceptance of the breach or repudiation or surrender by operation of law.

39.6 Cost of Default

The Lessee must pay all Costs arising from:

- (a) the recovery or attempted recovery from the Lessee of any unpaid Money Payable;
- (b) any premature Termination;
- (c) any re-entry of the Premises by the Lessor;
- (d) any distress for Rent;
- (e) any surrender or giving up of possession of the Premises by the Lessee;
- (f) any re-letting of the Premises after Termination by the Lessor; and
- (g) any exercise of any right or remedy of the Lessor.

40. **Waiver**

40.1 No Waiver

The Lessor's failure to exercise the Lessor's rights or delay in exercising the Lessor's rights arising from a breach of the Lessee's Covenants is not a waiver of that breach or of or any right, action or remedy of the Lessor.

40.2 No Prevention

The demand or acceptance from the Lessee of an overdue payment does not prevent the Lessor from exercising or enforcing the Lessor's other rights under this Lease.

41. **Appointment of Attorney**

41.1 On Termination

If the Lessor terminates this Lease in accordance with this Part:

- (a) the Lessee must immediately and at the Lessee's Cost, cause to be done all things necessary to effect the registration or notation on the register book of the Termination of the Lease; and
- (b) if required by the Lessor, the Lessee must execute a surrender of this Lease and procure the registration of that surrender at the Lands Titles Office.

41.2 Appoint Attorney

The Lessee irrevocably appoints the Lessor as the attorney of the Lessee to do all such things and to execute all such documents as may be necessary to give full effect to any re-entry by the Lessor, or any Termination or surrender of the Lease as provided in this Part and to effect the registration of any necessary instrument.

42. **Rights Preserved on Termination**

42.1 No Affect

Termination under this Part does not affect a Party's rights in respect of any prior breach.

PART 14 - END OF TERM

43. **Surrender**

43.1 On Termination

On Termination, the Lessee must:

- (a) peaceably surrender possession of the Premises to the Lessor in clean and in good and substantial repair and working order having regard to its obligations under this Lease;
- (b) do all things necessary to facilitate the taking of possession by the Lessor; and
- (c) promptly deliver and assign (as appropriate) all Locks to the Lessor.

43.2 Fail to Comply

If, on the day after Termination, the Lessee fails to comply with any of its obligations under clause 43.1, then the Lessor may take such action as may be appropriate to remedy such breach and recover as a debt from the Lessee all Costs incurred by the Lessor including:

- (a) damages for loss of rent between the date of Termination and the date that the breach is remedied; and

- (b) the Costs of causing the breach to be remedied.

44. **Removal of Lessee's Plant and Alterations**

44.1 Remove and Make Good – Lessee's Plant and Alterations

Unless the Lessor otherwise consents, on or before Termination the Lessee must remove:

- (a) all of the Lessee's Plant from the Premises;
- (b) subject to clause 28.6, any alterations effected during the Term by the Lessee, and cause to be repaired and made good in a proper and tradesmanlike manner any damage to the Premises arising from the removal of the Lessee's Plant or alterations.

44.2 Failure to Comply

If, within five Business Days after Termination, the Lessee, in breach of clause 44.1, has not removed any Lessee's Plant or alterations and restored the Premises then at any time after that period the Lessor may, subject to the Leases Act if applicable:

- (a) declare any of the Lessee's Plant or alterations to be abandoned and, upon serving notice of such declaration upon the Lessee, all such Lessee's Plant and alterations become the property of the Lessor who may deal with the items in such way it sees fit; or
- (b) remove, store or dispose of any of the Lessee's Plant or alterations from the Premises at the Lessee's risk in such manner as the Lessor sees fit and recover as a debt from the Lessee all Costs incurred by the Lessor in taking such action including damages for loss of Rent between the date of Termination and the date that the Premises are rendered lettable.

44.3 Costs

The Lessee:

- (a) must pay the Lessor, as a liquidated debt payable on demand, any Costs incurred by the Lessor in exercising its rights under clause 44.2 less any money received on disposal of the Lessee's Plant and alterations; and
- (b) indemnifies the Lessor against any Claim against the Lessor resulting from the Lessor exercising its rights under clause 44.2.

PART 15 - LESSOR'S COVENANTS AND RIGHTS

45. **Covenants**

45.1 Quiet Possession

If the Lessee observes all of the Lessee's Covenants then, subject to the terms of this Lease, the Lessee will have quiet possession of the Premises during the Term and without any interruption or disturbance by the Lessor.

45.2 Failure of Services

The Lessee will have no Claim against the Lessor or be entitled to terminate this Lease because:

- (a) the Services fail to operate; or
- (b) the Lessor shuts down or removes any Services to repair, maintain or replace them or because of the provisions of any Legislation.

45.3 Other Person Becoming Entitled to Rents Etc.

- (a) If any person other than the Lessor becomes entitled to receive the Rent, that person will have the benefit of all the Lessee Covenants.
- (b) If required by and at the Lessor's Cost, the Lessee will enter into reasonable covenants with such person who becomes entitled to receive the Rent.

46. **Rights**

46.1 Inspection

- (a) Subject to clause 46.1(b), the Lessor may at any reasonable time enter the Premises:
 - A. to view the condition of the Premises;
 - B. to effect any permitted work or repairs to the Premises; or
 - C. for any other reasonable purposes.
- (b) Except in the case of an emergency (when the Lessor may enter the Premises at any time and in any way which is reasonable in the circumstances), before the Lessor enters the Premises for whatever reason lawfully permitted pursuant to this Lease, the Lessor must comply with the following requirements:
 - A. the Lessor must give to the Lessee reasonable notice of the Lessor's intention to enter the Premises; and
 - B. the Lessor will comply with any reasonable security requirements imposed by the Lessee from time to time in relation to the Premises.

46.2 Repair to Damaged Premises

If the Premises are damaged or in need of repair during the Term, the Lessor may enter the Premises at any time and may do whatever works the Lessor may deem necessary to repair the Premises in whole or in part.

46.3 Exhibition for Sale or Letting

During the last two months of the Term, or at any time if the Lessor wishes to offer the Premises for sale:

- (a) the Lessee must permit the Lessor, its employees, contractors or agents, to enter the Premises at all reasonable times with persons desiring to view the Premises, whether for purchase or letting or otherwise; and
- (b) the Lessee must permit the Lessor to attach to and display on the Premises a notice or notices for reletting or sale of the Premises.

46.4 Transfer

Subject to the terms of this Lease, the Lessor may at any time sell, transfer, assign, mortgage, encumber or charge the Premises and the Lessor's interest in the Premises.

46.5 Managing Agent

- (a) The Lessor may appoint a Managing Agent to delegate any of the rights, powers, authorities or privileges of the Lessor under this Lease.
- (b) If communication from the Lessor and communication from the Managing Agent are inconsistent, the communication from the Lessor will prevail to the extent of that inconsistency.

46.6 Joint Lessors

If more than one person is named as the Lessor in Item 1 then any direction or notice on behalf of the Lessor may be given by or with the authority of any one or more of those persons.

47. **Redevelopment**

47.1 Notice

- (a) If the Lessor proposes to substantially repair, renovate or reconstruct the Premises and the Lessor decides that the work cannot be carried out practicably without vacant possession of the Premises, the Lessor may give the Lessee at least six months' notice terminating this Lease (**Termination Notice**).
- (b) The Termination Notice must:
 - A. detail the plans for the building work; and
 - B. state the date of termination.

47.2 Termination

- (a) After receiving the Termination Notice, the Lessee may terminate this Lease on giving five Business Days' notice.
- (b) The Lessee must execute and deliver to the Lessor with its notice those documents listed in clause 47.3(a).

47.3 No Termination

- (a) If the Lessee has not exercised its right to terminate this Lease within one month of the expiry date then the Lessee must execute and deliver to the Lessor prior to the expiry date:
 - A. a surrender of this Lease in registrable form by mutual consent and for no monetary consideration; and
 - B. the original "Lessee's copy" of this Lease.
- (b) All costs except the Lessee's legal costs of surrendering this Lease are to be paid by the Lessor.
- (c) All documents are to be prepared by the Lessor.

48. **Land Division**

48.1 Lessor's Right to Subdivide

The Lessor may subdivide the Land provided that the subdivision does not materially prejudice the enjoyment by the Lessee of the Premises.

48.2 Lessee to Consent

Subject to clause 48.1, the Lessee must:

- (a) consent in writing to any subdivision;
- (b) promptly execute any instrument or other document prepared or required by the Lessor; and
- (c) do all that is necessary to assist the Lessor to enable the subdivision.

PART 16 - MISCELLANEOUS

49. Strata and Community Titles

49.1 Lessee's Obligations

Where the Premises comprise a lot or part of a lot within a strata or community title plan under the relevant Legislation, the Lessee agrees to:

- (a) comply with the relevant Legislation and the by-laws of the relevant strata or community scheme to the extent that they bind the Lessee or relate to the use or occupation of the Premises and the land comprising the scheme;
- (b) the Lessee must give to the Lessor, within three Business Days after its receipt, any notice from the relevant strata or community corporation, a lot owner or any other person relating to the Premises or affecting the use or occupation of the Premises;
- (c) where the Lessee requires the Lessor's consent to alterations and additions or any other matter involving the property of the strata or community scheme, the Lessee must also obtain the prior written consent of the relevant strata or community corporation;
- (d) the Lessor's obligations under this Lease regarding the Lessor's insurances extend to the relevant strata and community corporation's insurances in respect of property owned by that corporation; and
- (e) if the Lessor notifies the Lessee that the Lessor or the relevant strata or community corporation requires to vary the relevant strata or community plan, then the Lessee must, within 10 Business Days of receipt of a request give its written consent to such variation, but only if:
 - A. the variation does not materially detrimentally affect the Lessee's use of or access to the Premises; and
 - B. the Lessor pays all reasonable costs for the preparation of documentation required to record the variation.

50. Notices

50.1 Form

Any notice required to be given or served by a Party under this Lease:

- (a) must be in writing;
- (b) signed by that Party or the solicitor for that Party;
- (c) is sufficiently served on a Party by delivering it to or posting it by certified mail to that Party's address specified in Item 3 or any other address which any Party by notice to the other Parties nominates; and
- (d) is sufficiently served on the Lessee if delivered to the Premises.

50.2 Time of Service

Any notice served pursuant to this Lease is taken to be received:

- (a) in the case of delivery, on that day, unless delivered after 4:00 pm, then on the next Business Day; and
- (b) in the case of post, on the second Business Day after it is posted.

51. Consent of Lessor

51.1 Terms

Where the consent of the Lessor is required pursuant to any term of this Lease, then, unless specified otherwise, the consent:

- (a) must be evidenced in writing;
- (b) may be granted at the Lessor's discretion; and
- (c) may be subject to such conditions as the Lessor sees fit.

52. Law

52.1 Law of the Lease

The law of this Lease will be the law of the State of South Australia.

52.2 Proceedings

Any proceeding in relation to this Lease may be taken in a Court or Tribunal of competent jurisdiction at Adelaide and all parties to that proceeding must submit to the jurisdiction of that Court or Tribunal.

53. Trusts

53.1 No Acknowledgment

The Lessor is not bound to acknowledge or to give effect to any trust or of any beneficial interest in this Lease or otherwise held by the Lessee for any other person notwithstanding that the Lessor may have notice of such an interest and may have consented to it.

53.2 Treat the Lessee as Owner

The Lessor may treat the Lessee as the sole and beneficial owner of the Lease and may exercise any right or remedy against the Lessee personally and any property of the Lessee notwithstanding that such property may be held by the Lessee on or subject to any trusts or otherwise.

**SCHEDULE 3
IMPORTANT NOTICE
EXCLUSION OF WARRANTY OF FITNESS FOR PURPOSE**

Retail and Commercial Leases Act 1995: Section 18

Retail and Commercial Leases Regulations 1995: Regulation 6

THE LESSOR DOES NOT WARRANT THAT THE PREMISES THAT 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.

DATED2019

EXECUTION

By **LESSOR**

EXECUTED by **SLAMBS PTY LTD** ACN 637 105 081 in accordance with section 127(1) of the Corporations Act 2001 (Cth) by:

	Signature	
	Print Name	
	Print Position	

and if only a person has signed, that person states that he/she has executed this Lease as sole director and sole company secretary of the company

By **LESSEE**

EXECUTED by **ALEDEN PTY LTD** ACN 116 113 887 in accordance with section 127(1) of the Corporations Act 2001 (Cth) by:

	Signature	
	Print Name	
	Print Position	

and if only a person has signed, that person states that he/she has executed this Lease as sole director and sole company secretary of the company

SCHEDULE

Item 1 Lessor

SLAMBS PTY LTD ACN 637 105 081

Item 2 Lessee

ALEDEN PTY LTD ACN 116 113 887

Item 3 Addresses

Address of Lessor: 64 French Street, Netherby South Australia 5062

Address of Lessee: 1 Mary Avenue, Normanville South Australia 5204

Item 4 Premises

The whole of the land comprised in Certificate of Title Volume 6133 Folio 94 being land situated at Unit 3, 1 Olive Avenue, Normanville South Australia 5204.

Item 5 Commencement Date

Item 6 Term

A term of five years commencing on the Commencement Date

Item 7 Further Term

The renewal period is for a term of five years commencing on _____

Item 8 Rent

An annual rental of Twenty Thousand and Eight Hundred Dollars (\$20,800.00) exclusive of GST.

Item 9 Review Dates

The Rent will be reviewed and determined in accordance with Part 3 on the following dates and in the accordance with the appropriate method of review:

- (a) CPI Review Dates
Subject to Item 9(b), on each anniversary of the Commencement Date
- (b) Market Review Dates
On the Commencement Date of any Further Term

Item 10 Permitted Use

Commercial Offices, or any other purpose as allowable by law and with the Lessor's consent

Item 11 Public Liability Insurance

No less than Twenty Million Dollars (\$20,000,000.00)

Item 12 Retail And Commercial Leases Act

Applicable

Item 13 Essential Terms

Clauses 6, 10.2, 10.3(b), 11, 12.1, 13.1, 14, 16.1, 17.2, 21.1, 24.2(a), 27, 28, 31, 33, 34.2, 36 and 39.6.

Item 14 Outgoings

Outgoings include:

- (a) Rates and Taxes;
- (b) Costs relating to:
 - a. insurances effected by the Lessor relating to the Premises, its use and occupancy;
 - b. repairs and maintenance of the Premises including Costs of operating, supplying, maintaining, repairing and monitoring the Services and the plant and equipment required for those Services;
 - c. providing lighting and power to the Premises and Services;
 - d. cleaning the Premises;
 - e. maintaining any gardens and landscaped areas on the Premises;
 - f. management, administration and security, including having the Premises managed by the Managing Agent; and
 - g. contributions, levies or other amounts payable by the Lessor to any relevant strata corporation or community corporation,

but does not include any amount:

- (c) to the extent that the Leases Act applies, the Leases Act specifically prohibits the Lessor from including as an Outgoing;
- (d) of GST that is either:
 - a. included in an amount which is otherwise included in Outgoings for which the Lessor receives an input tax credit; or
 - b. recovered by the Lessor under clause 15.3; and
- (e) that the Lessee is directly responsible for under the terms of this Lease.

Item 15 Special Conditions

Not applicable

DATED

CERTIFICATION

Lessor

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:

Name of Certifying Party

Capacity

for:

Lessee

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:

Name of Certifying Party

Capacity

for:

LANDS TITLES REGISTRATION OFFICE
SOUTH AUSTRALIA

LEASE

FORM APPROVED BY THE REGISTRAR-GENERAL

PRIORITY NOTICE ID	
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SERIES NO	PREFIX
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**BELOW THIS LINE FOR OFFICE &
STAMP DUTY PURPOSES ONLY**

AGENT CODE

LODGED BY:
ECKERMANN LAWYERS

ELPL15

CORRECTION TO:
ECKERMANN LAWYERS

ELPL15

SUPPORTING DOCUMENTATION LODGED WITH INSTRUMENT (COPIES ONLY)

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- 2
- 3
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