

Duty Imprint

Dealing Number



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Dealing No: 1052061 Date: 12/15/08
Assoc Ref No: 000-049-082
Duty Paid \$3440- (dup)
UTI \$
Date: 12/15/08 Signed: [Signature]

1. Interest being mortgaged (if share show fraction)
FEE SIMPLE

Lodger (Name, address, E-mail & phone number)
Courtice Neilsen
PO Box 7168
EAST BRISBANE QLD 4169

Lodger
Code
440

2. Lot on Plan Description	County	Parish	Title Reference
LOT 1 SURVEY PLAN 191431	STANLEY	BULIMBA	50652551

3. Mortgagor
GM & JM MULLER PROPERTIES PTY LTD ACN 130 240 998

4. Mortgagee Given names	Surname/Company name and Number	(include tenancy if more than one)
GEORGE MARK	MULLER	As tenants-in-common
JANICE JEAN	MULLER	

5. Description of debt or liability secured

All moneys which the Mortgagor and/or Debtor whether directly indirectly contingently or otherwise at any time and from time to time is or becomes liable to pay the Mortgagee including the "Secured Moneys" as defined in the Schedule.

6. Covenant/Execution. The Mortgagor covenants with the Mortgagee in terms of the attached schedule and charges the estate or interest described in item 1 with the repayment/payment to the Mortgagee of all sums of money referred to in item 5.

NOTE: Witnessing officer must be aware of their obligations under section 162 of the Land Title Act 1994.

Separate executions are required for each mortgagor and mortgagee. Signatories are to provide to the witness, evidence that they are the person entitled to sign the instrument (including proof of identity).

Witnessing Officer (signature, full name & qualification)
V. Davison
VANDERIE JON
DAVISON

Witnessing Officer (signature, full name & qualification)
V. Davison
VANDERIE JON
DAVISON

Witnessing Officer (signature, full name & qualification)

Witnessing Officer (signature, full name & qualification)

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



21/14/08
Execution Date

M + JM MULLER PROPERTIES PTY LTD
ACN 130 240 998
[Signature] (Director)
Mortgagor's Signature

[Signature] (Director)
Mortgagor's Signature

*Mortgagee's or Solicitor's Signature

Execution Date

*Mortgagee's or Solicitor's Signature

*Note: A Solicitor is required to print full name if signing on behalf of the Mortgagee and no witness is required in this instance

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1. Interpretation

- 1.1 Except to the extent that such interpretation shall be excluded by or be repugnant to the context whenever the same is used herein:

"Agreement" includes each and every agreement arrangement or understanding now or in the future made or existing in relation to the Secured Moneys and any amendments thereto including a Loan Agreement dated 10th April 2008 between the Mortgagee and the Debtor.

"Authorised Officer" includes the solicitors and agents of the Mortgagee and (where the Mortgagee is a corporation) any director associate director secretary or any class of manager of the Mortgagee and any other person appointed as such by the Mortgagee and any person for the time being acting in any of these capacities.

"Debtor" means Marjan International Pty Ltd ACN 010 721 721 as trustee for the GM & JJ Muller Superannuation Fund and includes the executors administrators successors and permitted assigns of such debtor and when two or more persons are so identified:

- (a) "Debtor" is a reference to each of them severally as well as jointly;
- (b) the obligations and agreements on the part of the Debtor contained or complied herein shall bind them jointly and each of them severally; and
- (c) this Mortgage binds every person who executes it as Debtor notwithstanding that any other person named as Debtor never executes it or the execution of any person so named is void or voidable.

"Holding" means the land more particularly described in Item 2 of the Form 2 in this Mortgage.

"Land" means the land described in Item 2 of the Form 2 in this Mortgage.

"Mortgage" means this Schedule and the Form to which this Schedule is annexed and includes each and every provision hereof and any amendment hereto or variation hereof.

"Mortgaged Property" means and includes the land and all improvements from time to time erected thereon including but not limited to all buildings erections engines pumps plant machinery fixtures gas fittings electrical fittings and appliances water fittings tanks ranges and stoves now or hereafter on the land.

"Mortgagee" means the mortgagee named in Item 4 of the Form 2 in this Mortgage and includes the executors administrators successors and assigns of such mortgagee and when two or more persons are so identified "Mortgagee" is a reference to each of them severally as well as to any two or more of them jointly.

"Mortgagor" means the mortgagor named in Item 3 of the Form 2 in this Mortgage and includes the executors administrators successors and permitted assigns of such mortgagor and when two or more persons are so identified -

- (a) "Mortgagor" is a reference to each of them severally as well as to any two or more of them jointly;
- (b) the obligations and agreements on their part contained or implied herein shall bind them and every two or more of them jointly and each of them severally; and
- (c) this Mortgage binds every person who executes it as Mortgagor notwithstanding that any other person named as Mortgagor never executes it or the execution of any person so named is void or voidable.

"Principal Sum" means the consideration referred to in Item 5 of the Form 2 of this Mortgage.

"Secured Moneys" has the meaning given to it in Clause 2.

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- 1.2 References to a person include a corporation partnership incorporated association body corporate unincorporated body instrumentality of the Crown and any statutory public or local authority.
- 1.3 References to a corporation have the same meaning as in the *Corporations Law*.
- 1.4 References to bankruptcy include any assignment and arrangement of property and composition of debts under the bankruptcy laws and (in the case of a corporation) the placing of the corporation under official management and a winding up.
- 1.5 References to death include the winding up or dissolution of a corporation.
- 1.6 References to any statute or statutory provision include all consolidations re-enactments and substitutions thereof all as amended from time to time and the regulations by-laws and orders for the time being in force thereunder.
- 1.7 Words importing any gender include all other genders.
- 1.8 Words importing the singular include the plural and vice versa.
- 1.9 Headings are inserted for guidance only and do not affect the content of any parts or clauses. References to parts clauses schedules and annexures shall be construed as references to parts and clauses of and schedules and annexures to this Mortgage.
- 1.10 This Mortgage is expressed to be executed as a deed and to be sealed by the Mortgagor and to be delivered on the date of execution by the Mortgagor.

2. Secured Moneys

- 2.1 The Secured Moneys are all amounts now or at any time in the future falling within any of following categories:-

(1) all moneys:-

- (1) which are owing and payable by the Mortgagor and/or the Debtor to the Mortgagee;
- (2) which are owing by the Mortgagor and/or the Debtor to the Mortgagee but not presently payable;
- (3) which are contingently owing by the Mortgagor and/or the Debtor to the Mortgagee;
- (4) which may become owing by the Mortgagor and/or the Debtor to the Mortgagee by way of indemnity or damages or in any other way by operation of law or equity or otherwise as a result of anything done by the Mortgagee with the consent or at the express or implied request of the Mortgagor and/or the Debtor;
- (5) for which the Mortgagee is or may become liable by reason wholly or partly of transactions between the Mortgagee and the Mortgagor and/or the Debtor or transactions carried out by the Mortgagee with the consent or at the express or implied request of the Mortgagor and/or the Debtor; or
- (6) which the Mortgagee is or may become entitled to debit or charge to any account of the Mortgagor and/or the Debtor;

in any manner and on any account whether as principal debtor or surety or otherwise and whether alone or jointly with any other person.

- (2) all moneys which the Mortgagee has advanced paid or become liable to advance or pay to for on account of or on behalf of the Mortgagor and/or the Debtor or at the express or implied request of the Mortgagor and/or the Debtor;

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- (3) the amount of any bills of exchange promissory notes cheques orders drafts or other instruments on which the Mortgagor and/or the Debtor has or may have any liability and which:
- (1) have been accepted endorsed discounted or paid by the Mortgagee for and on behalf of or at the express or implied request of the Mortgagor and/or the Debtor; or
 - (2) are held by the Mortgagee as a result of any other transaction entered into by the Mortgagee for or on behalf of or at the express or implied request of the Mortgagor and/or the Debtor;
- whether they have matured or not;
- (4) all moneys which may become owing by the Mortgagor and/or the Debtor to the Mortgagee in respect of any livestock goods merchandise chattels or land which may be sold or supplied by the Mortgagees to the Mortgagor and/or the Debtor whether alone or jointly with any other person;
- (5) stamp duties financial institutions duties bank account debit taxes and any other duties or taxes paid or payable by the Mortgagee in connection with any transaction entered into with at the express or implied request of or on account of the Mortgagor and/or the Debtor and charges expenses fees discounts exchanges and commissions incurred or charged in connection with any such transaction in accordance with the standard practice of the Mortgagee;
- (6) fees and expenses incurred by the Mortgagee in connection with the preparation execution registration stamping enforcement or attempted enforcement or variation of this Mortgage or any Agreement or the exercise of any right under this Mortgage including legal expenses on a solicitor and client basis;
- (7) all moneys payable by the Mortgagor and/or the Debtor under any bond guarantee mortgage charge counterindemnity or indemnity the Mortgagor and/or the Debtor may have given or may give to the Mortgagee whether alone or jointly or jointly and severally;
- (8) all moneys payable or which become payable by the Mortgagee to any person or corporation under any bond guarantee or indemnity given or to be given by the Mortgagee to such person or corporation at the request of or on account of the Mortgagor and/or the Debtor;
- (9) all moneys payable or which become payable by the Mortgagee under any indemnity given by the Mortgagee to any Receiver;
- (10) amounts referred to in any other clauses of the Mortgage as being added to or forming part of the Secured Moneys;
- (11) all commissions and charges payable by the Mortgagor to the Mortgagee; and
- (12) interest under clause 3.2 capitalised pursuant to the provisions of Clause 3.4.

3. Mortgagor's Undertaking to Pay

- 3.1 The Mortgagor shall pay each amount included in the Secured Moneys to the Mortgagee in accordance with each Agreement relating to each respective part thereof and if there is no such Agreement in relation to the whole or any relevant part of the Secured moneys then the same shall be repaid to the Mortgagee immediately upon demand in writing by the Mortgagee in that regard. Payment of part of the Secured Moneys shall not affect the Mortgagor's liability for the remainder.
- 3.2 The Mortgagor shall pay interest on the amounts referred to in clause 2 during the period that they remain due and owing but unpaid to the Mortgagee after as well as before judgment for those amounts or any of them has been obtained by the Mortgagee. Interest shall be calculated at the rate or respective rates of interest agreed between the Mortgagee and the Mortgagor and/or the Debtor in a relevant Agreement and if there is no such Agreement in relation to any such moneys at the usual rate for the time being charged by the Mortgagee

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computed from the day or respective days when the relevant amounts become owing or payable up to but excluding the date of payments.

3.3 Interest accruing pursuant to clause 3.2 shall be deemed to accrue from day to day and is payable in accordance with each Agreement relating to each respective part of the Secured Moneys and if there is no Agreement in relation to the whole or any relevant part of the Secured Moneys such interest shall be payable:

- (1) immediately on demand by the Mortgagee in that regard; and
- (2) until such demand on the last day of each month or by such other periodic payments on such other days (whether quarterly two-monthly or otherwise) as may at any time and from time to time be fixed by notice given by the Mortgagee to the Mortgagor.

3.4 On each interest payment date so fixed interest payable may at the Mortgagee's option be turned into principal immediately payable to the Mortgagee without demand and bearing interest under this clause 3 but interest shall not be deemed to have been turned into principal by reason only of interest being charged on it (as the Mortgagee is authorised to do on interest which has become payable) or of its inclusion in any statement of account.

3.5 Until the Secured Moneys have been paid or satisfied in full interest on the Secured Moneys shall be payable notwithstanding:-

- (1) that the Mortgagor is dead bankrupt in liquidation or receivership or under official management; or
- (2) any other matter or thing;

3.6 The Mortgagee is authorised to debit the accounts(s) of the Mortgagor and/or the Debtor with all or part of the Secured Moneys.

3.7 The Mortgagee may from time to time increase or otherwise vary the limit (if any) of advances and accommodation to the Mortgagor and/or the Debtor or otherwise amend or vary or agree to any amendment or variation of the Agreements now or from time to time hereafter in force between the Mortgagee and the Mortgagor and/or the Debtor or replace the same with new Agreements and may transact any business with for or on account of the Mortgagor and/or the Debtor and at the Mortgagee's absolute discretion and without any consent by the Mortgagor and/or the Debtor being necessary to the intent that this Mortgage shall extend to cover the Agreements from time to time in force between the Mortgagee and the Mortgagor and/or the Debtor.

3.8 The Mortgagor without limiting the generality of the foregoing agrees that the Mortgagor's obligations hereunder shall extend to any increase or decrease in the interest rate or rates in relation to the Secured Moneys and notwithstanding any variations in the repayment arrangements from time to time between the Mortgagor and/or the Debtor and the Mortgagee and irrespective of the affect upon the Mortgagor's liability hereunder it shall not be necessary for the Mortgagee to obtain the Mortgagor's consent to any of the foregoing or to notify the Mortgagor of the same.

4. Place of Payments

4.1 All moneys payable under this Mortgage shall be paid to the Mortgagee or as the Mortgagee or the solicitors of the Mortgagee shall in writing direct.

5. Insurance

5.1 Subject to the rights conferred under any prior registered charge the Mortgagor will insure and so long as any moneys shall remain secured by this Mortgage keep insured against loss or damage by fire storm and tempest in the names of the Mortgagor as owner and the Mortgagee in some public insurance office to be approved of by the Mortgagee all buildings which shall for the time being be erected or standing on the land which shall be of a nature or kind capable of being so insured in the full insurable value thereof and will deposit with the Mortgagee

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the policy or policies of such insurance and will also within 7 days after such premium shall become payable deposit as aforesaid the receipt for such premium and in the event of loss the Mortgagee alone shall have power to settle and compromise any claim against any insurance company (without being responsible for any loss occasioned thereby) and the moneys which shall be received on account of every such insurance shall at the option of the Mortgagee be applied either in or towards satisfaction of the Secured Moneys or in rebuilding or reinstating under the superintendence of the surveyor of the Mortgagee the buildings destroyed or damaged and on any breach or non-observance of this covenant the Mortgagee shall be at liberty to effect such insurance and continue the same for such period as may be deemed fit and the costs and expenses paid on account thereof shall be deemed part of the Secured Moneys.

6. Pay Rates Taxes Etc.

- 6.1 Whether the Mortgagee has or has not taken possession of the land or any part thereof the Mortgagor will during the continuance of this Mortgage pay all rents rates taxes and assessments charged or imposed thereon or upon the owner or occupier in respect thereof and hand to the Mortgagee the receipts therefor or copies thereof and if the Mortgagor shall at any time make default in paying such rates taxes and assessments it shall be lawful for the Mortgagee to pay such rates taxes and assessments and the amounts so expended shall be deemed part of the Secured Moneys.

7. Keep Improvements in Good Order

- 7.1 The Mortgagor will at all times during the continuance of this Mortgage whether or not the Mortgagee shall have entered upon and taken possession of the land keep all buildings and improvements for the time being erected on the land or any part thereof in good order and substantial repair and condition and it shall be lawful for the Mortgagee or the attorney agents and servants of the Mortgagee at all reasonable times to enter into and upon the Land and any buildings thereof to view and examine the state of repair and condition of the said buildings and improvements and of any defects or want of reparation and to give or leave upon the Mortgaged Property notice in writing addressed to the Mortgagor to repair the same and the Mortgagor will forthwith repair and make good the same and also if default shall be made in keeping the said buildings and improvements or any of them so repaired as aforesaid it shall be lawful for the Mortgagee or the Mortgagee's agents and workmen or others from time to time to enter upon the land and repair at the Mortgagor's expense the said buildings and improvements or any of them in such manner as the Mortgagee or the surveyor and/or agent of the Mortgagee shall think proper and the costs and expenses paid on account thereof shall be deemed part of the Secured Moneys.

8. Provision as to Exercise of Power of Sale

- 8.1 The Mortgagee may exercise the powers of sale conferred on the Mortgagee by the *Property Law Act 1974* and (in addition to and without in any way affecting abrogating varying or derogating from such powers of sale) in case default shall be made in the due and punctual payment of the Secured Moneys or any part thereof or in the observance or fulfilment of any of the provisions contained herein or implied by the *Property Law Act* or any other statute and on the part of the Mortgagor to be observed and performed and notice requiring payment of the amount the failure to pay which constituted the default or requiring the default to be remedied (in the case of other such defaults) has been served on the Mortgagor in compliance with the *Property Law Act* and default has continued for the space of 30 days from service in accordance with the *Property Law Act*, the Mortgagee immediately thereupon (and so that no delay or waiver of the right to exercise the powers of sale shall prejudice the future exercise of such powers) may sell the Mortgaged Property or any part thereof and/or lease the same or any part thereof for such term and at such rent and subject to such conditions as the Mortgagee may think fit and so that the powers hereby conferred may be exercised either in addition to or as supplementary to the powers of sale conferred by the *Property Law Act*. The Mortgagee may sell all buildings erections machinery gas fittings electric light fittings water fittings tanks stoves and other fixtures comprised in or intended to be included in this Mortgage or any part or parts thereof either together or in parcels and either together with the Land or buildings to or upon which the same shall be fixed or stand or be or separately and detached therefrom. On any sale by the Mortgagee conditions may be made for obtaining or allowing compensation for any errors in the description of the property or other matters and any time may be allowed for payment of the whole or any part of the purchase money either with or without interest in the meantime and if with interest then at any rate or rates and either with

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or without security and in applying any purchase or other moneys towards satisfaction of the Secured Moneys the Mortgagor shall be credited with so much of the said moneys available for that purpose as shall be received in cash by the Mortgagee such credit to date from the time of such receipt by the Mortgagee and all purchase moneys or other moneys left outstanding or otherwise shall until actually received by the Mortgagee in cash be deemed a continuing unsatisfied part of the Secured Moneys.

8.2 Power of Mortgagee to Sell in Subdivision Etc.

8.3 The Mortgagee may in exercise of any power of sale sell the Land in subdivision and grant dedicate or reserve such roads ways and easements out of or over the Land as the Mortgagee shall think fit gratuitously or otherwise and may allow a purchaser any time for payment of the whole or any part of the purchase money either with interest at any rate or without interest and either with or without taking security therefor as the Mortgagee shall think fit.

9. Powers of Mortgagee on Sale or Lease

9. Upon a sale or lease hereunder the Land or any part thereof may be sold or leased together with any other lands or amount other property whether real or personal under mortgage from the Mortgagor or from the Mortgagor and any other person or persons as mortgagors to the Mortgagee whether under the *Real Property Act*, the *Land Act*, the general law, the *Mercantile Act* or any other acts or otherwise by one contract and at one price or at one rent or in any other manner that the Mortgagee may deem expedient with full power to apportion all costs expenses and purchase money between the properties sold and to distribute the surplus moneys (if any) arising on any such sale between the Mortgagor and any other person in such manner as the Mortgagee in the Mortgagee's absolute discretion may think fit.

10. Receipt of Mortgagee Sufficient

10.1 The receipt of the Mortgagee or the Mortgagee's attorney for any moneys received by virtue of this Mortgage shall be an effectual discharge for the moneys thereby acknowledged to be received and exonerate the persons paying the same from seeing to the application thereof.

11. No Liability for Loss

11.1 The Mortgagee and/or any receiver appointed hereunder may exercise all powers conferred by the *Real Property Act* 1861 and the *Property Law Act* 1974 upon a Mortgagee so far as are applicable and not inconsistent with the provisions of this Mortgage and shall not be responsible for any outstanding moneys or for any loss which may happen in the exercise or attempted exercise or in consequence of the non-exercise of any powers or rights contained in or incidental to this Mortgage nor for more money than shall actually come to the hands of the Mortgagee nor for the acts neglects or dishonesty of any auctioneer servant or agent employed by the Mortgagee.

12. Notice of Sale

12.1 Within 28 days from the completion of any sale by the Mortgagee the Mortgagee shall give notice of such sale to the Mortgagor in terms of section 85(2) of the *Property Law Act* 1974.

13. No Merger or Postponement

13.1 Neither this Mortgage nor anything herein contained shall extinguish merge post-pone lessen or otherwise prejudice any other security now or hereafter held by the Mortgagee or any general or other lien of the Mortgagee for or in respect of any Secured Moneys or any other moneys or any right or remedy which the Mortgagee has or may hereafter have in respect of any such moneys against the Mortgagor or any person upon or as security or as party to any bill of exchange promissory note or other security or otherwise howsoever.

14. Possession of Title Deed

14.1 Subject to the rights conferred under any prior registered charge during the continuance of this Mortgage the Mortgagee shall be entitled to the custody of the certificate of title and/or deed of grant of the and any other title

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deeds relating thereto. Subject to section 80 of the *Property Law Act 1974* the Mortgagee may refuse to produce such certificate of title and/or deed of grant and/or other title deeds and no application will be made to the Registrar of Titles to dispense with their production.

15. Continuing Security

- 15.1 This Mortgage shall be deemed a running and continuing security notwithstanding any settlement of account or any other matter or thing whatsoever until a final discharge hereof shall have been given and the Mortgagee may grant time or other indulgence to or compound with any person or persons firm or company liable on any bill note or other security or guarantee held by the Mortgagee without affecting this Mortgage and all dividends compositions and payments received by the Mortgagee from any person or persons firm or company so liable or his her or their estate shall be taken and applied as payment in gross without any right on the part of the Mortgagor to stand in the place of the Mortgagee in respect of or to claim the benefit of any such dividends compositions or payments of any security held by the Mortgagee until the Mortgagee shall have received the full amount of any claims of the Mortgagee against the Mortgagor and this Mortgage shall apply to and secure any ultimate balance which shall remain due to the Mortgagee and this Mortgage shall continue to be binding notwithstanding to what amount the indebtedness of the Mortgagor shall reach.

16. Waiver

- 16.1 All the rights and powers of the Mortgagee hereunder and at law (including the power of sale shall remain and continue in full force notwithstanding any apparent waiver neglect forbearance omission or delay in the enforcement thereof on any prior occasion for any reason whatsoever. It is agreed and declared that no servant or agent of the Mortgagee has actual or ostensible authority to waive any of the rights of the Mortgagee hereunder or represent that such rights will not be exercised either temporarily or permanently or to give any warranty consent or promise other than by a document which purports to be and is in fact executed by such servant or agent and no purported waiver representation warranty consent or promise of the Mortgagee shall have any force or effect unless so executed and no waiver representation warranty consent or promise shall be implied from conduct or failure to act on the part of the Mortgagee.

17. Mortgagor Not to Transfer Etc.

- 17.1 The Mortgagor will not transfer any estate or interest in the and or part with possession thereof other than by Crown resumption or encumber the same by second or subsequent mortgage or encumbrance or otherwise without the consent of the Mortgagee in writing first had and obtained provided that consent to a second or subsequent mortgage or encumbrance shall not be withheld while the Mortgagor shall not be in default hereunder.

18. Mortgagor's Responsibilities Compliance with Notices Etc.

- 18.1 The Mortgagor will during the continuance of this Mortgage eradicate and destroy all noxious weeds on the Land and shall keep the Land clear of noxious weeds and will take proper steps for the destruction and extermination of wild dogs and other vermin on the Land and will comply with all notices from and duly satisfy and comply with any conditions attaching to the Holding and the Land and the requirements of the local authority or local authorities and every other competent authority having jurisdiction in relation to the Land and the improvements thereon and in default of the Mortgagor so doing it shall be lawful for the Mortgagee without prejudice to the Mortgagee's other powers or remedies hereunder to comply with any such notice or requirement at the expense of the Mortgagor and all moneys expended and laid out by the Mortgagee in so doing shall be added to and deemed to be part of the Secured Moneys.

19. Security to Include Buildings Fixtures Etc.

- 19.1 It is hereby expressly agreed and declared to the intent that this clause shall operate against the Mortgagor as and by way of estoppel by deed of the matters herein set forth that this Mortgage shall include all buildings tanks engines wool presses pumps plant machinery fixtures ranges and stoves now or hereafter on the Land and the same shall be considered to be fixtures and to be part of the Land.

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20. **Not to Alter or Remove Improvements Etc.**

- 20.1 The Mortgagor will not without the consent in writing of the Mortgagee first had and obtained pull down alter or remove any buildings improvements erections machinery tanks fittings and stoves as are now upon or hereafter to be erected or placed upon the Land nor fell any timber on the Land or remove any timber therefrom.

21. **Interest Payable on Judgment**

- 21.1 The Mortgagor will pay to the Mortgagee interest in accordance with Clause 3 on the amount (including costs) for the time being owing upon any Judgment which shall have been entered against the Mortgagor in any court of competent Jurisdiction in respect of any moneys which shall have become due and payable by the Mortgagor under this Mortgage from the date thereof until payment.

22. **Payment of Costs Charges Etc.**

- 22.1 All costs charges and expenses including costs as between solicitor and client which may be incurred by the Mortgagee in or about the preparation execution and registration of this Mortgage or of any instrument collateral hereto and in and about the release of this Mortgage and all such instrument as aforesaid and any survey valuation or report of or concerning the Mortgaged Property and in the exercise or enforcement or attempted exercise or enforcement of any power right or remedy conferred upon the Mortgagee by the *Real Property Act* 1861, the *Property Law Act* 1974 or any other Act which may be passed by the legislature of Queensland or otherwise or which the Mortgagee may in any other way incur in respect of the Land owing to default in payment of any Secured Moneys or in the observance of any of the covenants herein contained or implied shall be paid by the Mortgagor to the Mortgagee on demand.

23. **Default Provisions**

- 23.1 If default shall be made in payment of the Secured Moneys at any of the times and in the manner hereinbefore appointed for the payment thereof or in the observance of any of the covenants herein contained or implied or if the Mortgagor and/or the Debtor being a natural person shall become bankrupt or mentally sick or being a corporation shall be placed in liquidation or official management (administration) or in any event shall take advantage of any laws for the time being in force relating to insolvent debtors then and in any such case and immediately thereupon all Secured Moneys and all such costs charges and expenses as aforesaid hereby intended to be secured and all current interest shall at the option of the Mortgagee but only at such option forthwith become and be payable to and recoverable by the Mortgagee as if the time hereinbefore fixed for the repayment of the same had arrived anything herein or in the *Real Property Act* 1861 or in the *Property Law Act* 1974 contained to the contrary notwithstanding.

24. **Keep Improvements Free from White Ants Etc.**

- 24.1 The Mortgagor shall during the existence of this Mortgage keep free from white ants wood borers and other insect life all buildings improvements and erections now upon or hereafter to be erected upon the Land and in default of the Mortgagor so doing it shall be lawful for the Mortgagee at the risk and expense of the Mortgagor and without prejudice to the other powers or remedies of the Mortgagee hereunder personally or by the Mortgagee's agents or servants to do all such things as shall by the Mortgagee be deemed necessary or advisable to exterminate such white ants wood borers or other insect life and to prevent any reappearance of the same and also to substitute any part or parts of the said buildings improvements or erections rendered necessary to be so substituted by the default of the Mortgagor hereunder and all moneys expended and laid out by the Mortgagee in exercising all or any of the aforesaid powers shall be added to and be deemed to be part of the Secured Moneys.

25. **Mortgagor Not to Grant Priority or Cause Derogation**

- 25.1 Except with the written consent of the Mortgagee the Mortgagor will not apply for or obtain from the Crown or from any statutory authority any money or material or otherwise do or suffer to be done anything whereby any charge or liability shall or might be imposed on the Land or any part thereof in priority to or in derogation of this Mortgage.

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26. Further Assurance

- 26.1 The Mortgagor and every person having or claiming any estate right title or interest in or to the Land or any part thereof will at all times (at the cost of the Mortgagor until foreclosure or sale and afterwards at the cost of the person or persons requiring the same) execute every such deed instrument or assurance and do every such thing for further or more effectually securing the rights or interests of the Mortgagee to or in the Land or any part or parts thereof pursuant to this Mortgage as shall by the Mortgagee be reasonably required.

27. Indefeasible Title

- 27.1 The Mortgagor has absolute and indefeasible title to all and every part of the land subject only to the encumbrances liens and interests notified by memorandum endorsed hereon and without any such exceptions as are mentioned in section 44 of the *Real Property Act* and no part of the Land is subject to any right subsisting under any adverse possession thereof or to any right of way or to an easement or to any license or to the interest of any tenant of the Land except such as are hereon specifically notified as encumbrances.

28. Appointment of Receiver and Powers

- 28.1 At any time after the Secured Moneys become payable the Mortgagee or any Authorised Officer may appoint in writing any person to be a receiver or receiver and manager (and the term "receiver" herein used shall be deemed to include a "receiver" and a "receiver and manager") of the land including all buildings fences erections and improvements of whatsoever nature or kind erected or being on the land or any part thereof and may remove any such receiver and in case of the removal retirement or death of any such receiver may appoint another in his place and may fix the remuneration of any such receiver at an amount or commission not exceeding 5% of the gross amount of all moneys received by him provided always that every such receiver shall be the agent of the Mortgagor and the Mortgagor alone shall be responsible for his acts and defaults and such receiver so appointed shall without any consent on the part of the Mortgagor have such of the following powers as are not specifically excluded by the terms of his appointment:

- (1) to exercise all or any of the powers exercisable by the Mortgagee hereunder;
- (2) to take possession of the land and to demand and recover the rents and profits and other income thereof;
- (3) to lease in the name of the Mortgagor or otherwise (whether such receiver shall or shall not have so taken possession as aforesaid) the whole or any part of the Land from year to year or for any term of years or for any term less than a year at such rent and upon such terms and conditions as to such receiver may seem expedient;
- (4) to carry on on the Land and business whatever and to make and effect all repairs purchases and insurances and to erect or make any new building or improvement upon any land forming part of the Land and to pull down alter rebuild and/or add to any then existing building thereon and to do all acts which the receiver considers justified for the protection or improvement of the Land and improvements thereon or any of them or for obtaining income or returns therefrom;
- (5) to borrow any money which may be required from time to time for any of the purposes mentioned in paragraph 30.1(d) and in the name of the Mortgagor or otherwise to secure any moneys so borrowed by mortgage or charge over the Land or any part thereof so that such mortgage or charge may rank in priority to or pari passu with or after the charge hereby created provided however that the Mortgagee shall not be bound to enquire as to the necessity of propriety of any such borrowing nor be responsible for the misapplication or non-application of any moneys so borrowed;
- (6) to employ managers solicitors officers agents auctioneers workmen and servants for all or any of the purposes aforesaid at such salaries or remuneration as the receiver shall think fit;
- (7) to make any arrangement or compromise which such receiver shall think expedient in the interests of the Mortgagee;

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- (8) to give effectual receipts for all moneys and other assets which may come to the hands of such receiver in exercise of any power hereby conferred which receipts shall exonerate any person paying or handing over such moneys or other assets from all liability to see to the application thereof and from all liability to enquire whether the Secured Moneys have become payable or otherwise as to the propriety of regularity of the appointment of such receiver;
- (9) to take or defend proceedings in the name of the Mortgagor or otherwise for all or any of the purposes aforesaid;
- (10) to do all things necessary to perform or observe any of the covenants on the part of the Mortgagor herein contained;
- (11) to do all such other acts and things without limitation as such receiver shall think expedient in the interests of the Mortgagee; and
- (12) to delegate to any person for such time or times as the Mortgagee shall approve any of the powers hereinbefore conferred upon him.

28.2 Where the Mortgagor is a corporation in addition to the power hereinbefore given the Mortgagee or any Authorised Officer may at any time after an order shall have been made or a resolution shall have been passed for the winding up of the Mortgagor appoint in writing any person to be a receiver of the Land or any part thereof and in case of the removal retirement or death of any such receiver may appoint another in his place and may fix the remuneration of any such receiver at an amount or commission not exceeding that mentioned in clause 29.1 but so that every such receiver shall be the agent of the Mortgagee and so that where a receiver is appointed under this clause he shall without any further consent on the part of the Mortgagor have full power and authority subject to any limitation contained in the terms of his appointment to exercise all or any of the powers expressed to be conferred on a receiver appointed pursuant to clause 29.1 or such and so many of such powers as are still subsisting and capable of being exercised. The Mortgagee may at any time give up possession of any part of the Land and improvements thereon and or withdraw receivership.

28.3 Notwithstanding a receiver may or may not have been appointed as aforesaid it shall be lawful for the Mortgagee at any time after the Secured Moneys shall have become payable and without giving any notice to exercise all or any of the powers authorities and discretions conferred on a receiver as aforesaid.

28.4 Upon any lease or sale purporting to be made in exercise of the powers herein contained no lessee or purchaser shall be bound to enquire whether any default as aforesaid has been made or otherwise as to the propriety or regularity of any such lease or sale and shall not be affected by express notice that any such lease or sale is unnecessary or improper and notwithstanding any irregularity or impropriety in any such lease or sale the same shall as regards the protection of the lessee or purchaser be deemed to be authorised by the aforesaid powers and shall be valid accordingly.

28.5 All moneys received by any such receiver or by the Mortgagee under or by virtue of this Mortgage may be applied in manner following, namely:

- (1) in payment of all costs charges and expenses incurred in or incidental to the exercise or performance or attempted exercise or performance of any of the powers or authorities hereby conferred or otherwise in relation to this Mortgage;
- (2) in payment of such other outgoings as such receiver or the Mortgagee shall think fit to pay;
- (3) in payment to the receiver of his fixed remuneration not exceeding an amount or commission of 5% on the gross amount of all moneys received by him; and
- (4) in payment to the Mortgagee of the Secured Moneys and the surplus (if any) shall belong to the Mortgagor but such surplus shall not carry interest and the receiver or the Mortgagee shall be at liberty to pay the same to the credit of an account in the name of the Mortgagor in any bank and shall thereupon be under no further liability in respect thereof.

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- 28.6 The Mortgagee shall not be entitled to appoint a receiver under the provisions of section 83(1)(c) of the *Property Law Act 1974* which is hereby expressly excluded.
29. **Power of Attorney**
- 29.1 The Mortgagor hereby irrevocably appoints the Mortgagee and any Authorised Officer or any attorney for the time being of the Mortgagee and any receiver appointed hereunder severally to be the attorney of the Mortgagor for and on behalf of and in the name and as the act and deed of the Mortgagor or in the name and as the act and deed of the said attorney or otherwise as occasion may require to make sign and execute any instrument deed demand or writing (including any deed or instrument by way of further assurance) and to do any act or thing that the said attorney shall deem necessary or expedient for the purpose of carrying into effect the power of sale and every power right or authority herein contained or implied or hereby vested in the Mortgagee or in a receiver or as the said attorney shall in its his or her discretion think proper f(or the purpose of giving complete effect to this Mortgage and to the exercise and execution of the powers rights and authorities aforesaid and for the protection or perfection of this Mortgage and for all or any of the purposes aforesaid to appoint a substitute or substitutes and any such appointment at pleasure to revoke the Mortgagor hereby agreeing to ratify all and whatsoever the said attorney or attorneys substitute or substitutes or any of them shall lawfully do or cause to be done in or about the Mortgaged Property by virtue of this Mortgage.
30. **Mortgagee Entitled to Receive All Moneys**
- 30.1 All moneys (if any) which may become payable by way of purchase or compensation or otherwise in respect of the Mortgaged Property shall be paid to and be receivable by the Mortgagee (whose receipt shall be sufficient discharge for the same) and shall be dealt with by the Mortgagee as if the amount has been paid by the Mortgagor under the provisions of this Mortgage and the Mortgagee is hereby empowered to make claim therefor and to enforce and receive payment thereof and to compromise and agree and settle upon the purchase money or compensation payable both for the Mortgagee and for the Mortgagor and to execute releases therefor both in the name of the Mortgagor and the Mortgagee notwithstanding anything in any act under which the purchase money or compensation money may be payable.
31. **Resumption and Town Planning**
- 31.1 The Mortgagor will forthwith upon the receipt thereof furnish to the Mortgagee any notice order or other document received from any council or authority under the provisions of or relating to any existing or proposed resumption or town or country planning scheme in respect of the whole or any part of the Mortgaged Property.
- 31.2 If under the provisions of any town or country planning scheme any council or authority shall at any time have power to grant any consent or permission to use or continue the use of the Mortgaged Property or any part thereof for any purpose the Mortgagor will at the request of the Mortgagee and at the Mortgagor's own expense make and prosecute with all reasonable diligence an application for such consent or permission as the Mortgagee shall specify.
- 31.3 In the event of any reservation restriction prohibition or requirement being imposed on the Mortgaged Property by or under the provisions of any resumption or town or country planning scheme which shall have the effect of requiring the discontinuance of any user of the Mortgaged Property or any part thereof or the alteration or removal of any buildings or works thereon or on any part thereof then the Secured Moneys shall at the option of the Mortgagee immediately thereupon become due and payable.
- 31.4 The benefit of any right or claim to compensation in favour of the Mortgagor in respect of the Mortgaged Property or any part thereof which shall at the date hereof have arisen or shall hereafter arise by reason of any resumption or town or country planning scheme is hereby charged in favour of the Mortgagee with the payment of all Secured Moneys or moneys secured under any collateral security and in the event of any circumstances having arisen or hereafter arising by virtue of which the Mortgagor has or may have become entitled to compensation as aforesaid the Mortgagor shall:

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- (1) notify full particulars of such right or claim to the Mortgagee and furnish the Mortgagee with any documents relating to such right or claim;
- (2) if so requested by the Mortgagee forthwith at the Mortgagor's own expense and with all reasonable diligence prosecute such claim; and
- (3) at the request of the Mortgagee assign such right or claim to the Mortgagee and do all such acts matters and things for the assistance of the Mortgagee in the prosecution of such claim as the Mortgagee may reasonably require.

31.5 The Mortgagor hereby constitutes and appoints the Mortgagee and any Authorised Officer severally to be the attorney of the Mortgagor with full and irrevocable power to prosecute at the expense of the Mortgagor any claim referred to in clause 33.4 and for that purpose to appear before any court or other tribunal authority or official and to discontinue or abandon such claim or compromise it on such terms as the Mortgagee shall see fit and to consent to any order or determination in the same and to receive and give full and effectual receipts for moneys payable in respect thereof.

31.6 All moneys which may become payable in pursuance of any such claim shall forth-with upon receipt thereof at the option of the Mortgagee either be applied by the Mortgagee in or towards payment of the Secured Moneys or be paid by the Mortgagee to the Mortgagor.

31.7 In this Part the word "prosecute" includes appeal to any court or authority having Jurisdiction or power to determine any claim or any matter arising therein upon appeal or objection and the expression "town or country planning scheme" includes any modification extension or provisions of any such scheme and any restrictions imposed or works executed under or any action taken by any authority for the enforcement or carrying into effect of any such scheme and the word "resumption" includes any resumption or compulsory acquisition of the whole or any part of the Mortgaged Property under any state or federal act or regulation.

32. Power to Enter and Carry Out Works;

32.1 In addition to the other powers to which the Mortgagee is entitled hereunder and by the general law it shall be lawful for the Mortgagee after the Mortgagee is entitled to exercise the Mortgagee's power of sale to enter into and upon any part or parts of the whole of the Mortgaged Property and to take possession of any works being carried out thereon so far as they may have progressed and to commence carry out and complete any works which the Mortgagee considers are desirable for enhancing the value of the Mortgaged Property or to put it into a state in which it can be sold and for that purpose to use gratuitously and as temporary bailee thereof until the completion of such works any plant machinery and equipment materials and things which the Mortgagee may find on the Mortgaged Property and which the Mortgagee wishes to use for such purposes and generally to do all such things as the Mortgagee may in the Mortgagee's absolute discretion consider desirable for carrying on and completing the said works. All moneys expended by the Mortgagee in the exercise of the powers hereby conferred shall be added to the Secured Moneys from the respective dates on which they shall be expended and shall with interest be repayable by the Mortgagor on demand and be charged upon the Mortgaged Property provided nevertheless that nothing herein contained shall impose upon the Mortgagee any obligation to carry out or complete the said works and the Mortgagee may either abandon the same ab initio or at any time after commencing to exercise the powers herein contained.

33. Moratorium Excluded

33.1 It is hereby expressly agreed and declared that any moratorium act rule regulation or statutory provision made passed or enacted and any future moratorium act rule regulation and order hereafter in force shall not apply to this Mortgage or any securities collateral to this Mortgage or the Secured Moneys or moneys secured by any securities collateral hereto and that all the powers rights and remedies of the Mortgagee hereunder and under any securities collateral hereto shall exist continue and be exercisable in like manner and to the same extent as they would have done had such moratorium act rule regulation order or other statutory provision or other limitations of the powers of the Mortgagee not been passed or enacted it being the express intention of the parties hereto to expressly exclude this Mortgage and/or the securities collateral thereto from the operation of any such moratorium act rule regulation or order.

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34. Notices

34.1 Any notices to be given to or demand to be made upon the Mortgagor by or on behalf of the Mortgagee shall be deemed to be duly given or made if the same be in writing and be signed by the Mortgagee or any Authorised Officer or attorney for the time being of the Mortgagee and if the same be left at or sent through the post in a prepaid envelope addressed to the Mortgagor:

- (1) where the Mortgagor is a person - at the Mortgagor's usual place of abode or business in Queensland or elsewhere last known as such to the person signing such notice or demand or to be delivered personally to the Mortgagor; and
- (2) where the Mortgagor is a corporation - at the Mortgagor's usual place of business in Queensland or elsewhere last known as such to the person signing such notice or demand or at the registered office of the Mortgagor

or to be affixed to some part of the land or to or on some improvement thereon or to be advertised in the Government Gazette of Queensland.

34.2 Any such mode of service shall in all respects be valid and effectual notwithstanding that at the date of such demand or service the Mortgagor maybe:

- (1) where the Mortgagor is a person - mentally sick dead bankrupt or absent from Queensland and the mental sickness death bankruptcy or absence of the Mortgagor may be known to the Mortgagee and whether the Mortgagor has or has not personal representatives; and
- (2) where the Mortgagor is a corporation - in liquidation or under official management and that such may be known to the Mortgagee and notwithstanding any other matter or event whatsoever and any such notice or demand if sent through the post as aforesaid shall be deemed to have been received by the Mortgagor at the time when the letter containing such notice or demand would in the ordinary course of post have been delivered.

35. Prior or Subsequent Mortgage

35 Where at any time during the continuance of this Mortgage the Land be subject to a prior or subsequent mortgage or mortgages ranking pari passu with this Mortgage (in this clause called "any such mortgage") the following provisions shall have effect:

- (1) The Mortgagor shall duly and punctually carry out observe and perform all the covenants conditions and provisions in any such mortgage contained or implied and on the part of the Mortgagor to be carried out observed and performed (including any variation thereof to which the Mortgagee has consented) and any failure breach or default by the Mortgagor under or in respect of any such mortgage shall be and be deemed to be default hereunder.
- (2) The Mortgagee may at any time after default has been made by the Mortgagor in duly and punctually carrying out and observing any one or more of the agreements conditions and provisions herein or in any such mortgage contained or implied pay (and notwithstanding any dissent by the Mortgagor) to the mortgagee under any such mortgage (in this clause called "any other mortgagee") the whole of the indebtedness of the Mortgagor thereunder provided that the Mortgagee may accept as sufficient evidence of the indebtedness of the Mortgagor under any such mortgage the certificate of any other mortgagee or the attorney of any other mortgagee and obtain and accept a release or transfer by any other mortgagee of any such mortgage (together with any documents of title) and the Mortgagor hereby duly authorises the Mortgagee and/or an Authorised Officer to sign any such release or transfer aforesaid correct for the purpose of registration and notwithstanding the covenants conditions and provisions in any such mortgage contained the Mortgagor shall pay to the Mortgagee on demand the amount of the indebtedness so paid as aforesaid and also the amount of the Mortgagee's costs and disbursements of and incidental to the

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preparation stamping and registration of such release or transfer together with interest on all such amounts from the date or dates of payment by the Mortgagee.

- (3) On redemption of this Mortgage the Mortgagee may hand to any other mortgagee all documents of title and a release of this Mortgage.
- (4) The Mortgagor shall not agree to vary any of the conditions covenants or any other provisions of any such mortgage (including without limitation increasing or permitting or agreeing to increase the amounts secured thereunder) without the prior written consent of the Mortgagee.
- (5) In addition to the powers granted pursuant to Part 31 any attorney appointed pursuant to that Part shall also have the power in the case of any such mortgage to exercise the Mortgagor's rights under section 80 of the *Property Law Act* 1974. The Mortgagor agrees to pay to the holder of any such mortgage the reasonable costs of such holder associated with the lodging of all documents of title at the appropriate office of the Registrar of Titles subsequent to a request made pursuant to the aforesaid section 80.
- (6) The Mortgagor shall do and perform all such acts and things and execute all such deeds and other documents as the Mortgagee may require to register or otherwise perfect this Mortgage.
- (7) The Mortgagor hereby agrees that notwithstanding any duty of confidentiality owed by the Mortgagee or any other mortgagee to the Mortgagor in respect of the affairs of the Mortgagee the Mortgagee and any other mortgagee shall be entitled and are hereby expressly authorised at any time and from time to time to disclose to each other and/or to any guarantor details of any default by the Mortgagor hereunder or under any such mortgage and details of the outstanding and accruing indebtedness security held or other particulars relating to the Secured Moneys and/or the moneys secured under any such mortgage.

36. **Covenants by Mortgagor in Relation to Lease**

- 36.1 The Mortgagor will observe and perform all the covenants and obligations which are imposed on the Mortgagor under the lease or leases of the Holding and will do whatever may be necessary for keeping on foot and unprejudiced such lease or leases according to the acts rules and regulations now or then in force in that behalf and shall not do or suffer to be done any act deed matter or thing whereby the said lease or leases of the Holding may be or is or are liable to be surrendered forfeited cancelled or otherwise prejudiced or whereby the interest or charge of the Mortgagees hereunder may be prejudicially affected and the Mortgagor shall exercise the rights of the Mortgagor of renewal or priority of selection (if applicable) in respect of the lands or any part of the lands contained in the said lease or leases of the Holding to which the Mortgagor may hereafter become entitled.
- 36.2 The Mortgagor will comply within the period prescribed (if any) with all the conditions and requirements of the *Land Act* which apply to the Mortgagor or the Holding and in particular any conditions and requirements which relate to improvements.
- 36.3 The Mortgagor will not do or allow any act to be done whereby the present or any future holdings tenure or licence may be surrendered forfeited or prejudiced and will make application and do whatever may be necessary for acquiring any additional holdings or other leased lands or enforcing any rights according to the *Land Act* any extended or additional leases acquired are deemed to form part of the Holding.
- 36.4 As far as the Mortgagor may lawfully do so the Mortgagor will give the Mortgagees (or either of them) at the request of the Mortgagees (or either of them) a legal mortgage over all after acquired freehold and other lands selected or acquired by virtue of or for the time being held with the Holding or any part hereof all such mortgages will be prepared by the Mortgagees' solicitors at the Mortgagor's expense and will contain such powers of sale and other provisions as the Mortgagees or their solicitors may require.
- 36.5 The Mortgagor will give the Mortgagees notice within 24 hours of the happening of any event whereby the lease or leases may be or become liable to be surrendered forfeited cancelled or prejudiced in any manner whatsoever.

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36.6 All rights powers and privileges granted to the Mortgagor as lessee by the lease or leases of the Holding may be exercised by the Mortgagees (or either of them) without notice as though the Mortgagees (or either of them) were named in the lease as the lessees (or lessee).

36.7 The Mortgagees may treat default by the lessee under the lease or leases of the Holding as default by the Mortgagor hereunder.

37. Mortgagees' Rights with Regard to Lease

37.1 The Mortgagees (or either of them) at any time may pay all freeholding instalments or fees and balance of purchase moneys deed fees and stamp duty and any other money due or payable in respect of the Holdings.

37.2 The Mortgagees at any time may:

- (1) apply for select and take up under the *Land Act* such further holdings or tenures as the Mortgagees (or either of them) consider necessary for the benefit of the estate of the Mortgagor;
- (2) convert the Holding into freehold and convert the land thereby mortgaged or any parts thereof into any form of tenure which may be allowed by the *Land Act*;
- (3) surrender to the Crown the Holding and exchange the same for other land of any tenure either giving or receiving cash for equality of exchange;
- (4) exercise and obtain the benefit of all or any rights powers and privileges which the holder mortgagee or owner of any land of similar tenure to the Holding might exercise; and
- (5) obtain the benefit under the *Land Act* of and otherwise deal with the Holding in the same manner as the Mortgagor could do if this Mortgage had not been given;

and such lands shall be transferred or otherwise assured to the Mortgagees as further collateral and additional security for the Secured Moneys and shall be subject to the same rights powers privileges and conditions as are contained herein.

38. Collateral Security

Deleted intentionally.

39. Mortgagor as Trustee

39.1 The following provisions of this clause 40 apply if the Mortgagor is trustee of a trust ("Trust")

39.2 The Mortgagor:-

- (1) acknowledges that this Mortgage is binding on the Mortgagor personally and in the Mortgagor's capacity as trustee;
- (2) in giving this Mortgage charges the whole of the legal and beneficial interest in the Mortgaged Property;
- (3) shall cause any successor of the Mortgagor as trustee of the Trust to execute such documents as the Mortgagees (or either of them) may require to ensure that this Mortgage is binding on such successor; and
- (4) upon the occurrence of an Event of Default and on demand by the Mortgagees (or either of them) shall exercise the Mortgagor's rights of indemnity in relation to the Trust Fund and the Mortgagor's rights against the beneficiaries to cause payment of the Secured Moneys to the Mortgagees (or either of them) or otherwise hold such rights for the Mortgagees.

39.3 The Mortgagor warrants that:

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- (1) the Mortgage is the sole trustee of the Trust and no action has been taken to remove or replace the Mortgagor;
- (2) full particulars of the terms of the Trust have been disclosed to the Mortgages prior to the execution hereof;
- (3) the copies of the Trust Deed and any other documents relating to the Trust and (of the Mortgagor is a corporation) of the memorandum and articles of association of the Mortgagor delivered to the Mortgagees before the Mortgagor executed this Mortgage are true copies of those documents as in force at the date hereof;
- (4) the Mortgagor has power under the Trust Deed to execute and perform the Mortgagor's obligations hereunder and all necessary action has been taken to authorise the execution and performance of this Mortgage under the Trust Deed and (of the Mortgagor is a corporation) under the memorandum and articles of association of the Mortgagor;
- (5) this Mortgage is executed and all transactions secured hereby are or will be entered into as part of the due and proper administration of the Trust and are or will be for the benefit of the beneficiaries;
- (6) the Mortgagor has a right to be fully indemnified out of the Trust Fund which right has not been restricted or limited in any way;
- (7) the Mortgagor is not in default under the Trust Deed; and
- (8) no vesting date for the Trust has been determined;

and further warrants that each of the above warranties will remain true as long as this Mortgage remains in force.

39.4 The rights of the Mortgagee hereunder shall rank in priority to the claims of the beneficiaries to the Trust Fund.

39.5 Except with the Mortgagee's prior written consent:

- (1) the Trust Deed shall not be altered;
- (2) the Mortgagor shall not retire as trustee of the Trust nor appoint any new or additional trustee; and
- (3) the Mortgagor shall not default in the observance or performance of the duties of the Mortgagor as trustee of the Trust.

39.6 The following shall be Events of Default:

- (1) the Mortgagor ceasing to be sole trustee of the Trust without the Mortgagee's prior written consent;
- (2) any part of the capital of the Trust Fund being distributed in any way without the Mortgagee's prior written consent;
- (3) any warranty in clause 40.3 proving to be untrue or incorrect in any material respect;
- (4) any application or order is sought or made in any court for:
 - (1) removal of the Mortgagor as trustee of the Trust;
 - (2) accounts to be taken in respect of the Trust; or
 - (3) any property of the Trust to be brought into court or administered by the Court or under its control;
- (5) any notice is given or meeting summoned or proposal put forward for the removal of the Mortgagor as trustee of the Trust or for the appointment of any other person as trustee jointly with the Mortgagor;

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- (6) without the Mortgagee's prior consent any alteration is made to the Trust Deed or through the exercise of any power under the Trust Deed to the constitution of the Trust which might in the opinion of the Mortgagee detrimentally affect his security hereunder; and
- (7) in the case of a unit trust any unit being issued transferred redeemed encumbered or otherwise dealt with without the Mortgagee's prior written consent.

39.7 In this clause 40:

- (1) "Trust Deed" means any document relating to the constitution creation or formation of the Trust; and
- (2) "Trust Fund" means the trust fund comprising the property held by the Mortgagor as trustee under the Trust Deed.

39.8 In this Mortgage:

- (1) references to the Secured Moneys include such of those moneys as are or are to be provided to or at the request of the Mortgagor as trustee of the Trust; and
- (2) references to the Mortgagor include the Mortgagor's successors as trustee of the Trust and any co-trustees.

40. Liability of Debtor

40.1 The Debtor covenants with the Mortgagee that in consideration of the Mortgagee having granted and/or agreeing to grant to the Debtor the facilities and/or accommodation specified in this Mortgage the Debtor will be jointly and severally liable with the Mortgagor to the Mortgagee for the payment in the manner herein or in any Agreement provided of the Secured Moneys and also for the due performance and observance of all the covenants on the part of the Mortgagor herein or in any Agreement contained or implied (save and except covenants for title where the Mortgagor and the Debtor are not one and the same person)

40.2 It is declared that the Mortgagee may at any time grant to the Mortgagor any time or indulgence and may compound or compromise with or release the Mortgagor or may release discharge or otherwise deal with the Mortgaged Property or any other security now or hereafter held by the Mortgagee or arrange any new terms or any extension of time for payment without releasing discharging or affecting the liability of the Debtor under this Mortgage

EXECUTED as a Deed by the Mortgagor and the Debtor on the date set out at the commencement of this Mortgage.

EXECUTED by MARJAN INTERNATIONAL)
PTY LTD ACN 010 721 721 in accordance)
With Section 127 of the Corporations Law)
with the authority of the *Directors/**Sole)
Director and Secretary)

.....
*Director/**Sole Director and Secretary *Director/Secretary

* Delete if a sole director/secretary proprietary company
** Delete if not a sole director/secretary proprietary company