

**75 BRIDGE MALL, BALLARAT CENTRAL 3350**

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**CONTRACT OF SALE**

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# **AUCTION**

The Property is offered for sale by Public Auction, subject to the Vendor's reserve price. The Rules for the conduct of the auction shall be as set out in Schedule 1 to the Sale of Land (Public Auctions) Regulations 2014 or any rules prescribed by regulation which modify or replace those Rules and shall include the rule which states that the auctioneer may make one or more bids on behalf of the Vendor of the Property at any time during the auction.

## **SCHEDULE 1**

Regulations 5, 6 and 7

### **GENERAL RULES FOR THE CONDUCT OF PUBLIC AUCTIONS OF LAND**

1. The auctioneer may make one or more bids on behalf of the vendor of the land at any time during the auction.
2. The auctioneer may refuse any bid.
3. The auctioneer may determine the amount by which the bidding is to be advanced.
4. The auctioneer may withdraw the property from sale at any time.
5. The auctioneer may refer a bid to the vendor at any time before the conclusion of the auction.
6. In the event of a dispute concerning a bid, the auctioneer may re-submit the property for sale at the last undisputed bid or start the bidding again.
7. The auctioneer must not accept any bid or offer for a property that is made after the property has been knocked down to the successful bidder, unless the vendor or successful bidder at the auction refuses to sign the contract of sale following the auction.
8. If a reserve price has been set for the property and the property is passed in below that reserve price, the vendor will first negotiate with the highest bidder for the purchase of the property.



## GENERAL CONDITIONS ("GC")

- 1. Encumbrances**

The Purchaser buys the Property and the chattels subject to the encumbrances shown in ITEM (1) of the Schedule.
- 2. Loss or Damage Before Settlement**
  - 2.1** The Vendor carries the risk of loss or damage to the Property and the chattels until Settlement Date.
  - 2.2** The Vendor must deliver the Property and the chattels to the Purchaser at Settlement Date in their present state of repair (fair wear and tear excepted) but failure so to deliver the chattels shall only create a right to compensation.
- 3. Payment**
  - 3.1** The Purchaser must pay all money (except the Deposit) to the Vendor, the Vendor's Legal Practitioner, or at the direction of the Vendor.
  - 3.2** The Purchaser must pay the Deposit:
    - (a) to the Vendor's licensed estate agent or, if there is no estate agent, to the Vendor's Legal Practitioner, or
    - (b) if the Vendor directs, into a special purpose account in an authorised deposit-taking institution in Victoria specified by the Vendor in the joint names of the Purchaser and the Vendor.
  - 3.3** If the Land sold is a lot on an unregistered Plan of Subdivision then the Deposit:
    - (a) must not exceed 10% of the Price, and
    - (b) must be paid -
      - (i) to the Vendor's Legal Practitioner or licensed estate agent to be held by the Legal Practitioner or estate agent on trust for the Purchaser until registration of the plan of subdivision; or
      - (ii) if the Vendor directs, into a special purpose account in an authorised deposit-taking institution in Victoria specified by the Vendor in the Contract in the joint names of the Purchaser and the Vendor and held in that account until the registration of the Plan.
  - 3.4** The Purchaser must pay all money other than the Deposit:
    - (a) to the Vendor, or to the Vendor's Legal Practitioner; or
    - (b) in accordance with the written direction of the Vendor or the Vendor's Legal Practitioner.
- 4. Breach**

A party who breaches this Contract must pay to the other party upon demand:-

  - (a) compensation for any reasonably foreseeable loss to the other party resulting from the breach; and
  - (b) any interest due under this Contract as a result of the breach on any monies owing by the party in breach; and
  - (c) where the Purchaser defaults any loss which the Vendor may directly or indirectly suffer under any other Contract or agreement entered into by the Vendor whether prior to, on or after the Day of Sale as a result of the Purchaser's breach of this Contract; and
  - (d) where the Purchaser defaults any interest or costs incurred by the Vendor as a result of default including interest, fees and charges payable to a mortgagee of the Land; and
  - (e) where the Purchaser defaults any reasonable legal costs and expenses of the Vendor's Legal Practitioner incurred in respect of the default.

and until payment the Residue shall be varied by the addition of those amounts.

**5. Default Notice**

- 5.1 A party is not entitled to exercise any rights arising from the other party's default, other than the right to receive interest and the right to sue for money owing, until the other party is served and fails to comply with a written default notice.
- 5.2 The default notice must:
- (a) specify the particulars of the default; and
  - (b) state that it is the offended party's intention to exercise the rights arising from the default unless, within fourteen (14) days of service of the notice -
    - (i) the default is remedied; and
    - (ii) the reasonable costs incurred as a result of the default and any interest payable are paid.

**6. Default not remedied**

- 6.1 All unpaid money under the Contract becomes immediately payable to the Vendor if the default has been made by the Purchaser and is not remedied and the costs and interest are not paid.
- 6.2 The Contract immediately ends if:
- (a) the default notice also states that unless the default is remedied and the reasonable costs and interest are paid, the Contract will be ended in accordance with this General Condition 6.2; and
  - (b) the default is not remedied and the reasonable costs and interest are not paid by the end of the period of the default notice.
- 6.3 If the Contract ends by a default notice given by the Purchaser:
- (a) the Purchaser must be repaid any money paid under the Contract and be paid any interest and reasonable costs payable under the Contract; and
  - (b) the Purchaser may also recover any reasonably foreseeable loss otherwise recoverable.
- 6.4 If the Contract ends by a default notice given by the Vendor:
- (a) an amount equal to 10% of the price is forfeited to the Vendor as the Vendor's absolute Property; and
  - (b) the Vendor is entitled to possession of the Property; and
  - (c) in addition to any other remedy, the Vendor may within one year of the Contract ending either:
    - (i) retain the Property and sue for damages for breach of Contract; or
    - (ii) resell the Property in any manner and recover any deficiency in the price on the resale and any resulting expenses by way of liquidated damages; and
  - (d) the Vendor may retain any part of the price paid until the Vendor's damages have been determined and may apply that money towards those damages; and
  - (e) any determination of the Vendor's damages must take into account the amount forfeited to the Vendor.

- 6.5 Unless the price includes GST, the reference to "the price" in this General Condition 6. refers to the price plus any GST payable on the price.

- 6.6 The ending of the Contract does not affect the rights of the offended party as a consequence of the default.

**7. Notices**

The Purchaser is responsible for any notice, order, demand or levy imposing liability on the Property that is issued or made on or after the Day of Sale that does not relate to periodic outgoings. The Purchaser may enter the Property at reasonable times and following prior written notice to the Vendor to comply with that responsibility where action is required prior to the Settlement Date. The Purchaser must use reasonable endeavours not to disrupt the use and occupation of the Property by the Vendor and indemnifies the Vendor for any loss or damage suffered by the Vendor as a consequence of the Purchaser exercising its rights under this General Condition 7.

**8. Consents**

The Vendor must obtain any necessary consent or licence required for the sale of the Property. If such consent or licence is not obtained by the Settlement Date the Contract shall be at an end and the Deposit paid by the Purchaser shall be refunded to the Purchaser.

**9. Release of Security Interest**

The Purchaser is not entitled to call for, or to receive at Settlement or at any other time, in respect of any security interest to which the Personal Property Securities Act 2009 (Cth) ("PPSA") applies:

- (a) a release from the secured party releasing the security interest in respect of the Property; or any goods within the Property; or
- (b) a statement in writing in accordance with Section 275 (1) (b) of the PPSA setting out that the amount or obligation that is secured is nil at the date for Settlement; or
- (c) a written approval or correction in accordance with Section 275 (1) (c) of the PPSA indicating that, on the date for Settlement, the personal property included in the Contract is not or will not be property in which the security interest is granted.

**10. Foreign Resident Capital Gains Withholding**

- 10.1 Words defined or used in Subdivision 14-D of Schedule 1 to the Taxation Administration Act 1953 (Cth) have the same meaning in this General Condition unless the context requires otherwise.
- 10.2 The Vendor under this Contract is a foreign resident for the purpose of this General Condition unless the Vendor gives the Purchaser a clearance certificate issued by the Commissioner under Section 14-220(1) of Schedule 1 to the Taxation Administration Act 1953 (Cth) at least five business days prior to Settlement.
- 10.3 This General Condition only applies if the Purchaser is required to pay the Commissioner an amount in accordance with Section 14-200(3) or Section 14-235 of Schedule 1 to the Taxation Administration Act 1953 (Cth) ("the amount") because one or more of the Vendors is a foreign resident, the property is or will have a market value of \$ 750,000.00 or more and the transaction is not excluded under Section 14-215(1) of Schedule 1 to the Taxation Administration Act 1953 (Cth).
- 10.4 Subject to General Condition 10.2 the amount is to be deducted from the Vendor's entitlement to the Contract consideration.
- 10.5 The Purchaser must:
  - (a) engage a legal practitioner or conveyancer ("representative") to conduct all the legal aspects of Settlement, including the performance of the Purchaser's obligations in this General Condition; and
  - (b) ensure that the representative does so.
- 10.6 The terms of the representative's engagement are taken to include instructions to have regards to the Vendor's interest and instructions that the representative must:
  - (a) pay, or ensure payment of, the amount to the Commissioner in the manner required by the Commissioner as soon as reasonably and practicably possible, from moneys under the control or direction of the representative in accordance with this General Condition if the sale of the property settles;
  - (b) promptly provide the Vendor with proof of payment; and
  - (c) otherwise comply, or ensure compliance with, this General Condition;despite:
  - (d) any contrary instructions, other than from both the Purchaser and the Vendor; and
  - (e) any other provision in this Contract to the contrary.
- 10.7 The representative is taken to have complied with the obligations in General Condition 10.6 if the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.
- 10.8 Any clearance certificate or document evidencing variation of the amount in accordance with Section 14-235(2) of the Schedule 1 to the Taxation Administration Act 1953 (Cth) must be given to the Purchaser at least five business days before the due date for Settlement.
- 10.9 The Vendor must provide the Purchaser with such information as the Purchaser requires to comply with the Purchaser's obligation to pay the amount in accordance with Section 14-200 of Schedule 1 to the Taxation Administration Act 1953 (Cth). The information must be provided within five business days of request by the Purchaser. The Vendor warrants that the information the Vendor provides is true and correct.
- 10.10 The Purchaser is responsible for any penalties or interest payable to the Commissioner on account of late payment of the amount.

**11. GST Withholding**

- 11.1 Words and expressions defined or used in Subdivision 14-E of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* or in *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* have the same meaning in this General Condition 11. unless the context requires otherwise. Words and expressions first used in this General Condition 11. and shown in italics and marked with an asterisk are defined or described in at least one of those Acts.
- 11.2 This General Condition 11.2 applies if the Purchaser is required to pay the Commissioner an amount in accordance with Section 14-250 of Schedule 1 to the Taxation Administration Act 1953 (Cth) because the property is *\*new residential premises* or *\*potential residential land* in either case falling within the parameters of that section and also if the sale attracts the operation of Section 14-255 of the legislation. Nothing in this General Condition 11.2 is to be taken as relieving the Vendor from compliance with Section 14-255.
- 11.3 The amount is to be deducted from the Vendor's entitlement to the Contract consideration and is taken to be paid to the Vendor, whether or not the Vendor provides the Purchaser with a GST withholding notice in accordance with Section 14-255 of Schedule 1 to the Taxation Administration Act 1953 (Cth). The Vendor must pay to the Purchaser at Settlement such part of the amount as represented by non-monetary consideration.
- 11.4 The Purchaser must:
- (a) engage a legal practitioner or conveyancer ("representative") to conduct all the legal aspects of Settlement, including the performance of the Purchaser's obligations under the legislation and this General Condition 11.; and
  - (b) ensure that the representative does so.
- 11.5 The terms of the representative's engagement are taken to include instructions to have regards to the Vendor's interest relating to the payment of the amount to the Commissioner and instructions that the representative must:
- (a) pay, or ensure payment of, the amount to the Commissioner in the manner required by the Commissioner and as soon as reasonably and practicably possible, from moneys under the control or direction of the representative in accordance with this General Condition 11. on Settlement of the sale of the property;
  - (b) promptly provide the Vendor with evidence of payment, including any notification or other document provided by the Purchaser to the Commissioner relating to payment; and
  - (c) otherwise comply, or ensure compliance with, this General Condition 11.;
- despite:
- (d) any contrary instructions, other than from both the Purchaser and the Vendor; and
  - (e) any other provision in this Contract to the contrary.
- 11.6 The representative is taken to have complied with the requirements of General Condition 11.5 if:
- (a) Settlement is conducted through the electronic conveyancing system operated by Property Exchange Australia Ltd. or any other electronic conveyancing system agreed by the parties; and
  - (b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.
- 11.7 The Purchaser may at Settlement give the Vendor a Bank Cheque for the amount in accordance with Section 16-30 (3) of Schedule 1 to the Taxation Administration Act 1953 (Cth), but only if:
- (a) so agreed by the Vendor in writing; and
  - (b) the Settlement is not conducted through the electronic settlement system described in General Condition 11.6.
- however, if the Purchaser gives the Bank Cheque in accordance with this General Condition 11.7 the Vendor must:
- (a) immediately after Settlement provide the Bank Cheque to the Commissioner to pay the amount in relation to the supply; and
  - (b) give the Purchaser a receipt for the Bank Cheque which identifies the transaction and includes particulars of the Bank Cheque, at the same time the Purchaser gives the Vendor the Bank Cheque.
- 11.8 The Vendor must provide the Purchaser with a GST withholding notice in accordance with Section 14-255 of Schedule 1 to the Taxation Administration Act 1953 (Cth) at least fourteen days before the due date for Settlement.

- 11.9 A party must provide the other party with such information as the other party requires to:
- (a) decide if an amount is required to be paid or the quantum of it, or
  - (b) comply with the Purchaser's obligation to pay the amount,
- in accordance with Section 14-250 Schedule 1 to the Taxation Administration Act 1953 (Cth). The information must be provided within five business days of a written request. The party providing the information warrants that it is true and correct.
- 11.10 The Vendor warrants that:
- (a) at Settlement, the property is not new residential premises or potential land in either case falling within the parameters of Section 14-250 of Schedule 1 to the Taxation Administration Act 1953 (Cth) if the Vendor gives the Purchaser a written notice under Section 14-255 to the effect that the Purchaser will not be required to make a payment under Section 14-250 in respect of the supply, or fails to give a written notice as required by and within the time specified in Section 14-255; and
  - (b) the amount described in a written notice given by the Vendor to the Purchaser under Section 14-255 of Schedule 1 to the Taxation Administration Act 1953 (Cth) is the correct amount required to be paid under Section 14-250 of the legislation.
- 11.11 The Purchaser is responsible for any penalties or interest payable to the Commissioner on account of non-payment or late payment of the amount, except to the extent that:
- (a) the penalties or interest arise from the Vendor's failure, including breach of a warranty in General Condition 11.10; or
  - (b) the Purchaser's reasonable belief that the property is neither new residential premises nor potential residential land requiring the Purchaser to pay an amount to the Commissioner in accordance with section 14-250 (1) of Schedule 1 to the Taxation Administration Act 1953 (Cth).
- The Vendor is responsible for the penalties or interest payable to the Commissioner on account of non-payment or late payment of the amount if either exception applies.
- 11.12 This General Condition 11. will not merge on Settlement.

## **12. Electronic Conveyancing**

- 12.1 The Vendor and the Purchaser agree to act in good faith to do all things necessary to give effect to an Electronic Settlement including:
- (a) making any necessary variations to this Contract to effect an Electronic Settlement;
  - (b) signing all necessary documents and compelling the Settlement Parties to do so; and
  - (c) complying with any requirements of the ECNL and ELNO and compelling the Settlement Parties to do so.
- 12.2 The Vendor and the Purchaser agree that they will each be responsible for their own costs relating to an Electronic Settlement under this Contract.
- 12.3 In this General Condition:-
- "Electronic Settlement" means Settlement of a conveyancing transaction by the use of an Electronic Lodgement Network within the meaning of the ECNL operated by an ELNO;
- "ECNL" means the Electronic Conveyancing National Law Victoria;
- "ELNO" means Electronic Lodgement Network Operator within the meaning of the ECNL; and
- "Settlement Parties" means the Vendor, Purchaser, their respective financiers (if any) and any other parties that are required to be a party to an Electronic Settlement under this Contract.

## **13. Settlement**

- 13.1 At Settlement Date:
- (a) the Purchaser must pay the Residue; and
  - (b) the Vendor must:
    - i. provide all title documents necessary to enable the Purchaser to become the registered proprietor of the land;
    - ii. give either vacant possession or receipt of rents and profits in accordance with the Particulars of Sale.
  - (c) The Vendor's obligations under this General Condition continue after Settlement.
- 13.2 The Vendor must pay the bank fees on all bank cheques exceeding five (5) that are required by the Vendor for Settlement.
- 13.3 At Settlement, payment must be made or tendered by Bank cheque drawn on an authorised deposit-taking institution.
- 13.4 For the purposes of this Contract "authorised deposit-taking institution" means a body corporate which is authorised to use the name "Bank" pursuant to the Banking Act 1959 (Cth).

If the time for performing any action expires on a Saturday, Sunday or bank holiday, then time is extended until the next business day.

**15. Conflict Between Conditions**

In case of a conflict between the conditions of this Contract the order of priority is –

- (a) Particulars of Sale
- (b) any Special Conditions in this Contract
- (c) General Conditions in this Contract.

PARTICULARS OF SALE

VENDOR'S AGENT:

Burgess Rawson  
Commercial Property Consultants  
Level 7, 140 Bourke Street, Melbourne 3000  
Tel.: 9613 0400 Fax: 9613 0460  
Email: [jperlinger@burgessrawson.com.au](mailto:jperlinger@burgessrawson.com.au)

VENDOR'S  
LEGAL PRACTITIONER:

Michael Snider  
236 Bambra Road, Caulfield South 3162  
Tel.: 9571 1433 Fax: 9571 2033  
Email: [michael.snider@bigpond.com.au](mailto:michael.snider@bigpond.com.au)

PURCHASER'S  
LEGAL PRACTITIONER:  
OR CONVEYANCER

X

Margaret Verduci (Lawyers)  
31 Studley Park RD Kew Vic 3101

Tel.: 03 9853 1079 Fax: 03 9853 0567  
Email: [kewlaw@hotmail.com](mailto:kewlaw@hotmail.com)

VENDOR:

NAFROCK INVESTMENTS PTY. LTD. A.C.N. 005 170 178  
22 Laura Street, Caulfield South 3162

PURCHASER:

X

Quyen Dieu Tran or Nominee  
of 3 Old Orchard Way Doncaster Vic 3108

Tel.: 0438055525 Fax: 03 93101855  
Email: [quyent@brenco.com.au](mailto:quyent@brenco.com.au)

LAND:

Unit 2 on Strata Plan 019005 ("Plan")  
(a copy of the Plan is attached to the Vendor Statement) and  
being the land comprised in Certificate of Title  
Volume 9513 Folio 775

PROPERTY:

the Land together with the improvements known as

ADDRESS:

75 BRIDGE MALL, BALLARAT CENTRAL 3350

CHATELS:

Nil

PRICE:

\$ 825,000

DEPOSIT:

\$ 82,500 10% of the Price on the Day of Sale

RESIDUE:

\$ 742,500

PAYMENT OF RESIDUE:

On the 14<sup>th</sup> day of January 2019  
or upon such earlier date as the parties may mutually agree

SETTLEMENT DATE:

is the date upon which receipt of rents and profits of the  
property shall be given namely upon acceptance of title and  
payment of the Price.

DAY OF SALE:

is the date of this Contract of Sale namely  
the 14 day of November 2018

*Margaret Verduci*  
*Margaret Verduci*

**SCHEDULE**

ITEM (1)  
(GC 1.)

- \* Encumbrances to be assumed by the Purchaser –  
Any easements, covenants, restrictions as disclosed in the Vendor Statement to the Purchaser of Real Estate pursuant to Section 32 of the Sale of Land Act 1962 which is attached hereto (“Vendor Statement”)
- \* Subject to a Lease to Thorn Australia Pty. Ltd. dated 17/9/2018 a copy of the Lease is attached to the Vendor Statement (“Lease”)

**SPECIAL CONDITIONS ("SC")**

As attached

**SPECIAL CONDITIONS ("SC")**

**1. Vendor Statement**

The Purchaser acknowledges to the Vendor that prior to signing this Contract of Sale by the Purchaser, the Purchaser inspected the Vendor Statement made in accordance with Section 32 of the Sale of Land Act 1962 and that the Vendor Statement was already signed by the Vendor or the Vendor's authorised person. The Vendor Statement is attached hereto.

**2. Deposit**

Any deposit moneys as defined by Section 23 of the Sale of Land Act 1962 paid or payable hereunder to the Vendor's Estate Agent or Legal Practitioner shall be held by that Estate Agent or Legal Practitioner as Stakeholder pursuant to Section 24 of that Act.

**3. Identity**

The Purchaser admits that the Land as offered for sale and inspected by the Purchaser is identical with that described in the Title particulars contained in the Particulars of Sale. The Purchaser shall not make any requisition or claim any compensation for any alleged misdescription of the Land or deficiency in its area or measurements or call upon the Vendor to amend Title or to bear all or any part of the cost of doing so.

**4. Planning**

The Property is sold subject to all existing and proposed restrictions affecting the use, development or enjoyment of the Property under any act, environment planning instrument or deemed environmental planning instrument or resolution of any responsible authority made or which may later be made under the Local Government Act 1989, the Planning and Environment Act 1987, the Environment Protection Act 1970, the conditions of any planning permit, or other act, planning approval or instrument applicable to the Property. No such restriction shall constitute a defect in the Vendor's Title or affect the validity of this Contract and the Purchaser shall not make any requisition or objection nor be entitled to any compensation from the Vendor in respect thereof.

**5. Acknowledgement**

The Purchaser acknowledges having inspected the Property hereby sold and acknowledges that the Purchaser is purchasing the Property in its present condition and state of repair and that the Vendor is under no liability or obligation to the Purchaser to carry out any repairs, renovations, alterations or improvements to the Property or the chattels on the Property. The Purchaser further acknowledges that the Vendor will not be required to procure any building permit, building approval, final inspection, certificate of occupancy or any other permits or approvals or inspections in relation to the Property or any improvements thereon and the Purchaser shall not make any requisition or objection nor be entitled to any compensation from the Vendor in respect thereof.

**6. Whole Contract**

The Purchaser acknowledges that there are no conditions warranties or other terms affecting the sale other than those embodied herein and that no representations or statements of any kind have been made either orally or in writing by the Vendor or the Vendor's Agents which induced the Purchaser to enter into this Contract. The Purchaser further acknowledges that the Vendor has not nor has anyone on the Vendor's behalf made any representation or warranty as to the fitness for any particular purpose or in relation to any other matter in respect to the Property sold and the Purchaser expressly releases the Vendor and/or its servants or agents from any claims or demands in respect thereof.

**7. Default**

If the Purchaser shall make default in any of the terms and conditions hereof and the Vendor shall serve on the Purchaser any notice pursuant to the provisions of this Contract relating to such default then the Purchaser shall not be deemed to have cured such default until the Purchaser pays the Vendor's Legal Practitioners' costs of and incidental to such default and notice.

**8. Default Interest**

If the Purchaser defaults in payment of any money under this Contract, the Purchaser shall pay to the Vendor interest at the rate of 2% more than the amount specified as the penalty rate pursuant to the Penalty Interest Rates Act 1983 on the amount in default from the time it fell due until the default ceases without prejudice to any other rights of the Vendor.

**9. Vendor Warranties**

The Purchaser shall not be entitled to deliver any requisitions or inquiries to the Vendor in relation to the title to the Property or the subject matter of this Contract of Sale. The Vendor instead makes to the Purchaser the warranties set out in Special Conditions 9.1 and 9.2.

- 9.1
- (a) The Vendor has custody of the Certificate of Title to the Property.
  - (b) The Property is sold subject to a Lease.
  - (c) The Vendor is not under any legal disability and the Property is not subject to, or affected by any legal proceedings.
  - (d) The Vendor will on the Settlement Date be the holder of an unencumbered estate in fee simple in the Property.
  - (e) The Vendor will at Settlement Date be the unencumbered owner of any improvements, fixtures, fittings and chattels sold with the Property.
  - (f) The Vendor will provide at Settlement all declarations or statements as required by the State Revenue Office.
- 9.2 The Vendor has no knowledge of any of the following:
- (a) public rights of way over the Property.
  - (b) easements over the Property, other than as indicated on the Certificate of Title.
  - (c) notice or order affecting the Property which will not be dealt with on or before the Settlement Date, other than the usual rate notices and any land tax notices.
  - (d) legal proceedings which would render the sale of the Property void or voidable or capable of being set aside.
- 9.3 The warranties set out in Special Conditions 9.1 and 9.2 are subject to any contrary provisions in this Contract of Sale and the disclosures in the Vendor's Statement.

**10. Nominee Purchaser**

If a named Purchaser wishes to nominate a substituted or an additional Purchaser the following provisions shall apply:-

- (a) a signed nomination in the form annexed hereto shall be received by the Vendor's Legal Practitioner at least 14 days before Settlement Date;
- (b) if either the named Purchaser or the substituted or additional Purchaser is a Company the Directors shall personally guarantee the performance of this Contract by such Company in the form of the Guarantee and Indemnity annexed hereto.

**11. Guarantee**

If the Purchaser shall be or include a Proprietary Company the said Company shall forthwith after the execution of this Contract (if so required by the Vendor) procure the execution by each of its Directors of a Guarantee and Indemnity in the form attached hereto.

**12. Warranty**

Where the Purchaser is not a natural person, the person signing on behalf of the Purchaser warrants that he or she is duly authorised to sign this Contract and the Vendor's Statement on behalf of the Purchaser and is not prevented by any legal or other disability from doing so.

**13. Property In Chattels**

Property in any chattels sold herein shall not pass to the Purchaser until payment of the whole of the Price.

**14. Property Sold Subject To A Lease**

- (a) The Property is sold and purchased subject to the Lease of the Property a copy of which is attached to the Vendor Statement.
- (b) On and from the Settlement Date the Purchaser shall observe and perform and be bound by all the Vendor's obligations under the Lease and shall indemnify and save harmless the Vendor from and against any breach, non-observance or non-performance of or other default in the observance or performance of those obligations by the Purchaser on or after the Settlement Date.
- (c) The Vendor will provide a signed part of the Lease at Settlement.
- (d) Until the payment of the Price the Vendor or its managing agents may in the ordinary course of business:-
  - (i) take proceedings in respect of the Lease to secure payment of any outstanding moneys or take such other action as it deems fit.
  - (ii) do all things which may be necessary or ancillary to the proper management of the Property hereby sold.
  - (iii) the Vendor and the Purchaser hereby agree and acknowledge that notwithstanding sub-section 141 (1) of the Property Law Act 1958 the Vendor shall be entitled to exercise its rights to take enforcement proceedings against the Lessee of the Property hereby sold pursuant to all rights now existing under the Lease referred to in sub-clause (a) hereof in respect of recovery by the Vendor of all rental and outgoings which relate to any period prior to the Settlement Date.
  - (iv) the Purchaser hereby further agrees that it shall upon the request direction and expense of the Vendor exercise its rights under sub-section 141 (2) of the Property Law Act 1958 in respect of the recovery of moneys referred to in sub-clause (d) (iii) hereof for the benefit of the Vendor.
  - (v) the Purchaser covenants to forthwith pay to the Vendor all moneys referred to in sub-clause (d)(iii) hereof including any amount received by the Purchaser from the Lessee in respect of rates paid or allowed to the Purchaser by the Vendor on the Settlement Date.
  - (vi) Sub-clauses (d) (iii) (iv) & (v) of this Contract of Sale shall not merge in the Transfer of the Land and shall continue to bind the Vendor and Purchaser thereafter.

**15. Adjustments**

- (a) The Vendor is entitled to all rent in respect of the period up to and including the Settlement Date and the Purchaser shall be entitled to all rent after the Settlement Date.
- (b) The Vendor shall pay all expenses required to be paid by the Vendor under the Lease in respect of the Property up to and including the Settlement Date and the Purchaser shall pay all expenses required to be paid after the Settlement Date.
- (c) The Vendor and the Purchaser agree there shall no adjustment of rates and taxes and outgoings which are payable by the Lessee pursuant to the Lease and the Vendor shall not be called upon to pay any such rates, taxes or outgoings that may be unpaid at the Settlement Date.

**16. Goods and Services Tax ("GST")**

**1. In this Special Condition:**

"Consideration", "Supply of a Going Concern", "GST", "GST Law", "Registered", "Supply", "Taxable Supply" and "Tax Period" have the meaning given by Section 195-1 of the GST Act; "GST Act" means the A New Tax System (Goods and Services Tax) Act 1999; "GST Amount" means any amount of GST for which a party becomes liable as a result of a Supply made by a party under or in connection with this Contract; "GST Rate" means the GST rate from time to time provided for in the A New Tax System (Goods and Services Tax Imposition-General) Act 1999, which rate is 10% as at the date of this Contract; "Payment" means any Consideration (except the GST Amount) payable by a party to any other party under or in connection with this Contract including, but not limited to, the Price; "Price" means the purchase price set out in the Particulars of Sale.

2. The Vendor and Purchaser agree that the Supply made by the Vendor to the Purchaser under or in connection with this Contract is the Supply of a Going Concern.
3. The Vendor must provide to the Purchaser at Settlement all agreements, warranties, maintenance Contracts and any other documents held by the Vendor and which are necessary for the continued operation of the Going Concern by the Purchaser after the Settlement Date.
4. The Vendor warrants to the Purchaser that it will continue to carry on the Going Concern referred to in Special Condition 16.2 until the Settlement Date.
5. The Purchaser warrants to the Vendor that it is Registered or required to be Registered in accordance with the GST Law and that the Purchaser is not the Lessee or occupier in possession of the Property hereby sold.
6. The Vendor and the Purchaser acknowledge that each Payment specified in this Contract is exclusive of GST and if the Australian Taxation Office determines that the relevant Supply under or in connection with this Contract was not the GST-free Supply of a Going Concern then the subsequent provisions of this Special Condition apply.
7. The Purchaser indemnifies and agrees to keep indemnified the Vendor for any GST payable and against all penalties and/or interest imposed by the Australian Taxation Office.
8. If any Payment is made to a party for, or in connection with, a Supply which is a Taxable Supply for which that party is liable to pay GST in accordance with the GST Law, that party is entitled to recover from the party making the Payment the GST Amount calculated by multiplying the Payment by the GST Rate.
9. The Purchaser must pay a GST Amount for which it is liable to the Vendor within seven (7) days of the issue of a valid Tax Invoice in respect of the relevant Taxable Supply.
10. This Special Condition 16. shall not merge in the Transfer of Land and Settlement.

**17. Plan of Strata Subdivision/Owners Corporation**

The Purchaser admits that the Property is sold and the Purchaser takes title subject to:

- (a) the Lot Entitlement and Lot Liability as set out in the Plan of Strata Subdivision;
- (b) the easements (both express and implied) affecting the Property sold by virtue of the Subdivision Act 1988;
- (c) the Rules of the Owners Corporation;
- (d) the restrictions imposed by and to the provisions of the relevant planning scheme and to municipal by-laws affecting the Property sold or the common property or any part thereof.

**18. Foreign Acquisition And Takeovers Act 1975**

18.1 The Purchaser warrants to the Vendor:-

- (a) that the Purchaser is ordinarily a resident in Australia; or
- (b) that the Purchaser is not a corporation, business or trust in which there is a substantial foreign interest within the meaning of the Foreign Acquisition And Takeovers Act 1975; and
- (c) that the provisions of the Foreign Acquisition and Takeovers Act 1975 and the Foreign Acquisitions and Takeovers Regulations 1989 requiring the obtaining of consent to this Contract do not apply to the Purchaser and this Contract.

18.2 In the event of there being a breach of this warranty, whether intentional or not, the Purchaser agrees to indemnify and to compensate the Vendor in respect of any loss, damage, expense, penalty, fine or legal costs which may be incurred by the Vendor as a consequence of that breach of warranty.

18.3 This Special Condition 18.3 shall not merge in the Transfer of Land and Settlement.

**19. Stamp Duty – Purchasers Buying Unequal Interests**

19.1 If there is more than one Purchaser, it is the Purchasers' responsibility to ensure the Contract correctly records at the date of sale the proportions in which they are buying the Property ("the proportions").

19.2 If the proportions recorded in the Transfer of Land differ from those recorded in the Contract, it is the Purchasers' responsibility to pay any additional duty which may be assessed as a result of the variation.

19.3 The Purchasers fully indemnify the Vendor, the Vendor's agent and the Vendor's legal practitioner against any claims or demands which may be made against any or all of them in relation to any additional duty payable as a result of the proportions in the Transfer of Land differing from those in the Contract.

19.4 This Special Condition 19. shall not merge in the Transfer of Land.

- 20. Submission of Statement of Adjustments**  
The Purchaser must deliver the Statement of Adjustments and Settlement Statement to the Vendor's Legal Practitioner not less than seven (7) days prior to the date for payment of the Residue. If the Purchaser fails to comply with this Special Condition the Vendor is not obliged to complete this Contract until seven (7) days from the date on which the Statement of Adjustments and Settlement Statement is delivered by the Purchaser to the Vendor's Legal Practitioners. If the Vendor completes this Contract after the date for payment of the Residue the Purchaser shall be deemed to have made default in payment of the Residue from the due date for payment of the Residue until the actual Settlement Date.
- 21. Non-Merger**  
The provisions of this Contract shall not merge in the Transfer of the Land and shall continue to bind the Vendor and the Purchaser to the extent that any of them require to be complied with after the Settlement Date.
- 22. Execution of Contract**  
Any person executing this Contract for and on behalf of the Purchaser warrants to the Vendor as an inducement to the Vendor to enter into this Contract that they have the Purchaser's full power and lawful authority to execute and deliver this Contract and to bind the Purchaser to its obligations under this Contract.
- 23. Variation**  
An amendment or variation to this Contract is not effective unless it is in writing and signed by the parties.
- 24. Severance**  
If any of the terms, conditions or provisions of this Contract should be judged invalid, unlawful or unenforceable for any reason whatsoever by a Court of competent jurisdiction, such invalidity or enforceability or illegality unless deletion of such provision or provisions would substantially alter the expressed or implied intent of the parties, will not effect the operation or interpretation of any other terms, conditions or provisions of this Contract to the intent that the invalid, unenforceable or illegal terms, conditions or provisions would be treated for the purposes of this Contract as severed from this Contract.
- 25. Time**  
Time shall be of essence of this Contract.
- 26. Settlement**  
Settlement shall take place no later than 3.30 pm on the Settlement Date at a place in Melbourne as nominated by the Vendor's Legal Practitioner. If Settlement occurs after 3.30 pm on the Settlement Date the Purchaser is deemed to be in default in payment of the Residue until the following Business Day.
- 27. Genders And Joint And Several Obligations**  
In this Contract of Sale except where inconsistent with the context or subject matter words importing the singular shall include the plural words importing the plural shall include the singular words importing one gender shall include any other gender and if there is more than one Purchaser then each Purchaser shall be bound both jointly and also severally with every other Purchaser by the terms and conditions of this Contract of Sale to be performed and observed by the Purchaser.
- 28. Law And Jurisdiction Governing**  
For all purposes this Contract shall be governed by and construed in accordance with the laws of the State of Victoria and the parties hereto submit to the jurisdiction of the Courts of Victoria in determining any matter or dispute arising under or incidental to this Contract.

**29. Notices**

29.1 A notice under this Contract

- (a) must be in writing;
- (b) may be given by a party or its legal practitioner or conveyancer; and must be:
  - (i) left at the address of a party or its legal practitioner or conveyancer as stated in the particulars of Sale ("Party's address")
  - (ii) sent by prepaid ordinary post to the Party's address; or
  - (iii) sent to the facsimile number of a party or its legal practitioner or conveyancer;
  - (iv) sent to the email address of a party or its legal practitioner or conveyancer; or
  - (v) served in any manner authorized by law or the Supreme Court for service of documents upon parties.

29.2 A notice must be treated as received:

- (a) in the case of a posted notice on the 2nd Business Day (at the place to which it is posted) after posting; and
- (b) in the case of a facsimile transmission, on production of a transmission report by the sending machine which indicates that the facsimile was sent in its entirety to the facsimile transmission of the recipient; and
- (c) email is taken to have been served at the time of receipt as provided in Section 13A of the Electronic Transactions (Victoria) Act 2000.

29.3 A notice delivered or sent in the manner provided by Special Condition 29.1 must be treated as validly given to and received by the party to which it is addressed even if;

- (a) the addressee has been liquidated or deregistered or is absent from the place at which the notice is delivered or to which it is sent; or
- (b) the notice is returned unclaimed.

**30. Headings**

Headings have been inserted for convenience and do not effect the interpretation of this Contract of Sale.

**SALE OF REAL ESTATE NOMINATION FORM**

Relating to a Contract of Sale dated the \_\_\_\_\_ day of \_\_\_\_\_ 2018 between:-

**The Vendor**

.....

**The Purchaser named in the contract (agreement) is**

.....

**The Transferee nominated by named purchaser**

.....

**Description of Property**

.....

As the Property is expressed as sold to the Purchaser "and/or Nominee" (or words of like effect) then pursuant to the conditions of the Contract of Sale the Purchaser nominates the Nominee as substitute Purchaser to stand in place of the Purchaser and take a Transfer of Land in lieu of the Purchaser.

The Purchaser and the Nominee hereby acknowledge to the Vendor that the Purchaser and the Nominee will henceforth be liable jointly and severally for the due performance of the obligations of the Purchaser under the Contract of Sale and payment of any expenses resulting from this nomination including payment of any Stamp Duty.

The Purchaser authorises the Vendor and the Vendor's Selling Agents to apply the deposit paid by the Purchaser to the Selling Agents on account of the Nominee.

The Purchaser acknowledges to the Vendor that it was handed the signed Section 32 Vendor Statement and the Nominee acknowledges to the Vendor that the Nominee now holds the Section 32 Vendor's Statement.

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 2018

Signature of the Purchaser

.....

Print Name:

Signature of the Nominee

.....

Print Name:

**(If Nominee is a Company, to be signed by a Director for and on behalf of the Company)**

**GUARANTEE AND INDEMNITY**

(“Vendor”)

(“Purchaser”)

Date of Contract of Sale:

Purchaser Directors Full Name and Residential Address:

We  
of

and

of

(hereinafter called “the Guarantor”) **IN CONSIDERATION** of the within named Vendor selling to the within named Purchaser at our request the land described in the within Contract of Sale for the price and upon the terms and conditions therein set forth **DO HEREBY** for ourselves our respective executors and administrators **JOINTLY AND SEVERALLY COVENANT** with the said Vendor and their assigns that if at any time default shall be made in the payment of the Deposit or Residue of Purchase Price or interest or other monies payable by the Purchaser to the Vendor under the within Contract of Sale or in the performance or observance of any term or condition of the within Contract of Sale to be performed or observed by the Purchaser we will forthwith on demand by the Vendor pay to the Vendor the whole of such deposit, residue of purchase price, interest or other monies which shall then be due and payable to the Vendor and we hereby indemnify and agree to keep the Vendor indemnified against all loss of purchase price, interest or other monies payable under the within Contract of Sale and all losses, costs, charges and expenses whatsoever which the Vendor may incur by reason of any default as aforesaid on the part of the Purchaser.

This Guarantee and Indemnity shall be a continuing Guarantee and Indemnity and we shall not be released by:-

1. any neglect or forbearance on the part of the Vendor in enforcing payment of any of the monies payable under the within Contract of Sale;
2. the performance or observance of any of the agreements, obligations or conditions under the within Contract of Sale;
3. time being given to the Purchaser for any such payment performance or observance;
4. any other thing which under the law relating to sureties would but for this provision have the effect of releasing us our executors or administrators.

**IN WITNESS WHEREOF** we have executed this Guarantee and Indemnity this

day of

2018

**SIGNED SEALED** and **DELIVERED**

by

in the presence of:

.....Witness

.....Print Name

**SIGNED SEALED** and **DELIVERED**

by

in the presence of:

.....Witness

.....Print Name

**75 BRIDGE MALL, BALLARAT CENTRAL 3350**

---

**VENDOR STATEMENT**

---

**MICHAEL SNIDER  
Legal Practitioner  
P.O. Box 325  
ELSTERNWICK 3185**

**Telephone: 9571 1433  
Facsimile: 9571 2033  
Email: [michael.snider@bigpond.com](mailto:michael.snider@bigpond.com)**

**VENDOR STATEMENT TO THE PURCHASER OF REAL ESTATE PURSUANT TO SECTION 32 OF THE SALE OF LAND ACT 1962 ("the Act")**

**VENDOR:**            **NAFROCK INVESTMENTS PTY. LTD. A.C.N. 005 170 178**

**LAND:**                **75 BRIDGE MALL, BALLARAT CENTRAL 3350**

**In this Vendor Statement-**

“Certificate/s” means a certificate (or a copy) or certificates (or copies) or report issued by the relevant authority or any assessment issued by the relevant authority.

“Settlement” means the event upon which the Purchaser becomes entitled to receipt of rents and profits of the Land.

**1. FINANCIAL MATTERS**

**1.1 Particulars of any Rates, Taxes, Charges or Other Similar Outgoings**

Information concerning the amount of any rates, taxes, charges or other similar outgoings including any owners corporation charges and any interest payable on any part of them which is unpaid and for which the Purchaser may become liable in consequence of the sale and which the Vendor may be reasonably expected to have knowledge of are contained in the attached Certificates.

The Purchaser may become liable to a pro-rata proportion of the amounts set out in the Certificates by way of adjustment as a consequence of the purchase of the Land. Adjustments will be made at Settlement in terms of the Contract of Sale.

1.2 Particulars of any Charge whether registered or unregistered imposed by or under any Act to secure an amount due under that Act, including the amount owing under the charge.

None to the Vendor's knowledge.

**2. INSURANCE DETAILS**

**2.1 Damage and Destruction**

The shop on the Land is at the risk of the Vendor until the Purchaser becomes entitled to receipt of rents and profits of the Land.

**2.2 Owner-Builder**

The residence on the Land was not constructed by an Owner-Builder within the preceding six (6) years and Section 137B of the Building Act 1993 does not apply to the residence on the Land.

Not applicable

**2.3 Domestic Building Insurance**

Particulars of any required insurance effected in the past six (6) years and six (6) months under the Building Act 1993 (required where the Land includes a residence to which Section 137B of the Building Act 1993 applies) –

Not applicable

**3. MATTERS RELATING TO LAND USE**

**3.1 Easements, Covenants or Other Similar Restrictions**

Information concerning any easement, covenant or other similar restriction affecting the Land (whether registered or unregistered) -

(a) Description: As set out in the attached copies of:-

- i. Register Search Statement of Certificate of Title Volume 9513 Folio 775
- ii. Lease to Thorn Australia Pty. Ltd. dated 17/9/2018

(b) Particulars of any existing failure to comply with the terms of any such easement covenant or restriction: None to the Vendor's knowledge.

3.2 **Road Access**

There is access to the Land by road.

3.3 **Bushfire Prone Area**

The Land is not within a bushfire prone area as defined in the regulations under the Building Act 1993.

3.4 **Planning Scheme**

Information concerning a planning instrument which applies to the Land is as contained in the attached Certificate.

**4. NOTICES MADE IN RESPECT OF LAND**

4.1 **Notices, Order, Declaration, Report or Recommendation**

Particulars of any notice, order, declaration, report or recommendation of a public authority or government department or approved proposal directly and currently affecting the Land being a notice, order, declaration, report, recommendation or approved proposal of which the Vendor might reasonably be expected to have knowledge:

None to the Vendor's knowledge

The Vendor has no means of knowing all decisions of public authorities and government departments affecting the Land unless communicated to the Vendor.

4.2 **Agricultural Chemicals**

There are no notices, property management plans, reports or orders in respect of the Land issued by a Government department or public authority in relation to livestock disease or contamination by agricultural chemicals affecting the ongoing use of the Land for agricultural purposes.

4.3 **Compulsory Acquisition**

There are no notices of intention to acquire the Land that have been served under Section 6 of the Land Acquisition and Compensation Act 1986.

**5. BUILDING PERMITS ISSUED IN RESPECT OF LAND**

Particulars of any building permit issued under the Building Act 1993 in the preceding seven (7) years (required only where there is a residence on the Land):

Not applicable

**6. OWNERS CORPORATION INFORMATION**

The Land is affected by an Owners Corporation within the meaning of the Owners Corporations Act 2006 – The Owners Corporation is inactive. The Owners Corporation has not in the previous 15 months had an annual general meeting, fixed any fees and held any insurance.

**7. GROWTH AREAS INFRASTRUCTURE CONTRIBUTION (“GAIC”)**

7.1 **Work-in-Kind Agreement**

The Land is not Land in respect of which a GAIC is imposed.

7.2 **GAIC Recording**

There is no GAIC recording applicable to the Land.

**8. SERVICES**

The following services noted as Not Connected are not connected to the Land:

Electricity supply:

Gas supply:

Water supply:

Sewerage:

Telephone services:

Where any of the above services are disclosed as being not connected to the Land, the Purchaser should check with the appropriate authorities as to their availability and the cost of providing them. The Purchaser will be required to make all applications and pay any connection fees for the above Not Connected services.

**9. DISCLOSURE OF ENERGY EFFICIENCY INFORMATION**

Details of any energy efficiency information required to be disclosed regarding a disclosure affected building or disclosure area affected area of a building as defined by the Building Energy Efficiency Disclosure Act 2010 (Cth) –

- (a) to be a building or part of a building used or capable of being used as an office for administrative, clerical, professional or similar based activities including any support facilities; and
- (b) which has a net lettable area of at least 2000 square metres (but does not include a building under a strata title system or if an occupancy permit was issued less than two years before the relevant date) Not applicable to this Land

**10. EVIDENCE OF TITLE**

Attached are copies of the following documents concerning the Vendor's title to the Land:-

- (i) Register Search Statement of Certificate of Title Volume 9513 Folio 775
- (ii) Diagram Location, refer Registered Strata Plan 019005 for further details and boundaries

**11. ATTACHMENTS**

Attached are copies of the following Certificates, Notices or other documents:-

- (i) Register Search Statement of Certificate of Title Volume 9513 Folio 775
- (ii) Registered Stata Plan 019005
- (iii) City of Ballarat Land Information Certificate
- (iv) Central Highlands Water Information Certificate
- (v) Land Tax Clearance Certificate
- (vi) Planning Certificate
- (vii) City of Ballarat Building Information Certificate
- (viii) Roads Certificate
- (ix) Bushfire Prone Area Report
- (x) Lease to Thorn Australia Pty. Ltd.
- (xi) Nafrock Investments Pty. Ltd. Insurance for Common Ground/Property

DATE of this Vendor Statement 11 day of November 2018

SIGNED by the Vendor

.....  
Director for and on behalf of NAFROCK INVESTMENTS PTY. LTD. A.C.N. 005 170 178

The Purchaser acknowledges being given this Vendor Statement signed by the Vendor before the Purchaser signed any Contract of Sale relating to the Land.

DATE of this Acknowledgement 12th day of November 2018

SIGNED by the Purchaser

X .....  


Register Search Statement - Volume 9513 Folio 775

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REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

VOLUME 09513 FOLIO 775

Security no : 124074165421Q  
Produced 01/10/2018 09:28 AM

LAND DESCRIPTION

Unit 2 on Strata Plan 019005 and an undivided share in the common property for the time being described on the plan.  
PARENT TITLE Volume 09405 Folio 530  
Created by instrument J956793 02/06/1983

REGISTERED PROPRIETOR

Estate Fee Simple  
Sole Proprietor  
NAFROCK INVESTMENTS PTY LTD of 22 LAURA STREET CAULFIELD SOUTH VIC 3162  
AH460081W 27/08/2010

ENCUMBRANCES, CAVEATS AND NOTICES

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 12 Strata Titles Act 1967 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE RP019005 FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: "RADIO RENTALS" 75 BRIDGE MALL BALLARAT CENTRAL VIC 3350

OWNERS CORPORATIONS

The land in this folio is affected by  
OWNERS CORPORATION PLAN NO. RP019005

DOCUMENT END

PLAN No 64

1956793

H

PLAN OF STRATA SUBDIVISION

**THE PARCEL** — The whole of the land described in Certificate of Title Volume 9405 Folio 530 being part of Crown Allotments 22 and 22<sup>A</sup> Section C Township of Ballarat East Parish of Ballarat County of Grant  
**POSTAL ADDRESS OF BUILDINGS** — 75-77 BRIDGE MALL, BALLARAT 3350

REGISTERED



TIME 8:55AM

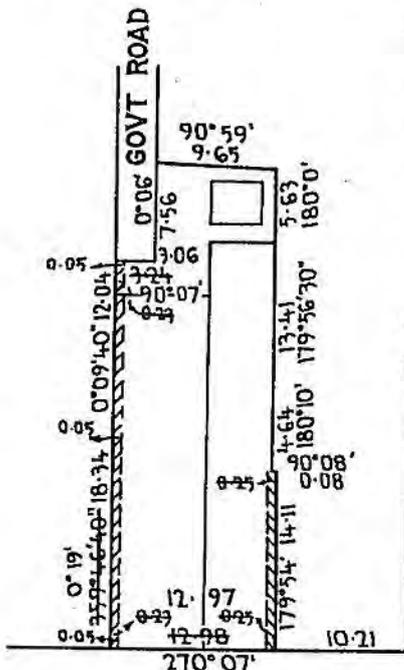
DATE 2/6/1983

19005

FOR CURRENT ADDRESS FOR SERVICE OF NOTICE  
 SEE OWNERS CORPORATION SEARCH REPORT

19005

THE LAND SHOWN THUS IS A PARTY WALL ENCUMBRANCE WHERE APPLICATION PART OF UNIT 1 AND PART OF THE COMMON PROPERTY ARE AFFECTED BY THIS ENCUMBRANCE.  
 THE LAND SHOWN THUS IS A PARTY WALL ENCUMBRANCE REFERRED TO IN CONVEYANCE NO 614 BOOK 313 PART OF UNIT 2 AND PART OF THE COMMON PROPERTY ARE AFFECTED BY THIS ENCUMBRANCE.  
 THE LAND SHOWN THUS IS ENCUMBERED BY THE RIGHTS OF ATTACHMENT AND SUPPORT CONTAINED IN CONVEYANCE BOOK 313 NO 614 (APPLICATION 58109) PART OF UNIT TWO AND PART OF THE COMMON PROPERTY IS AFFECTED BY THE ABOVE ENCUMBRANCE.



PEEL STREET

BRIDGE MALL

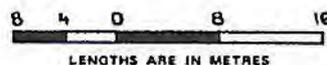


Diagram showing the external boundaries of the site and the location in relation thereto at ground level of all buildings in the parcel.

**SURVEYOR'S CERTIFICATE** 3350  
 I, ARTHUR ALBERT JEFFREYS OF 33 LYDIARD STREET SOUTH BALLARAT,

a surveyor licensed under the Land Surveyors Act 1958 certify that this plan and any measurements on which it is based have been made by me or under my personal direction and supervision; that the standard of accuracy of any measurements made to determine the external boundaries of the site complies with the requirements of and under the Land Surveyors Act 1958; that the plan accurately represents as at

the ..... 19<sup>TH</sup> ..... day of ..... APRIL ..... 1982, in the manner required by or under the Strata Titles Act 1967 and by or under the Land Surveyors Act 1958; and within the limitations of the scale used and the standard of accuracy required, the boundaries of the units and the location at ground level of all buildings in the parcel in relation to the external boundaries of the site; and that all units are within the parcel.

Signature..... *A. Jeffreys* ..... Date 30-4-82

**SEAL OF MUNICIPALITY AND ENDORSEMENT**

Sealed pursuant to Section 6 (i).  
 Strata Title Act

THE CORPORATION, styled the MAYOR, COUNCILLORS AND CITIZENS OF THE CITY OF BALLARAT, hereby approves of and consents to the Scheme of Strata Subdivision as shown on this plan, pursuant to the provisions of Section 6(i) of the Strata Titles Act 1967.

DATED THIS 2nd DAY OF June 1982.

THE SEAL OF THE CORPORATION, styled the MAYOR, COUNCILLORS AND CITIZENS OF THE CITY OF BALLARAT was affixed hereto in the presence of:

*[Signatures of Corporation Members]*  
 ..... COUNCILLOR  
 ..... COUNCILLOR

*A. Jeffreys*  
 Licensed Surveyor.

SHEET 1 OF 2 SHEETS

24.5.83

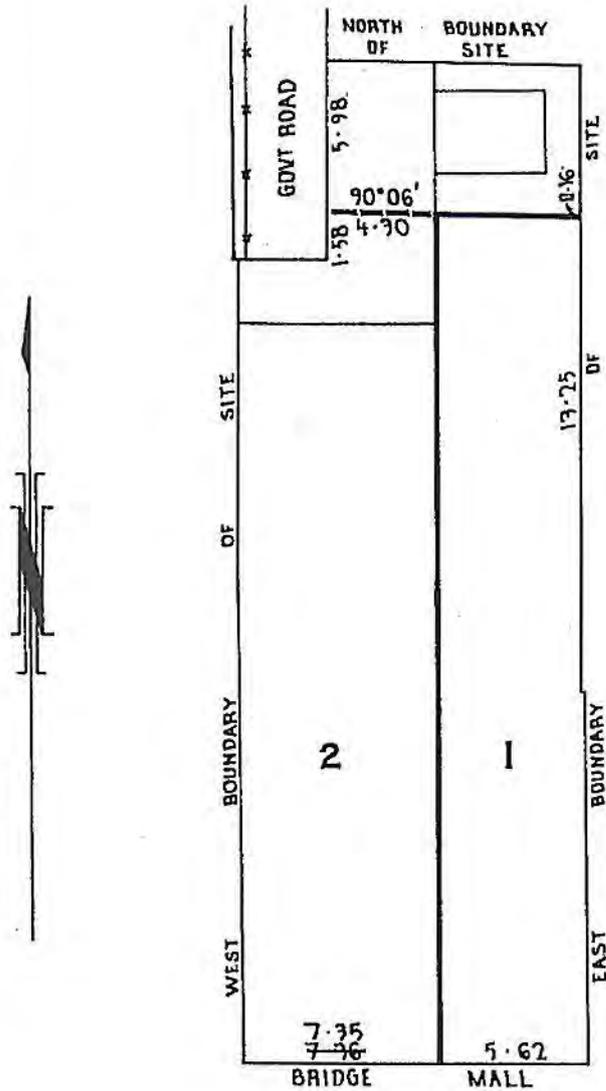
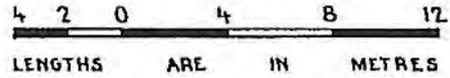
16.12.82

16.12.82

14.5.83

SCHEDULE OF UNIT ENTITLEMENT AND UNIT LIABILITY

FOR CURRENT OWNERS CORPORATION DETAILS  
SEE OWNERS CORPORATION SEARCH REPORT



16.12.82

THE BUILDING IN THE PARCEL, A PART OF WHICH IS CONTAINED IN EACH OF UNITS 1 AND 2 IS A TWO STOREY BUILDING. THE BUILDING IN THE COMMON PROPERTY IS A SINGLE STOREY BUILDING.

THE UPPER BOUNDARY OF EACH OF UNITS 1 AND 2 IS 15 METRES ABOVE THAT PART OF THE SITE WHICH LIES WITHIN THE VERTICAL OR NEAR VERTICAL BOUNDARIES OF THE RELEVANT UNIT AS SHOWN ON THE DIAGRAM ABOVE; THE LOWER BOUNDARY OF EACH OF THESE UNITS IS 3 METRES BELOW THAT PART OF THE SITE.

THE COMMON PROPERTY IS THE WHOLE OF THE LAND IN THE PARCEL EXCEPT THE LAND IN UNITS 1 AND 2.

THERE ARE NO ACCESSORY UNITS ON THIS PLAN.

*A. J. [Signature]*  
LICENSED SURVEYOR  
SHEET 2 OF 2 SHEETS

*[Handwritten mark]*



# Department of Environment, Land, Water & Planning

## Owners Corporation Search Report

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Produced: 01/10/2018 09:48:22 AM

**OWNERS CORPORATION  
PLAN NO. RP019005**

The land in RP019005 is affected by 1 Owners Corporation(s)

**Land Affected by Owners Corporation:**  
Common Property, Units 1, 2.

**Limitations on Owners Corporation:**  
Unlimited

**Postal Address for Services of Notices:**  
75-77 BRIDGE MALL BALLARAT VIC 3350  
  
RP019005 01/01/1700

**Owners Corporation Manager:**  
NIL

**Rules:**  
Model Rules apply unless a matter is provided for in Owners Corporation Rules. See Section 139(3) Owners Corporation Act 2006

**Owners Corporation Rules:**  
NIL

**Additional Owners Corporation Information:**  
NIL

**Notations:**  
NIL

### Entitlement and Liability:

NOTE – Folio References are only provided in a Premium Report.

Land Parcel	Entitlement	Liability
Common Property	0	0
Unit 1	50	50
Unit 2	50	50
<b>Total</b>	<b>100.00</b>	<b>100.00</b>

From 31 December 2007 every Body Corporate is deemed to be an Owners Corporation. Any reference to a Body Corporate in any Plan, Instrument or Folio is to be read as a reference to an Owners Corporation.

Statement End.

## LAND INFORMATION CERTIFICATE

In accordance with Section 229 of The Local Government Act 1989

Applicant: SAI Global Property Division Pty Ltd  
Accounts Payable - Level 9  
PO Box 5420  
SYDNEY NSW 2001

Date: 03-Oct-2018  
Certificate No: 23836  
eServices Certificate Ref: 53463208:83654485:51226

This certificate provides information regarding valuation, rates, charges, other moneys owing and any orders and notices made under the Local Government Act 1989, the Local Government Act 1958 or under a local law of the Council.

This certificate is not required to include information regarding planning, building, health, land fill, land slip, flooding information or service easements. Information regarding these matters may be available from Council or the relevant authority. A fee may be charged for such information.

**Rate Assessment Number:** 4035440  
**Property Address:** 75 Bridge Mall, BALLARAT CENTRAL VIC 3350  
**Property Description:** Lot 2 RP19005  
**Area:** 475M2

Statement of rates and charges for YEAR ENDING 30/06/2019 and payable in full by 15/02/2019 (except where paying by instalments):

<b>RATES &amp; CHARGES</b>	<b>(\$)</b>	<b>AMOUNT/BALANCE (\$)</b>
<b>Arrears</b>		0.00
<b>Current Levied</b>		
<i>General Rates</i>	7,088.09	
<i>Fire Services Levy</i>	676.02	
<i>Other Rates or Charges</i>	1,960.35	
<b>Current Total:</b>	<b>9,724.46</b>	<b>9,724.46</b>
<b>Interest</b> (Interest will accrue on any overdue rates & charges)		0.00
<b>Legal Fees</b>		0.00
<b>Other Monies</b>		0.00
<b>Sundry Monies</b>		0.00
<b>Less Pension Rebate</b>		0.00
<b>Less Payments Received</b>		-1,941.11
<b>Overpayments</b>		0.00
<b>TOTAL OUTSTANDING</b>		<b>7,783.35</b>

NOTE:

---

## PROPERTY VALUATIONS

Description	Valuation	Level of Value Date	Operational Date
Net Annual	\$46,000	01/01/2018	01/07/2018
Site	\$343,000	01/01/2018	01/07/2018
Capital Improved	\$658,500	01/01/2018	01/07/2018

Verbal confirmation or variations will only be given for a period of 90 days from the date of issue, however Council will not be held responsible for information provided verbally. For settlement purposes another certificate should be obtained after 90 days.

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## OTHER INFORMATION

Notices or orders on the land served by Council under the Local Government Act 1958, the Local Government Act 1989, or under a local law of the Council, which have a continuing application at the date of the Certificate, details being (if any): *LB*

There are no moneys owed for works under the Local Government Act 1958.

There is no potential liability for rates under the Cultural and Recreational Lands Act 1963.

There is no potential liability for the land to become rateable under section 173 or 174A of the Local Government Act 1989.

There are no moneys owed in relation to the land under section 94(5) of the Electricity Industry Act 2000.

There are no outstanding amounts required to be paid for recreational purposes or any transfer of land to the Council for recreational purposes under section 18 of the Subdivision Act 1988, or the Local Government Act 1958.

There are no moneys owed under section 227 of the Local Government Act 1989.

---

## GENERAL NOTES

I hereby certify that as at the date of issue, the information given in this certificate is a correct disclosure of the rates, charges, interest and other moneys payable to the City of Ballarat together with any Notices pursuant to the Local Government Act 1989, Local Laws or any other legislation.



Authorised Officer

# Central Highlands Region Water Corporation

ABN/GST 75 224 340 348



CENTRAL  
HIGHLANDS  
WATER

7 Learmonth Road  
Wendouree Victoria 3355  
PO Box 152 Ballarat  
Victoria 3353 Australia  
Telephone 1800 061 514  
Facsimile (03) 5320 3299

Michael Snider Solicitor Via Sai Global Property

Your Ref:

53463208:83654487

Statement No:

34898

Account No:

109423-001

Date:

01/10/2018

## Information Statement

### Water Act 1989 Section 158

Statement of encumbrances, works required, outstanding matters, tariffs and other charges including outstanding amounts and other information which the Corporation considers relevant for the property known as:

75 Bridge MALL BALLARAT

#### Title(s):

Lot 2, LP, 019005, Volume 9513, Folio 775, Parish of Ballarat

#### Owner(s):

Nafrock Investments Pty Ltd

#### Account Calculation:

Fees and Charges (including interest)

\$0.00

**Total Amount in arrears as at 01 Oct 2018:**

**\$0.00**

Access fees: 01 Oct 2018 (from page 2)

\$198.89

**Total Amount:**

**\$198.89**

**Note:** Central Highlands Water will perform a special meter reading on all metered properties 10-14 days prior to settlement. After the special meter read is taken, an updated Information Statement will be issued to your office including all fees and charges outstanding to settlement.

**Property No:** 14-0325-0360  
**Property Address:** 75 Bridge MALL BALLARAT

**Details of services provided and their tariffs:**

Water Service Charge: From 17/07/2018 To 1/10/2018 = 76 Days @ 0.5447 Per Day = \$41.40

Wastewater Access: From 17/07/2018 To 1/10/2018 = 76 Days @ 2.0723 Per Day = \$157.49

**Encumbrances and other information:**

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The Property Is Encumbered By Private Sewerage Drain/s Serving Other Property.

The Property Is Not Independently Connected To The Corporation'ssewer Main.

The Property Is Not Independently Connected To The Corporation'swater Main.

The information supplied on this Statement in relation to encumbrances is valid as at the date of issue only.



Malcolm Roberts  
Manager Customer Contact Centre  
**Central Highlands Water**

# Land Tax Clearance Certificate

Land Tax Act 2005



MICHAEL SNIDER SOLICITOR VIA SAI GLOBAL PROPERTY  
LEVEL 3, 355 SPENCER ST  
WEST MELBOURNE VIC 3003

**Your Reference:** 53463208:83654486

**Certificate No:** 24161498

**Issue Date:** 01 OCT 2018

**Enquiries:** ESYSPROD

**Land Address:** 75 BRIDGE MALL BALLARAT CENTRAL VIC 3350

Land Id	Lot	Plan	Volume	Folio	Tax Payable
38307446	2	19005	9513	775	\$0.00

**Vendor:** NAFROCK INVESTMENTS PTY. LTD.

**Purchaser:** FOR INFORMATION PURPOSES

Current Land Tax	Year	Taxable Value	Proportional Tax	Penalty/Interest	Total
NAFROCK INVESTMENTS PTY LTD	2018	\$343,000	\$461.00	\$0.00	\$0.00

**Comments:** Land Tax of \$461.00 has been assessed for 2018, an amount of \$461.00 has been paid.

Current Vacant Residential Land Tax	Year	Taxable Value	Proportional Tax	Penalty/Interest	Total
-------------------------------------	------	---------------	------------------	------------------	-------

**Comments:**

Arrears of Land Tax	Year	Proportional Tax	Penalty/Interest	Total
---------------------	------	------------------	------------------	-------

This certificate is subject to the notes that appear on the reverse. The applicant should read these notes carefully. To request an update for this certificate go to: [www.sro.vic.gov.au/certificates](http://www.sro.vic.gov.au/certificates)

**Paul Broderick**  
Commissioner of State Revenue

CAPITAL IMP VALUE: \$712,000

SITE VALUE: \$343,000

AMOUNT PAYABLE: \$0.00

## Land Tax Clearance Certificate - Remittance Advice

**Certificate No:** 24161498

**Land ID:** 38307446

**Amount Payable:** \$0.00

State Revenue Office  
GPO Box 4376  
MELBOURNE VIC 3001

Please return this section with your payment. For further information refer overleaf.  
Do not mark below this line.

# Notes to certificates under Section 105 of the *Land Tax Act 2005*

Certificate No: 24161498

- Under Section 96 of the Land Tax Act 2005 (the Act), unpaid land tax (including special land tax and vacant residential land tax) is a first charge on the land to which it relates and should the vendor default, payment will be obtained from the purchaser. The purchaser should take into account the possibility that the vendor may default where land tax has been assessed but not paid.
- If land tax (including special land tax and vacant residential land tax) is due but not paid on a property, the Land Tax Clearance Certificate will certify the amount of land tax due and payable on that land. This amount will be binding on the Commissioner of State Revenue (the Commissioner) for purposes of section 96 of the Act whether or not it is paid to the State Revenue Office (SRO) on, or shortly after, settlement.
- The amount of land tax on this certificate relates to the amount of land tax (including special land tax and vacant residential land tax) due and payable as at the date of the application only and not to any future liability or the tax status of the land.
- A 'Nil' Land Tax Clearance certificate does not mean that the land on the certificate is exempt from land tax or vacant residential land tax.
- If land tax (including special land tax or vacant residential land tax) will be payable on a property but payment is not due at the time the application is processed, the certificate will certify the amount that should be retained by the purchaser at settlement and remitted to the SRO. The Commissioner will consider himself bound by this amount against the purchaser, only if the amount is remitted to the SRO within 28 days after settlement.
- If the amount in 3. (above) is understated, the Commissioner has the right to seek recovery of the correct amount, or the balance, as the case may be, from
  - the vendor, or
  - the purchaser, if the vendor defaults and the certified amount has not been remitted to the SRO within 28 days after settlement.
- If an amount is certified in respect of a proposed sale which is not completed, the Commissioner will not be bound by the same amount in respect of a later sale of the subject land - another certificate must be applied for in respect of that transaction.
- If an amount certified is excessively high (for example, because an exemption or concession has not been deducted in calculating the amount) the Commissioner will issue an amended certificate, without an additional fee being charged on receipt of sufficient evidence to that effect from the vendor.
- If no land tax (including special land tax or vacant residential land tax) is stated as being payable in respect of the property, the Commissioner will consider himself bound by that certification, in respect of the purchaser, if the land is subsequently found to be taxable and the vendor defaults.
- If the vendor refuses to be bound by an amount stated by the Commissioner and does not agree to the amount being withheld and remitted at settlement, the purchaser cannot rely on such refusal as a defence to an action by the Commissioner to recover the outstanding amount from the purchaser under Sections 96 or 98 of the Act.
- The information on a certificate cannot preclude the Commissioner from taking action against a vendor to recover outstanding land tax (including special land tax and vacant residential land tax).

## For Information Only

### LAND TAX CALCULATION BASED ON SINGLE OWNERSHIP

Land Tax = \$461.00

Taxable Value = \$343,000

Calculated as \$275 plus ( \$343,000 - \$250,000) multiplied by 0.200 cents.

## Further information

Internet	<a href="http://www.sro.vic.gov.au">www.sro.vic.gov.au</a>
Email	<a href="mailto:sro@sro.vic.gov.au">sro@sro.vic.gov.au</a> (Attn: Land Tax)
Phone	13 21 61 (local call cost)
Fax	03 9628 6853
Mail	State Revenue Office GPO Box 4376 MELBOURNE VIC 3001

## Payment options

Make cheque payable to **State Revenue Office, Victoria** marked 'Not Negotiable' and return with the remittance advice to:



### Payment by mail:

- State Revenue Office  
GPO Box 4376  
MELBOURNE VIC 3001



CERTIFICATE No: 53463208 DATE: 01/10/2018

# PLANNING CERTIFICATE

**Client:** Michael Snider Solicitor  
PO Box 325  
  
ELSTERNWICK 3185

**Matter Ref:** Nafrock Investments Pty. Ltd.  
**Vendor:** NAFROCK INVESTMENTS  
PTY. LTD.  
**Purchaser:**

**Subject Property:** 75 BRIDGE MALL BALLARAT CENTRAL VIC 3350

**Title Particulars:** Vol 9513 Fol 775

**Municipality:** BALLARAT

**Planning Scheme:** BALLARAT PLANNING SCHEME

**Responsible Authority for administering and enforcing the Scheme:** BALLARAT CITY COUNCIL

**Zone:** COMMERCIAL 1 ZONE

**Abuttal to a Road Zone or a Public Acquisition Overlay for a Proposed Road or Road Widening:** Not Applicable

**Design and Development Overlay:** DESIGN AND DEVELOPMENT OVERLAY - SCHEDULE 1

**Development Contributions Plan Overlay:** Not Applicable

**Development Plan Overlay:** Not Applicable

**Environmental Audit Overlay:** Not Applicable

**Environmental Significance Overlay:** Not Applicable

**Heritage Overlay:** HERITAGE OVERLAY (HO176)

**Public Acquisition Overlay:** Not Applicable

**Significant Landscape Overlay:** Not Applicable

**Special Building Overlay:** Not Applicable

**Vegetation Protection Overlay:** Not Applicable

**Other Overlays:** Not Applicable

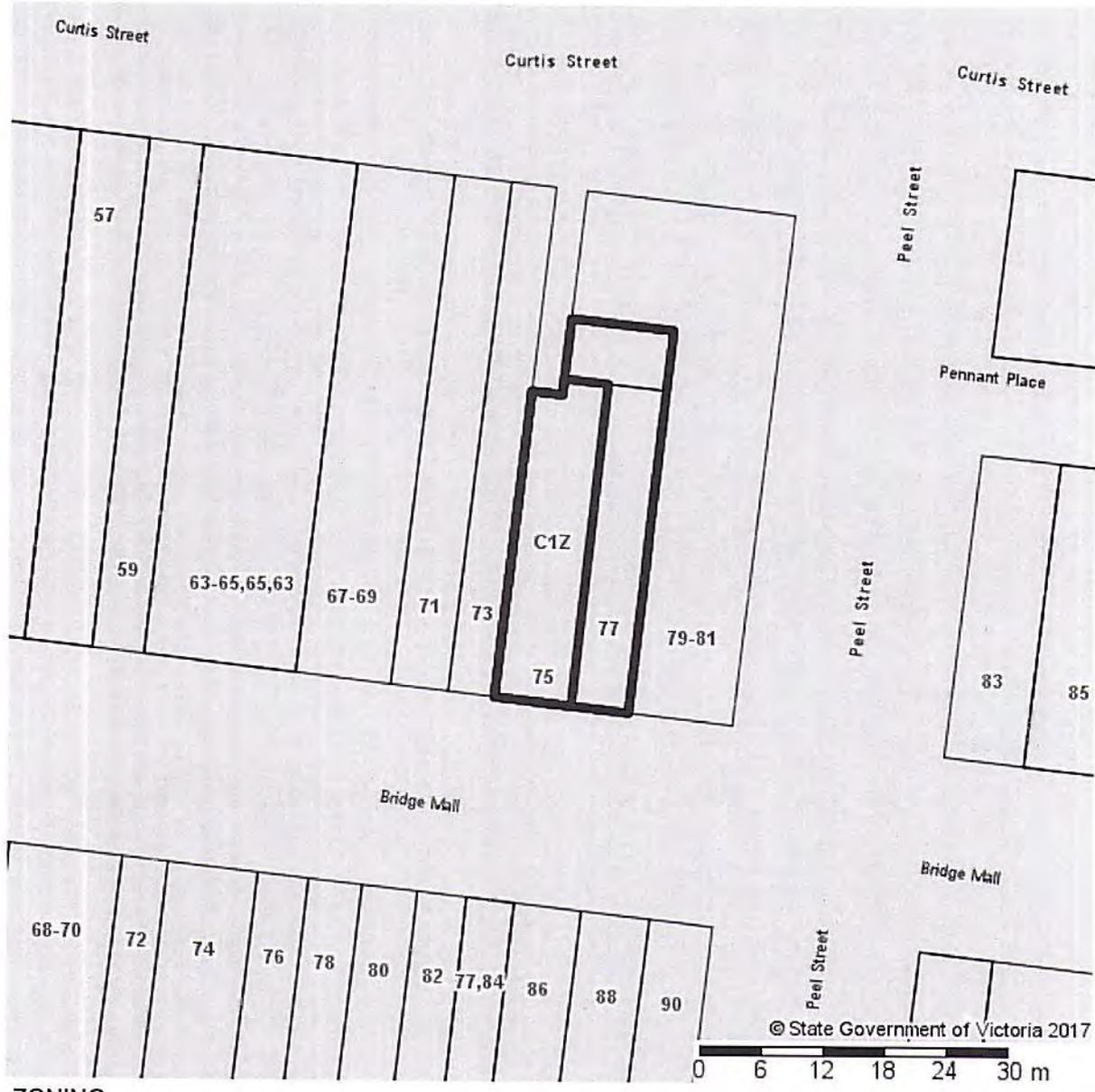
**Proposed Planning Scheme Amendments:** Not Applicable

**Additional Notes:** Not Applicable

*The information source for each entry on this certificate has been checked and if shown as Not Applicable does not apply to the subject property. In addition to Planning Scheme Zone and Overlay Provisions, Victorian Planning Schemes comprise the State Planning Policy Framework, the Local Planning Policy Framework, Particular Provisions and General Provisions. Strategies, policies and provisions detailed in these sections of the Planning Scheme may affect the use and development of land.*

CERTIFICATE No: 53463208 DATE: 01/10/2018

# PLANNING CERTIFICATE



**ZONING**  
 COMMERCIAL 1 ZONE

This map extract is sourced from data maintained by the State of Victoria and is provided for information purposes only. No representation is made as to the accuracy of the content, and SAI Global Property Division Pty Ltd does not accept any liability to any person for the information provided.

**Building Permit 10 Year Search**  
Pursuant to regulation 51 (1)(a)&(c) Building Regulation 2018

**Document Issue Date:** 03-Oct-2018  
**Certificate No:** 5650  
**eServices Ref:** 53463208:83654488:51225  
**Property Address:** 75 Bridge Mall, BALLARAT CENTRAL VIC 3350

1. Details of any permit or certificate of final inspection issued in the preceding 10 years.

Search of Council records of any permits or final certificates issued in the preceding 10 years show:

<b>Application No. (if applicable)</b>	<b>Description (if applicable)</b>
BPA/2008/480/P	Internal renovation of shop (install wash bay)
Private Permit	9 May 2008

*Please take a note, this information is not evidence that an illegal works do not exist. There may be outstanding building permits issued prior to 10 year prescribed period.*

2. Details of any current notice or order issued by the relevant building surveyor under the Act.

Search of Council records of any current notices or orders issued by the relevant building surveyor under the Act show:

<b>Notice/Order No. (if applicable)</b>	<b>Description (if applicable)</b>
-----------------------------------------	------------------------------------

- There are no current building notices or orders issued on this property.



CERTIFICATE No: 53463427 DATE: 01/10/2018

# ROADS CERTIFICATE

**Client:** Michael Snider Solicitor  
PO Box 325  
  
ELSTERNWICK 3185

**Matter Ref:** Carleigh Motors (Vic) Pty. Ltd.  
**Vendor:** CARLEIGH MOTORS (VIC)  
PTY. LTD.  
**Purchaser:**

**Subject Property:** 1304 GLEN HUNTLY ROAD CARNEGIE VIC 3163

**Title Particulars:** Vol 5935 Fol 993

**Municipality:** GLEN EIRA

**Advice of approved VicRoads proposals:** VICROADS HAS NO APPROVED PROPOSAL REQUIRING ANY PART OF THE PROPERTY DESCRIBED IN YOUR APPLICATION. YOU ARE ADVISED TO CHECK YOUR LOCAL COUNCIL PLANNING SCHEME REGARDING LAND USE ZONING OF THE PROPERTY AND SURROUNDING AREA.

*Refer to the Planning Certificate for details of land reserved in the Planning Scheme for Road Proposals. VicRoads have advised that investigative studies exist which may form part of information provided on VicRoads certificates.*

## Bushfire Prone Area Report

From [www.planning.vic.gov.au](http://www.planning.vic.gov.au) on 12 October 2018 09:49 AM

Address: 75 BRIDGE MALL BALLARAT CENTRAL 3350

Lot / Plan: Lot 2 RP19005

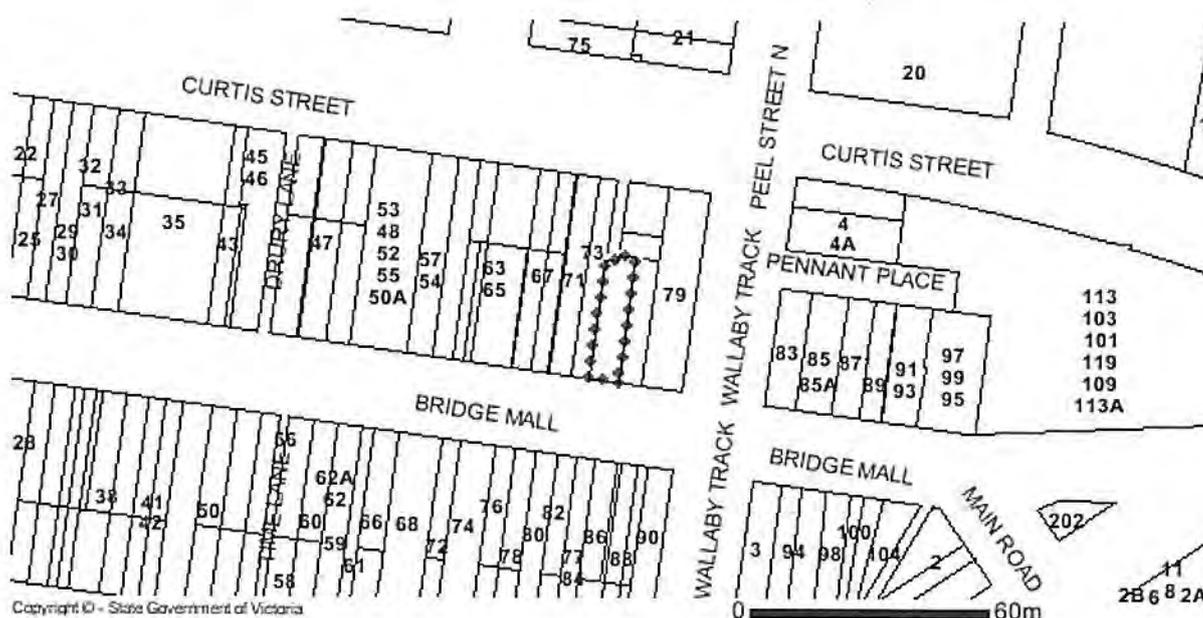
Local Government (Council): BALLARAT Council Property Number: 2003769

Directory Reference: VicRoads 566 E8

This property is not in a designated bushfire prone area.

No special bushfire construction requirements apply. Planning provisions may apply.

### Designated Bushfire Prone Area Map



#### Bushfire Prone Area Legend

- Bushfire Prone Area
- Selected Land
- Railway
- Tram
- River, stream
- Lake, waterbody

Designated bushfire prone areas as determined by the Minister for Planning are in effect from 8 September 2011, as amended by gazette notices on 25 October 2012, 8 August 2013, 30 December 2013, 3 June 2014, 22 October 2014, 29 August 2015, 21 April 2016, 18 October 2016, 2 June 2017, 6 November 2017 and 16 May 2018.

The Building Regulations 2018 through application of the Building Code of Australia, apply bushfire protection standards for building works in designated bushfire prone areas.

Designated bushfire prone areas maps can be viewed via the Bushfire Prone Areas Map Service at <http://services.land.vic.gov.au/maps/bushfire.jsp> or at the relevant local council.

Note: prior to 8 September 2011, the whole of Victoria was designated as bushfire prone area for the purposes of the building control system.

Further information about the building control system and building in bushfire prone areas can be found in the Building Commission section of the Victorian Building Authority website [www.vba.vic.gov.au](http://www.vba.vic.gov.au)

Copies of the Building Act and Building Regulations are available from [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au)

For Planning Scheme Provisions in bushfire areas in Victoria visit [Planning Schemes Online](#)

For Planning Scheme provisions for this property return to the GetReports list and select the Planning Property Report

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Notwithstanding this disclaimer, a vendor may rely on the information in this report for the purpose of a statement that land is in a bushfire prone area as required by section 32(2)(dc) of the Sale of Land 1962 (Vic).

**NAFROCK INVESTMENTS PTY. LTD.**  
**A.C.N. 005 170 178**  
**("Landlord")**

with

**THORN AUSTRALIA PTY. LTD.**  
**A.C.N. 008 454 439**  
**("Tenant")**

---

**LEASE**

---

**Premises: 75 BRIDGE MALL, BALLARAT CENTRAL 3350**

**MICHAEL SNIDER**  
**Legal Practitioner**  
**P.O. Box 325**  
**ELSTERNWICK 3185**

**Telephone: 9571 1433**  
**Facsimile: 9571 2033**  
**Email: [michael.snider@bigpond.com](mailto:michael.snider@bigpond.com)**

---

# LEASE OF REAL ESTATE

(WITH GUARANTEE & INDEMNITY)

(COMMERCIAL PROPERTY)

EXECUTED AS A DEED ON

DATE: 17<sup>th</sup> day of SEPTEMBER 2018

EXECUTION & ATTESTATION:

EXECUTED by **NAFROCK INVESTMENTS PTY. LTD.**

**A.C.N. 005 170 178**

by being signed by the persons who are authorised to sign for the Company in accordance with Section 127 (1) of the Corporations Act 2001

  
..... Director  
Leon Naftal

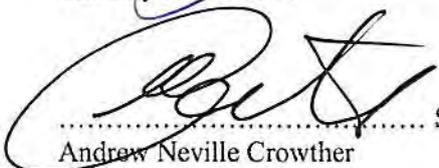
  
..... Director  
Rivka Naftal

EXECUTED by **THORN AUSTRALIA PTY. LTD.**

**A.C.N. 008 454 439**

by being signed by the persons who are authorised to sign for the Company in accordance with Section 127 (1) of the Corporations Act 2001

  
..... Director  
Timothy James Luce

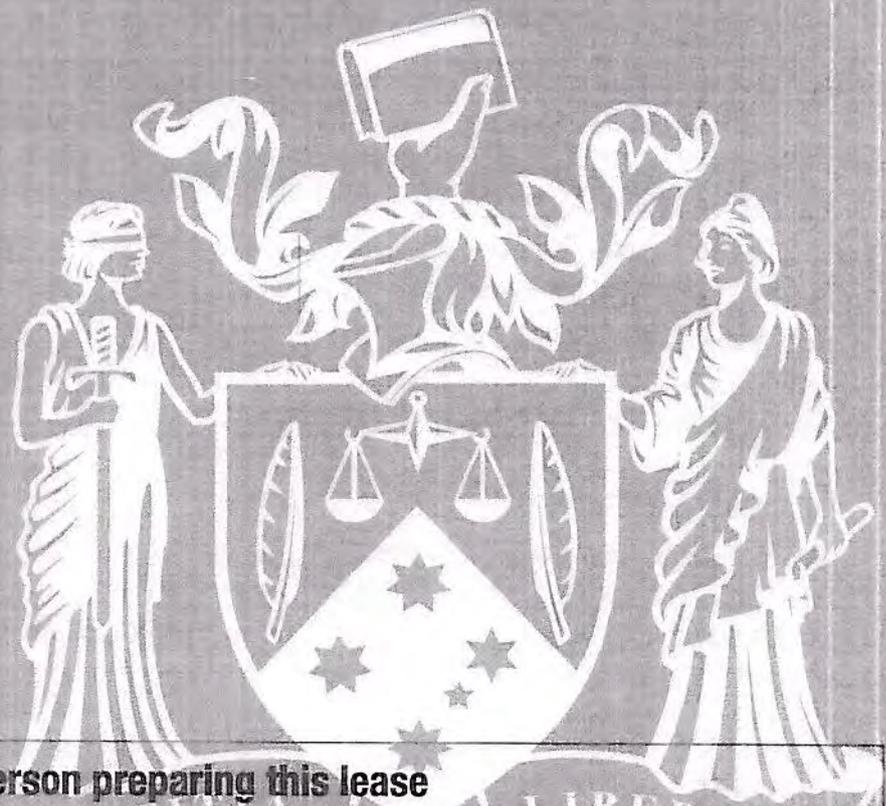
  
..... Secretary  
Andrew Neville Crowther

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# Lease of Real Estate

## with Guarantee & Indemnity (Commercial Property)



### Important notices to the person preparing this lease

This lease is in a standard form. You may need to make changes to record the agreement of the landlord, tenant, and any guarantor. You should carefully check the whole document and make appropriate deletions, alterations, and/or additions so it agrees with the instructions you have received. You should note the warranty in clause 22 and record any alterations to the lease conditions in schedule item 22 and **not** in the lease conditions. If the lease is one to which the *Retail Leases Act 2003 (Vic)* applies, the parties should refer to that Act for important rights and obligations that are not set out in this lease.

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The **landlord** leases the **premises** to the **tenant** for the **term** at the **rent** and on the conditions set out in this lease together with all necessary access over any **common areas**.

The **guarantor**, if any, agrees to be bound by the **guarantor's** obligations set out in this lease.

# Lease Conditions

## 1. DEFINITIONS AND INTERPRETATION

1.1 The listed expressions in **bold** print have the meaning set out opposite them –

EXPRESSION	MEANING
<b>accounting period</b>	the period of 12 months ending 30 June or other period of 12 months adopted by the <b>landlord</b> in respect of this lease for recovery of <b>building outgoings</b> and includes any broken periods at the start and end of the <b>term</b>
<b>Act</b>	the <i>Retail Leases Act 2003 (Vic)</i>
<b>building</b>	any building in which the <b>premises</b> are located, including the <b>landlord's installations</b>
<b>building outgoings</b>	<p>any of the following expenses (excluding capital expenses and expenses whose recovery from the <b>tenant</b> would be contrary to applicable legislation) incurred in respect of the <b>land</b>, the <b>building</b>, the <b>premises</b> or any premises in the <b>building</b> which include the <b>premises</b> -</p> <ul style="list-style-type: none"><li>(a) rates, levies and assessments imposed by any relevant authorities;</li><li>(b) taxes including land tax (unless the <b>Act</b> applies), calculated on the basis that the <b>land</b> is the only land of the <b>landlord</b> liable to tax and is not subject to a trust but excluding income tax and capital gains tax;</li><li>(c) the costs of maintaining and repairing the <b>building</b> and the <b>landlord's installations</b> and carrying out works as required by relevant authorities (but excluding any amount recovered in respect of maintenance or repair by the <b>landlord</b> from its insurer);</li><li>(d) premiums and charges for the following insurance policies taken out by the <b>landlord</b> -<ul style="list-style-type: none"><li>(i) damage to and destruction of the <b>premises</b> for their replacement value for the risks listed in <b>item 11</b>,</li><li>(ii) removal of debris,</li><li>(iii) breakdown of <b>landlord's installations</b>,</li><li>(iv) breakage of glass,</li><li>(v) public risk for any single event for the amount stated in <b>item 12</b> (if none is stated, \$10 million) or other amount reasonably specified from time to time by the <b>landlord</b>, and</li><li>(vi) loss of rent and outgoings for the period stated in <b>item 13</b> or, if none is stated, 12 months, and excesses paid or payable on claims,</li></ul></li></ul> <p>and, if the <b>premises</b> occupy only a part of the <b>lettable area</b> of the <b>building</b>, the following further items -</p> <ul style="list-style-type: none"><li>(e) costs incurred in providing services to the <b>building</b> and the <b>land</b> including -<ul style="list-style-type: none"><li>(i) heating,</li><li>(ii) cooling,</li><li>(iii) air-conditioning,</li><li>(iv) cleaning,</li><li>(v) pest control,</li><li>(vi) waste collection,</li><li>(vii) lighting,</li><li>(viii) landscaping and garden maintenance,</li><li>(ix) security, and</li><li>(x) fire safety prevention, detection and control;</li></ul></li><li>(f) accountancy and audit fees; and</li><li>(g) costs of whatever description, reasonably incurred by the <b>landlord</b> in the administration, management or operation of the <b>building</b> and the <b>land</b>,</li></ul> <p>whether incurred by the <b>landlord</b> directly or as owners corporation levies, at cost to the <b>landlord</b> on the basis that an expense is deemed to have been paid at the time it fell due for payment</p>

<b>building rules</b>	any rules adopted from time to time for the <b>building</b> , including the rules of any owners corporation affecting the <b>premises</b>
<b>common areas</b>	areas in the <b>building</b> or on the <b>land</b> that are under the control of the <b>landlord</b> and are used or intended for use - (a) by the public; or (b) in common by tenants of premises in the <b>building</b> in relation to the carrying on of businesses on those premises,  other than areas which are let or licensed, or intended to be let or licensed, other than on a casual basis
<b>Consumer Price Index</b>	the consumer price index published by the Australian Government Statistician under the heading All Groups, Melbourne
<b>CPI review date</b>	a date specified in <b>item 16(b)</b>
<b>fixed review date</b>	a date specified in <b>item 16(c)</b>
<b>GST</b>	GST within the meaning of the <b>GST Act</b>
<b>GST Act</b>	<i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth)
<b>guarantor</b>	the person named in <b>item 3</b>
<b>item</b>	an item in the schedule to this lease
<b>land</b>	the parcel of land on which the <b>building</b> is erected and which is described in <b>item 4(b)</b>
<b>landlord</b>	the person named in <b>item 1</b> , or any other person who will be entitled to possession of the <b>premises</b> when this lease ends
<b>landlord's installations</b>	any property of the <b>landlord</b> , other than land or fixtures, from time to time in the <b>premises</b> or on the <b>land</b> and includes the property listed in <b>item 5</b>
<b>lettable area</b>	unless the <b>Act</b> applies and requires otherwise - (a) in relation to the <b>premises</b> , the area let; and (b) in relation to the <b>building</b> , the total area of the <b>building</b> that is let or licensed or intended to be let or licensed, other than on a casual basis.  When it is necessary to measure the <b>lettable area</b> of the <b>building</b> or any part of the <b>building</b> , the measurement is to be carried out using the most recent revision of the relevant Property Council of Australia method of measurement
<b>market review date</b>	a date specified in <b>item 16(a)</b>
<b>permitted use</b>	the use specified in <b>item 15</b>
<b>PPSA</b>	the <i>Personal Property Securities Act 2009</i> (Cth)
<b>premises</b>	the premises described in <b>item 4(a)</b> and fixed improvements and the <b>landlord's installations</b> within the <b>premises</b>
<b>rent</b>	the amount in <b>item 6</b> , as varied in accordance with this lease
<b>review date</b>	a date specified in <b>item 16</b>
<b>start of the lease</b>	the first day of the <b>term</b> but, if this lease is a renewal under an option in an earlier lease (whether or not this lease is on terms that are materially different to those contemplated by the earlier lease), the starting date of the first lease to contain an option for renewal.
<b>tenant</b>	the person named in <b>item 2</b> , or any person to whom the lease has been transferred
<b>tenant's agents</b>	the <b>tenant's</b> employees, agents, contractors, customers and visitors to the <b>premises</b>
<b>tenant's installations</b>	the items of equipment and fittings listed in <b>item 7</b> and those introduced by the <b>tenant</b> after the lease starts
<b>term</b>	the period stated in <b>item 8</b>
<b>valuer</b>	a person holding the qualifications or experience specified under section 13DA(2) of the <i>Valuation of Land Act 1960</i> (Vic) and, if the <b>Act</b> applies, a specialist retail valuer.

- 1.2 References to laws include statutes, regulations, instruments and by-laws and all other subordinate legislation or orders made by any authority with jurisdiction over the **premises**. Illegal means contrary to a law as defined in this sub-clause.
- 1.3 This lease must be interpreted so that it complies with all laws applicable in Victoria. If any provision of this lease does not comply with any law, then the provision must be read down so as to give it as much effect as possible. If it is not possible to give the provision any effect at all, then it must be severed from the rest of the lease.
- 1.4 The law of Victoria applies to this lease.
- 1.5 Any change to this lease must be in writing and signed by the parties.
- 1.6 If a party consists of more than one person –
- (a) the acts and omissions of any of them bind all of them; and
  - (b) an obligation imposed by this lease on or in favour of more than one person binds or benefits them separately, together and in any combination.
- 1.7 The use of one gender includes the others and the singular includes the plural and vice versa.
- 1.8 If the **landlord**, **tenant** or **guarantor** is an individual, this lease binds that person's legal personal representative. If any of them is a corporation, this lease binds its transferees.
- 1.9 This lease, including all guarantees and indemnities, is delivered and operates as a deed.
- 1.10 The **tenant** is bound by and answerable for the acts and omissions of the **tenant's agents**.
- 1.11 If there is a conflict between a provision in the schedule and one of these lease conditions then the provision in the schedule is to prevail.
- 1.12 "Include" and every form of that word is to be read as if followed by "(without limitation)".
- 1.13 This lease includes the schedule.
- 1.14 The parties consider that the application of the **Act** to this lease is as specified in **item 15** and, if **item 15** states that the **Act** does not apply, that the reason is as specified in **item 15**.

## 2. TENANT'S PAYMENT, USE AND INSURANCE OBLIGATIONS

### 2.1 The **tenant** must -

- 2.1.1 pay the **rent** without any set-off (legal or equitable) or deduction whatever to the **landlord** on the days and in the way stated in **item 9** without the need for a formal demand. The **landlord** may direct in writing that the **rent** be paid to another person. The **rent** is reviewed on each **review date** specified in **item 16** -
- (a) on a **market review date**, the **rent** is reviewed in accordance with clause 11,
  - (b) on a **CPI review date**, the **rent** is reviewed in accordance with clause 18, and
  - (c) on a **fixed review date**, the **rent** is either increased by the fixed percentage or changed by or to the fixed amount, in either case as specified in **item 16** in respect of that **fixed review date**.
- 2.1.2 produce receipts for paid **building outgoings** within 7 days of a request.
- 2.1.3 pay when due all charges for the provision of services to the **premises** including gas, electricity, water and telephone.
- 2.1.4 remove regularly from the **premises** all rubbish and waste generated by the **tenant's** operations.
- 2.1.5 pay the proportion of the **building outgoings** specified in **item 10** in accordance with clause 5.4.
- 2.1.6 pay or reimburse within 7 days of a request all increases in insurance premiums paid or payable by the **landlord** as the result of the **tenant's** use of the **premises**.
- 2.1.7 pay within 7 days of a request interest at the rate stated in **item 14** on any **rent** or other money which the **tenant** has not paid within 7 days of the due date. Interest is to be calculated daily from the due date, continues until the overdue money is paid and is capitalised monthly.
- 2.1.8 pay within 7 days of a request the **landlord's** reasonable expenses and legal costs in respect of -
- (a) ~~the negotiation, preparation, settling, execution and stamping (if applicable) of this lease,~~
  - (b) change to this lease requested by the **tenant** whether or not the change occurs,
  - (c) the surrender or ending of this lease (other than by expiration of the **term**) requested by the **tenant**, whether or not the lease is surrendered or ended,
  - (d) the transfer of this lease or subletting of the **premises** or proposed transfer or sub-letting whether or not the transfer or subletting occurs,
  - (e) a request by the **tenant** for consent or approval, whether or not consent or approval is given,
  - (f) any breach of this lease by the **tenant**, or
  - (g) the exercise or attempted exercise by the **landlord** of any right or remedy against the **tenant**, but, if the **Act** applies, only to the extent to which the **Act** permits recovery.
- 2.1.9 pay any stamp duty on this lease, on any renewal, and any additional stamp duty after a review of **rent**.
- 2.1.10 subject to clauses 3.3.2 and 3.3.3, comply with all laws relating to the use or occupation of the **premises**.
- 2.1.11 carry on the business of the **permitted use** efficiently and, subject to all applicable laws, keep the **premises** open during the business hours which are normal for the **permitted use** and not suspend or discontinue the operation of the business.

- 2.1.12 comply with the **landlord's** reasonable requirements in relation to the use of the **landlord's installations** and any services provided by the **landlord**.
- 2.1.13 subject to clauses 3.3.2 and 3.3.3, comply with the laws and requirements of relevant authorities relating to essential safety measures, occupational health and safety and disability discrimination relevant to the **premises** or the **building**.
- 2.2 The **tenant** must not, and must not let anyone else -
  - 2.2.1 use the **premises** except for the **permitted use**, but the **tenant** agrees that the **landlord** has not represented that the **premises** may be used for that use according to law or that the **premises** are suitable for that use.
  - 2.2.2 use the **premises** for any illegal purpose.
  - 2.2.3 carry on any noxious or offensive activity on the **premises**.
  - 2.2.4 do anything which might cause nuisance, damage or disturbance to a tenant, occupier or owner of any adjacent property.
  - 2.2.5 conduct an auction or public meeting on the **premises**.
  - 2.2.6 use radio, television or other sound-producing equipment at a volume that can be heard outside the **premises**.
  - 2.2.7 do anything which might affect any insurance policy relating to the **premises** by causing -
    - (a) it to become void or voidable,
    - (b) any claim on it to be rejected, or
    - (c) a premium to be increased.
  - 2.2.8 keep or use chemicals, inflammable fluids, acids, or other hazardous things on the **premises** except to the extent necessary for the **permitted use**, or create fire hazards.
  - 2.2.9 do anything which might prejudicially affect the essential safety measures or the occupational health and safety or disability discrimination status of the **premises** or the **building**.
  - 2.2.10 place any sign on the exterior of the **premises** without the **landlord's** written consent.
  - 2.2.11 make any alteration or addition, or affix any object, to the **premises** except with the **landlord's** written consent; consent is at the **landlord's** discretion for any alteration, addition or affixation affecting the structure of the **building** or any of the infrastructure for the provision of services to the **building** but, otherwise, clause 9.1 applies. In undertaking any work for which the **landlord's** consent has been obtained, the **tenant** must strictly conform to plans approved by the **landlord** and comply with all reasonable conditions imposed on that consent by the **landlord** and the requirements of each authority with jurisdiction over the **premises**.
  - 2.2.12 bring onto the **premises** any object which, due to its nature, weight, size or operation, might cause damage to the **premises**, the **building**, or the effective operation of the infrastructure for the provision of services to the **premises** or the **building**, without the **landlord's** written consent.
  - 2.2.13 except in an emergency, interfere with any infrastructure for the provision of services in the **premises**, the **building**, or in any property of which the **premises** are part.
- 2.3 The **tenant** must -
  - 2.3.1 take out and keep current an insurance cover for the **premises** in the name of the **tenant** and noting the interest of the **landlord**, for public risk for any single event for the amount stated in **item 12** or, if none is stated, for \$10 million, with an extension which includes the indemnities given by the **tenant** to the **landlord** in clauses 5.2 and 5.3.2 of this lease to the extent that such an extension is procurable on reasonable terms in the Australian insurance market.
  - 2.3.2 maintain the insurance cover with an insurer approved by the **landlord**.
  - 2.3.3 produce satisfactory evidence of insurance cover on written request by the **landlord**.

### 3. REPAIRS, MAINTENANCE, FIRE PREVENTION AND REQUIREMENTS OF AUTHORITIES

- 3.1 Subject to clause 3.3, the **tenant** must -
  - 3.1.1 keep the **premises** in the same condition as at the **start of the lease**, except for fair wear and tear; and
  - 3.1.1 comply with all notices and orders affecting the **premises** which are issued during the **term** except any notices or orders that applicable legislation makes the responsibility of the **landlord**.
- 3.2 In addition to its obligations under clause 3.1, the **tenant** must -
  - 3.2.1 repaint or refinish all painted or finished surfaces in a workmanlike manner with as good quality materials as previously at least once every 5 years during the **term** and any further term viewed as one continuous period.
  - 3.2.2 keep the **premises** properly cleaned and free from rubbish, keep waste in proper containers and have it removed regularly.
  - 3.2.3 immediately replace glass which becomes cracked or broken with glass of the same thickness and quality.
  - 3.2.4 immediately repair defective windows, light fittings, doors, locks and fastenings, and replace missing or inoperative light-globes and fluorescent tubes, keys and keycards.
  - 3.2.5 maintain in working order all plumbing, drainage, gas, electric, solar and sewerage installations.
  - 3.2.6 promptly give written notice to the **landlord** or **landlord's** agent of -
    - (a) damage to the **premises** or of any defect in the structure of, or any of the infrastructure for the provision of services to, the **premises**,

- (b) receipt of a notice or order affecting the **premises**,
  - (c) any hazards threatening or affecting the **premises**, and
  - (d) any hazards arising from the **premises** for which the **landlord** might be liable.
- 3.2.7 immediately make good damage caused to adjacent property by the **tenant** or the **tenant's agents**.
- 3.2.8 permit the **landlord**, its agents or workmen to enter the **premises** during normal business hours, after giving reasonable notice (except in cases of emergency) -
- (a) to inspect the **premises**,
  - (b) to carry out repairs or agreed alterations, and
  - (c) to do anything necessary to comply with notices or orders of any relevant authority bringing any necessary materials and equipment.
- 3.2.9 carry out repairs within 14 days of being served with a written notice of any defect or lack of repair which the **tenant** is obliged to make good under this lease. If the **tenant** does not comply with the notice, the **landlord** may carry out the repairs and the **tenant** must repay the cost to the **landlord** within 7 days of a request.
- 3.2.10 only use persons approved by the **landlord** to repair and maintain the **premises** but, if the **Act** applies, only use persons who are suitably qualified.
- 3.2.11 comply with all reasonable directions of the **landlord** or the insurer of the **premises** as to the prevention, detection and control of fire.
- 3.2.12 on vacating the **premises**, remove all signs and make good any damage caused by installation or removal.
- 3.2.13 take reasonable precautions to secure the **premises** and their contents from theft, keep all doors and windows locked when the **premises** are not in use and comply with the **landlord's** directions for the use and return of keys or keycards.
- 3.2.14 permit the **landlord** or its agent access to the **premises** at reasonable times by appointment to show the **premises** -
- (a) to valuers and to the **landlord's** consultants,
  - (b) to prospective purchasers at any time during the **term**, and
  - (c) to prospective tenants within 3 months before the end of the **term** (unless the **tenant** has exercised an option to renew this lease)
- and to affix "for sale" or "to let" signs in a way that does not unduly interfere with the **permitted use**.
- 3.2.15 maintain any grounds and gardens of the **premises** in good condition, tidy, free from weeds and well-watered.
- 3.2.16 maintain and keep in good repair any heating, cooling or air conditioning equipment exclusively serving the **premises**.
- 3.3 The **tenant** is not obliged -
- 3.3.1 to repair damage against which the **landlord** must insure under clause 6.2 or to reimburse the **landlord** for items of expense or damage that would be covered under insurance of the type specified unless the **landlord** loses or, where the **landlord** has failed to insure as required, would have lost, the benefit of the insurance because of acts or omissions by the **tenant** or the **tenant's agents**.
- 3.3.2 to carry out structural or capital repairs or alterations or make payments of a capital nature unless the need for them results from -
- (a) negligence by the **tenant** or the **tenant's agents**,
  - (b) failure by the **tenant** to perform its obligations under this lease,
  - (c) the **tenant's** use of the **premises**, other than reasonable use for the **permitted use**, or
  - (d) the nature, location or use of the **tenant's installations**,
- in which case the repairs, alterations or payments are the responsibility of the **tenant**.
- 3.3.3 to carry out any work that applicable legislation makes the responsibility of the **landlord**.

#### 4. LEASE TRANSFERS AND SUBLETTING

- 4.1 The **tenant** must not transfer this lease or sublet the **premises** without the **landlord's** written consent, and section 144 of the *Property Law Act 1958* (Vic) and clause 9.1 do not apply.
- 4.2 The **landlord** -
- 4.2.1 subject to sub-clause 4.2.2, must not unreasonably withhold consent to a transfer of this lease or a sublease of the **premises** if the **tenant** has complied with the requirements of clause 4.3 and the proposed transferee or subtenant proposes to use the **premises** in a way permitted under this lease. If the **Act** applies, the **landlord** may only withhold consent to a transfer of this lease in accordance with the **Act**.
- 4.2.2 may withhold consent at the **landlord's** discretion if the **Act** does not apply, and a transfer of this lease would result in the **Act** applying, or applying if this lease is renewed for a further term.
- 4.3 To obtain the **landlord's** consent to a transfer or sublease the **tenant** must -
- 4.3.1 ask the **landlord** in writing to consent to the transfer or sublease,
- 4.3.2 give the **landlord** -

- (a) in relation to each proposed new tenant or sub-tenant such information as the **landlord** reasonably requires about its financial resources and business experience and if the **Act** does not apply, any additional information reasonably required by the **landlord** to enable it to make a decision, and
  - (b) a copy of the proposed document of transfer or sublease, and
- 4.3.3 remedy any breach of the lease which has not been remedied and of which the **tenant** has been given written notice.
- 4.4 If the **Act** applies and -
- 4.4.1 the **tenant** has asked the **landlord** to consent to a transfer and complied with clause 4.3 and section 61 of the **Act**, and
  - 4.4.2 the **landlord** fails to respond by giving or withholding consent to the transfer within 28 days, then the **landlord** is to be taken as having consented.
- 4.5 If the **landlord** consents to the transfer or sublease, the **landlord**, the **tenant**, the new tenant or sub-tenant, and the **guarantor** must execute the documents submitted under sub-clause 4.3.2(b). The directors of the new tenant (if it is a corporation) must execute a guarantee and indemnity in the terms of clause 15.
- 4.6 The **tenant** must pay the **landlord's** reasonable expenses incurred in connection with an application for consent or the granting of consent and the completion of the documents, as well as any stamp duty on the documents.
- 4.7 Except by a transfer or sublease to which the **landlord** has consented, or is to be taken as having consented, the **tenant** must not give up possession or share occupancy of the **premises** or grant a licence to anyone else or mortgage or charge its interest under this lease or enter into any arrangement that gives a person the right to enter into occupation of the **premises**, without the **landlord's** written consent; consent is at the **landlord's** discretion.
- 4.8 Subject to the **Act**, if it applies, the obligations to the **landlord** of every **tenant** who has transferred this lease continue until this lease ends. They do not continue into any period of overholding after this lease ends, nor into any renewed term: at those times they are the responsibility only of the **tenant** in possession. This clause does not prevent the **landlord** from enforcing rights which arise before this lease ends.

## 5. GENERAL AGREEMENTS BETWEEN LANDLORD AND TENANT

- 5.1 When the **term** ends, the **tenant** must -
- 5.1.1 return the **premises** to the **landlord** clean and in the condition required by this lease, and
  - 5.1.2 remove the **tenant's installations** and other **tenant's** property from the **premises** and make good any damage caused in installing or removing them.
- If the **tenant** leaves any **tenant's installations** or other **tenant's** property on the **premises** after the end of the lease, unless the **landlord** and **tenant** agree otherwise -
- 5.1.3 all items of **tenant's installations** and **tenant's** property will be considered abandoned and will become the property of the **landlord**, but the **landlord** may remove any of the **tenant's installations** or other property of the **tenant** and recover the costs of removal and making good as a liquidated debt payable on demand; and
  - 5.1.4 the parties intend that clause 5.1.3 operate in relation to **tenant's installations** and **tenant's** property in place of any legislation that might otherwise apply to goods remaining on the **premises**.
- 5.2 The **tenant** indemnifies the **landlord** against any claim resulting from any act or failure to act by the **tenant** or the **tenant's agents** while using the **premises**.
- 5.3 The **tenant** -
- 5.3.1 uses and occupies the **premises** at its own risk, and
  - 5.3.2 releases the **landlord** from and indemnifies the **landlord** against all claims resulting from incidents occurring on the **premises** (except to the extent caused or contributed to by the **landlord**, or a person for whom the **landlord** is responsible) or resulting from damage to adjacent premises covered by clause 3.2.7.
- 5.4 In relation to **building outgoings** -
- 5.4.1 the **landlord** must pay the **building outgoings** when they fall due for payment but, if the **landlord** requires, the **tenant** must pay when due a **building outgoing** for which the **tenant** receives notice directly and reimburse the **landlord** within 7 days of a request all **building outgoings** for which notices are received by the **landlord**.
  - 5.4.2 the **tenant** must pay or reimburse the **landlord** the proportion specified in **item 10**.
  - 5.4.3 at least 1 month before the start of an **accounting period**, the **landlord** may, or if the **Act** applies must, give the **tenant** an estimate of **building outgoings** for the **accounting period**.
  - 5.4.4 despite clause 5.4.1, if the **landlord** requires, the **tenant** must pay its share of the estimated **building outgoings** by equal monthly instalments during the **accounting period** on the days on which **rent** is payable (after allowing for **building outgoings** paid directly or separately reimbursed by the **tenant**).
  - 5.4.5 if the **Act** applies, the **landlord** must make a statement of **building outgoings** available during each **accounting period** as required by the **Act**.
  - 5.4.6 within three months after the end of an **accounting period**, the **landlord** must give the **tenant** a statement of the actual **building outgoings** for the **accounting period** (if the **Act** applies and requires that the statement be accompanied by a report by a registered company auditor, the statement must be accompanied by a report complying with section 47(5); if

the **Act** applies but does not require that the statement be accompanied by a report by a registered company auditor, the statement must be accompanied by the items specified in section 47(6)(b)).

- 5.4.7 the **tenant** must pay any deficiency or the **landlord** must repay any excess, within 1 month after a statement is provided under clause 5.4.6 or within 4 months after the end of the **accounting period**, whichever is earlier.
- 5.4.8 the parties must make an appropriate adjustment for any **building outgoing** incurred in respect of a period beginning before the start of the **term** or extending beyond the end of the **term**.
- 5.5 If the freehold of the **premises** (or the **building**) is transferred, the transferor **landlord** is released from all lease obligations falling due for performance on or after the date of the instrument of transfer.
- 5.6 Payment or tender by cheque is not effective until clearance of funds.

## 6. LANDLORD'S OBLIGATIONS

- 6.1 The **landlord** must give the **tenant** quiet possession of the **premises** without any interruption by the **landlord** or anyone connected with the **landlord** as long as the **tenant** does what it must under this lease.
- 6.2 The **landlord** must take out at the start of the **term** and keep current policies of insurance for the risks listed in **item 11** against -
  - 6.2.1 damage to and destruction of the **building**, for its replacement value,
  - 6.2.2 removal of debris,
  - 6.2.3 breakdown of **landlord's installations**, and
  - 6.2.4 breakage of glass, for its replacement value.
- 6.3 The **landlord** must give to the **tenant** the written consent to this lease of each mortgagee whose interest would otherwise have priority over this lease by endorsement on this lease in the terms set out following the 'execution and attestation' section.
- 6.4 The **landlord** must keep the structure (including the external faces and roof) of the **building** and the **landlord's installations** in a condition consistent with their condition at the **start of the lease**, but is not responsible for repairs which are the responsibility of the **tenant** under clauses 3.1, 3.2 and 3.3.2.

## 7. EVENTS OF DEFAULT AND LANDLORD'S RIGHTS

- 7.1 The **landlord** may terminate this lease, by re-entry or notice of termination, if -
  - 7.1.1 the **rent** is unpaid <sup>after</sup> the day on which it falls due for payment, <sup>\* for seven (7) days</sup>
  - 7.1.2 the **tenant** does not meet its obligations under this lease.
  - 7.1.3 the **tenant** is a corporation and -
    - (a) an order is made or a resolution is passed to wind it up except for reconstruction or amalgamation,
    - (b) goes into liquidation,
    - (c) is placed under official management,
    - (d) has a receiver, including a provisional receiver, or receiver and manager of any of its assets or an administrator appointed,
    - (e) without the **landlord's** written consent, there is a different person in effective control of the **tenant** as a result of changes in -
      - (i) membership of the company or its holding company,
      - (ii) beneficial ownership of the shares in the company or its holding company, or
      - (iii) beneficial ownership of the business or assets of the company,but this paragraph does not apply if the **tenant** is a public company listed on a recognised Australian public securities exchange, or a subsidiary of one."Effective control" means the ability to control the composition of the board of directors or having more than 50% of the shares giving the right to vote at general meetings,
  - 7.1.4 a warrant issued by a court to satisfy a judgement against the **tenant** or a **guarantor** is not satisfied within 30 days of being issued,
  - 7.1.5 a **guarantor** is a natural person and -
    - (a) becomes bankrupt,
    - (b) takes or tries to take advantage of Part X of the *Bankruptcy Act 1966* (Cth),
    - (c) makes an assignment for the benefit of their creditors, or
    - (d) enters into a composition or arrangement with their creditors,
  - 7.1.6 a **guarantor** is a corporation and one of the events specified in (a) to (e) of clause 7.1.3 occurs in relation to it, or
  - 7.1.7 the **tenant**, without the **landlord's** written consent -
    - (a) discontinues its business on the **premises**, or
    - (b) leaves the **premises** unoccupied for 14 days.
- 7.2 Termination by the **landlord** ends this lease, but the **landlord** retains the right to sue the **tenant** for unpaid money or for damages (including damages for the loss of the benefits that the **landlord** would have received if the lease had continued for the full **term**) for breaches of its obligations under this lease.

- 7.3 For the purpose of section 146(1) of the *Property Law Act 1958* (Vic), 14 days is fixed as the period within which the **tenant** must remedy a breach capable of remedy and pay reasonable compensation for the breach.
- 7.4 Breach by the **tenant** of any of the following clauses of this lease is a breach of an essential term and constitutes repudiation: 2.1.1, 2.1.5, 2.1.6, 2.1.10, 2.1.11, 2.2.1, 2.2.2, 2.2.7, 2.2.8, 2.2.9, 2.2.11, 2.2.12, 2.3, 3.2.11, 4.1, 4.7, 5.4.2, 5.4.7, 13 and 17. Other **tenant** obligations under this lease may also be essential.
- 7.5 Before terminating this lease for repudiation (including repudiation consisting of the non-payment of rent) or for an event to which section 146(1) of the *Property Law Act 1958* (Vic) does not extend, the **landlord** must give the **tenant** written notice of the breach and a period of 14 days in which to remedy it (if it is capable of remedy) and to pay reasonable compensation for it. A notice given in respect of a breach amounting to repudiation is not an affirmation of the lease.
- 7.6 Even though the **landlord** does not exercise its rights under this lease on one occasion, it may do so on any later occasion.

## 8. DESTRUCTION OR DAMAGE

- 8.1 If the **premises** or the **building** are damaged so that the **premises** are unfit for use for the **permitted use** or inaccessible-
- 8.1.1 a fair proportion of the **rent** and **building outgoings** is to be suspended until the **premises** are again wholly fit for the **permitted use** and accessible, and
- 8.1.2 the suspended proportion of the **rent** and **building outgoings** must be proportionate to the nature and extent of the unfitness for use or inaccessibility.
- 8.2 If the **premises** or the **building** are partly destroyed, but not substantially destroyed, the **landlord** must reinstate the **premises** or the **building** as soon as reasonably practicable.
- 8.3 If the **premises** or the **building** are wholly or substantially destroyed -
- 8.3.1 the **landlord** is not obliged to reinstate the **premises** or the **building**, and
- 8.3.2 if the reinstatement does not start within 3 months, or is not likely to be completed within 9 months, the **landlord** or the **tenant** may end this lease by giving the other written notice.
- 8.4 The **tenant** will not be entitled to suspension of **rent** or **building outgoings** under sub-clause 8.1.1 nor to end the lease under sub-clause 8.3.2 and the **landlord** will not be obliged to reinstate the **premises** or the **building** under clause 8.2 if payment of an insurance claim is properly refused in respect of the damage or destruction because of any act or omission by the **tenant** or the **tenant's agents**.
- 8.5 If the **Act** does not apply and there is a dispute under this clause, the **landlord** or the **tenant** may request the President of the Australian Property Institute, Victorian Division, to nominate a practising valuer member of that Institute to determine the dispute or the **landlord** and **tenant** may refer the dispute to mediation under clause 16 unless **item 21** states that the mediation procedure does not apply to this lease. The valuer acts as an expert and not as an arbitrator and the determination is binding.

## 9. CONSENTS AND WARRANTIES

- 9.1 Subject to the **Act** (if it applies), the **landlord** must not unreasonably withhold its consent or approval to any act by the **tenant** or matter which needs consent or approval unless any other clause provides otherwise, but -
- 9.1.1 the **landlord** may impose reasonable conditions on any consent or approval, and
- 9.1.2 the **tenant** must reimburse the **landlord's** reasonable expenses resulting from an application for its consent or approval, including fees paid to consultants.
- 9.2 This lease, together with (if the **Act** applies) any disclosure statement, contains the whole agreement of the parties. Neither the **landlord** nor the **tenant** is entitled to rely on any warranty or statement in relation to -
- 9.2.1 the conditions on which this lease has been agreed,
- 9.2.2 the provisions of this lease, or
- 9.2.3 the **premises**
- which is not contained in those documents.

## 10. OVERHOLDING AND ABANDONMENT OF THE PREMISES

- 10.1 If the **tenant** remains in possession of the **premises** without objection by the **landlord** after the end of the **term** -
- 10.1.1 the **tenant**, without any need for written notice of any kind, is a monthly tenant on the conditions in this lease, modified so as to apply to a monthly tenancy,
- 10.1.2 the **landlord** or the **tenant** may end the tenancy by giving one month's written notice to the other which may expire on any day of the month,
- 10.1.3 the monthly rent starts at one-twelfth of the annual **rent** which the **tenant** was paying immediately before the **term** ended unless a different rent has been agreed, and
- 10.1.4 the **landlord** may increase the monthly rent by giving the **tenant** one month's written notice.
- 10.2 If the **tenant** vacates the **premises** during the **term**, whether or not it ceases to pay **rent** -
- 10.2.1 the **landlord** may -
- (a) accept the keys,

- (b) enter the **premises** to inspect, maintain or repair them, or
  - (c) show the **premises** to prospective tenants or purchasers,
- without this being re-entry or an acceptance of repudiation or a waiver of the **landlord's** rights to recover **rent** or other money under this lease.
- 10.2.2 this lease continues until a new tenant takes possession of the **premises**, unless the **landlord** -
- (a) accepts a surrender of the lease, or
  - (b) notifies the **tenant** in writing that the **landlord** accepts the **tenant's** repudiation of the lease, or
  - (c) ends the lease in accordance with clause 7.1.

## 11. RENT REVIEWS TO MARKET

- 11.1 In this clause "review period" means the period following each **market review date** until the next **review date** or the end of this lease.
- The review procedure on each **market review date** is -
- 11.1.1 each review of **rent** may be initiated by the **landlord** or the **tenant** unless **item** 17 states otherwise but, if the **Act** applies, review is mandatory.
- 11.1.2 the **landlord** or **tenant** entitled to initiate a review does so by giving the other a written notice stating the current market rent which it proposes as the **rent** for the review period. If the **Act** does not apply and the recipient of the notice does not object in writing to the proposed rent within 14 days the proposed rent becomes the **rent** for the review period.
- 11.1.3 If -
- (a) the **Act** does not apply and the recipient of the notice serves an objection to the proposed rent within 14 days and the **landlord** and **tenant** do not agree on the **rent** within 14 days after the objection is served, or
  - (b) the **Act** applies and the **landlord** and **tenant** do not agree on what the **rent** is to be for the review period,
- the **landlord** and **tenant** must appoint a **valuer** to determine the current market **rent**.
- If the **Act** does not apply and if the **landlord** and **tenant** do not agree on the name of the **valuer** within 28 days after the objection is served, either may apply to the President of the Australian Property Institute, Victorian Division to nominate the **valuer**. If the **Act** applies, the **valuer** is to be appointed by agreement of the **landlord** and **tenant**, or failing agreement, by the Small Business Commissioner.
- 11.1.4 In determining the current market **rent** for the **premises** the **valuer** must -
- (a) consider any written submissions made by the **landlord** and **tenant** within 21 days of their being informed of the **valuer's** appointment, and
  - (b) determine the current market rent as an expert
- and, whether or not the **Act** applies, must make the determination in accordance with the criteria set out in section 37(2) of the **Act**.
- 11.1.5 The **valuer** must make the determination of the current market rent and inform the **landlord** and **tenant** in writing of the amount of the determination and the reasons for it as soon as possible after the end of the 21 days allowed for submissions.
- 11.1.6 If -
- (a) no determination has been made within 45 days (or such longer period as is agreed by the **landlord** and the **tenant** or, if the **Act** applies, as is determined in writing by the Small Business Commissioner) of the **landlord** and **tenant**
    - (i) appointing the **valuer**, or
    - (ii) being informed of the **valuer's** appointment, or
  - (b) the **valuer** resigns, dies, or becomes unable to complete the valuation,
- then the **landlord** and **tenant** may immediately appoint a replacement **valuer** in accordance with sub-clause 11.1.3.
- 11.2 The **valuer's** determination is binding.
- 11.3 The **landlord** and **tenant** must bear equally the **valuer's** fee for making the determination and if either pays more than half the fee, may recover the difference from the other.
- 11.4 Until the determination is made by the **valuer**, the **tenant** must continue to pay the same **rent** as before the **market review date** and within 7 days of being informed of the **valuer's** determination, the parties must make any necessary adjustments.
- 11.5 If the **Act** does not apply, a delay in starting a market review does not prevent the review from taking place and being effective from the **market review date** but if the market review is started more than 12 months after the **market review date**, the review takes effect only from the date on which it is started.

## 12. FURTHER TERM(S)

- 12.1 The **tenant** has an option to renew this lease for the further term or further terms specified in **item 18** and the **landlord** must renew this lease for the further term immediately following the **term** if -
- 12.1.1 there is no unremedied breach of this lease by the **tenant** of which the **landlord** has given the **tenant** written notice at the time the **tenant** requests renewal as required by clause 12.1.3,
  - 12.1.2 the **tenant** has not persistently committed breaches of this lease of which the **landlord** has given written notice during the **term**, and
  - 12.1.3 the **tenant** has exercised the option for renewal in writing not more than 6 months nor less than 3 months before the end of the **term**. The earliest and latest dates for exercising the option are stated in **item 19**.
- 12.2 The lease for the further term -
- 12.2.1 starts on the day after the **term** ends,
  - 12.2.2 has a starting **rent** determined in accordance with clause 11 as if the first day of the further term were specified as a **market review date** in **item 16(a)**, and
  - 12.2.3 must contain the same terms as this lease (but with no option for renewal after the last option for a further term stated in **item 18** has been exercised) including any provisions appearing in this document that may have been read down or severed to comply with any applicable law that has ceased to be applicable, as if they had not been read down or severed.
- 12.3 If the **tenant** is a corporation and was required to provide directors' guarantees for this lease, the **tenant** must provide guarantees of its obligations under the renewed lease by its directors, and by each person who has provided a guarantee for the expired **term**, in the terms of clause 15.

## 13. SECURITY DEPOSIT

- 13.1 The **tenant** must pay a security deposit to the **landlord** of the amount stated in **item 20** and must maintain the deposit at that amount.
- 13.2 Any security deposit not in the form of a guarantee must be invested in an interest bearing deposit and all interest accruing on it is treated as a supplementary payment of security deposit. When the **term** starts, the **tenant** must provide the **landlord** with the **tenant's** tax file number.
- 13.3 The **landlord** may use the deposit to make good the cost of remedying breaches of the **tenant's** obligations under this lease (or any of the events specified in clause 7.1) and the **tenant** must pay whatever further amount is required to bring the deposit back to the required level.
- 13.4 As soon as practicable after this lease has ended and the **tenant** has vacated the **premises** and performed all of its obligations under the lease, the **landlord** must refund the unused part of the deposit.
- 13.5 The **tenant** may, and if the **landlord** requires must, provide the security deposit by means of a guarantee by an ADI within the meaning of the *Banking Act 1959* (Cth).
- 13.6 If the freehold of the **premises** is transferred:
- 13.6.1 the **tenant** must provide a replacement guarantee in exchange for the existing guarantee if requested by the **landlord** in writing to do so, but the **landlord** must pay the reasonable fees charged by the ADI for the issue of the replacement guarantee, and
  - 13.6.2 the **landlord** must transfer any security deposit held under this lease to the transferee.

## 14. NOTICES

- 14.1 A notice under this lease may be served or given -
- 14.1.1 by pre-paid post,
  - 14.1.2 by delivery
  - 14.1.3 by email, or
  - 14.1.4 in any manner authorised by law or the Supreme Court for service of documents, including any manner authorised for service on or by a legal practitioner,
- to the party's last known address, registered office, or (if to the **tenant**) at ~~the premises~~ its registered office.
- 14.2 Posted notices will be taken to have been received on the second day after posting that is not a Saturday, Sunday or bank holiday in the place of intended receipt, unless proved otherwise.
- 14.3 Notices delivered or sent by email are taken to have been served or given at the time of receipt as specified in section 13A of the *Electronic Transactions (Victoria) Act 2000*.

## 15. OBLIGATIONS OF GUARANTOR(S) UNDER GUARANTEE AND INDEMNITY

- 15.1 The **guarantor** in consideration of the **landlord** having entered into this lease at the **guarantor's** request —
- 15.1.1 guarantees that the **tenant** will perform all its obligations under this lease for the **term** and any further term or terms and during any period of overholding after the end of the **term**,
  - 15.1.2 must pay on demand any amount which the **landlord** is entitled to recover from the **tenant** under this lease whether in respect of the **term**, any further term or further terms or any period of overholding, and

- 15.1.3 indemnifies the **landlord** against all loss resulting from the **landlord's** having entered into this lease whether from the **tenant's** failure to perform its obligations under it or from this lease being or becoming unenforceable against the **tenant** and whether in respect of the **term**, any further term or any period of overholding.
- 15.2 The liability of the **guarantor** will not be affected by -
- 15.2.1 the **landlord** granting the **tenant** or a **guarantor** time or any other indulgence, or agreeing not to sue the **tenant** or another **guarantor**,
- 15.2.2 failure by any **guarantor** to sign this document,
- 15.2.3 transfer (except in accordance with the **Act**, if the **Act** applies) or variation of this lease but, if this lease is transferred, the **guarantor's** obligations, other than those which have already arisen, end when the **term** ends and do not continue into a term renewed by a new tenant nor a period of overholding by a new tenant,
- 15.2.4 the fact that this lease is subsequently registered at the Land Registry or not registered, or, for any reason, is incapable of registration, or
- 15.2.5 transfer of the freehold of the **premises**.
- 15.3 The **guarantor** agrees that —
- 15.3.1 the **landlord** may retain all money received including dividends from the **tenant's** bankrupt estate, and need allow the **guarantor** a reduction in its liability under this guarantee only to the extent of the amount received,
- 15.3.2 the **guarantor** must not seek to recover money from the **tenant** to reimburse the **guarantor** for payments made to the **landlord** until the **landlord** has been paid in full,
- 15.3.3 the **guarantor** must not prove in the bankruptcy or winding up of the **tenant** for any amount which the **landlord** has demanded from the **guarantor**, and
- 15.3.4 the **guarantor** must pay the **landlord** all money which the **landlord** refunds to the **tenant's** liquidator or trustee in bankruptcy as preferential payments received from the **tenant**.
- 15.4 If any of the **tenant's** obligations are unenforceable against the **tenant**, then this clause is to operate as a separate indemnity and the **guarantor** indemnifies the **landlord** against all loss resulting from the **landlord's** inability to enforce performance of those obligations. The **guarantor** must pay the **landlord** the amount of the loss resulting from the unenforceability.
- 15.5 If there is more than one **guarantor**, this guarantee binds them separately, together and in any combination.
- 15.6 Each of the events referred to in clauses 7.1.5 and 7.1.6 is deemed to be a breach of an essential term of this lease.

## 16. DISPUTE RESOLUTION

- 16.1 Unless the **Act** applies, if the words "The mediation procedure applies to this lease" are included in **item 21**, the mediation procedure applies to this lease. In that event the **landlord** and the **tenant** must attempt to resolve any dispute by the mediation procedure, except disputes about -
- 16.1.1 unpaid **rent** and interest charged on it,
- 16.1.2 review of **rent**, and
- 16.1.3 a dispute to be resolved in another way prescribed by any other provision of this lease.
- 16.2 The mediation procedure is -
- 16.2.1 the **landlord** or **tenant** may start mediation by serving a mediation notice on the other.
- 16.2.2 the notice must state that a dispute has arisen and identify what the dispute is.
- 16.2.3 the **landlord** and **tenant** must jointly request appointment of a mediator. If they fail to agree on the appointment within 7 days of service of the mediation notice, either may apply to the President of the Law Institute of Victoria or the nominee of the President to appoint a mediator.
- 16.2.4 once the mediator has accepted the appointment the **landlord** and **tenant** and each **guarantor** must comply with the mediator's instructions.
- 16.2.5 if the dispute is not resolved within 30 days of the appointment of the mediator, or any other period agreed by the **landlord** and **tenant** in writing, the mediation ceases.
- 16.3 The mediator may fix the charges for the mediation which must be paid equally by the **landlord** and **tenant**.
- 16.4 If the dispute is settled, the **landlord** and **tenant** and each **guarantor** must sign the terms of agreement and the signed terms are binding.
- 16.5 The mediation is confidential and -
- 16.5.1 statements made by the mediator or the participants in the mediation, and
- 16.5.2 discussions between the participants in the mediation, before after or during the mediation, cannot be used in any legal proceedings.
- 16.6 It must be a term of the engagement of the mediator that the **landlord** and **tenant** and each **guarantor** release the mediator from any court proceedings relating to this lease or the mediation.
- 16.7 The mediator is not bound by the rules of natural justice and may discuss the dispute with a participant in the absence of any others.

- 16.8 If the **Act** applies, so that a dispute must be referred to the Victorian Civil and Administrative Tribunal, the **landlord** and **tenant** agree that each may be represented by a legal practitioner or legal practitioners of its choice.

## 17. GST

- 17.1 Expressions used in this clause 17 and in the **GST Act** have the same meanings as when used in the **GST Act** unless the context requires otherwise.
- 17.2 Amounts specified as payable under or in respect of this lease are expressed exclusive of **GST**.
- 17.3 The recipient of a taxable supply made under or in respect of this lease must pay to the supplier, at the time payment for the supply is due, the **GST** payable in respect of the supply. This obligation extends to supply consisting of entry into this lease.
- 17.4 An amount payable by the **tenant** in respect of a creditable acquisition by the **landlord** from a third party must not exceed the sum of the value of the **landlord's** acquisition and the additional amount payable by the **tenant** under clause 17.3 on account of the **landlord's** liability for **GST**.
- 17.5 A recipient of supply is not obliged, under clause 17.3, to pay the **GST** on a taxable supply to it under this lease, until given a valid tax invoice for it.

## 18. CONSUMER PRICE INDEX

- 18.1 On a **CPI review date**, the **rent** is adjusted by reference to the **Consumer Price Index** using the following formula -

$$AR = R \times \frac{CPIB}{CPIA}$$

Where: "AR" means adjusted **rent**,

"R" means **rent** before adjustment,

"CPIB" means the **Consumer Price Index** number for the quarter immediately preceding the **CPI review date**, and

"CPIA" means the **Consumer Price Index** number for the quarter immediately preceding the most recent earlier **review date** or, where there is no earlier **review date**, the quarter immediately preceding the start of the **term**.

- 18.2 If CPIB is not published until after the **CPI review date**, the adjustment is made when it is published but the adjustment takes effect from the relevant **CPI review date**. In the meantime, the **tenant** must continue to pay the **rent** at the old rate and, when the adjustment is made, the **tenant** must immediately pay any deficiency or the **landlord** must immediately repay any excess.
- 18.3 If the base of the **Consumer Price Index** is changed between the two comparison dates an appropriate compensating adjustment must be made so that a common base is used.
- 18.4 Unless the **Act** applies and requires otherwise, if the **Consumer Price Index** is discontinued or suspended, then the calculation is to be made using whatever index is substituted for it. If no other index is substituted for it, the calculation is to be made using the index or calculation which the President of the Australian Property Institute, Victorian Division (acting as an expert and not as an arbitrator), determines is appropriate in the circumstances. This determination is binding.
- 18.5 Unless the **Act** applies, the adjustment is not made if it would result in a decrease in the **rent** payable.

## 19. IF PREMISES ONLY PART OF THE LETTABLE AREA OF THE BUILDING

- 19.1 If the **premises** are only a part of the **lettable area** of the **building**, the provisions of this clause apply.
- 19.2 The **landlord** -
- 19.2.1 may adopt whatever name it chooses for the **building** and change the name from time to time, and
- 19.2.2 reserves all proprietary rights to the name of the **building** and any logo adopted for the **building**.
- 19.3 The **landlord** reserves for itself the use of all external surfaces of the **building** and areas outside the **building**.
- 19.4 The **building**, **common areas** and **landlord's installations** remain under the absolute control of the **landlord** which may manage them and regulate their use as it considers appropriate. In particular the **landlord** has the right -
- 19.4.1 to close off the **common areas** as often as the **landlord** reasonably considers appropriate to prevent rights of way or user arising in favour of the public or third parties,
- 19.4.2 to exclude persons whose presence the **landlord** considers undesirable,
- 19.4.3 to grant easements over any parts of the **land** which do not materially and adversely affect the **tenant's** use,
- 19.4.4 to install, repair and replace, as necessary, the infrastructure necessary or desirable for the provision of services to the various parts of the **building**, and
- 19.4.5 to repair, renovate, alter or extend the **building** but, in doing so, the **landlord** must not cause more inconvenience to the **tenant** than is reasonable in the circumstances.
- If the **Act** applies, these rights may only be exercised in a manner consistent with the **Act**.
- 19.5 The **tenant** must not obstruct the **common areas** or use them for any purpose other than the purposes for which they were intended.
- 19.6 The **tenant** must comply with the **building rules**. The **landlord** may change the **building rules** from time to time and the **tenant** will be bound by a change when it receives written notice of it. The **landlord** must not adopt a **building rule** or change the **building rules** in a way that is inconsistent with this lease. To the extent that a **building rule** is inconsistent with this lease, the lease prevails.

## 20. PERSONAL PROPERTY SECURITIES ACT

- 20.1 Expressions used in this clause that are defined in the **PPSA** have the meanings given to them in the **PPSA**.
- 20.2 The **landlord** may, at any time, register a financing statement for any security interest arising out of or evidenced by this lease over any or all of -
- 20.2.1 the **landlord's installations**,
- 20.2.2 any security deposit provided by the **tenant**, and
- 20.2.3 **tenant's installations** and other **tenant's** property left on the **premises** after the end of the lease, that are personal property, and must identify the property affected by the financing statement in the free text field of the statement. \*The **tenant** waives the right to receive notice under section 157(1) of the **PPSA**. [\*Delete if inapplicable]
- 20.3 When this lease -
- 20.3.1 ends and the **tenant** has vacated the **premises** and performed all of its obligations under it, or
- 20.3.2 is transferred,
- the **landlord** must register a financing change statement with respect to any security interest for which the **landlord** has registered a financing statement other than those to which sub-clause 20.2.3 relates.
- 20.4 The **tenant must** sign any documents and do anything necessary to enable the **landlord** to register the statements referred to in the preceding sub-clause and to enforce its rights and perform its obligations under this clause and the **PPSA**. In particular, if the **tenant** is a natural person, the **tenant** must provide the **landlord** with the **tenant's** date of birth and a certified copy of a Victorian driver's licence (or other evidence acceptable to the **landlord**) to confirm the **tenant's** date of birth. The **landlord** must keep the **tenant's** date of birth and any evidence provided to confirm it secure and confidential.
- 20.5 The **tenant** must not register, or permit to be registered, a financing statement in favour of any person other than the **landlord**, for any security deposit provided by the **tenant** or any of the **landlord's installations**.
- 20.6 The **tenant** must pay the **landlord's** reasonable expenses and legal costs in respect of anything done or attempted by the **landlord** in the exercise of its rights or performance of its obligations under this clause or the **PPSA**\*, except the **landlord's** costs of registering a financing statement under sub-clause 20.2 which are to be borne by the **landlord**. [\*Delete if inapplicable]
- 20.7 In accordance with section 275(6)(a) of the **PPSA**, the parties agree that neither of them will disclose information of the kind mentioned in subsection 275(1).
- 20.8 Subject to any requirement to the contrary in the **PPSA**, notices under this clause or the **PPSA** may be served in accordance with clause 14 of this lease.

## 21. ADDITIONAL PROVISIONS

Any additional provisions set out in **item 22** -

- 21.1 bind the parties, and
- 21.2 if inconsistent with any other provisions of this lease, override them.

## 22. LANDLORD WARRANTY

The **landlord** warrants that clauses 1 to 21 appearing in this lease are identical to clauses 1 to 21 of the copyright Law Institute of Victoria Lease of Real Estate August 2014 Revision and that any modifications to them are set out as additional provisions in **item 22**.



- Item 12**            **Amount of public risk insurance cover**  
(1.1 & 2.3.1)       \$ 20,000,000.00 in respect of any single accident or event
- Item 13**            **Period of loss of rent and outgoings insurance**  
(1.1)                    Not Applicable
- Item 14**            **Interest rate on overdue money**  
(2.1.7)                The rate equal to 2% per annum higher than the rate from time to time fixed by the Penalty Interest Rates Act 1983
- Item 15**            **Permitted use**  
(2.2.1)                Retail – rental, sale and repairs of television sets, video cassette recorders, audio equipment, computers and ancillary equipment, white goods and services, telephone equipment, furniture and associated services
- (1.14)                **Application of Act:**  
The Act does not apply as the Tenant is a Subsidiary of a listed Corporation Thorn Group Limited
- Item 16**            **Review date(s):**  
(2.1.1, 11, 18)      **Term**  
(a) Market review date: Not Applicable  
(b) CPI review date(s): 30/6/2019, 30/6/2020 and 30/6/2021  
(c) Fixed review date: Not Applicable
- Further Term(s):**  
(a) Market review date(s): Not Applicable  
(b) CPI review date(s): Not Applicable  
(c) Fixed review date(s) and percentage or fixed amount increases: Not Applicable
- Item 17**            **Who may initiate reviews:**  
(2.1.1, 11, 18)      Market review: Not Applicable  
CPI review: Review is Automatic  
Fixed review: Not Applicable
- Item 18**            **Further term(s)**  
(12)                    Nil
- Item 19**            **Earliest and latest date for exercising option for renewal:**  
(12)                    Nil
- Item 20**            **Security deposit**  
(13)
- Item 21**            **The mediation process applies to this lease**  
(16.1)
- Item 22**            **Additional provisions**  
(21)
- 23**                    **Insurance**

Whilst Thorn Australia Pty. Ltd. is the Tenant, the Tenant's obligations under Condition 2.3 may be satisfied by:

23.1. inclusion of the Premises in its national insurance coverage; and

23.2. providing the Landlord, prior to the Commencement Date and on each anniversary of the Commencement Date, with written proof that the Premises remain covered by the Tenant's insurance.

24            **Security Deposit**

Whilst Thorn Australia Pty. Ltd. is the Tenant, the Tenant is not obliged to provide a Security Deposit or Bank Guarantee and Condition 13. does not apply.

25            **Guarantee & Indemnity**

Whilst Thorn Australia Pty. Ltd. is the Tenant, the Landlord does not require a Guarantor and Condition 15. does not apply

26            **Landlord's reservation of rights**

For the avoidance of doubt, the Landlord reserves to itself the rights:

- 26.1    to reinstate the application of Clauses 2.3,13 and 15,
- 26.2    to require the Tenant to provide a Security Deposit Bank Guarantee
- 26.3    to require the Tenant to procure a Guarantor acceptable to the Landlord;
- 26.4    in the event that Thorn Australia Pty. Ltd. ceases to be the Tenant of the whole of the Premises

27            **Further amendments to Lease Terms**

Whilst Thorn Australia Pty. Ltd. is the Tenant:

- 27.1    Clause 7.1.7 shall not apply; and
- 27.2    Clause 7.3 is deleted and replaced with the following:
  - 7.3    For the purposes of Section 146(1) the Property Law Act 1958 (Vic) 14 days is fixed as the period within which the Tenant must remedy a breach capable of remedy and pay reasonable compensation for the breach, unless some other period is appropriate having regard to the nature of the breach.

You are reminded that the policy mentioned below falls due for renewal on 5/03/2018. To ensure your continued protection, payment must be received within 7 days of this date. This is an invitation to renew, and not a demand for payment.

Nafrock Investments Pty.Ltd.  
 Leon Naftal  
 22 Laura Street  
 CAULFIELD SOUTH VIC 3162

**TAX INVOICE**

This document will be a tax invoice for GST when you make payment

Invoice Date: 7/02/2018

Invoice No: 92100

Our Reference: NAFROCK

Should you have any queries in relation to this account, please contact your Account Manager  
 Gerard Faulkner

**Class of Policy:** Business Insurance  
**Insurer:** QBE Insurance (Australia) Limited  
 88 Mair St East Ballarat 3350  
 ABN: 95 054 880 554  
**The Insured:** NAFROCK INVESTMENTS PTY LTD/CL &ML TS

**RENEWAL**

Policy No: 144U291499BPK

Period of Cover:

From 5/03/2018

to 5/03/2019 at 4:00 pm

**Details:** See attached schedule for a description of the risk(s) insured

**YOUR DUTY OF DISCLOSURE**

PLEASE READ IMPORTANT NOTICE OVERLEAF

**NON-DISCLOSURE**

If you fail to comply with your duty of disclosure, the Insurer may be entitled to reduce the liability under the Contract in respect of a claim or may cancel the Contract. If your non-disclosure is fraudulent, the Insurer may also have the option of avoiding the Contract from its beginning.

Clients who are not fully satisfied with our services should contact our customer relations/complaints officer.

**Remingtons Insurance Brokers**

also subscribe to the Financial Ombudsman Service(FOS), a free customer service and the General Insurance Brokers Code of Practice. Further information is available from this office, or contact the FOS on 1300 780 808.

**Your Premium:**

Premium	UW Levy	Fire Levy	GST	Stamp Duty	Broker Fee
\$506.29	\$0.00	\$0.00	\$54.13	\$55.68	\$35.00

**TOTAL** \$651.10  
 (Excluding Credit Card fee)

Credit Card fee (inc GST) is \$4.62



Acct Name: SMS Insurance Pty. Ltd.  
 BSB: 013516    Account: 187223422  
 Reference: NAFROCK 92100

Our Reference: NAFROCK  
 Invoice No: 92100  
 Acct Man: GFFS GF



Mail this portion with your cheque payable to:  
 Remingtons Insurance Brokers  
 PO Box 2360  
 Bakery Hill VIC 3354



To pay with your  
 Mastercard / Visa - includes 0.71% credit card fee  
 Call 1300 137 175

*Paid*  
 21-02-18  
 23-02-18  
 Y6491827979

**AMOUNT DUE \$651.10**

of Policy: Business Insurance  
 Insured: NAFROCK INVESTMENTS PTY LTD/CL & ML TS

Policy No: 144U291499BPK  
 Invoice No: 92100  
 Our Ref: NAFROCK

QBE Australia  
 ABN 78 003 191 035  
 AFS Licence No. 239545 of Level 5, 2 Park Street Sydney

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**BUSINESS PACKAGE**  
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POLICY NUMBER: 144U291499BPK  
 PERIOD OF COVER: 05/03/2018 TO 05/03/2019

INSURED:  
 NAFROCK INVESTMENTS PTY LTD/CL & ML TS  
 INSURED ABN:

-----  
**SITUATION 1 DETAILS**  
 -----

BUSINESS: COMMON GROUND/PROPERTY  
 SITUATION: 75-77 BRIDGE MALL  
 BALLARAT  
 3350  
 VIC

BROADFORM LIABILITY SECTION	LIMIT OF LIABILITY
Liability	\$ 10000000
Property Owners Only?	Yes
Property Value	\$ 50000
Products Liability	\$ 10000000
Goods in Physical Control:	As Per the Policy Wording
Annual Turnover	\$ 0
Property Damage Excess	\$ 500
Number of Employees	0

The rating of this section based on having a property value of \$50000. If there is any change to this, you must notify the broker or the company.

-----  
**PROPERTY SECTION - Fire and other insured events**  
 -----

Construction: Brick Walls, Concrete Flrs  
 Year Built: 1980

	SUM INSURED	EXCESS
Building	\$ 50000	\$ 500
Contents	\$ Not Insured	\$ Nil

Accidental Damage Limit: As per policy wording

Sprinklers Installed ? N  
 Earthquake excess as per the policy wording

-----  
 Business Interruption Section - NOT INSURED  
 -----

of Policy: Business Insurance  
 Insured: NAFROCK INVESTMENTS PTY LTD/CL & ML TS

Policy No: 144U291499BPK  
 Invoice No: 92100  
 Our Ref: NAFROCK

Clauses Applicable:

**GLD IBNA COMMERCIAL/RETAIL/INDUST**

APPLICABLE WORDING

When "BUSINESS PACK INSURANCE" is shown on the Policy Schedule the IBNA Commercial/Retail/Industrial Policy wording (QM515) applies to this policy.

It is noted that under the Fire - Gold cover section the limit of liability is 120% of the total of the insured amounts shown in the Policy Schedule for this situation.

When "TRADES PACK INSURANCE" is shown on the Policy Schedule the QBE Trade Policy QM207 applies.

When "OFFICE PACK INSURANCE" is shown on the policy schedule the QBE Office Policy QM208 applies.

-----  
 Theft/Money/Glass - NOT INSURED

-----  
 General Property/ Machinery Breakdown - NOT INSURED

-----  
 Electronic Equipment - NOT INSURED

-----  
 Employee Dishonesty/Tax Audit/Transit - NOT INSURED

-----  
 Employment Practices/Statutory Liability- NOT INSURED  
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-----  
**TERRORISM INSURANCE ACT - APPLICATION TO THIS POLICY**  
 -----

QBE Australia has determined that this policy (or part of it) is a policy to which the Terrorism Insurance Act 2003 applies. We have reinsured our liability under the Act with the Commonwealth Government reinsurer, the Australian Reinsurance Pool Corporation (ARPC).

As a consequence, we are required to pay a premium to the ARPC and that amount (together with the cost of that part of the cover provided by us and administrative costs associated with the legislation) is reflected in the premium charged to you.

As with any other part of our premium, it is subject to Government taxes and charges such as GST, stamp duty and, where applicable, levies.

Amendment to your Policy Wording  
 -----

Notice relating to a change in the definition of 'flood'.

This derogation notice supplements and amends your Policy Wording and will apply to policies with a commencement date or renewal effective date on or after 19 June 2013.

Your insurance cover is unchanged except as indicated below:

New definition of "Flood"

In all instances in the Policy wording where the meaning of flood appears, the definition is deleted and replaced with the following definition for flood:

"Flood" means the covering of normally dry land by water that has escaped or been released from the normal confines of any of the following: