

Dealing Number



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<b>1. Lessor</b>		<b>Lodger</b> (Name, address & phone number)	<b>Lodger Code</b>
CHRIS HALL FAMILY SUPER PROPERTIES PTY LTD ACN 136 636 416 TRUSTEE UNDER INSTRUMENT 712717999			
<b>2. Lot on Plan Description</b>		<b>Title Reference</b>	
LOT 1 ON RP 154522		18155117	
<b>3. Lessee</b>	Given names	Surname/Company name and number (include tenancy if more than one)	
		DEAN PROPERTY TEAM PTY LTD ACN 165 282 440	
<b>4. Interest being leased</b>			
FEE SIMPLE			
<b>5. Description of premises being leased</b>			
PART OF THE GROUND FLOOR OF A THREE LEVEL BUILDING ERECTED ON THE LAND SHOWN AS LEASE 5A ON THE ATTACHED PLAN			
<b>6. Term of lease</b>		<b>7. Rental/Consideration</b>	
Commencement date/event: 22 August 2016 Expiry date: 21 August 2019 #Options: 1 x 3 years #Insert <i>nil</i> if no option or insert option period (eg 3 years or 2 x 3 years)		See attached schedule	

**8. Grant/Execution**

The Lessor leases the premises described in item 5 to the Lessee for the term stated in item 6 subject to the covenants and conditions contained in the attached schedule.

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

..... signature  
..... full name  
..... qualification

Witnessing Officer

(Witnessing officer must be in accordance with Schedule 1 of the Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

Chris Hall Family Super Properties Pty Ltd  
ACN 136 636 416 as trustee under  
instrument 712717999

/ /  
Execution Date

.....  
Sole Director and Secretary

.....  
Lessor's Signature

**9. Acceptance**

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

..... signature  
..... full name  
..... qualification

Witnessing Officer

(Witnessing officer must be in accordance with Schedule 1 of the Land Title Act 1994 eg Legal Practitioner, JP, C Dec)

Dean Property Team Pty Ltd ACN 165 282 440

18/08/2016  
Execution Date

.....  
Sole Director and Secretary

.....  
Lessee's Signature

Title Reference 18155117

This is the schedule referred to in items 7 and 8 of the lease dated     /     /

REFERENCE SCHEDULE

Item 1	Parties' Details	<p><b>Lessor</b></p> <p>Name: <b>Chris Hall Family Super Properties Pty Ltd ACN 136 636 416 as trustee under instrument 712717999</b> Address for service: 41 Park Rd, Milton, Qld, 4064 Fax: Attention: Chris Hall</p> <p><b>Lessee</b></p> <p>Name: <b>Dean Property Team Pty Ltd ACN 165 282 440</b> Address for service: 2/10 Cinderella Drive, Springwood, Qld 4127 Fax: Attention: Elliott Simpson Dean</p>
Item 2	Premises	The premises shown hatched in blue and identified as lease area '5A' on the attached plan at Annexure A, located at 5/41 Park Rd, Milton, Qld 4064 and having an approximate area of 87m2.
Item 3	Commencement Date	22 August 2016
Item 4	Expiry Date	21 August 2019
Item 5	Term	3 years
Item 6	Option Period [clause 2.3]	Term: 1 x 3 year option period.  Commencement date: 22 August 2019 Expiry date: 21 August 2022 Rent review dates: As per Items 8 & 10 of this Reference Schedule
Item 7	Rent [clause 3.1]	\$32,727.00 per annum (plus GST) payable in monthly instalments of \$2,727.25 (plus GST). <b>\$36 K (\$3K)</b>
Item 8	Fixed Increase Dates [clause 3.2]	4% - on each anniversary of the Commencement Date throughout the Term and any Option Period except where it is a Market Review Date.



<b>Item 9</b>	<b>CPI Review Dates</b> [clause 3.3]	Not Applicable
<b>Item 10</b>	<b>Market Review Dates</b> [clause 3.4]	At the Commencement Date of the Option Period.
<b>Item 11</b>	<b>Permitted Use</b> [clause 6.1]	Real estate sale and rentals and ancillary services
<b>Item 12</b>	<b>Redecoration Dates</b> [clause 7.3]	Once every three (3) years of this lease.
<b>Item 13</b>	<b>Public Liability Insurance Amount</b> [clause 12]	\$20 million
<b>Item 14</b>	<b>Security</b> [clause 11]	Bank Guarantee or Bond: An amount equal to 3 months' Rent plus GST, reviewed in accordance with the terms of the lease.
<b>Item 15</b>	<b>Outgoings</b> [clause 4]	Not Payable
	<b>Outgoings Percentage</b>	Not Applicable
<b>Item 16</b>	<b>Guarantor(s)</b> [clause 26]	Elliott Simpson Dean

Title Reference 18155117

## 1. Definitions and Interpretation

### 1.1 Terms in Reference Schedule

Where a term used in this lease appears in bold type in the Reference Schedule, that term has the meaning shown next to it in the Reference Schedule.

### 1.2 Interpretation

(1) Reference to:

- (a) a person includes a body corporate;
- (b) a party includes the party's executors, administrators, successors and permitted assigns;
- (c) month or monthly means calendar month or calendar monthly;
- (d) a right includes a remedy, authority or power;
- (e) one gender includes the others;
- (f) the singular includes the plural and the plural includes the singular; and
- (g) a thing includes, according to the context, any part of that thing.

(2) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.

### 1.3 Headings

- (1) Headings are for convenience only and do not form part of this lease or affect its interpretation.
- (2) References to clauses, schedules and annexures will be construed as references to clauses of and schedules and annexures to this lease.

### 1.4 Definitions

In this lease:

- (1) **Australian Institute** means the Australian Property Institute Incorporated (Queensland Division).
- (2) **Authority** means any government department, local government, statutory corporation or instrumentality, administrative or judicial body, court or tribunal.
- (3) **Body Corporate** means the Body Corporate for the Scheme (if any).
- (4) **Building** means the building on the Land that incorporates the Premises and including the Plant and Equipment.
- (5) **Claim** includes a claim, demand, remedy, suit, injury, damage, loss, cost, liability, action, proceeding or right of action.



- (6) **CMS** means the Community Management Statement for the Scheme that includes the by-laws for the Scheme (if any).
- (7) **Common Areas** means those areas designated as common areas by the Lessor or forming part of the Scheme, as the case may be, from time to time.
- (8) **Contaminant** has the same meaning as in section 11 of the *Environmental Protection Act 1994*.
- (9) **Contamination** has the same meaning as in section 10 of the *Environmental Protection Act 1994*.
- (10) **Commencement Date** means the date stated in item 6 of the Form 7 of this lease.
- (11) **CPI Review Date** means the dates stated in Item 9 of the Reference Schedule.
- (12) **Default Rate** means 10% per annum.
- (13) **DERM** means the Queensland Department of Environment and Resource Management.
- (14) **Environment** has the same meaning as in section 8 of the *Environmental Protection Act 1994*.
- (15) **Environmental Law** means a law relating to the Environment including any statute, subordinate legislation and common law in force at any time during the Term.
- (16) **Expiry Date** means the date stated in item 6 of the Form 7 of this lease.
- (17) **GST** has the same meaning as in the GST Act.
- (18) **GST Act** means *A New Tax System (Goods and Services) Act 1999* (Commonwealth).
- (19) **Improvements** means all buildings and other structures constructed on the Premises.
- (20) **Index Number** means the Consumer Price Index number for Brisbane (All Groups) published by the Australian Bureau of Statistics.
- (21) **Land** means the land described in Item 2 of the Form 7 of this lease;
- (22) **Lease Year** means each period of 12 months, commencing on the Commencement Date and thereafter on each anniversary of that date (or less, in the case of the last year of the Term if that year is not a whole year).
- (23) **Lessee's Associates** means each of the Lessee's employees, contractors, agents, customers, clients, visitors, sublessees, licensees or others (with or without invitation) who may be upon the Premises.
- (24) **Lessee's Property** means any fixtures or chattels in the Premises, which are owned by the Lessee.
- (25) **Lessor's Property** means all plant, equipment, fixtures, fittings, furnishings and other property provided by the Lessor in the Premises.
- (26) **Lettable Area** means the floor area of the Premises, calculated according to the PCA Method of Measurement.
- (27) **Market Review Date** means each of the dates (if any) stated in Item 10 of the Reference Schedule.
- (28) **Official Requirement** means any requirement, notice, order or direction of any Authority and includes the provisions of any statute, ordinance or by-law.
- (29) **Option Period** means the option period, if any, stated in Item 6 of the Reference Schedule.



- (30) **Outgoings** means the total of all amounts paid by the Lessor or for the payment of which the Lessor may be or become liable in relation to the, Land, Building or Premises in any one Outgoings Year including rates, taxes, charges, body corporate levies, assessments, duties, impositions and fees (including land tax), insurance premiums, maintenance and management costs.
- (31) **Outgoings Percentage** means the percentage stated in Item 15 of the Reference Schedule.
- (32) **Outgoings Proportion** means the respective amounts the Lessee is required to pay the Lessor for Outgoings under clause 4.2 from time to time.
- (33) **Outgoings Year** means the 12 month period ending on 30 June in each year or on another day specified in a notice the Lessor gives the Lessee.
- (34) **Plant and Equipment** means the plant and equipment in the Building.
- (35) **Premises** means the premises described in Item 5 of the Form 7 of this lease otherwise described in Item 2 of the Reference Schedule and includes the Lessor's Property.
- (36) **PCA Method of Measurement** means the last published method of measurement used by the Property Council of Australia Limited.
- (37) **Redecorate** means:
- (a) washing down (or otherwise appropriately cleaning) the interior of the Premises;
  - (b) painting or otherwise treating, as previously painted or otherwise treated, all internal surfaces of the Premises to a specification previously approved by the Lessor;
  - (c) replacing floor coverings and other items of furnishings, fittings and equipment that, in the Lessor's opinion, acting reasonably, are damaged or worn; and
  - (d) repairing any damage caused to the Premises by the Lessee or the Lessee's Associates during the term of the lease.
- (38) **Rent** means the amount stated in Item 7 of the Reference Schedule and includes any variation of it under this lease.
- (39) **Related Entity** has the same meaning as in section 9 of the *Corporations Act 2001*.
- (40) **Review Date** means a Fixed Review Date, CPI Review Date, or a Market Review Date as the context requires.
- (41) **Rules** means the rules made by the Lessor in relation to the Building, consistent with the Lessee's rights under this lease, as notified to the Lessee from time to time, or rules made in connection with the Scheme.
- (42) **Scheme** means the Community Titles Scheme under the *Body Corporate and Community Management Act 1997 (Qld)* of which the Premises forms part (if any).
- (43) **Services** means all services (such as gas, electricity, telephone, communications, fire fighting, water and sewerage services) supplied to the Building or the Premises, including plant and equipment relating to those services.
- (44) **Term** means the lease term specified at Item 5 of the Reference Schedule.
- (45) **Valuer** means a person who:
- (a) is a fellow or an associate, of not less than 5 years' standing, of the Australian Institute and active in the relevant market at the time of his or her appointment; and



- (b) has at least 3 years' experience in valuing the kind of premises leased by this lease.

## **2. Term, Option and Holding Over**

### **2.1 Length of Lease**

- (1) This lease starts on the Commencement Date.
- (2) The Lessee is bound from the date it signs the lease or takes possession of the Premises, whichever is the earlier.
- (3) This lease ends at midnight on the Expiry Date.

### **2.2 Holding Over**

If the Lessee continues to occupy the Premises after the Term expires with the Lessor's consent then:

- (1) the Lessee occupies the Premises as a monthly tenant at a monthly rental equal to the monthly rental payable during the last year of the Term;
- (2) the monthly rental is payable in advance on the first day of each month;
- (3) as far as applicable, the monthly tenancy otherwise continues on the terms of this lease; and
- (4) the Lessor or the Lessee may terminate the monthly tenancy by giving to the other 1 month's written notice expiring on any date.

### **2.3 Option for renewal**

- (1) This clause 2.3 applies if an Option Period has been inserted in Item 6 of the Reference Schedule.
- (2) If the Lessee:
  - (a) wishes to lease the Premises for the Option Period;
  - (b) gives notice to that effect to the Lessor not more than 6 months and not less than 3 months before the Term expires; and
  - (c) prior to the date of commencement of the Option Period, no unremedied breach of the lease by the Lessee exists,

the Lessor must grant a further lease of the Premises for the Option Period to the Lessee on the same terms as this lease except that:

- (i) if the particulars of the new lease are the only particulars specified in Item 6 of the Reference Schedule, this clause 2.3 and Item 6 are deleted; and
- (ii) if particulars of more than one new lease are specified in Item 6 the particulars of the new lease first specified are deleted from Item 6; and
- (iii) the commencement date, the term, the expiry date and the rent review dates are to be those first specified in Item 6; and
- (iv) the rent from the commencement date of the new lease is to be decided under clause 3.4 as if that date was a Market Review Date; and
- (v) the new lease must reflect any variations to this lease which become effective during the Term.

- (3) The Lessor, the Lessee and the Guarantor (if any) must enter into and sign either an instrument of amendment under section 67 of the *Land Title Act 1994* or a new lease on the terms set out in this clause within a reasonable time after exercise of the option and determination of the new rent.
- (4) Despite anything in this lease to the contrary, the Rent for the first year of the further lease will not be less than that payable during the previous Lease Year.

### 3. Rent and Rent Reviews

#### 3.1 Rent

- (1) The Lessee agrees to pay the Rent by equal monthly instalments in advance each equal to one twelfth (1/12<sup>th</sup>) of the Rent on the first day of each month without deduction or set-off.
- (2) If necessary, the Lessor and Lessee must apportion the first and last instalments of the Rent on a daily basis.
- (3) The first instalment must be paid by the Commencement Date.
- (4) All instalments must be paid as the Lessor directs.

#### 3.2 Fixed increases rent review

- (1) This clause 3.2 applies if Item 8 of the Reference Schedule has been completed by inserting Fixed Increase Dates.
- (2) From each Fixed Increase Date, the Rent from and including that Fixed Increase Date will be increased by the percentage shown next to the Fixed Increase Date.

#### 3.3 Consumer Price Index rent review

- (1) This clause 3.3 applies if Item 9 of the Reference Schedule has been completed by inserting CPI Review Dates.

##### (2) Review

The Rent will be reviewed on each CPI Review Date to the amount represented by A in the following formula:

$$A = \frac{B}{C} \times D$$

Where B = the Index Number for the quarter ending immediately before the relevant CPI Review Date;

C = the Index Number for the quarter 1 year before the quarter in B; and

D = the Rent payable immediately before the CPI Review Date.

##### (3) Suspension of Consumer Price Index

- (a) If the Consumer Price Index (All Groups) for Brisbane is suspended or discontinued, the words "Index Number" will mean the price index substituted by the Australian Statistician.
- (b) If no price index is substituted, the words "Index Number" will mean an index which the parties agree most closely reflects changes in the cost of living.



- (c) If the parties cannot agree on a substitute index, the president of the Australian Institute, at the request of either party, may appoint an expert to determine a substitute index which most closely reflects changes in the cost of living and the words "Index Number" will mean that index.

(4) **Limit on Variation**

Despite anything in this clause 3.3 to the contrary, the Rent payable following a review under this clause will not be less than the Rent payable immediately before the relevant CPI Review Date.

3.4 **Market rent review**

- (1) This clause 3.4 applies if Item 10 of the Reference Schedule has been completed by inserting Market Review Dates.
- (2) The Rent will be reviewed on each Market Review Date, but only if Lessor chooses to initiate a review to market, to an amount determined in accordance with the following procedure.

(a) **Lessor's Notice**

The Lessor may notify the Lessee of the Rent which it considers to be the current market rent for the Premises as at the Market Review Date by notice to the Lessee (**Lessor's Notice**) given within 3 months before and 3 months after the Market Review Date.

(b) **Lessee's Notice**

- (i) Within 14 days after receiving the Lessor's Notice, the Lessee may give the Lessor a notice (**Lessee's Notice**) stating the amount that the Lessee considers to be the appropriate Rent for the Premises and requiring the market rent to be determined under clauses 3.4(2)(c) to 3.4(2)(e).
- (ii) If the Lessee does not give the Lessee's Notice within 14 days of receiving the Lessor's Notice, the Rent applicable until the next Review Date will be the amount and the percentage stated in the Lessor's Notice.

(c) **Negotiations**

- (i) Within 14 days of the Lessor receiving the Lessee's Notice, the Lessor and the Lessee or their representatives must meet and attempt to resolve their dispute as to the market rent payable for the Premises at the Market Review Date.
- (ii) If Lessor and the Lessee do not agree on the current market rent for the Premises within 14 days of the parties first meeting under clause 3.4(2)(c)(i), then clauses 3.4(2)(d) and (e) apply.

(d) **Disputes over Market Rent**

- (i) If the Lessor and the Lessee have not agreed on the current market rent for the Premises, the dispute must be referred for determination by a Valuer agreed by the Lessor and the Lessee, or failing agreement within 14 days of the end of the period described in clause 3.4(2)(c)(ii), nominated by the President for the time being of the Australian Institute.
- (ii) The appointed Valuer will make a determination of the market rent as at the relevant Market Review Date acting as an expert and not as an arbitrator.
- (iii) The Valuer must make a written determination containing reasons within 1 month of his appointment.



- (iv) The Valuer's determination will be final and binding on the Lessor and the Lessee subject to manifest error.
- (v) The Lessor and the Lessee must each pay one-half of the Valuer's fees for assessing the current market rent.
- (e) Submissions to Valuer

Either party may within 7 days of receiving notification of acceptance of the appointment from the Valuer, but not after this 7 day period, make one submission in writing to the Valuer and must contemporaneously forward a copy of that written submission to the other party. Either party may within 7 days of the receipt of a copy of the other party's submission, but not after this 7 day period, forward to the Valuer one written response to the other party's submission.

### 3.5 Payment of Rent Pending Review

- (1) Until the determination of Rent under clause 3.4 has been made, the Lessee will pay Rent at the rate of 90% of the amount stated in Lessor's Notice or the Rent payable at the date of Lessor's Notice, whichever is the greater.
- (2) Any variation in Rent as the result of review under clause 3.4 takes effect on the Review Date.
- (3) Within 14 days of the determination, the Lessor will refund any overpaid Rent or the Lessee will pay any shortfall.

### 3.6 Limit on Variation

Despite anything in this clause 3.4 to the contrary, the Rent payable following a review under this clause will not be less than the Rent payable immediately before the relevant Market Review Date.

### 3.7 No Market Review

If in relation to any Market Review Date, the Lessor does not choose to review the Rent to market, Rent will be reviewed on that date in accordance with clause 3.2, as if it was a Fixed Increase Date.

### 3.8 Lessee's Request for Determination of Market Rent

- (1) Despite clause 3.4(2), the Lessee is entitled to request in writing a determination of the current market rent at any time within the period between nine (9) months and six (6) months before the Term expires ("Request Period").
- (2) The Lessee may not make such a request if the Lessor and the Lessee have already agreed as to what the current market rent is to be.
- (3) If the Lessee makes such a request, the parties shall negotiate in good faith to agree on the current market rent for the Premises during the Request Period.

## 4. Outgoings and utility charges

### 4.1 Application of Clause

Clauses 4.2 and 4.3 apply only if Item 15 of the Reference Schedule states outgoings are 'Payable'.

### 4.2 Obligation to pay

In each Outgoings Year the Lessee must pay the Lessor (in addition to all other amounts payable under this Lease) the Lessee's Outgoings Proportion for each Outgoings Year calculated as follows:

$$LOC = LOP \times O$$



Where:

- LOC* = the Lessee's Outgoings Contribution for the relevant Outgoings Year
- LOP* = the Lessee's Outgoings Percentage
- O* = the amount in dollars of the Outgoings during the relevant Outgoings Year

#### **4.3 Payment by the Lessee of Outgoings**

Despite clause 4.2:

- (1) the Lessor may at any time during an Outgoings Year give the Lessee a notice stating the Lessor's reasonable estimate of Outgoings for that Outgoings Year;
- (2) The Lessee must pay the amount for Outgoings shown in the Lessor's estimate referred to in clause 4.3(1) to the Lessor within 30 days after service of the statement.
- (3) After the end of each Outgoings Year, the Lessor must give the Lessee an itemised statement of the actual Outgoings for that Outgoings Year certified as correct by the Lessor's accountant or auditor and an adjustment will be made between the Lessor and Lessee by the payment of any deficiency by the Lessee to the Lessor or the refunding or crediting of any excess by the Lessor to the Lessee, as the case may be.

#### **4.4 Expenses due to Lessee's sole use**

- (1) The Lessee must pay to the Lessor or other relevant supplier all charges for electricity (including any charges for the provision of electricity network infrastructure), internet and telephone where they are separately metered to the Premises by their due dates for payment.
- (2) The Lessee must pay to the Lessor all expenses due solely to the Lessee's use of the Premises.

### **5. GST**

#### **5.1 Payments are GST exclusive**

The Rent and other payments under this lease are exclusive of GST.

#### **5.2 Addition of GST**

If a supply under this lease is subject to GST, the recipient agrees to pay the supplier an additional amount equal to the consideration for the supply multiplied by the prevailing GST rate.

#### **5.3 Time and manner of payment**

The additional amount is payable at the same time and in the same manner as the consideration for the supply to which the additional amount relates.

#### **5.4 Supplier's obligations**

The supplier must:

- (1) give the recipient a Tax Invoice (as defined in the GST Act) for the additional amount when it is paid; and
- (2) promptly refund any overpayment made by the recipient under this clause 5 after the supplier receives the benefit of a credit or refund in connection with the overpayment.

## **6. Use of Premises**

### **6.1 Permitted Use**

The Lessee:

- (1) must use the Premises for the purpose stated in Item 11 of the Reference Schedule only;
- (2) must obtain all necessary approvals to use the Premises for the Permitted Use and operate the Lessee's business from the Premises;
- (3) occupies and uses the Premises at the Lessee's risk; and
- (4) subject to this lease, may have access to the Premises on a 24 hours, 7 days a week basis.

### **6.2 Restrictions on Use**

The Lessee must:

- (1) not carry on or permit any noxious or offensive act to be carried on in the Premises;
- (2) not cause annoyance, nuisance, grievance, damage or disturbance to neighbouring premises;
- (3) not write, paint, display or erect any signage, other than within the Improvements, without obtaining the Lessor's prior written approval (which the Lessor must not unreasonably withhold);
- (4) not install any equipment in the Premises that may overload any Services;
- (5) not use any of the Lessor's Property other than for its intended purpose;
- (6) not make any alterations or additions to the electrical installations or wiring in the Premises without the Lessor's prior written approval;
- (7) not alter or add to the Premises, install or alter any partitions, install any heavy article (for example, a safe) without the Lessor's prior written approval;
- (8) not disturb the efficient operation of the Services without the Lessor's prior written approval;
- (9) not do or omit to do anything to or upon the Premises which may increase the rate of any insurance on the Premises or any property within the Premises or vitiate or render void or voidable any insurance in respect of the Premises;
- (10) not store chemicals, inflammable liquids, acetylene, gas, alcohol, volatile or explosive oils, compounds or substances on the Premises except if it is necessary and proper for the Lessee's business permitted under this lease.

### **6.3 No Warranty as to Use**

- (1) The Lessor gives no warranty as to the suitability of the Premises for the Permitted Use.
- (2) The Lessee acknowledges that the Lessor has no liability to it if the Lessor elects not to enforce an obligation under the lease of another lessee of the Land.

### **6.4 Official Requirements**

The Lessee must comply on time and at its cost with Official Requirements relating to the Premises, including using the Premises for the Permitted Use, and the Lessee's Property.



## **6.5 For Lease Signs**

- (1) The Lessor may:
  - (a) place advertisements and signs on any part of the Premises it reasonably considers appropriate if the Premises are for lease; and
  - (b) show any interested persons through the Premises after giving the Lessee 2 days' notice.
- (2) The advertisements and signs may only be placed on the Premises within the last 3 months of the Term.

## **6.6 Exclusive Use**

The Permitted Use, to the extent "Real estate sale and rentals", is exclusive to the Lessee. Exclusivity of use does not apply to that part of the Permitted Use stated as "ancillary services". The Lessor may not allow other tenants in the Building to carry on the same or similar use to the extent provided.

# **7. Maintenance, Repair and Lessee's works**

## **7.1 Lessee to repair**

Except to the extent it is caused or contributed to by the Lessor or its employees, servants or contractor, the Lessee must, at its own expense:

- (1) maintain the Premises in good and substantial repair and condition except for fair wear and tear and including carrying out any repairs and fixing any damage the Lessee or the Lessee's Associates cause;
- (2) maintain, repair and keep the Lessee's Property (including any signs) in good condition;
- (3) promptly replace worn or damaged items in or attached to the Premises including all glass, light bulbs, the Lessee's Property and those floor coverings and furnishings that form part of the Lessor's Property with items of similar quality; and
- (4) clear any blockages in pipes that originate in the Premises.

## **7.2 Structural Work**

- (1) The Lessee must not carry out structural work to the Premises without the Lessor's prior written approval.
- (2) The Lessee is not required to carry out any structural maintenance, repair or replacement unless required because of:
  - (a) the wilful or negligent act or omission or default of the Lessee or the Lessee's Associates; or
  - (b) the Lessee's use of the Premises.

## **7.3 Redecoration**

- (1) This clause applies if Redecoration Dates have been inserted at Item 12 of the Reference Schedule.
- (2) The Lessee must Redecorate the Premises and the Lessee's Property on the Redecoration Dates.

#### **7.4 Cleaning and other maintenance obligations**

The Lessee must, at its own expense:

- (1) keep the Premises thoroughly clean and tidy, free from dirt, pests and vermin; and
- (2) not allow rubbish to accumulate in any part of the Premises and comply with the Lessor's reasonable directions about refuse removal and recycling.

#### **7.5 Air Conditioning**

In the event the Premises are air conditioned, the Lessee must, at its expense and at intervals of no longer than six (6) months, have the air-conditioning unit serviced by appropriately qualified air-conditioning maintenance tradespeople and provide copies of service reports to the Lessor upon request.

#### **7.6 Lessor's Right to Inspect and Repair**

- (1) After giving the Lessee reasonable notice (except in the case of an emergency, when no notice is required), the Lessor and/or its agents may enter the Premises and view its condition.
- (2) The Lessor may serve a notice on the Lessee requiring it to repair any defect, the repair of which is the Lessee's obligation, within a reasonable time.
- (3) If the Lessee does not make the repairs to the Lessor's satisfaction, the Lessor and its contractors may enter any part of the Premises and make the repairs at the Lessee's expense.
- (4) In exercising its powers under this clause 7.6, the Lessor will endeavour to cause as little inconvenience to the Lessee as is practicable in the circumstances.

#### **7.7 Lessor May Enter**

- (1) The Lessor may enter the Premises with workmen and other authorised persons and necessary materials and appliances to:
  - (a) comply with any requirements of Authorities;
  - (b) exercise the Lessor's rights; or
  - (c) provide any Services to the Lessee.
- (2) In carrying out work under this clause 7.7, the Lessor will endeavour to cause as little inconvenience to the Lessee as is practicable in the circumstances.

#### **7.8 Notice of Defective Services**

- (1) The Lessee must promptly give the Lessor notice of:
  - (a) any damage to, defect or disrepair in the Services or Landlord's Plant and Equipment likely to adversely affect the Lessor; and
  - (b) any circumstances on or in relation to the Building likely to cause any danger, risk or hazard to any persons or property.
- (2) The Lessor, its directors, agents, employees and contractors shall not be liable to the Lessee for any damage or loss suffered or incurred by the Lessee or the Lessee's Associates for any malfunction, failure to function or interruption of or to the Services or the Plant and Equipment from any cause whatsoever except to the extent the damage or loss is directly caused by the negligence or wilful default of the Lessor, its directors, agents, employees or contractors.



## **7.9 Lessee's Works**

- (1) The Lessee may not carry out works to the Premises without the Lessor's prior written approval.
- (2) If the Lessor approves the works it may impose conditions, including:
  - (a) specifying which parts of the Premises are not required to be reinstated by the Lessee and which parts must be reinstated; and
  - (b) identifying which items of the Lessee's Property installed as part of the works may not be removed by the Lessee,when the Lessee vacates the Premises.
- (3) If the Lessor approves work being undertaken by the Lessee to the Premises, the Lessee must ensure that any works it does in or about the Premises are carried out:
  - (a) in a proper and workmanlike manner and using only first quality new materials;
  - (b) in accordance with the requirements of Authorities;
  - (c) without disturbing neighbours.
- (4) The Lessee must provide the Lessor with copies of all approvals obtained from any Authority necessary for the carrying out of the proposed works and must inform the Lessor of the proposed dates of commencement and completion.
- (5) If undertaking Lessee's works, the Lessee will comply with, and ensure that any and all subcontractors or other persons in use or occupation of the Premises comply with all workplace health and safety laws and requirements and the Lessee is appointed as the principal contractor in respect of the Lessee's works and will sign any notice required to confirm the Lessee's acceptance of that appointment.
- (6) On completion of the works, the Lessee must obtain and deliver to the Lessor a certificate from all relevant Authorities stating that the works have been completed in accordance with the requirements of those Authorities, together with two sets of final "as built" drawings in respect of the works.
- (7) The Lessee indemnifies the Lessor against any liability for loss, damage, injury or death caused by:
  - (a) any act or omission on the part of the Lessee or the Lessee's contractors; or
  - (b) the Lessee's works being carried out, except to the extent that a negligent act or omission or wilful breach of the Lessor contributed to the loss, damage, injury or death.

## **7.10 Lessee to Provide Notice of Repairs**

In the event the Lessee requires the Lessor to attend to a repair and maintenance obligation of the Lessor under this lease, the Lessee must first request and specify the required repairs or maintenance by notice in writing to the Lessor or the Lessor's agent.

## **7.11 Use of Common Areas**

- (1) The Lessee may, in common with other persons authorised by the Lessor, use the Common Areas for the purposes for which they were designed or intended.
- (2) The Lessee must comply with all reasonable directions and rules given to it by the Lessor relating to use of and conduct in the Common Areas.



## **7.12 Fire Safety**

- (1) The Lessee is responsible, at the Lessee's expense, to comply with all applicable statutory requirements and the relevant Australian Standard in relation to the installation and maintenance of fire and safety equipment at the Premises and shall ensure a current evacuation plan has been prepared and is available at the Premises as well as maintenance records. The Lessee is also responsible for annual fire evacuation inspections and reviews at the Lessee's cost.
- (2) The Lessee shall not bring or do any act, matter or thing upon or keep any matter or thing in the Premises which may conflict with any statutory requirements relating to fire or any insurance policy in respect of the Premises or in any way create any actual or potential fire hazard in or near the Premises.

## **8. Environment**

### **8.1 Lessee's general environmental obligations**

The Lessee must:

- (1) comply with all Environmental Laws in its use or occupation of the Premises;
- (2) take all steps necessary to prevent or minimise the release of a Contaminant which may cause or is likely to cause harm to the Premises or the Environment and advise the Lessor immediately should the release of a Contaminant occur; and
- (3) comply with the terms of any notice, order or direction or other communication issued by a Authority under an Environmental Law arising out the Lessee's use or occupation of the Premises.

The Lessee must ensure that the Lessee's Associates comply with the Lessee's general environmental obligations in this clause 8.

## **9. Assignment and Subletting**

### **9.1 Lessor's Consent Required**

The Lessee must obtain the Lessor's consent before the Lessee assigns, sublets or otherwise deals with its interest in the Premises.

### **9.2 Conditions of Lessor's Consent to Assignment**

The Lessor must give its consent to a proposed assignment if:

- (1) the Lessee gives the Lessor not less than 30 day's notice of the proposed assignment;
- (2) the Lessee satisfies the Lessor that the assignee is financially secure and has the ability to carry out the Lessee's obligations in this lease;
- (3) the assignee signs any agreement and gives any security which the Lessor reasonably requires;
- (4) the Lessee complies with any other reasonable requirements of the Lessor;
- (5) the Lessee is not in breach of the lease;
- (6) the Lessor succeeds in obtaining any necessary consents; and



- (7) the Lessee pays the Lessor's reasonable costs of giving its consent.

### **9.3 Conditions of Lessor's Consent to Sublease**

Lessor must give its consent to a proposed sublease if:

- (1) The Lessee gives the Lessor not less than 30 day's notice of the proposed sublease;
- (2) the Lessee satisfies the Lessor that the proposed sublessee is financially secure and has the ability to carry out the Lessee's obligations in this lease;
- (3) the proposed sublessee signs any agreement and gives any security which the Lessor reasonably requires;
- (4) the Lessee complies with any other reasonable requirements of the Lessor;
- (5) the Lessee is not in breach of the lease;
- (6) the Lessor succeeds in obtaining any necessary consents; and
- (7) the Lessee pays the Lessor's reasonable costs of giving its consent.

### **9.4 Change in Control of Lessee**

If the Lessee is a corporation (other than a corporation whose shares are listed on the official list of the Australian Stock Exchange), a change in the effective control of the corporation is deemed to be an assignment of the lease and the Lessee may not make that change unless it obtains the Lessor's consent under clause 9.1 and complies with the conditions of the Lessor's consent in clause 9.2 as if the person or group of persons acquiring control were the proposed assignee.

### **9.5 Mortgage Over Lessee's Property**

- (1) The Lessee must not, without the Lessor's prior consent, mortgage, charge, lease or deal with any Lessee's Property if that requires or may require Lessor to sign a waiver or similar document.
- (2) Despite clause 9.5(1) the Lessee may grant a fixed and floating charge to its principal banker over all of its assets without obtaining the Lessor's prior consent.

### **9.6 Assignment by Lessor**

- (1) The Lessor is entitled at any time to sell an interest in the Land. Where the transfer includes the Premises and this lease, subject to the lease not being registered, the Lessor shall obtain a signed deed from the transferee containing covenants in favour of the Lessee that the transferee will be bound by the terms of this lease and will not transfer its interest in the lease unless it obtains a similar deed from its transferee.
- (2) Upon the transfer of the lease from the Lessor to the transferee the Lessor is without further written agreement and with the agreement of the Lessee, which is hereby given, relieved of liability under these covenants and obligations from the date of the transfer.

## **10. Lessor's Covenants**

### **10.1 Quiet Enjoyment**

If the Lessee performs and observes all its obligations under this lease, it may use the Premises without interruption or disturbance from the Lessor or any person claiming by, through or under the Lessor.



## 10.2 Consent and Other Requirements

- (1) If the Lessor is required to obtain any third party's consent to this lease, the Lessor must do everything reasonably necessary to obtain that consent.
- (2) If required by a mortgagee or other third party, the Lessee must enter into a deed containing the reasonable terms of consent required by the third party.

## 10.3 Reservations

- (1) The Lessor reserves the following rights:
  - (a) do anything to comply with any law, Official Requirement or the requirements of Authorities;
  - (b) after reasonable notice (except in emergency when no notice will be necessary) the right to install, repair, alter or replace any Services or any poles, masts, posts, drains, conduits, pipes, mains, cables, electric or other wires which may from time to time be required for any existing or future Services;
  - (c) after reasonable notice (except in emergency when no notice is required) the right to effect alterations, remodelling or repairs or carry out works which are incumbent upon the Lessor by law to carry out or which the Lessor may wish to carry out for ensuring the safety and preservation of the Premises;
  - (d) to grant, transfer, dedicate or otherwise enter into any arrangement in relation to the land where the Premises are located for the purpose of supporting structures on or providing Services or access rights; and
  - (e) the exclusive right to use any part of the Building which is not leased and Lessor may erect or display advertising signs, grant leases or licences or authorise any person to use those areas for any purpose.
- (2) The Lessor must not exercise these rights in any way that prejudices the Lessee's rights under this lease

## 10.4 Further Dealing with the Land

The Lessor may subdivide or procure the subdivision of the Land or grant easements or other rights over it or the Premises or register a new survey plan for the Building or Premises unless this would have a substantial adverse effect on any business conducted on the Premises. The Lessee must do everything reasonably necessary (including procuring the co-operation of anyone claiming through the Lessee), including signing and producing documents and giving consents, to enable Lessor to exercise these rights.

# 11. Security

## 11.1 Bank Guarantee

- (1) This clause 11.1 applies if an amount for a bank guarantee is inserted at Item 14 of the Reference Schedule.
- (2) The Lessee must:
  - (a) before taking possession of the Premises, arrange for the issue of an unconditional bank guarantee in favour of Lessor for the amount stated in Item 14 of the Reference Schedule to secure performance by the Lessee of its obligations under this lease;



- (b) on each second anniversary of the Commencement Date, provide a replacement or additional bank guarantee so that the total amount guaranteed is equivalent to the amount of 3 months' of the reviewed Rent plus GST payable at each of those dates;
- (c) ensure that any bank guarantee is kept current and enforceable and does not specify an expiry date; and
- (d) if the Lessor is paid an amount under the bank guarantee, following a demand, provide the Lessor with a replacement or additional bank guarantee for the amount paid out.

## **11.2 Bond**

- (1) This clause 11.2 applies if an amount for a bond is inserted at Item 14 of the Reference Schedule.
- (2) On or before the Commencement Date, the Lessee agrees to pay the Bond to the Lessor by cash or unendorsed bank cheque.
- (3) When the Lessor receives the Bond it becomes the Lessor's property. The only obligation the Lessor has towards the Lessee in connection with the Bond is to make the payment referred to in clause 11.2(5) and (6).
- (4) If the Lessor draws on the Bond or the Rent is increased and the Lessor gives the Lessee a notice stating the amount required to top up the Bond, then no later than 7 days after the Lessor gives the notice the Lessee agrees to pay that amount to the Lessor by cash or bank cheque.
- (5) When this lease expires or is terminated, the Lessor may use the Bond for outstanding amounts payable by the Lessee under this lease and then must pay to the Lessee an amount equivalent to any unused part of the Bond.
- (6) If requested by the Lessee, the Lessor shall deposit the bond amount into an interest bearing account for the Term with any interest earned to be divided equally between the Lessor and Lessee.

## **11.3 Recourse to Security**

- (1) If the Lessee does not comply with any of its obligations under this lease, the Lessor may call on the bank guarantee or bond, as the case may be, to the extent of the Lessee's default.

# **12. Insurance**

## **12.1 Lessee's Required Insurance**

The Lessee must keep current:

- (1) public liability insurance for at least the amount stated in Item 13 of the Reference Schedule;
- (2) plate glass insurance for its replacement value;
- (3) property insurance in respect of the Premises and Lessee's Property for its full replacement value; and
- (4) other insurances required by law or which a prudent Lessee would effect or which the Lessor deems necessary to be held by the Lessee based on the Lessee's permitted use of the Premises.

If the Lessee intends to make any alterations or additions on the Premises, before such construction commences the Lessee must ensure contract works insurance is obtained and maintained in the names of the Lessee, the Lessor, any superintendent and all subcontractors covering the whole of the



Improvements for automatic reinstatement including goods, materials (including material supplied by the Lessee, such as temporary buildings), plant and equipment stored off site or in transit to the site against loss and damage resulting from any cause whatsoever until the completion of construction of the alteration or addition (including any defects liability period).

Upon completion of construction of the alteration or addition the Lessee must take out property insurance for the alteration or addition for their replacement value.

## **12.2 Insurance Requirements**

The Lessee must ensure that the policies of insurance required to be effected by the Lessee under this clause 12:

- (1) are taken out with a reputable Australian insurer;
- (2) have no unusual exclusions, conditions, endorsements or alterations; and
- (3) note the Lessor as an interested party.

## **12.3 Payment and Production of Insurance Policies**

- (1) The Lessee must promptly pay all premiums and other money payable in respect of the insurances.
- (2) The Lessee must produce policies of insurance (including all endorsements) it is required to effect under this clause 12 and a certificate/schedule of insurance.

## **12.4 Notification**

The Lessee must notify the Lessor if in relation to the insurance policies it is required to hold under this clause 12:

- (1) an insurance policy under this clause 12 is cancelled;
- (2) something happens that gives rise or might give rise to a claim; or
- (3) a claim under the policy is refused.

## **12.5 Lessor's Insurance**

- (1) The Lessee shall not have any interest in or be entitled to any benefit under an insurance policy effected by the Lessor unless the Lessee is expressly named in such policy.
- (2) The Lessee shall pay to the Lessor upon demand all extra or excess premiums and other charges for insurances on the Premises required on account of any extra risk associated with the Permitted Use or the Lessee's business or required as a result of the negligence or default of the Lessee or Lessee's Associates.

# **13. Indemnity and release**

## **13.1 Indemnity**

- (1) Subject to clause 13.1(2) and without limiting any other right or remedy of the Lessor, the Lessee indemnifies the Lessor and its directors, agents, employees and contractors against:
  - (a) any liability to or Claim by a third party (including a Lessee's Associate); and
  - (b) all costs, expenses (including those payable to consultants, lawyers and other advisors), fines, penalties, losses and damages suffered or incurred by the Lessor, its directors, agents, employees or contractors,



arising directly or indirectly out of or in connection with any:

- (c) breach of this lease;
- (d) intentional act or omission; or
- (e) negligent act or omission,

of the Lessee or the Lessee's Associates.

- (2) The indemnity in clause 13.1(1) will be reduced to the extent that a negligent act or omission or wilful breach of the Lessor, its directors, agents, employees or contractors contributed to the liability, costs, expenses, fines, penalties, losses or damages.
- (3) All obligations to indemnify under this lease survive termination of this lease.

### 13.2 Release

- (1) To the full extent permitted by law, the Lessee releases the Lessor and its directors, agents, employees and contractors from liability for any Claim in respect of or arising from:
  - (a) damage or injury to any person or property in the Premises;
  - (b) a Service being interrupted or malfunctioning;
  - (c) the Lessor's plant and equipment not working properly;
  - (d) anything the Lessor or its directors, agents, employees or contractors are permitted or required to do under this lease;
  - (e) any fault in the construction or state of repair of the Premises;
  - (f) the flow, overflow, leakage, condensation or breakdown of any water, air conditioning, gas, oil or other source of energy or fuel from or in any part of the Premises.

except to the extent the Claim results from the negligent act or omission or wilful breach of the Lessor, its directors, agents, employees or contractors.

## 14. No compensation payable

- 14.1 If this lease terminates through effluxion of time or because it is earlier terminated by the Lessor or the Lessee, the Lessee has no Claim against the Lessor for compensation or otherwise arising from or in connection with the Lessee having built any Improvements at its expense.

## 15. Damage to Premises

### 15.1 Damage by Lessee

The Lessee may not terminate the lease and the Rent will not be reduced if the Lessee has caused any damage.

### 15.2 Termination of Lease

If the Premises are substantially damaged so that the Premises are not fit for occupation or use:

- (1) the Lessor may notify the Lessee within sixty (60) days of the damage that the damage makes any repair impracticable or undesirable, whereupon this lease may, without compensation, be terminated by either party by seven (7) days' notice; or

- (2) if the damage is in relation to the Premises, and the Lessor does not commence to repair the Premises within sixty (60) days from the date of the damage or fails to diligently continue those repair works within fourteen (14) days of a written request from the Lessee to do so, the Lessee may, without compensation, terminate this lease by giving a further seven (7) days written notice; and
- (3) there is no obligation on the Lessor to repair the damage or pay compensation to the Lessee because of the failure of the Lessor to effect repairs or because of the termination of the lease under this clause 15.2.

### 15.3 Reduction of rent

- (1) The Lessee will not have to pay Rent if the Premises cannot be used by the Lessee for the Permitted Use or are inaccessible due to damage.
- (2) The Lessee will only have to pay a proportion of the Rent calculated by the Lessor while the Premises are not fully useable and this proportion is to be determined by taking into consideration the area that is not useable by the Lessee.

### 15.4 Resumption

If any part of the Premises is resumed and this would have a significant adverse effect on the Lessee's use and enjoyment of the Premises, the Lessor is entitled to terminate this lease by written notice to the Lessee. If this occurs, the Lessee is not entitled to claim compensation from the lessor in relation to the resumption or termination of lease but the Lessee's rights against the resuming authority are unaffected.

## 16. Demolition

16.1 This clause 16 only applies during any Option Period.

16.2 If the Lessor requires the Building or any part of it to be demolished (for example for redevelopment of the Land or the Building):

- (1) the Lessor must give the Lessee details of the proposed redevelopment sufficient to indicate a genuine proposal that is to be carried out within a reasonable time and that cannot be carried out practically without the Lessee vacating the Premises and the Building;
- (2) the Lessor must give the Lessee at least six (6) months notice of the demolition or partial demolition of the Building ("the Demolition Notice");
- (3) this lease will terminate on the earlier of:
  - (a) the date specified by the Lessee in the written notice given by the Lessee to the Lessor terminating the lease giving at least seven (7) days notice; or
  - (b) the date in the Demolition Notice being no earlier than the date six (6) months after the date that the Demolition Notice is given to the Lessee;
- (4) the Lessee must execute all documents necessary to surrender this lease on the date in clause 16.2(3); and
- (5) subject to any statutory right to compensation, neither party will have a right to compensation from the other party.



## **17. Default of Lessee**

### **17.1 Default**

The Lessee is in default if:

- (1) the Rent, Outgoings or any money due and payable by the Lessee under this lease is not paid within seven (7) days of being due;
- (2) repairs required by any notice are not carried out by the Lessee within the time specified in the notice;
- (3) the Lessee does not perform or observe any of its covenants or obligations under this lease;
- (4) fails to comply with the CMS or the Rules (if any); or
- (5) the Lessee becomes an externally-administered body corporate within the meaning of the *Corporations Act 2001*.

### **17.2 Lessor's Remedies**

If the Lessee is in default under clause 17.1 then subject to giving any prior demand or notice required by any law and without prejudice to any other Claim that the Lessor has or may have against the Lessee or any other person in respect of default, the Lessor may:

- (1) re-enter and take possession of the Premises (by force if necessary) and eject the Lessee and all other persons and this lease will terminate;
- (2) by notice to the Lessee, terminate this lease from the date of giving the notice;
- (3) by notice to the Lessee, convert the unexpired portion of the Term into a tenancy from month to month and, after the notice and until the tenancy is terminated, the Lessee will occupy the Premises as Lessee from month to month;
- (4) recover from the Lessee or the Guarantor (if any) any loss the Lessor suffers;
- (5) recover from the Lessee the cost of engaging a debt collection agency or law firm in order to recover a debt from the Lessee;
- (6) use the Security to recover any loss the Lessor suffers; and/or
- (7) exercise any of the Lessor's other legal rights.

### **17.3 Lessor may Rectify**

If the Lessee fails to perform or observe any of its covenants or obligations under this lease, the Lessor may, following the failure of the Lessee to rectify the default within a reasonable time after a notice to rectify was issued by the Lessor, take the necessary steps to rectify the default. Any costs incurred by the Lessor in remedying a default may be treated by the Lessor as a liquidated debt payable by the Lessee.

### **17.4 Tender After Termination**

Any money tendered by the Lessee after termination and accepted by Lessor will be applied towards money owing under this lease at the Lessor's discretion.

## **17.5 Interest on Overdue Money**

### **(1) Interest**

The Lessee must pay interest to the Lessor at the Default Rate on any Rent, costs or other money due to the Lessor and not paid when due.

### **(2) Conditions**

Interest:

- (a) accrues from day to day;
- (b) is capitalised on the last day of each month;
- (c) is payable on the first day of each month where an amount arose in the preceding month or months; and
- (d) is computed from the date for payment of the Rent, costs or other money until payment.

## **17.6 Essential Terms**

(1) The following Lessee obligations are considered to be essential terms of this lease:

- (a) to pay Rent [clause 3.1];
- (b) to pay Outgoings [clause 4.2];
- (c) to use the Premises for the use stated in Item 11 of the Reference Schedule [clause 6.1];
- (d) not to assign, sublet or charge without the Lessor's consent [clause 9]; and
- (e) to insure [clause 12].

## **17.7 Repudiation**

If the Lessee's conduct constitutes breach of an essential provision of this lease and the Lessor elects to treat that breach as repudiation or the conduct otherwise constitutes repudiation, the Lessee must compensate the Lessor for all loss or damage suffered by reason of or arising from the repudiation including the difference between the aggregate of Rent and other money payable by the Lessee for the unexpired residue of the Term less any amount Lessor obtains, or could in Lessor's opinion reasonably be expected to obtain, by observing clause 17.9.

## **17.8 Lessor's Entitlement to Damages**

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

- (1) if the Lessee abandons or vacates the Premises;
- (2) if the Lessor elects to re-enter the Premises or terminate this lease;
- (3) if the Lessor accepts the Lessee's repudiation; or
- (4) if the parties' conduct (or that of any of their servants or agents) constitutes or may constitute a surrender by operation of law.



## **17.9 Lessor to Mitigate Loss**

- (1) If the Lessee vacates the Premises or if the Lessor accepts the Lessee's repudiation and terminates this lease, the Lessor must take reasonable steps to mitigate its loss and endeavour to re-lease the Premises on reasonable terms.
- (2) The Lessor's conduct in mitigating its damages does not of itself constitute acceptance of the breach or repudiation or a surrender by operation of law.

## **18. Termination**

### **18.1 Lessee's Obligations**

On termination the Lessee must:

- (1) vacate the Premises;
- (2) deliver the Premises to the Lessor in good order, repair and condition except for fair wear and tear;
- (3) if required by the Lessor, remove all the Lessee's Property from the Premises:
  - (a) during the 7 days immediately prior the Expiry Date; or
  - (b) in the case of the lease terminating prior to the Expiry Date, within 7 days after the date of termination;
- (4) if required by the Lessor, re-alter any alterations made to the Premises by the Lessee and return the Premises to its condition as at the Commencement Date;
- (5) if required by the Lessor, re-alter any alterations to any air conditioning services, fire services or other services or electrical wiring back to their original condition;
- (6) Redecorate the Premises; and
- (7) return to the Lessor all keys, access cards or similar devices for the Premises held by the Lessee or any third party to whom the Lessee may have given them.

### **18.2 Certain items not to be removed**

The Lessee may not remove Lessee's Property that:

- (1) the Lessor has stipulated as a condition of approving works may not be removed; or
- (2) is part of structural work done by the Lessee to the Premises unless the Lessor gives the Lessee a notice requiring it to remove the item.

### **18.3 Lessee to repair damage**

The Lessee must make good any damage caused to the Premises by the removal of the Lessee's Property to the reasonable satisfaction of the Lessor.

### **18.4 Failure by Lessee to Remove Lessee's Property**

- (1) If the Lessee fails to remove the Lessee's Property as required by clause 18.1(3), the Lessor may, at the Lessee's cost and expense;
  - (a) remove and store the Lessee's Property at the Lessee's risk; or

- (b) treat the Lessee's Property as if the Lessee had abandoned its interest in it and it had become the property of Lessor and deal with it as it thinks fit without being liable to account to the Lessee.

## **18.5 Lessee to indemnify, pay the Lessor's Costs in Liquidated Damages**

The Lessee:

- (1) indemnifies the Lessor against removal and storage of the Lessee's Property and against all Claims by any person claiming an interest in the Lessee's Property by reason of Lessor's actions under clause 18.4; and
- (2) must pay the Lessor, as a liquidated debt payable on demand, any costs incurred by Lessor in exercising its rights under clause 18.4 less any money received on disposal of the Lessee's Property.

## **19. Warranties and acknowledgments**

### **19.1 Lessee's capacity warranties**

The Lessee represents and warrants to the Lessor that:

- (1) it has been incorporated as a company limited by shares in accordance with the laws of its place of incorporation, is validly existing under those laws and has power and authority to carry on its business as it is now being conducted;
- (2) it has power to enter into this lease to which it is a party and comply with its obligations under it;
- (3) this lease and the transactions under it which involve it do not contravene its constituent documents (if any) or any law or obligation by which it is bound or to which any of its assets are subject or cause a limitation on its powers or the powers of its directors to be exceeded;
- (4) it has in full force and effect the authorisations necessary for it to enter into this lease, to comply with its obligations and exercise its rights under it and to allow them to be enforced;
- (5) its obligations under this lease are valid and binding and are enforceable against them in accordance with their terms;
- (6) it benefits by entering into this lease;
- (7) there are no reasonable grounds to suspect that it is unable to pay its debts as and when they become due and payable; and
- (8) it does not enter into this lease as a trustee.

### **19.2 Lessee's acknowledgements**

The Lessee acknowledges that it has relied only on its own enquiries about the Premises and the Land and in connection with this lease and has not relied on any representation or warranty by the Lessor or any person acting or seeming to act on the Lessor's behalf, including any representation or warranty as to the:

- (1) accuracy or completeness of any information given to the Lessee;
- (2) state, condition and adequacy of the Premises and the Land, including the Services; and
- (3) suitability of the Premises or the Land for any purpose (including the Permitted Use).



## **20. Superior interests**

### **20.1 Party entitled to Rent**

If a person other than the Lessor becomes entitled to receive the Rent either by operation of law or otherwise:

- (1) that person has the benefit of all covenants by the Lessee under this lease and, on the request and at the cost of the Lessor, the Lessee must enter into a deed to that effect with the person; and
- (2) the Lessor must not allow the Lessee's interest under this lease to be terminated through termination of any superior interest.

### **20.2 Exercise of rights by superior interest holder**

The Lessee must allow anyone having an interest in the Premises that is superior to, or concurrent with, Lessor to exercise any of Lessor's powers under this lease to enter and view the Premises and to carry out works in the Premises.

## **21. Legal and other costs**

### **21.1 Costs**

The Lessee must pay the Lessor:

- (1) stamp duty (if any);
- (2) registration fees on this lease;
- (3) surveyor's fees for the preparation of any sketch plan or survey plan required for this lease up to a maximum amount of \$700.00 plus GST;
- (4) Lessor's mortgagee consent fees;
- (5) The Lessor's reasonable expenses:
  - (a) for any consent required under this lease;
  - (b) relating to any assignment or subletting;
  - (c) relating to any surrender or termination of this lease except through its expiry;
  - (d) for obtaining local government consent to this lease (if necessary); and
  - (e) relating to any default by the Lessee or the Lessee's Associates in observing or performing the provisions of this lease; and
- (6) the costs associated with complying with any conditions of consent to this lease.

### **21.2 Legal fees for litigation**

If the Lessor, without fault on its part, is made a party to any litigation commenced by or against the Lessee (other than litigation between the Lessor and the Lessee) and arising directly or indirectly out of the Lessee's occupancy of the Premises, the Lessee will pay to the Lessor, on demand by the Lessor, all legal fees and disbursements (as between solicitor and client) incurred by the Lessor in connection with that litigation.

## **22. Notices**

### **22.1 Notices**

#### **(1) Execution of the Lessor's Notice**

Any notice by the Lessor under this lease is valid if signed by an officer or solicitor of the Lessor or any other person nominated by the Lessor.

#### **(2) Notice of Lessee's Address**

The Lessee must promptly notify the Lessor of the address and facsimile number of the Lessee and any Guarantor and update the notice if any changes occur.

#### **(3) Service of Notice on Lessee**

Any notice which the Lessor elects to serve on the Lessee is sufficiently served if:

- (a) served personally or addressed to the Lessee and left at the Premises;
- (b) sent to the Lessee's facsimile number;
- (c) forwarded by prepaid registered post to the Lessee's last known registered office, place of business or residence; or
- (d) forwarded by prepaid registered post to the address of the Lessee stated in Item 1 of the Reference Schedule.

#### **(4) Service of Notice on Lessor**

Any notice to the Lessor is sufficiently served if:

- (a) served personally;
- (b) sent to the Lessor's facsimile number; or
- (c) forwarded by prepaid registered post addressed to the Lessor.

All notices must be addressed to the Lessor at the address stated in Item 1 of the Reference Schedule or, if another address is later nominated by the Lessor, then at that address.

#### **(5) Time of Service**

Any notice sent by:

- (a) post is taken to be served on the second business day after the day it was posted; or
- (b) facsimile is taken to have been served at the time that the notice was transmitted unless the sender's facsimile machine indicates a malfunction in the transmission.

## **23. Special Conditions**

### **23.1 Rent Incentive**

- (1) Despite clause 3.1 of this lease, the Lessee is not required to pay Rent during the period commencing on the Commencement Date and expiring on 1 December 2016.
- (2) This rent incentive does not apply to any option period, extension or holding over period of this lease.



- (3) This rent incentive will not be taken into account in any rent review under this lease.
- (4) If the Lessee is in breach of this lease, and that breach remains unremedied for a period of more than fourteen (14) days, the Lessor will be entitled to recover the Rent payable during the rent free period referred in clause 23.1(1) above as a debt due and payable on demand.

### 23.2 Lessee Works

The Lessee shall, at the Lessee's expense, carry out the following interior works to the Premises within a reasonable period after the Commencement Date:

- (a) re-varnish the floors;
- (b) in the second office on the right remove wall to create a larger office and remove the second door in the second and third offices;
- (c) replace wooden doors with glass doors; and
- (d) erect a sign displaying the Lessee's business name above the entry to the Premises in the same way undertaken by other tenants of the Building.

In undertaking the above works the Lessee must obtain any necessary Brisbane City Council approvals and otherwise comply with clause 7.9 'Lessee's Works' of this lease.

The works undertaken by the Lessee under this clause remain the property of the Lessee during the term of this Lease however will remain in the Premises, at no cost to the Lessor, at the expiration or earlier termination of this Lease notwithstanding clause 18.4 of this Lease.

### 23.3 Lessor Works

The Lessor shall, at the Lessor's expense, arrange for the timber rot present under the entry floor mat to be repaired within a reasonable period after the Commencement Date.

### 23.4 Signage

- (1) The Lessee is granted a licence to use that part of the Building external to the Premises, and designated by the Lessor as the location for external signage for the Premises, to erect and maintain signage for the Lessee's business conducted from the Premises for the duration of this Lease and at no additional cost to the Lessee.
- (2) All signage to be used in connection with the Lessee's business shall be at the expense and responsibility of the Lessee.
- (3) The Lessee is required to obtain any necessary approvals from Brisbane City Council in relation to signage.
- (4) Prior to erecting any signage, the Lessee must first provide details of the intended signage to the Lessor and obtain the Lessor's consent, which shall not be unreasonably withheld, to the type and position of the signage.

## 24. Body Corporate Covenants

- (1) This clause 24 applies where the Premises are or become part of a Scheme.
- (2) The Lessee must comply with and must use all reasonable endeavours to ensure the Lessee's Associates comply with:
  - (a) the *Body Corporate and Community Management Act 1997 (Qld)*;



- (b) the terms and conditions of the CMS including the by-laws and the Rules; and
  - (c) any order made by a referee or a tribunal under the *Body Corporate and Community Management Act 1997 (Qld)* requiring the Lessee to do or refrain from doing a specified act.
- (3) If the Premises include the use of exclusive use areas the Lessee must maintain and keep the exclusive use areas clean and tidy and repair any damage caused to the areas by the Lessee or Lessee's Associates.
  - (4) Despite any provision in this lease to the contrary, the Lessee acknowledges that the Lessor may not be able to give its approval or consent to any Lessee requests pursuant to this lease unless and until it has Body Corporate approval or consent to the request.
  - (5) The Lessee covenants with the Lessor not to interfere with the free exercise by the Body Corporate of its duties.

## **25. Limitation of Liability**

- 25.1 The following provisions apply where the Lessor is acting in its capacity as trustee despite any other terms of this lease.
- 25.2 The Lessor (the "Lessor Trustee"), enters into this lease as trustee of the relevant trust and in no other capacity, and the following terms apply.
- 25.3 Subject to clause 25.5 below, an obligation incurred by the Lessor Trustee acting in its capacity as trustee if the trust is limited to and can be enforced against the Lessor Trustee only to the extent to which it can be satisfied out of the assets of the trust out of which the Lessor Trustee is actually indemnified for the obligation. This limitation of the Lessor Trustee's obligations applies despite any other provision of this lease (other than clause 25.5 below) and extends to all obligations of the Lessor Trustee in any way connected with any representation, warranty, conduct, omission, lease or transaction related to this lease or to the trust.
- 25.4 The Lessee may not sue the Lessor Trustee in any capacity other than as trustee of the trust, including seeking the appointment of a Controller (as defined in the Corporations Act 2001) (except in relation to the assets of the trust), or a liquidator, an administrator or any similar person to the Lessor Trustee or prove in any liquidation, administration or arrangements of or affecting the Lessor Trustee (except in relation to the assets of the trust).
- 25.5 The provisions of this clause will not apply to any obligations of the Lessor Trustee to the extent that they are not satisfied because under the trust deed establishing the trust or by operation of law there is a reduction in the extent of the Lessor Trustee's indemnification out of the assets of the trust as a result of the Lessor Trustee's fraud, negligence or breach of trust.
- 25.6 No attorney, agent or Controller appointed under or pursuant to any lease or other document has authority to act on behalf of the Lessor Trustee in a way that exposes the Lessor Trustee to any obligations in excess of those contemplated by this clause, and no act or omission of any such person will be considered fraud, negligence or breach of trust of the Lessor Trustee for the purposes of clause 25.5 above.

## **26. Miscellaneous**

### **26.1 Property Law Act exclusions**

The covenants, powers and provisions implied by sections 105, 107 and 109 of the *Property Law Act 1974* do not apply to this lease.



## 26.2 Exclusion of Statutory Provisions

To the extent permitted by law:

- (1) the covenants, powers and provisions implied in leases by virtue of any law are negated; and
- (2) the application to this lease of any law having the effect of extending the Term, reducing or postponing the payment of Rent or otherwise affecting the operation of any of the terms of this lease is excluded.

## 26.3 Time of Essence

Time is of the essence of performance by the Lessee of its obligations under this lease.

## 26.4 Right of the Lessor to make Rules

- (1) The Lessor may make Rules and amend them by notice to the Lessee so long as no Rule prejudices the Lessee's rights under this lease.
- (2) The Lessee must observe and perform and cause the Lessee's Associates to observe and perform the Lessee's obligations under the Rules.
- (3) If there is inconsistency between the provisions of this lease and the Rules, the provisions of this lease prevail.
- (4) A breach by the Lessee of a Rule will be treated as breach of this lease.

## 26.5 Power of Attorney

- (1) The Lessee irrevocably nominates and appoints individually Lessor, its officers and any nominee appointed in writing for the purposes of this clause 26 to be the attorney of the Lessee.
- (2) At any time after the power to re-enter contained in this lease has arisen (proof of which will be a statutory declaration of Lessor or an officer of Lessor) the attorney may execute and register a transfer or a surrender of this lease or withdrawal of caveat.
- (3) In doing so, the attorney may use the Lessee's name and do anything relating to the Premises which the Lessee could do.
- (4) The Lessee will ratify and confirm any lawful act of the attorney.
- (5) The Registrar of Titles is authorised to act upon the statutory declaration and to accept it as sufficient evidence of the termination of this lease.

## 26.6 Parties Bound Jointly and Individually

- (1) If a party (including any Guarantor under this lease) consists of more than 1 person, this lease binds each of them separately and any 2 or more of them jointly.
- (2) An obligation, representation or warranty in favour of more than 1 person is for the benefit of them separately and jointly.
- (3) A party which is a trustee is bound both personally and in its capacity as a trustee.

## 26.7 Statutes and Regulations

Reference to a statute, regulation or provision of a statute or regulation (**Statutory Provision**) includes:

- (1) that Statutory Provision as amended or re-enacted from time to time; and
- (2) a statute, regulation or provision enacted in replacement of that Statutory Provision.

## 26.8 Covenants

Every obligation undertaken by a party to this lease will be taken to be and be construed as a covenant by that person.

## 26.9 Severability

If anything in this lease is unenforceable, illegal or void then it is severed and the rest of this lease remains in force.

## 26.10 Entire Understanding

- (1) This lease:
  - (a) is the entire agreement and understanding between the parties on everything connected with the subject matter of this lease; and
  - (b) supersedes any prior agreement or understanding on anything connected with that subject matter.
- (2) Each party has entered into this lease without relying on any representation by any other party or any person purporting to represent that party.

## 26.11 Waiver

### (1) Waiver Must Be in Writing

No waiver by the Lessor is effective unless it is in writing.

### (2) No Waiver

- (a) Lessor's failure to take advantage of any default by the Lessee will not be construed as waiving the default.
- (b) No custom or practice which evolves between the parties constitutes a waiver or lessens the Lessor's right to insist on the Lessee's strict performance or observance of any provision of this lease or to exercise any of Lessor's other rights.

### (3) Acceptance or Demand for Rent Not Waiver

Regardless of Lessor's knowledge at the time, a demand by it for Rent or other money payable under this lease or the subsequent acceptance of Rent or other money does not constitute a waiver of any earlier default by the Lessee.

## 26.12 Organisations

- (1) If any organisation has ceased to exist, reference to that organisation will be taken to be reference to an organisation having substantially the same objects as the original organisation.
- (2) Reference to the president of an organisation will, in the absence of a president, be read as reference to the senior officer for the time being of the organisation or any other person fulfilling the duties of president.

## 26.13 Lessor's Consent

Unless otherwise stated, if Lessor's consent or approval is required it:

- (1) may be granted or withheld at the Lessor's discretion; and
- (2) is not effective unless in writing.



## 26.14 Written Notices

If a provision of this lease requires a notice to be given by a party, it must be in writing unless the provision states that it may be given orally.

## 26.15 Governing Law and Jurisdiction

- (1) The law of Queensland governs this lease.
- (2) The parties submit to the non-exclusive jurisdiction of the courts of Queensland.

# 27. Guarantee

## 27.1 Personal guarantee

Clauses 27.2 to 27.9 apply if Item 16 of the Reference Schedule has been completed by inserting details of Guarantors.

## 27.2 Guarantee

In consideration of the Lessor granting this lease to the Lessee at the Guarantors' request, the Guarantors guarantee to the Lessor:

- (1) the payment by the Lessee of the Rent and other money agreed to be paid; and
- (2) prompt performance and observance of all of the Lessee's covenants and obligations contained or implied in this lease.

## 27.3 Indemnity

If the Lessee is not bound by some or all of its obligations under this lease, the Guarantors agree, by way of indemnity and principal obligation, to pay to the Lessor the amount which would have been payable by the Guarantor to the Lessor under the guarantee in clause 27.2 had the Lessee been bound.

## 27.4 Liability of Guarantor

The Lessor's rights and the Guarantors' liability under clauses 27.2 and 27.3 are not prejudiced or affected by:

- (1) the granting of any time, credit, forbearance, indulgence or concession by the Lessor to the Lessee or any Guarantor;
- (2) any absolute or partial release of the Lessee or any Guarantor or any compromise with the Lessee or any Guarantor;
- (3) any variation of this lease, extension or renewal of the Term, holding over or continued occupation of the Premises by the Lessee;
- (4) any composition, compromise, release, discharge, arrangement, abandonment, waiver, variation, relinquishment or renewal of any security or right by the Lessor;
- (5) any assignment of this lease or sublease of any part of the Premises;
- (6) the termination of this lease;
- (7) the fact that the Rent or any other money may not be recoverable, may cease to be recoverable or may never have been recoverable or that any transaction affecting the Rent or the obligations contained in this lease is or was wholly or partially void, voidable or unenforceable;

- (8) any failure to sue or agreement not to sue or any dealing, act or omission (whether constituting a waiver, election, estoppel or otherwise) by the Lessor with respect to the Rent, other money payable or the obligations under this lease;
- (9) any fact, circumstance, legal disability or incapacity which would otherwise release the Lessee or any Guarantor from its obligations;
- (10) non-execution of this lease by one or more of the persons named as Guarantor or the unenforceability of this guarantee and indemnity against one or more of the Guarantors; or
- (11) the exercise or purported exercise by the Lessor of its right of re-entry.

#### **27.5 Irrevocable**

This guarantee and indemnity is irrevocable and remains in force until the Lessee has performed and observed all its obligations under this lease.

#### **27.6 Guarantor liable regardless of any law**

- (1) The Guarantor's liability is not discharged by any payment to the Lessor which is later avoided by law.
- (2) If that happens the Lessor, the Lessee and the Guarantors will be restored to their respective rights as if the payment had not been made.

#### **27.7 Indemnity on disclaimer**

If a liquidator or administrator disclaims this lease, the Guarantor indemnifies the Lessor against any resulting Claim by the Lessor for the residue of the Term.

#### **27.8 Guarantor not prove in liquidation**

- (1) The Guarantor must not prove or claim in any liquidation, composition, arrangement or assignment for the benefit of creditors until the Lessor has received 100 cents in the dollar of all money payable to it by the Lessee.
- (2) The Guarantor must hold any proof, claim or dividend received by it on trust for the Lessor.

#### **27.9 Guarantee to continue**

- (1) This guarantee and indemnity also covers the period while the Lessee occupies or is entitled to occupy the Premises as under a tenancy at will or periodic tenancy or holds an equitable interest in the Premises under an agreement for lease.
- (2) Without limiting clause 27.9(1), if registration of this lease is required to create a legal leasehold estate, then until this lease is registered it operates from the beginning of the Term as an agreement for lease.

#### **27.10 Joint and Several Liability**

Where the guarantee and indemnity consists of two or more persons (natural and/or corporate) the obligations of the Guarantors under these clauses shall bind them jointly and each of them severally.



DATED 18<sup>th</sup> August

2016

Signed by **Elliott Simpson Dean**  
as Guarantor in the presence of:

Signature of witness

WARREN JAMES WACKERLING  
SOLICITOR

Name of witness (BLOCK LETTERS)

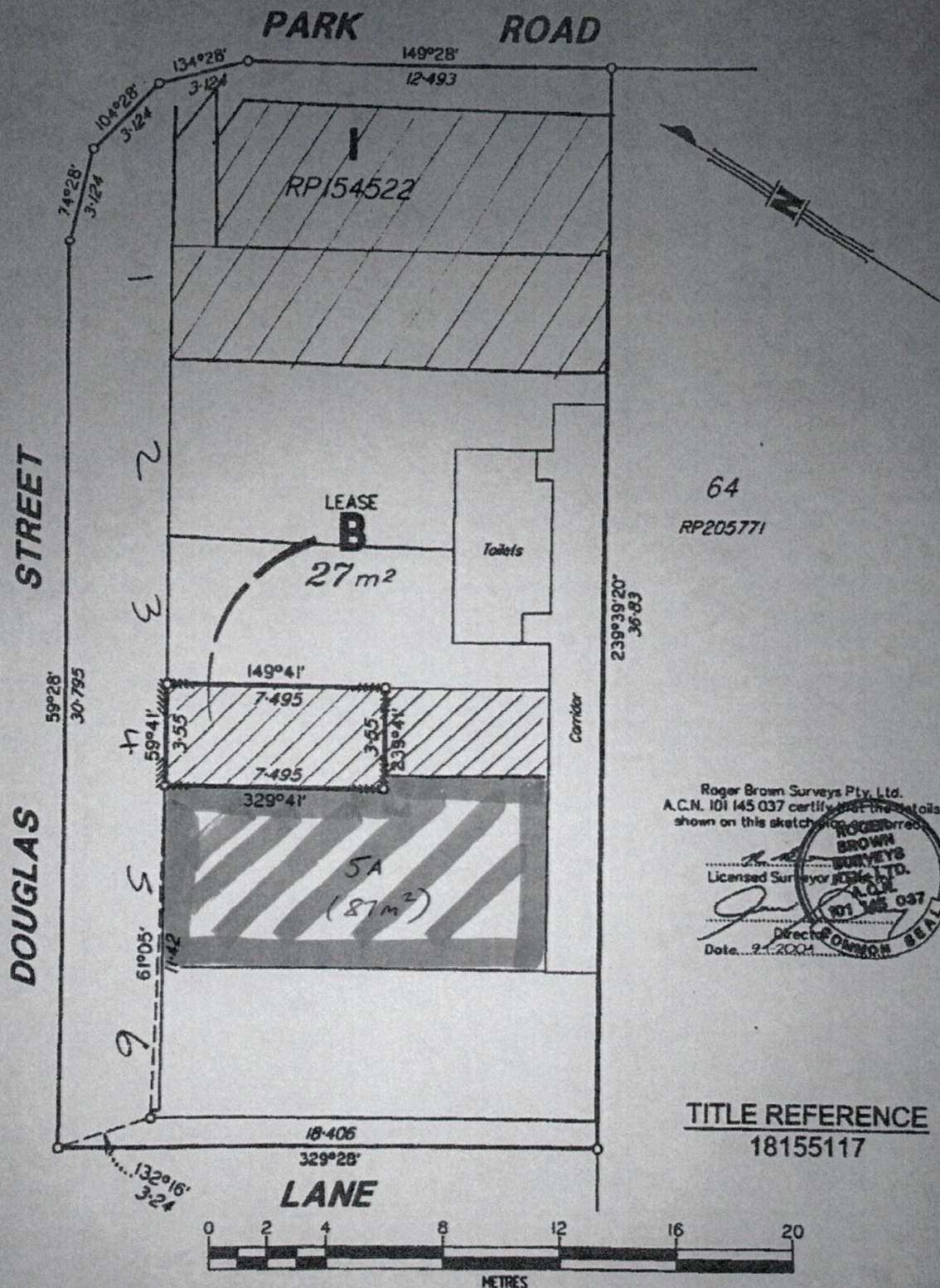
**Title Reference 18155117**

**Annexure A**

**Plan**

(See attached)





Roger Brown Surveys Pty. Ltd.  
A.C.N. 101 145 037 certify that the details  
shown on this sketch are correct.

*[Signature]*  
Licensed Surveyor **ROGER BROWN**  
A.C.N. 101 145 037  
Date: 21.2.2004

**COMMON SEAL**

## PLAN FOR LEASE PURPOSES

(Being Part of the Ground Floor of a 3 level brick building.)

Of LEASE B.

In Lot 1 on RP154522.

Original WSA 14.

Parish of Enoggera.

County of Stanley.

ALL AREAS SHOWN HEREON ARE  
CALCULATED TO THE NEAREST  
SQUARE METRE.

**Roger Brown Surveys Pty Ltd**  
**Consulting Surveyors**

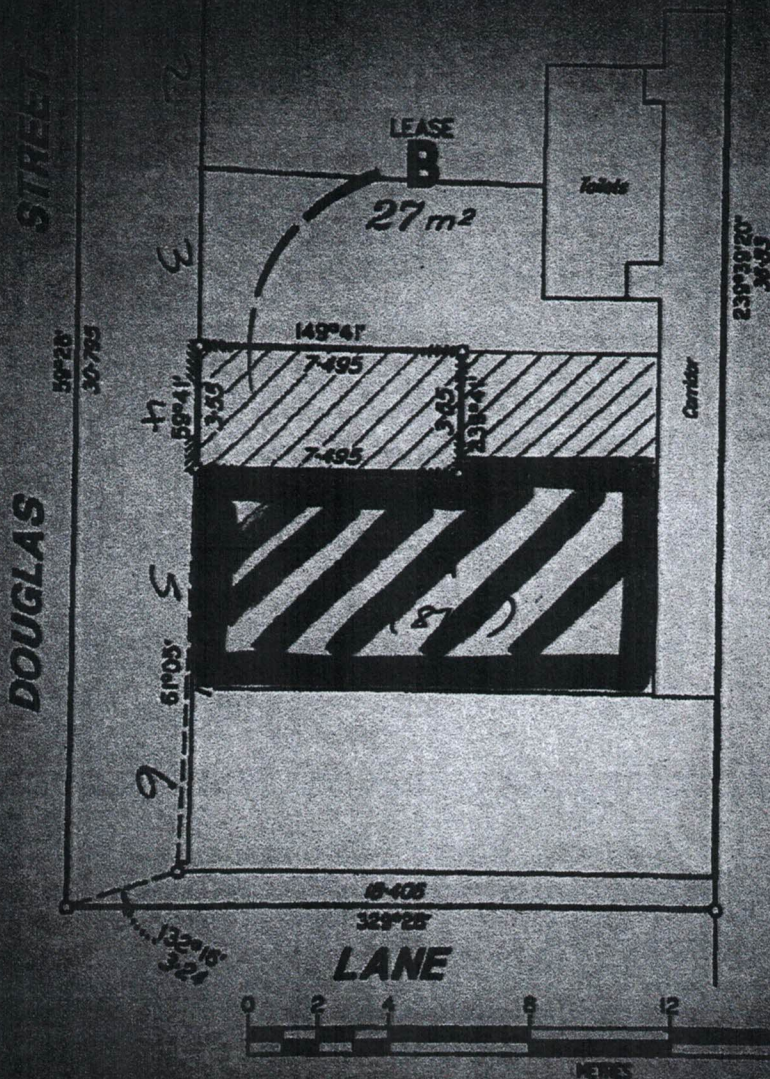
ACN. 101 145 037

Suite 4, Portman Place,  
220 Boundary Street,  
Spring Hill, QLD. 4000.

Phone (07) 3324 1044

Drawn RB	Date 7-1-2004
F.W. RB	F.B. 03-07
File 00011702	Checked <i>[Signature]</i>
Scale 1:200	Approved <i>[Signature]</i>
Plan Ref. <b>000117.02</b>	





64  
RP205771

Roger Brown Survey Pty Ltd  
A.C.N. 101 145 037 certifying that the plan  
shown on this sketch

Licensed Surveyor

Date: 21/2001

TITLE REFERENCE  
18155117

# PLAN FOR LEASE PURPOSES

(To be used in connection with the Lease of the land shown on this plan.)

LEASE B

Lease of the land shown on this plan.

Lease of the land shown on this plan.

Roger Brown Survey Pty Ltd

Licensed Surveyor