

## DEED OF VARIATION

DATED 19th day of April 2021

### PARTIES

1. **SUPER AT PTY LTD (ACN 158 994 248)** a duly incorporated company whose registered address is C/- Marsh Tincknell, Level 1, 1454 Logan Road, Mt Gravatt Qld 4122, as trustee for the **A & T BARAKAT SUPER FUND** (Lender)
2. **MUS RETAIL PTY LTD (ACN 617 582 322)** a duly incorporated company whose registered address is C/- Carthew Chau & Co Pty Ltd, Lower Ground Floor, 132 Wickham Street, Fortitude Valley Qld 4006, as trustee for the **Musical Family Trust** (Borrower)

### RECITALS

- A. The Lender and Borrower are parties to an Agreement dated 1 May 2019 in relation to the Lender making financial accommodation available to the Borrower for the purpose of funding underlying investments ("the Agreement").
- B. The Lender and Borrower wish to change the term of the advance under the Agreement in consideration of execution of this Deed.

### IT IS AGREED

#### 1. **Variation of Agreement**

The following variation to the Agreement takes effect from the date of this Deed of Variation.

- 1.1 The "**Loan Repayment amount & Term of the Advance**" particulars in the First Schedule of the Agreement are amended to read "Seventy Thousand dollars (\$70,000.00) plus any due fees and charges payable on or before 31 July 2024".
- 1.2 In all other respects the Agreement remains unaltered.

#### 2. **Counterparts**

This Deed of Variation may be signed in counterparts, which taken together when signed will constitute a complete Deed.

## EXECUTION

**Executed** as a Deed on the date described at the start of this Deed of Variation.

**EXECUTED** by **SUPER AT PTY** )  
**LTD ACN 158 994 248** in )  
accordance with s127 of the )  
Corporations Act 2001 (Cth) )  
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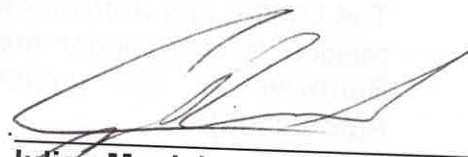


**Terrie Barakat**  
Director and Secretary



**Anthony Barakat**  
Director

**EXECUTED** by **MUS RETAIL PTY** )  
**LTD ACN 617 582 322** in )  
accordance with s127 of the )  
Corporations Act 2001 (Cth) )  
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**Julian Musial**  
Sole Director and Secretary

## **LOAN AGREEMENT**

**THIS AGREEMENT** is made on the First day of May 2019

**BETWEEN:**            **SUPER AT PTY LTD (ACN 158 994 248)** a duly incorporated company whose registered address is C/- Marsh Tincknell, Level 1, 1454 Logan Road, Mt Gravatt Qld 4122, as trustee for the **A & T BARAKAT SUPER FUND** (Lender)

**AND:**                **MUS RETAIL PTY LTD (ACN 617 582 322)** a duly incorporated company whose registered address is C/- Carthew Chau & Co Pty Ltd, Lower Ground Floor, 132 Wickham Street, Fortitude Valley Qld 4006, as trustee for the **Musical Family Trust** (Borrower)

**WHEREAS** the Borrower and Lender have agreed that the Lender will make financial accommodation available to the Borrower for the purpose of funding retail and commercial investments and the Lender has agreed to advance to the Borrower the sum of Seventy Thousand dollars (\$70,000.00), hereinafter referred to as "the advance", by way of loan repayable together with interest, fees, charges and other amounts in the manner hereinafter provided **AND WHEREAS** the parties wish to acknowledge the loan and record in writing the terms and conditions thereof.

**NOW THIS AGREEMENT WITNESSES** and it is hereby mutually agreed by and between the parties as follows:

### **ADVANCE**

1. The parties hereby acknowledge that the Lender did on the date of this Agreement agree to provide to the Borrower the advance, repayable by the Borrower to the Lender at the place and in the manner set forth in the **First Schedule** hereto. The Lender has the right to change, by notice in writing to the Borrower, the place and manner of repayment.

### **COSTS**

2. The parties shall bear their own costs of and incidental to the negotiation, preparation, execution, stamping and registration of this Agreement and all ancillary or related documents.

### INTERPRETATION

3. That where herein used words importing the singular number or plural number shall include the plural number and singular number respectively and words importing the masculine gender shall include the feminine or neuter gender as the case may reasonably require.
4. All headings in this Agreement shall be disregarded in the interpretation hereof.

### INSOLVENCY

5. If the Borrower goes into liquidation either compulsorily or voluntarily or if a receiver is appointed in respect of the whole or any part of its assets or if the Borrower makes an assignment for the benefit of or composition with its creditors generally or threatens to do any of these things or any judgment is made against the Borrower or any similar occurrence under any jurisdiction affects the Borrower, the Borrower shall be deemed to be in fundamental breach of this Agreement.
6. The Borrower warrants that it is not, at the time of entering into this Agreement, insolvent and knows of no circumstances which would entitle any creditor to commence liquidation proceedings or to exercise any other rights over or against its assets.

### BREACH AND TERMINATION CONSEQUENCES

7. If a fundamental breach occurs on the part of the Borrower, the Lender may serve notice requiring the breach to be remedied within the time stipulated in that notice but nothing in this clause shall require the Lender to serve notice of any breach before taking action in respect of it.
8. If this Agreement is terminated by the Lender for a fundamental breach on the part of the Borrower, the full amount of the principal sum of Seventy Thousand dollars (\$70,000.00) and all interest, fees and charges accrued to the date of actual repayment by the Borrower, shall become immediately due and payable by the Borrower to the Lender.

### ADDITIONAL CONDITIONS

9. Each of the parties warrants that it has power to enter into this Agreement and has obtained all necessary approvals to do so.
10. The Borrower warrants that the advance is for business or investment purposes.

11. The Borrower warrants that it has sought and received independent legal and financial advice in relation to the terms and effects of this Agreement.
12. The Borrower shall execute any and all further documents required to give full effect to this Agreement.
13. In the event that any provision of this Agreement is declared by any judicial or other competent authority to be void, voidable, illegal or otherwise unenforceable, the parties shall amend that provision in such reasonable manner as achieves the intention of the parties without illegality or, at the discretion of the Lender, it may be severed from this Agreement and the remaining provisions of this Agreement shall remain in full force and effect.
14. This Agreement contains the whole agreement between the parties. Neither of the parties has relied upon any oral or written representations made to it by the other or the other's employees or agents.
15. Each party has made its own independent investigations into all matters relevant to this Agreement.
16. Each notice or other document to be given or made hereunder shall be in writing, addressed to the relevant party at the address set out below or at such other address as it may specify in writing for the purpose of this clause and delivered in accordance with this clause:

The Lender: SUPER AT PTY LTD (ACN 158 994 248)  
Address: 1 Dickson Terrace, Hamilton, Qld, 4007

The Borrower: MUS RETAIL PTY LTD (ACN 617 582 322)  
Address: '5', 11 Helen Street, Teneriffe, Qld, 4005

Notices shall be deemed to be received 48 hours after posting by ordinary prepaid post, or in the event that the notice is sent by facsimile transmission on the next business day following the date of the transmission.

17. All agreements on the part of either of the parties which comprises of more than one person or entity shall be joint and several and the neuter singular gender throughout this Agreement shall include all genders and the plural and the successors in title to the parties.
18. The parties are not partners or joint venturers nor do they intend to be in consequence of entering into this Agreement.
19. The Lender may assign its rights under this Agreement and all rights under it may be assigned or transferred by the Lender without the consent of the Borrower.

20. All rights granted to either of the parties shall be cumulative and no exercise by either of the parties of any right under this Agreement shall restrict or prejudice the exercise of any other right granted by this Agreement or otherwise available to it.
21. The failure of the Lender to enforce at any time or for any period any one or more of the terms or conditions of this Agreement shall not be a waiver of them or of the right at any time subsequently to enforce all terms and conditions of this Agreement.

#### PROPER LAW AND JURISDICTION

22. This Agreement shall be governed by Queensland law in every particular including formation and interpretation.
23. Any proceedings arising out of or in connection with this Agreement may be brought in any court of competent jurisdiction in the said state.

#### INTEREST

24. Interest shall be payable by the Borrower at the rate and timing as set out in the Second Schedule herein.

#### DEFAULT

25. The Borrower will be deemed to be in default of this Agreement if:
  - (a) there is a default of any term or condition of this Agreement;
  - (b) the Borrower fails to pay any money due under this Agreement by the loan repayment date;
  - (c) anything the Borrower has told the Lender is incorrect or misleading;  
or
  - (d) a liquidator or receiver manager is appointed over the Borrower.
26. If the Borrower defaults in the observance of the terms of this Agreement, enforcement expenses shall be payable by the Borrower in respect of the Lender's legal costs and disbursements arising from that default.
27. If the Borrower is in default the Lender may:
  - (a) demand repayment of any money due under this Agreement; and/or

- (b) exercise any rights, powers or privileges conferred by any law, this Agreement or any mortgage or security provided under this Agreement.
28. The Lender may exercise its rights and powers upon default at any time after default occurs and any delay by the Lender in exercising any or all of its rights and powers on default will not affect those rights and powers.

**FIRST SCHEDULE HEREINBEFORE REFERRED TO**

**Place and Manner of Repayment of Loan**

**Place & Manner of repayment:** As directed by the Lender

**Loan repayment amount**

**& Term of the Advance:** Seventy Thousand dollars (\$70,000.00) plus any due fees and charges payable on or before Two (2) years from the date of this Agreement.

**THE SECOND SCHEDULE HEREINBEFORE REFERRED TO**

**Fees & Charges, Calculations and Payments**

**Interest rate:** Six (6) per centum per annum


**Frequency and timing:** Total interest is payable on the last day of the term of the advance.

**EXECUTED AS A DEED**

**EXECUTED** by **SUPER AT PTY** )  
**LTD ACN 158 994 248** in )  
accordance with s127 of the )  
Corporations Act 2001 (Cth) )  
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**Terrie Barakat**  
Director and Secretary



**Anthony Barakat**  
Director

**EXECUTED** by **MUS RETAIL PTY** )  
**LTD ACN 617 582 322** in )  
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**Julian Musial**  
Sole Director and Secretary