

Contract for the sale and purchase of land 2022 edition

TERM	MEANING OF TERM	NSW DAN:
vendor's agent	First National Real Estate Eastlakes 603 Pacific Highway, Belmont NSW 2280	phone: 02 4947 7877 email: kerrie@fnee.com.au ref: Kerrie Rowbottom
co-agent		
vendor	Khun & Tan Enterprises Pty Ltd ACN 166 675 387	
vendor's solicitor	HPL Law Group PO Box 246 Belrose West NSW 2085	phone: 02 9450 1113 email: anthony@hpl.com.au ref: ATM:AA:250698
date for completion	42 days after the contract date	(clause 15)
land (address, plan details and title reference)	600 PACIFIC HIGHWAY BELMONT NSW 2280 LOT 1 & 2 DEPOSITED PLAN 319436 + LOT 301 DEPOSITED PLAN 590786 Folio Identifier 1/319436 & 2/319436 & 301/590786	
improvements	<input type="checkbox"/> VACANT POSSESSION <input checked="" type="checkbox"/> subject to existing tenancies <input type="checkbox"/> HOUSE <input type="checkbox"/> garage <input type="checkbox"/> carport <input type="checkbox"/> home unit <input type="checkbox"/> carspace <input type="checkbox"/> storage space <input type="checkbox"/> none <input checked="" type="checkbox"/> other: shopping centre	
attached copies	<input checked="" type="checkbox"/> documents in the List of Documents as marked or as numbered: <input type="checkbox"/> other documents:	

A real estate agent is permitted by legislation to fill up the items in this box in a sale of residential property.

inclusions	<input type="checkbox"/> air conditioning <input type="checkbox"/> clothes line <input type="checkbox"/> fixed floor coverings <input type="checkbox"/> range hood <input type="checkbox"/> blinds <input type="checkbox"/> curtains <input type="checkbox"/> insect screens <input type="checkbox"/> solar panels <input type="checkbox"/> built-in wardrobes <input type="checkbox"/> dishwasher <input type="checkbox"/> light fittings <input type="checkbox"/> stove <input type="checkbox"/> ceiling fans <input type="checkbox"/> EV charger <input type="checkbox"/> pool equipment <input type="checkbox"/> TV antenna <input type="checkbox"/> other:
exclusions	
purchaser	
purchaser's solicitor	
price	
deposit	(10% of the price, unless otherwise stated)
balance	
contract date	(if not stated, the date this contract was made)

Where there is more than one purchaser ☐ JOINT TENANTS
☐ tenants in common ☐ in unequal shares, specify:

GST AMOUNT (optional) The price includes GST of: \$

buyer's agent

Note: Clause 20.15 provides "Where this contract provides for choices, a choice in BLOCK CAPITALS applies unless a different choice is marked."

BREACH OF COPYRIGHT MAY RESULT IN LEGAL ACTION

SIGNING PAGE

VENDOR	PURCHASER
<p>Signed by</p> <p>_____</p> <p>Vendor</p> <p>_____</p> <p>Vendor</p>	<p>Signed by</p> <p>_____</p> <p>Purchaser</p> <p>_____</p> <p>Purchaser</p>
VENDOR (COMPANY)	PURCHASER (COMPANY)
<p>Signed by in accordance with s127(1) of the Corporations Act 2001 by the authorised person(s) whose signature(s) appear(s) below:</p> <p>_____ Signature of authorised person</p> <p>_____ Signature of authorised person</p> <p>_____ Name of authorised person</p> <p>_____ Name of authorised person</p> <p>_____ Office held</p> <p>_____ Office held</p>	<p>Signed by in accordance with s127(1) of the Corporations Act 2001 by the authorised person(s) whose signature(s) appear(s) below:</p> <p>_____ Signature of authorised person</p> <p>_____ Signature of authorised person</p> <p>_____ Name of authorised person</p> <p>_____ Name of authorised person</p> <p>_____ Office held</p> <p>_____ Office held</p>

Choices

Vendor agrees to accept a **deposit-bond**☒ NO ☐ yes**Nominated Electronic Lodgment Network (ELN)** (clause 4)

PEXA

Manual transaction (clause 30)☒ NO ☐ yes

(if yes, vendor must provide further details, including any applicable exemption, in the space below):

Tax information (the parties promise this is correct as far as each party is aware)**Land tax** is adjustable☐ NO ☒ yes**GST:** Taxable supply☒ NO ☐ yes in full ☐ yes to an extent

Margin scheme will be used in making the taxable supply

☒ NO ☐ yes

This sale is not a taxable supply because (one or more of the following may apply) the sale is:

- ☐ not made in the course or furtherance of an enterprise that the vendor carries on (section 9-5(b))
- ☐ by a vendor who is neither registered nor required to be registered for GST (section 9-5(d))
- ☒ GST-free because the sale is the supply of a going concern under section 38-325
- ☐ GST-free because the sale is subdivided farm land or farm land supplied for farming under Subdivision 38-O
- ☐ input taxed because the sale is of eligible residential premises (sections 40-65, 40-75(2) and 195-1)

Purchaser must make an *GSTRW payment*
(GST residential withholding payment)☐ NO ☐ yes (if yes, vendor must provide details)

If the details below are not fully completed at the contract date, the vendor must provide all these details in a separate notice at least 7 days before the date for completion.

GSTRW payment (GST residential withholding payment) – details

Frequently the supplier will be the vendor. However, sometimes further information will be required as to which entity is liable for GST, for example, if the supplier is a partnership, a trust, part of a GST group or a participant in a GST joint venture.

Supplier's name:

Supplier's ABN:

Supplier's GST branch number (if applicable):

Supplier's business address:

Supplier's representative:

Supplier's contact phone number:

Supplier's proportion of *GSTRW payment*:**If more than one supplier, provide the above details for each supplier.**Amount purchaser must pay – price multiplied by the *GSTRW rate* (residential withholding rate): \$Amount must be paid: ☐ AT COMPLETION ☐ at another time (specify):Is any of the consideration not expressed as an amount in money? ☐ NO ☐ yes

If "yes", the GST inclusive market value of the non-monetary consideration: \$

Other details (including those required by regulation or the ATO forms):

List of Documents

<p>General</p> <p><input checked="" type="checkbox"/> 1 property certificate for the land</p> <p><input checked="" type="checkbox"/> 2 plan of the land</p> <p><input type="checkbox"/> 3 unregistered plan of the land</p> <p><input type="checkbox"/> 4 plan of land to be subdivided</p> <p><input type="checkbox"/> 5 document that is to be lodged with a relevant plan</p> <p><input checked="" type="checkbox"/> 6 section 10.7(2) planning certificate under Environmental Planning and Assessment Act 1979</p> <p><input type="checkbox"/> 7 additional information included in that certificate under section 10.7(5)</p> <p><input checked="" type="checkbox"/> 8 sewerage infrastructure location diagram (service location diagram)</p> <p><input checked="" type="checkbox"/> 9 sewer lines location diagram (sewerage service diagram)</p> <p><input type="checkbox"/> 10 document that created or may have created an easement, profit à prendre, restriction on use or positive covenant disclosed in this contract</p> <p><input type="checkbox"/> 11 <i>planning agreement</i></p> <p><input type="checkbox"/> 12 section 88G certificate (positive covenant)</p> <p><input type="checkbox"/> 13 survey report</p> <p><input type="checkbox"/> 14 building information certificate or building certificate given under <i>legislation</i></p> <p><input type="checkbox"/> 15 occupation certificate</p> <p><input checked="" type="checkbox"/> 16 lease (with every relevant memorandum or variation)</p> <p><input type="checkbox"/> 17 other document relevant to tenancies</p> <p><input type="checkbox"/> 18 licence benefiting the land</p> <p><input type="checkbox"/> 19 old system document</p> <p><input type="checkbox"/> 20 Crown purchase statement of account</p> <p><input type="checkbox"/> 21 building management statement</p> <p><input checked="" type="checkbox"/> 22 form of requisitions</p> <p><input type="checkbox"/> 23 <i>clearance certificate</i></p> <p><input checked="" type="checkbox"/> 24 land tax certificate</p> <p>Home Building Act 1989</p> <p><input type="checkbox"/> 25 insurance certificate</p> <p><input type="checkbox"/> 26 brochure or warning</p> <p><input type="checkbox"/> 27 evidence of alternative indemnity cover</p> <p>Swimming Pools Act 1992</p> <p><input type="checkbox"/> 28 certificate of compliance</p> <p><input type="checkbox"/> 29 evidence of registration</p> <p><input type="checkbox"/> 30 relevant occupation certificate</p> <p><input type="checkbox"/> 31 certificate of non-compliance</p> <p><input type="checkbox"/> 32 detailed reasons of non-compliance</p>	<p>Strata or community title (clause 23 of the contract)</p> <p><input type="checkbox"/> 33 property certificate for strata common property</p> <p><input type="checkbox"/> 34 plan creating strata common property</p> <p><input type="checkbox"/> 35 strata by-laws</p> <p><input type="checkbox"/> 36 strata development contract or statement</p> <p><input type="checkbox"/> 37 strata management statement</p> <p><input type="checkbox"/> 38 strata renewal proposal</p> <p><input type="checkbox"/> 39 strata renewal plan</p> <p><input type="checkbox"/> 40 leasehold strata - lease of lot and common property</p> <p><input type="checkbox"/> 41 property certificate for neighbourhood property</p> <p><input type="checkbox"/> 42 plan creating neighbourhood property</p> <p><input type="checkbox"/> 43 neighbourhood development contract</p> <p><input type="checkbox"/> 44 neighbourhood management statement</p> <p><input type="checkbox"/> 45 property certificate for precinct property</p> <p><input type="checkbox"/> 46 plan creating precinct property</p> <p><input type="checkbox"/> 47 precinct development contract</p> <p><input type="checkbox"/> 48 precinct management statement</p> <p><input type="checkbox"/> 49 property certificate for community property</p> <p><input type="checkbox"/> 50 plan creating community property</p> <p><input type="checkbox"/> 51 community development contract</p> <p><input type="checkbox"/> 52 community management statement</p> <p><input type="checkbox"/> 53 document disclosing a change of by-laws</p> <p><input type="checkbox"/> 54 document disclosing a change in a development or management contract or statement</p> <p><input type="checkbox"/> 55 document disclosing a change in boundaries</p> <p><input type="checkbox"/> 56 information certificate under Strata Schemes Management Act 2015</p> <p><input type="checkbox"/> 57 information certificate under Community Land Management Act 2021</p> <p><input type="checkbox"/> 58 disclosure statement - off the plan contract</p> <p><input type="checkbox"/> 59 other document relevant to the off the plan contract</p> <p>Other</p> <p><input type="checkbox"/> 60</p>
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HOLDER OF STRATA OR COMMUNITY SCHEME RECORDS – Name, address, email address and telephone number

IMPORTANT NOTICE TO VENDORS AND PURCHASERS

Before signing this contract you should ensure that you understand your rights and obligations, some of which are not written in this contract but are implied by law.

WARNING—SMOKE ALARMS

The owners of certain types of buildings and strata lots must have smoke alarms, or in certain cases heat alarms, installed in the building or lot in accordance with regulations under the *Environmental Planning and Assessment Act 1979*. It is an offence not to comply. It is also an offence to remove or interfere with a smoke alarm or heat alarm. Penalties apply.

WARNING—LOOSE-FILL ASBESTOS INSULATION

Before purchasing land that includes residential premises, within the meaning of the *Home Building Act 1989*, Part 8, Division 1A, built before 1985, a purchaser is strongly advised to consider the possibility that the premises may contain loose-fill asbestos insulation, within the meaning of the *Home Building Act 1989*, Part 8, Division 1A. In particular, a purchaser should—

- (a) search the Register required to be maintained under the *Home Building Act 1989*, Part 8, Division 1A, and
- (b) ask the relevant local council whether it holds records showing that the residential premises contain loose-fill asbestos insulation.

For further information about loose-fill asbestos insulation, including areas in which residential premises have been identified as containing loose-fill asbestos insulation, contact NSW Fair Trading.

Cooling off period (purchaser's rights)

- 1** This is the statement required by the *Conveyancing Act 1919*, section 66X. This statement applies to a contract for the sale of residential property.
- 2** EXCEPT in the circumstances listed in paragraph 3, the purchaser may rescind the contract before 5pm on—
 - (a) for an off the plan contract—the tenth business day after the day on which the contract was made, or
 - (b) in any other case—the fifth business day after the day on which the contract was made.
- 3** There is NO COOLING OFF PERIOD—
 - (a) if, at or before the time the contract is made, the purchaser gives to the vendor, or the vendor's solicitor or agent, a certificate that complies with the Act, section 66W, or
 - (b) if the property is sold by public auction, or
 - (c) if the contract is made on the same day as the property was offered for sale by public auction but passed in, or
 - (d) if the contract is made in consequence of the exercise of an option to purchase the property, other than an option that is void under the Act, section 66ZG.
- 4** A purchaser exercising the right to cool off by rescinding the contract forfeits 0.25% of the purchase price of the property to the vendor.
- 5** The vendor is entitled to recover the forfeited amount from an amount paid by the purchaser as a deposit under the contract. The purchaser is entitled to a refund of any balance.

DISPUTES

If you get into a dispute with the other party, the Law Society and Real Estate Institute encourage you to use informal procedures such as negotiation, independent expert appraisal, the Law Society Conveyancing Dispute Resolution Scheme or mediation (for example mediation under the Law Society Mediation Program).

AUCTIONS

Regulations made under the Property and Stock Agents Act 2002 prescribe a number of conditions applying to sales by auction.

WARNINGS

1. Various Acts of Parliament and other matters can affect the rights of the parties to this contract. Some important matters are actions, claims, decisions, licences, notices, orders, proposals or rights of way involving:

APA Group Australian Taxation Office Council County Council Department of Planning and Environment Department of Primary Industries Electricity and gas Land and Housing Corporation Local Land Services	NSW Department of Education NSW Fair Trading Owner of adjoining land Privacy Public Works Advisory Subsidence Advisory NSW Telecommunications Transport for NSW Water, sewerage or drainage authority
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If you think that any of these matters affects the property, tell your solicitor.
2. A lease may be affected by the Agricultural Tenancies Act 1990, the Residential Tenancies Act 2010 or the Retail Leases Act 1994.
3. If any purchase money is owing to the Crown, it will become payable before obtaining consent, or if no consent is needed, when the transfer is registered.
4. If a consent to transfer is required under legislation, see clause 27 as to the obligations of the parties.
5. The vendor should continue the vendor's insurance until completion. If the vendor wants to give the purchaser possession before completion, the vendor should first ask the insurer to confirm this will not affect the insurance.
6. Most purchasers will have to pay transfer duty (and, sometimes, if the purchaser is not an Australian citizen, surcharge purchaser duty) on this contract. Some purchasers may be eligible to choose to pay first home buyer choice property tax instead of transfer duty. If a payment is not made on time, interest and penalties may be incurred.
7. If the purchaser agrees to the release of deposit, the purchaser's right to recover the deposit may stand behind the rights of others (for example the vendor's mortgagee).
8. The purchaser should arrange insurance as appropriate.
9. Some transactions involving personal property may be affected by the Personal Property Securities Act 2009.
10. A purchaser should be satisfied that finance will be available at the time of completing the purchase.
11. Where the market value of the property is at or above a legislated amount, the purchaser may have to comply with a foreign resident capital gains withholding payment obligation (even if the vendor is not a foreign resident). If so, this will affect the amount available to the vendor on completion.
12. Purchasers of some residential properties may have to withhold part of the purchase price to be credited towards the GST liability of the vendor. If so, this will also affect the amount available to the vendor. More information is available from the ATO.

The vendor sells and the purchaser buys the *property* for the price under these provisions instead of Schedule 3 Conveyancing Act 1919, subject to any *legislation* that cannot be excluded.

1 Definitions (a term in italics is a defined term)

1.1 In this contract, these terms (in any form) mean –

<i>adjustment date</i>	the earlier of the giving of possession to the purchaser or completion;
<i>adjustment figures</i>	details of the adjustments to be made to the price under clause 14;
<i>authorised Subscriber</i>	a <i>Subscriber</i> (not being a <i>party's solicitor</i>) named in a notice served by a <i>party</i> as being authorised for the purposes of clause 20.6.8;
<i>bank</i>	the Reserve Bank of Australia or an authorised deposit-taking institution which is a bank, a building society or a credit union;
<i>business day</i>	any day except a bank or public holiday throughout NSW or a Saturday or Sunday;
<i>cheque</i>	a cheque that is not postdated or stale;
<i>clearance certificate</i>	a certificate within the meaning of s14-220 of Schedule 1 to the <i>TA Act</i> , that covers one or more days falling within the period from and including the contract date to completion;
<i>completion time</i>	the time of day at which completion is to occur;
<i>conveyancing rules</i>	the rules made under s12E of the Real Property Act 1900;
<i>deposit-bond</i>	a deposit bond or guarantee with each of the following approved by the vendor – <ul style="list-style-type: none"> • the issuer; • the expiry date (if any); and • the amount;
<i>depositholder</i>	vendor's agent (or if no vendor's agent is named in this contract, the vendor's <i>solicitor</i> , or if no vendor's <i>solicitor</i> is named in this contract, the buyer's agent);
<i>discharging mortgagee</i>	any discharging mortgagee, chargee, covenant chargee or caveator whose provision of a <i>Digitally Signed</i> discharge of mortgage, discharge of charge or withdrawal of caveat is required in order for unencumbered title to the <i>property</i> to be transferred to the purchaser;
<i>document of title</i>	document relevant to the title or the passing of title;
<i>ECNL</i>	the Electronic Conveyancing National Law (NSW);
<i>electronic document</i>	a dealing as defined in the Real Property Act 1900 which may be created and <i>Digitally Signed</i> in an <i>Electronic Workspace</i> ;
<i>electronic transaction</i>	a <i>Conveyancing Transaction</i> to be conducted for the <i>parties</i> by their legal representatives as <i>Subscribers</i> using an <i>ELN</i> and in accordance with the <i>ECNL</i> and the <i>participation rules</i> ;
<i>electronic transfer</i>	a transfer of land under the Real Property Act 1900 for the <i>property</i> to be prepared and <i>Digitally Signed</i> in the <i>Electronic Workspace</i> established for the purposes of the <i>parties' Conveyancing Transaction</i> ;
<i>FRCGW percentage</i>	the percentage mentioned in s14-200(3)(a) of Schedule 1 to the <i>TA Act</i> (12.5% as at 1 July 2017);
<i>FRCGW remittance</i>	a remittance which the purchaser must make under s14-200 of Schedule 1 to the <i>TA Act</i> , being the lesser of the <i>FRCGW percentage</i> of the price (inclusive of GST, if any) and the amount specified in a <i>variation served by a party</i> ;
<i>GST Act</i>	A New Tax System (Goods and Services Tax) Act 1999;
<i>GST rate</i>	the rate mentioned in s4 of A New Tax System (Goods and Services Tax Imposition - General) Act 1999 (10% as at 1 July 2000);
<i>GSTRW payment</i>	a payment which the purchaser must make under s14-250 of Schedule 1 to the <i>TA Act</i> (the price multiplied by the <i>GSTRW rate</i>);
<i>GSTRW rate</i>	the rate determined under ss14-250(6), (8) or (9) of Schedule 1 to the <i>TA Act</i> (as at 1 July 2018, usually 7% of the price if the margin scheme applies, 1/11th if not);
<i>incoming mortgagee</i>	any mortgagee who is to provide finance to the purchaser on the security of the <i>property</i> and to enable the purchaser to pay the whole or part of the price;
<i>legislation</i>	an Act or a by-law, ordinance, regulation or rule made under an Act;
<i>manual transaction</i>	a <i>Conveyancing Transaction</i> in which a dealing forming part of the <i>Lodgment Case</i> at or following completion cannot be <i>Digitally Signed</i> ;
<i>normally</i>	subject to any other provision of this contract;
<i>participation rules</i>	the participation rules as determined by the <i>ECNL</i> ;
<i>party</i>	each of the vendor and the purchaser;
<i>property</i>	the land, the improvements and the inclusions, but not the exclusions;
<i>planning agreement</i>	a valid voluntary agreement within the meaning of s7.4 of the Environmental Planning and Assessment Act 1979 entered into in relation to the <i>property</i> ;
<i>populate</i>	to complete data fields in the <i>Electronic Workspace</i> ;

<i>requisition</i>	an objection, question or requisition (but the term does not include a claim);
<i>rescind</i>	rescind this contract from the beginning;
<i>serve</i>	serve in writing on the other <i>party</i> ;
<i>settlement cheque</i>	an unendorsed <i>cheque</i> made payable to the person to be paid and – <ul style="list-style-type: none"> • issued by a <i>bank</i> and drawn on itself; or • if authorised in writing by the vendor or the vendor's <i>solicitor</i>, some other <i>cheque</i>;
<i>solicitor</i>	in relation to a <i>party</i> , the <i>party's</i> solicitor or licensed conveyancer named in this contract or in a notice <i>served</i> by the <i>party</i> ;
<i>TA Act</i>	Taxation Administration Act 1953;
<i>terminate</i>	terminate this contract for breach;
<i>title data</i>	the details of the title to the <i>property</i> made available to the <i>Electronic Workspace</i> by the <i>Land Registry</i> ;
<i>variation</i>	a variation made under s14-235 of Schedule 1 to the <i>TA Act</i> ;
<i>within</i>	in relation to a period, at any time before or during the period; and
<i>work order</i>	a valid direction, notice or order that requires work to be done or money to be spent on or in relation to the <i>property</i> or any adjoining footpath or road (but the term does not include a notice under s22E of the Swimming Pools Act 1992 or clause 22 of the Swimming Pools Regulation 2018).

- 1.2 Words and phrases used in this contract (italicised and in Title Case, such as *Conveyancing Transaction*, *Digitally Signed*, *Electronic Workspace*, *ELN*, *ELNO*, *Land Registry*, *Lodgment Case* and *Subscriber*) have the meanings given in the *participation rules*.

2 Deposit and other payments before completion

- 2.1 The purchaser must pay the deposit to the *depositholder* as stakeholder.
- 2.2 *Normally*, the purchaser must pay the deposit on the making of this contract, and this time is essential.
- 2.3 If this contract requires the purchaser to pay any of the deposit by a later time, that time is also essential.
- 2.4 The purchaser can pay any of the deposit by –
- 2.4.1 giving cash (up to \$2,000) to the *depositholder*;
 - 2.4.2 unconditionally giving a *cheque* to the *depositholder* or to the vendor, vendor's agent or vendor's *solicitor* for sending to the *depositholder*; or
 - 2.4.3 electronic funds transfer to the *depositholder's* nominated account and, if requested by the vendor or the *depositholder*, providing evidence of that transfer.
- 2.5 The vendor can *terminate* if –
- 2.5.1 any of the deposit is not paid on time;
 - 2.5.2 a *cheque* for any of the deposit is not honoured on presentation; or
 - 2.5.3 a payment under clause 2.4.3 is not received in the *depositholder's* nominated account by 5.00 pm on the third *business day* after the time for payment.
- This right to *terminate* is lost as soon as the deposit is paid in full.
- 2.6 If the vendor accepts a *deposit-bond* for the deposit, clauses 2.1 to 2.5 do not apply.
- 2.7 If the vendor accepts a *deposit-bond* for part of the deposit, clauses 2.1 to 2.5 apply only to the balance.
- 2.8 If any of the deposit or of the balance of the price is paid before completion to the vendor or as the vendor directs, it is a charge on the land in favour of the purchaser until *termination* by the vendor or completion, subject to any existing right.
- 2.9 If each *party* tells the *depositholder* that the deposit is to be invested, the *depositholder* is to invest the deposit (at the risk of the *party* who becomes entitled to it) with a *bank*, in an interest-bearing account in NSW, payable at call, with interest to be reinvested, and pay the interest to the *parties* equally, after deduction of all proper government taxes and financial institution charges and other charges.

3 Deposit-bond

- 3.1 This clause applies only if the vendor accepts a *deposit-bond* for the deposit (or part of it).
- 3.2 The purchaser must provide the *deposit-bond* to the vendor's *solicitor* (or if no *solicitor* the *depositholder*) at or before the making of this contract and this time is essential.
- 3.3 If the *deposit-bond* has an expiry date and completion does not occur by the date which is 14 days before the expiry date, the purchaser must *serve* a replacement *deposit-bond* at least 7 days before the expiry date. The time for service is essential.
- 3.4 The vendor must approve a replacement *deposit-bond* if –
- 3.4.1 it is from the same issuer and for the same amount as the earlier *deposit-bond*; and
 - 3.4.2 it has an expiry date at least three months after its date of issue.
- 3.5 A breach of clauses 3.2 or 3.3 entitles the vendor to *terminate*. The right to *terminate* is lost as soon as –
- 3.5.1 the purchaser *serves* a replacement *deposit-bond*; or
 - 3.5.2 the deposit is paid in full under clause 2.
- 3.6 Clauses 3.3 and 3.4 can operate more than once.

- 3.7 If the purchaser serves a replacement *deposit-bond*, the vendor must serve the earlier *deposit-bond*.
- 3.8 The amount of any *deposit-bond* does not form part of the price for the purposes of clause 16.5.
- 3.9 The vendor must give the purchaser any original *deposit-bond* –
- 3.9.1 on completion; or
- 3.9.2 if this contract is *rescinded*.
- 3.10 If this contract is *terminated* by the vendor –
- 3.10.1 *normally*, the vendor can immediately demand payment from the issuer of the *deposit-bond*; or
- 3.10.2 if the purchaser serves prior to *termination* a notice disputing the vendor's right to *terminate*, the vendor must forward any original *deposit-bond* (or its proceeds if called up) to the *depositholder* as stakeholder.
- 3.11 If this contract is *terminated* by the purchaser –
- 3.11.1 *normally*, the vendor must give the purchaser any original *deposit-bond*; or
- 3.11.2 if the vendor serves prior to *termination* a notice disputing the purchaser's right to *terminate*, the vendor must forward any original *deposit-bond* (or its proceeds if called up) to the *depositholder* as stakeholder.
- 4 Electronic transaction**
- 4.1 This *Conveyancing Transaction* is to be conducted as an *electronic transaction* unless –
- 4.1.1 the contract says this transaction is a *manual transaction*, giving the reason, or
- 4.1.2 a party serves a notice stating why the transaction is a *manual transaction*, in which case the parties do not have to complete earlier than 14 days after service of the notice, and clause 21.3 does not apply to this provision,
- and in both cases clause 30 applies.
- 4.2 If, because of clause 4.1.2, this *Conveyancing Transaction* is to be conducted as a *manual transaction* –
- 4.2.1 each party must –
- bear equally any disbursements or fees; and
 - otherwise bear that party's own costs;
- incurred because this *Conveyancing Transaction* was to be conducted as an *electronic transaction*; and
- 4.2.2 if a party has paid all of a disbursement or fee which, by reason of this clause, is to be borne equally by the parties, that amount must be adjusted under clause 14.
- 4.3 The parties must conduct the *electronic transaction* –
- 4.3.1 in accordance with the *participation rules* and the *ECNL*; and
- 4.3.2 using the nominated *ELN*, unless the parties otherwise agree. This clause 4.3.2 does not prevent a party using an *ELN* which can interoperate with the nominated *ELN*.
- 4.4 A party must pay the fees and charges payable by that party to the *ELNO* and the *Land Registry*.
- 4.5 *Normally*, the vendor must within 7 days of the contract date create and populate an *Electronic Workspace* with title data and the date for completion, and invite the purchaser to the *Electronic Workspace*.
- 4.6 If the vendor has not created an *Electronic Workspace* in accordance with clause 4.5, the purchaser may create and populate an *Electronic Workspace* and, if it does so, the purchaser must invite the vendor to the *Electronic Workspace*.
- 4.7 The parties must, as applicable to their role in the *Conveyancing Transaction* and the steps taken under clauses 4.5 or 4.6 –
- 4.7.1 promptly join the *Electronic Workspace* after receipt of an invitation;
- 4.7.2 create and populate an *electronic transfer*;
- 4.7.3 invite any *discharging mortgagee* or *incoming mortgagee* to join the *Electronic Workspace*; and
- 4.7.4 populate the *Electronic Workspace* with a nominated *completion time*.
- 4.8 If the transferee in the *electronic transfer* is not the purchaser, the purchaser must give the vendor a direction signed by the purchaser personally for that transfer.
- 4.9 The vendor can require the purchaser to include a covenant or easement in the *electronic transfer* only if this contract contains the wording of the proposed covenant or easement, and a description of the land burdened and benefited.
- 4.10 If the purchaser must make a *GSTRW payment* or an *FRCGW remittance*, the purchaser must populate the *Electronic Workspace* with the payment details for the *GSTRW payment* or *FRCGW remittance* payable to the Deputy Commissioner of Taxation at least 2 *business days* before the date for completion.
- 4.11 Before completion, the parties must ensure that –
- 4.11.1 all *electronic documents* which a party must *Digitally Sign* to complete the *electronic transaction* are populated and *Digitally Signed*;
- 4.11.2 all certifications required by the *ECNL* are properly given; and
- 4.11.3 they do everything else in the *Electronic Workspace* which that party must do to enable the *electronic transaction* to proceed to completion.
- 4.12 If the computer systems of any of the *Land Registry*, the *ELNO*, Revenue NSW or the Reserve Bank of Australia are inoperative for any reason at the *completion time* agreed by the parties, a failure to complete this contract for that reason is not a default under this contract on the part of either party.

- 4.13 If the computer systems of the *Land Registry* are inoperative for any reason at the *completion time* agreed by the *parties*, and the *parties* choose that financial settlement is to occur despite this, then on financial settlement occurring –
- 4.13.1 all *electronic documents Digitally Signed* by the vendor and any discharge of mortgage, withdrawal of caveat or other *electronic document* forming part of the *Lodgment Case* for the *electronic transaction* are taken to have been unconditionally and irrevocably delivered to the purchaser or the purchaser's mortgagee at the time of financial settlement together with the right to deal with the land; and
- 4.13.2 the vendor is taken to have no legal or equitable interest in the *property*.
- 4.14 If the *parties* do not agree about the delivery before completion of one or more documents or things that cannot be delivered through the *Electronic Workspace*, the *party* required to deliver the documents or things –
- 4.14.1 holds them on completion in escrow for the benefit of; and
- 4.14.2 must immediately after completion deliver the documents or things to, or as directed by; the *party* entitled to them.

5 Requisitions

- 5.1 If a form of *requisitions* is attached to this contract, the purchaser is taken to have made those *requisitions*.
- 5.2 If the purchaser is or becomes entitled to make any other *requisition*, the purchaser can make it only by *serving* it –
- 5.2.1 if it arises out of this contract or it is a general question about the *property* or title - *within* 21 days after the contract date;
- 5.2.2 if it arises out of anything *served* by the vendor - *within* 21 days after the later of the contract date and that *service*; and
- 5.2.3 in any other case - *within* a reasonable time.

6 Error or misdescription

- 6.1 *Normally*, the purchaser can (but only before completion) claim compensation for an error or misdescription in this contract (as to the *property*, the title or anything else and whether substantial or not).
- 6.2 This clause applies even if the purchaser did not take notice of or rely on anything in this contract containing or giving rise to the error or misdescription.
- 6.3 However, this clause does not apply to the extent the purchaser knows the true position.

7 Claims by purchaser

- Normally*, the purchaser can make a claim (including a claim under clause 6) before completion only by *serving* it with a statement of the amount claimed, and if the purchaser makes one or more claims before completion –
- 7.1 the vendor can *rescind* if in the case of claims that are not claims for delay –
- 7.1.1 the total amount claimed exceeds 5% of the price;
- 7.1.2 the vendor *serves* notice of intention to *rescind*; and
- 7.1.3 the purchaser does not *serve* notice waiving the claims *within* 14 days after that *service*; and
- 7.2 if the vendor does not *rescind*, the *parties* must complete and if this contract is completed –
- 7.2.1 the lesser of the total amount claimed and 10% of the price must be paid out of the price to and held by the *depositholder* until the claims are finalised or lapse;
- 7.2.2 the amount held is to be invested in accordance with clause 2.9;
- 7.2.3 the claims must be finalised by an arbitrator appointed by the *parties* or, if an appointment is not made *within* 1 month of completion, by an arbitrator appointed by the President of the Law Society at the request of a *party* (in the latter case the *parties* are bound by the terms of the Conveyancing Arbitration Rules approved by the Law Society as at the date of the appointment);
- 7.2.4 the purchaser is not entitled, in respect of the claims, to more than the total amount claimed and the costs of the purchaser;
- 7.2.5 net interest on the amount held must be paid to the *parties* in the same proportion as the amount held is paid; and
- 7.2.6 if the *parties* do not appoint an arbitrator and neither *party* requests the President to appoint an arbitrator *within* 3 months after completion, the claims lapse and the amount belongs to the vendor.

8 Vendor's rights and obligations

- 8.1 The vendor can *rescind* if –
- 8.1.1 the vendor is, on reasonable grounds, unable or unwilling to comply with a *requisition*;
- 8.1.2 the vendor *serves* a notice of intention to *rescind* that specifies the *requisition* and those grounds; and
- 8.1.3 the purchaser does not *serve* a notice waiving the *requisition* *within* 14 days after that *service*.

- 8.2 If the vendor does not comply with this contract (or a notice under or relating to it) in an essential respect, the purchaser can *terminate* by *serving* a notice. After the *termination* –
- 8.2.1 the purchaser can recover the deposit and any other money paid by the purchaser under this contract;
- 8.2.2 the purchaser can sue the vendor to recover damages for breach of contract; and
- 8.2.3 if the purchaser has been in possession a *party* can claim for a reasonable adjustment.
- 9 Purchaser's default**
- If the purchaser does not comply with this contract (or a notice under or relating to it) in an essential respect, the vendor can *terminate* by *serving* a notice. After the *termination* the vendor can –
- 9.1 keep or recover the deposit (to a maximum of 10% of the price);
- 9.2 hold any other money paid by the purchaser under this contract as security for anything recoverable under this clause –
- 9.2.1 for 12 months after the *termination*; or
- 9.2.2 if the vendor commences proceedings under this clause *within* 12 months, until those proceedings are concluded; and
- 9.3 sue the purchaser either –
- 9.3.1 where the vendor has resold the *property* under a contract made *within* 12 months after the *termination*, to recover –
- the deficiency on resale (with credit for any of the deposit kept or recovered and after allowance for any capital gains tax or goods and services tax payable on anything recovered under this clause); and
 - the reasonable costs and expenses arising out of the purchaser's non-compliance with this contract or the notice and of resale and any attempted resale; or
- 9.3.2 to recover damages for breach of contract.
- 10 Restrictions on rights of purchaser**
- 10.1 The purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of –
- 10.1.1 the ownership or location of any fence as defined in the Dividing Fences Act 1991;
- 10.1.2 a service for the *property* being a joint service or passing through another property, or any service for another property passing through the *property* ('service' includes air, communication, drainage, electricity, garbage, gas, oil, radio, sewerage, telephone, television or water service);
- 10.1.3 a wall being or not being a party wall in any sense of that term or the *property* being affected by an easement for support or not having the benefit of an easement for support;
- 10.1.4 any change in the *property* due to fair wear and tear before completion;
- 10.1.5 a promise, representation or statement about this contract, the *property* or the title, not set out or referred to in this contract;
- 10.1.6 a condition, exception, reservation or restriction in a Crown grant;
- 10.1.7 the existence of any authority or licence to explore or prospect for gas, minerals or petroleum;
- 10.1.8 any easement or restriction on use the substance of either of which is disclosed in this contract or any non-compliance with the easement or restriction on use; or
- 10.1.9 anything the substance of which is disclosed in this contract (except a caveat, charge, mortgage, priority notice or writ).
- 10.2 The purchaser cannot *rescind* or *terminate* only because of a defect in title to or quality of the inclusions.
- 10.3 *Normally*, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* or require the vendor to change the nature of the title disclosed in this contract (for example, to remove a caution evidencing qualified title, or to lodge a plan of survey as regards limited title).
- 11 Compliance with work orders**
- 11.1 *Normally*, the vendor must by completion comply with a *work order* made on or before the contract date and if this contract is completed the purchaser must comply with any other *work order*.
- 11.2 If the purchaser complies with a *work order*, and this contract is *rescinded* or *terminated*, the vendor must pay the expense of compliance to the purchaser.
- 12 Certificates and inspections**
- The vendor must do everything reasonable to enable the purchaser, subject to the rights of any tenant –
- 12.1 to have the *property* inspected to obtain any certificate or report reasonably required;
- 12.2 to apply (if necessary in the name of the vendor) for –
- 12.2.1 any certificate that can be given in respect of the *property* under *legislation*; or
- 12.2.2 a copy of any approval, certificate, consent, direction, notice or order in respect of the *property* given under *legislation*, even if given after the contract date; and
- 12.3 to make 1 inspection of the *property* in the 3 days before a time appointed for completion.

13 Goods and services tax (GST)

- 13.1 Terms used in this clause which are not defined elsewhere in this contract and have a defined meaning in the *GST Act* have the same meaning in this clause.
- 13.2 *Normally*, if a *party* must pay the price or any other amount to the other *party* under this contract, GST is not to be added to the price or amount.
- 13.3 If under this contract a *party* must make an adjustment or payment for an expense of another party or pay an expense payable by or to a third party (for example, under clauses 14 or 20.7) –
- 13.3.1 the *party* must adjust or pay on completion any GST added to or included in the expense; but
 - 13.3.2 the amount of the expense must be reduced to the extent the party receiving the adjustment or payment (or the representative member of a GST group of which that party is a member) is entitled to an input tax credit for the expense; and
 - 13.3.3 if the adjustment or payment under this contract is consideration for a taxable supply, an amount for GST must be added at the *GST rate*.
- 13.4 If this contract says this sale is the supply of a going concern –
- 13.4.1 the *parties* agree the supply of the *property* is a supply of a going concern;
 - 13.4.2 the vendor must, between the contract date and completion, carry on the enterprise conducted on the land in a proper and business-like way;
 - 13.4.3 if the purchaser is not registered by the date for completion, the *parties* must complete and the purchaser must pay on completion, in addition to the price, an amount being the price multiplied by the *GST rate* ("the retention sum"). The retention sum is to be held by the *depositholder* and dealt with as follows –
 - if *within* 3 months of completion the purchaser serves a letter from the Australian Taxation Office stating the purchaser is registered with a date of effect of registration on or before completion, the *depositholder* is to pay the retention sum to the purchaser; but
 - if the purchaser does not serve that letter *within* 3 months of completion, the *depositholder* is to pay the retention sum to the vendor; and
 - 13.4.4 if the vendor, despite clause 13.4.1, serves a letter from the Australian Taxation Office stating the vendor has to pay GST on the supply, the purchaser must pay to the vendor on demand the amount of GST assessed.
- 13.5 *Normally*, the vendor promises the margin scheme will not apply to the supply of the *property*.
- 13.6 If this contract says the margin scheme is to apply in making the taxable supply, the *parties* agree that the margin scheme is to apply to the sale of the *property*.
- 13.7 If this contract says the sale is not a taxable supply –
- 13.7.1 the purchaser promises that the *property* will not be used and represents that the purchaser does not intend the *property* (or any part of the *property*) to be used in a way that could make the sale a taxable supply to any extent; and
 - 13.7.2 the purchaser must pay the vendor on completion in addition to the price an amount calculated by multiplying the price by the *GST rate* if this sale is a taxable supply to any extent because of –
 - a breach of clause 13.7.1; or
 - something else known to the purchaser but not the vendor.
- 13.8 If this contract says this sale is a taxable supply in full and does not say the margin scheme applies to the *property*, the vendor must pay the purchaser on completion an amount of one-eleventh of the price if –
- 13.8.1 this sale is not a taxable supply in full; or
 - 13.8.2 the margin scheme applies to the *property* (or any part of the *property*).
- 13.9 If this contract says this sale is a taxable supply to an extent –
- 13.9.1 clause 13.7.1 does not apply to any part of the *property* which is identified as being a taxable supply; and
 - 13.9.2 the payments mentioned in clauses 13.7 and 13.8 are to be recalculated by multiplying the relevant payment by the proportion of the price which represents the value of that part of the *property* to which the clause applies (the proportion to be expressed as a number between 0 and 1). Any evidence of value must be obtained at the expense of the vendor.
- 13.10 *Normally*, on completion the vendor must give the recipient of the supply a tax invoice for any taxable supply by the vendor by or under this contract.
- 13.11 The vendor does not have to give the purchaser a tax invoice if the margin scheme applies to a taxable supply.
- 13.12 If the vendor is liable for GST on rents or profits due to issuing an invoice or receiving consideration before completion, any adjustment of those amounts must exclude an amount equal to the vendor's GST liability.
- 13.13 If the vendor serves details of a *GSTRW payment* which the purchaser must make, the purchaser does not have to complete earlier than 5 *business days* after that *service* and clause 21.3 does not apply to this provision.
- 13.14 If the purchaser must make a *GSTRW payment* the purchaser must, at least 2 *business days* before the date for completion, serve evidence of submission of a *GSTRW payment* notification form to the Australian Taxation Office by the purchaser or, if a direction under either clause 4.8 or clause 30.4 has been given, by the transferee named in the transfer the subject of that direction.

14 Adjustments

- 14.1 *Normally*, the vendor is entitled to the rents and profits and will be liable for all rates, water, sewerage and drainage service and usage charges, land tax, levies and all other periodic outgoings up to and including the *adjustment date* after which the purchaser will be entitled and liable.
- 14.2 The *parties* must make any necessary adjustment on completion, and –
- 14.2.1 the purchaser must provide the vendor with *adjustment figures* at least 2 *business days* before the date for completion; and
- 14.2.2 the vendor must confirm the *adjustment figures* at least 1 *business day* before the date for completion.
- 14.3 If an amount that is adjustable under this contract has been reduced under *legislation*, the *parties* must on completion adjust the reduced amount.
- 14.4 The *parties* must not adjust surcharge land tax (as defined in the Land Tax Act 1956) but must adjust any other land tax for the year current at the *adjustment date* –
- 14.4.1 only if land tax has been paid or is payable for the year (whether by the vendor or by a predecessor in title) and this contract says that land tax is adjustable;
- 14.4.2 by adjusting the amount that would have been payable if at the start of the year –
- the person who owned the land owned no other land;
 - the land was not subject to a special trust or owned by a non-concessional company; and
 - if the land (or part of it) had no separate taxable value, by calculating its separate taxable value on a proportional area basis.
- 14.5 The *parties* must not adjust any first home buyer choice property tax.
- 14.6 If any other amount that is adjustable under this contract relates partly to the land and partly to other land, the *parties* must adjust it on a proportional area basis.
- 14.7 If on completion the last bill for a water, sewerage or drainage usage charge is for a period ending before the *adjustment date*, the vendor is liable for an amount calculated by dividing the bill by the number of days in the period then multiplying by the number of unbilled days up to and including the *adjustment date*.
- 14.8 The vendor is liable for any amount recoverable for work started on or before the contract date on the *property* or any adjoining footpath or road.

15 Date for completion

The *parties* must complete by the date for completion and, if they do not, a *party* can serve a notice to complete if that *party* is otherwise entitled to do so.

16 Completion

• Vendor

- 16.1 *Normally*, on completion the vendor must cause the legal title to the *property* (being the estate disclosed in this contract) to pass to the purchaser free of any charge, mortgage or other interest, subject to any necessary registration.
- 16.2 The legal title to the *property* does not pass before completion.
- 16.3 If the vendor gives the purchaser a document (other than the transfer) that needs to be lodged for registration, the vendor must pay the lodgment fee to the purchaser.
- 16.4 If a *party* serves a land tax certificate showing a charge on any of the land, by completion the vendor must do all things and pay all money required so that the charge is no longer effective against the land.

• Purchaser

- 16.5 On completion the purchaser must pay to the vendor –
- 16.5.1 the price less any –
- deposit paid;
 - *FRCGW remittance* payable;
 - *GSTRW payment*; and
 - amount payable by the vendor to the purchaser under this contract; and
- 16.5.2 any other amount payable by the purchaser under this contract.
- 16.6 If any of the deposit is not covered by a *deposit-bond*, at least 1 *business day* before the date for completion the purchaser must give the vendor an order signed by the purchaser authorising the *depositholder* to account to the vendor for the deposit, to be held by the vendor in escrow until completion.
- 16.7 On completion the deposit belongs to the vendor.

17 Possession

- 17.1 *Normally*, the vendor must give the purchaser vacant possession of the *property* on completion.
- 17.2 The vendor does not have to give vacant possession if –
- 17.2.1 this contract says that the sale is subject to existing tenancies; and
- 17.2.2 the contract discloses the provisions of the tenancy (for example, by attaching a copy of the lease and any relevant memorandum or variation).
- 17.3 *Normally*, the purchaser can claim compensation (before or after completion) or *rescind* if any of the land is affected by a protected tenancy (a tenancy affected by Schedule 2, Part 7 of the Residential Tenancies Act 2010).

18 Possession before completion

- 18.1 This clause applies only if the vendor gives the purchaser possession of the *property* before completion.
- 18.2 The purchaser must not before completion –
- 18.2.1 let or part with possession of any of the *property*;
 - 18.2.2 make any change or structural alteration or addition to the *property*; or
 - 18.2.3 contravene any agreement between the *parties* or any direction, document, *legislation*, notice or order affecting the *property*.
- 18.3 The purchaser must until completion –
- 18.3.1 keep the *property* in good condition and repair having regard to its condition at the giving of possession; and
 - 18.3.2 allow the vendor or the vendor's authorised representative to enter and inspect it at all reasonable times.
- 18.4 The risk as to damage to the *property* passes to the purchaser immediately after the purchaser enters into possession.
- 18.5 If the purchaser does not comply with this clause, then without affecting any other right of the vendor –
- 18.5.1 the vendor can before completion, without notice, remedy the non-compliance; and
 - 18.5.2 if the vendor pays the expense of doing this, the purchaser must pay it to the vendor with interest at the rate prescribed under s101 Civil Procedure Act 2005.
- 18.6 If this contract is *rescinded* or *terminated* the purchaser must immediately vacate the *property*.
- 18.7 If the *parties* or their *solicitors* on their behalf do not agree in writing to a fee or rent, none is payable.

19 Rescission of contract

- 19.1 If this contract expressly gives a *party* a right to *rescind*, the *party* can exercise the right –
- 19.1.1 only by *serving* a notice before completion; and
 - 19.1.2 in spite of any making of a claim or *requisition*, any attempt to satisfy a claim or *requisition*, any arbitration, litigation, mediation or negotiation or any giving or taking of possession.
- 19.2 *Normally*, if a *party* exercises a right to *rescind* expressly given by this contract or any *legislation* –
- 19.2.1 the deposit and any other money paid by the purchaser under this contract must be refunded;
 - 19.2.2 a *party* can claim for a reasonable adjustment if the purchaser has been in possession;
 - 19.2.3 a *party* can claim for damages, costs or expenses arising out of a breach of this contract; and
 - 19.2.4 a *party* will not otherwise be liable to pay the other *party* any damages, costs or expenses.

20 Miscellaneous

- 20.1 The *parties* acknowledge that anything stated in this contract to be attached was attached to this contract by the vendor before the purchaser signed it and is part of this contract.
- 20.2 Anything attached to this contract is part of this contract.
- 20.3 An area, bearing or dimension in this contract is only approximate.
- 20.4 If a *party* consists of 2 or more persons, this contract benefits and binds them separately and together.
- 20.5 A *party's solicitor* can receive any amount payable to the *party* under this contract or direct in writing that it is to be paid to another person.
- 20.6 A document under or relating to this contract is –
- 20.6.1 signed by a *party* if it is signed by the *party* or the *party's solicitor* (apart from a direction under clause 4.8 or clause 30.4);
 - 20.6.2 *served* if it is *served* by the *party* or the *party's solicitor*;
 - 20.6.3 *served* if it is *served* on the *party's solicitor*, even if the *party* has died or any of them has died;
 - 20.6.4 *served* if it is *served* in any manner provided in s170 of the Conveyancing Act 1919;
 - 20.6.5 *served* if it is sent by email or fax to the *party's solicitor*, unless in either case it is not received;
 - 20.6.6 *served* on a person if it (or a copy of it) comes into the possession of the person;
 - 20.6.7 *served* at the earliest time it is *served*, if it is *served* more than once; and
 - 20.6.8 *served* if it is provided to or by the *party's solicitor* or an *authorised Subscriber* by means of an *Electronic Workspace* created under clause 4. However, this does not apply to a notice making an obligation essential, or a notice of *rescission* or *termination*.
- 20.7 An obligation to pay an expense of another *party* of doing something is an obligation to pay –
- 20.7.1 if the *party* does the thing personally - the reasonable cost of getting someone else to do it; or
 - 20.7.2 if the *party* pays someone else to do the thing - the amount paid, to the extent it is reasonable.
- 20.8 Rights under clauses 4, 11, 13, 14, 17, 24, 30 and 31 continue after completion, whether or not other rights continue.
- 20.9 The vendor does not promise, represent or state that the purchaser has any cooling off rights.
- 20.10 The vendor does not promise, represent or state that any attached survey report is accurate or current.
- 20.11 A reference to any *legislation* (including any percentage or rate specified in *legislation*) is also a reference to any corresponding later *legislation*.
- 20.12 Each *party* must do whatever is necessary after completion to carry out the *party's* obligations under this contract.
- 20.13 Neither taking possession nor *serving* a transfer of itself implies acceptance of the *property* or the title.

- 20.14 The details and information provided in this contract (for example, on pages 1 - 4) are, to the extent of each *party's* knowledge, true, and are part of this contract.
- 20.15 Where this contract provides for choices, a choice in BLOCK CAPITALS applies unless a different choice is marked.
- 20.16 Each *party* consents to –
- 20.16.1 any *party* signing this contract electronically; and
 - 20.16.2 the making of this contract by the exchange of counterparts delivered by email, or by such other electronic means as may be agreed in writing by the *parties*.
- 20.17 Each *party* agrees that electronic signing by a *party* identifies that *party* and indicates that *party's* intention to be bound by this contract.
- 21 Time limits in these provisions**
- 21.1 If the time for something to be done or to happen is not stated in these provisions, it is a reasonable time.
- 21.2 If there are conflicting times for something to be done or to happen, the latest of those times applies.
- 21.3 The time for one thing to be done or to happen does not extend the time for another thing to be done or to happen.
- 21.4 If the time for something to be done or to happen is the 29th, 30th or 31st day of a month, and the day does not exist, the time is instead the last day of the month.
- 21.5 If the time for something to be done or to happen is a day that is not a *business day*, the time is extended to the next *business day*, except in the case of clauses 2 and 3.2.
- 21.6 *Normally*, the time by which something must be done is fixed but not essential.
- 22 Foreign Acquisitions and Takeovers Act 1975**
- 22.1 The purchaser promises that the Commonwealth Treasurer cannot prohibit and has not prohibited the transfer under the Foreign Acquisitions and Takeovers Act 1975.
- 22.2 This promise is essential and a breach of it entitles the vendor to *terminate*.
- 23 Strata or community title**
- **Definitions and modifications**
- 23.1 This clause applies only if the land (or part of it) is a lot in a strata, neighbourhood, precinct or community scheme (or on completion is to be a lot in a scheme of that kind).
- 23.2 In this contract –
- 23.2.1 'change', in relation to a scheme, means –
 - a registered or registrable change from by-laws set out in this contract;
 - a change from a development or management contract or statement set out in this contract; or
 - a change in the boundaries of common property;
 - 23.2.2 'common property' includes association property for the scheme or any higher scheme;
 - 23.2.3 'contribution' includes an amount payable under a by-law;
 - 23.2.4 'information certificate' includes a certificate under s184 Strata Schemes Management Act 2015 and s171 Community Land Management Act 2021;
 - 23.2.5 'interest notice' includes a strata interest notice under s22 Strata Schemes Management Act 2015 and an association interest notice under s20 Community Land Management Act 2021;
 - 23.2.6 'normal expenses', in relation to an owners corporation for a scheme, means normal operating expenses usually payable from the administrative fund of an owners corporation for a scheme of the same kind;
 - 23.2.7 'owners corporation' means the owners corporation or the association for the scheme or any higher scheme;
 - 23.2.8 'the *property*' includes any interest in common property for the scheme associated with the lot; and
 - 23.2.9 'special expenses', in relation to an owners corporation, means its actual, contingent or expected expenses, except to the extent they are –
 - normal expenses;
 - due to fair wear and tear;
 - disclosed in this contract; or
 - covered by moneys held in the capital works fund.
- 23.3 Clauses 11, 14.8 and 18.4 do not apply to an obligation of the owners corporation, or to property insurable by it.
- 23.4 Clauses 14.4.2 and 14.6 apply but on a unit entitlement basis instead of an area basis.
- **Adjustments and liability for expenses**
- 23.5 The *parties* must adjust under clause 14.1 –
- 23.5.1 a regular periodic contribution;
 - 23.5.2 a contribution which is not a regular periodic contribution but is disclosed in this contract; and
 - 23.5.3 on a unit entitlement basis, any amount paid by the vendor for a normal expense of the owners corporation to the extent the owners corporation has not paid the amount to the vendor.

- 23.6 If a contribution is not a regular periodic contribution and is not disclosed in this contract –
- 23.6.1 the vendor is liable for it if it was determined on or before the contract date, even if it is payable by instalments; and
- 23.6.2 the purchaser is liable for all contributions determined after the contract date.
- 23.7 The vendor must pay or allow to the purchaser on completion the amount of any unpaid contributions for which the vendor is liable under clause 23.6.1.
- 23.8 *Normally*, the purchaser cannot make a claim or *requisition* or *rescind* or *terminate* in respect of –
- 23.8.1 an existing or future actual, contingent or expected expense of the owners corporation;
- 23.8.2 a proportional unit entitlement of the lot or a relevant lot or former lot, apart from a claim under clause 6; or
- 23.8.3 a past or future change in the scheme or a higher scheme.
- 23.9 However, the purchaser can *rescind* if –
- 23.9.1 the special expenses of the owners corporation at the later of the contract date and the creation of the owners corporation when calculated on a unit entitlement basis (and, if more than one lot or a higher scheme is involved, added together), less any contribution paid by the vendor, are more than 1% of the price;
- 23.9.2 in the case of the lot or a relevant lot or former lot in a higher scheme, a proportional unit entitlement for the lot is disclosed in this contract but the lot has a different proportional unit entitlement at the contract date or at any time before completion;
- 23.9.3 a change before the contract date or before completion in the scheme or a higher scheme materially prejudices the purchaser and is not disclosed in this contract; or
- 23.9.4 a resolution is passed by the owners corporation before the contract date or before completion to give to the owners in the scheme for their consideration a strata renewal plan that has not lapsed at the contract date and there is not attached to this contract a strata renewal proposal or the strata renewal plan.
- **Notices, certificates and inspections**
- 23.10 Before completion, the purchaser must serve a copy of an interest notice addressed to the owners corporation and signed by the purchaser.
- 23.11 After completion, the purchaser must insert the date of completion in the interest notice and send it to the owners corporation.
- 23.12 The vendor can complete and send the interest notice as agent for the purchaser.
- 23.13 The vendor must serve at least 7 days before the date for completion, an information certificate for the lot, the scheme or any higher scheme which relates to a period in which the date for completion falls.
- 23.14 The purchaser does not have to complete earlier than 7 days after *service* of the information certificate and clause 21.3 does not apply to this provision. On completion the purchaser must pay the vendor the prescribed fee for the information certificate.
- 23.15 The vendor authorises the purchaser to apply for the purchaser's own information certificate.
- 23.16 The vendor authorises the purchaser to apply for and make an inspection of any record or other document in the custody or control of the owners corporation or relating to the scheme or any higher scheme.
- **Meetings of the owners corporation**
- 23.17 If a general meeting of the owners corporation is convened before completion –
- 23.17.1 if the vendor receives notice of it, the vendor must immediately notify the purchaser of it; and
- 23.17.2 after the expiry of any cooling off period, the purchaser can require the vendor to appoint the purchaser (or the purchaser's nominee) to exercise any voting rights of the vendor in respect of the lot at the meeting.
- 24 Tenancies**
- 24.1 If a tenant has not made a payment for a period preceding or current at the *adjustment date* –
- 24.1.1 for the purposes of clause 14.2, the amount is to be treated as if it were paid; and
- 24.1.2 the purchaser assigns the debt to the vendor on completion and will if required give a further assignment at the vendor's expense.
- 24.2 If a tenant has paid in advance of the *adjustment date* any periodic payment in addition to rent, it must be adjusted as if it were rent for the period to which it relates.
- 24.3 If the *property* is to be subject to a tenancy on completion or is subject to a tenancy on completion –
- 24.3.1 the vendor authorises the purchaser to have any accounting records relating to the tenancy inspected and audited and to have any other document relating to the tenancy inspected;
- 24.3.2 the vendor must *serve* any information about the tenancy reasonably requested by the purchaser before or after completion; and
- 24.3.3 *normally*, the purchaser can claim compensation (before or after completion) if –
- a disclosure statement required by the Retail Leases Act 1994 was not given when required;
 - such a statement contained information that was materially false or misleading;
 - a provision of the lease is not enforceable because of a non-disclosure in such a statement; or
 - the lease was entered into in contravention of the Retail Leases Act 1994.

- 24.4 If the *property* is subject to a tenancy on completion –
- 24.4.1 the vendor must allow or transfer –
- any remaining bond money or any other security against the tenant's default (to the extent the security is transferable);
 - any money in a fund established under the lease for a purpose and compensation for any money in the fund or interest earned by the fund that has been applied for any other purpose; and
 - any money paid by the tenant for a purpose that has not been applied for that purpose and compensation for any of the money that has been applied for any other purpose;
- 24.4.2 if the security is not transferable, each *party* must do everything reasonable to cause a replacement security to issue for the benefit of the purchaser and the vendor must hold the original security on trust for the benefit of the purchaser until the replacement security issues;
- 24.4.3 the vendor must give to the purchaser –
- at least 2 *business days* before the date for completion, a proper notice of the transfer (an attornment notice) addressed to the tenant, to be held by the purchaser in escrow until completion;
 - any certificate given under the Retail Leases Act 1994 in relation to the tenancy;
 - a copy of any disclosure statement given under the Retail Leases Act 1994;
 - a copy of any document served on the tenant under the lease and written details of its service, if the document concerns the rights of the landlord or the tenant after completion; and
 - any document served by the tenant under the lease and written details of its service, if the document concerns the rights of the landlord or the tenant after completion;
- 24.4.4 the vendor must comply with any obligation to the tenant under the lease, to the extent it is to be complied with by completion; and
- 24.4.5 the purchaser must comply with any obligation to the tenant under the lease, to the extent that the obligation is disclosed in this contract and is to be complied with after completion.
- 25 Qualified title, limited title and old system title**
- 25.1 This clause applies only if the land (or part of it) –
- 25.1.1 is under qualified, limited or old system title; or
- 25.1.2 on completion is to be under one of those titles.
- 25.2 The vendor must *serve* a proper abstract of title *within 7 days* after the contract date.
- 25.3 If an abstract of title or part of an abstract of title is attached to this contract or has been lent by the vendor to the purchaser before the contract date, the abstract or part is *served* on the contract date.
- 25.4 An abstract of title can be or include a list of documents, events and facts arranged (apart from a will or codicil) in date order, if the list in respect of each document –
- 25.4.1 shows its date, general nature, names of parties and any registration number; and
- 25.4.2 has attached a legible photocopy of it or of an official or registration copy of it.
- 25.5 An abstract of title –
- 25.5.1 must start with a good root of title (if the good root of title must be at least 30 years old, this means 30 years old at the contract date);
- 25.5.2 in the case of a leasehold interest, must include an abstract of the lease and any higher lease;
- 25.5.3 *normally*, need not include a Crown grant; and
- 25.5.4 need not include anything evidenced by the Register kept under the Real Property Act 1900.
- 25.6 In the case of land under old system title –
- 25.6.1 in this contract 'transfer' means conveyance;
- 25.6.2 the purchaser does not have to *serve* the transfer until after the vendor has *served* a proper abstract of title; and
- 25.6.3 each vendor must give proper covenants for title as regards that vendor's interest.
- 25.7 In the case of land under limited title but not under qualified title –
- 25.7.1 *normally*, the abstract of title need not include any document which does not show the location, area or dimensions of the land (for example, by including a metes and bounds description or a plan of the land);
- 25.7.2 clause 25.7.1 does not apply to a document which is the good root of title; and
- 25.7.3 the vendor does not have to provide an abstract if this contract contains a delimitation plan (whether in registrable form or not).
- 25.8 On completion the vendor must give the purchaser any *document of title* that relates only to the *property*.
- 25.9 If on completion the vendor has possession or control of a *document of title* that relates also to other property, the vendor must produce it as and where necessary.
- 25.10 The vendor must give a proper covenant to produce where relevant.
- 25.11 The vendor does not have to produce or covenant to produce a document that is not in the possession of the vendor or a mortgagee.
- 25.12 If the vendor is unable to produce an original document in the chain of title, the purchaser will accept a photocopy from the *Land Registry* of the registration copy of that document.

26 Crown purchase money

- 26.1 This clause applies only if purchase money is payable to the Crown, whether or not due for payment.
 26.2 The vendor is liable for the money, except to the extent this contract says the purchaser is liable for it.
 26.3 To the extent the vendor is liable for it, the vendor is liable for any interest until completion.
 26.4 To the extent the purchaser is liable for it, the *parties* must adjust any interest under clause 14.

27 Consent to transfer

- 27.1 This clause applies only if the land (or part of it) cannot be transferred without consent under *legislation* or a *planning agreement*.
 27.2 The purchaser must properly complete and then *serve* the purchaser's part of an application for consent to transfer of the land (or part of it) *within 7 days* after the contract date.
 27.3 The vendor must apply for consent *within 7 days* after *service* of the purchaser's part.
 27.4 If consent is refused, either *party* can *rescind*.
 27.5 If consent is given subject to one or more conditions that will substantially disadvantage a *party*, then that *party* can *rescind within 7 days* after receipt by or *service* upon the *party* of written notice of the conditions.
 27.6 If consent is not given or refused –
 27.6.1 *within 42 days* after the purchaser *serves* the purchaser's part of the application, the purchaser can *rescind*; or
 27.6.2 *within 30 days* after the application is made, either *party* can *rescind*.
 27.7 Each period in clause 27.6 becomes 90 days if the land (or part of it) is –
 27.7.1 under a *planning agreement*; or
 27.7.2 in the Western Division.
 27.8 If the land (or part of it) is described as a lot in an unregistered plan, each time in clause 27.6 becomes the later of the time and 35 days after creation of a separate folio for the lot.
 27.9 The date for completion becomes the later of the date for completion and 14 days after *service* of the notice granting consent to transfer.

28 Unregistered plan

- 28.1 This clause applies only if some of the land is described as a lot in an unregistered plan.
 28.2 The vendor must do everything reasonable to have the plan registered *within 6 months* after the contract date, with or without any minor alteration to the plan or any document to be lodged with the plan validly required or made under *legislation*.
 28.3 If the plan is not registered *within* that time and in that manner –
 28.3.1 the purchaser can *rescind*; and
 28.3.2 the vendor can *rescind*, but only if the vendor has complied with clause 28.2 and with any *legislation* governing the rescission.
 28.4 Either *party* can *serve* notice of the registration of the plan and every relevant lot and plan number.
 28.5 The date for completion becomes the later of the date for completion and 21 days after *service* of the notice.
 28.6 Clauses 28.2 and 28.3 apply to another plan that is to be registered before the plan is registered.

29 Conditional contract

- 29.1 This clause applies only if a provision says this contract or completion is conditional on an event.
 29.2 If the time for the event to happen is not stated, the time is 42 days after the contract date.
 29.3 If this contract says the provision is for the benefit of a *party*, then it benefits only that *party*.
 29.4 If anything is necessary to make the event happen, each *party* must do whatever is reasonably necessary to cause the event to happen.
 29.5 A *party* can *rescind* under this clause only if the *party* has substantially complied with clause 29.4.
 29.6 If the event involves an approval and the approval is given subject to a condition that will substantially disadvantage a *party* who has the benefit of the provision, the *party* can *rescind within 7 days* after either *party* *serves* notice of the condition.
 29.7 If the *parties* can lawfully complete without the event happening –
 29.7.1 if the event does not happen *within* the time for it to happen, a *party* who has the benefit of the provision can *rescind within 7 days* after the end of that time;
 29.7.2 if the event involves an approval and an application for the approval is refused, a *party* who has the benefit of the provision can *rescind within 7 days* after either *party* *serves* notice of the refusal; and
 29.7.3 the date for completion becomes the later of the date for completion and 21 days after the earliest of –
 • either *party* *serving* notice of the event happening;
 • every *party* who has the benefit of the provision *serving* notice waiving the provision; or
 • the end of the time for the event to happen.

- 29.8 If the *parties* cannot lawfully complete without the event happening –
- 29.8.1 if the event does not happen *within* the time for it to happen, either *party* can *rescind*;
 - 29.8.2 if the event involves an approval and an application for the approval is refused, either *party* can *rescind*;
 - 29.8.3 the date for completion becomes the later of the date for completion and 21 days after either *party* serves notice of the event happening.

29.9 A *party* cannot *rescind* under clauses 29.7 or 29.8 after the event happens.

30 Manual transaction

30.1 This clause applies if this transaction is to be conducted as a *manual transaction*.

• Transfer

- 30.2 *Normally*, the purchaser must *serve* the transfer at least 7 days before the date for completion.
- 30.3 If any information needed for the transfer is not disclosed in this contract, the vendor must *serve* it.
- 30.4 If the purchaser *serves* a transfer and the transferee is not the purchaser, the purchaser must give the vendor a direction signed by the purchaser personally for that transfer.
- 30.5 The vendor can require the purchaser to include a covenant or easement in the transfer only if this contract contains the wording of the proposed covenant or easement, and a description of the land burdened and benefited.

• Place for completion

- 30.6 *Normally*, the *parties* must complete at the completion address, which is –
- 30.6.1 if a special completion address is stated in this contract - that address; or
 - 30.6.2 if none is stated, but a first mortgagee is disclosed in this contract and the mortgagee would usually discharge the mortgage at a particular place - that place; or
 - 30.6.3 in any other case - the vendor's *solicitor's* address stated in this contract.
- 30.7 The vendor by reasonable notice can require completion at another place, if it is in NSW, but the vendor must pay the purchaser's additional expenses, including any agency or mortgagee fee.
- 30.8 If the purchaser requests completion at a place that is not the completion address, and the vendor agrees, the purchaser must pay the vendor's additional expenses, including any agency or mortgagee fee.

• Payments on completion

- 30.9 On completion the purchaser must pay to the vendor the amounts referred to in clauses 16.5.1 and 16.5.2, by cash (up to \$2,000) or *settlement cheque*.
- 30.10 *Normally*, the vendor can direct the purchaser to produce a *settlement cheque* on completion to pay an amount adjustable under this contract and if so –
- 30.10.1 the amount is to be treated as if it were paid; and
 - 30.10.2 the *cheque* must be forwarded to the payee immediately after completion (by the purchaser if the *cheque* relates only to the *property* or by the vendor in any other case).
- 30.11 If the vendor requires more than 5 *settlement cheques*, the vendor must pay \$10 for each extra *cheque*.
- 30.12 If the purchaser must make a *GSTRW payment* the purchaser must –
- 30.12.1 produce on completion a *settlement cheque* for the *GSTRW payment* payable to the Deputy Commissioner of Taxation;
 - 30.12.2 forward the *settlement cheque* to the payee immediately after completion; and
 - 30.12.3 serve evidence of receipt of payment of the *GSTRW payment* and a copy of the settlement date confirmation form submitted to the Australian Taxation Office.
- 30.13 If the purchaser must pay an *FRCGW remittance*, the purchaser must –
- 30.13.1 produce on completion a *settlement cheque* for the *FRCGW remittance* payable to the Deputy Commissioner of Taxation;
 - 30.13.2 forward the *settlement cheque* to the payee immediately after completion; and
 - 30.13.3 serve evidence of receipt of payment of the *FRCGW remittance*.

31 Foreign Resident Capital Gains Withholding

- 31.1 This clause applies only if –
- 31.1.1 the sale is not an excluded transaction within the meaning of s14-215 of Schedule 1 to the *TA Act*; and
 - 31.1.2 a *clearance certificate* in respect of every vendor is not attached to this contract.
- 31.2 If the vendor *serves* any *clearance certificate* or *variation*, the purchaser does not have to complete earlier than 5 *business days* after that *service* and clause 21.3 does not apply to this provision.
- 31.3 The purchaser must at least 2 *business days* before the date for completion, *serve* evidence of submission of a purchaser payment notification to the Australian Taxation Office by the purchaser or, if a direction under either clause 4.8 or clause 30.4 has been given, by the transferee named in the transfer the subject of that direction.
- 31.4 The vendor cannot refuse to complete if the purchaser complies with clause 31.3 and, as applicable, clauses 4.10 or 30.13.
- 31.5 If the vendor *serves* in respect of every vendor either a *clearance certificate* or a *variation* to 0.00 percent, clauses 31.3 and 31.4 do not apply.

32 Residential off the plan contract

- 32.1 This clause applies if this contract is an off the plan contract within the meaning of Division 10 of Part 4 of the Conveyancing Act 1919 (the Division).
- 32.2 No provision of this contract has the effect of excluding, modifying or restricting the operation of the Division.
- 32.3 If the purchaser makes a claim for compensation under the terms prescribed by sections 4 to 6 of Schedule 3 to the Conveyancing (Sale of Land) Regulation 2022 –
- 32.3.1 the purchaser cannot make a claim under this contract about the same subject matter, including a claim under clauses 6 or 7; and
- 32.3.2 the claim for compensation is not a claim under this contract.

600 PACIFIC HWY BELMONT NSW 2280

SPECIAL CONDITIONS

IMPORTANT NOTICE TO VENDORS AND PURCHASERS: You should refer to these provisions in conjunction with the preparation and signature of this contract.

33 Variation of this Contract

- 33.1 The preceding conditions of this agreement are amended in accordance with the subclauses of this clause.
- 33.2 Clause 1 is amended as follows:
 - 33.2.1 definition of "*work order*" is amended by inserting the words, "*issued by a competent authority*" after the word "*order*"
- 33.3 Clause 5 is deleted.
- 33.4 Clause 7.1.1 - replace "5%" with "1%".
- 33.5 Clause 13.2 is deleted.
- 33.6 Clause 14.4.2 is deleted and substitute the following:
 - "14.4.2 the amount to be adjusted shall be determined by multiplying the taxable value of the property (for land tax purposes for the land tax year at the date of completion) by 1.6% or such other rate as applies at the date of completion (provided the amount to be adjusted must not exceed the amount of land tax that is actually paid or payable for the year)."
- 33.7 Clause 20.6.5 – delete the whole of the standard clause and substitute the following:
 - "20.6.5 *served* if it is sent by email to the *party's solicitor* and shall be deemed to have been *served* when the email transmission has been completed except in the following situations:
 - (a) when the sender's email system indicates that delivery to the recipient has failed or the recipient immediately notifies the sender of any incomplete transmission service; or
 - (b) the transmission is not received before 5:00 pm (recipient's time) on a *business day* in which case service shall be deemed to be effected at 9:00 am on the following *business day*."
- 33.11 Clause 25 is deleted.
- 33.12 Clause 31.2 is amended by replacing 5 days with 3 days.

34 Requisitions on Title

- 34.1 Subject to any prescribed items implied by law, the purchaser accepts the vendor's title to the property and waives all requisitions.

35 Default in Completion

- 35.1 It is hereby expressly agreed and declared that at any time after 5:30pm on the completion date referred to in this Contract either party shall be entitled to serve upon the other a Notice to Complete this Contract requiring the other party to complete the same within such period or upon such date as the said notice may specify but being a minimum of fourteen (14) days from the date of service of such notice making such time for settlement of the essence of the Contract. The parties acknowledge that the time for settlement of the Contract therein specified shall be reasonable and of the essence of the Contract and the receiving party shall not be entitled to make any objection thereto. If the receiving party shall fail to comply with the same the other party shall forthwith be entitled to terminate this Contract provided however that the sending party shall be at liberty at any time to withdraw the said notice without prejudice to his continuing right to give any further such notice.
- 35.2 If this Contract is not completed by the completion date then the Purchaser must pay interest on the unpaid balance of the price at the rate of 10% per annum calculated daily from and including the completion date but excluding the actual day of settlement, and:
 - 35.2.1 The interest must be paid on completion;
 - 35.2.2 The Vendor is not obliged to complete unless that interest is paid;
 - 35.2.3 Interest payable pursuant to this Special Condition is a genuine pre-estimate of the Vendor's loss as a result of the Purchaser's failure to complete in accordance with this Contract;
 - 35.2.4 The right to interest does not limit any other rights the Vendor may have as a result of the Purchaser's failure to complete in accordance with this Contract.

- 35.3 The Purchaser need not pay interest under this Special Condition for any period that the Purchaser's failure to complete is caused solely by the Vendor. Should the vendor serve a notice to complete the purchaser will be liable for a fee of \$250.00 plus GST, payable on completion.

36 Acceptance of Present Condition

- 36.1 The Purchaser acknowledges that it is purchasing the property in its present condition and state of repair (both patent and latent) and subject to any infestation and dilapidation and the Purchaser will raise no objection, requisition or claim for compensation in respect of such matters.

37 Warranty as to Agent

- 37.1 The Purchaser warrants that the Purchaser was not introduced to the Vendor or the property by any real estate agent except the agent (if any) named on the front page of this contract, and the Purchaser indemnifies the Vendor (and if more than one, each of them):
- 37.1.1 against any claim for commission which might be made by an agent resulting from an introduction forming a breach of such warranty; and
 - 37.1.2 against all costs and expenses incidental to defending any such claim.
- 37.2 The indemnities in this clause shall continue after termination of this contract and shall not merge on completion.

38 Warranties & Acknowledgement etc

- 38.1 The provisions set out in this contract contain the entire agreement between the parties as at the date of this contract notwithstanding any:
- 38.1.1 negotiations or discussions held; or
 - 38.1.2 documents signed or brochures produced,
- prior to the date of this contract.
- 38.2 The Purchaser agrees that:
- 38.2.1 in entering into this contract the Purchaser has not relied upon any warranty or representation made by or any other conduct of the Vendor or any person on behalf of the Vendor except those that are expressly provided in this contract; and
 - 38.2.2 the Purchaser is relying entirely upon his own enquiries relating to and inspection of the Property.
- 38.3 Subject to other provisions of this contract, the Purchaser accepts the Property (and Inclusions) in its present state of repair and condition.
- 38.4 The purchaser does not rely upon any warranty, undertaking or acknowledgment whether given by the Vendor or his Agents or otherwise other than such warranties, undertakings and acknowledgments as are expressly set out in this Contract.

39 Tax File Number

- 39.1 If the Contract says the deposit is to be invested all parties must provide their respective tax file numbers to the deposit holder by no later than the date of this Contract and in the event of default by any party resulting in the bank or financial institution withholding any amount, such amount shall be deducted from the defaulting party's share of the interest.

40 Death or Incapacity

- 40.1 Without in any manner negating limiting or restricting any rights or remedies available to either party at law or in equity had this clause not been included, should either party (or, if more than one, any of them) die, become mentally ill, become insolvent or appoint or suffer the appointment of a trustee in bankruptcy, receiver, receiver/manager, voluntary administrator or liquidator, then the other may rescind at any time thereafter.

41 Rescheduled Settlement

- 41.1 In the event settlement does not take place at the scheduled time, or does not take place at a re-arranged time on that same day, due to default of the Purchaser or their Mortgagee and through no fault of the Vendor, in addition to any other monies payable by the Purchaser on completion of this Contract, the Purchaser must pay

an additional \$275.00 (GST inclusive) on settlement, to cover the legal costs and other expenses incurred as a consequence of the delay.

42 Goods and Services Tax

- 42.1 Notwithstanding any other provision of this Contract if any supply made by the Vendor pursuant to this Contract becomes subject to the GST, then in addition to the consideration payable by the Purchaser, the Purchaser must pay to the Vendor an additional amount equal to the product of the consideration for the supply by the prevailing GST rate at that time. For the purposes of this Clause "GST" means a goods and services tax, consumption tax, or any other value-added tax or similar tax, impost or duty. This clause shall not merge on completion.

43 Leases

- 43.1 The sale of the Property is subject to the tenancies noted in the lease documents attached to this Contract ("the tenancies").
- 43.2 The Purchaser acknowledges that prior to the date hereof he has inspected the following lease documents relating to the tenancies as annexed hereto ("the Lease Documents"):
- Shop 1, 600 Pacific Highway, Belmont (Registered Lease AS344422);
 - "A" Shop 2, 600 Pacific Highway, Belmont;
 - Shop 3, 600 Pacific Highway, Belmont (Registered Lease AS753612);
 - Shop 4, 600 Pacific Highway, Belmont (Registered Lease AR321958);
 - "B" Shop 5, 600 Pacific Highway, Belmont;
 - "C" Shop 7, 600 Pacific Highway, Belmont.
- 43.3 Notwithstanding the provisions of this contract, it is acknowledged that parts of the Property are vacant as at the contract date. The Vendor shall be entitled to grant a new lease/s in respect of any part of the Property which is vacant at the contract date or which has become vacant before completion, provided that the Purchaser has consented to such new lease/s which consent the purchaser must not unreasonably withhold.
- 43.4 The Vendor discloses that the following bank guarantees, bonds or cash security deposits are held in relation to the tenancies:
- 43.5 On completion the Vendor shall hand to the purchaser the original bank guarantees and Transfer of bond forms and if applicable shall allow an adjustment in favour of the purchaser for the cash security deposits referred to in special condition 43.4. Notwithstanding any other provision of this contract, the Vendor shall not be required to do anything further in relation to the bank guarantees or security deposits relating to the tenancies.
- 43.6 The Purchaser shall make no objection and/or requisition and/or claim for compensation nor shall he be entitled to delay completion or to rescind this Contract in relation to any matter or thing relating to the Lease Documents, the tenancies or the bank guarantees or security deposits as referred to above.
- 43.7 The Vendor hereby assigns to the Purchaser, subject to and with effect from the date of completion, the benefit of all assignable covenants or agreements under or contained in any of the Lease Documents and the tenancies to which the property is subject together with the full benefit of all guarantees, if any, in favour of the Vendor in respect of such tenancies.
- 43.8 From the date of completion the Purchaser shall duly and punctually observe and perform all of the Vendor's covenants, agreements and obligations as lessor contained or implied in each of the Lease Documents and the tenancies whether or not they touch and concern or run with the land including, but without limiting the generality thereof the obligation to grant any lease pursuant to any option for renewal.
- 43.9 The Purchaser hereby indemnifies and shall keep indemnified the Vendor from any loss, damage, claims, proceedings, costs and expenses arising after the date of completion as a result of the Purchaser or any of the Purchaser's successors in title or assigns failing to duly observe or perform any of the Vendor's obligations as lessor under the Lease Documents and the tenancies.
- 43.10 The Purchaser shall promptly pay to the Vendor the Vendor's proportion of any rents payable under the Lease Documents and the tenancies which are received by the Purchaser after completion and which:
- (a) were not apportioned on completion; and
 - (b) relate to the period prior to the adjustment date.

- 43.11 The Purchaser shall not be entitled to make any requisition objection or claim for compensation or rescind or delay completion of this Contract should any lessee terminate or purport to terminate any one or more of the Lease Documents and/or vacate the premises occupied by such lessee prior to completion, whether pursuant to the provisions of the any of the Lease Documents or otherwise.
- 43.12 The Purchaser acknowledges that certain fixtures and fittings located in or about or attached to the property may be lessee's fixtures and fittings owned by lessees or other persons and that all such fixtures and fittings are excluded from the sale.
- 43.13 The rights of the Vendor to recover arrears of moneys owing to the Vendor as lessor for rent outgoings or otherwise are not assigned to the Purchaser and the Vendor may institute proceedings in its own name for the recovery thereof.
- 43.14 On completion, the purchaser shall reimburse the vendor for any marketing costs which the purchaser has approved in writing and which are paid or payable by the vendor to the leasing agent for the marketing of the property, and the parties must adjust the leasing fees paid or payable by the vendor to the leasing agent in connection with any Tenancies pro rata to the benefit the parties derive from the relevant Tenancy.
- 43.15 This special condition 43 shall not merge on completion.

44 Corporate Purchaser

- 44.1 In the event of the Purchaser purporting to be a company, each person who signs on behalf of the Purchaser:
 - 44.1.1 warrants that the company has been incorporated and exists at law and agrees that he or she shall be personally liable under this contract, both jointly and severally, as if he or she had been named as a Purchaser; and
 - 44.1.2 guarantees (jointly and severally) the due performance of the Purchaser in relation to its obligations pursuant to the terms of this contract in every respect as if he or she had personally entered into this contract himself/herself.

45 Alterations to Contract

- 45.1 The Vendor and Purchaser each authorise their Solicitor or Licensed Conveyancer (or any employee of that Solicitor or Licensed Conveyancer) to make alterations to the Contract as agreed to between the parties (including the addition of annexures) at any time after execution of this Contract by the party, up until the date of this Contract.
- 45.2 Any such alteration or addition shall be binding upon the relevant party deemed hereby to have authorised the same as if the alteration or addition of annexures was made prior to the contract being signed by that party.

46 Right of Carriageway

- 46.1 The Vendor discloses and the Purchaser acknowledges that the Right of Carriageway marked (X) on DP590786 (the Right of Carriageway) has been obstructed by neighbouring property without the Vendor's consent or knowledge.
- 46.2 The Vendor makes no warranty or representations regarding the use or reinstatement of the Right of Carriageway.
- 46.3 The Purchaser will not make any objection, requisition or claim for compensation or seek to terminate the contract in respect of any matter referred to in this special condition 46.



FOLIO: 1/319436

SEARCH DATE	TIME	EDITION NO	DATE
24/6/2025	11:26 AM	21	22/12/2022

LAND

LOT 1 IN DEPOSITED PLAN 319436
LOCAL GOVERNMENT AREA LAKE MACQUARIE
PARISH OF KAHIBAH COUNTY OF NORTHUMBERLAND
TITLE DIAGRAM DP319436

FIRST SCHEDULE

KHUN & TAN ENTERPRISES PTY LTD (T AP3045)

SECOND SCHEDULE (9 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 DP1146477 RIGHT OF CARRIAGEWAY 6 METRE(S) WIDE APPURTENANT TO THE LAND ABOVE DESCRIBED
- 3 DP1146477 RIGHT OF CARRIAGEWAY 6, 7.8 METRE(S) WIDE AND VARIABLE WIDTH LIMITED IN HEIGHT BETWEEN RL 4.95 & RL 7.6 AHD APPURTENANT TO THE LAND ABOVE DESCRIBED
- 4 DP1146477 RIGHT OF CARRIAGEWAY VARIABLE WIDTH APPURTENANT TO THE LAND ABOVE DESCRIBED
- 5 AP448349 LEASE TO KIANNDATA PTY LTD OF SHOP 1, 600 PACIFIC HIGHWAY, BELMONT. EXPIRES: 18/6/2021. OPTION OF RENEWAL: 3 YEARS.
- 6 AR321958 LEASE TO CASSOWARY CAFE PTY LTD OF SHOP 4, 600 PACIFIC HIGHWAY, BELMONT SHOWN IN PLAN WITH AR321958. EXPIRES: 11/2/2024. OPTION OF RENEWAL: 3 YEARS.
- 7 AR837066 MORTGAGE TO COMMONWEALTH BANK OF AUSTRALIA
- 8 AS344422 LEASE TO VERTO LTD OF SHOP 1, 600 PACIFIC HIGHWAY, BELMONT. EXPIRES: 30/6/2025. OPTION OF RENEWAL: 1 YEARS AND TWO FURTHER OPTIONS OF 1 YEAR EACH.
- 9 AS753612 LEASE TO QR & MK PTY LTD OF SHOP 3, 600 PACIFIC HIGHWAY, BELMONT. EXPIRES: 8/11/2024. OPTION OF RENEWAL: 5 YEARS AND ONE FURTHER OPTION OF 5 YEARS.

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

250698...

PRINTED ON 24/6/2025



FOLIO: 2/319436

SEARCH DATE	TIME	EDITION NO	DATE
24/6/2025	11:26 AM	21	22/12/2022

LAND

LOT 2 IN DEPOSITED PLAN 319436
LOCAL GOVERNMENT AREA LAKE MACQUARIE
PARISH OF KAHIBAH COUNTY OF NORTHUMBERLAND
TITLE DIAGRAM DP319436

FIRST SCHEDULE

KHUN & TAN ENTERPRISES PTY LTD (T AP3045)

SECOND SCHEDULE (8 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 DP1146477 RIGHT OF CARRIAGEWAY 6 METRE(S) WIDE APPURTENANT TO THE LAND ABOVE DESCRIBED
- 3 DP1146477 RIGHT OF CARRIAGEWAY 6, 7.8 METRE(S) WIDE AND VARIABLE WIDTH LIMITED IN HEIGHT BETWEEN RL 4.95 & RL 7.6 AHD APPURTENANT TO THE LAND ABOVE DESCRIBED
- 4 DP1146477 RIGHT OF CARRIAGEWAY VARIABLE WIDTH APPURTENANT TO THE LAND ABOVE DESCRIBED
- 5 AR321958 LEASE TO CASSOWARY CAFE PTY LTD OF SHOP 4, 600 PACIFIC HIGHWAY, BELMONT SHOWN IN PLAN WITH AR321958. EXPIRES: 11/2/2024. OPTION OF RENEWAL: 3 YEARS.
- 6 AR837066 MORTGAGE TO COMMONWEALTH BANK OF AUSTRALIA
- 7 AS344422 LEASE TO VERTO LTD OF SHOP 1, 600 PACIFIC HIGHWAY, BELMONT. EXPIRES: 30/6/2025. OPTION OF RENEWAL: 1 YEARS AND TWO FURTHER OPTIONS OF 1 YEAR EACH.
- 8 AS753612 LEASE TO QR & MK PTY LTD OF SHOP 3, 600 PACIFIC HIGHWAY, BELMONT. EXPIRES: 8/11/2024. OPTION OF RENEWAL: 5 YEARS AND ONE FURTHER OPTION OF 5 YEARS.

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

250698...

PRINTED ON 24/6/2025

* Any entries preceded by an asterisk do not appear on the current edition of the Certificate of Title. Warning: the information appearing under notations has not been formally recorded in the Register. InfoTrack an approved NSW Information Broker hereby certifies that the information contained in this document has been provided electronically by the Registrar General in accordance with Section 96B(2) of the Real Property Act 1900.



FOLIO: 301/590786

SEARCH DATE	TIME	EDITION NO	DATE
24/6/2025	11:26 AM	16	27/1/2022

LAND

LOT 301 IN DEPOSITED PLAN 590786
AT BELMONT
LOCAL GOVERNMENT AREA LAKE MACQUARIE
PARISH OF KAHIBAH COUNTY OF NORTHUMBERLAND
TITLE DIAGRAM DP590786

FIRST SCHEDULE

KHUN & TAN ENTERPRISES PTY LTD (T AP3045)

SECOND SCHEDULE (5 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 DP1146477 RIGHT OF CARRIAGEWAY 6 METRE(S) WIDE APPURTENANT TO
THE LAND ABOVE DESCRIBED
- 3 DP1146477 RIGHT OF CARRIAGEWAY 6, 7.8 METRE(S) WIDE AND
VARIABLE WIDTH LIMITED IN HEIGHT BETWEEN RL 4.95 & RL
7.6 AHD APPURTENANT TO THE LAND ABOVE DESCRIBED
- 4 DP1146477 RIGHT OF CARRIAGEWAY VARIABLE WIDTH APPURTENANT TO
THE LAND ABOVE DESCRIBED
- 5 AR837066 MORTGAGE TO COMMONWEALTH BANK OF AUSTRALIA

NOTATIONS

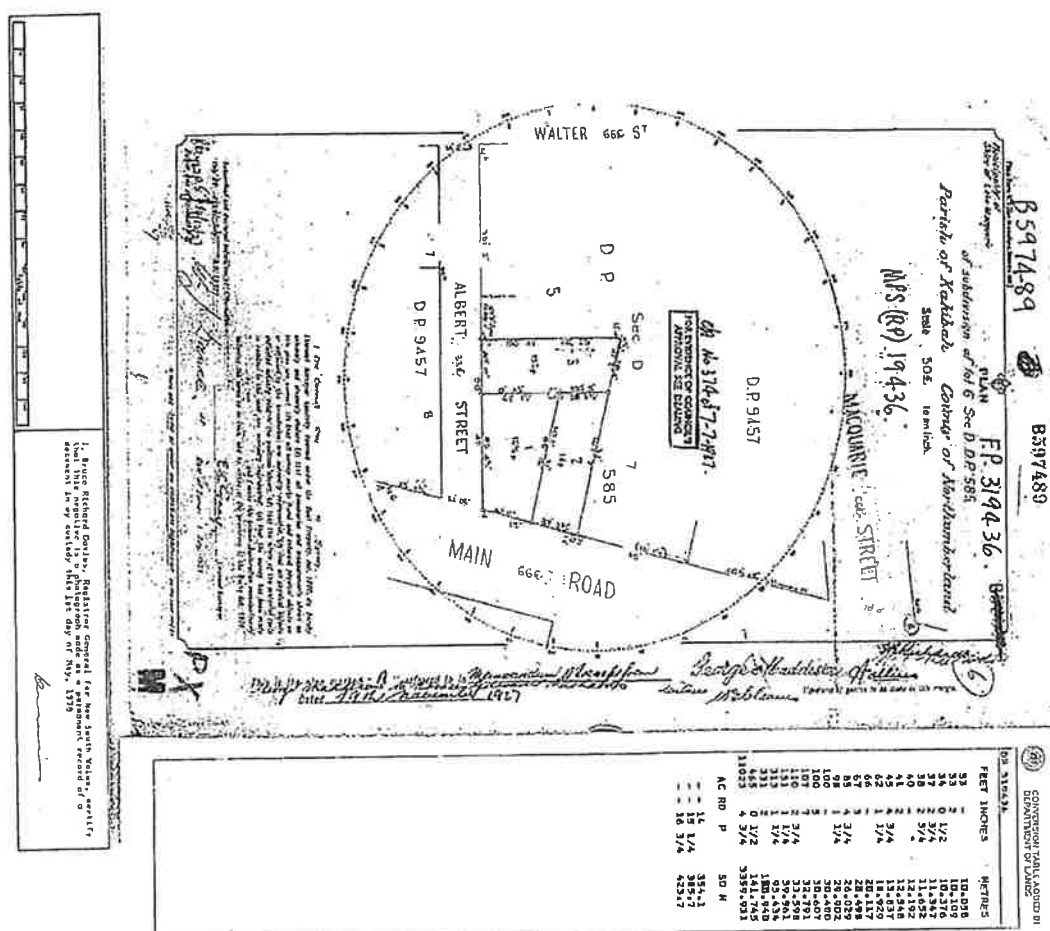
UNREGISTERED DEALINGS: NIL

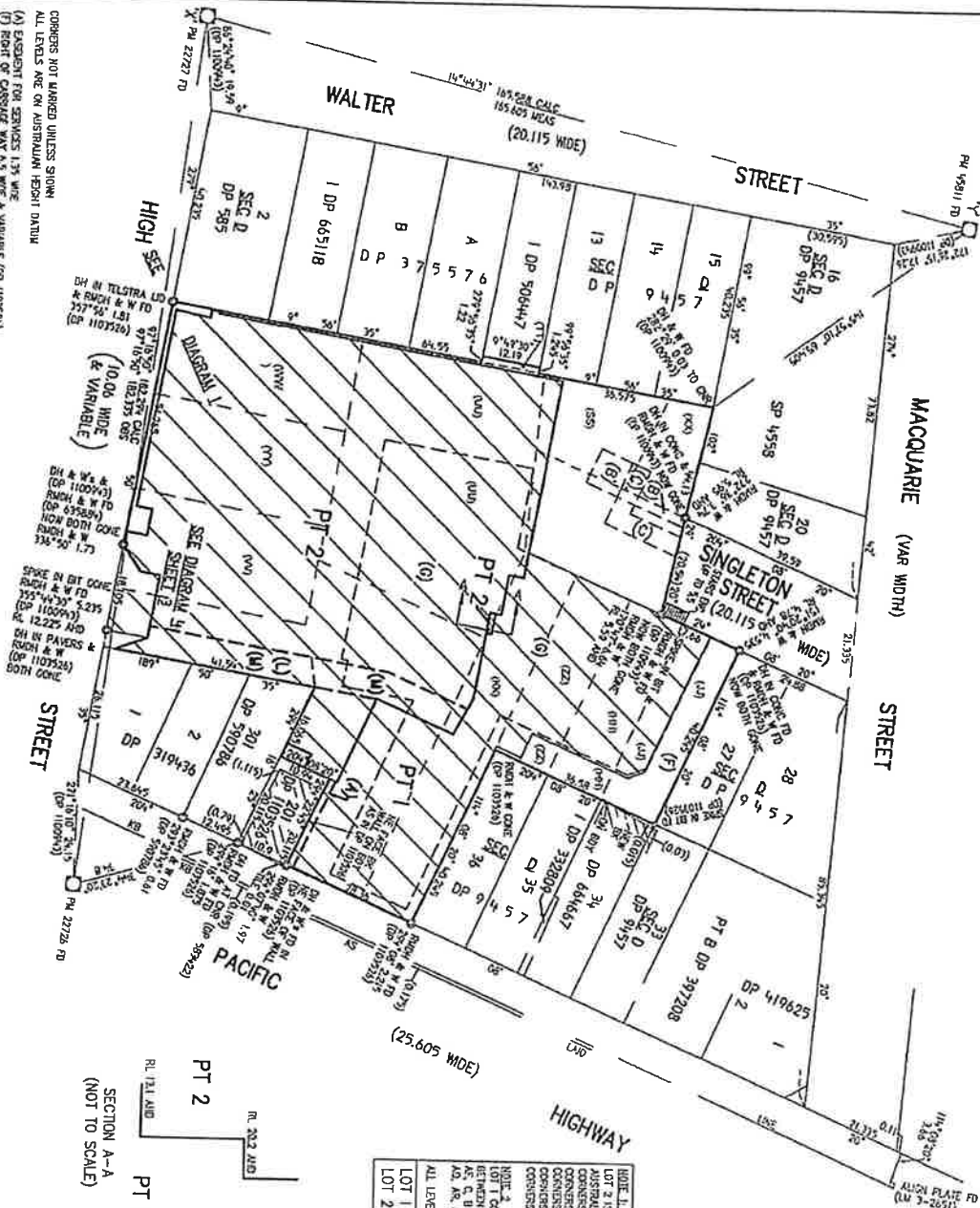
*** END OF SEARCH ***

250698...

PRINTED ON 24/6/2025

* Any entries preceded by an asterisk do not appear on the current edition of the Certificate of Title. Warning: the information appearing under notations has not been formally recorded in the Register. InfoTrack an approved NSW Information Broker hereby certifies that the information contained in this document has been provided electronically by the Registrar General in accordance with Section 96B(2) of the Real Property Act 1900.



[illegible]

HIGHWAY

NOTE 1:
LOT 1 COMPREHENDS THE STRIPLAND UNBUILT IN HEIGHT 100FT, EXCEPT FOR THE PAVING LANE BETWEEN THE HORIZONTAL PLANE AT RL -10 AND THE SLOPED PLANE SLOPED BY DOTS AL, AK, AL, AND AO. AS AN AID TO CONVEYANCE OF LOT 2.
ALL LEVELS ARE RELATED TO AUSTRALIAN HIGH DATUM (AHD)
LOT 1 AREA IN 2 PARTS 1.03 ha
LOT 2 AREA IN 7 PARTS 5781 m²

(P0) A03635 - LAND EXCLUDES MINERALS
(S5) A01462 - LAND EXCLUDES MINERALS
(WV) B00097 - LAND EXCLUDES MINERALS
(CZ) C23914 - LAND EXCLUDES MINERALS
(M) B00095 - LAND EXCLUDES MINERALS
(N) S552220 - LAND EXCLUDES MINERALS
(U) B05870 - LAND EXCLUDES MINERALS
(I) B005671 - LAND EXCLUDES MINERALS
(Z2) A011324 - LAND EXCLUDES MINERALS
(TT) A05808 - LAND EXCLUDES MINERALS
(K6) C0455 - LAND EXCLUDES MINERALS

SUNNY PRAIRIE 2005 - CLASS IN/18, CLASS 8/3, & CLASS 8/2									
JURY	VIA COGNATES		MID-GEN		CLASS	ORDER	18/18	8/3	8/2
PA 22725	6	14	2	3	1	11.00	1	1	
PA 22726	1	1	1	1	1	11.00	1	1	
PA 22727	1	1	1	1	1	12.00	1	1	
PA 22728	1	1	1	1	1	12.00	1	1	
PA 22729	1	1	1	1	1	12.00	1	1	
PA 22730	1	1	1	1	1	12.00	1	1	
PA 22731	1	1	1	1	1	12.00	1	1	
PA 22732	1	1	1	1	1	12.00	1	1	
PA 22733	1	1	1	1	1	12.00	1	1	
PA 22734	1	1	1	1	1	12.00	1	1	
PA 22735	1	1	1	1	1	12.00	1	1	
PA 22736	1	1	1	1	1	12.00	1	1	
PA 22737	1	1	1	1	1	12.00	1	1	
PA 22738	1	1	1	1	1	12.00	1	1	
PA 22739	1	1	1	1	1	12.00	1	1	
PA 22740	1	1	1	1	1	12.00	1	1	
PA 22741	1	1	1	1	1	12.00	1	1	
PA 22742	1	1	1	1	1	12.00	1	1	
PA 22743	1	1	1	1	1	12.00	1	1	
PA 22744	1	1	1	1	1	12.00	1	1	
PA 22745	1	1	1	1	1	12.00	1	1	
PA 22746	1	1	1	1	1	12.00	1	1	
PA 22747	1	1	1	1	1	12.00	1	1	
PA 22748	1	1	1	1	1	12.00	1	1	
PA 22749	1	1	1	1	1	12.00	1	1	
PA 22750	1	1	1	1	1	12.00	1	1	
PA 22751	1	1	1	1	1	12.00	1	1	
PA 22752	1	1	1	1	1	12.00	1	1	
PA 22753	1	1	1	1	1	12.00	1	1	
PA 22754	1	1	1	1	1	12.00	1	1	
PA 22755	1	1	1	1	1	12.00	1	1	
PA 22756	1	1	1	1	1	12.00	1	1	
PA 22757	1	1	1	1	1	12.00	1	1	
PA 22758	1	1	1	1	1	12.00	1	1	
PA 22759	1	1	1	1	1	12.00	1	1	
PA 22760	1	1	1	1	1	12.00	1	1	
PA 22761	1	1	1	1	1	12.00	1	1	
PA 22762	1	1	1	1	1	12.00	1	1	
PA 22763	1	1	1	1	1	12.00	1	1	
PA 22764	1	1	1	1	1	12.00	1	1	
PA 22765	1	1	1	1	1	12.00	1	1	
PA 22766	1	1	1	1	1	12.00	1	1	
PA 22767	1	1	1	1	1	12.00	1	1	
PA 22768	1	1	1	1	1	12.00	1	1	
PA 22769	1	1	1	1	1	12.00	1	1	
PA 22770	1	1	1	1	1	12.00	1	1	
PA 22771	1	1	1	1	1	12.00	1	1	
PA 22772	1	1	1	1	1	12.00	1	1	
VIA ONE = 14									
TOTAL DUES = 10									
SOURCES AND DEBITS & VIA COGNATES ADDED FROM CLASS IN/18/2005									

[illegible]

Surveyor: BRUCE PHILLIP
Date of Survey: 14/10/2008
Surveyor's Ref: 14624/5F

PLAN OF SUBDIVISION OF LOT 200 DP 1103525

LGA: LAKE MACQUARIE

Regulation

DP1146477

PLAN FORM 2 (A2)

WARNING: CREASING OR FOLDING WILL LEAD TO REFLECTION

Plan Sheet 2 of 3 sheets

- (1) RIGHT OF CARriage WAY & WIDE
 (2) RIGHT OF CARriage WAY & WIDE LIMITED IN HEIGHT TO RL 20.5 AHD
 (3) RIGHT OF CARriage WAY & WIDE
 (4) RIGHT OF CARriage WAY & WIDE
 (5) RIGHT OF CARriage WAY & WIDE

COBBERS NOT MARKED UNLESS SHOWN
 ALL LEVELS ARE ON AUSTRALIAN HEIGHT DATUM

AT BOWLING CLUB LEVEL

SECTION C-C
 (NOT TO SCALE)

SECTION B-B
 (NOT TO SCALE)

DIAGRAM 2
 1:250

SCHEDULE OF SHORT LINES

1	189°48'50"	4.105
2	279°50'35"	4.51
3	237°41'30"	6.12
4	237°41'30"	6.55
5	279°50'35"	2.78
6	279°50'35"	4.23
7	279°50'35"	2.5
8	84°19'55"	9.86
9	131°12'55"	1.62
10	279°50'35"	2.19
11	279°50'35"	8.25
12	279°50'35"	7.475
13	279°50'35"	1.06
14	279°50'35"	1.06
15	279°50'35"	1.06
16	279°50'35"	1.06
17	279°50'35"	1.06
18	279°50'35"	1.06
19	279°50'35"	1.06
20	279°50'35"	1.06
21	279°50'35"	1.06
22	279°50'35"	1.06

Surveyor: BRUCE PHILLIP GANDER

Date of Survey: 14/10/2008

Surveyor's Ref: 146245F

PLAN OF SUBDIVISION OF LOT 200 DP 1103526

LOCAL: BELMONT

Subdivision No: SC1157208

Longest line to property: Production Rules 1:500

Registered



20/4/2010

DP1146477

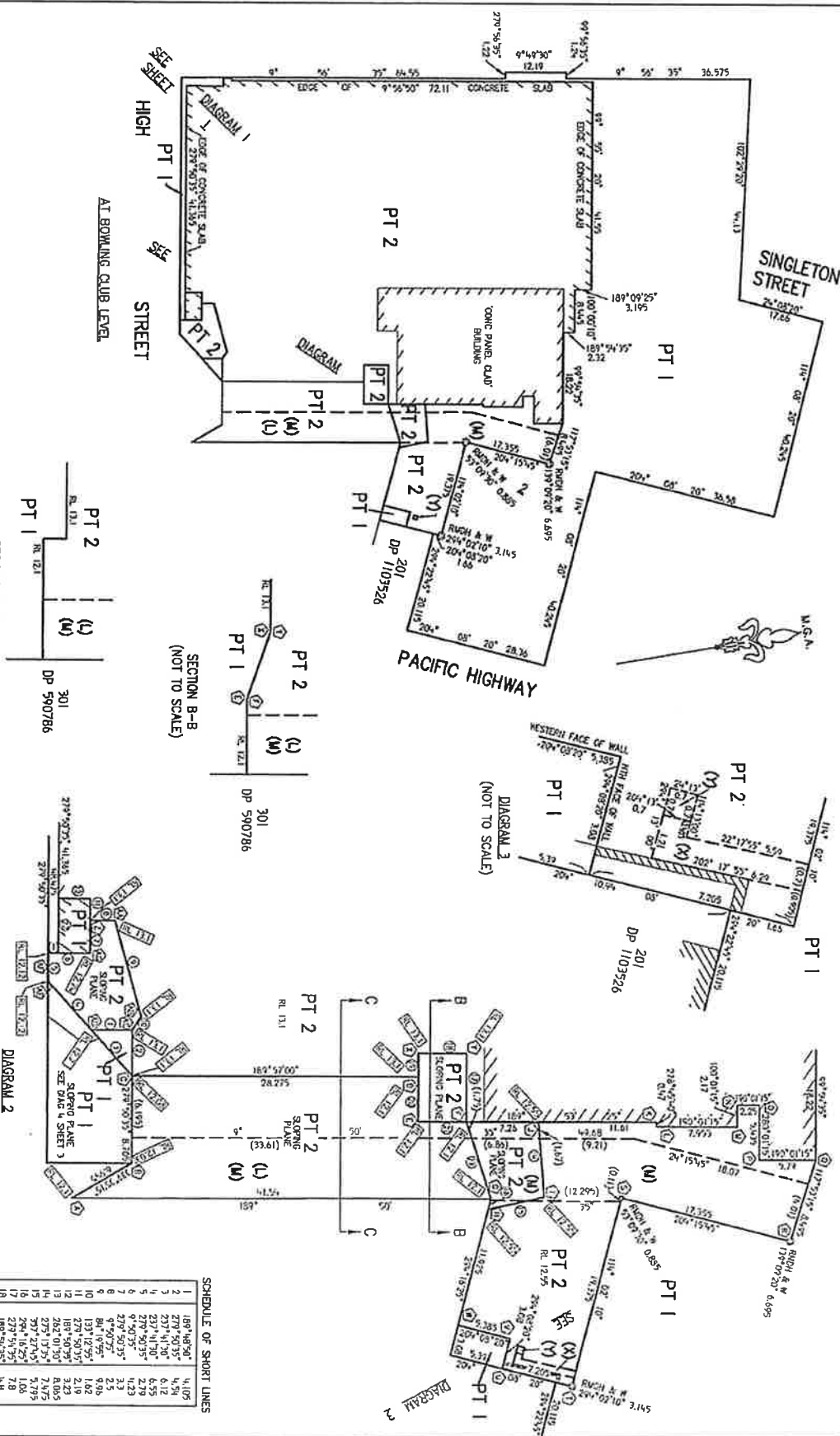
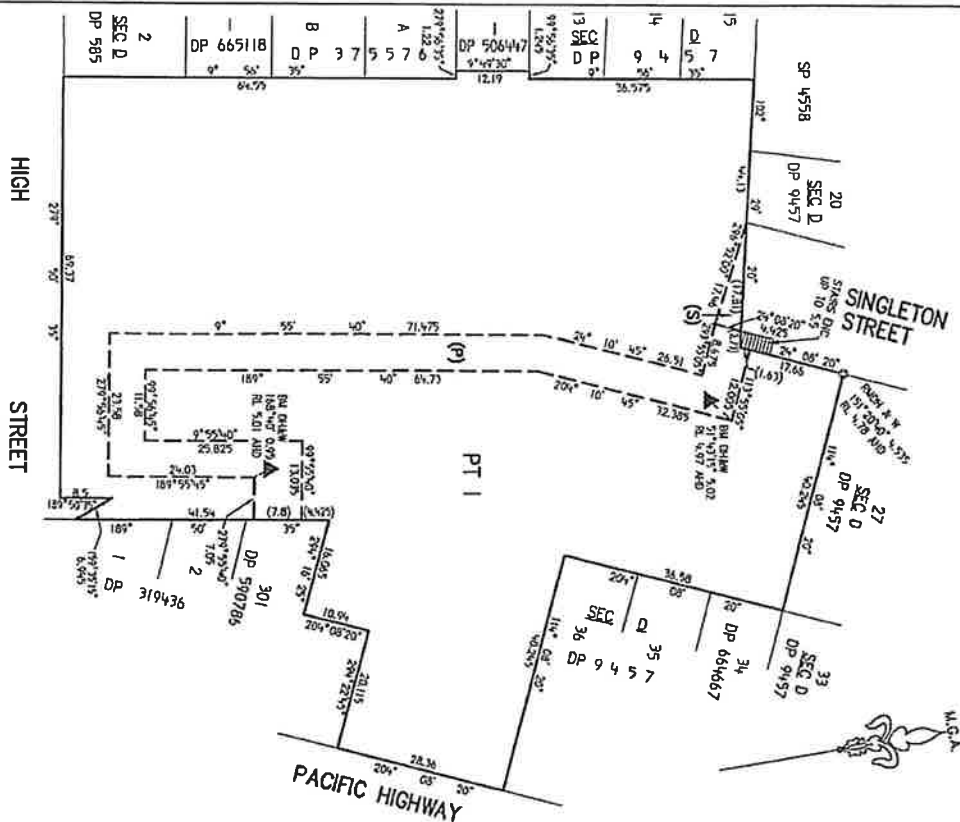


Table of contents

PLAN FORM 2 (A2)

WARNING: CREASING OR FOLDING WILL LEAD TO REFLECTION

Sheet 3 of 3 sheets



A THREE DIMENSIONAL ISOMETRIC PRESENTATION OF PART OF LOT 1

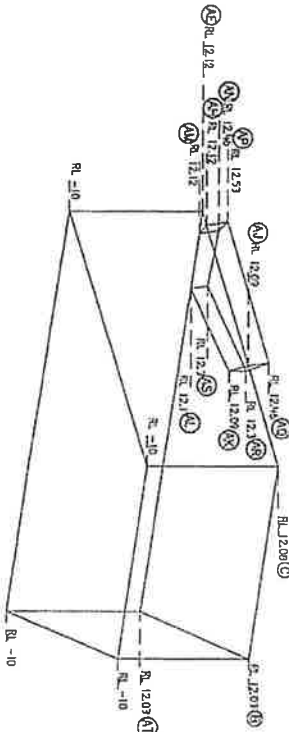
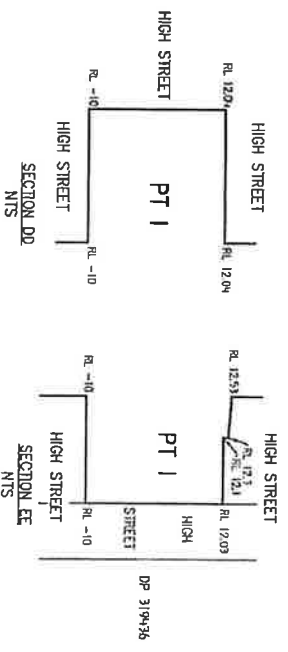
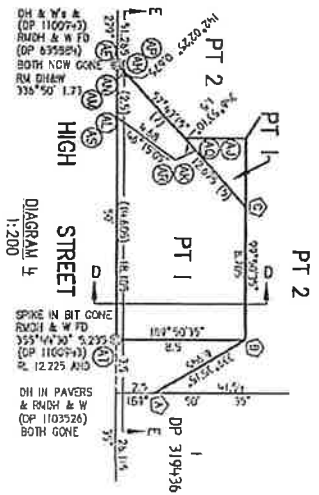


DIAGRAM 1: A THREE DIMENSIONAL ISOMETRIC PRESENTATION OF PART OF LOT 1



CORNERS NOT MARKED UNLESS SHOWN
 ALL LEVELS ARE ON AUSTRALIAN HEIGHT DATUM
 (S) RIGHT OF CARRIAGE MAY VARY WITH VARIABLE WIDTH

AT BASEMENT LEVEL

Surveyor: BRUCE PHILLIP GANDER
 Date of Survey: 14/10/2008
 Surveyor's Ref: 1482406F

PLAN OF SUBDIVISION OF LOT 200 DP 1103526

Locality: BELMONT
 Subdivision No: SC1152003

Registered

DP1146477

ePlan

PLAN FORM 6

Warning: Creasing or folding will lead to rejection

DEPOSITED PLAN ADMINISTRATION SHEET Sheet 1 of 3 sheet(s)	
<p>SIGNATURES, SEALS AND STATEMENTS of intention to dedicate public roads, to create public reserves, drainage reserves, easements, restrictions on the use of land or positive covenants.</p> <p>PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919, AS AMENDED, IT IS INTENDED TO</p> <p>CREATE:</p> <ol style="list-style-type: none"> 1. RIGHT OF CARRIAGE WAY 6 WIDE (L) 2. RIGHT OF CARRIAGE WAY 6 WIDE LIMITED IN HEIGHT TO RL 20.5 AHD (M) 3. RIGHT OF CARRIAGE WAY 6, 7.8 & VARIABLE WIDTH LIMITED IN HEIGHT BETWEEN RL 4.95 & RL 7.6 AHD (P) 4. RIGHT OF CARRIAGE VARIABLE WIDTH (S) 5. RIGHT OF FOOT WAY 0.7 WIDE (X) 6. EASEMENT FOR SERVICES 1.35 WIDE (A) 7. EASEMENT FOR VENTILATION 0.7 WIDE (Y) <p>RELEASE:</p> <ol style="list-style-type: none"> 1. EASEMENT FOR SERVICES 0.5 WIDE (DP 1103526) 2. RIGHT OF CARRIAGE WAY 3.5 WIDE & VARIABLE (DP 590786) 3. EASEMENT FOR SUPPORT 0.18 WIDE (V215961) 4. EASEMENT FOR SERVICES 20.115 WIDE (DP 1100943) 5. EASEMENT FOR WATER MAIN 4 WIDE (DP 1100943) 	<div style="text-align: center; font-size: 2em; font-weight: bold; margin-bottom: 20px;">DP1146477</div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;"> <p>Registered: 28.4.2010</p> <p>Title System: TORRENS</p> <p>Purpose: SUBDIVISION</p> </div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;"> <p>PLAN OF SUBDIVISION OF LOT 200 DP 1103526</p> </div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;"> <p>LGA: LAKE MACQUARIE Locality: BELMONT Parish: KAHIBAH County: NORTHUMBERLAND</p> </div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;"> <p style="text-align: center;">Surveying Regulation, 2006</p> <p>I, BRUCE PHILLIP GANDER of C R HUTCHISON & CO PTY LTD a surveyor registered under the Surveying Act, 2002, hereby certify that the survey represented in this plan is accurate, has been made in accordance with the Surveying Regulation, 2006 and was completed on 14/10/2008</p> <p>The survey relates to LOTS 1 & 2</p> <p>(here specify the land actually surveyed or specify any land shown in the plan that is not the subject of the survey)</p> <p>Signature: Dated: 23/12/2008 Surveyor registered under the Surveying Act, 2002</p> <p>Datum Line: "X-Y" Type: Urban / Rural</p> </div> <div style="border: 1px solid black; padding: 5px;"> <p style="text-align: center;">Plans used in the preparation of survey/compilation</p> <p>DP 1103526 DP 1100943</p> <p style="text-align: center; font-size: 0.8em;">(if insufficient space use Plan Form 6A annexure sheet)</p> </div>
<p style="text-align: center;">Use PLAN FORM 6A for additional certificates, signatures, seals and statements</p> <p style="text-align: center;">Crown Lands NSW/Western Lands Office Approval</p> <p>I, In approving this plan certify (Authorised Officer) that all necessary approvals in regard to the allocation of the land shown hereon have been given. Signature: Date: File Number: Office:</p>	
<p style="text-align: center;">Subdivision Certificate</p> <p>I certify that the provisions of s.109J of the Environmental Planning and Assessment Act 1979 have been satisfied in relation to the proposed.</p> <p style="text-align: center;">SUBDIVISION set out herein (insert 'subdivision' or 'new road')</p> <p style="text-align: center;"> * (Authorised Person) General Manager / Accredited Certifier</p> <p>Consent Authority LAKE MACQUARIE CITY COUNCIL</p> <p>Date of Endorsement 29 JANUARY 2009</p> <p>Accreditation No.</p> <p>Subdivision Certificate No. SC/115/2008</p> <p>File No. DA/956/2005</p> <p style="text-align: center; font-size: 0.8em;">* Delete whichever is inapplicable</p>	
<p style="text-align: center;">SURVEYOR'S REFERENCE: 14624/5F</p>	

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PLAN FORM 6A (Annexure Sheet)

Warning: Creasing or folding will lead to rejection

DEPOSITED PLAN ADMINISTRATION SHEET		Sheet 2 of 3 sheets
PLAN OF SUBDIVISION OF LOT 200 DP 1103526	<div style="text-align: center; font-size: 2em; font-weight: bold;">DP1146477</div> <div style="text-align: center; margin-top: 10px;"> Registered: 28.4.2010 </div>	
Subdivision Certificate No: SC(115) 2008 Title System:		
<div style="margin-bottom: 20px;"> <p>Executed by D & E SOETENS P/L</p> <div style="display: flex; justify-content: space-between;"> <div style="text-align: center;"> DIRECTOR ERIK SOETENS </div> <div style="text-align: center;"> DIRECTOR DIANE SOETENS </div> </div> </div> <div style="margin-bottom: 20px;"> <p>Executed By BALLEEN PTY LIMITED ACN 107 276 451</p> <div style="display: flex; justify-content: space-between;"> <div style="text-align: center;"> Director Bruce W. Bardiniet </div> <div style="text-align: center;"> Director John A. Allen </div> </div> </div> <div style="margin-bottom: 20px;"> <p>Executed BY ST GEORGE BANK LIMITED (ABN 99055513070)</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 40%;"> <p>WITNESSED BY</p> <p> HILANA EL-DAMONI</p> </div> <div style="width: 55%;"> <p>SIGNED FOR ON BEHALF OF</p> <p>ST GEORGE BANK LIMITED A.C.N. 055 513 070</p> <p>BY ITS ATTORNEYS <u>Geoff Corakley</u> AND <u>Dipin Saini</u> PURSUANT TO POWER OF ATTORNEY REGISTERED NO. 125 BOOK 4182</p> </div> </div> </div> <div style="margin-bottom: 20px;"> <p>Executed BY ST GEORGE FINANCE LIMITED (ABN 99001094471)</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 40%;"> <p>WITNESSED BY</p> <p> HILANA EL-DAMONI</p> </div> <div style="width: 55%;"> <p>SIGNED FOR ON BEHALF OF</p> <p>ST GEORGE BANK LIMITED A.C.N. 055 513 070</p> <p>BY ITS ATTORNEYS <u>Geoff Corakley</u> AND <u>Dipin Saini</u> PURSUANT TO POWER OF ATTORNEY REGISTERED NO. 125 BOOK 4182</p> </div> </div> </div> <div> <p>Executed BY SUNCORP-METWAY LIMITED</p> <div style="display: flex; justify-content: space-between;"> <div style="width: 40%;"> <p>SUNCORP METWAY LTD A.C.N. 010 831 722 BY ITS ATTORNEY, DEBBIE OGDORNE WHO CERTIFIES THAT THEY ARE A LEVEL 1 ATTORNEY PURSUANT TO POWER OF ATTORNEY BOOK 3852 NO. 372 OF WHICH THEY HAVE RECEIVED NO NOTICE OF REVOCATION</p> <p>SIGNED IN MY PRESENCE BY THE SAID ATTORNEY WHO IS PERSONALLY KNOWN TO ME</p> </div> <div style="width: 55%;"> <p> DEBBIE OGDORNE</p> <p> Sakini Valudan</p> </div> </div> </div>		
SURVEYOR'S REFERENCE: 14624/5F		

★ OFFICE USE ONLY

PLAN FORM 6A (Annexure Sheet)

Warning: Creasing or folding will lead to rejection

DEPOSITED PLAN ADMINISTRATION SHEET		Sheet 3 of 3 sheets
PLAN OF SUBDIVISION OF LOT 200 DP 1103526	<div style="text-align: center; font-size: 2em; font-weight: bold;">DP1146477</div> <div style="display: flex; justify-content: space-between; align-items: center; margin-top: 10px;"> Registered: 28.4.2010 </div>	
<div style="display: flex; justify-content: space-between;"> Subdivision Certificate No: <u>SC/115/2008</u> Title System: </div>		
<p style="text-align: center; font-size: 1.2em; font-weight: bold;">EXECUTED BY PERPETUAL NOMINEES LIMITED</p> <p style="font-size: 0.8em;">Signed in my presence for and on behalf of Perpetual Nominees Limited (A.C.N. 150 134 204) by its Attorneys <u>Vanessa Milosev</u> <u>Christopher Ringland</u> who are personally known to me and each of whom declares that he/she has been appointed by the board of directors of that company as an attorney of the company for the purposes of the Power of Attorney dated <u>11/12/2007</u> (Registration No. <u>45421512</u>) and that he/she has no notice of the revocation of his/her powers.</p> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width: 45%;"> <p>Signature of Witness <u>Shant Nazarian</u></p> <p>Full name of Witness</p> </div> <div style="width: 45%;"> <p>Signature of Attorney <u>[Signature]</u></p> <p>Signature of Attorney <u>[Signature]</u></p> </div> </div> <div style="text-align: right; margin-top: 10px;"> <p>SENIOR ACCOUNT EXECUTIVE</p> <p>Team Leader</p> </div>		
<p><small>SURVEYOR'S REFERENCE: 14624/5F</small></p>		

* OFFICE USE ONLY

ePlan

Instrument Setting out Terms of Easements or Profits à Prendre Intended to be Created or Released and of Restrictions on the Use of Land or Positive Covenants Intended to be Created Pursuant to Section 88B Conveyancing Act 1919

(Sheet 1 of 5 Sheets)

Plan: DP1146477

Plan of Subdivision of Lot 200 DP1103526
covered by Subdivision Certificate No

Full name and address of the owner of the land being 200/1103526:

Perpetual Nominees Ltd
Level 12 Angel Place
123 Pitt Street
SYDNEY NSW 2000

Full name and address of the mortgagee of the land being 200/1103526:

Suncorp – Metway Ltd

Full name and address of the owner of the land being 301/590786, 1/319436 and 2/319436:

Ballen Pty Ltd
600 Pacific Highway
BELMONT NSW 2280

Full name and address of the mortgagee of the land being 301/590786, 1/319436 and 2/319436:

St George Bank Ltd and
St George Finance Ltd

Full name and address of the owner of the land being 201/1103526:

D & E Soetens Pty Ltd
95 Murrawal Road
WYONGAH NSW 2259

Part 1 (Creation)

Number of item shown in the intention panel on the plan	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan	Burdened lot(s) or parcel(s)	Benefited lot(s), road(s), bodies or Prescribed Authorities
1	Right of Carriage Way 6 wide (L)	2	301/590786 1/319436 2/319436
2	Right of Carriage Way 6 wide limited in height to RL 20.5 AHD (M)	2	1
3	Right of Carriage Way 6, 7.8 and Variable width limited in height between RL 4.95 & RL 7.6 AHD (P)	1	301/590786 1/319436 2/319436
4	Right of Carriage Way variable width (S)	1	301/590786 1/319436 2/319436
5	Right of Foot Way 0.7 wide (X)	2	1
6	Easement for Services 1.35 wide (A)	1	201/1103526
7	Easement for Ventilation 0.7 wide (Y)	2	1

ePlan

(Sheet 2 of 5 Sheets)

Plan: **DP1146477**

Plan of Subdivision of Lot 200 DP1103526
 covered by Subdivision Certificate No

Part 1 (A) Release

Number of item shown in the intention panel on the plan	Identity of easement, profit à prendre, restriction or positive covenant to be created and referred to in the plan	Burdened lot(s) or parcel(s)	Benefited lot(s), road(s), bodies or Prescribed Authorities
1	Easement for Services 0.5 wide (DP1103526)	200/1103526	201/1103526
2	Right of Carriageway 3.5 wide & variable (DP590786)	200/1103526	301/590786 1/319436 2/319436
3	Easement for Support 0.18 wide (V215961)	301/590786	200/1103526
4	Easement for Services 20.115 wide (DP1100943)	200/1103526	200/1103526 Jemena Gas Networks (NSW) Ltd
5	Easement for Water Main 4 wide (DP1100943)	200/1103526	Hunter Water Corporation

Part 2 (Terms)

1,2,3,4 Terms of Right of Carriage Way 6 wide (L), 6 wide limited in height to RL 20.5 AHD (M), 6, 7.8 & variable width limited in height between RL 4.95 & 7.6 AHD (P) and variable width (S) firstly, secondly, thirdly and fourthly referred to in the abovementioned plan

A right of carriageway within the meaning of Schedule 8 Part I of the Conveyancing Act 1919.

5. Terms of Right of Foot Way 0.7 wide (X) fifthly referred to in the abovementioned plan

A right of foot way within the meaning of Schedule 8 Part 2 of the Conveyancing Act 1919.

6. Terms of Easement for Services 1.35 wide sixthly referred to in the abovementioned plan (A)

An easement for services within the meaning of Schedule 8 Part II of the Conveyancing Act 1919.

7. Terms of Easement for Ventilation 0.7 wide seventhly referred to in the abovementioned plan (Y)

7.1 The body having the benefit of this easement and every person authorised by it may:

- (a) at all times and for all purposes go, pass and repass over the land indicated herein as the Servient Tenement but only within the site of the easement; and
- (b) at all times and for the purposes of accessing all parts of the area designated as an easement for ventilation, go, pass and repass over the land indicated herein as the Servient Tenement but only within the site of the easement; and
- (c) at all times place, construct, alter, repair, maintain and remove ventilation ducts and ancillary services and installations but only within the site of the easement and subject to any restriction imposed by this Instrument; and
- (d) do anything reasonably necessary for the purposes specified in clauses (a) – (c) inclusive, including:

ePlan

(Sheet 3 of 5 Sheets)

Plan: **DP1146477**

Plan of Subdivision of Lot 200 DP1103526
covered by Subdivision Certificate No

- entering the lots burdened, and
- taking anything onto the lots burdened, and
- carrying out work within the site of the easement such as placing, constructing, altering, repairing, maintaining and removing ventilation ducts and ancillary services and installations.

7.2 In exercising these powers, the body having the benefit of this easement must:

- (a) ensure all work is done properly and carried out as quickly as is practicable; and
- (b) cause as little inconvenience as is practicable to the owner or any occupier of the lot burdened; and
- (c) cause as little damage as is practicable to the site of the easement and to the lot burdened and any improvement on it.

Name of person empowered to release vary or modify the easements firstly, secondly, thirdly, fourthly, fifthly, sixthly and seventhly referred to in the abovementioned plan

Every person or body whether incorporated or otherwise who is at any time entitled to an interest in the land herein indicated as the lot benefited or any part thereof with which the rights hereby conferred are capable of enjoyment PROVIDED that the cost of any release variation or modification of the easement is borne in all respects by the person requesting such release variation or modification.

Executed by Perpetual Nominees Ltd

ABN

by:

Signed in my presence for and on behalf of Perpetual Nominees Limited (ABN 62 623 331 111) its Attorneys **Christopher Ringland**

Vanessa Milosevic
who are personally known to me and each of whom declares that he/she has been appointed by the Board of Directors of that company as an attorney of the company for the purposes of the Power of Attorney dated 11/12/23 (Registration No. 45421519) and that he/she has no notice of the revocation of his/her powers.

Director
Print name:

Signature of Witness
Bhant Nozarian
Full name of Witness

Print name:

Signature of Attorney

SENIOR ACCOUNT EXECUTIVE

Executed by Suncorp – Metway Ltd
ABN
by:

Signature of Attorney

Team Leader

Executed by Ballen Pty Ltd

ABN

by:

Director

Print name: **Bruce W Baudinet**

Director

Print name: **John A Allen**

ePlan

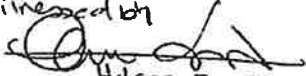
(Sheet 4 of 5 Sheets)

Plan: DP1146477

Plan of Subdivision of Lot 200 DP1103526
covered by Subdivision Certificate No

Executed by St George Bank Ltd
ABN 92 055 513 070
by:

Witnessed by

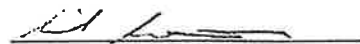

Hilana E. Lomani

Executed by St George Finance Ltd
ABN 99 001 094 471
by:

Witnessed by


Hilana E. Lomani

Executed by D & E Soetens Pty Ltd
ABN 38 328 033 869
by:



Director
Print name:

ERIK SOETENS

SIGNED FOR ON BEHALF OF
ST GEORGE BANK LIMITED A.C.N. 055 513 070
BY ITS ATTORNEYS Geoff Coakley AND
Diana Saini PURSUANT TO POWER
OF ATTORNEY REGISTERED NO. 125 BOOK 4182

SIGNED FOR ON BEHALF OF
ST GEORGE BANK LIMITED A.C.N. 055 513 070
BY ITS ATTORNEYS: Geoff Coakley AND
Diana Saini PURSUANT TO POWER
OF ATTORNEY REGISTERED NO. 125 BOOK 4182



Director
Print name:


DIANE SOETENS

SIGNED for and on behalf of Jemena Gas
Networks (NSW) Ltd by its duly appointed
attorney

Lyn Tacumin
pursuant to Power of Attorney Registered
Book 4519 No 975 in the presence of:


Signature of Witness

GEORGE APOSTOPOULOS
Name of Witness (Print)


Signature

Lyn Tacumin
Name (Print)

(Sheet 5 of 5 Sheets)

HUNTER WATER CORPORATION by its attorney
SHARON LANA SMITH Pursuant to Power of
Attorney Book 4374 No 853

K. Ferry
Witness

153 Woodford St Minni
Address of Witness

$$= x p(t) \cdot d(u_1, v_1) + p^2 \cdot x + p^2 \cdot x \cdot p(t) \cdot d(u_1, v_1)$$


 Rakhi Vajudekar
 WITNESS



28.4.2010

Q12 11 281

INSTRUMENT SETTING OUT TERMS OF EASEMENTS AND RESTRICTIONS AS TO
USE INTENDED TO BE CREATED PURSUANT TO SECTION 88B OF THE
CONVEYANCING ACT 1919.

Plan: DP590786

Full name and address of
Proprietors of the land:

1. Identity of easement
referred to in
above-mentioned plan

Lots burdened

300

Schedule of lots, etc. affected.

Lots benefited

Lot 301 and Lots 1 and 2 D.P. 319436 being
the land in Certificate of Title Volume 1107
Folio 74 and Volume 1114 Folio 109 respectively.

THE COMMON SEAL OF BELMONT
BOWLING CLUB CO-OP. LTD.
was hereunto affixed in the
presence of two Directors
whose names and signatures
appear hereon.



Secretary

Stephane

Director
Director

John Brown
John Brown

THE COMMON SEAL OF NEWCASTLE
DISTRICT CO-OPERATIVE
LIMITED was hereunto affixed
by the authority of a
Resolution by the Board of
Directors in the presence of:

Director
Secretary
Director A. Becker

INSTRUMENT SETTING OUT INTERESTS CREATED
PURSUANT TO SECTION 88B, CONVEYANCING ACT,
1919, LODGED WITH

DP590786

28.7.1977

I, Bruce Richard Davies, Registrar General for New South Wales, certify
that this negative is a photograph made as a permanent record of a
document in my custody this 2nd day of August, 1977

10	20	30	40	50	60	70	80	90	100	110	120	130	140	150	160	170	180	190	200
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Lease Form version 3.0

Lodger Details

Lodger Code 501424
Name HPL LAW GROUP
Address L1, 17 ALBERT ST
FRESHWATER 2096
Lodger Box 1W
Phone
Email
Reference MW:190439

For Office Use Only

AP448349

LEASE

Jurisdiction NEW SOUTH WALES

Privacy Collection Statement

PRIVACY NOTE: Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

Land Title Reference

1/319436
2/319436

Land Extent

PART OF THE LAND
PART OF THE LAND

Part Land Description

SHOP 1, 600 PACIFIC HIGHWAY, BELMONT

Lessor

Name KHUN & TAN ENTERPRISES PTY LTD
ACN [REDACTED]

Lessee

Name KIANNDATA PTY LTD
ACN [REDACTED]

Tenancy (inc. share) SOLE PROPRIETOR

The lessor leases to the lessee the property referred to above.

Lease Details

Term 2 YEARS
Commencing Date 19/06/2019
Terminating Date 18/06/2021
Option to Renew YES
Option to Renew Period 3 YEARS
Option to Purchase NO

See attached Lease Conditions and Provisions

**THE LESSOR DECLARES, TO THE BEST KNOWLEDGE OF THE SUBSCRIBER, THAT
REGISTRATION OF THE LEASE IS NOT PRECLUDED BY ANY OPTION OF RENEWAL/PURCHASE
IN A REGISTERED LEASE**

Lessor Execution

The Certifier has taken reasonable steps to verify the identity of the lessor.

The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.

The Certifier has retained the evidence supporting this Registry Instrument or Document.

The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Executed on behalf of KHUN & TAN ENTERPRISES PTY LTD
Signer Name MAXIMILIAN ANTHONY WILLIAMS
Signer Organisation HPL LAWYERS PTY LTD
Signer Role PRACTITIONER CERTIFIER
Execution Date 07/08/2019

Lessee Execution

The Certifier has taken reasonable steps to verify the identity of the lessee.

The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.

The Certifier has retained the evidence supporting this Registry Instrument or Document.

The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Executed on behalf of	KIANNDA PTY LTD
Signer Name	DONNA HAM
Signer Organisation	AUBREY BROWN LAWYERS PTY LTD
Signer Role	PRACTITIONER CERTIFIER
Execution Date	07/08/2019

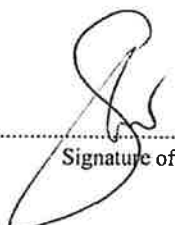
ANNEXURE A TO THE LEASE


LANDLORD: **KHUN & TAN ENTERPRISES PTY LTD** (ACN 166 675 387)
TENANT: **KIANNDA PTY LTD** (ACN 129 357 982)

Annexure A consists of this and the following pages

SCHEDULE

- Item 1 Landlord**
Khun & Tan Enterprises Pty Ltd (ACN 166 675 387) of care of Engage Property, 584 Pacific Highway, Belmont NSW 2280
- Item 2 Tenant**
Kiannda Pty Ltd (ACN 129 357 982) of care of Engage Property, 584 Pacific Highway, Belmont NSW 2280
- Item 3 Guarantor**
Kiannda Pty Ltd (ACN 129 357 982) of care of Engage Property, 584 Pacific Highway, Belmont NSW 2280
- Item 4 Centre and Land**
The Centre known as 'Top of the Town' on the land in Certificate of Title Folio Identifiers 1/319436 and 2/319436
- Item 5 Premises**
Shop 1, 600 Pacific Highway, Belmont NSW 2280
- Item 6 Term**
Two (2) years starting on 19 June 2019 and ending on 18 June 2021
- Item 7 Initial Rent**
\$20,799.93 per year plus GST
- Item 8 Option Lease**
Three (3) years starting on 19 June 2021 and ending on 18 June 2024
- Item 9 Second Option Lease**
Not applicable
- Item 10 Dates of Market Rent Reviews (including during any option leases)**
19 June 2021
- Item 11 Dates of CPI Rent Reviews (including during any option leases)**
Not applicable
- Item 12 Dates of Percentage Rent Reviews (including during any option leases)**
19 June 2020, 19 June 2022 and 19 June 2023
- Item 13 Percentage for Percentage Rent Reviews**
3%
- Item 14 Tenant's Proportion of Outgoings**
23.69%


Signature of Landlord


Signature of Tenant

Item 15	Interest Rate 10% per annum
Item 16	Permitted Use Travel Agency
Item 17	Initial Public Liability Insurance Amount \$20,000,000.00
Item 18	Bank Guarantee Amount Two (2) months' Rent plus GST
Item 19	Operating Hours of the Centre Not applicable
Item 20	Rent Free Period Two (2) months
Item 21	Turnover Rent Base Figure Not applicable
Item 22	Turnover Rent Percentage Figure Not applicable
Item 23	Marketing Levy Amount Not applicable
Item 24	Security Deposit Amount Two (2) months' Rent plus GST

RETAIL LEASES ACT ACKNOWLEDGMENTS

A. Lessor's Disclosure Statement

The Tenant acknowledges that it received the Lessor's Disclosure Statement not less than 7 days before this Lease was entered into.

1. FORM OF THIS LEASE

1.1. This Lease is a Deed.

1.2. This Lease consists of the front page of this Lease and Annexure A.

2. PARTIES

The parties to this Lease are the Landlord and the Tenant and the Guarantor.

3. PROPERTY LEASED

The Landlord leases the Premises to the Tenant for the Term on the conditions in this Lease.

4. LEASE PERIOD

4.1. Term of this Lease

This Lease is for the Term starting and ending on the dates stated in Item 6.

4.2. Option Lease

If Item 8 refers to a lease for a further term and the Tenant wishes to take up the Option Lease and strictly follows the procedures set out in clause 4.3, the Landlord will lease the Premises to the Tenant on the conditions set out in clause 4.4.

4.3. Option Procedure for Option Lease

(a) If the Tenant wishes to take up the Option Lease, the Tenant must:

- (i) give written notice to the Landlord not more than 6 Months and not less than 3 Months before the Terminating Date of this Lease;
- (ii) not be in default under this Lease unless either the Landlord has waived the default or the default has been remedied by the Tenant;
- (iii) ensure that the Guarantor enters into the OptionLeases as guarantor; and
- (iv) ensure that any Bank Guarantee under this Lease is applied to the Option Lease.

(b) After the Landlord receives a notice under clause 4.3(a)(i), the Landlord will give to the Tenant a written statement updating the Lessor's Disclosure Statement.

4.4. Option Lease Conditions

The Option Lease will be on the same conditions as this Lease except that:

- (a) clauses 4.2 to 4.5 will not be included;
- (b) Item 8 will be deleted;
- (c) any clause of this Lease which contains a provision excluding that clause from the Option Lease will not be included;

- (d) the commencing date will be the Option Lease commencing date;
- (e) the terminating date will be the Option Lease terminating date; and
- (f) the initial Rent payable during the Option Lease will be determined in accordance with this Lease.

4.5. Option Lease Market Rent Determination

- (a) If the commencing date of the Option Lease is a Market Rent Review Date and the Landlord and the Tenant have not agreed on the Rent to apply as at that date, the Tenant can request a determination of the annual current market rent at any time within the period beginning 6 Months before and ending 3 Months before the last date on which the option to enter into the Option Lease can be exercised by the Tenant.
- (b) If the Tenant requests a determination of the annual current market rent, the period referred to in clause 4.3(a)(i) will be extended so that the last day of the period is 21 days after written notice is given to the Tenant of the determination.
- (c) If the Term is 12 Months or less, the periods of 6 Months and 3 Months in clause 4.5(a) will instead be 3 Months and 30 days.

4.6. New Lease Offer

- (a) Unless there are either Option Leases or an Option Lease, no earlier than 12 Months before the Terminating Date and no later than 6 Months before the Terminating Date, the Landlord will by written notice to the Tenant either:
 - (i) offer the Tenant a new lease on the terms (including Rent) specified in the notice; or
 - (ii) inform the Tenant that the Landlord does not propose to offer the Tenant a new lease.
- (b) If the Term is 12 Months or less, the periods of 12 Months and 6 Months in clause 4.6(a) will instead be 6 Months and 3 Months.
- (c) The Landlord cannot withdraw an offer made under clause 4.6(a)(i) until 1 Month after the offer is made.
- (d) If the Landlord does not give a notice to the Tenant under clause 4.6(a) and the Tenant requests an extension by written notice given to the Landlord before the Terminating Date, the Term will be extended until 6 Months after the Landlord gives the notice required under clause 4.6(a).
- (e) During an extension of this Lease under this clause 4.6(d), the Tenant can terminate this Lease by giving not less than 1 Month written notice to the Landlord.

4.7. Second Option Lease

If Item 9 refers to a lease for a further term and the Tenant wishes to take up the Second Option Lease and strictly follows the procedures set out in clause 4.8, the Landlord will lease the Premises to the Tenant on the conditions set out in clause 4.9.

4.8. Option Procedure for Second Option Lease

- (a) If the Tenant wishes to take up the Second Option Lease, the Tenant must:
 - (i) give written notice to the Landlord not more than 6 Months and not less than 3 Months before the Terminating Date of the Option Lease;

- (ii) not be in default under the Option Lease unless either the Landlord has waived the default or the default has been remedied by the Tenant;
 - (iii) ensure that any Bank Guarantee under the Option Lease is applied to the Second Option Lease.
- (b) After the Landlord receives a notice under clause 4.8(a)(i), the Landlord will give to the Tenant a written statement updating the Lessor's Disclosure Statement.

4.9. Second Option Lease Conditions

The Second Option Lease will be on the same conditions as the Option Lease except that:

- (a) clauses 4.7 to 4.10 will not be included;
- (b) Item 9 will be deleted;
- (c) any clause of the Option Lease which contains a provision excluding that clause from the Second Option Lease will not be included;
- (d) the commencing date will be the Second Option Lease commencing date;
- (e) the terminating date will be the Second Option Lease terminating date; and
- (f) the initial Rent payable during the Second Option Lease will be determined in accordance with the Option Lease.

4.10. Second Option Lease Market Rent Determination

- (a) If the Commencing Date of the Second Option Lease is a Market Rent Review Date and the Landlord and the Tenant have not agreed on the Rent to apply as at that date, the Tenant can request a determination of the annual current market rent at any time within the period beginning 6 Months before and ending 3 Months before the last date on which the option to enter into the Second Option Lease can be exercised by the Tenant.
- (b) If the Tenant requests a determination of the annual current market rent, the period referred to in clause 4.8(a)(i) will be extended so that the last day of the period is 21 days after written notice is given to the Tenant of the determination.
- (c) If the term of the Option Lease is 12 Months or less, the periods of 6 Months and 3 Months in clause 4.10(a) will instead be 3 Months and 30 days.

4.11. Relocation

- (a) If the Landlord has a Refurbishment Proposal then, despite anything to the contrary in this Lease, the Landlord can give a Relocation Notice to the Tenant.
- (b) Within 1 Month of the Landlord giving a Relocation Notice to the Tenant (time being of the essence) the Tenant can give a Relocation Termination Notice to the Landlord.
- (c) If the Tenant gives a Relocation Termination Notice under clause 4.11(b):
 - (i) no later than 1 Month before the Relocation Termination Date the Tenant will deliver to the Landlord a surrender of this Lease in registrable form, except for execution by the Landlord;
 - (ii) the Tenant will give vacant possession of the Premises to the Landlord on the Relocation Termination Date in the condition that would be required under this Lease if the Relocation Termination Date were the Terminating Date; and

- (iii) this Lease will terminate on the Relocation Termination Date and neither the Landlord nor the Tenant will have any claim against the other as a consequence of the giving of either the Relocation Notice or the Relocation Termination Notice.
- (d) If the Tenant does not give a Relocation Termination Notice under clause 4.11(b):
 - (i) this Lease will terminate on the Relocation Date;
 - (ii) the Tenant will be regarded as having accepted the Landlord's offer to enter into the Substituted Premises Lease;
 - (iii) the Landlord will deliver the Substituted Premises Lease to the Tenant within 2 Months of the Landlord giving the Relocation Notice;
 - (iv) the Tenant and the Guarantor will sign and deliver the Substituted Premises Lease to the Landlord within 14 Business Days of receipt from the Landlord of the Substituted Premises Lease;
 - (v) the Tenant will do all things necessary before the Relocation Date to ensure that any Bank Guarantee or Security Deposit under this Lease is applied to the Substituted Premises Lease; and
 - (vi) the Landlord will pay the Tenant's reasonable costs of relocating from the Premises to the Substituted Premises including, but not limited to:
 - (A) the Tenant's reasonable legal costs of surrendering this Lease and of entering into the Substituted Premises Lease; and
 - (B) the Tenant's reasonable costs of dismantling and reinstalling the Tenant's Goods.
- (e) The Landlord and the Tenant agree that the Substituted Premises Lease will be on the same terms and conditions as this Lease except that:
 - (i) the Premises under the Substituted Premises Lease will be the Substituted Premises;
 - (ii) the Commencing Date of the Substituted Premises Lease will be the day after the Relocation Date;
 - (iii) the term of the Substituted Premises Lease will be equal balance of the Term calculated from the day after the Relocation Date; and
 - (iv) the Rent and the Tenant's Proportion of Outgoings payable under the Substituted Premises Lease will be calculated at the same rate per square metre of the Substituted Premises as the rate per square metre payable under this Lease.

4.12. Demolition

- (a) If the Landlord has a Demolition Proposal then, despite anything to the contrary in this Lease, the Landlord can give a Demolition Notice to the Tenant.
- (b) At any time after the Landlord gives a Demolition Notice to the Tenant but no later than 10 Business Days before the Demolition Date, the Tenant can give a Demolition Termination Notice to the Landlord.
- (c) If the Landlord gives a Demolition Notice or the Tenant gives a Demolition Termination Notice:
 - (i) no later than the earlier of the Demolition Date and the Demolition Termination Date, the Tenant will deliver to the Landlord a surrender of this Lease in registrable form, except for execution by the Landlord;

- (ii) the Tenant will give vacant possession of the Premises to the Landlord on the earlier of the Demolition Date and the Demolition Termination Date in the condition that would be required under this Lease if such date were the Terminating Date;
- (iii) this Lease will terminate on the earlier of the Demolition Date and the Demolition Termination Date and neither the Landlord nor the Tenant will have any claim against the other as a consequence of the giving of either the Demolition Notice or the Demolition Termination Notice;
- (d) If the Landlord gives a Demolition Notice or the Tenant gives a Demolition Termination Notice and demolition of the Centre is not carried out within a reasonably practicable time after the Demolition Date, the Landlord is liable to pay the Tenant reasonable compensation for damage suffered by the Tenant as a consequence of the early termination of this Lease, unless the Landlord establishes that at the time the Demolition Notice was given by the Landlord there was a genuine proposal to demolish the Centre within a reasonably practical time.
- (e) If the Landlord gives a Demolition Notice or the Tenant gives a Demolition Termination Notice and the Tenant has installed fixtures in the Premises the Landlord is liable to pay the Tenant compensation for the Tenant's fixtures, whether or not the Demolition Proposal is carried out.

5. PAYMENTS

5.1. Rates of Rent and Method of Payment

Rent is payable at the annual rate stated in Item 7 until varied under this Lease and is then payable at the varied rates. All payments must be made in full at the Landlord's address stated in Item 1 or at any other place notified in writing by the Landlord to the Tenant. If required by the Landlord, Rent must be paid by irrevocable automatic order on the Tenant's bank.

5.2. Instalments of Rent

The Tenant will pay Rent at the following rates:

- (a) if the Commencing Date is not the first day of a Month the first Rent payment will be calculated on a daily basis based on the number of days in the relevant Month;
- (b) by instalments monthly in advance on the first day of each full Month within the Term equal to one-twelfth of the annual Rent then payable; and
- (c) if the Terminating Date is not the last day of a Month, the last Rent payment will be calculated on a daily basis based on the number of days in the relevant Month.

5.3. Market Rent Reviews

- (a) On each Market Rent Review Date the annual Rent payable under this Lease will be varied to the annual current market rent agreed or determined under this clause 5.3.
- (b) In this Lease current market rent means the annual rent that would reasonably be expected to be paid for the Premises, determined on an effective rent basis:
 - (i) having regard to:
 - (A) the terms and conditions of this Lease;
 - (B) the rent concessions or other benefits that are frequently or generally offered to prospective tenants of unoccupied retail premises;

- (C) the rent that would reasonably be expected to be paid for the Premises if the Premises were unoccupied and offered for renting for the same or a substantially similar use to the Permitted Use; and
 - (D) the Rent and Outgoings;
- (ii) without having regard to:
 - (A) the value of the Tenant's Goods; or
 - (B) the Tenant's goodwill.
- (c) No earlier than 3 Months before a Market Rent Review Date, the Landlord will give the Rent Review Notice to the Tenant.
- (d) Unless the Tenant objects to the Rent Review Notice by giving written notice to the Landlord within 14 Business Days of the Tenant receiving the Rent Review Notice (time being of the essence), the annual current market rent payable from the Market Rent Review Date will be the amount in the Rent Review Notice.
- (e) If the Tenant objects to the Rent Review Notice by giving written notice to the Landlord within 14 Business Days of the Tenant receiving the Rent Review Notice (time being of the essence), the Rent Agreement Period will start. If the Landlord and the Tenant do not agree within the Rent Agreement Period (time being of the essence) on the annual current market rent to apply from the Market Rent Review Date clauses 5.3(f) to 5.3(o) will apply.
- (f) The Landlord and the Tenant will try to agree on a Specialist Retail Valuer to determine the annual current market rent to apply from the Market Rent Review Date. Failing agreement within 7 Business Days of the end of the Rent Agreement Period either the Landlord or the Tenant can apply to the Tribunal to nominate a Specialist Retail Valuer.
- (g) The Landlord and the Tenant can make written submissions to the Specialist Retail Valuer before the date on which the Specialist Retail Valuer is required to make the determination. The Specialist Retail Valuer is entitled to take into account any such written submissions when making the determination but is not obliged to do so.
- (h) The Specialist Retail Valuer in determining the amount of the rent must take into account the matters set out in clause 5.3(b)(i).
- (i) Within 14 days after a request by the Specialist Retail Valuer, the Landlord must supply the Specialist Retail Valuer with information reasonably available to the Landlord requested by the Specialist Retail Valuer to assist the Specialist Retail Valuer to determine the current market rent.
- (j) A Specialist Retail Valuer may apply to the Tribunal for an order that the Landlord comply with a request referred to in clause 5.3(i) to supply relevant information about leases for retail shops situated in the Centre.
- (k) The Specialist Retail Valuer will make a determination and will notify the Landlord and the Tenant of the Specialist Retail Valuer's determination within 1 Month after the Specialist Retail Valuer receives the information requested in clause 5.3(i). The Specialist Retail Valuer must give his or her valuation in writing and must give detailed reasons for the Specialist Retail Valuer's determination. The Specialist Retail Valuer must specify the matters to which the Specialist Retail Valuer has had regard in making the determination.
- (l) The Specialist Retail Valuer will act as an expert and not as an arbitrator.
- (m) Subject to Section 32A of the *Retail Leases Act*, the Specialist Retail Valuer's determination will be final and binding as between the Landlord and the Tenant.

- (n) Either the Landlord or the Tenant can request the Tribunal to appoint another Specialist Retail Valuer if the appointed Specialist Retail Valuer:
 - (i) fails to accept the appointment;
 - (ii) resigns the appointment;
 - (iii) becomes incapacitated or dies; or
 - (iv) fails to notify the Landlord and the Tenant of the determination within 1 Month after accepting the appointment.
- (o) The Landlord and the Tenant will each pay one half of the Specialist Retail Valuer's costs of making the determination.
- (p) If the Rent has not been agreed or determined by a Market Rent Review Date, the Tenant will pay the Landlord instalments of Rent on account equal to the Rent payable before that Market Rent Review Date. Within 14 days of the Rent being agreed or determined the Tenant will pay to the Landlord or the Landlord will credit to the Tenant any difference between the amount paid on account and the Rent as agreed or determined.

5.4. CPI Rent Reviews

- (a) On each CPI Rent Review Date the annual Rent payable under this Lease will be the amount determined under this clause 5.4.
- (b) The annual Rent payable from the CPI Rent Review Date will be the amount calculated by applying the following formula:

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

where:

- R is the annual Rent to be payable from the CPI Rent Review Date;
- A is the Australian Statistician's Consumer Price Index (All Groups) figure for Sydney last published before the CPI Rent Review Date;
- B is the Australian Statistician's Consumer Price Index (All Groups) figure for Sydney last published before whichever is the later of the Commencing Date and the most recent date on which Rent was reviewed under this Lease; and
- C is the annual Rent payable immediately before the CPI Rent Review Date.
- (c) If the Australian Statistician updates the reference base of the Consumer Price Index, the intended continuity of calculation will be preserved by applying the appropriate factor, as chosen by the Landlord, to such updated reference base.
- (d) If the Consumer Price Index is discontinued or suspended:
 - (i) the Landlord and the Tenant will try to agree within 14 Business Days after the CPI Rent Review Date on an alternative index which reflects fluctuations in the cost of living in Sydney;
 - (ii) if the Landlord and the Tenant do not agree on an alternative index, the Landlord will request the Nominator to nominate an alternative index which reflects fluctuations in the cost of living in Sydney. The decision of the Nominator will be final and binding as between the Landlord and the Tenant. The Landlord and the Tenant will each pay one half of the Nominator's costs of making the determination.

5.5. Percentage Rent Reviews

On each Percentage Rent Review Date the annual Rent payable under this Lease will be the annual Rent payable immediately before the Percentage Review Date increased by the percentage stated in Item 13.

5.6. Centre Outgoings

- (a) In each Accounting Year the Tenant will pay the Tenant's Proportion of Outgoings.
- (b) At least 1 Month before the start of each Accounting Year the Landlord will give to the Tenant the Outgoings Estimate for the next Accounting Year.
- (c) The Tenant will pay the Outgoings Estimate by equal monthly instalments in advance on the same days and in the same manner as Rent.
- (d) Within 1 Month of the end of each Accounting Year the Landlord will give to the Tenant a written statement as required by the *Retail Leases Act* detailing all expenditure by the Landlord on the Outgoings for the preceding Accounting Year.
- (e) Within 3 Months of the end of each Accounting Year the Landlord will give the Outgoings Report to the Tenant. The Outgoings Report will:
 - (i) be prepared by a registered company auditor in accordance with accounting standards within the meaning of the *Corporations Act 2001*; and
 - (ii) include a statement by the auditor about whether the amounts paid by the Tenant for Outgoings were properly payable by the Tenant and whether the Outgoings Estimate for the relevant period exceeded the amount actually spent by the Landlord on the Outgoings.
- (f) If the Outgoings Report relates only to insurance, land tax, water sewerage and drainage rates and charges, local council rates and charges and strata levies and the Outgoings Report is accompanied by copies of receipts for all expenditure, the Landlord does not have to comply with either clause 5.6(e)(i) or clause 5.6(e)(ii).
- (g) Within 1 Month after the end of each Accounting Year an adjustment will be made of any underpayment or overpayment of the Outgoings. The adjustment is to be the difference between the Outgoings Estimate and the amount actually spent by the Landlord on the Outgoings during the relevant Accounting Year, taking into account only expenditure properly and reasonably incurred by the Landlord in payment of the Outgoings.
- (h) Despite anything to the contrary in this Lease, the Tenant is only liable to contribute to non-specific Outgoings referable to the Premises the amount calculated by multiplying the total amount of that Outgoing by the ratio that the gross lettable area - retail of the Premises bears to the total gross lettable area - retail of all retail premises in the Centre to which that non-specific Outgoing is referable.

5.7. Interest on Arrears

The Tenant will pay to the Landlord interest on any Rent and on any other moneys due but unpaid for 14 days. Interest will be calculated at the rate stated in Item 15 as at the dates on which such moneys fall due to the date on which such moneys are received by the Landlord.

5.8. Duty and Landlord's Costs

- (a) The Tenant will pay the Landlord's costs, including legal costs as between solicitor and client, in relation to any amendment to the terms of this Lease that was requested by the Tenant and any transfer, surrender or termination of this Lease (including the cost of obtaining the consent of any Person whose consent is required) and in relation to any breach of this Lease by the Tenant.

- (b) The Tenant must pay the Landlord's costs and disbursements of lodging a financing statement in respect of any Security Interest arising under this Lease.
- (c) The Tenant will pay all duty when due and any registration fees when payable in relation to this Lease and in relation to anything done under this Lease.

5.9. Cost of Landlord Remedying Tenant Defaults

After giving reasonable notice to the Tenant, the Landlord can remedy any default by the Tenant under this Lease. The Tenant will pay on demand any costs that the Landlord incurs in doing so.

5.10. GST

- (a) The Rent and other moneys payable under this Lease by the Tenant have been calculated without regard to GST.
- (b) The Tenant must pay to the Landlord any amount which is payable by the Landlord for GST as a consequence of any supply made by the Landlord to the Tenant under this Lease, such payment on account of GST to be made by the Tenant at the same time as payment is made for the relevant supply.
- (c) If at any time an adjustment is made as between the Landlord and the relevant taxing Authority of an amount paid on account of GST on any supply made by the Landlord to the Tenant under this Lease, a corresponding adjustment must be made as between the Landlord and the Tenant and any payments required to give effect to the adjustment must be made.
- (d) No later than 14 days after the date of payment of any GST the Landlord must provide to the Tenant a tax invoice complying with any legislation under which GST is imposed.
- (e) The Tenant will pay on demand to the Landlord any interest or penalties incurred by the Landlord as a result of the Tenant's failure to make a payment under clause 5.10(b).
- (f) The amount of Outgoings will be calculated by applying the following formula:

$$(A - B) \times (1 + C)$$

where:

- A is the GST inclusive price of the component of Outgoings, being the amount paid by the Landlord;
- B is the GST input tax credit for which the Landlord is eligible on the component of Outgoings; and
- C is the rate of GST expressed as a decimal.

5.11. Period Free of Rent

- (a) If an amount appears in Item 20 then, despite clauses 5.1 and 5.2, the Tenant is entitled the period free of Rent stated in Item 20 commencing on the Commencing Date.
- (b) Additionally, the Tenant is entitled to a period of one (1) month free of Outgoings commencing on the Commencing Date.
- (c) The Landlord and the Tenant agree that if this Lease is terminated before the Terminating Date because of the Tenant's default, the Tenant will immediately pay to the Landlord the two (2) months' Rent and one (1) month's Outgoings that the Tenant would have paid but for the benefit of this clause. The Tenant agrees that this is not a penalty but a genuine pre-estimate of the Landlord's loss arising from early termination.

- (d) This clause and Item 20 will not be included in the Option Lease.

5.12. INTENTIONALLY DELETED

5.13. Marketing Levy

- (a) In each Accounting Year the Tenant will pay the Marketing Levy by equal monthly instalments in advance on the same days and in the same manner as Rent.
- (b) The Landlord will apply the Marketing Levy to the Landlord's costs of advertising, marketing and promoting the Centre.
- (c) At least 1 Month before the start of each Accounting Year the Landlord will give to the Tenant a marketing plan detailing the Landlord's proposed expenditure on advertising, marketing and promoting the Centre during that Accounting Year to which a contribution by the Tenant is required.
- (d) Within 1 Month of the end of each 6 Month period of each Accounting Year the Landlord will give to the Tenant a written statement as required by the *Retail Leases Act* detailing all expenditure by the Landlord for the preceding 6 Month period on advertising, marketing and promotion costs to which a contribution by the Tenant is required.
- (e) Within 3 Months of the end of each Accounting Year the Landlord will give the Marketing Report to the Tenant. The Marketing Report will be prepared by a registered company auditor in accordance with accounting standards within the meaning of the *Corporations Act 2001*.
- (f) The Landlord and the Tenant agree that any of the Marketing Levy not spent in the Accounting Year in which the Marketing Levy was paid will be applied to the Landlord's future costs of advertising, marketing and promoting the Centre.

6. USE

6.1. Tenant's Use of the Premises

- (a) The Tenant will only use the Premises for the Permitted Use.
- (b) The Tenant will keep the Premises clean and tidy and arrange for the regular removal of any waste or rubbish from the Premises.
- (c) The Tenant will endeavour to keep the Premises and any property in the Premises safe from theft and will keep the Premises secure when the Premises are not in use.
- (d) The Tenant will not give any keys to the Premises to any other Person and will deliver all keys to the Landlord at the expiry or earlier termination of this Lease.
- (e) The Tenant will not keep any animal in the Premises and will keep the Premises free of all pests and vermin.
- (f) The Tenant will immediately notify the Landlord and the proper public authorities of any infectious illness in the Premises and thoroughly fumigate the Premises to the Landlord's satisfaction.
- (g) The Tenant will not use the Premises in an unsafe, noisy, offensive or unlawful manner.
- (h) The Tenant will not allow any article whatsoever to fall from the Premises and will not place any article on any ledge or other similar part of the Premises.
- (i) The Tenant will not mark or damage the Premises.

- (j) The Tenant will not obstruct any windows or lights in the Premises without the Landlord's prior consent.
- (k) The Tenant will not without the Landlord's prior consent put either on the outside of the Premises or on anywhere visible from the outside of the Premises any sign, advertisement or notice. Before the expiry or earlier termination of this Lease, the Tenant will remove any such sign, advertisement or notice and make good to the Landlord's satisfaction any damage.
- (l) The Tenant agrees that any blinds, awnings, window ventilators and other similar fittings installed by the Tenant and visible from outside the Premises must conform to the Landlord's requirements about design, quality and appearance.
- (m) The Tenant will not allow the floor of the Premises to be broken, strained or damaged by overloading.
- (n) The Tenant will not use the Landlord's Equipment for any purpose other than those for which they were supplied.
- (o) The Tenant will not do anything to affect the working or efficiency of any air conditioning equipment.
- (p) The Tenant will promptly notify the Landlord in writing of any defect in or need to repair the Premises or the Landlord's Equipment of which the Tenant is aware.
- (q) The Tenant will promptly notify the Landlord in writing of any circumstance of which the Tenant is aware which is likely to cause a danger or hazard to the Premises or to any Person in the Centre.
- (r) The Tenant will not store inflammable or dangerous substances in the Premises other than where reasonably required by the Tenant in connection with the Permitted Use but then only in such quantities and containers as are permitted by law and approved by the Landlord.
- (s) The Tenant will not do anything that would make any insurance policy taken out by the Landlord or the Tenant void or voidable or which would breach any laws or regulations.
- (t) The Tenant will only use light, power or heat generated by electric current or gas supplied through meters.
- (u) The Tenant will promptly pay all utility and service charges in relation to the Premises and, where appropriate, install any necessary meters.
- (v) The Tenant will keep any waste pipes and drains in or servicing the Premises free from blockages.
- (w) The Tenant will not do anything that might result in a statutory Authority issuing a notice in relation to the Premises or the Centre.
- (x) The Tenant will not sell any alcohol in the Premises without the Landlord's written consent.
- (y) The Tenant will not hold any auction, fire or bankruptcy sale in the Premises without the Landlord's written consent.
- (z) The Tenant will replace all non-operating light globes and light tubes.

6.2. Cleaning

- (a) The Tenant will clean the Premises at the Tenant's cost.

- (b) The Tenant acknowledges that the security concerns of the Landlord and of other tenants or occupiers of the Centre will be relevant matters to be considered by the Landlord when the Landlord is asked to approve any Person proposed by the Tenant to clean the Premises.
- (c) If the Landlord requests that a Person is not engaged to clean the Premises or that a Person who is a cleaner is not to be allowed access to the Centre or Premises, the Tenant must immediately comply with that request.
- (d) The Tenant will require the Tenant's cleaners to provide such personal information and identification and to comply with such security checks as the Landlord acting reasonably requires.

6.3. Trading and Stock

- (a) The Tenant will keep the Premises open for trading during the Centre Operating Hours.
- (b) The Tenant will keep current all licences and permits required for the use of the Premises by the Tenant.
- (c) The Tenant will keep the Premises adequately lit.
- (d) The Tenant will provide all necessary staff and stock to ensure that the Tenant's business is conducted in a proper and reputable manner in accordance with best practice.

6.4. Tenant's Use of the Centre

- (a) The Tenant will not do anything to obstruct the Common Areas or the Landlord's Equipment.
- (b) The Tenant will keep clean and free from rubbish those parts of the Common Areas and of any public footpath that immediately adjoin the Premises.
- (c) The Tenant will not burn any waste or rubbish in the Premises or on the Common Areas.
- (d) The Tenant will not cover any light, sky-light, window or other means of illuminating the Common Areas or the Centre.
- (e) The Tenant will not solicit business or distribute advertising material in the Common Areas.
- (f) The Tenant will not without the Landlord's consent put any antenna or similar equipment on the Common Areas.
- (g) The Tenant will not without the Landlord's consent use any loudspeaker or similar equipment likely to be seen or heard in the Common Areas.
- (h) The Tenant will not smoke in the Common Areas.
- (i) The Tenant will comply with the Landlord's requirements in relation to Centre security.
- (j) The Tenant will comply with the Landlord's requirements in relation to emergency evacuation procedures and fire drills.
- (k) The Tenant will not use any part of the Common Areas except the approved customer parking areas for parking vehicles except for pick-up or delivery of goods or Persons in the ordinary course of the Tenant's business.
- (l) The Tenant will ensure that the Tenant's customers, visitors and invitees park only in those parts of the Common Areas approved by the Landlord from time to time as customer parking.
- (m) The Tenant will not grease, oil, repair, clean or wash vehicles within the Common Areas.

- (n) The Tenant will not bring into the Centre any vehicle without rubber tyres.
- (o) Where the Landlord provides the Tenant with identification on any sign installed by the Landlord near an entrance to the Centre the Tenant will pay on demand the Landlord's costs of providing such identification.
- (p) The Tenant will only use for moving goods of bulk or quantity such parts of the Common Areas and at such times as the Landlord from time to time directs.

6.5. Energy consumption information

- (a) The Tenant agrees and acknowledges that the Landlord has or may have mandatory reporting obligations which may include disclosing to the relevant authorities and other Persons information relating to the Tenant's level of energy consumption in the Premises, greenhouse gas emissions, energy efficiency initiatives and associated data, records and other information.
- (b) The Tenant will provide such data, records and other information as the Landlord may reasonably require to enable the Landlord to comply with its reporting obligations relating to the Tenant's level of energy consumption in the Premises, greenhouse gas emissions and energy efficiency initiatives.
- (c) The Tenant will within 7 days of receipt by the Tenant provide to the Landlord copies of all records and accounts received by the Tenant from a utility or service provider in respect of the consumption of electricity or gas in the Premises.
- (d) If the Tenant does not provide information required by the Landlord pursuant to this clause 6.5 the Tenant will pay on demand to the Landlord an amount equal to any expense, fine or penalty incurred by the Landlord arising as a result of the Tenant's default.

7. CONDITION AND REPAIRS

7.1. Keeping and Delivering Up in Repair

- (a) The Tenant will at all times keep the Premises and any of the Landlord's Equipment in or servicing the Premises in good repair and condition having regard to the condition of the Premises and of the Landlord's Equipment at the earlier of the Commencing Date or the date that the Tenant first occupied the Premises.
- (b) Unless required because of the Tenant's particular use of the Premises, the Tenant's obligations under clause 7.1(a) do not extend to:
 - (i) any repair required because of fair wear and tear or because of the Landlord's negligence;
 - (ii) any capital costs or structural repairs; or
 - (iii) anything beyond the control of the Tenant.

7.2. Repair of Damage

The Tenant will make good any defect in or damage to the Premises, the Landlord's Equipment or the Centre caused by lack of care or misuse by the Tenant.

7.3. Painting Etc

Before the Tenant ceases to occupy the Premises, the Tenant will to the Landlord's satisfaction:

- (a) paint with at least 2 coats of high quality paint and otherwise treat appropriately all the internal brickwork, masonry, timber, metalwork and other surfaces of the Premises usually painted or treated; and

- (b) wash down all washable surfaces of the Premises.

7.4. Alterations and Additions

- (a) The Tenant will not make any alterations or additions to the Premises without first obtaining the Landlord's written consent. The Landlord can give or withhold consent in its absolute discretion.
- (b) When requesting consent for any such works the Tenant will give to the Landlord for approval detailed plans and specifications of the works. The Landlord can give or withhold approval of the plans and specifications in its absolute discretion.
- (c) Any such works can only be undertaken either by the Landlord or by Persons approved by the Landlord.
- (d) The Tenant must comply with the requirements of the Landlord, the law and the relevant public authorities in carrying out any such works.
- (e) The Tenant will pay the Landlord's costs in connection with any works.

7.5. Statutory Requirements

- (a) The Tenant will at all times comply with all statutes, ordinances, proclamations, orders and regulations affecting the Premises, the use of the Premises by the Tenant and the Tenant's Goods.
- (b) The Tenant will comply with all notices and orders given by any statutory, public or other competent Authority in respect of the Premises, the use of the Premises by the Tenant and the Tenant's Goods.
- (c) The Tenant will comply with all WH&S Laws in relation to the Premises.
- (d) The Tenant indemnifies the Landlord in relation to any failure by the Tenant to comply with the Tenant's obligations under this clause 7.5.
- (e) Despite clauses 7.5(a) and 7.5(b) the Tenant is not responsible for any capital costs nor for any structural alterations unless required because of the Tenant's particular use of the Premises.

7.6. Principal Contractor and WH&S Regulation

- (a) If any work is to be carried out on the Premises by the Tenant during the Term of the lease, including any Option Lease or holding over period which requires the appointment of a Principal Contractor under the *WH&S Regulation*, the Landlord appoints the Tenant as the Principal Contractor in respect of those works and the Tenant accepts that appointment.
- (b) The Landlord authorises the Tenant to exercise such authority of the Landlord as is necessary to ensure that the Tenant can carry out the responsibilities imposed on the Tenant as Principal Contractor under the *WH&S Regulation*.
- (c) The Tenant may propose that another Person is appointed as Principal Contractor for specific works in place of the Tenant, subject to the Tenant first obtaining the Landlord's consent.
- (d) The Tenant must ensure that when any work is carried out in the Premises all the requirements of the *WH&S Regulation* and any other laws relating to work health and safety are met.
- (e) The Tenant must consult, co-operate and co-ordinate its activities with the Landlord in connection with the Premises to ensure that the parties at all times comply with *WH&S Law* including, but not limited to, scheduling and participating in regular meetings, maintaining current information on an accident registers and conducting regular risk assessment reports of the Premises including taking the views of Tenant's workers into consideration and to take any other steps as agreed between the parties.

- (f) The Landlord will make itself available to the Tenant on a regular basis to discuss any matters related to health and safety at work arising from its obligations in relation to the Premises.
- (g) The Tenant must immediately notify the Landlord of any accident, notifiable incident (being an incident which is notifiable under *WH&S Law*) or injury which occurs on the Premises in connection with the activities at the Premises. The Tenant must take all reasonably practicable steps to safely isolate any dangers from occurring or reoccurring before the Landlord is informed.
- (h) The Tenant undertakes to inform itself of the serious injury or illness and dangerous incident notification obligations. The Tenant undertakes to advise the regulator by the fastest possible means, prior to advising the Landlord in the event that a notifiable incident occurs.

8. INSURANCE AND DAMAGE

8.1. Public Risk and Plate Glass

The Tenant will keep current in the name of the Tenant, noting the interest of the Landlord and, if required by the Landlord, the Landlord's mortgagee:

- (a) a public risk insurance policy for not less than the amount stated in Item 17 or for such higher amount as the Landlord from time to time requires;
- (b) adequate reinstatement insurance of all glass in the Premises for the amount to replace the glass in accordance with the then current Australian Standards; and
- (c) other insurances which are required by law or which in the Landlord's reasonable opinion a prudent tenant would take out.

8.2. Workers Compensation

The Tenant will keep current workers compensation insurance (including common law liability) with a reputable insurer for all Persons employed by the Tenant in relation to whom death or bodily injury claims can be made against the Landlord.

8.3. Insurance of Tenant's Goods

The Tenant will keep the Tenant's Goods adequately insured against loss or damage.

8.4. Evidence of Insurance

The Tenant will provide to the Landlord any insurance policy which the Tenant is required to take out under this Lease and certificates of currency in relation to any such policy.

8.5. Risk

The Tenant occupies and uses the Premises at the Tenant's risk. The Landlord is only liable to the Tenant for any injury, loss or damage to any property or Person to the extent that such injury, loss or damage is caused by the Landlord's negligence.

8.6. Indemnities by Tenant

- (a) The Tenant indemnifies the Landlord against all claims, costs and expenses for which the Landlord is liable in relation to any death, personal injury or property damage caused by any act or failure to act of the Tenant or because of the Tenant's use of the Premises and the Centre.
- (b) The Tenant indemnifies the Landlord against all loss or damage caused by the Tenant including, but not limited to, the Tenant's use or misuse of the Premises and the Centre or of the Landlord's Equipment or by the Tenant's failure to notify the Landlord of any major or continuing defect in the Premises or in any of the Landlord's Equipment in or servicing the Premises and the Centre.

8.7. Termination and Abatement on Damage

- (a) If the Premises or Centre are damaged so that the Premises are inaccessible or unable to be used and the Landlord notifies the Tenant in writing that the Landlord considers repairing the damage impractical or undesirable, either the Landlord or the Tenant can terminate this Lease without compensation by giving not less than 7 days written notice to the other.
- (b) If the Premises or Centre are damaged so that the Premises are inaccessible or unable to be used and the Landlord fails to repair the damage within a reasonable time after written notice from the Tenant requesting the Landlord to do those repairs, the Tenant can terminate this Lease by giving not less than 7 days written notice to the Landlord.
- (c) If the Premises or Centre are damaged so that the Premises are inaccessible or unable to be used, no Rent or Outgoings will be payable by the Tenant until the Premises are made accessible or useable.
- (d) If the Premises are damaged and are still useable but the use of the Premises is diminished due to damage, the Rent and the Outgoings will abate according to the extent of the diminished use until the use of the Premises is no longer diminished.
- (e) Nothing in this clause 8.7 affects the Landlord's right to recover damages from the Tenant in respect of any damage or destruction referred to in this clause nor obliges the Landlord to restore or reinstate the Premises.

8.8. Increased Premiums

If the Tenant's acts or omissions cause any premium for insurances effected by the Landlord to increase, the Tenant will pay the amount of that increased premium to the Landlord within 14 days of demand.

9. ACCESS

9.1. Right to Enter to Inspect or Carry Out Works

- (a) The Landlord can enter the Premises at reasonable times after giving reasonable notice or at any time without notice in an emergency to:
 - (i) inspect the Premises;
 - (ii) do any works that the Landlord considers desirable;
 - (iii) collect data and to check or monitor the performance of the Premises;
 - (iv) exercise any of the Landlord's rights under this Lease; and
 - (v) repair the Premises where the Premises have been damaged.
- (b) The Landlord will give to the Tenant 2 Months prior written notice of any alteration to or refurbishment of the Centre to be carried out by the Landlord which is likely to adversely affect the Tenant's business. In emergencies reasonable notice only of any such alteration or refurbishment is required
- (c) In exercising the Landlord's right to enter the Premises and to do works:
 - (i) the Landlord and the Landlord's employees, agents and contractors will be entitled to enter the Premises with all necessary materials; and
 - (ii) the Landlord will use all reasonable endeavours to ensure that as little disruption as is practical is caused to the Tenant's use of the Premises.

9.2. Landlord's Signs and Inspections

- (a) The Landlord is entitled to attach 'For Sale' and 'For Lease' signs to the Centre, including to the outside of the Premises. 'For Lease' signs in relation to the Premises will only be attached during the 3 Months immediately preceding the Terminating Date.
- (b) The Tenant will not obscure the Landlord's signs.
- (c) The Tenant will allow all Persons authorised in writing by the Landlord to inspect the Premises at reasonable times after reasonable notice from the Landlord.

9.3. Easements and Other Rights

- (a) The Landlord can transfer or create any easement, covenant, restriction, licence or other right or dedicate land in favour of any Person or in favour of any land near the Premises or in favour of any Authority for the purposes of access, support or services or such other purposes that the Landlord reasonably requires or which may be required by an Authority. This Lease is subject to any such easement, covenant, restriction, licence, other right or dedication.
- (b) The Landlord may release, cancel, modify or extinguish any easement, covenant, restriction licence or other right which benefits or burdens the Land.
- (c) Within 7 days of written request by the Landlord the Tenant will sign and return to the Landlord any consents or other documents necessary to enable the Landlord to carry out any activity referred to in clauses 9.3(a) and 9.3(b) and will make no objection or claim for compensation in relation to such activity.
- (d) The Landlord will not dedicate land or transfer, create, release, cancel, modify or extinguish any easement, covenant, restriction, licence or other right which would substantially and permanently lessen the Tenant's rights under this Lease.

9.4. Landlord's Reservations

The Landlord reserves the right:

- (a) to use the roof of the Premises;
- (b) to run substances through any pipes, ducts or wires passing through the Premises; and
- (c) to enter the Premises to exercise such rights.

9.5. Landlord's Repair Obligation

The Landlord agrees to use reasonable endeavours to ensure that the structure of the Premises and of the Centre is kept in good repair having regard to their condition at the earlier of the Commencing Date or the date that the Tenant first occupied the Premises except for:

- (a) fair wear and tear;
- (b) anything that the Tenant is required to do under this Lease; and
- (c) damage from any cause beyond the Landlord's reasonable control.

10. ASSIGNMENT AND SUB-LETTING

10.1. Restrictions on Assignment, Sub-Letting and Licensing

The Tenant will not assign this Lease without first obtaining the Landlord's written consent. The Landlord can withhold consent if:

- (a) the proposed assignee proposes to change the Permitted Use;
- (b) the proposed assignee has financial resources or retailing skills inferior to those of the Tenant;
or
- (c) the Tenant has not complied with the procedures set out in clause 10.2.

10.2. Procedures for Obtaining Consent to Assignment

If the Tenant wishes to assign this Lease:

- (a) the Tenant will in writing request the Landlord's consent to any proposed assignment and will provide the Landlord with such information as the Landlord requires about the financial standing and business experience of the proposed assignee and of the Tenant;
- (b) before requesting the consent of the Landlord to a proposed assignment of the Lease, the Tenant must furnish the proposed assignee with a copy of any Lessor's Disclosure Statement given to the Tenant in respect of this Lease, together with details of any changes that have occurred in respect of the information contained in that Lessor's Disclosure Statement since it was given to the Tenant (being changes of which the Tenant is aware or could reasonably be expected to be aware);
- (c) the Tenant can request the Landlord to provide the Tenant with a copy of the Lessor's Disclosure Statement. If the Landlord does not do so within 14 days after the Tenant's request, clause 10.2(b) will not apply to the proposed assignment;
- (d) if the Premises will be used by the proposed assignee for the continued operation of the Tenant's business the Tenant may provide the proposed assignee with an Assignor's Disclosure Statement. The Tenant may provide the Landlord with a copy of the Assignor's Disclosure Statement;
- (e) the Landlord will deal promptly with any request for consent. If the Tenant has complied with clauses 10.2(a) and 10.2(b) and the Landlord has not within 28 days after the Tenant's request given written notice to the Tenant either consenting or withholding consent, the Landlord will be regarded as having consented;
- (f) the New Tenant will provide to the Landlord such securities or guarantees of the New Tenant's obligations under this Lease as the Landlord requires including, but not limited to, a Bank Guarantee or Security Deposit;
- (g) the Tenant will ensure that any guarantors of the proposed assignee required by the Landlord enter into a deed in a form required by the Landlord; and
- (h) the Tenant will pay the Landlord's costs in connection with the proposed assignment.

10.3. Restrictions on Shares Dealings

- (a) If the Tenant is a corporation (other than a corporation whose shares are listed on the Australian Stock Exchange) then, unless the Tenant first complies with clause 10.3(b), the Tenant will not:
 - (i) register, record or enter in its books any transfer of any share in the capital of the Tenant;
 - (ii) deal with the beneficial interest in any such share;

(iii) issue any new shares; or

(iv) take any other action,

which would have the effect that the shareholders of the Tenant at the Commencing Date would, after such action, beneficially hold or control less than 51% of the voting rights or of the income or capital participation rights in the Tenant or less than 51% of the voting rights at a meeting of directors of the Tenant.

(b) The requirements referred to in clause 10.3(a) are that the Tenant:

(i) gives to the Landlord not less than 1 Month written notice of its intention;

(ii) is not in default under this Lease unless either the Landlord has waived the default or the default has been remedied by the Tenant;

(iii) proves to the Landlord's satisfaction that the Persons to whom the Tenant proposes to transfer or issue such shares or in whom the Tenant proposes to vest such other rights are each respectable, responsible and solvent;

(iv) ensures that the Persons referred to in clause 10.3(b)(iii) provide to the Landlord such guarantees of the Tenant's obligations under this Lease as the Landlord requires; and

(v) pays the Landlord's costs.

10.4. Restrictions on Units Dealings

(a) If the Tenant is the trustee of a unit trust (unless the unit trust is listed on the Australian Stock Exchange) then, unless the Tenant first complies with clause 10.4(b), the Tenant will not:

(i) register, record or enter in its books any transfer of any unit or units in the Unit Trust or the holding trust;

(ii) deal with the beneficial interest in any such unit or units;

(iii) issue any new unit or units; or

(iv) take any other action, take or attempt to take any action having the effect of:

(A) effectively altering the control of the unit trust; or

(B) the unitholders in the unit trust at the date of this Lease at any time ceasing to beneficially hold or control at least 51% of the units in the unit trust.

(b) The requirements referred to in clause 10.4(a) are that the Tenant:

(i) gives to the Landlord not less than 1 Month written notice of its intention;

(ii) is not in default under this Lease unless either the Landlord has waived the default or the default has been remedied by the Tenant;

(iii) proves to the Landlord's satisfaction that the Persons to whom the Tenant proposes to transfer or issue such units or in whom the Tenant proposes to vest such other rights are each respectable, responsible and solvent;

(iv) ensures that the Persons referred to in clause 10.4(b)(iii) provide to the Landlord such guarantees of the Tenant's obligations under this Lease as the Landlord requires; and

(v) pays the Landlord's costs.

10.5. Restrictions on Sub-Letting, Mortgaging, Etc

- (a) The Tenant will not sub-let or part with possession or grant any licence or concession affecting the Premises.
- (b) The Tenant will not mortgage or charge the Tenant's interest in the Premises.

11. LANDLORD'S OBLIGATIONS

11.1. Quiet Enjoyment

Unless provided to the contrary in this Lease, so long as the Tenant pays the Rent and the other moneys payable under this Lease when due and performs the Tenant's obligations under this Lease, the Tenant can occupy the Premises without interruption or disturbance from the Landlord.

11.2. Disturbance

- (a) The Landlord will not:
 - (i) inhibit the Tenant's access to the Premises in any substantial way;
 - (ii) take any action that substantially inhibits or alters the flow of customers to the Premises;
 - (iii) unreasonably take any action that causes significant disruption to or has a significant adverse affect on the Tenant trading in the Premises;
 - (iv) fail to take all reasonable steps to prevent or stop anything that causes significant disruption to or has a significant adverse affect on the Tenant trading in the Premises where such thing is within the Landlord's control;
 - (v) fail to rectify any breakdown of plant or equipment that the Landlord is required to maintain; or
 - (vi) fail to adequately clean, maintain or repair the Centre.
- (b) If the Landlord breaches clause 11.2(a) and does not rectify its breach as soon as reasonably practical after written request by the Tenant, the Landlord is liable to pay the Tenant reasonable compensation for any loss or damage (other than nominal damage) suffered by the Tenant as a consequence. The Tenant acknowledges that any claim for compensation is limited to matters not disclosed to the Tenant before this Lease was entered into.
- (c) In deciding whether the Landlord has acted reasonably for the purposes of clause 11.2(a), due consideration will be given to whether the Landlord acted in accordance with recognised shopping centre management practices.
- (d) Clauses 11.2(a) to 11.2(c) do not apply to any action taken by the Landlord as a reasonable response to an emergency or in compliance with any duty imposed under any legislation or resulting from a claim imposed by a public or local Authority under the authority of any legislation.

11.3. Management of the Centre and Maintenance of Common Areas

- (a) The Landlord will manage and operate the Centre and will pay the Outgoings.
- (b) The Landlord will maintain the Common Areas. The way the Common Areas are maintained is in the Landlord's discretion.

12. TENANT'S DEFAULT AND END OF LEASE

12.1. Re-entry on Default and Forfeiture

The Tenant will be in default under this Lease and the Landlord can lawfully re-enter the Premises if:

- (a) Rent is unpaid for 14 days after the due date;
- (b) any other monies are unpaid for 14 days after due;
- (c) any repairs required by a notice are not completed within the time required by such notice;
- (d) the Tenant fails to perform any other of the Tenant's obligations for 14 days after the Landlord gives the Tenant written notice of the Tenant's default;
- (e) the Tenant becomes insolvent when:
 - (i) they are (or state that they are) an insolvent under administration or insolvent (each as defined in the *Corporations Act 2001 (Cth)*);
 - (ii) they have a controller appointed, are in liquidation, in provisional liquidation, under administration or wound up or have had a receiver appointed to any part of their property;
 - (iii) execution or distress or any other process is levied or attempted or imposed against or over any of their undertaking, property or assets;
 - (iv) a compromise, arrangement, assignment, moratorium or composition is proposed with, or becomes effective in relation to, their creditors or any class of their creditors (in each case, other than to carry out a reconstruction or amalgamation while solvent);
 - (v) an application or order has been made (and, in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward or any other action taken, in each case in connection with them, which is preparatory to or could result in any of the things referred to above;
 - (vi) they are taken (under Section 459F of the *Corporations Act 2001 (Cth)*) to have failed to comply with a statutory demand;
 - (vii) they are the subject of an event described in Section 459C(2)(b) or Section 585 of the *Corporations Act 2001 (Cth)*;
 - (viii) they are a natural person, they commit an act of bankruptcy within the meaning of the *Bankruptcy Act 1966 (Cth)*;
 - (ix) they are otherwise unable to pay their debts as and when they fall due; or
 - (x) something having a substantial similar effect to any of the things referred to above happens in connection with them under any law.

12.2. Removal of Tenant's Goods

- (a) If the Tenant is not in default under this Lease the Tenant can during the last Month of the Tenant's occupation of the Premises remove the Tenant's Goods from the Centre so long as such removal is done under the supervision of and in accordance with the directions of the Landlord. The Tenant will make good any damage caused to the Premises and the Centre.
- (b) If the Tenant does not remove the Tenant's Goods as provided under clause 12.2(a) and the Landlord requires the Tenant to remove the Tenant's Goods, the Tenant will remove the Tenant's Goods prior to the expiry of the last Month of the Tenant's occupation of the Premises so long

as such removal is done under the supervision of and in accordance with the directions of the Landlord. The Tenant will make good any damage caused to the Premises and the Centre.

- (c) If the Tenant does not remove the Tenant's Goods as provided under clauses 12.2(a) and 12.2(b) the Landlord may:
 - (i) keep, remove, sell or otherwise dispose of the Tenant's Goods at the Tenant's risk and cost; and
 - (ii) treat any of the Tenant's Goods as if they were the Landlord's property and deal with them in any way (including by sale) without being liable to account to the Tenant.
- (d) The Tenant indemnifies the Landlord in relation to the removal and storage of the Tenant's Goods and in relation to claims by any Person of an interest in the Tenant's Goods.
- (e) Despite anything to the contrary in this Lease, this Lease will be deemed to continue until such time as the Tenant's Goods are removed from the Premises.

12.3. Delivering Up In Good Repair

- (a) Unless the Landlord notifies the Tenant in writing before the expiry or earlier termination of this Lease that the Tenant is not required to comply with any of its obligations under this clause 12.3(a), at the expiry or earlier termination of this Lease the Tenant will give vacant possession of the Premises to the Landlord with the Premises in the state of repair required under this Lease including, but not limited to, the following:
 - (i) the Premises being painted and treated as required under clause 7.3;
 - (ii) the Premises being in the state of repair required under clause 7.1;
 - (iii) the Tenant's Goods being removed from the Premises as required under clause 12.2;
 - (iv) any fitting out in the Premises carried out by, for or at the cost of the Landlord on behalf of or at the request of the Tenant being removed from the Premises and any consequential damage made good;
 - (v) the Premises Services being returned to the configuration they were in before the Tenant first occupied the Premises;
 - (vi) all cables, wires, ducting and pipes installed by or on behalf of the Tenant being removed from the Premises and terminated at the source;
 - (vii) any part of the Premises structure in which holes have been made by or on behalf of the Tenant being made good; and
 - (viii) ensuring that the ceiling tiles and the ceiling support grid are in good repair.
- (b) Despite anything to the contrary in this Lease, this Lease will be deemed to continue until such time as the Tenant complies with all of its obligations under clause 12.3(a).

12.4. Holding Over

- (a) If the Landlord agrees to the Tenant remaining in the Premises after the expiry or earlier termination of this Lease, the Tenant will be a monthly tenant at a rent equal to one-twelfth of the Rent payable at the expiry or earlier termination of this Lease, payable monthly in advance and otherwise on the same terms as this Lease.
- (b) The monthly tenancy under clause 12.4(a) can be terminated at any time by either the Landlord or the Tenant giving the other 1 Month written notice, expiring on any day.

12.5. Essential Terms and Damages

- (a) The following are essential terms of this Lease:
 - (i) that the Tenant pay the Rent and any other money payable by the Tenant under this Lease no later than 14 days after their due dates;
 - (ii) clause 6.1(a); and
 - (iii) clause 10.1.
- (b) The Tenant will compensate the Landlord for any loss or damage suffered by the Landlord because of the Tenant's breach of an essential term of this Lease.
- (c) The Landlord can recover damages from the Tenant for any loss or damage suffered by the Landlord because of the repudiation or breach of this Lease during the entire Term, including both before and after any of the events listed below:
 - (i) the Tenant vacating the Premises;
 - (ii) the Landlord accepting the Tenant's repudiation of this Lease;
 - (iii) the Landlord lawfully re-entering the Premises or terminating this Lease; and
 - (iv) this Lease being surrendered by operation of law because of the Tenant's and the Landlord's conduct.
- (d) If the Tenant (whether with or without the Landlord's consent) vacates the Premises, the Landlord will take reasonable steps to mitigate the Landlord's damages and will try to lease the Premises at a rent and on terms satisfactory to the Landlord. The Landlord's entitlement to damages will be assessed on the basis that the Landlord has mitigated its damages.

12.6. INTENTIONALLY DELETED

13. GUARANTEE

13.1. Bank Guarantee

- (a) If an amount is stated in Item 18, this clause 13.1 applies to this Lease unless the Tenant pays a Security Deposit in accordance with clause 13.3 below.
- (b) Before the earlier of the Commencing Date and the date that the Tenant first occupies the Premises, the Tenant will deliver the Bank Guarantee to the Landlord.
- (c) If for any reason the Bank Guarantee held by the Landlord is for less than the amount stated in Item 18, the Tenant will within 7 Business Days of written notice from the Landlord, provide to the Landlord additional security by way of Bank Guarantee for such amount as is necessary to ensure that the Landlord holds a Bank Guarantee for not less than the amount stated in Item 18.
- (d) The Landlord is entitled to claim under the Bank Guarantee amounts equal to any monies due but unpaid by the Tenant to the Landlord under this Lease.
- (e) The Landlord will deliver the Bank Guarantee (or so much of the Bank Guarantee as is then held by the Landlord) to the Tenant not later than 14 days after the last to occur of:
 - (i) the Terminating Date of this Lease or, if applicable, the Terminating Date of the last of the Option Leases (whichever is the later);
 - (ii) the expiry date of any holding over under this Lease or, if applicable, under the Option Lease (whichever is the later); and

- (iii) the date that the Tenant complies with all the Tenant's obligations under this Lease or, if applicable, the date that the Tenant complies with all the Tenant's obligations under the last of the Option Leases (whichever is the later).
- (f) If the identity of the Landlord changes the Tenant will do all things necessary to ensure a replacement Bank Guarantee issues in favour of the then Landlord no later than 14 days after written request from the Landlord.

13.2. Guarantee and Indemnity

- (a) The expression *this Lease* in this clause includes the Option Leases.
- (b) In consideration of the Landlord granting this Lease to the Tenant at the Guarantor's request, the Guarantor (as shown by the Guarantor signing this Lease) guarantees to the Landlord the punctual payment of all Rent and of the Tenant's Proportion of Outgoings and the punctual observance by the Tenant of all the Tenant's obligations under this Lease.
- (c) The Guarantor unconditionally indemnifies the Landlord in respect of any failure by the Tenant to make any payment or to perform any obligation under this Lease.
- (d) The Landlord and the Guarantor agree that this guarantee and indemnity is a continuing guarantee and indemnity which is absolute and unconditional in all circumstances and will remain in force until all the Tenant's obligations under this Lease are performed.
- (e) The Landlord and the Guarantor agree that this guarantee and indemnity will not be discharged by the payment of any monies on account or by any concession given to the Tenant or to the Guarantor or to any other Person or by any compounding, compromise, release, abandonment, waiver, variation, relinquishment or renewal of any of the Landlord's rights against the Tenant or the Guarantor or any other Person or by the Landlord's failure to enforce any such rights or by any other thing whatsoever which but for this clause might abrogate, prejudice or affect this guarantee and indemnity or by any variation or addition to this Lease.
- (f) The Landlord and the Guarantor agree that this guarantee and indemnity is in addition to any other rights which the Landlord has under this Lease and can be enforced against the Guarantor without the Landlord first having recourse to any other rights and without the Landlord first taking any action against the Tenant.
- (g) The Landlord and the Tenant agree that this guarantee and indemnity will not prejudicially affect or be prejudicially affected by any security held by the Landlord for any monies owing under this Lease and that such security will be collateral and the Guarantor will not, as against the Landlord, in any way claim the benefit or seek the transfer of any security.
- (h) The Guarantor warrants that the Guarantor has full power and authority to enter into this guarantee and indemnity and that the Guarantor's obligations under this guarantee and indemnity are in no way diminished, fettered or controlled by any deed or instrument including, but not limited to, any debenture trust deed relating to securities issued or given by the Guarantor.
- (i) The Landlord and the Guarantor agree that this guarantee and indemnity will not be affected by any assignment, sub-letting or parting with possession of the Premises by the Tenant.

13.3. Security Deposit

- (a) If an amount is stated in Item 24, clause 13.3 applies to this Lease unless the Tenant provides a Bank Guarantee in accordance with clause 13.1 above.
- (b) Before the earlier of the Commencing Date and the date that the Tenant first occupies the Premises, the Tenant will deliver the Security Deposit to the Landlord.

- (c) The Landlord must deposit the Security Deposit with the Director-General in accordance with the *Retail Lease Act*.
- (d) If for any reason the Security Deposit is for less than the amount stated in Item 24, the Tenant will within 7 Business Days of written notice from the Landlord provide to the Landlord additional security by way of Security Deposit for such amount as is necessary to ensure that the Security Deposit is for not less than the amount stated in Item 24.
- (e) The Landlord is entitled to claim from the Security Deposit an amount equal to any monies due but unpaid by the Tenant to the Landlord under this Lease.
- (f) The Landlord will apply to the Director-General to pay the Security Deposit (or so much of the Security Deposit as is then held by the Director-General) to the Tenant after deduction of any amount due to the Landlord on the later of the following dates:
 - (i) whichever is the later of the Terminating Date of this Lease or, if applicable, the terminating date of the last of the Option Leases; and
 - (ii) whichever is the later of the date that the Tenant complies with all the Tenant's obligations under this Lease or, if applicable, the date that the Tenant complies with all the Tenant's obligations under the last of the Option Leases.

14. **PERSONAL PROPERTY SECURITIES ACT 2009 (CTH)**

- 14.1. The Tenant must notify the Landlord on or before the Commencement Date if the Tenant's Goods or any other personal property of the Tenant relevant to this Lease is subject to a Security Interest.
- 14.2. The Tenant agrees not to create a Security Interest in favour of a third party in respect of the Tenant's Goods or any other personal property of the Tenant relevant to this Lease except with the prior written consent of the Landlord, such consent not to be unreasonably withheld.
- 14.3. The Tenant:
 - (a) acknowledges that the grant of this Lease also constitutes the grant of a Security Interest in the Landlord PPS Items in favour of the Landlord, which interest the Landlord is entitled to register under the *PPS Act*;
 - (b) must do all things required by the Landlord from time to time (including, without limitation, signing any documents required by the Landlord) to enable the Landlord to register its above Security Interests under the *PPS Act*;
 - (c) warrants that it has not created a Security Interest in respect of any Landlord PPS Items on or prior to execution of this Lease; and
 - (d) must indemnify the Landlord against all claims, damages or loss incurred by the Landlord as a consequence of any breach by the Tenant of this clause.

15. **GENERAL**

15.1. **Change of Operating Hours of the Centre**

If the Landlord gets the written consent of a majority of the tenants of retail shop premises in the Centre, the Landlord can from time to time by giving 1 Month written notice to the Tenant change the Operating Hours of the Centre specified in Item 19 to such other hours as the Landlord reasonably requires.

15.2. **Tenant Contact**

The Tenant will ensure that the Landlord has the home address and telephone number of a 24 hour contact for the Tenant.

15.3. Notices

- (a) Any notice or other document to be given by the Landlord will be validly signed if signed by any managing agent, property manager, director, secretary, attorney or solicitor of the Landlord or by any Person nominated by the Landlord.
- (b) Any notice or document to be given under this Lease can be given:
 - (i) in any manner authorised by Section 170 of the *Conveyancing Act 1919*;
 - (ii) by being left at or posted to:
 - (A) an address shown in this Lease;
 - (B) in the case of a corporation, at its registered office;
 - (C) in the case of the Tenant, at the Premises; or
 - (iii) by fax.
- (c) A notice or document will be regarded as having been received:
 - (i) in the case of posting, 2 Business Days after it is placed in the post; or
 - (ii) in the case of a fax, when the machine sending the fax generates a report showing the total number of pages of the fax were successfully sent to the fax number of the addressee.
- (d) If any notice is received by a party after 5pm on any Business Day, the notice will be deemed to have been received on the next Business Day.

15.4. Landlord's Consents and Costs

Unless provided to the contrary in this Lease where:

- (a) the Landlord is required to exercise a discretion, the Landlord will exercise its discretion reasonably;
- (b) the Tenant is to pay the Landlord's costs, the Landlord will act reasonably in incurring such costs; and
- (c) the Landlord's consent or approval is required, such consent or approval will not be unreasonably withheld.

15.5. Landlord's approvals

- (a) The Tenant acknowledges that the Landlord, when giving approval in connection with this Deed or proposed work, has no objection to the act, matter or thing the subject of the approval.
- (b) Without limiting clause 15.5(a), neither the Landlord nor the Landlord's consultant, in giving approval or imposing a condition in connection with approval, assumes any duty of care to the Tenant or makes any warranty or representation in connection with the proposed work or the act, matter or thing the subject of the approval including any warranty as to suitability or fitness for intended purpose of any plans, drawings, specifications, materials, contractors, suppliers, construction methods or sequence of work or otherwise.

15.6. Relationship between the Parties

The only relationship between the parties to this Lease is that of Landlord and Tenant and the Guarantor on the terms of this Lease.

15.7. Miscellaneous

- (a) No waiver by the Landlord or the Tenant of any right under this Lease will be a waiver of any other right.
- (b) No action taken by either the Landlord or by the Tenant under this Lease will limit their other rights and remedies.
- (c) Termination of this Lease will not affect the rights of either the Landlord or the Tenant accrued before termination.

15.8. Common Areas

- (a) The Tenant can use the Common Areas jointly with the Landlord and with other Persons for access to the Premises and for any other purposes which the Landlord in its absolute discretion allows.
- (b) The Landlord can vary the Common Areas, temporarily close the Common Areas and do such other acts on the Common Areas as the Landlord in its absolute discretion decides.

15.9. Suitability of Premises and Centre

The Landlord gives no warranty and makes no representation to the Tenant that the Premises are or will remain suitable for the Tenant's purposes nor about any other Tenants in the Centre or likely in the future to be in the Centre.

15.10. Rules and Regulations

The Tenant will comply with any rules and regulations that the Landlord makes from time to time in relation to the Centre to the extent that such rules and regulations are not inconsistent with the Tenant's rights under this Lease.

15.11. Measurements

- (a) Any measurements of either the Premises or the Centre will be made in accordance with the then current method of measurement of the Property Council for retail premises located in shopping centres.
- (b) The Tenant acknowledges that the Tenant's Percentage of Outgoings was calculated in accordance with the Property Council method of measurement that applied at the Commencing Date and that such percentage may vary if the areas on which such calculation was made change.

15.12. Deemed Rent

The Landlord and the Tenant agree that any money due by the Tenant under this Lease but unpaid are deemed to be rent for the purposes of this Lease.

15.13. Interruption of Services

Subject to any law to the contrary, the Landlord is not liable to the Tenant for any loss or damage suffered by the Tenant because the Landlord's Equipment fails to function.

15.14. Strata Conversion

- (a) The Tenant acknowledges that the Landlord is entitled at any time to carry out a Strata Conversion.
- (b) The Landlord will give the Tenant as much prior notice as is reasonably practical of the Strata Conversion.

- (c) Within 7 days of written request by the Landlord the Tenant will sign and return to the Landlord any consents or other documents necessary to enable the Landlord to carry out the Strata Conversion and will make no objection or claim for compensation in relation to the Strata Conversion.
- (d) If the Strata Conversion occurs:
 - (i) any reference in this Lease to the Estate will be deemed to be a reference to the buildings comprised in the registered plan or plans of which the Premises form part;
 - (ii) any levies or other monies payable to the owners corporation will be payable by the Tenant (excluding contributions to the Capital Works Fund or its equivalent and special levies relating to the Capital Works Fund);
 - (iii) the Rules and Regulations will be deemed to include any by-laws of the owners corporation; and
 - (iv) this Lease will be deemed to be amended in any respect that is necessary to ensure that this Lease reflects the fact that the Strata Conversion has been carried out.

16. DEFINITIONS AND INTERPRETATION

16.1. Definitions

Unless otherwise provided in this Lease, the following words have the following meanings:

- (a) *Accounting Year* means each 12 Month period during the Term ending on 30 June or on such other date as the Landlord chooses and gives written notice of to the Tenant;
- (b) *Assignor's Disclosure Statement* has the meaning given in the *Retail Leases Act*;
- (c) *Authority* means any government, semi-government, city, municipal, administrative, statutory or judicial body, instrumentality, department, agency or similar entity;
- (d) *Bank Guarantee* means an irrevocable bank guarantee in a form approved by the Landlord from a bank trading in New South Wales under which the bank agrees to pay to the Landlord on demand not less than the amount of Rent and of the Tenant's Proportion of Outgoings stated in Item 18 increased by the rate of GST (applicable from time to time) expressed as a percentage;
- (e) *Business Day* means a day that is not a Saturday, Sunday, public holiday or bank holiday in Sydney;
- (f) *Centre* means the land and buildings described in Item 4 together with all improvements in the Centre owned or controlled by the Landlord, the Landlord's Equipment and any extensions or alterations to the Centre and includes any part of the Centre;
- (g) *Centre Operating Hours* means the hours stated in Item 19 as varied, if applicable, under this Lease;
- (h) *Commencing Date* means the lease starting date stated in Item 6;
- (i) *Common Areas* means all those parts of the Centre available for use by the Tenant in common with others and includes any part of the Common Areas;
- (j) *CPI Rent Review Date* means each of the dates stated in Item 11;
- (k) *Demolition Date* means the date specified in the Demolition Notice as the date on which this Lease is terminated;

- (l) *Demolition Notice* means a written notice given by the Landlord to the Tenant:
 - (i) if the Term is more than 12 Months, giving the Tenant not less than 6 Months prior notice of a Demolition Proposal and requiring the Tenant to vacate the Premises on the Demolition Date; and
 - (ii) if the Term is 12 Months or less, giving the Tenant not less than 3 Months prior notice of a Demolition Proposal and requiring the Tenant to vacate the Premises on the Demolition Date;
- (m) *Demolition Proposal* means a genuine proposal by the Landlord to carry out within a reasonably practical time a substantial repair, renovation or reconstruction of the Centre which cannot be carried out without vacant possession of the Premises;
- (n) *Demolition Termination Notice* means a written notice given by the Tenant to the Landlord terminating this Lease by giving not less than 7 Business Days prior notice;
- (o) *Director-General* means the Director-General of the NSW Department of State and Regional Development;
- (p) *GST* has the meaning given in *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*;
- (q) *Guarantor* means the person described in Item 3 and includes:
 - (i) if the Guarantor is a natural person, the Guarantor's executors and administrators; and
 - (ii) if the Guarantor is a corporation, the Guarantor's successors in title;
- (r) *Item* means an Item in the Schedule;
- (s) *Landlord* and *Lessor* means the Person described in Item 1 and includes:
 - (i) if the Landlord is a natural person, the Landlord's executors, administrators and assigns; and
 - (ii) if the Landlord is a corporation, the Landlord's successors in title and assigns;
- (t) *Landlord PPS Items* means any item of Personal Property which:
 - (i) is owned or leased by the Landlord; and
 - (ii) is situated on the Premises at any time during the term of this Lease;
- (u) *Landlord's Equipment* means:
 - (i) all wires and cables, pipes drains and sewers, ducts, plant, machinery, fixtures fittings and equipment, kitchens, toilets, grease traps, wash basins, water gas and electrical fittings and equipment and other services-in or to the Premises or the Centre owned or controlled by the Landlord, except the Tenant's Goods;
 - (ii) all plant and machinery for circulating air and ventilating or air conditioning the Centre owned or controlled by the Landlord; and
 - (iii) all fire fighting, detection, prevention, warning and evacuation equipment in the Centre;
- (v) *Lease* means this Lease and includes any other tenancy which exists between the Landlord and the Tenant;
- (w) *Lessor's Disclosure Statement* has the meaning given in the *Retail Leases Act*;

- (x) *Market Rent Review Date* means each of the dates stated in Item 10;
- (y) *Marketing Levy* means an amount equal to that proportion of the Rent stated in Item 23;
- (z) *Marketing Report* means a report given by the Landlord to the Tenant detailing any expenditure by the Landlord on advertising, promotion or marketing of the Centre to which a contribution by the Tenant is required;
- (aa) *Month* means calendar month;
- (bb) *Nominator* means the president or other principal officer (acting or otherwise) for the time being of the New South Wales Division of the Australian Property Institute (Inc) or the president or other principal officer (acting or otherwise) for the time being of the Real Estate Institute (NSW);
- (cc) *Option Lease* means the Option Lease (if any) referred to in Item 8;
- (dd) *Option Leases* means the Option Lease and the Second Option Lease;
- (ee) *Outgoings* means the total of all the Landlord's costs and expenses paid or payable in relation to the Centre including, but not limited to, the following:
 - (i) all rates, taxes, charges and assessments of every kind assessed, charged or imposed on the Landlord or the Centre not including GST, income tax or capital gains tax. In the case of land tax (including any similar tax on land), this means the land tax assessed or charged because of the Landlord's interest in the Centre calculated on the basis that the Centre is the only land owned by the Landlord, that the Centre is not subject to a special trust within the meaning of the *Land Tax Management Act 1956* and that the Landlord is not a company classified under Section 29 of the *Land Tax Management Act 1956*;
 - (ii) the cost of providing and maintaining services to the Centre including light, power, air-conditioning, ventilation, lifts, escalators, security, supervision, waste removal and the cleaning and lighting of the Common Areas;
 - (iii) the cost of operating, repairing and maintaining the Centre and the Landlord's Equipment (but not including structural or capital works);
 - (iv) the cost of the management, control and administration of the Centre including wages, on costs and consultancy fees;
 - (v) the cost of all premiums to insure the Centre in its full insurable replacement value including demolition and debris removal with an escalation provision, broker's fees and duty, valuations required for insurance purposes, loss of rent insurance and such other insurances as the Landlord requires;
 - (vi) the cost of supplying towels, soap, sanitary units and other facilities in the washrooms and toilets of the Centre;
 - (vii) the cost of statutory inspections and reports;
 - (viii) the cost of purchasing, hiring, maintaining and servicing all plants and flowers, gardens, lawns, planted areas and artificial water courses;
 - (ix) the cost of pest control;
 - (x) the cost of Outgoings and Marketing Report audits; and
 - (xi) any payments in relation to car spaces in the Centre under the *Taxation Administration Act 1996* or of any other levy, charge or fee imposed by any competent Authority in relation to such car spaces or the use of such car spaces;

- (ff) *Outgoings Estimate* means a written estimate given by the Landlord to the Tenant in accordance with the *Retail Leases Act* of the Tenant's Proportion of Outgoings for any period up to 1 year in advance;
- (gg) *Outgoings Report* means a report given by the Landlord to the Tenant detailing all expenditure by the Landlord on Outgoings for the preceding Accounting Year;
- (hh) *Percentage Rent Review Dates* means each of the dates stated in Item 12;
- (ii) *Permitted Use* means the use specified in Item 16;
- (jj) *Person* includes natural persons and incorporated and unincorporated associations;
- (kk) *Personal Property* has the meaning given in the *PPS Act*;
- (ll) *PPS Act* means the *Personal Property Securities Act 2009 (Cth)*;
- (mm) *Premises* means the Premises described in Item 5 and any of the Landlord's Equipment located within or servicing the Premises and includes any part of the Premises;
- (nn) *Premises Services* means any services and facilities provided or installed by or for the Landlord in the Premises or for the benefit of the Premises in any false floor of the Premises or in any ceiling cavity or structural walls adjoining the Premises including but, not limited to, air-conditioning thermostats, ducts and outlets, fire sprinkler heads and piping, security and fire alarm equipment, lighting, central electrical switching arrangements, emergency lighting and exit signs;
- (oo) *Principal Contractor* has the same meaning as in the WH&S Regulation;
- (pp) *Property Council* means the Property Council of Australia Limited (ABN 13 008 474 422) trading as Property Council of Australia;
- (qq) *Refurbishment Proposal* means a genuine proposal by the Landlord to carry out within a reasonably practical time a refurbishment, redevelopment or extension of the Centre which cannot practically be carried out without vacant possession of the Premises;
- (rr) *Relocation Date* means the date specified in the Relocation Notice as the date on which the Tenant is to give vacant possession of the Premises to the Landlord;
- (ss) *Relocation Notice* means a written notice given by the Landlord to the Tenant:
 - (i) specifying the Relocation Date, being a date not less than 3 Months after the Landlord gives the Relocation Notice;
 - (ii) giving details of the Refurbishment Proposal and of the Substituted Premises;
 - (iii) requiring the Tenant to surrender this Lease and to give vacant possession of the Premises to the Landlord on the Relocation Date; and
 - (iv) requiring the Tenant to relocate to the Substituted Premises on the day after the Relocation Date;
- (tt) *Relocation Termination Notice* means a written notice given by the Tenant to the Landlord terminating this Lease as at that date which is 3 Months after the date that the Landlord gives the Relocation Notice to the Tenant;
- (uu) *Rent* means the amounts payable under clause 5.1;
- (vv) *Rent Agreement Period* means the period of 14 days during which the Landlord and the Tenant will try to agree on the annual current market rent to apply from a Market Rent Review Date;

KT

- (ww) *Rent Review Notice* means a written notice given by the Landlord to the Tenant of the Landlord's assessment of the annual current market rent to apply as the Rent from a Market Rent Review Date;
- (xx) *Retail Leases Act* means the *Retail Leases Act 1994*;
- (yy) *Schedule* means the Schedule in Annexure A to this Lease;
- (zz) *Second Option Lease* means the lease for a further term referred to in Item 9;
- (aaa) *Security Deposit* means a sum of cash of an amount not less than the amount of Rent and of the Tenant's Proportion of Outgoings stated in Item 24 increased by the rate of GST (applicable from time to time) expressed as a percentage as provided in clause 13.3;
- (bbb) *Security Interest* has the meaning given in the *PPS Act*;
- (ccc) *Specialist Retail Valuer* has the same meaning as that term has in the *Retail Leases Act*;
- (ddd) *Substituted Premises* means those alternative premises in the Centre referred to in the Relocation Notice;
- (eee) *Substituted Premises Lease* means the lease of the Substituted Premises;
- (fff) *Tenant and Lessee* means the Person described in Item 2 and includes:
 - (i) if the Tenant is a natural person, the Tenant's executors, administrators and permitted assigns;
 - (ii) if the Tenant is a corporation, the Tenant's successors in title and permitted assigns;
 - (iii) unless contrary to the context, the Tenant's employees; and
 - (iv) unless contrary to the context, the Tenant's licensees, subtenants, contractors, agents, customers and visitors at any time in the Centre;
- (ggg) *Tenant's Goods* means all the Tenant's fixtures, fittings and goods in the Premises and includes any fixtures, fittings and goods of a previous occupier of the Premises but does not include any fixtures, fittings or goods in the Premises to replace the Landlord's Equipment;
- (hhh) *Tenant's Proportion of Outgoings* is the proportion of the Outgoings payable by the Tenant which, as at the date that the Tenant first occupied the Premises, is the proportion stated in Item 14;
- (iii) *Tenant's Sales* means the gross amount received or receivable whether as cash or otherwise by the Tenant from the sale of goods, hirings or the provision of services at or associated with the Tenant's business at the Premises;
- (jjj) *Term* means the term of this Lease as stated in Item 6;
- (kkk) *Terminating Date* means the lease ending date stated in Item 6;
- (lll) *Tribunal* has the meaning given in the *Retail Leases Act*;
- (mmm) *Turnover Rent* means an amount equal to that percentage of the Tenant's Sales stated in Item 22 that exceed the Turnover Rent Base Figure stated in Item 21;
- (nnn) *WH&S Laws* means the laws relating to work health and safety that apply to the Premises and the use of it and includes the *WH&S Regulation*; and

(ooo) *WH&S Regulation* means the *Work Health and Safety Regulation 2011 (NSW)*.

16.2. Interpretation

Unless otherwise provided in this Lease:

- (a) all covenants or obligations in this Lease are to be regarded as separate and independent covenants made by 1 party to this Lease in favour of the other parties;
- (b) the law of New South Wales and the jurisdiction of the New South Wales Courts and of the High Court and Federal Court of Australia apply to this Lease;
- (c) the Landlord and the Tenant agree that nothing will be implied by this Lease or will arise between the Landlord and the Tenant (whether by other agreement or because of any promise, representation, warranty or undertaking given by or for the Landlord or the Tenant);
- (d) reference to any body (including, but not limited to, any institute, association, Authority or government agency) which ceases to exist or whose powers or functions are transferred to any other body also includes the body which replaces it or which substantially takes over its powers and functions;
- (e) headings in this Lease do not form part of the content of this Lease and do not affect the meaning of this Lease;
- (f) Sections 84, 85 and 133B of the *Conveyancing Act 1919* do not apply to this Lease;
- (g) words importing the singular include the plural and vice versa and words importing a particular gender include every gender;
- (h) any agreement in this Lease by 2 or more Persons binds them jointly and each of them separately;
- (i) if any part of this Lease is invalid, illegal or unenforceable, the remaining parts of this Lease will not be affected and will continue to be enforceable;
- (j) references to statutes, regulations, ordinances and by-laws include all statutes, regulations, ordinances and by-laws amending, consolidating or replacing them;
- (k) words and expressions that are not defined in this Lease but which have a defined meaning in the *PPS Act* have the same meaning as in the *PPS Act*;
- (l) a provision of this Lease must not be construed against a party only because that party was responsible for preparation of this Lease or the drafting of that provision; and
- (m) *including* and similar expressions are not words of limitation.

Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the corporation named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified:

Corporation: **KHUN & TAN ENTERPRISES PTY LTD** (127 166 655 385)
Authority: Section 127 of the Corporations Act 2001

Signature of authorised person:

Name of authorised person: [REDACTED]
Office held: Sole Director/Secretary

Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the corporation named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified:

Corporation: **KIANNDA PTY LTD** (127 120 265 000)
Authority: Section 127 of the Corporations Act 2001

Signature of authorised person:

Name of authorised person: [REDACTED]
Office held: Sole Director/Secretary

I certify I am an eligible witness and that the guarantor signed this dealing in my presence.

Certified correct for the purposes of the Real Property Act 1900 by the guarantor.

Signature of witness: [Signature]

Signature of guarantor:

Name of witness: Emily White
Address of witness: 584 Pacific Hwy
Belmont NSW 2280

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Lodger Details	
Lodger Code	501424
Name	HPL LAW GROUP
Address	PO BOX 246 BELROSE 2085
Lodger Box	1W
Email	RITA@HPL.COM.AU
Reference	AM:EF:210106

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LEASE	
Jurisdiction	NEW SOUTH WALES

Privacy Collection Statement
PRIVACY NOTE: Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

Land Title Reference 1/319436	Land Extent PART OF THE LAND
Part Land Description PART 1/319436 & 2/319436 BEING SHOP 4, 600 PACIFIC HIGHWAY, BELMONT AS SHOWN ON THE PLAN ATTACHED HERETO AND MARKED "B"	
Land Title Reference 2/319436	Land Extent PART OF THE LAND
Part Land Description PART 1/319436 & 2/319436 BEING SHOP 4, 600 PACIFIC HIGHWAY, BELMONT AS SHOWN ON THE PLAN ATTACHED HERETO AND MARKED "B"	

Lessor	
Name	KHUN & TAN ENTERPRISES PTY LTD
ACN	
Lessee	
Name	CASSOWARY CAFE PTY LTD
ACN	
Tenancy (inc. share)	SOLE PROPRIETOR

The lessor leases to the lessee the property referred to above.

Lease Details	
Term	3 YEARS
Commencing Date	12/02/2021
Terminating Date	11/02/2024
Option to Renew	YES
Option to Renew Period	3 YEARS
Option to Purchase	NO
Rent Details	
Amount	28599.96
Payment Frequency	Year
Payment Terms	\$28,599.96 per year including GST
Rent Description	\$28,599.96 per year including GST
Conditions and Provisions	
See attached CONDITIONS AND PROVISIONS	

THE SUBSCRIBER VERIFIES THAT THE ATTACHED LEASE HAS BEEN SIGNED BY OR ON BEHALF OF A PERSON PURPORTING TO BE THE LESSEE.

THE LESSOR DECLARES, TO THE BEST KNOWLEDGE OF THE SUBSCRIBER, THAT REGISTRATION OF THE LEASE IS NOT PRECLUDED BY ANY OPTION OF RENEWAL/PURCHASE IN A REGISTERED LEASE.

Lessor Execution

The Certifier has taken reasonable steps to verify the identity of the lessor or his, her or its administrator or attorney.

The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.

The Certifier has retained the evidence supporting this Registry Instrument or Document.

The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Executed on behalf of	KHUN & TAN ENTERPRISES PTY LTD
Signer Name	TONY METE
Signer Organisation	HPL LAWYERS PTY LTD
Signer Role	PRACTITIONER CERTIFIER
Execution Date	10/08/2021

Form: 07L
Release: 4.5

LEASE
New South Wales
Real Property Act 1900

Leave this space clear. Affix additional
pages to the top left-hand corner.

PRIVACY NOTE: Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

STAMP DUTY

Revenue NSW use only

(A) TORRENS TITLE

Property leased PART 1/319436 & 2/319436 BEING SHOP 4, 600 PACIFIC HIGHWAY, BELMONT as shown on the Plan attached hereto and marked "B"

(B) LODGED BY

Document Collection Box	Name, Address or DX, Telephone, and Customer Account Number if any HPL LAW GROUP 21/22 Darley Road Manly NSW 2095 Reference: ATM:SD:210106	CODE L
-------------------------------	--	---------------

(C) LESSOR

KHUN & TAN ENTERPRISES PTY LTD ()

The lessor leases to the lessee the property referred to above.

(D)

Encumbrances (if applicable):

(E) LESSEE

CASSOWARY CAFE PTY LTD ()
TENANCY:

(G) 1. TERM THREE (3) YEARS

2. COMMENCING DATE 12 FEBRUARY 2021

3. TERMINATING DATE 11 FEBRUARY 2024

4. With an OPTION TO RENEW for a period of THREE (3) YEARS

set out in clause 4 of ANNEXURE 'A'

5. With an OPTION TO PURCHASE set out in clause N.A. of N.A.

6. Together with and reserving the RIGHTS set out in clause N.A. of N.A.

7. Incorporates the provisions or additional material set out in ANNEXURE(S) 'A' hereto.

8. Incorporates the provisions set out in N.A.

No. N.A.

9. The RENT is set out in item No. 7 of ANNEXURE 'A'

DATE 12 February 2021

- (H) Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the company named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified.

Company: KHUN & TAN ENTERPRISES PTY LTD ()
Authority: section 127 of the Corporations Act 2001

Signature of authorised person: Same

Name of authorised person: ()
Office held: ~~Not~~ Director/Secretary

Signature of authorised person: G. Shihung

Name of authorised person: ()
Office held: Director

Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the company named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified.

Company: CASSOWARY CAFE PTY LTD ()
Authority: section 127 of the Corporations Act 2001

Signature of authorised person:

Name of authorised person: ()
Office held: Director

Signature of authorised person: S. L. L. L.

Name of authorised person: ()
Office held: Director

(I) STATUTORY DECLARATION*

I

solemnly and sincerely declare that—

1. The time for the exercise of option to in expired lease No. has ended; and
2. The lessee under that lease has not exercised the option.

I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act 1900.

Made and subscribed at in the State of New South Wales on
in the presence of of

☐ Justice of the Peace (J.P. Number:) ☐ Practising Solicitor
☐ Other qualified witness [specify]

who certifies the following matters concerning the making of this statutory declaration by the person who made it:

1. I saw the face of the person OR I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering; and
2. I have known the person for at least 12 months OR I have confirmed the person's identity using an identification document and the document I relied on was a [Omit ID No.]

Signature of witness:

Signature of applicant:

* As the services of a qualified witness cannot be provided at lodgment, the declaration should be signed and witnessed prior to lodgment. # If made outside NSW, cross out the witness certification. If made in NSW, cross out the text which does not apply.

ANNEXURE A TO THE LEASE

LANDLORD: KHUN & TAN ENTERPRISES PTY LTD (ACN 166 675 387)
TENANT: CASSOWARY CAFÉ PTY LTD (ACN 646 084 102)

Annexure A consists of this and the following pages

SCHEDULE

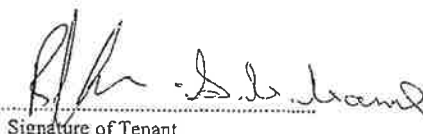
- Item 1 **Landlord**
Khun & Tan Enterprises Pty Ltd (ACN 166 675 387) of care of Engage Property, 584 Pacific Highway, Belmont NSW 2280
- Item 2 **Tenant**
Cassowary Café Pty Ltd (ACN 646 084 102) of care of Engage Property, 584 Pacific Highway, Belmont NSW 2280
- Item 3 **Guarantors**
[Redacted]
- Item 4 **Centre and Land**
The Centre known as 'Top of the Town' on the land in Certificate of Title Folio Identifiers 1/319436 and 2/319436
- Item 5 **Premises**
Shop 4, 600 Pacific Highway, Belmont NSW 2280
- Item 6 **Term**
Three (3) years starting on 12 February 2021 and ending on 11 February 2024
- Item 7 **Initial Rent**
\$28,599.96 per year including GST
- Item 8 **Option Lease**
Three (3) years starting on 12 February 2024 and ending on 11 February 2027
- Item 9 **Second Option Lease**
Not applicable
- Item 10 **Dates of Market Rent Reviews (including during any option leases)**
12 February 2024
- Item 11 **Dates of CPI Rent Reviews (including during any option leases)**
Not applicable
- Item 12 **Dates of Percentage Rent Reviews (including during any option leases)**
12 February 2022, 12 February 2023, 12 February 2025 and 12 February 2026
- Item 13 **Percentage for Percentage Rent Reviews**
3%



Signature of Landlord



Page 3 of 39



Signature of Tenant



Item 14	Tenant's Proportion of Outgoings 18.5%
Item 15	Interest Rate 8% per annum
Item 16	Permitted Use Cafe
Item 17	Initial Public Liability Insurance Amount \$20,000,000.00
Item 18	Bank Guarantee Amount \$12,147.04
Item 19	Operating Hours of the Centre Not applicable
Item 20	Rent Free Period One (1) month
Item 21	Turnover Rent Base Figure Not applicable
Item 22	Turnover Rent Percentage Figure Not applicable
Item 23	Marketing Levy Amount Not applicable
Item 24	Security Deposit Amount \$12,147.04
Item 25	Right of Lessor to Determine Term If at any time during the continuance of this Lease and after 12 February 2024, the Lessor wishes to renovate, rebuild, reconstruct, pull down or demolish the Building or the Demised Premises or any part of either, then the Lessor may give to the Lessee not less than six (6) month's notice in writing (the "Notice") to terminate this Lease and at the expiration of the time set out in the Notice this Lease shall terminate without prejudice to the rights and remedies of either party against the other in respect of any antecedent claim or breach of covenant.

RETAIL LEASES ACT ACKNOWLEDGMENTS

A. Lessor's Disclosure Statement

The Tenant acknowledges that it received the Lessor's Disclosure Statement not less than 7 days before this Lease was entered into.

1. FORM OF THIS LEASE

1.1. This Lease is a Deed.

1.2. This Lease consists of the front page of this Lease and Annexure A.

2. PARTIES

The parties to this Lease are the Landlord and the Tenant and the Guarantor.

3. PROPERTY LEASED

The Landlord leases the Premises to the Tenant for the Term on the conditions in this Lease.

4. LEASE PERIOD

4.1. Term of this Lease

This Lease is for the Term starting and ending on the dates stated in Item 6.

4.2. Option Lease

If Item 8 refers to a lease for a further term and the Tenant wishes to take up the Option Lease and strictly follows the procedures set out in clause 4.3, the Landlord will lease the Premises to the Tenant on the conditions set out in clause 4.4.

4.3. Option Procedure for Option Lease

(a) If the Tenant wishes to take up the Option Lease, the Tenant must:

- (i) give written notice to the Landlord not more than 6 Months and not less than 3 Months before the Terminating Date of this Lease;
- (ii) not be in default under this Lease unless either the Landlord has waived the default or the default has been remedied by the Tenant;
- (iii) ensure that the Guarantor enters into the OptionLeases as guarantor; and
- (iv) ensure that any Bank Guarantee under this Lease is applied to the Option Lease.

(b) After the Landlord receives a notice under clause 4.3(a)(i), the Landlord will give to the Tenant a written statement updating the Lessor's Disclosure Statement.

4.4. Option Lease Conditions

The Option Lease will be on the same conditions as this Lease except that:

- (a) clauses 4.2 to 4.5 will not be included;
- (b) Item 8 will be deleted;
- (c) any clause of this Lease which contains a provision excluding that clause from the Option Lease will not be included;

- (d) the commencing date will be the Option Lease commencing date;
- (e) the terminating date will be the Option Lease terminating date; and
- (f) the initial Rent payable during the Option Lease will be determined in accordance with this Lease.

4.5. Option Lease Market Rent Determination

- (a) If the commencing date of the Option Lease is a Market Rent Review Date and the Landlord and the Tenant have not agreed on the Rent to apply as at that date, the Tenant can request a determination of the annual current market rent at any time within the period beginning 6 Months before and ending 3 Months before the last date on which the option to enter into the Option Lease can be exercised by the Tenant.
- (b) If the Tenant requests a determination of the annual current market rent, the period referred to in clause 4.3(a)(i) will be extended so that the last day of the period is 21 days after written notice is given to the Tenant of the determination.
- (c) If the Term is 12 Months or less, the periods of 6 Months and 3 Months in clause 4.5(a) will instead be 3 Months and 30 days.

4.6. New Lease Offer

- (a) Unless there are either Option Leases or an Option Lease, no earlier than 12 Months before the Terminating Date and no later than 6 Months before the Terminating Date, the Landlord will by written notice to the Tenant either:
 - (i) offer the Tenant a new lease on the terms (including Rent) specified in the notice; or
 - (ii) inform the Tenant that the Landlord does not propose to offer the Tenant a new lease.
- (b) If the Term is 12 Months or less, the periods of 12 Months and 6 Months in clause 4.6(a) will instead be 6 Months and 3 Months.
- (c) The Landlord cannot withdraw an offer made under clause 4.6(a)(i) until 1 Month after the offer is made.
- (d) If the Landlord does not give a notice to the Tenant under clause 4.6(a) and the Tenant requests an extension by written notice given to the Landlord before the Terminating Date, the Term will be extended until 6 Months after the Landlord gives the notice required under clause 4.6(a).
- (e) During an extension of this Lease under this clause 4.6(d), the Tenant can terminate this Lease by giving not less than 1 Month written notice to the Landlord.

4.7. Intentionally Deleted

4.8. Intentionally Deleted

4.9. Intentionally Deleted

4.10. Intentionally Deleted

4.11. Relocation

- (a) If the Landlord has a Refurbishment Proposal then, despite anything to the contrary in this Lease, the Landlord can give a Relocation Notice to the Tenant.

- (b) Within 1 Month of the Landlord giving a Relocation Notice to the Tenant (time being of the essence) the Tenant can give a Relocation Termination Notice to the Landlord.
- (c) If the Tenant gives a Relocation Termination Notice under clause 4.11(b):
 - (i) no later than 1 Month before the Relocation Termination Date the Tenant will deliver to the Landlord a surrender of this Lease in registrable form, except for execution by the Landlord;
 - (ii) the Tenant will give vacant possession of the Premises to the Landlord on the Relocation Termination Date in the condition that would be required under this Lease if the Relocation Termination Date were the Terminating Date; and
 - (iii) this Lease will terminate on the Relocation Termination Date and neither the Landlord nor the Tenant will have any claim against the other as a consequence of the giving of either the Relocation Notice or the Relocation Termination Notice.
- (d) If the Tenant does not give a Relocation Termination Notice under clause 4.11(b):
 - (i) this Lease will terminate on the Relocation Date;
 - (ii) the Tenant will be regarded as having accepted the Landlord's offer to enter into the Substituted Premises Lease;
 - (iii) the Landlord will deliver the Substituted Premises Lease to the Tenant within 2 Months of the Landlord giving the Relocation Notice;
 - (iv) the Tenant and the Guarantor will sign and deliver the Substituted Premises Lease to the Landlord within 14 Business Days of receipt from the Landlord of the Substituted Premises Lease;
 - (v) the Tenant will do all things necessary before the Relocation Date to ensure that any Bank Guarantee or Security Deposit under this Lease is applied to the Substituted Premises Lease; and
 - (vi) the Landlord will pay the Tenant's reasonable costs of relocating from the Premises to the Substituted Premises including, but not limited to:
 - (A) the Tenant's reasonable legal costs of surrendering this Lease and of entering into the Substituted Premises Lease; and
 - (B) the Tenant's reasonable costs of dismantling and reinstalling the Tenant's Goods.
- (e) The Landlord and the Tenant agree that the Substituted Premises Lease will be on the same terms and conditions as this Lease except that:
 - (i) the Premises under the Substituted Premises Lease will be the Substituted Premises;
 - (ii) the Commencing Date of the Substituted Premises Lease will be the day after the Relocation Date;
 - (iii) the term of the Substituted Premises Lease will be equal balance of the Term calculated from the day after the Relocation Date; and
 - (iv) the Rent and the Tenant's Proportion of Outgoings payable under the Substituted Premises Lease will be calculated at the same rate per square metre of the Substituted Premises as the rate per square metre payable under this Lease.

4.12. Demolition

- (a) If the Landlord has a Demolition Proposal then, despite anything to the contrary in this Lease, the Landlord can give a Demolition Notice to the Tenant.
- (b) At any time after the Landlord gives a Demolition Notice to the Tenant but no later than 10 Business Days before the Demolition Date, the Tenant can give a Demolition Termination Notice to the Landlord.
- (c) If the Landlord gives a Demolition Notice or the Tenant gives a Demolition Termination Notice:
 - (i) no later than the earlier of the Demolition Date and the Demolition Termination Date, the Tenant will deliver to the Landlord a surrender of this Lease in registrable form, except for execution by the Landlord;
 - (ii) the Tenant will give vacant possession of the Premises to the Landlord on the earlier of the Demolition Date and the Demolition Termination Date in the condition that would be required under this Lease if such date were the Terminating Date;
 - (iii) this Lease will terminate on the earlier of the Demolition Date and the Demolition Termination Date and neither the Landlord nor the Tenant will have any claim against the other as a consequence of the giving of either the Demolition Notice or the Demolition Termination Notice;
- (d) If the Landlord gives a Demolition Notice or the Tenant gives a Demolition Termination Notice and demolition of the Centre is not carried out within a reasonably practicable time after the Demolition Date, the Landlord is liable to pay the Tenant reasonable compensation for damage suffered by the Tenant as a consequence of the early termination of this Lease, unless the Landlord establishes that at the time the Demolition Notice was given by the Landlord there was a genuine proposal to demolish the Centre within a reasonably practical time.
- (e) If the Landlord gives a Demolition Notice or the Tenant gives a Demolition Termination Notice and the Tenant has installed fixtures in the Premises the Landlord is liable to pay the Tenant compensation for the Tenant's fixtures, whether or not the Demolition Proposal is carried out.

5. PAYMENTS

5.1. Rates of Rent and Method of Payment

Rent is payable at the annual rate stated in Item 7 until varied under this Lease and is then payable at the varied rates. All payments must be made in full at the Landlord's address stated in Item 1 or at any other place notified in writing by the Landlord to the Tenant. If required by the Landlord, Rent must be paid by irrevocable automatic order on the Tenant's bank.

5.2. Instalments of Rent

The Tenant will pay Rent at the following rates:

- (a) if the Commencing Date is not the first day of a Month the first Rent payment will be calculated on a daily basis based on the number of days in the relevant Month;
- (b) by instalments monthly in advance on the first day of each full Month within the Term equal to one-twelfth of the annual Rent then payable; and
- (c) if the Terminating Date is not the last day of a Month, the last Rent payment will be calculated on a daily basis based on the number of days in the relevant Month.

5.3. Market Rent Reviews

- (a) On each Market Rent Review Date the annual Rent payable under this Lease will be varied to the annual current market rent agreed or determined under this clause 5.3.
- (b) In this Lease current market rent means the annual rent that would reasonably be expected to be paid for the Premises, determined on an effective rent basis:
 - (i) having regard to:
 - (A) the terms and conditions of this Lease;
 - (B) the rent concessions or other benefits that are frequently or generally offered to prospective tenants of unoccupied retail premises;
 - (C) the rent that would reasonably be expected to be paid for the Premises if the Premises were unoccupied and offered for renting for the same or a substantially similar use to the Permitted Use; and
 - (D) the Rent and Outgoings;
 - (ii) without having regard to:
 - (A) the value of the Tenant's Goods; or
 - (B) the Tenant's goodwill.
- (c) No earlier than 3 Months before a Market Rent Review Date, the Landlord will give the Rent Review Notice to the Tenant.
- (d) Unless the Tenant objects to the Rent Review Notice by giving written notice to the Landlord within 14 Business Days of the Tenant receiving the Rent Review Notice (time being of the essence), the annual current market rent payable from the Market Rent Review Date will be the amount in the Rent Review Notice.
- (e) If the Tenant objects to the Rent Review Notice by giving written notice to the Landlord within 14 Business Days of the Tenant receiving the Rent Review Notice (time being of the essence), the Rent Agreement Period will start. If the Landlord and the Tenant do not agree within the Rent Agreement Period (time being of the essence) on the annual current market rent to apply from the Market Rent Review Date clauses 5.3(f) to 5.3(o) will apply.
- (f) The Landlord and the Tenant will try to agree on a Specialist Retail Valuer to determine the annual current market rent to apply from the Market Rent Review Date. Failing agreement within 7 Business Days of the end of the Rent Agreement Period either the Landlord or the Tenant can apply to the Tribunal to nominate a Specialist Retail Valuer.
- (g) The Landlord and the Tenant can make written submissions to the Specialist Retail Valuer before the date on which the Specialist Retail Valuer is required to make the determination. The Specialist Retail Valuer is entitled to take into account any such written submissions when making the determination but is not obliged to do so.
- (h) The Specialist Retail Valuer in determining the amount of the rent must take into account the matters set out in clause 5.3(b)(i).
- (i) Within 14 days after a request by the Specialist Retail Valuer, the Landlord must supply the Specialist Retail Valuer with information reasonably available to the Landlord requested by the Specialist Retail Valuer to assist the Specialist Retail Valuer to determine the current market rent.

- (j) A Specialist Retail Valuer may apply to the Tribunal for an order that the Landlord comply with a request referred to in clause 5.3(i) to supply relevant information about leases for retail shops situated in the Centre.
- (k) The Specialist Retail Valuer will make a determination and will notify the Landlord and the Tenant of the Specialist Retail Valuer's determination within 1 Month after the Specialist Retail Valuer receives the information requested in clause 5.3(i). The Specialist Retail Valuer must give his or her valuation in writing and must give detailed reasons for the Specialist Retail Valuer's determination. The Specialist Retail Valuer must specify the matters to which the Specialist Retail Valuer has had regard in making the determination.
- (l) The Specialist Retail Valuer will act as an expert and not as an arbitrator.
- (m) Subject to Section 32A of the *Retail Leases Act*, the Specialist Retail Valuer's determination will be final and binding as between the Landlord and the Tenant.
- (n) Either the Landlord or the Tenant can request the Tribunal to appoint another Specialist Retail Valuer if the appointed Specialist Retail Valuer:
 - (i) fails to accept the appointment;
 - (ii) resigns the appointment;
 - (iii) becomes incapacitated or dies; or
 - (iv) fails to notify the Landlord and the Tenant of the determination within 1 Month after accepting the appointment.
- (o) The Landlord and the Tenant will each pay one half of the Specialist Retail Valuer's costs of making the determination.
- (p) If the Rent has not been agreed or determined by a Market Rent Review Date, the Tenant will pay the Landlord instalments of Rent on account equal to the Rent payable before that Market Rent Review Date. Within 14 days of the Rent being agreed or determined the Tenant will pay to the Landlord or the Landlord will credit to the Tenant any difference between the amount paid on account and the Rent as agreed or determined.

5.4. ~~CPI Rent Reviews~~

- (a) ~~On each CPI Rent Review Date the annual Rent payable under this Lease will be the amount determined under this clause 5.4.~~
- (b) ~~The annual Rent payable from the CPI Rent Review Date will be the amount calculated by applying the following formula:~~

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

where:

R ~~is the annual Rent to be payable from the CPI Rent Review Date;~~

A ~~is the Australian Statistician's Consumer Price Index (All Groups) figure for Sydney last published before the CPI Rent Review Date;~~

B ~~is the Australian Statistician's Consumer Price Index (All Groups) figure for Sydney last published before whichever is the later of the Commencing Date and the most recent date on which Rent was reviewed under this Lease; and~~

C ~~is the annual Rent payable immediately before the CPI Rent Review Date;~~

- ~~(c) If the Australian Statistician updates the reference base of the Consumer Price Index, the intended continuity of calculation will be preserved by applying the appropriate factor, as chosen by the Landlord, to such updated reference base.~~
- ~~(d) If the Consumer Price Index is discontinued or suspended:~~
 - ~~(i) the Landlord and the Tenant will try to agree within 14 Business Days after the CPI Rent Review Date on an alternative index which reflects fluctuations in the cost of living in Sydney;~~
 - ~~(ii) if the Landlord and the Tenant do not agree on an alternative index, the Landlord will request the Nominator to nominate an alternative index which reflects fluctuations in the cost of living in Sydney. The decision of the Nominator will be final and binding as between the Landlord and the Tenant. The Landlord and the Tenant will each pay one half of the Nominator's costs of making the determination.~~

5.5. Percentage Rent Reviews

On each Percentage Rent Review Date the annual Rent payable under this Lease will be the annual Rent payable immediately before the Percentage Review Date increased by the percentage stated in Item 13.

5.6. Centre Outgoings

- (a) In each Accounting Year the Tenant will pay the Tenant's Proportion of Outgoings.
- (b) At least 1 Month before the start of each Accounting Year the Landlord will give to the Tenant the Outgoings Estimate for the next Accounting Year.
- (c) The Tenant will pay the Outgoings Estimate by equal monthly instalments in advance on the same days and in the same manner as Rent.
- (d) Within 1 Month of the end of each Accounting Year the Landlord will give to the Tenant a written statement as required by the *Retail Leases Act* detailing all expenditure by the Landlord on the Outgoings for the preceding Accounting Year.
- (e) Within 3 Months of the end of each Accounting Year the Landlord will give the Outgoings Report to the Tenant. The Outgoings Report will:
 - (i) be prepared by a registered company auditor in accordance with accounting standards within the meaning of the *Corporations Act 2001*; and
 - (ii) include a statement by the auditor about whether the amounts paid by the Tenant for Outgoings were properly payable by the Tenant and whether the Outgoings Estimate for the relevant period exceeded the amount actually spent by the Landlord on the Outgoings.
- (f) If the Outgoings Report relates only to insurance, land tax, water sewerage and drainage rates and charges, local council rates and charges and strata levies and the Outgoings Report is accompanied by copies of receipts for all expenditure, the Landlord does not have to comply with either clause 5.6(e)(i) or clause 5.6(e)(ii).
- (g) Within 1 Month after the end of each Accounting Year an adjustment will be made of any underpayment or overpayment of the Outgoings. The adjustment is to be the difference between the Outgoings Estimate and the amount actually spent by the Landlord on the Outgoings during the relevant Accounting Year, taking into account only expenditure properly and reasonably incurred by the Landlord in payment of the Outgoings.
- (h) Despite anything to the contrary in this Lease, the Tenant is only liable to contribute to non-specific Outgoings referable to the Premises the amount calculated by multiplying the total

amount of that Outgoing by the ratio that the gross lettable area - retail of the Premises bears to the total gross lettable area - retail of all retail premises in the Centre to which that non-specific Outgoing is referable.

5.7. Interest on Arrears

The Tenant will pay to the Landlord interest on any Rent and on any other moneys due but unpaid for 14 days. Interest will be calculated at the rate stated in Item 15 as at the dates on which such moneys fall due to the date on which such moneys are received by the Landlord.

5.8. Duty and Landlord's Costs

- (a) The Tenant will pay the Landlord's costs, including legal costs as between solicitor and client, in relation to any amendment to the terms of this Lease that was requested by the Tenant and any transfer, surrender or termination of this Lease (including the cost of obtaining the consent of any Person whose consent is required) and in relation to any breach of this Lease by the Tenant.
- (b) The Tenant must pay the Landlord's costs and disbursements of lodging a financing statement in respect of any Security Interest arising under this Lease.
- (c) The Tenant will pay all duty when due and any registration fees when payable in relation to this Lease and in relation to anything done under this Lease.

5.9. Cost of Landlord Remedying Tenant Defaults

After giving reasonable notice to the Tenant, the Landlord can remedy any default by the Tenant under this Lease. The Tenant will pay on demand any costs that the Landlord incurs in doing so.

5.10. GST

- (a) The Rent and other moneys payable under this Lease by the Tenant have been calculated without regard to GST.
- (b) The Tenant must pay to the Landlord any amount which is payable by the Landlord for GST as a consequence of any supply made by the Landlord to the Tenant under this Lease, such payment on account of GST to be made by the Tenant at the same time as payment is made for the relevant supply.
- (c) If at any time an adjustment is made as between the Landlord and the relevant taxing Authority of an amount paid on account of GST on any supply made by the Landlord to the Tenant under this Lease, a corresponding adjustment must be made as between the Landlord and the Tenant and any payments required to give effect to the adjustment must be made.
- (d) No later than 14 days after the date of payment of any GST the Landlord must provide to the Tenant a tax invoice complying with any legislation under which GST is imposed.
- (e) The Tenant will pay on demand to the Landlord any interest or penalties incurred by the Landlord as a result of the Tenant's failure to make a payment under clause 5.10(b).
- (f) The amount of Outgoings will be calculated by applying the following formula:

$$(A - B) \times (1 + C)$$

where:

- A is the GST inclusive price of the component of Outgoings, being the amount paid by the Landlord;
- B is the GST input tax credit for which the Landlord is eligible on the component of Outgoings; and

C is the rate of GST expressed as a decimal.

5.11. Period Free of Rent

- (a) If an amount appears in Item 20 then, despite clauses 5.1 and 5.2, the Tenant is entitled the period free of Rent stated in Item 20 commencing on the Commencing Date.
- (b) Additionally, the Tenant is entitled to a period of one (1) month free of Outgoings commencing on the Commencing Date.
- (c) The Landlord and the Tenant agree that if this Lease is terminated before the Terminating Date because of the Tenant's default, the Tenant will immediately pay to the Landlord the two (2) months' Rent and one (1) month's Outgoings that the Tenant would have paid but for the benefit of this clause. The Tenant agrees that this is not a penalty but a genuine pre-estimate of the Landlord's loss arising from early termination.
- (d) This clause and Item 20 will not be included in the Option Lease.

5.12. INTENTIONALLY DELETED

5.13. Marketing Levy

- (a) In each Accounting Year the Tenant will pay the Marketing Levy by equal monthly instalments in advance on the same days and in the same manner as Rent.
- (b) The Landlord will apply the Marketing Levy to the Landlord's costs of advertising, marketing and promoting the Centre.
- (c) At least 1 Month before the start of each Accounting Year the Landlord will give to the Tenant a marketing plan detailing the Landlord's proposed expenditure on advertising, marketing and promoting the Centre during that Accounting Year to which a contribution by the Tenant is required.
- (d) Within 1 Month of the end of each 6 Month period of each Accounting Year the Landlord will give to the Tenant a written statement as required by the *Retail Leases Act* detailing all expenditure by the Landlord for the preceding 6 Month period on advertising, marketing and promotion costs to which a contribution by the Tenant is required.
- (e) Within 3 Months of the end of each Accounting Year the Landlord will give the Marketing Report to the Tenant. The Marketing Report will be prepared by a registered company auditor in accordance with accounting standards within the meaning of the *Corporations Act 2001*.
- (f) The Landlord and the Tenant agree that any of the Marketing Levy not spent in the Accounting Year in which the Marketing Levy was paid will be applied to the Landlord's future costs of advertising, marketing and promoting the Centre.

6. USE

6.1. Tenant's Use of the Premises

- (a) The Tenant will only use the Premises for the Permitted Use.
- (b) The Tenant will keep the Premises clean and tidy and arrange for the regular removal of any waste or rubbish from the Premises.
- (c) The Tenant will endeavour to keep the Premises and any property in the Premises safe from theft and will keep the Premises secure when the Premises are not in use.

- (d) The Tenant will not give any keys to the Premises to any other Person and will deliver all keys to the Landlord at the expiry or earlier termination of this Lease.
- (e) The Tenant will not keep any animal in the Premises and will keep the Premises free of all pests and vermin.
- (f) The Tenant will immediately notify the Landlord and the proper public authorities of any infectious illness in the Premises and thoroughly fumigate the Premises to the Landlord's satisfaction.
- (g) The Tenant will not use the Premises in an unsafe, noisy, offensive or unlawful manner.
- (h) The Tenant will not allow any article whatsoever to fall from the Premises and will not place any article on any ledge or other similar part of the Premises.
- (i) The Tenant will not mark or damage the Premises.
- (j) The Tenant will not obstruct any windows or lights in the Premises without the Landlord's prior consent.
- (k) The Tenant will not without the Landlord's prior consent put either on the outside of the Premises or on anywhere visible from the outside of the Premises any sign, advertisement or notice. Before the expiry or earlier termination of this Lease, the Tenant will remove any such sign, advertisement or notice and make good to the Landlord's satisfaction any damage.
- (l) The Tenant agrees that any blinds, awnings, window ventilators and other similar fittings installed by the Tenant and visible from outside the Premises must conform to the Landlord's requirements about design, quality and appearance.
- (m) The Tenant will not allow the floor of the Premises to be broken, strained or damaged by overloading.
- (n) The Tenant will not use the Landlord's Equipment for any purpose other than those for which they were supplied.
- (o) The Tenant will not do anything to affect the working or efficiency of any air conditioning equipment.
- (p) The Tenant will promptly notify the Landlord in writing of any defect in or need to repair the Premises or the Landlord's Equipment of which the Tenant is aware.
- (q) The Tenant will promptly notify the Landlord in writing of any circumstance of which the Tenant is aware which is likely to cause a danger or hazard to the Premises or to any Person in the Centre.
- (r) The Tenant will not store inflammable or dangerous substances in the Premises other than where reasonably required by the Tenant in connection with the Permitted Use but then only in such quantities and containers as are permitted by law and approved by the Landlord.
- (s) The Tenant will not do anything that would make any insurance policy taken out by the Landlord or the Tenant void or voidable or which would breach any laws or regulations.
- (t) The Tenant will only use light, power or heat generated by electric current or gas supplied through meters.
- (u) The Tenant will promptly pay all utility and service charges in relation to the Premises and, where appropriate, install any necessary meters.
- (v) The Tenant will keep any waste pipes and drains in or servicing the Premises free from blockages.

- (w) The Tenant will not do anything that might result in a statutory Authority issuing a notice in relation to the Premises or the Centre.
- (x) The Tenant will not sell any alcohol in the Premises without the Landlord's written consent.
- (y) The Tenant will not hold any auction, fire or bankruptcy sale in the Premises without the Landlord's written consent.
- (z) The Tenant will replace all non-operating light globes and light tubes.

6.2. Cleaning

- (a) The Tenant will clean the Premises at the Tenant's cost.
- (b) The Tenant acknowledges that the security concerns of the Landlord and of other tenants or occupiers of the Centre will be relevant matters to be considered by the Landlord when the Landlord is asked to approve any Person proposed by the Tenant to clean the Premises.
- (c) If the Landlord requests that a Person is not engaged to clean the Premises or that a Person who is a cleaner is not to be allowed access to the Centre or Premises, the Tenant must immediately comply with that request.
- (d) The Tenant will require the Tenant's cleaners to provide such personal information and identification and to comply with such security checks as the Landlord acting reasonably requires.

6.3. Trading and Stock

- (a) The Tenant will keep the Premises open for trading during the Centre Operating Hours.
- (b) The Tenant will keep current all licences and permits required for the use of the Premises by the Tenant.
- (c) The Tenant will keep the Premises adequately lit.
- (d) The Tenant will provide all necessary staff and stock to ensure that the Tenant's business is conducted in a proper and reputable manner in accordance with best practice.

6.4. Tenant's Use of the Centre

- (a) The Tenant will not do anything to obstruct the Common Areas or the Landlord's Equipment.
- (b) The Tenant will keep clean and free from rubbish those parts of the Common Areas and of any public footpath that immediately adjoin the Premises.
- (c) The Tenant will not burn any waste or rubbish in the Premises or on the Common Areas.
- (d) The Tenant will not cover any light, sky-light, window or other means of illuminating the Common Areas or the Centre.
- (e) The Tenant will not solicit business or distribute advertising material in the Common Areas.
- (f) The Tenant will not without the Landlord's consent put any antenna or similar equipment on the Common Areas.
- (g) The Tenant will not without the Landlord's consent use any loudspeaker or similar equipment likely to be seen or heard in the Common Areas.
- (h) The Tenant will not smoke in the Common Areas.

- (i) The Tenant will comply with the Landlord's requirements in relation to Centre security.
- (j) The Tenant will comply with the Landlord's requirements in relation to emergency evacuation procedures and fire drills.
- (k) The Tenant will not use any part of the Common Areas except the approved customer parking areas for parking vehicles except for pick-up or delivery of goods or Persons in the ordinary course of the Tenant's business.
- (l) The Tenant will ensure that the Tenant's customers, visitors and invitees park only in those parts of the Common Areas approved by the Landlord from time to time as customer parking.
- (m) The Tenant will not grease, oil, repair, clean or wash vehicles within the Common Areas.
- (n) The Tenant will not bring into the Centre any vehicle without rubber tyres.
- (o) Where the Landlord provides the Tenant with identification on any sign installed by the Landlord near an entrance to the Centre the Tenant will pay on demand the Landlord's costs of providing such identification.
- (p) The Tenant will only use for moving goods of bulk or quantity such parts of the Common Areas and at such times as the Landlord from time to time directs.

6.5. Energy consumption information

- (a) The Tenant agrees and acknowledges that the Landlord has or may have mandatory reporting obligations which may include disclosing to the relevant authorities and other Persons information relating to the Tenant's level of energy consumption in the Premises, greenhouse gas emissions, energy efficiency initiatives and associated data, records and other information.
- (b) The Tenant will provide such data, records and other information as the Landlord may reasonably require to enable the Landlord to comply with its reporting obligations relating to the Tenant's level of energy consumption in the Premises, greenhouse gas emissions and energy efficiency initiatives.
- (c) The Tenant will within 7 days of receipt by the Tenant provide to the Landlord copies of all records and accounts received by the Tenant from a utility or service provider in respect of the consumption of electricity or gas in the Premises.
- (d) If the Tenant does not provide information required by the Landlord pursuant to this clause 6.5 the Tenant will pay on demand to the Landlord an amount equal to any expense, fine or penalty incurred by the Landlord arising as a result of the Tenant's default.

7. CONDITION AND REPAIRS

7.1. Keeping and Delivering Up in Repair

- (a) The Tenant will at all times keep the Premises and any of the Landlord's Equipment in or servicing the Premises in good repair and condition having regard to the condition of the Premises and of the Landlord's Equipment at the earlier of the Commencing Date or the date that the Tenant first occupied the Premises.
- (b) Unless required because of the Tenant's particular use of the Premises, the Tenant's obligations under clause 7.1(a) do not extend to:
 - (i) any repair required because of fair wear and tear or because of the Landlord's negligence;
 - (ii) any capital costs or structural repairs; or

(iii) anything beyond the control of the Tenant.

7.2. Repair of Damage

The Tenant will make good any defect in or damage to the Premises, the Landlord's Equipment or the Centre caused by lack of care or misuse by the Tenant.

7.3. Painting Etc

Before the Tenant ceases to occupy the Premises, the Tenant will to the Landlord's satisfaction:

- (a) paint with at least 2 coats of high quality paint and otherwise treat appropriately all the internal brickwork, masonry, timber, metalwork and other surfaces of the Premises usually painted or treated; and
- (b) wash down all washable surfaces of the Premises.

7.4. Alterations and Additions

- (a) The Tenant will not make any alterations or additions to the Premises without first obtaining the Landlord's written consent. The Landlord can give or withhold consent in its absolute discretion.
- (b) When requesting consent for any such works the Tenant will give to the Landlord for approval detailed plans and specifications of the works. The Landlord can give or withhold approval of the plans and specifications in its absolute discretion.
- (c) Any such works can only be undertaken either by the Landlord or by Persons approved by the Landlord.
- (d) The Tenant must comply with the requirements of the Landlord, the law and the relevant public authorities in carrying out any such works.
- (e) The Tenant will pay the Landlord's costs in connection with any works.

7.5. Statutory Requirements

- (a) The Tenant will at all times comply with all statutes, ordinances, proclamations, orders and regulations affecting the Premises, the use of the Premises by the Tenant and the Tenant's Goods.
- (b) The Tenant will comply with all notices and orders given by any statutory, public or other competent Authority in respect of the Premises, the use of the Premises by the Tenant and the Tenant's Goods.
- (c) The Tenant will comply with all WH&S Laws in relation to the Premises.
- (d) The Tenant indemnifies the Landlord in relation to any failure by the Tenant to comply with the Tenant's obligations under this clause 7.5.
- (e) Despite clauses 7.5(a) and 7.5(b) the Tenant is not responsible for any capital costs nor for any structural alterations unless required because of the Tenant's particular use of the Premises.

7.6. Principal Contractor and WH&S Regulation

- (a) If any work is to be carried out on the Premises by the Tenant during the Term of the lease, including any Option Lease or holding over period which requires the appointment of a Principal Contractor under the *WH&S Regulation*, the Landlord appoints the Tenant as the Principal Contractor in respect of those works and the Tenant accepts that appointment.

- (b) The Landlord authorises the Tenant to exercise such authority of the Landlord as is necessary to ensure that the Tenant can carry out the responsibilities imposed on the Tenant as Principal Contractor under the *WH&S Regulation*.
- (c) The Tenant may propose that another Person is appointed as Principal Contractor for specific works in place of the Tenant, subject to the Tenant first obtaining the Landlord's consent.
- (d) The Tenant must ensure that when any work is carried out in the Premises all the requirements of the *WH&S Regulation* and any other laws relating to work health and safety are met.
- (e) The Tenant must consult, co-operate and co-ordinate its activities with the Landlord in connection with the Premises to ensure that the parties at all times comply with *WH&S Law* including, but not limited to, scheduling and participating in regular meetings, maintaining current information on an accident registers and conducting regular risk assessment reports of the Premises including taking the views of Tenant's workers into consideration and to take any other steps as agreed between the parties.
- (f) The Landlord will make itself available to the Tenant on a regular basis to discuss any matters related to health and safety at work arising from its obligations in relation to the Premises.
- (g) The Tenant must immediately notify the Landlord of any accident, notifiable incident (being an incident which is notifiable under *WH&S Law*) or injury which occurs on the Premises in connection with the activities at the Premises. The Tenant must take all reasonably practicable steps to safely isolate any dangers from occurring or reoccurring before the Landlord is informed.
- (h) The Tenant undertakes to inform itself of the serious injury or illness and dangerous incident notification obligations. The Tenant undertakes to advise the regulator by the fastest possible means, prior to advising the Landlord in the event that a notifiable incident occurs.

8. INSURANCE AND DAMAGE

8.1. Public Risk and Plate Glass

The Tenant will keep current in the name of the Tenant, noting the interest of the Landlord and, if required by the Landlord, the Landlord's mortgagee:

- (a) a public risk insurance policy for not less than the amount stated in Item 17 or for such higher amount as the Landlord from time to time requires;
- (b) adequate reinstatement insurance of all glass in the Premises for the amount to replace the glass in accordance with the then current Australian Standards; and
- (c) other insurances which are required by law or which in the Landlord's reasonable opinion a prudent tenant would take out.

8.2. Workers Compensation

The Tenant will keep current workers compensation insurance (including common law liability) with a reputable insurer for all Persons employed by the Tenant in relation to whom death or bodily injury claims can be made against the Landlord.

8.3. Insurance of Tenant's Goods

The Tenant will keep the Tenant's Goods adequately insured against loss or damage.

8.4. Evidence of Insurance

The Tenant will provide to the Landlord any insurance policy which the Tenant is required to take out under this Lease and certificates of currency in relation to any such policy.

8.5. Risk

The Tenant occupies and uses the Premises at the Tenant's risk. The Landlord is only liable to the Tenant for any injury, loss or damage to any property or Person to the extent that such injury, loss or damage is caused by the Landlord's negligence.

8.6. Indemnities by Tenant

- (a) The Tenant indemnifies the Landlord against all claims, costs and expenses for which the Landlord is liable in relation to any death, personal injury or property damage caused by any act or failure to act of the Tenant or because of the Tenant's use of the Premises and the Centre.
- (b) The Tenant indemnifies the Landlord against all loss or damage caused by the Tenant including, but not limited to, the Tenant's use or misuse of the Premises and the Centre or of the Landlord's Equipment or by the Tenant's failure to notify the Landlord of any major or continuing defect in the Premises or in any of the Landlord's Equipment in or servicing the Premises and the Centre.

8.7. Termination and Abatement on Damage

- (a) If the Premises or Centre are damaged so that the Premises are inaccessible or unable to be used and the Landlord notifies the Tenant in writing that the Landlord considers repairing the damage impractical or undesirable, either the Landlord or the Tenant can terminate this Lease without compensation by giving not less than 7 days written notice to the other.
- (b) If the Premises or Centre are damaged so that the Premises are inaccessible or unable to be used and the Landlord fails to repair the damage within a reasonable time after written notice from the Tenant requesting the Landlord to do those repairs, the Tenant can terminate this Lease by giving not less than 7 days written notice to the Landlord.
- (c) If the Premises or Centre are damaged so that the Premises are inaccessible or unable to be used, no Rent or Outgoings will be payable by the Tenant until the Premises are made accessible or useable.
- (d) If the Premises are damaged and are still useable but the use of the Premises is diminished due to damage, the Rent and the Outgoings will abate according to the extent of the diminished use until the use of the Premises is no longer diminished.
- (e) Nothing in this clause 8.7 affects the Landlord's right to recover damages from the Tenant in respect of any damage or destruction referred to in this clause nor obliges the Landlord to restore or reinstate the Premises.

8.8. Increased Premiums

If the Tenant's acts or omissions cause any premium for insurances effected by the Landlord to increase, the Tenant will pay the amount of that increased premium to the Landlord within 14 days of demand.

9. ACCESS

9.1. Right to Enter to Inspect or Carry Out Works

- (a) The Landlord can enter the Premises at reasonable times after giving reasonable notice or at any time without notice in an emergency to:
 - (i) inspect the Premises;
 - (ii) do any works that the Landlord considers desirable;
 - (iii) collect data and to check or monitor the performance of the Premises;
 - (iv) exercise any of the Landlord's rights under this Lease; and

- (v) repair the Premises where the Premises have been damaged.
- (b) The Landlord will give to the Tenant 2 Months prior written notice of any alteration to or refurbishment of the Centre to be carried out by the Landlord which is likely to adversely affect the Tenant's business. In emergencies reasonable notice only of any such alteration or refurbishment is required
- (c) In exercising the Landlord's right to enter the Premises and to do works:
 - (i) the Landlord and the Landlord's employees, agents and contractors will be entitled to enter the Premises with all necessary materials; and
 - (ii) the Landlord will use all reasonable endeavours to ensure that as little disruption as is practical is caused to the Tenant's use of the Premises.

9.2. Landlord's Signs and Inspections

- (a) The Landlord is entitled to attach 'For Sale' and 'For Lease' signs to the Centre, including to the outside of the Premises. 'For Lease' signs in relation to the Premises will only be attached during the 3 Months immediately preceding the Terminating Date.
- (b) The Tenant will not obscure the Landlord's signs.
- (c) The Tenant will allow all Persons authorised in writing by the Landlord to inspect the Premises at reasonable times after reasonable notice from the Landlord.

9.3. Easements and Other Rights

- (a) The Landlord can transfer or create any easement, covenant, restriction, licence or other right or dedicate land in favour of any Person or in favour of any land near the Premises or in favour of any Authority for the purposes of access, support or services or such other purposes that the Landlord reasonably requires or which may be required by an Authority. This Lease is subject to any such easement, covenant, restriction, licence, other right or dedication.
- (b) The Landlord may release, cancel, modify or extinguish any easement, covenant, restriction licence or other right which benefits or burdens the Land.
- (c) Within 7 days of written request by the Landlord the Tenant will sign and return to the Landlord any consents or other documents necessary to enable the Landlord to carry out any activity referred to in clauses 9.3(a) and 9.3(b) and will make no objection or claim for compensation in relation to such activity.
- (d) The Landlord will not dedicate land or transfer, create, release, cancel, modify or extinguish any easement, covenant, restriction, licence or other right which would substantially and permanently lessen the Tenant's rights under this Lease.

9.4. Landlord's Reservations

The Landlord reserves the right:

- (a) to use the roof of the Premises;
- (b) to run substances through any pipes, ducts or wires passing through the Premises; and
- (c) to enter the Premises to exercise such rights.

9.5. Landlord's Repair Obligation

The Landlord agrees to use reasonable endeavours to ensure that the structure of the Premises and of the Centre is kept in good repair having regard to their condition at the earlier of the Commencing Date or the date that the Tenant first occupied the Premises except for:

- (a) fair wear and tear;
- (b) anything that the Tenant is required to do under this Lease; and
- (c) damage from any cause beyond the Landlord's reasonable control.

10. ASSIGNMENT AND SUB-LETTING

10.1. Restrictions on Assignment, Sub-Letting and Licensing

The Tenant will not assign this Lease without first obtaining the Landlord's written consent. The Landlord can withhold consent if:

- (a) the proposed assignee proposes to change the Permitted Use;
- (b) the proposed assignee has financial resources or retailing skills inferior to those of the Tenant; or
- (c) the Tenant has not complied with the procedures set out in clause 10.2.

10.2. Procedures for Obtaining Consent to Assignment

If the Tenant wishes to assign this Lease:

- (a) the Tenant will in writing request the Landlord's consent to any proposed assignment and will provide the Landlord with such information as the Landlord requires about the financial standing and business experience of the proposed assignee and of the Tenant;
- (b) before requesting the consent of the Landlord to a proposed assignment of the Lease, the Tenant must furnish the proposed assignee with a copy of any Lessor's Disclosure Statement given to the Tenant in respect of this Lease, together with details of any changes that have occurred in respect of the information contained in that Lessor's Disclosure Statement since it was given to the Tenant (being changes of which the Tenant is aware or could reasonably be expected to be aware);
- (c) the Tenant can request the Landlord to provide the Tenant with a copy of the Lessor's Disclosure Statement. If the Landlord does not do so within 14 days after the Tenant's request, clause 10.2(b) will not apply to the proposed assignment;
- (d) if the Premises will be used by the proposed assignee for the continued operation of the Tenant's business the Tenant may provide the proposed assignee with an Assignor's Disclosure Statement. The Tenant may provide the Landlord with a copy of the Assignor's Disclosure Statement;
- (e) the Landlord will deal promptly with any request for consent. If the Tenant has complied with clauses 10.2(a) and 10.2(b) and the Landlord has not within 28 days after the Tenant's request given written notice to the Tenant either consenting or withholding consent, the Landlord will be regarded as having consented;
- (f) the New Tenant will provide to the Landlord such securities or guarantees of the New Tenant's obligations under this Lease as the Landlord requires including, but not limited to, a Bank Guarantee or Security Deposit;

- (g) the Tenant will ensure that any guarantors of the proposed assignee required by the Landlord enter into a deed in a form required by the Landlord; and
- (h) the Tenant will pay the Landlord's costs in connection with the proposed assignment.

10.3. Restrictions on Shares Dealings

- (a) If the Tenant is a corporation (other than a corporation whose shares are listed on the Australian Stock Exchange) then, unless the Tenant first complies with clause 10.3(b), the Tenant will not:
 - (i) register, record or enter in its books any transfer of any share in the capital of the Tenant;
 - (ii) deal with the beneficial interest in any such share;
 - (iii) issue any new shares; or
 - (iv) take any other action,which would have the effect that the shareholders of the Tenant at the Commencing Date would, after such action, beneficially hold or control less than 51% of the voting rights or of the income or capital participation rights in the Tenant or less than 51% of the voting rights at a meeting of directors of the Tenant.
- (b) The requirements referred to in clause 10.3(a) are that the Tenant:
 - (i) gives to the Landlord not less than 1 Month written notice of its intention;
 - (ii) is not in default under this Lease unless either the Landlord has waived the default or the default has been remedied by the Tenant;
 - (iii) proves to the Landlord's satisfaction that the Persons to whom the Tenant proposes to transfer or issue such shares or in whom the Tenant proposes to vest such other rights are each respectable, responsible and solvent;
 - (iv) ensures that the Persons referred to in clause 10.3(b)(iii) provide to the Landlord such guarantees of the Tenant's obligations under this Lease as the Landlord requires; and
 - (v) pays the Landlord's costs.

10.4. Restrictions on Units Dealings

- (a) If the Tenant is the trustee of a unit trust (unless the unit trust is listed on the Australian Stock Exchange) then, unless the Tenant first complies with clause 10.4(b), the Tenant will not:
 - (i) register, record or enter in its books any transfer of any unit or units in the Unit Trust or the holding trust;
 - (ii) deal with the beneficial interest in any such unit or units;
 - (iii) issue any new unit or units; or
 - (iv) take any other action, take or attempt to take any action having the effect of:
 - (A) effectively altering the control of the unit trust; or
 - (B) the unitholders in the unit trust at the date of this Lease at any time ceasing to beneficially hold or control at least 51% of the units in the unit trust.

- (b) The requirements referred to in clause 10.4(a) are that the Tenant:
 - (i) gives to the Landlord not less than 1 Month written notice of its intention;
 - (ii) is not in default under this Lease unless either the Landlord has waived the default or the default has been remedied by the Tenant;
 - (iii) proves to the Landlord's satisfaction that the Persons to whom the Tenant proposes to transfer or issue such units or in whom the Tenant proposes to vest such other rights are each respectable, responsible and solvent;
 - (iv) ensures that the Persons referred to in clause 10.4(b)(iii) provide to the Landlord such guarantees of the Tenant's obligations under this Lease as the Landlord requires; and
 - (v) pays the Landlord's costs.

10.5. Restrictions on Sub-Letting, Mortgaging, Etc

- (a) The Tenant will not sub-let or part with possession or grant any licence or concession affecting the Premises.
- (b) The Tenant will not mortgage or charge the Tenant's interest in the Premises.

11. LANDLORD'S OBLIGATIONS

11.1. Quiet Enjoyment

Unless provided to the contrary in this Lease, so long as the Tenant pays the Rent and the other moneys payable under this Lease when due and performs the Tenant's obligations under this Lease, the Tenant can occupy the Premises without interruption or disturbance from the Landlord.

11.2. Disturbance

- (a) The Landlord will not:
 - (i) inhibit the Tenant's access to the Premises in any substantial way;
 - (ii) take any action that substantially inhibits or alters the flow of customers to the Premises;
 - (iii) unreasonably take any action that causes significant disruption to or has a significant adverse affect on the Tenant trading in the Premises;
 - (iv) fail to take all reasonable steps to prevent or stop anything that causes significant disruption to or has a significant adverse affect on the Tenant trading in the Premises where such thing is within the Landlord's control;
 - (v) fail to rectify any breakdown of plant or equipment that the Landlord is required to maintain; or
 - (vi) fail to adequately clean, maintain or repair the Centre.
- (b) If the Landlord breaches clause 11.2(a) and does not rectify its breach as soon as reasonably practical after written request by the Tenant, the Landlord is liable to pay the Tenant reasonable compensation for any loss or damage (other than nominal damage) suffered by the Tenant as a consequence. The Tenant acknowledges that any claim for compensation is limited to matters not disclosed to the Tenant before this Lease was entered into.
- (c) In deciding whether the Landlord has acted reasonably for the purposes of clause 11.2(a), due consideration will be given to whether the Landlord acted in accordance with recognised shopping centre management practices.

- (d) Clauses 11.2(a) to 11.2(c) do not apply to any action taken by the Landlord as a reasonable response to an emergency or in compliance with any duty imposed under any legislation or resulting from a claim imposed by a public or local Authority under the authority of any legislation.

11.3. Management of the Centre and Maintenance of Common Areas

- (a) The Landlord will manage and operate the Centre and will pay the Outgoings.
- (b) The Landlord will maintain the Common Areas. The way the Common Areas are maintained is in the Landlord's discretion.

12. TENANT'S DEFAULT AND END OF LEASE

12.1. Re-entry on Default and Forfeiture

The Tenant will be in default under this Lease and the Landlord can lawfully re-enter the Premises if:

- (a) Rent is unpaid for 14 days after the due date;
- (b) any other monies are unpaid for 14 days after due;
- (c) any repairs required by a notice are not completed within the time required by such notice;
- (d) the Tenant fails to perform any other of the Tenant's obligations for 14 days after the Landlord gives the Tenant written notice of the Tenant's default;
- (e) the Tenant becomes insolvent when:
 - (i) they are (or state that they are) an insolvent under administration or insolvent (each as defined in the *Corporations Act 2001 (Cth)*);
 - (ii) they have a controller appointed, are in liquidation, in provisional liquidation, under administration or wound up or have had a receiver appointed to any part of their property;
 - (iii) execution or distress or any other process is levied or attempted or imposed against or over any of their undertaking, property or assets;
 - (iv) a compromise, arrangement, assignment, moratorium or composition is proposed with, or becomes effective in relation to, their creditors or any class of their creditors (in each case, other than to carry out a reconstruction or amalgamation while solvent);
 - (v) an application or order has been made (and, in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward or any other action taken, in each case in connection with them, which is preparatory to or could result in any of the things referred to above;
 - (vi) they are taken (under Section 459F of the *Corporations Act 2001 (Cth)*) to have failed to comply with a statutory demand;
 - (vii) they are the subject of an event described in Section 459C(2)(b) or Section 585 of the *Corporations Act 2001 (Cth)*;
 - (viii) they are a natural person, they commit an act of bankruptcy within the meaning of the *Bankruptcy Act 1966 (Cth)*;
 - (ix) they are otherwise unable to pay their debts as and when they fall due; or

- (x) something having a substantial similar effect to any of the things referred to above happens in connection with them under any law.

12.2. Removal of Tenant's Goods

- (a) If the Tenant is not in default under this Lease the Tenant can during the last Month of the Tenant's occupation of the Premises remove the Tenant's Goods from the Centre so long as such removal is done under the supervision of and in accordance with the directions of the Landlord. The Tenant will make good any damage caused to the Premises and the Centre.
- (b) If the Tenant does not remove the Tenant's Goods as provided under clause 12.2(a) and the Landlord requires the Tenant to remove the Tenant's Goods, the Tenant will remove the Tenant's Goods prior to the expiry of the last Month of the Tenant's occupation of the Premises so long as such removal is done under the supervision of and in accordance with the directions of the Landlord. The Tenant will make good any damage caused to the Premises and the Centre.
- (c) If the Tenant does not remove the Tenant's Goods as provided under clauses 12.2(a) and 12.2(b) the Landlord may:
 - (i) keep, remove, sell or otherwise dispose of the Tenant's Goods at the Tenant's risk and cost; and
 - (ii) treat any of the Tenant's Goods as if they were the Landlord's property and deal with them in any way (including by sale) without being liable to account to the Tenant.
- (d) The Tenant indemnifies the Landlord in relation to the removal and storage of the Tenant's Goods and in relation to claims by any Person of an interest in the Tenant's Goods.
- (e) Despite anything to the contrary in this Lease, this Lease will be deemed to continue until such time as the Tenant's Goods are removed from the Premises.

12.3. Delivering Up In Good Repair

- (a) Unless the Landlord notifies the Tenant in writing before the expiry or earlier termination of this Lease that the Tenant is not required to comply with any of its obligations under this clause 12.3(a), at the expiry or earlier termination of this Lease the Tenant will give vacant possession of the Premises to the Landlord with the Premises in the state of repair required under this Lease including, but not limited to, the following:
 - (i) the Premises being painted and treated as required under clause 7.3;
 - (ii) the Premises being in the state of repair required under clause 7.1;
 - (iii) the Tenant's Goods being removed from the Premises as required under clause 12.2;
 - (iv) any fitting out in the Premises carried out by, for or at the cost of the Landlord on behalf of or at the request of the Tenant being removed from the Premises and any consequential damage made good;
 - (v) the Premises Services being returned to the configuration they were in before the Tenant first occupied the Premises;
 - (vi) all cables, wires, ducting and pipes installed by or on behalf of the Tenant being removed from the Premises and terminated at the source;
 - (vii) any part of the Premises structure in which holes have been made by or on behalf of the Tenant being made good; and
 - (viii) ensuring that the ceiling tiles and the ceiling support grid are in good repair.

- (b) Despite anything to the contrary in this Lease, this Lease will be deemed to continue until such time as the Tenant complies with all of its obligations under clause 12.3(a).

12.4. Holding Over

- (a) If the Landlord agrees to the Tenant remaining in the Premises after the expiry or earlier termination of this Lease, the Tenant will be a monthly tenant at a rent equal to one-twelfth of the Rent payable at the expiry or earlier termination of this Lease, payable monthly in advance and otherwise on the same terms as this Lease.
- (b) The monthly tenancy under clause 12.4(a) can be terminated at any time by either the Landlord or the Tenant giving the other 1 Month written notice, expiring on any day.

12.5. Essential Terms and Damages

- (a) The following are essential terms of this Lease:
 - (i) that the Tenant pay the Rent and any other money payable by the Tenant under this Lease no later than 14 days after their due dates;
 - (ii) clause 6.1(a); and
 - (iii) clause 10.1.
- (b) The Tenant will compensate the Landlord for any loss or damage suffered by the Landlord because of the Tenant's breach of an essential term of this Lease.
- (c) The Landlord can recover damages from the Tenant for any loss or damage suffered by the Landlord because of the repudiation or breach of this Lease during the entire Term, including both before and after any of the events listed below:
 - (i) the Tenant vacating the Premises;
 - (ii) the Landlord accepting the Tenant's repudiation of this Lease;
 - (iii) the Landlord lawfully re-entering the Premises or terminating this Lease; and
 - (iv) this Lease being surrendered by operation of law because of the Tenant's and the Landlord's conduct.
- (d) If the Tenant (whether with or without the Landlord's consent) vacates the Premises, the Landlord will take reasonable steps to mitigate the Landlord's damages and will try to lease the Premises at a rent and on terms satisfactory to the Landlord. The Landlord's entitlement to damages will be assessed on the basis that the Landlord has mitigated its damages.

12.6. INTENTIONALLY DELETED

13. GUARANTEE

13.1. Bank Guarantee

- (a) If an amount is stated in Item 18, this clause 13.1 applies to this Lease unless the Tenant pays a Security Deposit in accordance with clause 13.3 below.
- (b) Before the earlier of the Commencing Date and the date that the Tenant first occupies the Premises, the Tenant will deliver the Bank Guarantee to the Landlord.
- (c) If for any reason the Bank Guarantee held by the Landlord is for less than the amount stated in Item 18, the Tenant will within 7 Business Days of written notice from the Landlord, provide to

the Landlord additional security by way of Bank Guarantee for such amount as is necessary to ensure that the Landlord holds a Bank Guarantee for not less than the amount stated in Item 18.

- (d) The Landlord is entitled to claim under the Bank Guarantee amounts equal to any monies due but unpaid by the Tenant to the Landlord under this Lease.
- (e) The Landlord will deliver the Bank Guarantee (or so much of the Bank Guarantee as is then held by the Landlord) to the Tenant not later than 14 days after the last to occur of:
 - (i) the Terminating Date of this Lease or, if applicable, the Terminating Date of the last of the Option Leases (whichever is the later);
 - (ii) the expiry date of any holding over under this Lease or, if applicable, under the Option Lease (whichever is the later); and
 - (iii) the date that the Tenant complies with all the Tenant's obligations under this Lease or, if applicable, the date that the Tenant complies with all the Tenant's obligations under the last of the Option Leases (whichever is the later).
- (f) If the identity of the Landlord changes the Tenant will do all things necessary to ensure a replacement Bank Guarantee issues in favour of the then Landlord no later than 14 days after written request from the Landlord.

13.2. Guarantee and Indemnity

- (a) The expression *this Lease* in this clause includes the Option Leases.
- (b) In consideration of the Landlord granting this Lease to the Tenant at the Guarantor's request, the Guarantor (as shown by the Guarantor signing this Lease) guarantees to the Landlord the punctual payment of all Rent and of the Tenant's Proportion of Outgoings and the punctual observance by the Tenant of all the Tenant's obligations under this Lease.
- (c) The Guarantor unconditionally indemnifies the Landlord in respect of any failure by the Tenant to make any payment or to perform any obligation under this Lease.
- (d) The Landlord and the Guarantor agree that this guarantee and indemnity is a continuing guarantee and indemnity which is absolute and unconditional in all circumstances and will remain in force until all the Tenant's obligations under this Lease are performed.
- (e) The Landlord and the Guarantor agree that this guarantee and indemnity will not be discharged by the payment of any monies on account or by any concession given to the Tenant or to the Guarantor or to any other Person or by any compounding, compromise, release, abandonment, waiver, variation, relinquishment or renewal of any of the Landlord's rights against the Tenant or the Guarantor or any other Person or by the Landlord's failure to enforce any such rights or by any other thing whatsoever which but for this clause might abrogate, prejudice or affect this guarantee and indemnity or by any variation or addition to this Lease.
- (f) The Landlord and the Guarantor agree that this guarantee and indemnity is in addition to any other rights which the Landlord has under this Lease and can be enforced against the Guarantor without the Landlord first having recourse to any other rights and without the Landlord first taking any action against the Tenant.
- (g) The Landlord and the Tenant agree that this guarantee and indemnity will not prejudicially affect or be prejudicially affected by any security held by the Landlord for any monies owing under this Lease and that such security will be collateral and the Guarantor will not, as against the Landlord, in any way claim the benefit or seek the transfer of any security.
- (h) The Guarantor warrants that the Guarantor has full power and authority to enter into this guarantee and indemnity and that the Guarantor's obligations under this guarantee and indemnity

are in no way diminished, fettered or controlled by any deed or instrument including, but not limited to, any debenture trust deed relating to securities issued or given by the Guarantor.

- (i) The Landlord and the Guarantor agree that this guarantee and indemnity will not be affected by any assignment, sub-letting or parting with possession of the Premises by the Tenant.

13.3. Security Deposit

- (a) If an amount is stated in Item 24, clause 13.3 applies to this Lease unless the Tenant provides a Bank Guarantee in accordance with clause 13.1 above.
- (b) Before the earlier of the Commencing Date and the date that the Tenant first occupies the Premises, the Tenant will deliver the Security Deposit to the Landlord.
- (c) The Landlord must deposit the Security Deposit with the Director-General in accordance with the *Retail Lease Act*.
- (d) If for any reason the Security Deposit is for less than the amount stated in Item 24, the Tenant will within 7 Business Days of written notice from the Landlord provide to the Landlord additional security by way of Security Deposit for such amount as is necessary to ensure that the Security Deposit is for not less than the amount stated in Item 24.
- (e) The Landlord is entitled to claim from the Security Deposit an amount equal to any monies due but unpaid by the Tenant to the Landlord under this Lease.
- (f) The Landlord will apply to the Director-General to pay the Security Deposit (or so much of the Security Deposit as is then held by the Director-General) to the Tenant after deduction of any amount due to the Landlord on the later of the following dates:
 - (i) whichever is the later of the Terminating Date of this Lease or, if applicable, the terminating date of the last of the Option Leases; and
 - (ii) whichever is the later of the date that the Tenant complies with all the Tenant's obligations under this Lease or, if applicable, the date that the Tenant complies with all the Tenant's obligations under the last of the Option Leases.

14. *PERSONAL PROPERTY SECURITIES ACT 2009 (CTH)*

- 14.1. The Tenant must notify the Landlord on or before the Commencement Date if the Tenant's Goods or any other personal property of the Tenant relevant to this Lease is subject to a Security Interest. //
- 14.2. The Tenant agrees not to create a Security Interest in favour of a third party in respect of the Tenant's Goods or any other personal property of the Tenant relevant to this Lease except with the prior written consent of the Landlord, such consent not to be unreasonably withheld.
- 14.3. The Tenant:
 - (a) acknowledges that the grant of this Lease also constitutes the grant of a Security Interest in the Landlord PPS Items in favour of the Landlord, which interest the Landlord is entitled to register under the *PPS Act*;
 - (b) must do all things required by the Landlord from time to time (including, without limitation, signing any documents required by the Landlord) to enable the Landlord to register its above Security Interests under the *PPS Act*;
 - (c) warrants that it has not created a Security Interest in respect of any Landlord PPS Items on or prior to execution of this Lease; and
 - (d) must indemnify the Landlord against all claims, damages or loss incurred by the Landlord as a consequence of any breach by the Tenant of this clause.

15. **GENERAL**

15.1. **Change of Operating Hours of the Centre**

If the Landlord gets the written consent of a majority of the tenants of retail shop premises in the Centre, the Landlord can from time to time by giving 1 Month written notice to the Tenant change the Operating Hours of the Centre specified in Item 19 to such other hours as the Landlord reasonably requires.

15.2. **Tenant Contact**

The Tenant will ensure that the Landlord has the home address and telephone number of a 24 hour contact for the Tenant.

15.3. **Notices**

- (a) Any notice or other document to be given by the Landlord will be validly signed if signed by any managing agent, property manager, director, secretary, attorney or solicitor of the Landlord or by any Person nominated by the Landlord.
- (b) Any notice or document to be given under this Lease can be given:
 - (i) in any manner authorised by Section 170 of the *Conveyancing Act 1919*;
 - (ii) by being left at or posted to:
 - (A) an address shown in this Lease;
 - (B) in the case of a corporation, at its registered office;
 - (C) in the case of the Tenant, at the Premises; or
 - (iii) by fax.
- (c) A notice or document will be regarded as having been received:
 - (i) in the case of posting, 2 Business Days after it is placed in the post; or
 - (ii) in the case of a fax, when the machine sending the fax generates a report showing the total number of pages of the fax were successfully sent to the fax number of the addressee.
- (d) If any notice is received by a party after 5pm on any Business Day, the notice will be deemed to have been received on the next Business Day.

15.4. **Landlord's Consents and Costs**

Unless provided to the contrary in this Lease where:

- (a) the Landlord is required to exercise a discretion, the Landlord will exercise its discretion reasonably;
- (b) the Tenant is to pay the Landlord's costs, the Landlord will act reasonably in incurring such costs; and
- (c) the Landlord's consent or approval is required, such consent or approval will not be unreasonably withheld.

15.5. Landlord's approvals

- (a) The Tenant acknowledges that the Landlord, when giving approval in connection with this Deed or proposed work, has no objection to the act, matter or thing the subject of the approval.
- (b) Without limiting clause 15.5(a), neither the Landlord nor the Landlord's consultant, in giving approval or imposing a condition in connection with approval, assumes any duty of care to the Tenant or makes any warranty or representation in connection with the proposed work or the act, matter or thing the subject of the approval including any warranty as to suitability or fitness for intended purpose of any plans, drawings, specifications, materials, contractors, suppliers, construction methods or sequence of work or otherwise.

15.6. Relationship between the Parties

The only relationship between the parties to this Lease is that of Landlord and Tenant and the Guarantor on the terms of this Lease.

15.7. Miscellaneous

- (a) No waiver by the Landlord or the Tenant of any right under this Lease will be a waiver of any other right.
- (b) No action taken by either the Landlord or by the Tenant under this Lease will limit their other rights and remedies.
- (c) Termination of this Lease will not affect the rights of either the Landlord or the Tenant accrued before termination.

15.8. Common Areas

- (a) The Tenant can use the Common Areas jointly with the Landlord and with other Persons for access to the Premises and for any other purposes which the Landlord in its absolute discretion allows.
- (b) The Landlord can vary the Common Areas, temporarily close the Common Areas and do such other acts on the Common Areas as the Landlord in its absolute discretion decides.

15.9. Suitability of Premises and Centre

The Landlord gives no warranty and makes no representation to the Tenant that the Premises are or will remain suitable for the Tenant's purposes nor about any other Tenants in the Centre or likely in the future to be in the Centre.

15.10. Rules and Regulations

The Tenant will comply with any rules and regulations that the Landlord makes from time to time in relation to the Centre to the extent that such rules and regulations are not inconsistent with the Tenant's rights under this Lease.

15.11. Measurements

- (a) Any measurements of either the Premises or the Centre will be made in accordance with the then current method of measurement of the Property Council for retail premises located in shopping centres.
- (b) The Tenant acknowledges that the Tenant's Percentage of Outgoings was calculated in accordance with the Property Council method of measurement that applied at the Commencing Date and that such percentage may vary if the areas on which such calculation was made change.

15.12. Deemed Rent

The Landlord and the Tenant agree that any money due by the Tenant under this Lease but unpaid are deemed to be rent for the purposes of this Lease.

15.13. Interruption of Services

Subject to any law to the contrary, the Landlord is not liable to the Tenant for any loss or damage suffered by the Tenant because the Landlord's Equipment fails to function.

15.14. Strata Conversion

- (a) The Tenant acknowledges that the Landlord is entitled at any time to carry out a Strata Conversion.
- (b) The Landlord will give the Tenant as much prior notice as is reasonably practical of the Strata Conversion.
- (c) Within 7 days of written request by the Landlord the Tenant will sign and return to the Landlord any consents or other documents necessary to enable the Landlord to carry out the Strata Conversion and will make no objection or claim for compensation in relation to the Strata Conversion.
- (d) If the Strata Conversion occurs:
 - (i) any reference in this Lease to the Estate will be deemed to be a reference to the buildings comprised in the registered plan or plans of which the Premises form part;
 - (ii) any levies or other monies payable to the owners corporation will be payable by the Tenant (excluding contributions to the Capital Works Fund or its equivalent and special levies relating to the Capital Works Fund);
 - (iii) the Rules and Regulations will be deemed to include any by-laws of the owners corporation; and
 - (iv) this Lease will be deemed to be amended in any respect that is necessary to ensure that this Lease reflects the fact that the Strata Conversion has been carried out.

16. DEFINITIONS AND INTERPRETATION

16.1. Definitions

Unless otherwise provided in this Lease, the following words have the following meanings:

- (a) *Accounting Year* means each 12 Month period during the Term ending on 30 June or on such other date as the Landlord chooses and gives written notice of to the Tenant;
- (b) *Assignor's Disclosure Statement* has the meaning given in the *Retail Leases Act*;
- (c) *Authority* means any government, semi-government, city, municipal, administrative, statutory or judicial body, instrumentality, department, agency or similar entity;
- (d) *Bank Guarantee* means an irrevocable bank guarantee in a form approved by the Landlord from a bank trading in New South Wales under which the bank agrees to pay to the Landlord on demand not less than the amount of Rent and of the Tenant's Proportion of Outgoings stated in Item 18 increased by the rate of GST (applicable from time to time) expressed as a percentage;
- (e) *Business Day* means a day that is not a Saturday, Sunday, public holiday or bank holiday in Sydney;

- (f) *Centre* means the land and buildings described in Item 4 together with all improvements in the Centre owned or controlled by the Landlord, the Landlord's Equipment and any extensions or alterations to the Centre and includes any part of the Centre;
- (g) *Centre Operating Hours* means the hours stated in Item 19 as varied, if applicable, under this Lease;
- (h) *Commencing Date* means the lease starting date stated in Item 6;
- (i) *Common Areas* means all those parts of the Centre available for use by the Tenant in common with others and includes any part of the Common Areas;
- (j) *CPI Rent Review Date* means each of the dates stated in Item 11;
- (k) *Demolition Date* means the date specified in the Demolition Notice as the date on which this Lease is terminated;
- (l) *Demolition Notice* means a written notice given by the Landlord to the Tenant:
 - (i) if the Term is more than 12 Months, giving the Tenant not less than 6 Months prior notice of a Demolition Proposal and requiring the Tenant to vacate the Premises on the Demolition Date; and
 - (ii) provided that such notice shall not be served on or before 12 February 2024;
- (m) *Demolition Proposal* means a genuine proposal by the Landlord to carry out within a reasonably practical time a substantial repair, renovation or reconstruction of the Centre which cannot be carried out without vacant possession of the Premises;
- (n) *Demolition Termination Notice* means a written notice given by the Tenant to the Landlord terminating this Lease by giving not less than 7 Business Days prior notice;
- (o) *Director-General* means the Director-General of the NSW Department of State and Regional Development;
- (p) *GST* has the meaning given in *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*;
- (q) *Guarantor* means the person described in Item 3 and includes:
 - (i) if the Guarantor is a natural person, the Guarantor's executors and administrators; and
 - (ii) if the Guarantor is a corporation, the Guarantor's successors in title;
- (r) *Item* means an Item in the Schedule;
- (s) *Landlord and Lessor* means the Person described in Item 1 and includes:
 - (i) if the Landlord is a natural person, the Landlord's executors, administrators and assigns; and
 - (ii) if the Landlord is a corporation, the Landlord's successors in title and assigns;
- (t) *Landlord PPS Items* means any item of Personal Property which:
 - (i) is owned or leased by the Landlord; and
 - (ii) is situated on the Premises at any time during the term of this Lease;

- (u) *Landlord's Equipment* means:
 - (i) all wires and cables, pipes drains and sewers, ducts, plant, machinery, fixtures fittings and equipment, kitchens, toilets, grease traps, wash basins, water gas and electrical fittings and equipment and other services in or to the Premises or the Centre owned or controlled by the Landlord, except the Tenant's Goods;
 - (ii) all plant and machinery for circulating air and ventilating or air conditioning the Centre owned or controlled by the Landlord; and
 - (iii) all fire fighting, detection, prevention, warning and evacuation equipment in the Centre;
- (v) *Lease* means this Lease and includes any other tenancy which exists between the Landlord and the Tenant;
- (w) *Lessor's Disclosure Statement* has the meaning given in the *Retail Leases Act*;
- (x) *Market Rent Review Date* means each of the dates stated in Item 10;
- (y) *Marketing Levy* means an amount equal to that proportion of the Rent stated in Item 23;
- (z) *Marketing Report* means a report given by the Landlord to the Tenant detailing any expenditure by the Landlord on advertising, promotion or marketing of the Centre to which a contribution by the Tenant is required;
- (aa) *Month* means calendar month;
- (bb) *Nominator* means the president or other principal officer (acting or otherwise) for the time being of the New South Wales Division of the Australian Property Institute (Inc) or the president or other principal officer (acting or otherwise) for the time being of the Real Estate Institute (NSW);
- (cc) *Option Lease* means the Option Lease (if any) referred to in Item 8;
- (dd) *Option Leases* means the Option Lease;
- (ee) *Outgoings* means the total of all the Landlord's costs and expenses paid or payable in relation to the Centre including, but not limited to, the following:
 - (i) all rates, taxes, charges and assessments of every kind assessed, charged or imposed on the Landlord or the Centre not including GST, income tax or capital gains tax. In the case of land tax (including any similar tax on land), this means the land tax assessed or charged because of the Landlord's interest in the Centre calculated on the basis that the Centre is the only land owned by the Landlord, that the Centre is not subject to a special trust within the meaning of the *Land Tax Management Act 1956* and that the Landlord is not a company classified under Section 29 of the *Land Tax Management Act 1956*;
 - (ii) the cost of providing and maintaining services to the Centre including light, power, air-conditioning, ventilation, lifts, escalators, security, supervision, waste removal and the cleaning and lighting of the Common Areas;
 - (iii) the cost of operating, repairing and maintaining the Centre and the Landlord's Equipment (but not including structural or capital works);
 - (iv) the cost of the management, control and administration of the Centre including wages, on costs and consultancy fees;
 - (v) the cost of all premiums to insure the Centre in its full insurable replacement value including demolition and debris removal with an escalation provision, broker's fees and duty, valuations required for insurance purposes, loss of rent insurance and such other insurances as the Landlord requires;

- (vi) the cost of supplying towels, soap, sanitary units and other facilities in the washrooms and toilets of the Centre;
- (vii) the cost of statutory inspections and reports;
- (viii) the cost of purchasing, hiring, maintaining and servicing all plants and flowers, gardens, lawns, planted areas and artificial water courses;
- (ix) the cost of pest control;
- (x) the cost of Outgoings and Marketing Report audits; and
- (xi) any payments in relation to car spaces in the Centre under the *Taxation Administration Act 1996* or of any other levy, charge or fee imposed by any competent Authority in relation to such car spaces or the use of such car spaces;
- (ff) *Outgoings Estimate* means a written estimate given by the Landlord to the Tenant in accordance with the *Retail Leases Act* of the Tenant's Proportion of Outgoings for any period up to 1 year in advance;
- (gg) *Outgoings Report* means a report given by the Landlord to the Tenant detailing all expenditure by the Landlord on Outgoings for the preceding Accounting Year;
- (hh) *Percentage Rent Review Dates* means each of the dates stated in Item 12;
- (ii) *Permitted Use* means the use specified in Item 16;
- (jj) *Person* includes natural persons and incorporated and unincorporated associations;
- (kk) *Personal Property* has the meaning given in the *PPS Act*;
- (ll) *PPS Act* means the *Personal Property Securities Act 2009 (Cth)*;
- (mm) *Premises* means the Premises described in Item 5 and any of the Landlord's Equipment located within or servicing the Premises and includes any part of the Premises;
- (nn) *Premises Services* means any services and facilities provided or installed by or for the Landlord in the Premises or for the benefit of the Premises in any false floor of the Premises or in any ceiling cavity or structural walls adjoining the Premises including but, not limited to, air-conditioning thermostats, ducts and outlets, fire sprinkler heads and piping, security and fire alarm equipment, lighting, central electrical switching arrangements, emergency lighting and exit signs;
- (oo) *Principal Contractor* has the same meaning as in the WH&S Regulation;
- (pp) *Property Council* means the Property Council of Australia Limited (ABN 13 008 474 422) trading as Property Council of Australia;
- (qq) *Refurbishment Proposal* means a genuine proposal by the Landlord to carry out within a reasonably practical time a refurbishment, redevelopment or extension of the Centre which cannot practically be carried out without vacant possession of the Premises;
- (rr) *Relocation Date* means the date specified in the Relocation Notice as the date on which the Tenant is to give vacant possession of the Premises to the Landlord;
- (ss) *Relocation Notice* means a written notice given by the Landlord to the Tenant:
 - (i) specifying the Relocation Date, being a date not less than 3 Months after the Landlord gives the Relocation Notice;

- (ii) giving details of the Refurbishment Proposal and of the Substituted Premises;
- (iii) requiring the Tenant to surrender this Lease and to give vacant possession of the Premises to the Landlord on the Relocation Date; and
- (iv) requiring the Tenant to relocate to the Substituted Premises on the day after the Relocation Date;
- (tt) *Relocation Termination Notice* means a written notice given by the Tenant to the Landlord terminating this Lease as at that date which is 3 Months after the date that the Landlord gives the Relocation Notice to the Tenant;
- (uu) *Rent* means the amounts payable under clause 5.1;
- (vv) *Rent Agreement Period* means the period of 14 days during which the Landlord and the Tenant will try to agree on the annual current market rent to apply from a Market Rent Review Date;
- (ww) *Rent Review Notice* means a written notice given by the Landlord to the Tenant of the Landlord's assessment of the annual current market rent to apply as the Rent from a Market Rent Review Date;
- (xx) *Retail Leases Act* means the *Retail Leases Act 1994*;
- (yy) *Schedule* means the Schedule in Annexure A to this Lease;
- (zz) *Second Option Lease* means the lease for a further term referred to in Item 9;
- (aaa) *Security Deposit* means a sum of cash of an amount not less than the amount of Rent and of the Tenant's Proportion of Outgoings stated in Item 24 increased by the rate of GST (applicable from time to time) expressed as a percentage as provided in clause 13.3;
- (bbb) *Security Interest* has the meaning given in the *PPS Act*;
- (ccc) *Specialist Retail Valuer* has the same meaning as that term has in the *Retail Leases Act*;
- (ddd) *Substituted Premises* means those alternative premises in the Centre referred to in the Relocation Notice;
- (eee) *Substituted Premises Lease* means the lease of the Substituted Premises;
- (fff) *Tenant and Lessee* means the Person described in Item 2 and includes:
 - (i) if the Tenant is a natural person, the Tenant's executors, administrators and permitted assigns;
 - (ii) if the Tenant is a corporation, the Tenant's successors in title and permitted assigns;
 - (iii) unless contrary to the context, the Tenant's employees; and
 - (iv) unless contrary to the context, the Tenant's licensees, subtenants, contractors, agents, customers and visitors at any time in the Centre;
- (ggg) *Tenant's Goods* means all the Tenant's fixtures, fittings and goods in the Premises and includes any fixtures, fittings and goods of a previous occupier of the Premises but does not include any fixtures, fittings or goods in the Premises to replace the Landlord's Equipment;

- (hhh) *Tenant's Proportion of Outgoings* is the proportion of the Outgoings payable by the Tenant which, as at the date that the Tenant first occupied the Premises, is the proportion stated in Item 14;
- (iii) *Tenant's Sales* means the gross amount received or receivable whether as cash or otherwise by the Tenant from the sale of goods, hirings or the provision of services at or associated with the Tenant's business at the Premises;
- (jjj) *Term* means the term of this Lease as stated in Item 6;
- (kkk) *Terminating Date* means the lease ending date stated in Item 6;
- (lll) *Tribunal* has the meaning given in the *Retail Leases Act*;
- (mmn) *Turnover Rent* means an amount equal to that percentage of the Tenant's Sales stated in Item 22 that exceed the Turnover Rent Base Figure stated in Item 21;
- (nnn) *WH&S Laws* means the laws relating to work health and safety that apply to the Premises and the use of it and includes the *WH&S Regulation*; and
- (ooo) *WH&S Regulation* means the *Work Health and Safety Regulation 2011 (NSW)*.

16.2. Interpretation

Unless otherwise provided in this Lease:

- (a) all covenants or obligations in this Lease are to be regarded as separate and independent covenants made by 1 party to this Lease in favour of the other parties;
- (b) the law of New South Wales and the jurisdiction of the New South Wales Courts and of the High Court and Federal Court of Australia apply to this Lease;
- (c) the Landlord and the Tenant agree that nothing will be implied by this Lease or will arise between the Landlord and the Tenant (whether by other agreement or because of any promise, representation, warranty or undertaking given by or for the Landlord or the Tenant);
- (d) reference to any body (including, but not limited to, any institute, association, Authority or government agency) which ceases to exist or whose powers or functions are transferred to any other body also includes the body which replaces it or which substantially takes over its powers and functions;
- (e) headings in this Lease do not form part of the content of this Lease and do not affect the meaning of this Lease;
- (f) Sections 84, 85 and 133B of the *Conveyancing Act 1919* do not apply to this Lease;
- (g) words importing the singular include the plural and vice versa and words importing a particular gender include every gender;
- (h) any agreement in this Lease by 2 or more Persons binds them jointly and each of them separately;
- (i) if any part of this Lease is invalid, illegal or unenforceable, the remaining parts of this Lease will not be affected and will continue to be enforceable;
- (j) references to statutes, regulations, ordinances and by-laws include all statutes, regulations, ordinances and by-laws amending, consolidating or replacing them;
- (k) words and expressions that are not defined in this Lease but which have a defined meaning in the *PPS Act* have the same meaning as in the *PPS Act*;

- (l) a provision of this Lease must not be construed against a party only because that party was responsible for preparation of this Lease or the drafting of that provision; and
- (m) *including* and similar expressions are not words of limitation.

Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the corporation named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified:

Corporation: KHUN & TAN ENTERPRISES PTY LTD (66666687)
Authority: Section 127 of the Corporations Act 2001

Signature of authorised person:

[Signature]

[Signature]

Name of authorised person: [Redacted]
Office held: ~~the~~ Director/Secretary

- Director

Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the corporation named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified:

Corporation: CASSOWARY CAFÉ PTY LTD (66666687)
Authority: Section 127 of the Corporations Act 2001

Signature of authorised person:

Signature of authorised person:

[Signature]

Name of authorised person: [Redacted]
Office held: Director

Name of authorised person: [Redacted]
Office held: Director

I certify I am an eligible witness and that the guarantor signed this dealing in my presence.

Signature of witness:

[Signature]

Name of witness: Kathryn Joy Haliburton
Address of witness: 24 Macquarie St
Belmont NSW 2280.

I certify I am an eligible witness and that the guarantor signed this dealing in my presence.

Signature of witness:

[Signature]

Name of witness: Kathryn Joy Haliburton
Address of witness: 24 Macquarie St
Belmont 2280.

Certified correct for the purposes of the Real Property Act 1900 by the guarantor: Ronald James Game

Signature of guarantor:

[Signature]


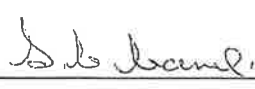

Certified correct for the purposes of the Real Property Act 1900 by the guarantor: Stephanie Gaye Game

Signature of guarantor:

[Signature]

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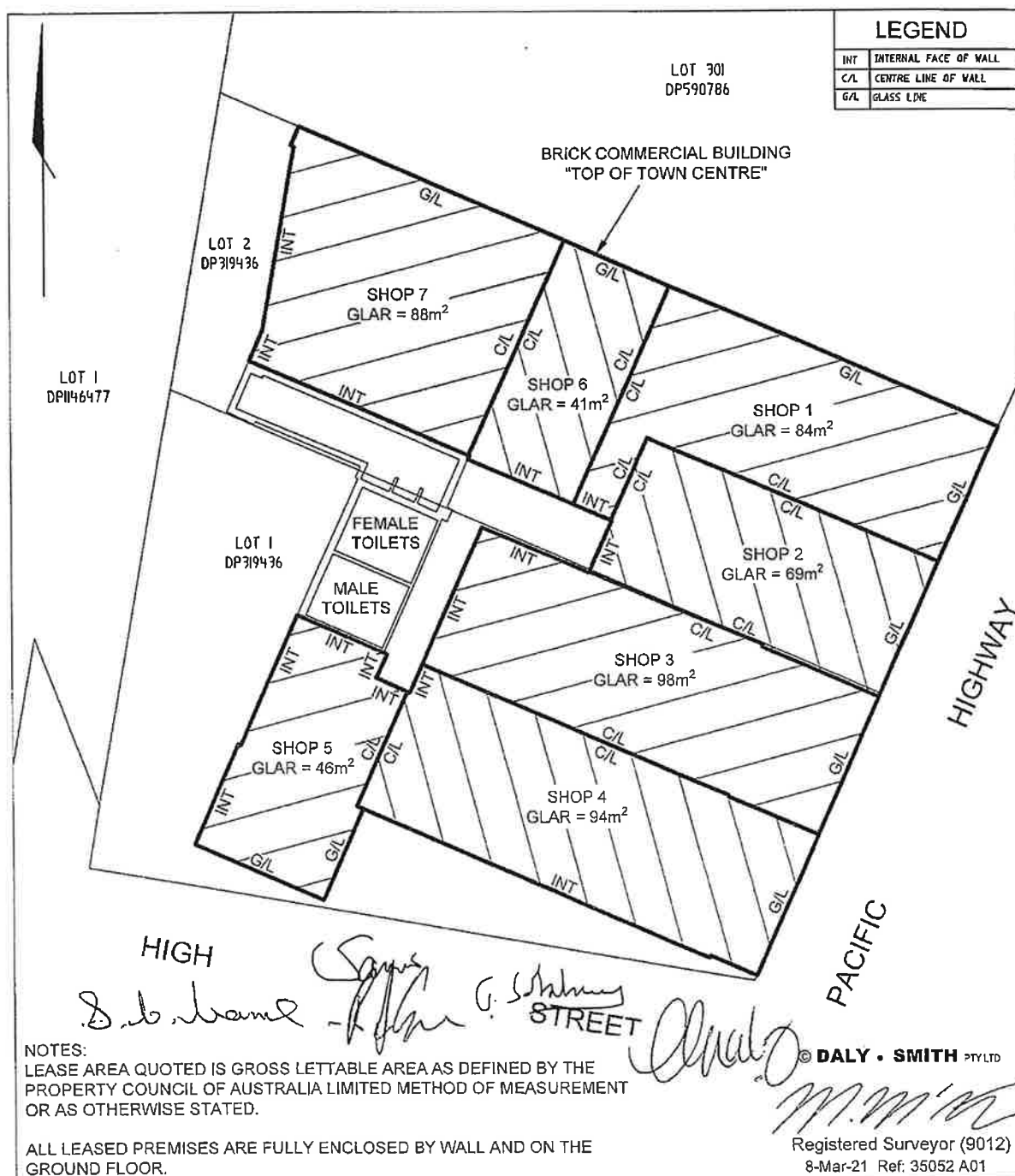
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Annexure "B"

PLAN SHOWING AREA'S TO BE LEASED OVER LOTS 1 & 2 DP 319436 No. 600 PACIFIC HIGHWAY, BELMONT

SCALE 1:200



Lease Form version 4.0

Lodger Details

Lodger Code 501424
Name HPL LAW GROUP
Address PO BOX 246
BELROSE 2085
Lodger Box 1W
Email RITA@HPL.COM.AU
Reference ATM:KEW:220721

For Office Use Only

AS344422

LEASE

Jurisdiction NEW SOUTH WALES

Privacy Collection Statement

PRIVACY NOTE: Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

Land Title Reference

1/319436

Land Extent

PART OF THE LAND

Part Land Description

PART 1/319436 & 2/319436 BEING SHOP 1, 600 PACIFIC HIGHWAY, BELMONT NSW 2280

Land Title Reference

2/319436

Land Extent

PART OF THE LAND

Part Land Description

PART 1/319436 & 2/319436 BEING SHOP 1, 600 PACIFIC HIGHWAY, BELMONT NSW 2280

Lessor

Name KHUN & TAN ENTERPRISES PTY LTD
ACN 626750057

Lessee

Name VERTO LTD
ACN 625425055

Tenancy (inc. share) SOLE PROPRIETOR

The lessor leases to the lessee the property referred to above.

Lease Details

Term 3 YEARS 4 DAYS
Commencing Date 27/06/2022
Terminating Date 30/06/2025
Option to Renew YES
Option to Renew Period 1 YEAR
& Further Option of 1 YEAR
& Further Option of 1 YEAR
Option to Purchase NO

Rent Details

Payment Terms The lessee is to pay the rent by equal monthly instalments in advance on or before the first day of each month from the commencement date. Each instalment is to be one twelfth of the rent.
Rent Description The base rent will be increased annually on the greater of 3% or CPI, whichever is greater on anniversary of the lease. If the option is exercised, the rent will be increased by market rent.

Conditions and Provisions

See attached CONDITIONS AND PROVISIONS

THE SUBSCRIBER VERIFIES THAT THE ATTACHED LEASE HAS BEEN SIGNED BY OR ON BEHALF OF A PERSON PURPORTING TO BE THE LESSEE.

THE LESSOR DECLARES, TO THE BEST KNOWLEDGE OF THE SUBSCRIBER, THAT REGISTRATION OF THE LEASE IS NOT PRECLUDED BY ANY OPTION OF RENEWAL/PURCHASE IN A REGISTERED LEASE.

Lessor Execution

The Certifier has taken reasonable steps to verify the identity of the lessor or his, her or its administrator or attorney.

The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.

The Certifier has retained the evidence supporting this Registry Instrument or Document.

The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Executed on behalf of	KHUN & TAN ENTERPRISES PTY LTD
Signer Name	TONY METE
Signer Organisation	HPL LAWYERS PTY LTD
Signer Role	PRACTITIONER CERTIFIER
Execution Date	28/07/2022

Form: 07L
Release: 4.5

LEASE
New South Wales
Real Property Act 1900

Leave this space clear. Affix additional
pages to the top left-hand corner.

PRIVACY NOTE: Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

STAMP DUTY

Revenue NSW use only

(A) TORRENS TITLE

Property leased

PART 1/319436 & 2/319436 BEING SHOP 1, 600 PACIFIC HIGHWAY, BELMONT NSW
2280

(B) LODGED BY

Document
Collection
Box

Name, Address or DX, Telephone, and Customer Account Number if any

HPL Law Group
PO Box 842, MANLY NSW 1655
02 9977 0125

Reference: ATM:KEW:220721

CODE

L

(C) LESSOR

KHUN & TAN ENTERPRISES PTY LTD ()

The lessor leases to the lessee the property referred to above.

(D)

Encumbrances (if applicable):

(E) LESSEE

VERTO LTD ()

(F)

TENANCY:

- (G)**
1. TERM Three (3) Years and Four (4) Days
 2. COMMENCING DATE 27 June 2022
 3. TERMINATING DATE 30 June 2025
 4. With an OPTION TO RENEW for a period of One (1) Year + One (1) Year + One (1) Year
set out in clause 4 of Annexure A
 5. With an OPTION TO PURCHASE set out in clause N.A. of N.A.
 6. Together with and reserving the RIGHTS set out in clause N.A. of N.A.
 7. Incorporates the provisions or additional material set out in ANNEXURE(S) A hereto.
 8. Incorporates the provisions set out in N.A.
No. N.A.
 9. The RENT is set out in item No. 7 of Annexure A

ANNEXURE A TO THE LEASE

LANDLORD: KHUN & TAN ENTERPRISES PTY LTD (1521 166 656 888) ATF SANSREY
FAMILY TRUST (1521 166 656 888)
TENANT: VERTO LTD (1521 166 656 888)

Annexure A consists of this and the following pages

SCHEDULE

- Item 1 Landlord**
Khun & Tan Enterprises Pty Ltd (1521 166 656 888) ATF Sansrey Family Trust (1521 166 656 888)
care of First National Engage Eastlakes, 603 Pacific Highway, Belmont NSW 2280
- Item 2 Tenant**
Verto Ltd (1521 166 656 888)
- Item 3 Guarantor**
Not applicable
- Item 4 Centre and Land**
The Centre known as 'Top of the Town' on the land in Certificate of Title Folio Identifiers
1/319436 and 2/319436
- Item 5 Premises**
Shop 1, 600 Pacific Highway, Belmont NSW 2280
- Item 6 Term**
Three (3) years and Four (4) days starting on 27 June 2022 and ending on 30 June 2025
- Item 7 Initial Rent**
\$30,000.00 per year including GST
- Item 8 First Option Lease**
One (1) year starting on 1 July 2025 and ending on 30 June 2026
- Item 9 Second Option Lease**
One (1) year starting on 1 July 2026 and ending on 30 June 2027
- Item 10 Third Option Lease**
One (1) year starting on 1 July 2027 and ending on 30 June 2028
- Item 11 Dates of Market Rent Reviews (including during any option leases)**
1 July 2025
- Item 12 Dates of CPI or Percentage Rent Reviews (whichever is greater)**
1 July 2023, 1 July 2024, 1 July 2026 and 1 July 2027
- Item 13 Percentage for Percentage Rent Reviews**
3.00%
- Item 14 Tenant's Proportion of Outgoings**
15.97%

Signature of Landlord

Signature of Tenant

Item 15	Interest Rate 8.00% per annum
Item 16	Permitted Use Office space (Employment/Training)
Item 17	Initial Public Liability Insurance Amount \$20,000,000.00
Item 18	Bank Guarantee Amount \$6,297.72
Item 19	Operating Hours of the Centre Not applicable
Item 20	Rent Free Period Not applicable
Item 21	Turnover Rent Base Figure Not applicable
Item 22	Turnover Rent Percentage Figure Not applicable
Item 23	Marketing Levy Amount Not applicable
Item 24	Security Deposit Amount Not applicable

RETAIL LEASES ACT ACKNOWLEDGMENTS

A. Lessor's Disclosure Statement

The Tenant acknowledges that it received the Lessor's Disclosure Statement not less than 7 days before this Lease was entered into.

B. Waiver of 5 Year Minimum Term

Where the term of this Lease (including the Option Leases) is less than 5 years, the Tenant acknowledges that a Certificate under Section 16(3) of the *Retail Leases Act* was given before this Lease was entered into and that the Tenant has, as a consequence, waived the Tenant's right to a 5 year Term.

1. FORM OF THIS LEASE

1.1. This Lease is a Deed.

1.2. This Lease consists of the front page of this Lease and Annexure A.

2. PARTIES

The parties to this Lease are the Landlord and the Tenant.

3. PROPERTY LEASED

The Landlord leases the Premises to the Tenant for the Term on the conditions in this Lease.

4. LEASE PERIOD

4.1. Term of this Lease

This Lease is for the Term starting and ending on the dates stated in Item 6.

4.2. First Option Lease

If Item 8 refers to a lease for a further term and the Tenant wishes to take up the First Option Lease and strictly follows the procedures set out in clause 4.3, the Landlord will lease the Premises to the Tenant on the conditions set out in clause 4.4.

4.3. Option Procedure for First Option Lease

(a) If the Tenant wishes to take up the First Option Lease, the Tenant must:

- (i) give written notice to the Landlord not more than 6 Months and not less than 3 Months before the Terminating Date of this Lease;
- (ii) not be in default under this Lease unless either the Landlord has waived the default or the default has been remedied by the Tenant; and
- (iii) ensure that any Bank Guarantee under this Lease is applied to the First Option Lease.

(b) After the Landlord receives a notice under clause 4.3(a)(i), the Landlord will give to the Tenant a written statement updating the Lessor's Disclosure Statement.

4.4. First Option Lease Conditions

The First Option Lease will be on the same conditions as this Lease except that:

- (a) clauses 4.2 to 4.5 will not be included;

- (b) Item 8 will be deleted;
- (c) any clause of this Lease which contains a provision excluding that clause from the First Option Lease will not be included;
- (d) the commencing date will be the First Option Lease commencing date;
- (e) the terminating date will be the First Option Lease terminating date; and
- (f) the initial Rent payable during the First Option Lease will be determined in accordance with this Lease.

4.5. First Option Lease Market Rent Determination

- (a) If the commencing date of the First Option Lease is a Market Rent Review Date and the Landlord and the Tenant have not agreed on the Rent to apply as at that date, the Tenant can request a determination of the annual current market rent at any time within the period beginning 6 Months before and ending 3 Months before the last date on which the option to enter into the First Option Lease can be exercised by the Tenant.
- (b) If the Tenant requests a determination of the annual current market rent, the period referred to in clause 4.3(a)(i) will be extended so that the last day of the period is 21 days after written notice is given to the Tenant of the determination.
- (c) If the Term is 12 Months or less, the periods of 6 Months and 3 Months in clause 4.5(a) will instead be 3 Months and 30 days.

4.6. INTENTIONALLY DELETED

4.7. Second Option Lease

If Item 9 refers to a lease for a further term and the Tenant wishes to take up the Second Option Lease and strictly follows the procedures set out in clause 4.8, the Landlord will lease the Premises to the Tenant on the conditions set out in clause 4.9.

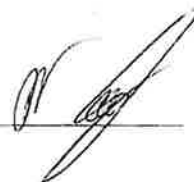
4.8. Option Procedure for Second Option Lease

- (a) If the Tenant wishes to take up the Second Option Lease, the Tenant must:
 - (i) give written notice to the Landlord not more than 6 Months and not less than 3 Months before the Terminating Date of the First Option Lease;
 - (ii) not be in default under the First Option Lease unless either the Landlord has waived the default or the default has been remedied by the Tenant; and
 - (iii) ensure that any Bank Guarantee under the First Option Lease is applied to the Second Option Lease.
- (b) After the Landlord receives a notice under clause 4.8(a)(i), the Landlord will give to the Tenant a written statement updating the Lessor's Disclosure Statement.

4.9. Second Option Lease Conditions

The Second Option Lease will be on the same conditions as the First Option Lease except that:

- (a) clauses 4.7 to 4.9 will not be included;
- (b) Item 9 will be deleted;



- (c) any clause of the First Option Lease which contains a provision excluding that clause from the Second Option Lease will not be included;
- (d) the commencing date will be the Second Option Lease commencing date;
- (e) the terminating date will be the Second Option Lease terminating date; and
- (f) the initial Rent payable during the Second Option Lease will be determined in accordance with the First Option Lease.

4.10. INTENTIONALLY DELETED

4.11. Third Option Lease

If Item 10 refers to a lease for a further term and the Tenant wishes to take up the Third Option Lease and strictly follows the procedures set out in clause 4.12, the Landlord will lease the Premises to the Tenant on the conditions set out in clause 4.13.

4.12. Option Procedure for Third Option Lease

- (a) If the Tenant wishes to take up the Third Option Lease, the Tenant must:
 - (i) give written notice to the Landlord not more than 6 Months and not less than 3 Months before the Terminating Date of the Second Option Lease;
 - (ii) not be in default under the Second Option Lease unless either the Landlord has waived the default or the default has been remedied by the Tenant; and
 - (iii) ensure that any Bank Guarantee under the Second Option Lease is applied to the Third Option Lease.
- (b) After the Landlord receives a notice under clause 4.12(a)(i), the Landlord will give to the Tenant a written statement updating the Lessor's Disclosure Statement.

4.13. Third Option Lease Conditions

The Third Option Lease will be on the same conditions as the Second Option Lease except that:

- (a) clauses 4.11 to 4.13 will not be included;
- (b) Item 10 will be deleted;
- (c) any clause of the Second Option Lease which contains a provision excluding that clause from the Third Option Lease will not be included;
- (d) the commencing date will be the Third Option Lease commencing date;
- (e) the terminating date will be the Third Option Lease terminating date; and
- (f) the initial Rent payable during the Third Option Lease will be determined in accordance with the Second Option Lease.

4.14. INTENTIONALLY DELETED

4.15. Relocation

- (a) If the Landlord has a Refurbishment Proposal then, despite anything to the contrary in this Lease, the Landlord can give a Relocation Notice to the Tenant.

- (b) Within 1 Month of the Landlord giving a Relocation Notice to the Tenant (time being of the essence) the Tenant can give a Relocation Termination Notice to the Landlord.
- (c) If the Tenant gives a Relocation Termination Notice under clause 4.15(b):
- (i) no later than 1 Month before the Relocation Termination Date the Tenant will deliver to the Landlord a surrender of this Lease in registrable form, except for execution by the Landlord;
 - (ii) the Tenant will give vacant possession of the Premises to the Landlord on the Relocation Termination Date in the condition that would be required under this Lease if the Relocation Termination Date were the Terminating Date; and
 - (iii) this Lease will terminate on the Relocation Termination Date and neither the Landlord nor the Tenant will have any claim against the other as a consequence of the giving of either the Relocation Notice or the Relocation Termination Notice.
- (d) If the Tenant does not give a Relocation Termination Notice under clause 4.15(b):
- (i) this Lease will terminate on the Relocation Date;
 - (ii) the Tenant will be regarded as having accepted the Landlord's offer to enter into the Substituted Premises Lease;
 - (iii) the Landlord will deliver the Substituted Premises Lease to the Tenant within 2 Months of the Landlord giving the Relocation Notice;
 - (iv) the Tenant will sign and deliver the Substituted Premises Lease to the Landlord within 14 Business Days of receipt from the Landlord of the Substituted Premises Lease;
 - (v) the Tenant will do all things necessary before the Relocation Date to ensure that any Bank Guarantee or Security Deposit under this Lease is applied to the Substituted Premises Lease; and
 - (vi) the Landlord will pay the Tenant's reasonable costs of relocating from the Premises to the Substituted Premises including, but not limited to:
 - (A) the Tenant's reasonable legal costs of surrendering this Lease and of entering into the Substituted Premises Lease; and
 - (B) the Tenant's reasonable costs of dismantling and reinstalling the Tenant's Goods.
- (e) The Landlord and the Tenant agree that the Substituted Premises Lease will be on the same terms and conditions as this Lease except that:
- (i) the Premises under the Substituted Premises Lease will be the Substituted Premises;
 - (ii) the Commencing Date of the Substituted Premises Lease will be the day after the Relocation Date;
 - (iii) the term of the Substituted Premises Lease will be equal balance of the Term calculated from the day after the Relocation Date; and
 - (iv) the Rent and the Tenant's Proportion of Outgoings payable under the Substituted Premises Lease will be calculated at the same rate per square metre of the Substituted Premises as the rate per square metre payable under this Lease.

4.16. Demolition

- (a) If the Landlord has a Demolition Proposal then, despite anything to the contrary in this Lease, the Landlord can give a Demolition Notice to the Tenant.
- (b) If the Landlord gives a Demolition Notice to the Tenant, it must be given no earlier than 27 June 2024.
- (c) At any time after the Landlord gives a Demolition Notice to the Tenant but no later than 10 Business Days before the Demolition Date, the Tenant can give a Demolition Termination Notice to the Landlord.
- (d) If the Landlord gives a Demolition Notice or the Tenant gives a Demolition Termination Notice:
 - (i) no later than the earlier of the Demolition Date and the Demolition Termination Date, the Tenant will deliver to the Landlord a surrender of this Lease in registrable form, except for execution by the Landlord;
 - (ii) the Tenant will give vacant possession of the Premises to the Landlord on the earlier of the Demolition Date and the Demolition Termination Date in the condition that would be required under this Lease if such date were the Terminating Date;
 - (iii) this Lease will terminate on the earlier of the Demolition Date and the Demolition Termination Date and neither the Landlord nor the Tenant will have any claim against the other as a consequence of the giving of either the Demolition Notice or the Demolition Termination Notice;
- (e) If the Landlord gives a Demolition Notice or the Tenant gives a Demolition Termination Notice and demolition of the Centre is not carried out within a reasonably practicable time after the Demolition Date, the Landlord is liable to pay the Tenant reasonable compensation for damage suffered by the Tenant as a consequence of the early termination of this Lease, unless the Landlord establishes that at the time the Demolition Notice was given by the Landlord there was a genuine proposal to demolish the Centre within a reasonably practical time.
- (f) If the Landlord gives a Demolition Notice or the Tenant gives a Demolition Termination Notice and the Tenant has installed fixtures in the Premises the Landlord is liable to pay the Tenant compensation for the Tenant's fixtures, whether or not the Demolition Proposal is carried out.

5. PAYMENTS

5.1. Rates of Rent and Method of Payment

Rent is payable at the annual rate stated in Item 7 until varied under this Lease and is then payable at the varied rates. All payments must be made in full at the Landlord's address stated in Item 1 or at any other place notified in writing by the Landlord to the Tenant. If required by the Landlord, Rent must be paid by irrevocable automatic order on the Tenant's bank.

5.2. Instalments of Rent

The Tenant will pay Rent at the following rates:

- (a) if the Commencing Date is not the first day of a Month the first Rent payment will be calculated on a daily basis based on the number of days in the relevant Month;
- (b) by instalments monthly in advance on the first day of each full Month within the Term equal to one-twelfth of the annual Rent then payable; and
- (c) if the Terminating Date is not the last day of a Month, the last Rent payment will be calculated on a daily basis based on the number of days in the relevant Month.

5.3. Market Rent Reviews

- (a) On each Market Rent Review Date the annual Rent payable under this Lease will be varied to the annual current market rent agreed or determined under this clause 5.3.
- (b) In this Lease current market rent means the annual rent that would reasonably be expected to be paid for the Premises, determined on an effective rent basis:
 - (i) having regard to:
 - (A) the terms and conditions of this Lease;
 - (B) the rent concessions or other benefits that are frequently or generally offered to prospective tenants of unoccupied retail premises;
 - (C) the rent that would reasonably be expected to be paid for the Premises if the Premises were unoccupied and offered for renting for the same or a substantially similar use to the Permitted Use; and
 - (D) the Rent and Outgoings;
 - (ii) without having regard to:
 - (A) the value of the Tenant's Goods; or
 - (B) the Tenant's goodwill.
- (c) No earlier than 3 Months before a Market Rent Review Date, the Landlord will give the Rent Review Notice to the Tenant.
- (d) Unless the Tenant objects to the Rent Review Notice by giving written notice to the Landlord within 14 Business Days of the Tenant receiving the Rent Review Notice (time being of the essence), the annual current market rent payable from the Market Rent Review Date will be the amount in the Rent Review Notice.
- (e) If the Tenant objects to the Rent Review Notice by giving written notice to the Landlord within 14 Business Days of the Tenant receiving the Rent Review Notice (time being of the essence), the Rent Agreement Period will start. If the Landlord and the Tenant do not agree within the Rent Agreement Period (time being of the essence) on the annual current market rent to apply from the Market Rent Review Date clauses 5.3(f) to 5.3(o) will apply.
- (f) The Landlord and the Tenant will try to agree on a Specialist Retail Valuer to determine the annual current market rent to apply from the Market Rent Review Date. Failing agreement within 7 Business Days of the end of the Rent Agreement Period either the Landlord or the Tenant can apply to the Tribunal to nominate a Specialist Retail Valuer.
- (g) The Landlord and the Tenant can make written submissions to the Specialist Retail Valuer before the date on which the Specialist Retail Valuer is required to make the determination. The Specialist Retail Valuer is entitled to take into account any such written submissions when making the determination but is not obliged to do so.
- (h) The Specialist Retail Valuer in determining the amount of the rent must take into account the matters set out in clause 5.3(b)(i).
- (i) Within 14 days after a request by the Specialist Retail Valuer, the Landlord must supply the Specialist Retail Valuer with information reasonably available to the Landlord requested by the Specialist Retail Valuer to assist the Specialist Retail Valuer to determine the current market rent.

- (j) A Specialist Retail Valuer may apply to the Tribunal for an order that the Landlord comply with a request referred to in clause 5.3(i) to supply relevant information about leases for retail shops situated in the Centre.
- (k) The Specialist Retail Valuer will make a determination and will notify the Landlord and the Tenant of the Specialist Retail Valuer's determination within 1 Month after the Specialist Retail Valuer receives the information requested in clause 5.3(i). The Specialist Retail Valuer must give his or her valuation in writing and must give detailed reasons for the Specialist Retail Valuer's determination. The Specialist Retail Valuer must specify the matters to which the Specialist Retail Valuer has had regard in making the determination.
- (l) The Specialist Retail Valuer will act as an expert and not as an arbitrator.
- (m) Subject to Section 32A of the *Retail Leases Act*, the Specialist Retail Valuer's determination will be final and binding as between the Landlord and the Tenant.
- (n) Either the Landlord or the Tenant can request the Tribunal to appoint another Specialist Retail Valuer if the appointed Specialist Retail Valuer:
 - (i) fails to accept the appointment;
 - (ii) resigns the appointment;
 - (iii) becomes incapacitated or dies; or
 - (iv) fails to notify the Landlord and the Tenant of the determination within 1 Month after accepting the appointment.
- (o) The Landlord and the Tenant will each pay one half of the Specialist Retail Valuer's costs of making the determination.
- (p) If the Rent has not been agreed or determined by a Market Rent Review Date, the Tenant will pay the Landlord instalments of Rent on account equal to the Rent payable before that Market Rent Review Date. Within 14 days of the Rent being agreed or determined the Tenant will pay to the Landlord or the Landlord will credit to the Tenant any difference between the amount paid on account and the Rent as agreed or determined.

5.4. CPI or Percentage Rent Reviews

The Rent payable by the Lessee hereunder shall be reviewed on each of the dates set out in Item 12 to the sum being the greater of:

(a) CPI Review:

- (i) The amount calculated by applying the following formula:

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

where:

R is the annual Rent to be payable from the CPI Rent Review Date;

A is the Australian Statistician's Consumer Price Index (All Groups) figure for Sydney last published before the CPI Rent Review Date;

B is the Australian Statistician's Consumer Price Index (All Groups) figure for Sydney last published before whichever is the later of the Commencing Date and the most recent date on which Rent was reviewed under this Lease; and

C is the annual Rent payable immediately before the CPI Rent Review Date.

- (ii) If the Australian Statistician updates the reference base of the Consumer Price Index, the intended continuity of calculation will be preserved by applying the appropriate factor, as chosen by the Landlord, to such updated reference base.
- (iii) If the Consumer Price Index is discontinued or suspended:
 - a. the Landlord and the Tenant will try to agree within 14 Business Days after the CPI Rent Review Date on an alternative index which reflects fluctuations in the cost of living in Sydney;
 - b. if the Landlord and the Tenant do not agree on an alternative index, the Landlord will request the Nominator to nominate an alternative index which reflects fluctuations in the cost of living in Sydney. The decision of the Nominator will be final and binding as between the Landlord and the Tenant. The Landlord and the Tenant will each pay one half of the Nominator's costs of making the determination.

or

(b) Percentage Rent Review:

- (i) On each Percentage Rent Review Date, the annual Rent payable under this Lease will be the annual Rent payable immediately before the Percentage Review Date increased by the percentage stated in Item 13.

5.5. Centre Outgoings

- (a) In each Accounting Year the Tenant will pay the Tenant's Proportion of Outgoings.
- (b) At least 1 Month before the start of each Accounting Year the Landlord will give to the Tenant the Outgoings Estimate for the next Accounting Year.
- (c) The Tenant will pay the Outgoings Estimate by equal monthly instalments in advance on the same days and in the same manner as Rent.
- (d) Within 1 Month of the end of each Accounting Year the Landlord will give to the Tenant a written statement as required by the *Retail Leases Act* detailing all expenditure by the Landlord on the Outgoings for the preceding Accounting Year.
- (e) Within 3 Months of the end of each Accounting Year the Landlord will give the Outgoings Report to the Tenant. The Outgoings Report will:
 - (i) be prepared by a registered company auditor in accordance with accounting standards within the meaning of the *Corporations Act 2001*; and
 - (ii) include a statement by the auditor about whether the amounts paid by the Tenant for Outgoings were properly payable by the Tenant and whether the Outgoings Estimate for the relevant period exceeded the amount actually spent by the Landlord on the Outgoings.
- (f) If the Outgoings Report relates only to insurance, land tax, water sewerage and drainage rates and charges, local council rates and charges and strata levies and the Outgoings Report is accompanied by copies of receipts for all expenditure, the Landlord does not have to comply with either clause 5.5(e)(i) or clause 5.5(e)(ii).
- (g) Within 1 Month after the end of each Accounting Year an adjustment will be made of any underpayment or overpayment of the Outgoings. The adjustment is to be the difference between the Outgoings Estimate and the amount actually spent by the Landlord on the Outgoings during

the relevant Accounting Year, taking into account only expenditure properly and reasonably incurred by the Landlord in payment of the Outgoings.

- (h) Despite anything to the contrary in this Lease, the Tenant is only liable to contribute to non-specific Outgoings referable to the Premises the amount calculated by multiplying the total amount of that Outgoing by the ratio that the gross lettable area - retail of the Premises bears to the total gross lettable area - retail of all retail premises in the Centre to which that non-specific Outgoing is referable.

5.6. Interest on Arrears

The Tenant will pay to the Landlord interest on any Rent and on any other moneys due but unpaid for 14 days. Interest will be calculated at the rate stated in Item 15 as at the dates on which such moneys fall due to the date on which such moneys are received by the Landlord.

5.7. Duty and Landlord's Costs

- (a) The Tenant will pay the Landlord's costs, including legal costs as between solicitor and client, in relation to any amendment to the terms of this Lease that was requested by the Tenant and any transfer, surrender or termination of this Lease (including the cost of obtaining the consent of any Person whose consent is required) and in relation to any breach of this Lease by the Tenant.
- (b) The Tenant must pay the Landlord's costs and disbursements of lodging a financing statement in respect of any Security Interest arising under this Lease.
- (c) The Tenant will pay all duty when due and any registration fees when payable in relation to this Lease and in relation to anything done under this Lease.

5.8. Cost of Landlord Remedying Tenant Defaults

After giving reasonable notice to the Tenant, the Landlord can remedy any default by the Tenant under this Lease. The Tenant will pay on demand any costs that the Landlord incurs in doing so.

5.9. GST

- (a) The Rent and other moneys payable under this Lease by the Tenant have been calculated without regard to GST.
- (b) The Tenant must pay to the Landlord any amount which is payable by the Landlord for GST as a consequence of any supply made by the Landlord to the Tenant under this Lease, such payment on account of GST to be made by the Tenant at the same time as payment is made for the relevant supply.
- (c) If at any time an adjustment is made as between the Landlord and the relevant taxing Authority of an amount paid on account of GST on any supply made by the Landlord to the Tenant under this Lease, a corresponding adjustment must be made as between the Landlord and the Tenant and any payments required to give effect to the adjustment must be made.
- (d) No later than 14 days after the date of payment of any GST the Landlord must provide to the Tenant a tax invoice complying with any legislation under which GST is imposed.
- (e) The Tenant will pay on demand to the Landlord any interest or penalties incurred by the Landlord as a result of the Tenant's failure to make a payment under clause 5.9(b).

- (f) The amount of Outgoings will be calculated by applying the following formula:

$$(A - B) \times (1 + C)$$

where:

- A is the GST inclusive price of the component of Outgoings, being the amount paid by the Landlord;
- B is the GST input tax credit for which the Landlord is eligible on the component of Outgoings; and
- C is the rate of GST expressed as a decimal.

5.10. **INTENTIONALLY DELETED**

5.11. **INTENTIONALLY DELETED**

5.12. **INTENTIONALLY DELETED**

6. **USE**

6.1. **Tenant's Use of the Premises**

- (a) The Tenant will only use the Premises for the Permitted Use.
- (b) The Tenant will keep the Premises clean and tidy and arrange for the regular removal of any waste or rubbish from the Premises.
- (c) The Tenant will endeavour to keep the Premises and any property in the Premises safe from theft and will keep the Premises secure when the Premises are not in use.
- (d) The Tenant will not give any keys to the Premises to any other Person and will deliver all keys to the Landlord at the expiry or earlier termination of this Lease.
- (e) The Tenant will not keep any animal in the Premises and will keep the Premises free of all pests and vermin.
- (f) The Tenant will immediately notify the Landlord and the proper public authorities of any infectious illness in the Premises and thoroughly fumigate the Premises to the Landlord's satisfaction.
- (g) The Tenant will not use the Premises in an unsafe, noisy, offensive or unlawful manner.
- (h) The Tenant will not allow any article whatsoever to fall from the Premises and will not place any article on any ledge or other similar part of the Premises.
- (i) The Tenant will not mark or damage the Premises.
- (j) The Tenant will not obstruct any windows or lights in the Premises without the Landlord's prior consent.
- (k) The Tenant will not without the Landlord's prior consent put either on the outside of the Premises or on anywhere visible from the outside of the Premises any sign, advertisement or notice. Before the expiry or earlier termination of this Lease, the Tenant will remove any such sign, advertisement or notice and make good to the Landlord's satisfaction any damage.
- (l) The Tenant agrees that any blinds, awnings, window ventilators and other similar fittings installed by the Tenant and visible from outside the Premises must conform to the Landlord's requirements about design, quality and appearance.

- (m) The Tenant will not allow the floor of the Premises to be broken, strained or damaged by overloading.
- (n) The Tenant will not use the Landlord's Equipment for any purpose other than those for which they were supplied.
- (o) The Tenant will not do anything to affect the working or efficiency of any air conditioning equipment.
- (p) The Tenant will promptly notify the Landlord in writing of any defect in or need to repair the Premises or the Landlord's Equipment of which the Tenant is aware.
- (q) The Tenant will promptly notify the Landlord in writing of any circumstance of which the Tenant is aware which is likely to cause a danger or hazard to the Premises or to any Person in the Centre.
- (r) The Tenant will not store inflammable or dangerous substances in the Premises other than where reasonably required by the Tenant in connection with the Permitted Use but then only in such quantities and containers as are permitted by law and approved by the Landlord.
- (s) The Tenant will not do anything that would make any insurance policy taken out by the Landlord or the Tenant void or voidable or which would breach any laws or regulations.
- (t) The Tenant will only use light, power or heat generated by electric current or gas supplied through meters.
- (u) The Tenant will promptly pay all utility and service charges in relation to the Premises and, where appropriate, install any necessary meters.
- (v) The Tenant will keep any waste pipes and drains in or servicing the Premises free from blockages.
- (w) The Tenant will not do anything that might result in a statutory Authority issuing a notice in relation to the Premises or the Centre.
- (x) The Tenant will not sell any alcohol in the Premises without the Landlord's written consent.
- (y) The Tenant will not hold any auction, fire or bankruptcy sale in the Premises without the Landlord's written consent.
- (z) The Tenant will replace all non-operating light globes and light tubes.

6.2. **Cleaning**

- (a) The Tenant will clean the Premises at the Tenant's cost.
- (b) The Tenant acknowledges that the security concerns of the Landlord and of other tenants or occupiers of the Centre will be relevant matters to be considered by the Landlord when the Landlord is asked to approve any Person proposed by the Tenant to clean the Premises.
- (c) If the Landlord requests that a Person is not engaged to clean the Premises or that a Person who is a cleaner is not to be allowed access to the Centre or Premises, the Tenant must immediately comply with that request.
- (d) The Tenant will require the Tenant's cleaners to provide such personal information and identification and to comply with such security checks as the Landlord acting reasonably requires.

6.3. Trading and Stock

- (a) The Tenant will keep the Premises open for trading during the Centre Operating Hours.
- (b) The Tenant will keep current all licences and permits required for the use of the Premises by the Tenant.
- (c) The Tenant will keep the Premises adequately lit.
- (d) The Tenant will provide all necessary staff and stock to ensure that the Tenant's business is conducted in a proper and reputable manner in accordance with best practice.

6.4. Tenant's Use of the Centre

- (a) The Tenant will not do anything to obstruct the Common Areas or the Landlord's Equipment.
- (b) The Tenant will keep clean and free from rubbish those parts of the Common Areas and of any public footpath that immediately adjoin the Premises.
- (c) The Tenant will not burn any waste or rubbish in the Premises or on the Common Areas.
- (d) The Tenant will not cover any light, sky-light, window or other means of illuminating the Common Areas or the Centre.
- (e) The Tenant will not solicit business or distribute advertising material in the Common Areas.
- (f) The Tenant will not without the Landlord's consent put any antenna or similar equipment on the Common Areas.
- (g) The Tenant will not without the Landlord's consent use any loudspeaker or similar equipment likely to be seen or heard in the Common Areas.
- (h) The Tenant will not smoke in the Common Areas.
- (i) The Tenant will comply with the Landlord's requirements in relation to Centre security.
- (j) The Tenant will comply with the Landlord's requirements in relation to emergency evacuation procedures and fire drills.
- (k) The Tenant will not use any part of the Common Areas except the approved customer parking areas for parking vehicles except for pick-up or delivery of goods or Persons in the ordinary course of the Tenant's business.
- (l) The Tenant will ensure that the Tenant's customers, visitors and invitees park only in those parts of the Common Areas approved by the Landlord from time to time as customer parking.
- (m) The Tenant will not grease, oil, repair, clean or wash vehicles within the Common Areas.
- (n) The Tenant will not bring into the Centre any vehicle without rubber tyres.
- (o) Where the Landlord provides the Tenant with identification on any sign installed by the Landlord near an entrance to the Centre the Tenant will pay on demand the Landlord's costs of providing such identification.
- (p) The Tenant will only use for moving goods of bulk or quantity such parts of the Common Areas and at such times as the Landlord from time to time directs.

6.5. Energy consumption information

- (a) The Tenant agrees and acknowledges that the Landlord has or may have mandatory reporting obligations which may include disclosing to the relevant authorities and other Persons information relating to the Tenant's level of energy consumption in the Premises, greenhouse gas emissions, energy efficiency initiatives and associated data, records and other information.
- (b) The Tenant will provide such data, records and other information as the Landlord may reasonably require to enable the Landlord to comply with its reporting obligations relating to the Tenant's level of energy consumption in the Premises, greenhouse gas emissions and energy efficiency initiatives.
- (c) The Tenant will within 7 days of receipt by the Tenant provide to the Landlord copies of all records and accounts received by the Tenant from a utility or service provider in respect of the consumption of electricity or gas in the Premises.
- (d) If the Tenant does not provide information required by the Landlord pursuant to this clause 6.5 the Tenant will pay on demand to the Landlord an amount equal to any expense, fine or penalty incurred by the Landlord arising as a result of the Tenant's default.

7. CONDITION AND REPAIRS

7.1. Keeping and Delivering Up in Repair

- (a) The Tenant will at all times keep the Premises and any of the Landlord's Equipment in or servicing the Premises in good repair and condition having regard to the condition of the Premises and of the Landlord's Equipment at the earlier of the Commencing Date or the date that the Tenant first occupied the Premises.
- (b) Unless required because of the Tenant's particular use of the Premises, the Tenant's obligations under clause 7.1(a) do not extend to:
 - (i) any repair required because of fair wear and tear or because of the Landlord's negligence;
 - (ii) any capital costs or structural repairs; or
 - (iii) anything beyond the control of the Tenant.

7.2. Repair of Damage

The Tenant will make good any defect in or damage to the Premises, the Landlord's Equipment or the Centre caused by lack of care or misuse by the Tenant.

7.3. Painting Etc

Before the Tenant ceases to occupy the Premises, the Tenant will to the Landlord's satisfaction:

- (a) paint with at least 2 coats of high quality paint and otherwise treat appropriately all the internal brickwork, masonry, timber, metalwork and other surfaces of the Premises usually painted or treated; and
- (b) wash down all washable surfaces of the Premises.

7.4. Alterations and Additions

- (a) The Tenant will not make any alterations or additions to the Premises without first obtaining the Landlord's written consent. The Landlord can give or withhold consent in its absolute discretion.

- (b) When requesting consent for any such works the Tenant will give to the Landlord for approval detailed plans and specifications of the works. The Landlord can give or withhold approval of the plans and specifications in its absolute discretion.
- (c) Any such works can only be undertaken either by the Landlord or by Persons approved by the Landlord.
- (d) The Tenant must comply with the requirements of the Landlord, the law and the relevant public authorities in carrying out any such works.
- (e) The Tenant will pay the Landlord's costs in connection with any works.

7.5. Statutory Requirements

- (a) The Tenant will at all times comply with all statutes, ordinances, proclamations, orders and regulations affecting the Premises, the use of the Premises by the Tenant and the Tenant's Goods.
- (b) The Tenant will comply with all notices and orders given by any statutory, public or other competent Authority in respect of the Premises, the use of the Premises by the Tenant and the Tenant's Goods.
- (c) The Tenant will comply with all WH&S Laws in relation to the Premises.
- (d) The Tenant indemnifies the Landlord in relation to any failure by the Tenant to comply with the Tenant's obligations under this clause 7.5.
- (e) Despite clauses 7.5(a) and 7.5(b) the Tenant is not responsible for any capital costs nor for any structural alterations unless required because of the Tenant's particular use of the Premises.

7.6. Principal Contractor and WH&S Regulation

- (a) If any work is to be carried out on the Premises by the Tenant during the Term of the lease, including any Option Lease or holding over period which requires the appointment of a Principal Contractor under the *WH&S Regulation*, the Landlord appoints the Tenant as the Principal Contractor in respect of those works and the Tenant accepts that appointment.
- (b) The Landlord authorises the Tenant to exercise such authority of the Landlord as is necessary to ensure that the Tenant can carry out the responsibilities imposed on the Tenant as Principal Contractor under the *WH&S Regulation*.
- (c) The Tenant may propose that another Person is appointed as Principal Contractor for specific works in place of the Tenant, subject to the Tenant first obtaining the Landlord's consent.
- (d) The Tenant must ensure that when any work is carried out in the Premises all the requirements of the *WH&S Regulation* and any other laws relating to work health and safety are met.
- (e) The Tenant must consult, co-operate and co-ordinate its activities with the Landlord in connection with the Premises to ensure that the parties at all times comply with *WH&S Law* including, but not limited to, scheduling and participating in regular meetings, maintaining current information on an accident registers and conducting regular risk assessment reports of the Premises including taking the views of Tenant's workers into consideration and to take any other steps as agreed between the parties.
- (f) The Landlord will make itself available to the Tenant on a regular basis to discuss any matters related to health and safety at work arising from its obligations in relation to the Premises.
- (g) The Tenant must immediately notify the Landlord of any accident, notifiable incident (being an incident which is notifiable under *WH&S Law*) or injury which occurs on the Premises in connection with the activities at the Premises. The Tenant must take all reasonably practicable steps to safely isolate any dangers from occurring or reoccurring before the Landlord is informed.

- (h) The Tenant undertakes to inform itself of the serious injury or illness and dangerous incident notification obligations. The Tenant undertakes to advise the regulator by the fastest possible means, prior to advising the Landlord in the event that a notifiable incident occurs.

8. INSURANCE AND DAMAGE

8.1. Public Risk and Plate Glass

The Tenant will keep current in the name of the Tenant, noting the interest of the Landlord and, if required by the Landlord, the Landlord's mortgagee:

- (a) a public risk insurance policy for not less than the amount stated in Item 17 or for such higher amount as the Landlord from time to time requires;
- (b) adequate reinstatement insurance of all glass in the Premises for the amount to replace the glass in accordance with the then current Australian Standards; and
- (c) other insurances which are required by law or which in the Landlord's reasonable opinion a prudent tenant would take out.

8.2. Workers Compensation

The Tenant will keep current workers compensation insurance (including common law liability) with a reputable insurer for all Persons employed by the Tenant in relation to whom death or bodily injury claims can be made against the Landlord.

8.3. Insurance of Tenant's Goods

The Tenant will keep the Tenant's Goods adequately insured against loss or damage.

8.4. Evidence of Insurance

The Tenant will provide to the Landlord any insurance policy which the Tenant is required to take out under this Lease and certificates of currency in relation to any such policy.

8.5. Risk

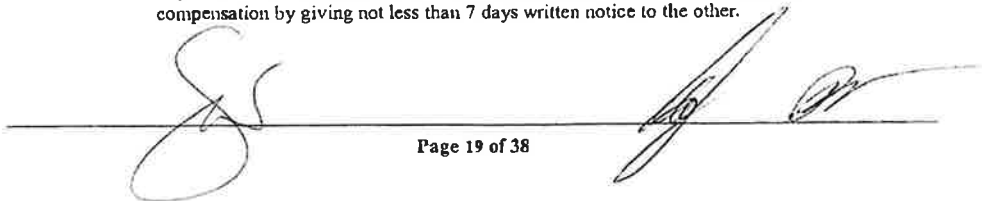
The Tenant occupies and uses the Premises at the Tenant's risk. The Landlord is only liable to the Tenant for any injury, loss or damage to any property or Person to the extent that such injury, loss or damage is caused by the Landlord's negligence.

8.6. Indemnities by Tenant

- (a) The Tenant indemnifies the Landlord against all claims, costs and expenses for which the Landlord is liable in relation to any death, personal injury or property damage caused by any act or failure to act of the Tenant or because of the Tenant's use of the Premises and the Centre.
- (b) The Tenant indemnifies the Landlord against all loss or damage caused by the Tenant including, but not limited to, the Tenant's use or misuse of the Premises and the Centre or of the Landlord's Equipment.

8.7. Termination and Abatement on Damage

- (a) If the Premises or Centre are damaged so that the Premises are inaccessible or unable to be used and the Landlord notifies the Tenant in writing that the Landlord considers repairing the damage impractical or undesirable, either the Landlord or the Tenant can terminate this Lease without compensation by giving not less than 7 days written notice to the other.



Two handwritten signatures are present at the bottom of the page, one on the left and one on the right, both written in black ink.

- (b) If the Premises or Centre are damaged so that the Premises are inaccessible or unable to be used and the Landlord fails to repair the damage within a reasonable time after written notice from the Tenant requesting the Landlord to do those repairs, the Tenant can terminate this Lease by giving not less than 7 days written notice to the Landlord.
- (c) If the Premises or Centre are damaged so that the Premises are inaccessible or unable to be used, no Rent or Outgoings will be payable by the Tenant until the Premises are made accessible or useable.
- (d) If the Premises are damaged and are still useable but the use of the Premises is diminished due to damage, the Rent and the Outgoings will abate according to the extent of the diminished use until the use of the Premises is no longer diminished.
- (e) Nothing in this clause 8.7 affects the Landlord's right to recover damages from the Tenant in respect of any damage or destruction referred to in this clause nor obliges the Landlord to restore or reinstate the Premises.

8.8. Increased Premiums

If the Tenant's acts or omissions cause any premium for insurances effected by the Landlord to increase, the Tenant will pay the amount of that increased premium to the Landlord within 14 days of demand.

9. ACCESS

9.1. Right to Enter to Inspect or Carry Out Works

- (a) The Landlord can enter the Premises at reasonable times after giving reasonable notice or at any time without notice in an emergency to:
 - (i) inspect the Premises;
 - (ii) do any works that the Landlord considers desirable;
 - (iii) collect data and to check or monitor the performance of the Premises;
 - (iv) exercise any of the Landlord's rights under this Lease; and
 - (v) repair the Premises where the Premises have been damaged.
- (b) The Landlord will give to the Tenant 2 Months prior written notice of any alteration to or refurbishment of the Centre to be carried out by the Landlord which is likely to adversely affect the Tenant's business. In emergencies reasonable notice only of any such alteration or refurbishment is required
- (c) In exercising the Landlord's right to enter the Premises and to do works:
 - (i) the Landlord and the Landlord's employees, agents and contractors will be entitled to enter the Premises with all necessary materials; and
 - (ii) the Landlord will use all reasonable endeavours to ensure that as little disruption as is practical is caused to the Tenant's use of the Premises.

9.2. Landlord's Signs and Inspections

- (a) The Landlord is entitled to attach 'For Sale' and 'For Lease' signs to the Centre, including to the outside of the Premises. 'For Lease' signs in relation to the Premises will only be attached during the 3 Months immediately preceding the Terminating Date.
- (b) The Tenant will not obscure the Landlord's signs.

- (c) The Tenant will allow all Persons authorised in writing by the Landlord to inspect the Premises at reasonable times after reasonable notice from the Landlord.

9.3. Easements and Other Rights

- (a) The Landlord can transfer or create any easement, covenant, restriction, licence or other right or dedicate land in favour of any Person or in favour of any land near the Premises or in favour of any Authority for the purposes of access, support or services or such other purposes that the Landlord reasonably requires or which may be required by an Authority. This Lease is subject to any such easement, covenant, restriction, licence, other right or dedication.
- (b) The Landlord may release, cancel, modify or extinguish any easement, covenant, restriction licence or other right which benefits or burdens the Land.
- (c) Within 7 days of written request by the Landlord the Tenant will sign and return to the Landlord any consents or other documents necessary to enable the Landlord to carry out any activity referred to in clauses 9.3(a) and 9.3(b) and will make no objection or claim for compensation in relation to such activity.
- (d) The Landlord will not dedicate land or transfer, create, release, cancel, modify or extinguish any easement, covenant, restriction, licence or other right which would substantially and permanently lessen the Tenant's rights under this Lease.

9.4. Landlord's Reservations

The Landlord reserves the right:

- (a) to use the roof of the Premises;
- (b) to run substances through any pipes, ducts or wires passing through the Premises; and
- (c) to enter the Premises to exercise such rights.

9.5. Landlord's Repair Obligation

The Landlord agrees to use reasonable endeavours to ensure that the structure of the Premises and of the Centre is kept in good repair having regard to their condition at the earlier of the Commencing Date or the date that the Tenant first occupied the Premises except for:

- (a) fair wear and tear;
- (b) anything that the Tenant is required to do under this Lease; and
- (c) damage from any cause beyond the Landlord's reasonable control.

10. ASSIGNMENT AND SUB-LETTING

10.1. Restrictions on Assignment, Sub-Letting and Licensing

The Tenant will not assign this Lease without first obtaining the Landlord's written consent. The Landlord can withhold consent if:

- (a) the proposed assignee proposes to change the Permitted Use;
- (b) the proposed assignee has financial resources or retailing skills inferior to those of the Tenant; or
- (c) the Tenant has not complied with the procedures set out in clause 10.2.

10.2. Procedures for Obtaining Consent to Assignment

If the Tenant wishes to assign this Lease:

- (a) the Tenant will in writing request the Landlord's consent to any proposed assignment and will provide the Landlord with such information as the Landlord requires about the financial standing and business experience of the proposed assignee and of the Tenant;
- (b) before requesting the consent of the Landlord to a proposed assignment of the Lease, the Tenant must furnish the proposed assignee with a copy of any Lessor's Disclosure Statement given to the Tenant in respect of this Lease, together with details of any changes that have occurred in respect of the information contained in that Lessor's Disclosure Statement since it was given to the Tenant (being changes of which the Tenant is aware or could reasonably be expected to be aware);
- (c) the Tenant can request the Landlord to provide the Tenant with a copy of the Lessor's Disclosure Statement. If the Landlord does not do so within 14 days after the Tenant's request, clause 10.2(b) will not apply to the proposed assignment;
- (d) if the Premises will be used by the proposed assignee for the continued operation of the Tenant's business the Tenant may provide the proposed assignee with an Assignor's Disclosure Statement. The Tenant may provide the Landlord with a copy of the Assignor's Disclosure Statement;
- (e) the Landlord will deal promptly with any request for consent. If the Tenant has complied with clauses 10.2(a) and 10.2(b) and the Landlord has not within 28 days after the Tenant's request given written notice to the Tenant either consenting or withholding consent, the Landlord will be regarded as having consented;
- (f) the New Tenant will provide to the Landlord such securities or guarantees of the New Tenant's obligations under this Lease as the Landlord requires including, but not limited to, a Bank Guarantee or Security Deposit;
- (g) the Tenant will ensure that any guarantors of the proposed assignee required by the Landlord enter into a deed in a form required by the Landlord; and
- (h) the Tenant will pay the Landlord's costs in connection with the proposed assignment.

10.3. Restrictions on Shares Dealings

- (a) If the Tenant is a corporation (other than a corporation whose shares are listed on the Australian Stock Exchange) then, unless the Tenant first complies with clause 10.3(b), the Tenant will not:
 - (i) register, record or enter in its books any transfer of any share in the capital of the Tenant;
 - (ii) deal with the beneficial interest in any such share;
 - (iii) issue any new shares; or
 - (iv) take any other action,which would have the effect that the shareholders of the Tenant at the Commencing Date would, after such action, beneficially hold or control less than 51% of the voting rights or of the income or capital participation rights in the Tenant or less than 51% of the voting rights at a meeting of directors of the Tenant.
- (b) The requirements referred to in clause 10.3(a) are that the Tenant:
 - (i) gives to the Landlord not less than 1 Month written notice of its intention:

- (ii) is not in default under this Lease unless either the Landlord has waived the default or the default has been remedied by the Tenant;
- (iii) proves to the Landlord's satisfaction that the Persons to whom the Tenant proposes to transfer or issue such shares or in whom the Tenant proposes to vest such other rights are each respectable, responsible and solvent;
- (iv) ensures that the Persons referred to in clause 10.3(b)(iii) provide to the Landlord such guarantees of the Tenant's obligations under this Lease as the Landlord requires; and
- (v) pays the Landlord's costs.

10.4. Restrictions on Units Dealings

- (a) If the Tenant is the trustee of a unit trust (unless the unit trust is listed on the Australian Stock Exchange) then, unless the Tenant first complies with clause 10.4(b), the Tenant will not:
 - (i) register, record or enter in its books any transfer of any unit or units in the Unit Trust or the holding trust;
 - (ii) deal with the beneficial interest in any such unit or units;
 - (iii) issue any new unit or units; or
 - (iv) take any other action, take or attempt to take any action having the effect of:
 - (A) effectively altering the control of the unit trust; or
 - (B) the unitholders in the unit trust at the date of this Lease at any time ceasing to beneficially hold or control at least 51% of the units in the unit trust.
- (b) The requirements referred to in clause 10.4(a) are that the Tenant:
 - (i) gives to the Landlord not less than 1 Month written notice of its intention;
 - (ii) is not in default under this Lease unless either the Landlord has waived the default or the default has been remedied by the Tenant;
 - (iii) proves to the Landlord's satisfaction that the Persons to whom the Tenant proposes to transfer or issue such units or in whom the Tenant proposes to vest such other rights are each respectable, responsible and solvent;
 - (iv) ensures that the Persons referred to in clause 10.4(b)(iii) provide to the Landlord such guarantees of the Tenant's obligations under this Lease as the Landlord requires; and
 - (v) pays the Landlord's costs.

10.5. Restrictions on Sub-Letting, Mortgaging, Etc

- (a) The Tenant will not sub-let or part with possession or grant any licence or concession affecting the Premises.
- (b) The Tenant will not mortgage or charge the Tenant's interest in the Premises.

11. LANDLORD'S OBLIGATIONS

11.1. Quiet Enjoyment

Unless provided to the contrary in this Lease, so long as the Tenant pays the Rent and the other moneys payable under this Lease when due and performs the Tenant's obligations under this Lease, the Tenant can occupy the Premises without interruption or disturbance from the Landlord.

11.2. Disturbance

- (a) The Landlord will not:
- (i) inhibit the Tenant's access to the Premises in any substantial way;
 - (ii) take any action that substantially inhibits or alters the flow of customers to the Premises;
 - (iii) unreasonably take any action that causes significant disruption to or has a significant adverse affect on the Tenant trading in the Premises;
 - (iv) fail to take all reasonable steps to prevent or stop anything that causes significant disruption to or has a significant adverse affect on the Tenant trading in the Premises where such thing is within the Landlord's control;
 - (v) fail to rectify any breakdown of plant or equipment that the Landlord is required to maintain; or
 - (vi) fail to adequately clean, maintain or repair the Centre.
- (b) If the Landlord breaches clause 11.2(a) and does not rectify its breach as soon as reasonably practical after written request by the Tenant, the Landlord is liable to pay the Tenant reasonable compensation for any loss or damage (other than nominal damage) suffered by the Tenant as a consequence. The Tenant acknowledges that any claim for compensation is limited to matters not disclosed to the Tenant before this Lease was entered into.
- (c) In deciding whether the Landlord has acted reasonably for the purposes of clause 11.2(a), due consideration will be given to whether the Landlord acted in accordance with recognised shopping centre management practices.
- (d) Clauses 11.2(a) to 11.2(c) do not apply to any action taken by the Landlord as a reasonable response to an emergency or in compliance with any duty imposed under any legislation or resulting from a claim imposed by a public or local Authority under the authority of any legislation.

11.3. Management of the Centre and Maintenance of Common Areas

- (a) The Landlord will manage and operate the Centre and will pay the Outgoings.
- (b) The Landlord will maintain the Common Areas. The way the Common Areas are maintained is in the Landlord's discretion.

12. TENANT'S DEFAULT AND END OF LEASE

12.1. Re-entry on Default and Forfeiture

The Tenant will be in default under this Lease and the Landlord can lawfully re-enter the Premises if:

- (a) Rent is unpaid for 14 days after the due date;
- (b) any other monies are unpaid for 14 days after due;

- (c) any repairs required by a notice are not completed within the time required by such notice;
- (d) the Tenant fails to perform any other of the Tenant's obligations for 14 days after the Landlord gives the Tenant written notice of the Tenant's default;
- (e) the Tenant becomes insolvent when:
 - (i) they are (or state that they are) an insolvent under administration or insolvent (each as defined in the *Corporations Act 2001 (Cth)*);
 - (ii) they have a controller appointed, are in liquidation, in provisional liquidation, under administration or wound up or have had a receiver appointed to any part of their property;
 - (iii) execution or distress or any other process is levied or attempted or imposed against or over any of their undertaking, property or assets;
 - (iv) a compromise, arrangement, assignment, moratorium or composition is proposed with, or becomes effective in relation to, their creditors or any class of their creditors (in each case, other than to carry out a reconstruction or amalgamation while solvent);
 - (v) an application or order has been made (and, in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward or any other action taken, in each case in connection with them, which is preparatory to or could result in any of the things referred to above;
 - (vi) they are taken (under Section 459F of the *Corporations Act 2001 (Cth)*) to have failed to comply with a statutory demand;
 - (vii) they are the subject of an event described in Section 459C(2)(b) or Section 585 of the *Corporations Act 2001 (Cth)*;
 - (viii) they are a natural person, they commit an act of bankruptcy within the meaning of the *Bankruptcy Act 1966 (Cth)*;
 - (ix) they are otherwise unable to pay their debts as and when they fall due; or
 - (x) something having a substantial similar effect to any of the things referred to above happens in connection with them under any law.

12.2. Removal of Tenant's Goods

- (a) If the Tenant is not in default under this Lease the Tenant can during the last Month of the Tenant's occupation of the Premises remove the Tenant's Goods from the Centre so long as such removal is done under the supervision of and in accordance with the directions of the Landlord. The Tenant will make good any damage caused to the Premises and the Centre.
- (b) If the Tenant does not remove the Tenant's Goods as provided under clause 12.2(a) and the Landlord requires the Tenant to remove the Tenant's Goods, the Tenant will remove the Tenant's Goods prior to the expiry of the last Month of the Tenant's occupation of the Premises so long as such removal is done under the supervision of and in accordance with the directions of the Landlord. The Tenant will make good any damage caused to the Premises and the Centre.
- (c) If the Tenant does not remove the Tenant's Goods as provided under clauses 12.2(a) and 12.2(b) the Landlord may:
 - (i) keep, remove, sell or otherwise dispose of the Tenant's Goods at the Tenant's risk and cost; and

- (ii) treat any of the Tenant's Goods as if they were the Landlord's property and deal with them in any way (including by sale) without being liable to account to the Tenant.
- (d) The Tenant indemnifies the Landlord in relation to the removal and storage of the Tenant's Goods and in relation to claims by any Person of an interest in the Tenant's Goods.
- (c) Despite anything to the contrary in this Lease, this Lease will be deemed to continue until such time as the Tenant's Goods are removed from the Premises.

12.3. Delivering Up In Good Repair

- (a) Unless the Landlord notifies the Tenant in writing before the expiry or earlier termination of this Lease that the Tenant is not required to comply with any of its obligations under this clause 12.3(a), at the expiry or earlier termination of this Lease the Tenant will give vacant possession of the Premises to the Landlord with the Premises in the state of repair required under this Lease including, but not limited to, the following:
 - (i) the Premises being painted and treated as required under clause 7.3;
 - (ii) the Premises being in the state of repair required under clause 7.1;
 - (iii) the Tenant's Goods being removed from the Premises as required under clause 12.2;
 - (iv) any fitting out in the Premises carried out by, for or at the cost of the Landlord on behalf of or at the request of the Tenant being removed from the Premises and any consequential damage made good;
 - (v) the Premises Services being returned to the configuration they were in before the Tenant first occupied the Premises;
 - (vi) all cables, wires, ducting and pipes installed by or on behalf of the Tenant being removed from the Premises and terminated at the source;
 - (vii) any part of the Premises structure in which holes have been made by or on behalf of the Tenant being made good; and
 - (viii) ensuring that the ceiling tiles and the ceiling support grid are in good repair.
- (b) Despite anything to the contrary in this Lease, this Lease will be deemed to continue until such time as the Tenant complies with all of its obligations under clause 12.3(a).

12.4. Holding Over

- (a) If the Landlord agrees to the Tenant remaining in the Premises after the expiry or earlier termination of this Lease, the Tenant will be a monthly tenant at a rent equal to one-twelfth of the Rent payable at the expiry or earlier termination of this Lease, payable monthly in advance and otherwise on the same terms as this Lease.
- (b) The monthly tenancy under clause 12.4(a) can be terminated at any time by either the Landlord or the Tenant giving the other 1 Month written notice, expiring on any day.

12.5. Essential Terms and Damages

- (a) The following are essential terms of this Lease:
 - (i) that the Tenant pay the Rent and any other money payable by the Tenant under this Lease no later than 14 days after their due dates;
 - (ii) clause 6.1(a); and

(iii) clause 10.1.

- (b) The Tenant will compensate the Landlord for any loss or damage suffered by the Landlord because of the Tenant's breach of an essential term of this Lease.
- (c) The Landlord can recover damages from the Tenant for any loss or damage suffered by the Landlord because of the repudiation or breach of this Lease during the entire Term, including both before and after any of the events listed below:
 - (i) the Tenant vacating the Premises;
 - (ii) the Landlord accepting the Tenant's repudiation of this Lease;
 - (iii) the Landlord lawfully re-entering the Premises or terminating this Lease; and
 - (iv) this Lease being surrendered by operation of law because of the Tenant's and the Landlord's conduct.
- (d) If the Tenant (whether with or without the Landlord's consent) vacates the Premises, the Landlord will take reasonable steps to mitigate the Landlord's damages and will try to lease the Premises at a rent and on terms satisfactory to the Landlord. The Landlord's entitlement to damages will be assessed on the basis that the Landlord has mitigated its damages.

12.6. **INTENTIONALLY DELETED**

13. **GUARANTEE**

13.1. **Bank Guarantee**

- (a) If an amount is stated in Item 18, this clause 13.1 applies to this Lease unless the Tenant pays a Security Deposit in accordance with clause 13.3 below.
- (b) Before the earlier of the Commencing Date and the date that the Tenant first occupies the Premises, the Tenant will deliver the Bank Guarantee to the Landlord.
- (c) If for any reason the Bank Guarantee held by the Landlord is for less than the amount stated in Item 18, the Tenant will within 7 Business Days of written notice from the Landlord, provide to the Landlord additional security by way of Bank Guarantee for such amount as is necessary to ensure that the Landlord holds a Bank Guarantee for not less than the amount stated in Item 18.
- (d) The Landlord is entitled to claim under the Bank Guarantee amounts equal to any monies due but unpaid by the Tenant to the Landlord under this Lease.
- (e) The Landlord will deliver the Bank Guarantee (or so much of the Bank Guarantee as is then held by the Landlord) to the Tenant not later than 14 days after the last to occur of:
 - (i) the Terminating Date of this Lease or, if applicable, the Terminating Date of the last of the Option Leases (whichever is the later);
 - (ii) the expiry date of any holding over under this Lease or, if applicable, under the Option Lease (whichever is the later); and
 - (iii) the date that the Tenant complies with all the Tenant's obligations under this Lease or, if applicable, the date that the Tenant complies with all the Tenant's obligations under the last of the Option Leases (whichever is the later).
- (f) If the identity of the Landlord changes the Tenant will do all things necessary to ensure a replacement Bank Guarantee issues in favour of the then Landlord no later than 14 days after written request from the Landlord.

13.2. **INTENTIONALLY DELETED**

13.3. **Security Deposit**

- (a) If an amount is stated in Item 24, clause 13.3 applies to this Lease unless the Tenant provides a Bank Guarantee in accordance with clause 13.1 above.
- (b) Before the earlier of the Commencing Date and the date that the Tenant first occupies the Premises, the Tenant will deliver the Security Deposit to the Landlord.
- (c) The Landlord must deposit the Security Deposit with the Director-General in accordance with the *Retail Lease Act*.
- (d) If for any reason the Security Deposit is for less than the amount stated in Item 24, the Tenant will within 7 Business Days of written notice from the Landlord provide to the Landlord additional security by way of Security Deposit for such amount as is necessary to ensure that the Security Deposit is for not less than the amount stated in Item 24.
- (e) The Landlord is entitled to claim from the Security Deposit an amount equal to any monies due but unpaid by the Tenant to the Landlord under this Lease.
- (f) The Landlord will apply to the Director-General to pay the Security Deposit (or so much of the Security Deposit as is then held by the Director-General) to the Tenant after deduction of any amount due to the Landlord on the later of the following dates:
 - (i) whichever is the later of the Terminating Date of this Lease or, if applicable, the terminating date of the last of the Option Leases; and
 - (ii) whichever is the later of the date that the Tenant complies with all the Tenant's obligations under this Lease or, if applicable, the date that the Tenant complies with all the Tenant's obligations under the last of the Option Leases.

14. **PERSONAL PROPERTY SECURITIES ACT 2009 (Cth)**

- 14.1. The Tenant must notify the Landlord on or before the Commencement Date if the Tenant's Goods or any other personal property of the Tenant relevant to this Lease is subject to a Security Interest.
- 14.2. The Tenant agrees not to create a Security Interest in favour of a third party in respect of the Tenant's Goods or any other personal property of the Tenant relevant to this Lease except with the prior written consent of the Landlord, such consent not to be unreasonably withheld.
- 14.3. The Tenant:
 - (a) acknowledges that the grant of this Lease also constitutes the grant of a Security Interest in the Landlord PPS Items in favour of the Landlord, which interest the Landlord is entitled to register under the *PPS Act*;
 - (b) must do all things required by the Landlord from time to time (including, without limitation, signing any documents required by the Landlord) to enable the Landlord to register its above Security Interests under the *PPS Act*;
 - (c) warrants that it has not created a Security Interest in respect of any Landlord PPS Items on or prior to execution of this Lease; and
 - (d) must indemnify the Landlord against all claims, damages or loss incurred by the Landlord as a consequence of any breach by the Tenant of this clause.

15. **GENERAL**

15.1. **Change of Operating Hours of the Centre**

If the Landlord gets the written consent of a majority of the tenants of retail shop premises in the Centre, the Landlord can from time to time by giving 1 Month written notice to the Tenant change the Operating Hours of the Centre specified in Item 19 to such other hours as the Landlord reasonably requires.

15.2. **Tenant Contact**

The Tenant will ensure that the Landlord has the home address and telephone number of a 24 hour contact for the Tenant.

15.3. **Notices**

- (a) Any notice or other document to be given by the Landlord will be validly signed if signed by any managing agent, property manager, director, secretary, attorney or solicitor of the Landlord or by any Person nominated by the Landlord.
- (b) Any notice or document to be given under this Lease can be given:
 - (i) in any manner authorised by Section 170 of the *Conveyancing Act 1919*;
 - (ii) by being left at or posted to:
 - (A) an address shown in this Lease;
 - (B) in the case of a corporation, at its registered office;
 - (C) in the case of the Tenant, at the Premises; or
 - (iii) by fax.
- (c) A notice or document will be regarded as having been received:
 - (i) in the case of posting, 2 Business Days after it is placed in the post; or
 - (ii) in the case of a fax, when the machine sending the fax generates a report showing the total number of pages of the fax were successfully sent to the fax number of the addressee.
- (d) If any notice is received by a party after 5pm on any Business Day, the notice will be deemed to have been received on the next Business Day.

15.4. **Landlord's Consents and Costs**

Unless provided to the contrary in this Lease where:

- (a) the Landlord is required to exercise a discretion, the Landlord will exercise its discretion reasonably;
- (b) the Tenant is to pay the Landlord's costs, the Landlord will act reasonably in incurring such costs; and
- (c) the Landlord's consent or approval is required, such consent or approval will not be unreasonably withheld.

15.5. Landlord's approvals

- (a) The Tenant acknowledges that the Landlord, when giving approval in connection with this Deed or proposed work, has no objection to the act, matter or thing the subject of the approval.
- (b) Without limiting clause 15.5(a), neither the Landlord nor the Landlord's consultant, in giving approval or imposing a condition in connection with approval, assumes any duty of care to the Tenant or makes any warranty or representation in connection with the proposed work or the act, matter or thing the subject of the approval including any warranty as to suitability or fitness for intended purpose of any plans, drawings, specifications, materials, contractors, suppliers, construction methods or sequence of work or otherwise.

15.6. Relationship between the Parties

The only relationship between the parties to this Lease is that of Landlord and Tenant on the terms of this Lease.

15.7. Miscellaneous

- (a) No waiver by the Landlord or the Tenant of any right under this Lease will be a waiver of any other right.
- (b) No action taken by either the Landlord or by the Tenant under this Lease will limit their other rights and remedies.
- (c) Termination of this Lease will not affect the rights of either the Landlord or the Tenant accrued before termination.

15.8. Common Areas

- (a) The Tenant can use the Common Areas jointly with the Landlord and with other Persons for access to the Premises and for any other purposes which the Landlord in its absolute discretion allows.
- (b) The Landlord can vary the Common Areas, temporarily close the Common Areas and do such other acts on the Common Areas as the Landlord in its absolute discretion decides.

15.9. Suitability of Premises and Centre

The Landlord gives no warranty and makes no representation to the Tenant that the Premises are or will remain suitable for the Tenant's purposes nor about any other Tenants in the Centre or likely in the future to be in the Centre.

15.10. Rules and Regulations

The Tenant will comply with any rules and regulations that the Landlord makes from time to time in relation to the Centre to the extent that such rules and regulations are not inconsistent with the Tenant's rights under this Lease.

15.11. Measurements

- (a) Any measurements of either the Premises or the Centre will be made in accordance with the then current method of measurement of the Property Council for retail premises located in shopping centres.
- (b) The Tenant acknowledges that the Tenant's Percentage of Outgoings was calculated in accordance with the Property Council method of measurement that applied at the Commencing Date and that such percentage may vary if the areas on which such calculation was made change.

15.12. Deemed Rent

The Landlord and the Tenant agree that any money due by the Tenant under this Lease but unpaid are deemed to be rent for the purposes of this Lease.

15.13. Interruption of Services

Subject to any law to the contrary, the Landlord is not liable to the Tenant for any loss or damage suffered by the Tenant because the Landlord's Equipment fails to function.

15.14. Strata Conversion

- (a) The Tenant acknowledges that the Landlord is entitled at any time to carry out a Strata Conversion.
- (b) The Landlord will give the Tenant as much prior notice as is reasonably practical of the Strata Conversion.
- (c) Within 7 days of written request by the Landlord the Tenant will sign and return to the Landlord any consents or other documents necessary to enable the Landlord to carry out the Strata Conversion and will make no objection or claim for compensation in relation to the Strata Conversion.
- (d) If the Strata Conversion occurs:
 - (i) any reference in this Lease to the Estate will be deemed to be a reference to the buildings comprised in the registered plan or plans of which the Premises form part;
 - (ii) any levies or other monies payable to the owners corporation will be payable by the Tenant (excluding contributions to the Capital Works Fund or its equivalent and special levies relating to the Capital Works Fund);
 - (iii) the Rules and Regulations will be deemed to include any by-laws of the owners corporation; and
 - (iv) this Lease will be deemed to be amended in any respect that is necessary to ensure that this Lease reflects the fact that the Strata Conversion has been carried out.

16. DEFINITIONS AND INTERPRETATION

16.1. Definitions

Unless otherwise provided in this Lease, the following words have the following meanings:

- (a) *Accounting Year* means each 12 Month period during the Term ending on 30 June or on such other date as the Landlord chooses and gives written notice of to the Tenant;
- (b) *Assignor's Disclosure Statement* has the meaning given in the *Retail Leases Act*;
- (c) *Authority* means any government, semi-government, city, municipal, administrative, statutory or judicial body, instrumentality, department, agency or similar entity;
- (d) *Bank Guarantee* means an irrevocable bank guarantee in a form approved by the Landlord from a bank trading in New South Wales under which the bank agrees to pay to the Landlord on demand not less than the amount of Rent and of the Tenant's Proportion of Outgoings stated in Item 18 increased by the rate of GST (applicable from time to time) expressed as a percentage;
- (e) *Business Day* means a day that is not a Saturday, Sunday, public holiday or bank holiday in Sydney;

- (f) *Centre* means the land and buildings described in Item 4 together with all improvements in the Centre owned or controlled by the Landlord, the Landlord's Equipment and any extensions or alterations to the Centre and includes any part of the Centre;
- (g) *Centre Operating Hours* means the hours stated in Item 19 as varied, if applicable, under this Lease;
- (h) *Commencing Date* means the lease starting date stated in Item 6;
- (i) *Common Areas* means all those parts of the Centre available for use by the Tenant in common with others and includes any part of the Common Areas;
- (j) *CPI Rent Review Date* means each of the dates stated in Item 12;
- (k) *Demolition Date* means the date specified in the Demolition Notice as the date on which this Lease is terminated;
- (l) *Demolition Notice* means a written notice given by the Landlord to the Tenant:
- (i) if the Term is more than 12 Months, giving the Tenant not less than 6 Months prior notice of a Demolition Proposal and requiring the Tenant to vacate the Premises on the Demolition Date; and
 - (ii) if the Term is 12 Months or less, giving the Tenant not less than 3 Months prior notice of a Demolition Proposal and requiring the Tenant to vacate the Premises on the Demolition Date;
- (m) *Demolition Proposal* means a genuine proposal by the Landlord to carry out within a reasonably practical time a substantial repair, renovation or reconstruction of the Centre which cannot be carried out without vacant possession of the Premises;
- (n) *Demolition Termination Notice* means a written notice given by the Tenant to the Landlord terminating this Lease by giving not less than 7 Business Days prior notice;
- (o) *Director-General* means the Director-General of the NSW Department of State and Regional Development;
- (p) *First Option Lease* means the lease for a further term referred to in Item 8;
- (q) *GST* has the meaning given in *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*;
- (r) *Item* means an Item in the Schedule;
- (s) *Landlord and Lessor* means the Person described in Item 1 and includes:
- (i) if the Landlord is a natural person, the Landlord's executors, administrators and assigns; and
 - (ii) if the Landlord is a corporation, the Landlord's successors in title and assigns;
- (t) *Landlord PPS Items* means any item of Personal Property which:
- (i) is owned or leased by the Landlord; and
 - (ii) is situated on the Premises at any time during the term of this Lease;
- (u) *Landlord's Equipment* means:

- (i) all wires and cables, pipes drains and sewers, ducts, plant, machinery, fixtures fittings and equipment, kitchens, toilets, grease traps, wash basins, water gas and electrical

fixtures and equipment and other services in or to the Premises or the Centre owned or controlled by the Landlord, except the Tenant's Goods;

- (ii) all plant and machinery for circulating air and ventilating or air conditioning the Centre owned or controlled by the Landlord; and
- (iii) all fire fighting, detection, prevention, warning and evacuation equipment in the Centre;
- (v) *Lease* means this Lease and includes any other tenancy which exists between the Landlord and the Tenant;
- (w) *Lessor's Disclosure Statement* has the meaning given in the *Retail Leases Act*;
- (x) *Market Rent Review Date* means each of the dates stated in Item 11;
- (y) *Marketing Levy* means an amount equal to that proportion of the Rent stated in Item 23;
- (z) *Marketing Report* means a report given by the Landlord to the Tenant detailing any expenditure by the Landlord on advertising, promotion or marketing of the Centre to which a contribution by the Tenant is required;
- (aa) *Month* means calendar month;
- (bb) *Nominator* means the president or other principal officer (acting or otherwise) for the time being of the New South Wales Division of the Australian Property Institute (Inc) or the president or other principal officer (acting or otherwise) for the time being of the Real Estate Institute (NSW);
- (cc) *Option Leases* means the First Option Lease, the Second Option Lease and the Third Option Lease;
- (dd) *Outgoings* means the total of all the Landlord's costs and expenses paid or payable in relation to the Centre including, but not limited to, the following:
 - (i) all rates, taxes, charges and assessments of every kind assessed, charged or imposed on the Landlord or the Centre not including GST, income tax or capital gains tax. In the case of land tax (including any similar tax on land), this means the land tax assessed or charged because of the Landlord's interest in the Centre calculated on the basis that the Centre is the only land owned by the Landlord, that the Centre is not subject to a special trust within the meaning of the *Land Tax Management Act 1956* and that the Landlord is not a company classified under Section 29 of the *Land Tax Management Act 1956*;
 - (ii) the cost of providing and maintaining services to the Centre including light, power, air-conditioning, ventilation, lifts, escalators, security, supervision, waste removal and the cleaning and lighting of the Common Areas;
 - (iii) the cost of operating, repairing and maintaining the Centre and the Landlord's Equipment (but not including structural or capital works);
 - (iv) the cost of the management, control and administration of the Centre including wages, on costs and consultancy fees;
 - (v) the cost of all premiums to insure the Centre in its full insurable replacement value including demolition and debris removal with an escalation provision, broker's fees and duty, valuations required for insurance purposes, loss of rent insurance and such other insurances as the Landlord requires;
 - (vi) the cost of supplying towels, soap, sanitary units and other facilities in the washrooms and toilets of the Centre;
 - (vii) the cost of statutory inspections and reports;

- (viii) the cost of purchasing, hiring, maintaining and servicing all plants and flowers, gardens, lawns, planted areas and artificial water courses;
 - (ix) the cost of pest control;
 - (x) the cost of Outgoings and Marketing Report audits; and
 - (xi) any payments in relation to car spaces in the Centre under the *Taxation Administration Act 1996* or of any other levy, charge or fee imposed by any competent Authority in relation to such car spaces or the use of such car spaces;
- (ee) *Outgoings Estimate* means a written estimate given by the Landlord to the Tenant in accordance with the *Retail Leases Act* of the Tenant's Proportion of Outgoings for any period up to 1 year in advance;
- (ff) *Outgoings Report* means a report given by the Landlord to the Tenant detailing all expenditure by the Landlord on Outgoings for the preceding Accounting Year;
- (gg) *Percentage Rent Review Dates* means each of the dates stated in Item 12;
- (hh) *Permitted Use* means the use specified in Item 16;
- (ii) *Person* includes natural persons and incorporated and unincorporated associations;
- (jj) *Personal Property* has the meaning given in the *PPS Act*;
- (kk) *PPS Act* means the *Personal Property Securities Act 2009 (Cth)*;
- (ll) *Premises* means the Premises described in Item 5 and any of the Landlord's Equipment located within or servicing the Premises and includes any part of the Premises;
- (mm) *Premises Services* means any services and facilities provided or installed by or for the Landlord in the Premises or for the benefit of the Premises in any false floor of the Premises or in any ceiling cavity or structural walls adjoining the Premises including but, not limited to, air-conditioning thermostats, ducts and outlets, fire sprinkler heads and piping, security and fire alarm equipment, lighting, central electrical switching arrangements, emergency lighting and exit signs;
- (nn) *Principal Contractor* has the same meaning as in the WH&S Regulation;
- (oo) *Property Council* means the Property Council of Australia Limited (ABN 13 008 474 422) trading as Property Council of Australia;
- (pp) *Refurbishment Proposal* means a genuine proposal by the Landlord to carry out within a reasonably practical time a refurbishment, redevelopment or extension of the Centre which cannot practically be carried out without vacant possession of the Premises;
- (qq) *Relocation Date* means the date specified in the Relocation Notice as the date on which the Tenant is to give vacant possession of the Premises to the Landlord;
- (rr) *Relocation Notice* means a written notice given by the Landlord to the Tenant:
- (i) specifying the Relocation Date, being a date not less than 3 Months after the Landlord gives the Relocation Notice;
 - (ii) giving details of the Refurbishment Proposal and of the Substituted Premises;
 - (iii) requiring the Tenant to surrender this Lease and to give vacant possession of the Premises to the Landlord on the Relocation Date; and

- (iv) requiring the Tenant to relocate to the Substituted Premises on the day after the Relocation Date;
- (ss) *Relocation Termination Notice* means a written notice given by the Tenant to the Landlord terminating this Lease as at that date which is 3 Months after the date that the Landlord gives the Relocation Notice to the Tenant;
- (tt) *Rent* means the amounts payable under clause 5.1;
- (uu) *Rent Agreement Period* means the period of 14 days during which the Landlord and the Tenant will try to agree on the annual current market rent to apply from a Market Rent Review Date;
- (vv) *Rent Review Notice* means a written notice given by the Landlord to the Tenant of the Landlord's assessment of the annual current market rent to apply as the Rent from a Market Rent Review Date;
- (ww) *Retail Leases Act* means the *Retail Leases Act 1994*;
- (xx) *Schedule* means the Schedule in Annexure A to this Lease;
- (yy) *Second Option Lease* means the lease for a further term referred to in Item 9;
- (zz) *Security Deposit* means a sum of cash of an amount not less than the amount of Rent and of the Tenant's Proportion of Outgoings stated in Item 14 increased by the rate of GST (applicable from time to time) expressed as a percentage as provided in clause 13.3;
- (aaa) *Security Interest* has the meaning given in the *PPS Act*;
- (bbb) *Specialist Retail Valuer* has the same meaning as that term has in the *Retail Leases Act*;
- (ccc) *Substituted Premises* means those alternative premises in the Centre referred to in the Relocation Notice;
- (ddd) *Substituted Premises Lease* means the lease of the Substituted Premises;
- (cee) *Tenant and Lessee* means the Person described in Item 2 and includes:
 - (i) if the Tenant is a natural person, the Tenant's executors, administrators and permitted assigns;
 - (ii) if the Tenant is a corporation, the Tenant's successors in title and permitted assigns;
 - (iii) unless contrary to the context, the Tenant's employees; and
 - (iv) unless contrary to the context, the Tenant's licensees, subtenants, contractors, agents, customers and visitors at any time in the Centre;
- (fff) *Tenant's Goods* means all the Tenant's fixtures, fittings and goods in the Premises and includes any fixtures, fittings and goods of a previous occupier of the Premises but does not include any fixtures, fittings or goods in the Premises to replace the Landlord's Equipment;
- (ggg) *Tenant's Proportion of Outgoings* is the proportion of the Outgoings payable by the Tenant which, as at the date that the Tenant first occupied the Premises, is the proportion stated in Item 14;
- (hhh) *Tenant's Sales* means the gross amount received or receivable whether as cash or otherwise by the Tenant from the sale of goods, hirings or the provision of services at or associated with the Tenant's business at the Premises;

- (iii) *Term* means the term of this Lease as stated in Item 6;
- (jjj) *Terminating Date* means the lease ending date stated in Item 6;
- (kkk) *Third Option Lease* means the lease for a further term referred to in Item 10;
- (lll) *Tribunal* has the meaning given in the *Retail Leases Act*;
- (mmmm) *Turnover Rent* means an amount equal to that percentage of the Tenant's Sales stated in Item 22 that exceed the Turnover Rent Base Figure stated in Item 21;
- (nnn) *WH&S Laws* means the laws relating to work health and safety that apply to the Premises and the use of it and includes the *WH&S Regulation*; and
- (ooo) *WH&S Regulation* means the *Work Health and Safety Regulation 2011 (NSW)*.

16.2. Interpretation

Unless otherwise provided in this Lease:

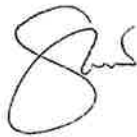
- (a) all covenants or obligations in this Lease are to be regarded as separate and independent covenants made by 1 party to this Lease in favour of the other parties;
- (b) the law of New South Wales and the jurisdiction of the New South Wales Courts and of the High Court and Federal Court of Australia apply to this Lease;
- (c) the Landlord and the Tenant agree that nothing will be implied by this Lease or will arise between the Landlord and the Tenant (whether by other agreement or because of any promise, representation, warranty or undertaking given by or for the Landlord or the Tenant);
- (d) reference to any body (including, but not limited to, any institute, association, Authority or government agency) which ceases to exist or whose powers or functions are transferred to any other body also includes the body which replaces it or which substantially takes over its powers and functions;
- (e) headings in this Lease do not form part of the content of this Lease and do not affect the meaning of this Lease;
- (f) Sections 84, 85 and 133B of the *Conveyancing Act 1919* do not apply to this Lease;
- (g) words importing the singular include the plural and vice versa and words importing a particular gender include every gender;
- (h) any agreement in this Lease by 2 or more Persons binds them jointly and each of them separately;
- (i) if any part of this Lease is invalid, illegal or unenforceable, the remaining parts of this Lease will not be affected and will continue to be enforceable;
- (j) references to statutes, regulations, ordinances and by-laws include all statutes, regulations, ordinances and by-laws amending, consolidating or replacing them;
- (k) words and expressions that are not defined in this Lease but which have a defined meaning in the *PPS Act* have the same meaning as in the *PPS Act*;
- (l) a provision of this Lease must not be construed against a party only because that party was responsible for preparation of this Lease or the drafting of that provision; and
- (m) *including* and similar expressions are not words of limitation.

Certified correct for the purposes of the Real Property Act 1900 and
executed on behalf of the corporation named below by the
authorised person(s) whose signature(s) appear(s) below pursuant
to the authority specified:

Corporation: **KHUN & TAN ENTERPRISES PTY LTD (ACN 166 675 387)**
Authority: Section 127 of the Corporations Act 2001

Signature of authorised person:

Name of authorised person: **[REDACTED]**
Office held: Sole Director/Secretary



Certified correct for the purposes of the Real Property Act 1900 and
executed on behalf of the corporation named below by the
authorised person(s) whose signature(s) appear(s) below pursuant
to the authority specified:

Corporation: **VERTO LTD (ACN 095 425 255)**
Authority: Section 127 of the Corporations Act 2001

Signature of authorised person:

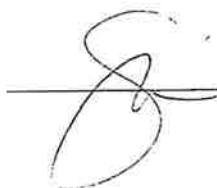
Name of authorised person: **[REDACTED]**
Office held: **[REDACTED]**

DIRECTOR

Signature of authorised person:

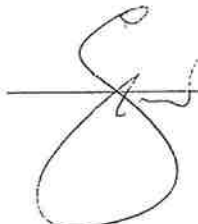
Name of authorised person: **[REDACTED]**
Office held: **[REDACTED]**

DIRECTOR



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A large, stylized handwritten signature in black ink, consisting of a large 'S' shape with a loop at the bottom and a horizontal stroke across the middle.

Lodger Details

Lodger Code 501424
Name HPL LAW GROUP
Address PO BOX 246
BELROSE 2085
Lodger Box 1W
Email RITA@HPL.COM.AU
Reference ATM:KEW:221223

For Office Use Only

AS753612

LEASE

Jurisdiction NEW SOUTH WALES

Privacy Collection Statement

PRIVACY NOTE: Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

Land Title Reference

2/319436

Land Extent

PART OF THE LAND

Part Land Description

PART 1/319436 & 2/319436 BEING SHOP 3, 600 PACIFIC HIGHWAY, BELMONT NSW

Land Title Reference

1/319436

Land Extent

PART OF THE LAND

Part Land Description

PART 1/319436 & 2/319436 BEING SHOP 3, 600 PACIFIC HIGHWAY, BELMONT NSW

Lessor

Name KHUN & TAN ENTERPRISES PTY LTD
ACN 166675387

Lessee

Name QR & MK PTY LTD
ACN 637952848

Tenancy (inc. share) SOLE PROPRIETOR

The lessor leases to the lessee the property referred to above.

Lease Details

Term 2 YEARS
Commencing Date 09/11/2022
Terminating Date 08/11/2024
Option to Renew YES
Option to Renew Period 5 YEARS
& Further Option of 5 YEARS
Option to Purchase NO

Rent Details

Payment Terms Rent payable by monthly instalments in advance. Rent increased by fixed percentage of 3% on anniversary of commencement, except for on exercise of option where market rent review is adopted.
Rent Description \$28,000.00 per year including GST payable in monthly instalments in advance

Conditions and Provisions

See attached CONDITIONS AND PROVISIONS

THE SUBSCRIBER VERIFIES THAT THE ATTACHED LEASE HAS BEEN SIGNED BY OR ON BEHALF OF A PERSON PURPORTING TO BE THE LESSEE.

THE LESSOR DECLARES, TO THE BEST KNOWLEDGE OF THE SUBSCRIBER, THAT REGISTRATION OF THE LEASE IS NOT PRECLUDED BY ANY OPTION OF RENEWAL/PURCHASE IN A REGISTERED LEASE.

Lessor Execution

The Certifier has taken reasonable steps to verify the identity of the lessor or his, her or its administrator or attorney.
The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
The Certifier has retained the evidence supporting this Registry Instrument or Document.
The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Executed on behalf of	KHUN & TAN ENTERPRISES PTY LTD
Signer Name	TONY METE
Signer Organisation	HPL LAWYERS PTY LTD
Signer Role	PRACTITIONER CERTIFIER
Execution Date	22/12/2022

Form: 07L
Release: 4.5

LEASE
New South Wales
Real Property Act 1900

Leave this space clear. Affix additional
pages to the top left-hand corner.

PRIVACY NOTE: Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

STAMP DUTY

Revenue NSW use only

(A) TORRENS TITLE

Property leased

PART 1/319436 & 2/319436 BEING SHOP 3, 600 PACIFIC HIGHWAY, BELMONT NSW

(B) LODGED BY

Document
Collection
Box

6618U

Name, Address or DX, Telephone, and Customer Account Number if any

HPL LAW GROUP
21/22 Darley Road
Manly NSW 2095

T: (02) 9977 0125

CA Number : 136854E

Reference: ATM:221223

CODE

L

(C) LESSOR

KHUN & TAN ENTERPRISES PTY LTD (ACN 166 675 387)

The lessor leases to the lessee the property referred to above.

(D)

Encumbrances (if applicable):

(E) LESSEE

QR & MK PTY LTD (ACN 637 952 848)

(F)

TENANCY:

(G) 1. TERM Two (2) years

2. **COMMENCING DATE** 9 November 2022

3. **TERMINATING DATE** 8 November 2024

4. With an **OPTION TO RENEW** for a period of FIVE (5) YEARS + FIVE (5) YEARS
set out in clause 4 of ANNEXURE A

5. With an **OPTION TO PURCHASE** set out in clause N.A. of N.A.

6. Together with and reserving the **RIGHTS** set out in clause N.A. of N.A.

7. Incorporates the provisions or additional material set out in ANNEXURE(S) 'A' hereto.

8. Incorporates the provisions set out in N.A.
No N.A.

9. The **RENT** is set out in item No. 7 of ANNEXURE 'A'

DATE 20 December 2022

- (H) Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the company named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified.

Company: KHUN & TAN ENTERPRISES PTY LTD (ACN 166 675 387)

Authority: section 127 of the Corporations Act 2001

Signature of authorised person:

Signature of authorised person:

Name of authorised person:

Name of authorised person:

Office held:

Sole Director/Secretary

Office held:

Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the company named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified.

Company: QR & MK Pty Ltd (ACN 537 952 848)

Authority: section 127 of the Corporations Act 2001

Signature of authorised person:

Signature of authorised person:

Name of authorised person:

Name of authorised person:

Office held:

Sole Director/Secretary

Office held:

(I) STATUTORY DECLARATION*

I

solemnly and sincerely declare that--

1. The time for the exercise of option to in expired lease No. has ended; and
2. The lessee under that lease has not exercised the option.

I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act 1900.

Made and subscribed at in the State of New South Wales on
in the presence of at

☐ Justice of the Peace (J.P. Number:)

☐ Practising Solicitor

☐ Other qualified witness (specify)

who certifies the following matters concerning the making of this statutory declaration by the person who made it:

1. I saw the face of the person OR I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering; and
2. I have known the person for at least 12 months OR I have confirmed the person's identity using an identification document and the document I relied on was a

Signature of witness:

Signature of applicant:

* As the services of a qualified witness cannot be provided at lodgment, the declaration should be signed and witnessed prior to lodgment. # If made outside NSW, cross out the witness certification. If made in NSW, cross out the text which does not apply.

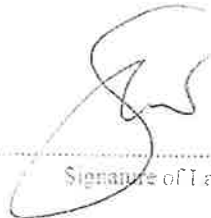
ANNEXURE A TO THE LEASE

LANDLORD: KHUN & TAN ENTERPRISES PTY LTD (ACN 166 675 387)
TENANT: QR & MK PTY LTD (ACN 637 952 848)

Annexure A consists of this and the following pages

SCHEDULE

- | | |
|---------|--|
| Item 1 | Landlord
Khun & Tan Enterprises Pty Ltd (ACN 166 675 387) care of Engage Property, 584 Pacific Highway, Belmont NSW 2280 |
| Item 2 | Tenant
QR & MK Pty Ltd (ACN 637 952 848) |
| Item 3 | Guarantor
[REDACTED] |
| Item 4 | Centre and Land
The Centre known as 'Top of the Town' on the land in Certificate of Title Folio Identifiers 1/319436 and 2/319436 |
| Item 5 | Premises
Shop 3, 600 Pacific Highway, Belmont NSW 2280 |
| Item 6 | Term
Two (2) years |
| Item 7 | Initial Rent
\$28,000.00 per year including GST |
| Item 8 | Option Lease
Five (5) years |
| Item 9 | Second Option Lease
Five (5) years |
| Item 10 | Dates of Market Rent Reviews (including during any option leases)
On exercise of Option, 9 November 2024 and 9 November 2029 |
| Item 11 | Dates of CPI Rent Reviews (including during any option leases)
Not applicable |
| Item 12 | Dates of Percentage Rent Reviews (including during any option leases)
9 November 2023, 9 November 2025, 9 November 2026, 9 November 2027, 9 November 2028, 9 November 2030, 9 November 2031, 9 November 2032 and 9 November 2033 |
| Item 13 | Percentage for Percentage Rent Reviews
3% |
| Item 14 | Tenant's Proportion of Outgoings
18.41% |


Signature of Landlord


Signature of Tenant

Item 15	Interest Rate 10% per annum
Item 16	Permitted Use Convenience Store
Item 17	Initial Public Liability Insurance Amount \$20,000,000.00
Item 18	Bank Guarantee Amount \$6,162.66 (including GST)
Item 19	Operating Hours of the Centre 6am to midnight
Item 20	Rent Free Period Until 1 February 2023
Item 21	Turnover Rent Base Figure Not applicable
Item 22	Turnover Rent Percentage Figure Not applicable
Item 23	Marketing Levy Amount Not applicable
Item 24	Security Deposit Amount \$6,162.66 (including GST)

RETAIL LEASES ACT ACKNOWLEDGMENTS

A. Lessor's Disclosure Statement

The Tenant acknowledges that it received the Lessor's Disclosure Statement not less than 7 days before this Lease was entered into.

1. FORM OF THIS LEASE

1.1. This Lease is a Deed.

1.2. This Lease consists of the front page of this Lease and Annexure A.

2. PARTIES

The parties to this Lease are the Landlord and the Tenant and the Guarantor.

3. PROPERTY LEASED

The Landlord leases the Premises to the Tenant for the Term on the conditions in this Lease.

4. LEASE PERIOD

4.1. Term of this Lease

This Lease is for the Term starting and ending on the dates stated in Item 6.

4.2. Option Lease

If Item 8 refers to a lease for a further term and the Tenant wishes to take up the Option Lease and strictly follows the procedures set out in clause 4.3, the Landlord will lease the Premises to the Tenant on the conditions set out in clause 4.4.

4.3. Option Procedure for Option Lease

- (a) If the Tenant wishes to take up the Option Lease, the Tenant must:
 - (i) give written notice to the Landlord not more than 6 Months and not less than 3 Months before the Terminating Date of this Lease;
 - (ii) not be in default under this Lease unless either the Landlord has waived the default or the default has been remedied by the Tenant;
 - (iii) ensure that the Guarantor enters into the OptionLeases as guarantor; and
 - (iv) ensure that any Bank Guarantee under this Lease is applied to the Option Lease.
- (b) After the Landlord receives a notice under clause 4.3(a)(i), the Landlord will give to the Tenant a written statement updating the Lessor's Disclosure Statement.

4.4. Option Lease Conditions

The Option Lease will be on the same conditions as this Lease except that:

- (a) clauses 4.2 to 4.5 will not be included;
- (b) Item 8 will be deleted;
- (c) any clause of this Lease which contains a provision excluding that clause from the Option Lease will not be included;
- (d) the commencing date will be the Option Lease commencing date;
- (e) the terminating date will be the Option Lease terminating date; and
- (f) the initial Rent payable during the Option Lease will be determined in accordance with this Lease.

4.5. Option Lease Market Rent Determination

- (a) If the commencing date of the Option Lease is a Market Rent Review Date and the Landlord and the Tenant have not agreed on the Rent to apply as at that date, the Tenant can request a determination of the annual current market rent at any time within the period beginning 6 Months before and ending 3 Months before the last date on which the option to enter into the Option Lease can be exercised by the Tenant.
- (b) If the Tenant requests a determination of the annual current market rent, the period referred to in clause 4.3(a)(i) will be extended so that the last day of the period is 21 days after written notice is given to the Tenant of the determination.
- (c) If the Term is 12 Months or less, the periods of 6 Months and 3 Months in clause 4.5(a) will instead be 3 Months and 30 days.

4.6. New Lease Offer

- (a) Unless there are either Option Leases or an Option Lease, no earlier than 12 Months before the Terminating Date and no later than 6 Months before the Terminating Date, the Landlord will by written notice to the Tenant either:
 - (i) offer the Tenant a new lease on the terms (including Rent) specified in the notice; or
 - (ii) inform the Tenant that the Landlord does not propose to offer the Tenant a new lease.
- (b) If the Term is 12 Months or less, the periods of 12 Months and 6 Months in clause 4.6(a) will instead be 6 Months and 3 Months.
- (c) The Landlord cannot withdraw an offer made under clause 4.6(a)(i) until 1 Month after the offer is made.
- (d) If the Landlord does not give a notice to the Tenant under clause 4.6(a) and the Tenant requests an extension by written notice given to the Landlord before the Terminating Date, the Term will be extended until 6 Months after the Landlord gives the notice required under clause 4.6(a).
- (e) During an extension of this Lease under this clause 4.6(d), the Tenant can terminate this Lease by giving not less than 1 Month written notice to the Landlord.

4.7. Second Option Lease

If Item 9 refers to a lease for a further term and the Tenant wishes to take up the Second Option Lease and strictly follows the procedures set out in clause 4.8, the Landlord will lease the Premises to the Tenant on the conditions set out in clause 4.9.

4.8. Option Procedure for Second Option Lease

- (a) If the Tenant wishes to take up the Second Option Lease, the Tenant must:
 - (i) give written notice to the Landlord not more than 6 Months and not less than 3 Months before the Terminating Date of the Option Lease;
 - (ii) not be in default under the Option Lease unless either the Landlord has waived the default or the default has been remedied by the Tenant;
 - (iii) ensure that any Bank Guarantee under the Option Lease is applied to the Second Option Lease.
- (b) After the Landlord receives a notice under clause 4.8(a)(i), the Landlord will give to the Tenant a written statement updating the Lessor's Disclosure Statement.

4.9. Second Option Lease Conditions

The Second Option Lease will be on the same conditions as the Option Lease except that:

- (a) clauses 4.7 to 4.10 will not be included;
- (b) Item 9 will be deleted;
- (c) any clause of the Option Lease which contains a provision excluding that clause from the Second Option Lease will not be included;
- (d) the commencing date will be the Second Option Lease commencing date;
- (e) the terminating date will be the Second Option Lease terminating date; and

- (f) the initial Rent payable during the Second Option Lease will be determined in accordance with the Option Lease.

4.10. Second Option Lease Market Rent Determination

- (a) If the Commencing Date of the Second Option Lease is a Market Rent Review Date and the Landlord and the Tenant have not agreed on the Rent to apply as at that date, the Tenant can request a determination of the annual current market rent at any time within the period beginning 6 Months before and ending 3 Months before the last date on which the option to enter into the Second Option Lease can be exercised by the Tenant.
- (b) If the Tenant requests a determination of the annual current market rent, the period referred to in clause 4.8(a)(i) will be extended so that the last day of the period is 21 days after written notice is given to the Tenant of the determination.
- (c) If the term of the Option Lease is 12 Months or less, the periods of 6 Months and 3 Months in clause 4.10(a) will instead be 3 Months and 30 days.

4.11. Relocation

- (a) If the Landlord has a Refurbishment Proposal then, despite anything to the contrary in this Lease, the Landlord can give a Relocation Notice to the Tenant.
- (b) Within 1 Month of the Landlord giving a Relocation Notice to the Tenant (time being of the essence) the Tenant can give a Relocation Termination Notice to the Landlord.
- (c) If the Tenant gives a Relocation Termination Notice under clause 4.11(b):
 - (i) no later than 1 Month before the Relocation Termination Date the Tenant will deliver to the Landlord a surrender of this Lease in registrable form, except for execution by the Landlord;
 - (ii) the Tenant will give vacant possession of the Premises to the Landlord on the Relocation Termination Date in the condition that would be required under this Lease if the Relocation Termination Date were the Terminating Date; and
 - (iii) this Lease will terminate on the Relocation Termination Date and neither the Landlord nor the Tenant will have any claim against the other as a consequence of the giving of either the Relocation Notice or the Relocation Termination Notice.
- (d) If the Tenant does not give a Relocation Termination Notice under clause 4.11(b):
 - (i) this Lease will terminate on the Relocation Date;
 - (ii) the Tenant will be regarded as having accepted the Landlord's offer to enter into the Substituted Premises Lease;
 - (iii) the Landlord will deliver the Substituted Premises Lease to the Tenant within 2 Months of the Landlord giving the Relocation Notice;
 - (iv) the Tenant and the Guarantor will sign and deliver the Substituted Premises Lease to the Landlord within 14 Business Days of receipt from the Landlord of the Substituted Premises Lease;
 - (v) the Tenant will do all things necessary before the Relocation Date to ensure that any Bank Guarantee or Security Deposit under this Lease is applied to the Substituted Premises Lease; and

- (vi) the Landlord will pay the Tenant's reasonable costs of relocating from the Premises to the Substituted Premises including, but not limited to:
 - (A) the Tenant's reasonable legal costs of surrendering this Lease and of entering into the Substituted Premises Lease; and
 - (B) the Tenant's reasonable costs of dismantling and reinstalling the Tenant's Goods.
- (e) The Landlord and the Tenant agree that the Substituted Premises Lease will be on the same terms and conditions as this Lease except that:
 - (i) the Premises under the Substituted Premises Lease will be the Substituted Premises;
 - (ii) the Commencing Date of the Substituted Premises Lease will be the day after the Relocation Date;
 - (iii) the term of the Substituted Premises Lease will be equal balance of the Term calculated from the day after the Relocation Date; and
 - (iv) the Rent and the Tenant's Proportion of Outgoings payable under the Substituted Premises Lease will be calculated at the same rate per square metre of the Substituted Premises as the rate per square metre payable under this Lease.

4.12. Demolition

- (a) If the Landlord has a Demolition Proposal then, despite anything to the contrary in this Lease, the Landlord can give a Demolition Notice to the Tenant.
- (b) At any time after the Landlord gives a Demolition Notice to the Tenant but no later than 10 Business Days before the Demolition Date, the Tenant can give a Demolition Termination Notice to the Landlord.
- (c) If the Landlord gives a Demolition Notice or the Tenant gives a Demolition Termination Notice:
 - (i) no later than the earlier of the Demolition Date and the Demolition Termination Date, the Tenant will deliver to the Landlord a surrender of this Lease in registrable form, except for execution by the Landlord;
 - (ii) the Tenant will give vacant possession of the Premises to the Landlord on the earlier of the Demolition Date and the Demolition Termination Date in the condition that would be required under this Lease if such date were the Terminating Date;
 - (iii) this Lease will terminate on the earlier of the Demolition Date and the Demolition Termination Date and neither the Landlord nor the Tenant will have any claim against the other as a consequence of the giving of either the Demolition Notice or the Demolition Termination Notice;
- (d) If the Landlord gives a Demolition Notice or the Tenant gives a Demolition Termination Notice and demolition of the Centre is not carried out within a reasonably practicable time after the Demolition Date, the Landlord is liable to pay the Tenant reasonable compensation for damage suffered by the Tenant as a consequence of the early termination of this Lease, unless the Landlord establishes that at the time the Demolition Notice was given by the Landlord there was a genuine proposal to demolish the Centre within a reasonably practical time.

5. PAYMENTS

5.1. Rates of Rent and Method of Payment

Rent is payable at the annual rate stated in Item 7 until varied under this Lease and is then payable at the varied rates. All payments must be made in full at the Landlord's address stated in Item 1 or at any other place notified in writing by the Landlord to the Tenant. If required by the Landlord, Rent must be paid by irrevocable automatic order on the Tenant's bank.

5.2. Instalments of Rent

The Tenant will pay Rent at the following rates:

- (a) if the Commencing Date is not the first day of a Month the first Rent payment will be calculated on a daily basis based on the number of days in the relevant Month;
- (b) by instalments monthly in advance on the first day of each full Month within the Term equal to one-twelfth of the annual Rent then payable; and
- (c) if the Terminating Date is not the last day of a Month, the last Rent payment will be calculated on a daily basis based on the number of days in the relevant Month.

5.3. Market Rent Reviews

- (a) On each Market Rent Review Date the annual Rent payable under this Lease will be varied to the annual current market rent agreed or determined under this clause 5.3.
- (b) In this Lease current market rent means the annual rent that would reasonably be expected to be paid for the Premises, determined on an effective rent basis:
 - (i) having regard to:
 - (A) the terms and conditions of this Lease;
 - (B) the rent concessions or other benefits that are frequently or generally offered to prospective tenants of unoccupied retail premises;
 - (C) the rent that would reasonably be expected to be paid for the Premises if the Premises were unoccupied and offered for renting for the same or a substantially similar use to the Permitted Use; and
 - (D) the Rent and Outgoings;
 - (ii) without having regard to:
 - (A) the value of the Tenant's Goods; or
 - (B) the Tenant's goodwill.
- (c) No earlier than 3 Months before a Market Rent Review Date, the Landlord will give the Rent Review Notice to the Tenant.
- (d) Unless the Tenant objects to the Rent Review Notice by giving written notice to the Landlord within 14 Business Days of the Tenant receiving the Rent Review Notice (time being of the essence), the annual current market rent payable from the Market Rent Review Date will be the amount in the Rent Review Notice.
- (e) If the Tenant objects to the Rent Review Notice by giving written notice to the Landlord within 14 Business Days of the Tenant receiving the Rent Review Notice (time being of the essence), the Rent Agreement Period will start. If the Landlord and the Tenant do not agree within the

Rent Agreement Period (time being of the essence) on the annual current market rent to apply from the Market Rent Review Date clauses 5.3(f) to 5.3(o) will apply.

- (f) The Landlord and the Tenant will try to agree on a Specialist Retail Valuer to determine the annual current market rent to apply from the Market Rent Review Date. Failing agreement within 7 Business Days of the end of the Rent Agreement Period either the Landlord or the Tenant can apply to the Tribunal to nominate a Specialist Retail Valuer.
- (g) The Landlord and the Tenant can make written submissions to the Specialist Retail Valuer before the date on which the Specialist Retail Valuer is required to make the determination. The Specialist Retail Valuer is entitled to take into account any such written submissions when making the determination but is not obliged to do so.
- (h) The Specialist Retail Valuer in determining the amount of the rent must take into account the matters set out in clause 5.3(b)(i).
- (i) Within 14 days after a request by the Specialist Retail Valuer, the Landlord must supply the Specialist Retail Valuer with information reasonably available to the Landlord requested by the Specialist Retail Valuer to assist the Specialist Retail Valuer to determine the current market rent.
- (j) A Specialist Retail Valuer may apply to the Tribunal for an order that the Landlord comply with a request referred to in clause 5.3(i) to supply relevant information about leases for retail shops situated in the Centre.
- (k) The Specialist Retail Valuer will make a determination and will notify the Landlord and the Tenant of the Specialist Retail Valuer's determination within 1 Month after the Specialist Retail Valuer receives the information requested in clause 5.3(i). The Specialist Retail Valuer must give his or her valuation in writing and must give detailed reasons for the Specialist Retail Valuer's determination. The Specialist Retail Valuer must specify the matters to which the Specialist Retail Valuer has had regard in making the determination.
- (l) The Specialist Retail Valuer will act as an expert and not as an arbitrator.
- (m) Subject to Section 32A of the *Retail Leases Act*, the Specialist Retail Valuer's determination will be final and binding as between the Landlord and the Tenant.
- (n) Either the Landlord or the Tenant can request the Tribunal to appoint another Specialist Retail Valuer if the appointed Specialist Retail Valuer:
 - (i) fails to accept the appointment;
 - (ii) resigns the appointment;
 - (iii) becomes incapacitated or dies; or
 - (iv) fails to notify the Landlord and the Tenant of the determination within 1 Month after accepting the appointment.
- (o) The Landlord and the Tenant will each pay one half of the Specialist Retail Valuer's costs of making the determination.
- (p) If the Rent has not been agreed or determined by a Market Rent Review Date, the Tenant will pay the Landlord instalments of Rent on account equal to the Rent payable before that Market Rent Review Date. Within 14 days of the Rent being agreed or determined the Tenant will pay to the Landlord or the Landlord will credit to the Tenant any difference between the amount paid on account and the Rent as agreed or determined.

5.4. CPI Rent Reviews

- (a) On each CPI Rent Review Date the annual Rent payable under this Lease will be the amount determined under this clause 5.4.
- (b) The annual Rent payable from the CPI Rent Review Date will be the amount calculated by applying the following formula:

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

where:

- R is the annual Rent to be payable from the CPI Rent Review Date;
 - A is the Australian Statistician's Consumer Price Index (All Groups) figure for Sydney last published before the CPI Rent Review Date;
 - B is the Australian Statistician's Consumer Price Index (All Groups) figure for Sydney last published before whichever is the later of the Commencing Date and the most recent date on which Rent was reviewed under this Lease; and
 - C is the annual Rent payable immediately before the CPI Rent Review Date.
- (c) If the Australian Statistician updates the reference base of the Consumer Price Index, the intended continuity of calculation will be preserved by applying the appropriate factor, as chosen by the Landlord, to such updated reference base.
 - (d) If the Consumer Price Index is discontinued or suspended:
 - (i) the Landlord and the Tenant will try to agree within 14 Business Days after the CPI Rent Review Date on an alternative index which reflects fluctuations in the cost of living in Sydney;
 - (ii) if the Landlord and the Tenant do not agree on an alternative index, the Landlord will request the Nominator to nominate an alternative index which reflects fluctuations in the cost of living in Sydney. The decision of the Nominator will be final and binding as between the Landlord and the Tenant. The Landlord and the Tenant will each pay one half of the Nominator's costs of making the determination.

5.5. Percentage Rent Reviews

On each Percentage Rent Review Date the annual Rent payable under this Lease will be the annual Rent payable immediately before the Percentage Review Date increased by the percentage stated in Item 13.

5.6. Centre Outgoings

- (a) In each Accounting Year the Tenant will pay the Tenant's Proportion of Outgoings.
- (b) At least 1 Month before the start of each Accounting Year the Landlord will give to the Tenant the Outgoings Estimate for the next Accounting Year.
- (c) The Tenant will pay the Outgoings Estimate by equal monthly instalments in advance on the same days and in the same manner as Rent.
- (d) Within 1 Month of the end of each Accounting Year the Landlord will give to the Tenant a written statement as required by the *Retail Leases Act* detailing all expenditure by the Landlord on the Outgoings for the preceding Accounting Year.

- (e) Within 3 Months of the end of each Accounting Year the Landlord will give the Outgoings Report to the Tenant. The Outgoings Report will:
 - (i) be prepared by a registered company auditor in accordance with accounting standards within the meaning of the *Corporations Act 2001*; and
 - (ii) include a statement by the auditor about whether the amounts paid by the Tenant for Outgoings were properly payable by the Tenant and whether the Outgoings Estimate for the relevant period exceeded the amount actually spent by the Landlord on the Outgoings.
- (f) If the Outgoings Report relates only to insurance, land tax, water sewerage and drainage rates and charges, local council rates and charges and strata levies and the Outgoings Report is accompanied by copies of receipts for all expenditure, the Landlord does not have to comply with either clause 5.6(e)(i) or clause 5.6(e)(ii).
- (g) Within 1 Month after the end of each Accounting Year an adjustment will be made of any underpayment or overpayment of the Outgoings. The adjustment is to be the difference between the Outgoings Estimate and the amount actually spent by the Landlord on the Outgoings during the relevant Accounting Year, taking into account only expenditure properly and reasonably incurred by the Landlord in payment of the Outgoings.
- (h) Despite anything to the contrary in this Lease, the Tenant is only liable to contribute to non-specific Outgoings referable to the Premises the amount calculated by multiplying the total amount of that Outgoing by the ratio that the gross lettable area - retail of the Premises bears to the total gross lettable area - retail of all retail premises in the Centre to which that non-specific Outgoing is referable.

5.7. Interest on Arrears

The Tenant will pay to the Landlord interest on any Rent and on any other moneys due but unpaid for 14 days. Interest will be calculated at the rate stated in Item 15 as at the dates on which such moneys fall due to the date on which such moneys are received by the Landlord.

5.8. Duty and Landlord's Costs

- (a) The Tenant will pay the Landlord's costs, including legal costs as between solicitor and client, in relation to any amendment to the terms of this Lease that was requested by the Tenant and any transfer, surrender or termination of this Lease (including the cost of obtaining the consent of any Person whose consent is required) and in relation to any breach of this Lease by the Tenant.
- (b) The Tenant must pay the Landlord's costs and disbursements of lodging a financing statement in respect of any Security Interest arising under this Lease.
- (c) The Tenant will pay all duty when due and any registration fees when payable in relation to this Lease and in relation to anything done under this Lease.

5.9. Cost of Landlord Remedying Tenant Defaults

After giving reasonable notice to the Tenant, the Landlord can remedy any default by the Tenant under this Lease. The Tenant will pay on demand any costs that the Landlord incurs in doing so.

5.10. GST

- (a) The Rent and other moneys payable under this Lease by the Tenant have been calculated without regard to GST.
- (b) The Tenant must pay to the Landlord any amount which is payable by the Landlord for GST as a consequence of any supply made by the Landlord to the Tenant under this Lease, such payment

on account of GST to be made by the Tenant at the same time as payment is made for the relevant supply.

- (c) If at any time an adjustment is made as between the Landlord and the relevant taxing Authority of an amount paid on account of GST on any supply made by the Landlord to the Tenant under this Lease, a corresponding adjustment must be made as between the Landlord and the Tenant and any payments required to give effect to the adjustment must be made.
- (d) No later than 14 days after the date of payment of any GST the Landlord must provide to the Tenant a tax invoice complying with any legislation under which GST is imposed.
- (e) The Tenant will pay on demand to the Landlord any interest or penalties incurred by the Landlord as a result of the Tenant's failure to make a payment under clause 5.10(b).
- (f) The amount of Outgoings will be calculated by applying the following formula:

$$(A - B) \times (1 + C)$$

where:

- A is the GST inclusive price of the component of Outgoings, being the amount paid by the Landlord;
- B is the GST input tax credit for which the Landlord is eligible on the component of Outgoings; and
- C is the rate of GST expressed as a decimal.

5.11. Period Free of Rent

- (a) If an amount appears in Item 20 then, despite clauses 5.1 and 5.2, the Tenant is entitled the period free of Rent stated in Item 20 commencing on the Commencing Date.
- (b) Additionally, the Tenant is entitled to a period of one (1) month free of Outgoings commencing on the Commencing Date.
- (c) The Landlord and the Tenant agree that if this Lease is terminated before the Terminating Date because of the Tenant's default, the Tenant will immediately pay to the Landlord the two (2) months' Rent and one (1) month's Outgoings that the Tenant would have paid but for the benefit of this clause. The Tenant agrees that this is not a penalty but a genuine pre-estimate of the Landlord's loss arising from early termination.
- (d) This clause and Item 20 will not be included in the Option Lease.

5.12. INTENTIONALLY DELETED

5.13. Marketing Levy

- (a) In each Accounting Year the Tenant will pay the Marketing Levy by equal monthly instalments in advance on the same days and in the same manner as Rent.
- (b) The Landlord will apply the Marketing Levy to the Landlord's costs of advertising, marketing and promoting the Centre.
- (c) At least 1 Month before the start of each Accounting Year the Landlord will give to the Tenant a marketing plan detailing the Landlord's proposed expenditure on advertising, marketing and promoting the Centre during that Accounting Year to which a contribution by the Tenant is required.

- (d) Within 1 Month of the end of each 6 Month period of each Accounting Year the Landlord will give to the Tenant a written statement as required by the *Retail Leases Act* detailing all expenditure by the Landlord for the preceding 6 Month period on advertising, marketing and promotion costs to which a contribution by the Tenant is required.
- (e) Within 3 Months of the end of each Accounting Year the Landlord will give the Marketing Report to the Tenant. The Marketing Report will be prepared by a registered company auditor in accordance with accounting standards within the meaning of the *Corporations Act 2001*.
- (f) The Landlord and the Tenant agree that any of the Marketing Levy not spent in the Accounting Year in which the Marketing Levy was paid will be applied to the Landlord's future costs of advertising, marketing and promoting the Centre.

6. USE

6.1. Tenant's Use of the Premises

- (a) The Tenant will only use the Premises for the Permitted Use.
- (b) The Tenant will keep the Premises clean and tidy and arrange for the regular removal of any waste or rubbish from the Premises.
- (c) The Tenant will endeavour to keep the Premises and any property in the Premises safe from theft and will keep the Premises secure when the Premises are not in use.
- (d) The Tenant will not give any keys to the Premises to any other Person and will deliver all keys to the Landlord at the expiry or earlier termination of this Lease.
- (e) The Tenant will not keep any animal in the Premises and will keep the Premises free of all pests and vermin.
- (f) The Tenant will immediately notify the Landlord and the proper public authorities of any infectious illness in the Premises and thoroughly fumigate the Premises to the Landlord's satisfaction.
- (g) The Tenant will not use the Premises in an unsafe, noisy, offensive or unlawful manner.
- (h) The Tenant will not allow any article whatsoever to fall from the Premises and will not place any article on any ledge or other similar part of the Premises.
- (i) The Tenant will not mark or damage the Premises.
- (j) The Tenant will not obstruct any windows or lights in the Premises without the Landlord's prior consent.
- (k) The Tenant will not without the Landlord's prior consent put either on the outside of the Premises or on anywhere visible from the outside of the Premises any sign, advertisement or notice. Before the expiry or earlier termination of this Lease, the Tenant will remove any such sign, advertisement or notice and make good to the Landlord's satisfaction any damage.
- (l) The Tenant agrees that any blinds, awnings, window ventilators and other similar fittings installed by the Tenant and visible from outside the Premises must conform to the Landlord's requirements about design, quality and appearance.
- (m) The Tenant will not allow the floor of the Premises to be broken, strained or damaged by overloading.
- (n) The Tenant will not use the Landlord's Equipment for any purpose other than those for which they were supplied.

- (o) The Tenant will not do anything to affect the working or efficiency of any air conditioning equipment.
- (p) The Tenant will promptly notify the Landlord in writing of any defect in or need to repair the Premises or the Landlord's Equipment of which the Tenant is aware.
- (q) The Tenant will promptly notify the Landlord in writing of any circumstance of which the Tenant is aware which is likely to cause a danger or hazard to the Premises or to any Person in the Centre.
- (r) The Tenant will not store inflammable or dangerous substances in the Premises other than where reasonably required by the Tenant in connection with the Permitted Use but then only in such quantities and containers as are permitted by law and approved by the Landlord.
- (s) The Tenant will not do anything that would make any insurance policy taken out by the Landlord or the Tenant void or voidable or which would breach any laws or regulations.
- (t) The Tenant will only use light, power or heat generated by electric current or gas supplied through meters.
- (u) The Tenant will promptly pay all utility and service charges in relation to the Premises and, where appropriate, install any necessary meters.
- (v) The Tenant will keep any waste pipes and drains in or servicing the Premises free from blockages.
- (w) The Tenant will not do anything that might result in a statutory Authority issuing a notice in relation to the Premises or the Centre.
- (x) The Tenant will not sell any alcohol in the Premises without the Landlord's written consent.
- (y) The Tenant will not hold any auction, fire or bankruptcy sale in the Premises without the Landlord's written consent.
- (z) The Tenant will replace all non-operating light globes and light tubes.

6.2. Cleaning

- (a) The Tenant will clean the Premises at the Tenant's cost.
- (b) The Tenant acknowledges that the security concerns of the Landlord and of other tenants or occupiers of the Centre will be relevant matters to be considered by the Landlord when the Landlord is asked to approve any Person proposed by the Tenant to clean the Premises.
- (c) If the Landlord requests that a Person is not engaged to clean the Premises or that a Person who is a cleaner is not to be allowed access to the Centre or Premises, the Tenant must immediately comply with that request.
- (d) The Tenant will require the Tenant's cleaners to provide such personal information and identification and to comply with such security checks as the Landlord acting reasonably requires.

6.3. Trading and Stock

- (a) The Tenant will keep the Premises open for trading during the Centre Operating Hours.
- (b) The Tenant will keep current all licences and permits required for the use of the Premises by the Tenant.
- (c) The Tenant will keep the Premises adequately lit.

- (d) The Tenant will provide all necessary staff and stock to ensure that the Tenant's business is conducted in a proper and reputable manner in accordance with best practice.

6.4. Tenant's Use of the Centre

- (a) The Tenant will not do anything to obstruct the Common Areas or the Landlord's Equipment.
- (b) The Tenant will keep clean and free from rubbish those parts of the Common Areas and of any public footpath that immediately adjoin the Premises.
- (c) The Tenant will not burn any waste or rubbish in the Premises or on the Common Areas.
- (d) The Tenant will not cover any light, sky-light, window or other means of illuminating the Common Areas or the Centre.
- (e) The Tenant will not solicit business or distribute advertising material in the Common Areas.
- (f) The Tenant will not without the Landlord's consent put any antenna or similar equipment on the Common Areas.
- (g) The Tenant will not without the Landlord's consent use any loudspeaker or similar equipment likely to be seen or heard in the Common Areas.
- (h) The Tenant will not smoke in the Common Areas.
- (i) The Tenant will comply with the Landlord's requirements in relation to Centre security.
- (j) The Tenant will comply with the Landlord's requirements in relation to emergency evacuation procedures and fire drills.
- (k) The Tenant will not use any part of the Common Areas except the approved customer parking areas for parking vehicles except for pick-up or delivery of goods or Persons in the ordinary course of the Tenant's business.
- (l) The Tenant will ensure that the Tenant's customers, visitors and invitees park only in those parts of the Common Areas approved by the Landlord from time to time as customer parking.
- (m) The Tenant will not grease, oil, repair, clean or wash vehicles within the Common Areas.
- (n) The Tenant will not bring into the Centre any vehicle without rubber tyres.
- (o) Where the Landlord provides the Tenant with identification on any sign installed by the Landlord near an entrance to the Centre the Tenant will pay on demand the Landlord's costs of providing such identification.
- (p) The Tenant will only use for moving goods of bulk or quantity such parts of the Common Areas and at such times as the Landlord from time to time directs.

6.5. Energy consumption information

- (a) The Tenant agrees and acknowledges that the Landlord has or may have mandatory reporting obligations which may include disclosing to the relevant authorities and other Persons information relating to the Tenant's level of energy consumption in the Premises, greenhouse gas emissions, energy efficiency initiatives and associated data, records and other information.
- (b) The Tenant will provide such data, records and other information as the Landlord may reasonably require to enable the Landlord to comply with its reporting obligations relating to the Tenant's level of energy consumption in the Premises, greenhouse gas emissions and energy efficiency initiatives.

- (c) The Tenant will within 7 days of receipt by the Tenant provide to the Landlord copies of all records and accounts received by the Tenant from a utility or service provider in respect of the consumption of electricity or gas in the Premises.
- (d) If the Tenant does not provide information required by the Landlord pursuant to this clause 6.5 the Tenant will pay on demand to the Landlord an amount equal to any expense, fine or penalty incurred by the Landlord arising as a result of the Tenant's default.

7. CONDITION AND REPAIRS

7.1. Keeping and Delivering Up in Repair

- (a) The Tenant will at all times keep the Premises and any of the Landlord's Equipment in or servicing the Premises in good repair and condition having regard to the condition of the Premises and of the Landlord's Equipment at the earlier of the Commencing Date or the date that the Tenant first occupied the Premises.
- (b) Unless required because of the Tenant's particular use of the Premises, the Tenant's obligations under clause 7.1(a) do not extend to:
 - (i) any repair required because of fair wear and tear or because of the Landlord's negligence;
 - (ii) any capital costs or structural repairs; or
 - (iii) anything beyond the control of the Tenant.

7.2. Repair of Damage

The Tenant will make good any defect in or damage to the Premises, the Landlord's Equipment or the Centre caused by lack of care or misuse by the Tenant.

7.3. Painting Etc

Before the Tenant ceases to occupy the Premises, the Tenant will to the Landlord's satisfaction:

- (a) paint with at least 2 coats of high quality paint and otherwise treat appropriately all the internal brickwork, masonry, timber, metalwork and other surfaces of the Premises usually painted or treated; and
- (b) wash down all washable surfaces of the Premises.

7.4. Alterations and Additions

- (a) The Tenant will not make any alterations or additions to the Premises without first obtaining the Landlord's written consent. The Landlord can give or withhold consent in its absolute discretion.
- (b) When requesting consent for any such works the Tenant will give to the Landlord for approval detailed plans and specifications of the works. The Landlord can give or withhold approval of the plans and specifications in its absolute discretion.
- (c) Any such works can only be undertaken either by the Landlord or by Persons approved by the Landlord.
- (d) The Tenant must comply with the requirements of the Landlord, the law and the relevant public authorities in carrying out any such works.
- (e) The Tenant will pay the Landlord's costs in connection with any works.

7.5. Statutory Requirements

- (a) The Tenant will at all times comply with all statutes, ordinances, proclamations, orders and regulations affecting the Premises, the use of the Premises by the Tenant and the Tenant's Goods.
- (b) The Tenant will comply with all notices and orders given by any statutory, public or other competent Authority in respect of the Premises, the use of the Premises by the Tenant and the Tenant's Goods.
- (c) The Tenant will comply with all WH&S Laws in relation to the Premises.
- (d) The Tenant indemnifies the Landlord in relation to any failure by the Tenant to comply with the Tenant's obligations under this clause 7.5.
- (e) Despite clauses 7.5(a) and 7.5(b) the Tenant is not responsible for any capital costs nor for any structural alterations unless required because of the Tenant's particular use of the Premises.

7.6. Principal Contractor and WH&S Regulation

- (a) If any work is to be carried out on the Premises by the Tenant during the Term of the lease, including any Option Lease or holding over period which requires the appointment of a Principal Contractor under the *WH&S Regulation*, the Landlord appoints the Tenant as the Principal Contractor in respect of those works and the Tenant accepts that appointment.
- (b) The Landlord authorises the Tenant to exercise such authority of the Landlord as is necessary to ensure that the Tenant can carry out the responsibilities imposed on the Tenant as Principal Contractor under the *WH&S Regulation*.
- (c) The Tenant may propose that another Person is appointed as Principal Contractor for specific works in place of the Tenant, subject to the Tenant first obtaining the Landlord's consent.
- (d) The Tenant must ensure that when any work is carried out in the Premises all the requirements of the *WH&S Regulation* and any other laws relating to work health and safety are met.
- (e) The Tenant must consult, co-operate and co-ordinate its activities with the Landlord in connection with the Premises to ensure that the parties at all times comply with *WH&S Law* including, but not limited to, scheduling and participating in regular meetings, maintaining current information on an accident registers and conducting regular risk assessment reports of the Premises including taking the views of Tenant's workers into consideration and to take any other steps as agreed between the parties.
- (f) The Landlord will make itself available to the Tenant on a regular basis to discuss any matters related to health and safety at work arising from its obligations in relation to the Premises.
- (g) The Tenant must immediately notify the Landlord of any accident, notifiable incident (being an incident which is notifiable under *WH&S Law*) or injury which occurs on the Premises in connection with the activities at the Premises. The Tenant must take all reasonably practicable steps to safely isolate any dangers from occurring or reoccurring before the Landlord is informed.
- (h) The Tenant undertakes to inform itself of the serious injury or illness and dangerous incident notification obligations. The Tenant undertakes to advise the regulator by the fastest possible means, prior to advising the Landlord in the event that a notifiable incident occurs.

8. INSURANCE AND DAMAGE

8.1. Public Risk and Plate Glass

The Tenant will keep current in the name of the Tenant, noting the interest of the Landlord and, if required by the Landlord, the Landlord's mortgagee:

- (a) a public risk insurance policy for not less than the amount stated in Item 17 or for such higher amount as the Landlord from time to time requires;
- (b) adequate reinstatement insurance of all glass in the Premises for the amount to replace the glass in accordance with the then current Australian Standards; and
- (c) other insurances which are required by law or which in the Landlord's reasonable opinion a prudent tenant would take out.

8.2. Workers Compensation

The Tenant will keep current workers compensation insurance (including common law liability) with a reputable insurer for all Persons employed by the Tenant in relation to whom death or bodily injury claims can be made against the Landlord.

8.3. Insurance of Tenant's Goods

The Tenant will keep the Tenant's Goods adequately insured against loss or damage.

8.4. Evidence of Insurance

The Tenant will provide to the Landlord any insurance policy which the Tenant is required to take out under this Lease and certificates of currency in relation to any such policy.

8.5. Risk

The Tenant occupies and uses the Premises at the Tenant's risk. The Landlord is only liable to the Tenant for any injury, loss or damage to any property or Person to the extent that such injury, loss or damage is caused by the Landlord's negligence.

8.6. Indemnities by Tenant

- (a) The Tenant indemnifies the Landlord against all claims, costs and expenses for which the Landlord is liable in relation to any death, personal injury or property damage caused by any act or failure to act of the Tenant or because of the Tenant's use of the Premises and the Centre.
- (b) The Tenant indemnifies the Landlord against all loss or damage caused by the Tenant including, but not limited to, the Tenant's use or misuse of the Premises and the Centre or of the Landlord's Equipment or by the Tenant's failure to notify the Landlord of any major or continuing defect in the Premises or in any of the Landlord's Equipment in or servicing the Premises and the Centre.

8.7. Termination and Abatement on Damage

- (a) If the Premises or Centre are damaged so that the Premises are inaccessible or unable to be used and the Landlord notifies the Tenant in writing that the Landlord considers repairing the damage impractical or undesirable, either the Landlord or the Tenant can terminate this Lease without compensation by giving not less than 7 days written notice to the other.
- (b) If the Premises or Centre are damaged so that the Premises are inaccessible or unable to be used and the Landlord fails to repair the damage within a reasonable time after written notice from the Tenant requesting the Landlord to do those repairs, the Tenant can terminate this Lease by giving not less than 7 days written notice to the Landlord.

- (c) If the Premises or Centre are damaged so that the Premises are inaccessible or unable to be used, no Rent or Outgoings will be payable by the Tenant until the Premises are made accessible or useable.
- (d) If the Premises are damaged and are still useable but the use of the Premises is diminished due to damage, the Rent and the Outgoings will abate according to the extent of the diminished use until the use of the Premises is no longer diminished.
- (e) Nothing in this clause 8.7 affects the Landlord's right to recover damages from the Tenant in respect of any damage or destruction referred to in this clause nor obliges the Landlord to restore or reinstate the Premises.

8.8. Increased Premiums

If the Tenant's acts or omissions cause any premium for insurances effected by the Landlord to increase, the Tenant will pay the amount of that increased premium to the Landlord within 14 days of demand.

9. ACCESS

9.1. Right to Enter to Inspect or Carry Out Works

- (a) The Landlord can enter the Premises at reasonable times after giving reasonable notice or at any time without notice in an emergency to:
 - (i) inspect the Premises;
 - (ii) do any works that the Landlord considers desirable;
 - (iii) collect data and to check or monitor the performance of the Premises;
 - (iv) exercise any of the Landlord's rights under this Lease; and
 - (v) repair the Premises where the Premises have been damaged.
- (b) The Landlord will give to the Tenant 2 Months prior written notice of any alteration to or refurbishment of the Centre to be carried out by the Landlord which is likely to adversely affect the Tenant's business. In emergencies reasonable notice only of any such alteration or refurbishment is required
- (c) In exercising the Landlord's right to enter the Premises and to do works:
 - (i) the Landlord and the Landlord's employees, agents and contractors will be entitled to enter the Premises with all necessary materials; and
 - (ii) the Landlord will use all reasonable endeavours to ensure that as little disruption as is practical is caused to the Tenant's use of the Premises.

9.2. Landlord's Signs and Inspections

- (a) The Landlord is entitled to attach 'For Sale' and 'For Lease' signs to the Centre, including to the outside of the Premises. 'For Lease' signs in relation to the Premises will only be attached during the 3 Months immediately preceding the Terminating Date.
- (b) The Tenant will not obscure the Landlord's signs.
- (c) The Tenant will allow all Persons authorised in writing by the Landlord to inspect the Premises at reasonable times after reasonable notice from the Landlord.

9.3. Easements and Other Rights

- (a) The Landlord can transfer or create any easement, covenant, restriction, licence or other right or dedicate land in favour of any Person or in favour of any land near the Premises or in favour of any Authority for the purposes of access, support or services or such other purposes that the Landlord reasonably requires or which may be required by an Authority. This Lease is subject to any such easement, covenant, restriction, licence, other right or dedication.
- (b) The Landlord may release, cancel, modify or extinguish any easement, covenant, restriction licence or other right which benefits or burdens the Land.
- (c) Within 7 days of written request by the Landlord the Tenant will sign and return to the Landlord any consents or other documents necessary to enable the Landlord to carry out any activity referred to in clauses 9.3(a) and 9.3(b) and will make no objection or claim for compensation in relation to such activity.
- (d) The Landlord will not dedicate land or transfer, create, release, cancel, modify or extinguish any easement, covenant, restriction, licence or other right which would substantially and permanently lessen the Tenant's rights under this Lease.

9.4. Landlord's Reservations

The Landlord reserves the right:

- (a) to use the roof of the Premises;
- (b) to run substances through any pipes, ducts or wires passing through the Premises; and
- (c) to enter the Premises to exercise such rights.

9.5. Landlord's Repair Obligation

The Landlord agrees to use reasonable endeavours to ensure that the structure of the Premises and of the Centre is kept in good repair having regard to their condition at the earlier of the Commencing Date or the date that the Tenant first occupied the Premises except for:

- (a) fair wear and tear;
- (b) anything that the Tenant is required to do under this Lease; and
- (c) damage from any cause beyond the Landlord's reasonable control.

10. ASSIGNMENT AND SUB-LETTING

10.1 Restrictions on Assignment, Sub-Letting and Licensing

The Tenant will not assign this Lease without first obtaining the Landlord's written consent. The Landlord can withhold consent if:

- (a) the proposed assignee proposes to change the Permitted Use;
- (b) the proposed assignee has financial resources or retailing skills inferior to those of the Tenant; or
- (c) the Tenant has not complied with the procedures set out in clause 10.2.

10.2. Procedures for Obtaining Consent to Assignment

If the Tenant wishes to assign this Lease:

- (a) the Tenant will in writing request the Landlord's consent to any proposed assignment and will provide the Landlord with such information as the Landlord requires about the financial standing and business experience of the proposed assignee and of the Tenant;
- (b) before requesting the consent of the Landlord to a proposed assignment of the Lease, the Tenant must furnish the proposed assignee with a copy of any Lessor's Disclosure Statement given to the Tenant in respect of this Lease, together with details of any changes that have occurred in respect of the information contained in that Lessor's Disclosure Statement since it was given to the Tenant (being changes of which the Tenant is aware or could reasonably be expected to be aware);
- (c) the Tenant can request the Landlord to provide the Tenant with a copy of the Lessor's Disclosure Statement. If the Landlord does not do so within 14 days after the Tenant's request, clause 10.2(b) will not apply to the proposed assignment;
- (d) if the Premises will be used by the proposed assignee for the continued operation of the Tenant's business the Tenant may provide the proposed assignee with an Assignor's Disclosure Statement. The Tenant may provide the Landlord with a copy of the Assignor's Disclosure Statement;
- (e) the Landlord will deal promptly with any request for consent. If the Tenant has complied with clauses 10.2(a) and 10.2(b) and the Landlord has not within 28 days after the Tenant's request given written notice to the Tenant either consenting or withholding consent, the Landlord will be regarded as having consented;
- (f) the New Tenant will provide to the Landlord such securities or guarantees of the New Tenant's obligations under this Lease as the Landlord requires including, but not limited to, a Bank Guarantee or Security Deposit;
- (g) the Tenant will ensure that any guarantors of the proposed assignee required by the Landlord enter into a deed in a form required by the Landlord; and
- (h) the Tenant will pay the Landlord's costs in connection with the proposed assignment.

10.3. Restrictions on Shares Dealings

- (a) If the Tenant is a corporation (other than a corporation whose shares are listed on the Australian Stock Exchange) then, unless the Tenant first complies with clause 10.3(b), the Tenant will not:
 - (i) register, record or enter in its books any transfer of any share in the capital of the Tenant;
 - (ii) deal with the beneficial interest in any such share;
 - (iii) issue any new shares; or
 - (iv) take any other action,which would have the effect that the shareholders of the Tenant at the Commencing Date would, after such action, beneficially hold or control less than 51% of the voting rights or of the income or capital participation rights in the Tenant or less than 51% of the voting rights at a meeting of directors of the Tenant.
- (b) The requirements referred to in clause 10.3(a) are that the Tenant:
 - (i) gives to the Landlord not less than 1 Month written notice of its intention;

- (ii) is not in default under this Lease unless either the Landlord has waived the default or the default has been remedied by the Tenant;
- (iii) proves to the Landlord's satisfaction that the Persons to whom the Tenant proposes to transfer or issue such shares or in whom the Tenant proposes to vest such other rights are each respectable, responsible and solvent;
- (iv) ensures that the Persons referred to in clause 10.3(b)(iii) provide to the Landlord such guarantees of the Tenant's obligations under this Lease as the Landlord requires; and
- (v) pays the Landlord's costs.

10.4. Restrictions on Units Dealings

- (a) If the Tenant is the trustee of a unit trust (unless the unit trust is listed on the Australian Stock Exchange) then, unless the Tenant first complies with clause 10.4(b), the Tenant will not:
 - (i) register, record or enter in its books any transfer of any unit or units in the Unit Trust or the holding trust;
 - (ii) deal with the beneficial interest in any such unit or units;
 - (iii) issue any new unit or units; or
 - (iv) take any other action, take or attempt to take any action having the effect of:
 - (A) effectively altering the control of the unit trust; or
 - (B) the unitholders in the unit trust at the date of this Lease at any time ceasing to beneficially hold or control at least 51% of the units in the unit trust.
- (b) The requirements referred to in clause 10.4(a) are that the Tenant:
 - (i) gives to the Landlord not less than 1 Month written notice of its intention;
 - (ii) is not in default under this Lease unless either the Landlord has waived the default or the default has been remedied by the Tenant;
 - (iii) proves to the Landlord's satisfaction that the Persons to whom the Tenant proposes to transfer or issue such units or in whom the Tenant proposes to vest such other rights are each respectable, responsible and solvent;
 - (iv) ensures that the Persons referred to in clause 10.4(b)(iii) provide to the Landlord such guarantees of the Tenant's obligations under this Lease as the Landlord requires; and
 - (v) pays the Landlord's costs.

10.5. Restrictions on Sub-Letting, Mortgaging, Etc

- (a) The Tenant will not sub-let or part with possession or grant any licence or concession affecting the Premises.
- (b) The Tenant will not mortgage or charge the Tenant's interest in the Premises.

11. LANDLORD'S OBLIGATIONS

11.1. Quiet Enjoyment

Unless provided to the contrary in this Lease, so long as the Tenant pays the Rent and the other moneys payable under this Lease when due and performs the Tenant's obligations under this Lease, the Tenant can occupy the Premises without interruption or disturbance from the Landlord.

11.2. Disturbance

- (a) The Landlord will not:
 - (i) inhibit the Tenant's access to the Premises in any substantial way;
 - (ii) take any action that substantially inhibits or alters the flow of customers to the Premises;
 - (iii) unreasonably take any action that causes significant disruption to or has a significant adverse affect on the Tenant trading in the Premises;
 - (iv) fail to take all reasonable steps to prevent or stop anything that causes significant disruption to or has a significant adverse affect on the Tenant trading in the Premises where such thing is within the Landlord's control;
 - (v) fail to rectify any breakdown of plant or equipment that the Landlord is required to maintain; or
 - (vi) fail to adequately clean, maintain or repair the Centre.
- (b) If the Landlord breaches clause 11.2(a) and does not rectify its breach as soon as reasonably practical after written request by the Tenant, the Landlord is liable to pay the Tenant reasonable compensation for any loss or damage (other than nominal damage) suffered by the Tenant as a consequence. The Tenant acknowledges that any claim for compensation is limited to matters not disclosed to the Tenant before this Lease was entered into.
- (c) In deciding whether the Landlord has acted reasonably for the purposes of clause 11.2(a), due consideration will be given to whether the Landlord acted in accordance with recognised shopping centre management practices.
- (d) Clauses 11.2(a) to 11.2(c) do not apply to any action taken by the Landlord as a reasonable response to an emergency or in compliance with any duty imposed under any legislation or resulting from a claim imposed by a public or local Authority under the authority of any legislation.

11.3. Management of the Centre and Maintenance of Common Areas

- (a) The Landlord will manage and operate the Centre and will pay the Outgoings.
- (b) The Landlord will maintain the Common Areas. The way the Common Areas are maintained is in the Landlord's discretion.

12. TENANT'S DEFAULT AND END OF LEASE

12.1. Re-entry on Default and Forfeiture

The Tenant will be in default under this Lease and the Landlord can lawfully re-enter the Premises if:

- (a) Rent is unpaid for 14 days after the due date;
- (b) any other monies are unpaid for 14 days after due;

- (c) any repairs required by a notice are not completed within the time required by such notice;
- (d) the Tenant fails to perform any other of the Tenant's obligations for 14 days after the Landlord gives the Tenant written notice of the Tenant's default;
- (e) the Tenant becomes insolvent when:
 - (i) they are (or state that they are) an insolvent under administration or insolvent (each as defined in the *Corporations Act 2001 (Cth)*);
 - (ii) they have a controller appointed, are in liquidation, in provisional liquidation, under administration or wound up or have had a receiver appointed to any part of their property;
 - (iii) execution or distress or any other process is levied or attempted or imposed against or over any of their undertaking, property or assets;
 - (iv) a compromise, arrangement, assignment, moratorium or composition is proposed with, or becomes effective in relation to, their creditors or any class of their creditors (in each case, other than to carry out a reconstruction or amalgamation while solvent);
 - (v) an application or order has been made (and, in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward or any other action taken, in each case in connection with them, which is preparatory to or could result in any of the things referred to above;
 - (vi) they are taken (under Section 459F of the *Corporations Act 2001 (Cth)*) to have failed to comply with a statutory demand;
 - (vii) they are the subject of an event described in Section 459C(2)(b) or Section 585 of the *Corporations Act 2001 (Cth)*;
 - (viii) they are a natural person, they commit an act of bankruptcy within the meaning of the *Bankruptcy Act 1966 (Cth)*;
 - (ix) they are otherwise unable to pay their debts as and when they fall due; or
 - (x) something having a substantial similar effect to any of the things referred to above happens in connection with them under any law.

12.2. Removal of Tenant's Goods

- (a) If the Tenant is not in default under this Lease the Tenant can during the last Month of the Tenant's occupation of the Premises remove the Tenant's Goods from the Centre so long as such removal is done under the supervision of and in accordance with the directions of the Landlord. The Tenant will make good any damage caused to the Premises and the Centre.
- (b) If the Tenant does not remove the Tenant's Goods as provided under clause 12.2(a) and the Landlord requires the Tenant to remove the Tenant's Goods, the Tenant will remove the Tenant's Goods prior to the expiry of the last Month of the Tenant's occupation of the Premises so long as such removal is done under the supervision of and in accordance with the directions of the Landlord. The Tenant will make good any damage caused to the Premises and the Centre.
- (c) If the Tenant does not remove the Tenant's Goods as provided under clauses 12.2(a) and 12.2(b) the Landlord may:
 - (i) keep, remove, sell or otherwise dispose of the Tenant's Goods at the Tenant's risk and cost; and

- (ii) treat any of the Tenant's Goods as if they were the Landlord's property and deal with them in any way (including by sale) without being liable to account to the Tenant.
- (d) The Tenant indemnifies the Landlord in relation to the removal and storage of the Tenant's Goods and in relation to claims by any Person of an interest in the Tenant's Goods.
- (e) Despite anything to the contrary in this Lease, this Lease will be deemed to continue until such time as the Tenant's Goods are removed from the Premises.

12.3. Delivering Up In Good Repair

- (a) Unless the Landlord notifies the Tenant in writing before the expiry or earlier termination of this Lease that the Tenant is not required to comply with any of its obligations under this clause 12.3(a), at the expiry or earlier termination of this Lease the Tenant will give vacant possession of the Premises to the Landlord with the Premises in the state of repair required under this Lease including, but not limited to, the following:
 - (i) the Premises being painted and treated as required under clause 7.3;
 - (ii) the Premises being in the state of repair required under clause 7.1;
 - (iii) the Tenant's Goods being removed from the Premises as required under clause 12.2;
 - (iv) any fitting out in the Premises carried out by, for or at the cost of the Landlord on behalf of or at the request of the Tenant being removed from the Premises and any consequential damage made good;
 - (v) the Premises Services being returned to the configuration they were in before the Tenant first occupied the Premises;
 - (vi) all cables, wires, ducting and pipes installed by or on behalf of the Tenant being removed from the Premises and terminated at the source;
 - (vii) any part of the Premises structure in which holes have been made by or on behalf of the Tenant being made good; and
 - (viii) ensuring that the ceiling tiles and the ceiling support grid are in good repair.
- (b) Despite anything to the contrary in this Lease, this Lease will be deemed to continue until such time as the Tenant complies with all of its obligations under clause 12.3(a).

12.4. Holding Over

- (a) If the Landlord agrees to the Tenant remaining in the Premises after the expiry or earlier termination of this Lease, the Tenant will be a monthly tenant at a rent equal to one-twelfth of the Rent payable at the expiry or earlier termination of this Lease, payable monthly in advance and otherwise on the same terms as this Lease.
- (b) The monthly tenancy under clause 12.4(a) can be terminated at any time by either the Landlord or the Tenant giving the other 1 Month written notice, expiring on any day.

12.5. Essential Terms and Damages

- (a) The following are essential terms of this Lease:
 - (i) that the Tenant pay the Rent and any other money payable by the Tenant under this Lease no later than 14 days after their due dates;
 - (ii) clause 6.1(a); and

(iii) clause 10.1.

- (b) The Tenant will compensate the Landlord for any loss or damage suffered by the Landlord because of the Tenant's breach of an essential term of this Lease.
- (c) The Landlord can recover damages from the Tenant for any loss or damage suffered by the Landlord because of the repudiation or breach of this Lease during the entire Term, including both before and after any of the events listed below:
 - (i) the Tenant vacating the Premises;
 - (ii) the Landlord accepting the Tenant's repudiation of this Lease;
 - (iii) the Landlord lawfully re-entering the Premises or terminating this Lease; and
 - (iv) this Lease being surrendered by operation of law because of the Tenant's and the Landlord's conduct.
- (d) If the Tenant (whether with or without the Landlord's consent) vacates the Premises, the Landlord will take reasonable steps to mitigate the Landlord's damages and will try to lease the Premises at a rent and on terms satisfactory to the Landlord. The Landlord's entitlement to damages will be assessed on the basis that the Landlord has mitigated its damages.

12.6. **INTENTIONALLY DELETED**

13. **GUARANTEE**

13.1. **Bank Guarantee**

- (a) If an amount is stated in Item 18, this clause 13.1 applies to this Lease unless the Tenant pays a Security Deposit in accordance with clause 13.3 below.
- (b) Before the earlier of the Commencing Date and the date that the Tenant first occupies the Premises, the Tenant will deliver the Bank Guarantee to the Landlord.
- (c) If for any reason the Bank Guarantee held by the Landlord is for less than the amount stated in Item 18, the Tenant will within 7 Business Days of written notice from the Landlord, provide to the Landlord additional security by way of Bank Guarantee for such amount as is necessary to ensure that the Landlord holds a Bank Guarantee for not less than the amount stated in Item 18.
- (d) The Landlord is entitled to claim under the Bank Guarantee amounts equal to any monies due but unpaid by the Tenant to the Landlord under this Lease.
- (e) The Landlord will deliver the Bank Guarantee (or so much of the Bank Guarantee as is then held by the Landlord) to the Tenant not later than 14 days after the last to occur of:
 - (i) the Terminating Date of this Lease or, if applicable, the Terminating Date of the last of the Option Leases (whichever is the later);
 - (ii) the expiry date of any holding over under this Lease or, if applicable, under the Option Lease (whichever is the later); and
 - (iii) the date that the Tenant complies with all the Tenant's obligations under this Lease or, if applicable, the date that the Tenant complies with all the Tenant's obligations under the last of the Option Leases (whichever is the later).
- (f) If the identity of the Landlord changes the Tenant will do all things necessary to ensure a replacement Bank Guarantee issues in favour of the then Landlord no later than 14 days after written request from the Landlord.

13.2. Guarantee and Indemnity

- (a) The expression *this Lease* in this clause includes the Option Leases.
- (b) In consideration of the Landlord granting this Lease to the Tenant at the Guarantor's request, the Guarantor (as shown by the Guarantor signing this Lease) guarantees to the Landlord the punctual payment of all Rent and of the Tenant's Proportion of Outgoings and the punctual observance by the Tenant of all the Tenant's obligations under this Lease.
- (c) The Guarantor unconditionally indemnifies the Landlord in respect of any failure by the Tenant to make any payment or to perform any obligation under this Lease.
- (d) The Landlord and the Guarantor agree that this guarantee and indemnity is a continuing guarantee and indemnity which is absolute and unconditional in all circumstances and will remain in force until all the Tenant's obligations under this Lease are performed.
- (e) The Landlord and the Guarantor agree that this guarantee and indemnity will not be discharged by the payment of any monies on account or by any concession given to the Tenant or to the Guarantor or to any other Person or by any compounding, compromise, release, abandonment, waiver, variation, relinquishment or renewal of any of the Landlord's rights against the Tenant or the Guarantor or any other Person or by the Landlord's failure to enforce any such rights or by any other thing whatsoever which but for this clause might abrogate, prejudice or affect this guarantee and indemnity or by any variation or addition to this Lease.
- (f) The Landlord and the Guarantor agree that this guarantee and indemnity is in addition to any other rights which the Landlord has under this Lease and can be enforced against the Guarantor without the Landlord first having recourse to any other rights and without the Landlord first taking any action against the Tenant.
- (g) The Landlord and the Tenant agree that this guarantee and indemnity will not prejudicially affect or be prejudicially affected by any security held by the Landlord for any monies owing under this Lease and that such security will be collateral and the Guarantor will not, as against the Landlord, in any way claim the benefit or seek the transfer of any security.
- (h) The Guarantor warrants that the Guarantor has full power and authority to enter into this guarantee and indemnity and that the Guarantor's obligations under this guarantee and indemnity are in no way diminished, fettered or controlled by any deed or instrument including, but not limited to, any debenture trust deed relating to securities issued or given by the Guarantor.
- (i) The Landlord and the Guarantor agree that this guarantee and indemnity will not be affected by any assignment, sub-letting or parting with possession of the Premises by the Tenant.

13.3. Security Deposit

- (a) If an amount is stated in Item 24, clause 13.3 applies to this Lease unless the Tenant provides a Bank Guarantee in accordance with clause 13.1 above.
- (b) Before the earlier of the Commencing Date and the date that the Tenant first occupies the Premises, the Tenant will deliver the Security Deposit to the Landlord.
- (c) The Landlord must deposit the Security Deposit with the Director-General in accordance with the *Retail Lease Act*.
- (d) If for any reason the Security Deposit is for less than the amount stated in Item 24, the Tenant will within 7 Business Days of written notice from the Landlord provide to the Landlord additional security by way of Security Deposit for such amount as is necessary to ensure that the Security Deposit is for not less than the amount stated in Item 24.
- (e) The Landlord is entitled to claim from the Security Deposit an amount equal to any monies due but unpaid by the Tenant to the Landlord under this Lease.

- (f) The Landlord will apply to the Director-General to pay the Security Deposit (or so much of the Security Deposit as is then held by the Director-General) to the Tenant after deduction of any amount due to the Landlord on the later of the following dates:
 - (i) whichever is the later of the Terminating Date of this Lease or, if applicable, the terminating date of the last of the Option Leases; and
 - (ii) whichever is the later of the date that the Tenant complies with all the Tenant's obligations under this Lease or, if applicable, the date that the Tenant complies with all the Tenant's obligations under the last of the Option Leases.

14. PERSONAL PROPERTY SECURITIES ACT 2009 (CTH)

- 14.1. The Tenant must notify the Landlord on or before the Commencement Date if the Tenant's Goods or any other personal property of the Tenant relevant to this Lease is subject to a Security Interest.
- 14.2. The Tenant agrees not to create a Security Interest in favour of a third party in respect of the Tenant's Goods or any other personal property of the Tenant relevant to this Lease except with the prior written consent of the Landlord, such consent not to be unreasonably withheld.
- 14.3. The Tenant:
 - (a) acknowledges that the grant of this Lease also constitutes the grant of a Security Interest in the Landlord PPS Items in favour of the Landlord, which interest the Landlord is entitled to register under the *PPS Act*;
 - (b) must do all things required by the Landlord from time to time (including, without limitation, signing any documents required by the Landlord) to enable the Landlord to register its above Security Interests under the *PPS Act*;
 - (c) warrants that it has not created a Security Interest in respect of any Landlord PPS Items on or prior to execution of this Lease; and
 - (d) must indemnify the Landlord against all claims, damages or loss incurred by the Landlord as a consequence of any breach by the Tenant of this clause.

15. GENERAL

15.1. Change of Operating Hours of the Centre

If the Landlord gets the written consent of a majority of the tenants of retail shop premises in the Centre, the Landlord can from time to time by giving 1 Month written notice to the Tenant change the Operating Hours of the Centre specified in Item 19 to such other hours as the Landlord reasonably requires.

15.2. Tenant Contact

The Tenant will ensure that the Landlord has the home address and telephone number of a 24 hour contact for the Tenant.

15.3. Notices

- (a) Any notice or other document to be given by the Landlord will be validly signed if signed by any managing agent, property manager, director, secretary, attorney or solicitor of the Landlord or by any Person nominated by the Landlord.
- (b) Any notice or document to be given under this Lease can be given:
 - (i) in any manner authorised by Section 170 of the *Conveyancing Act 1919*;

- (ii) by being left at or posted to:
 - (A) an address shown in this Lease;
 - (B) in the case of a corporation, at its registered office;
 - (C) in the case of the Tenant, at the Premises; or
- (iii) by fax.
- (c) A notice or document will be regarded as having been received:
 - (i) in the case of posting, 2 Business Days after it is placed in the post; or
 - (ii) in the case of a fax, when the machine sending the fax generates a report showing the total number of pages of the fax were successfully sent to the fax number of the addressee.
- (d) If any notice is received by a party after 5pm on any Business Day, the notice will be deemed to have been received on the next Business Day.

15.4. Landlord's Consents and Costs

Unless provided to the contrary in this Lease where:

- (a) the Landlord is required to exercise a discretion, the Landlord will exercise its discretion reasonably;
- (b) the Tenant is to pay the Landlord's costs, the Landlord will act reasonably in incurring such costs; and
- (c) the Landlord's consent or approval is required, such consent or approval will not be unreasonably withheld.

15.5. Landlord's approvals

- (a) The Tenant acknowledges that the Landlord, when giving approval in connection with this Deed or proposed work, has no objection to the act, matter or thing the subject of the approval.
- (b) Without limiting clause 15.5(a), neither the Landlord nor the Landlord's consultant, in giving approval or imposing a condition in connection with approval, assumes any duty of care to the Tenant or makes any warranty or representation in connection with the proposed work or the act, matter or thing the subject of the approval including any warranty as to suitability or fitness for intended purpose of any plans, drawings, specifications, materials, contractors, suppliers, construction methods or sequence of work or otherwise.

15.6. Relationship between the Parties

The only relationship between the parties to this Lease is that of Landlord and Tenant and the Guarantor on the terms of this Lease.

15.7. Miscellaneous

- (a) No waiver by the Landlord or the Tenant of any right under this Lease will be a waiver of any other right.
- (b) No action taken by either the Landlord or by the Tenant under this Lease will limit their other rights and remedies.

- (c) Termination of this Lease will not affect the rights of either the Landlord or the Tenant accrued before termination.

15.8. Common Areas

- (a) The Tenant can use the Common Areas jointly with the Landlord and with other Persons for access to the Premises and for any other purposes which the Landlord in its absolute discretion allows.
- (b) The Landlord can vary the Common Areas, temporarily close the Common Areas and do such other acts on the Common Areas as the Landlord in its absolute discretion decides.

15.9. Suitability of Premises and Centre

The Landlord gives no warranty and makes no representation to the Tenant that the Premises are or will remain suitable for the Tenant's purposes nor about any other Tenants in the Centre or likely in the future to be in the Centre.

15.10. Rules and Regulations

The Tenant will comply with any rules and regulations that the Landlord makes from time to time in relation to the Centre to the extent that such rules and regulations are not inconsistent with the Tenant's rights under this Lease.

15.11. Measurements

- (a) Any measurements of either the Premises or the Centre will be made in accordance with the then current method of measurement of the Property Council for retail premises located in shopping centres.
- (b) The Tenant acknowledges that the Tenant's Percentage of Outgoings was calculated in accordance with the Property Council method of measurement that applied at the Commencing Date and that such percentage may vary if the areas on which such calculation was made change.

15.12. Deemed Rent

The Landlord and the Tenant agree that any money due by the Tenant under this Lease but unpaid are deemed to be rent for the purposes of this Lease.

15.13. Interruption of Services

Subject to any law to the contrary, the Landlord is not liable to the Tenant for any loss or damage suffered by the Tenant because the Landlord's Equipment fails to function.

15.14. Strata Conversion

- (a) The Tenant acknowledges that the Landlord is entitled at any time to carry out a Strata Conversion.
- (b) The Landlord will give the Tenant as much prior notice as is reasonably practical of the Strata Conversion.
- (c) Within 7 days of written request by the Landlord the Tenant will sign and return to the Landlord any consents or other documents necessary to enable the Landlord to carry out the Strata Conversion and will make no objection or claim for compensation in relation to the Strata Conversion.

- (d) If the Strata Conversion occurs:
- (i) any reference in this Lease to the Estate will be deemed to be a reference to the buildings comprised in the registered plan or plans of which the Premises form part;
 - (ii) any levies or other monies payable to the owners corporation will be payable by the Tenant (excluding contributions to the Capital Works Fund or its equivalent and special levies relating to the Capital Works Fund);
 - (iii) the Rules and Regulations will be deemed to include any by-laws of the owners corporation; and
 - (iv) this Lease will be deemed to be amended in any respect that is necessary to ensure that this Lease reflects the fact that the Strata Conversion has been carried out.

16. DEFINITIONS AND INTERPRETATION

16.1. Definitions

Unless otherwise provided in this Lease, the following words have the following meanings:

- (a) *Accounting Year* means each 12 Month period during the Term ending on 30 June or on such other date as the Landlord chooses and gives written notice of to the Tenant;
- (b) *Assignor's Disclosure Statement* has the meaning given in the *Retail Leases Act*;
- (c) *Authority* means any government, semi-government, city, municipal, administrative, statutory or judicial body, instrumentality, department, agency or similar entity;
- (d) *Bank Guarantee* means an irrevocable bank guarantee in a form approved by the Landlord from a bank trading in New South Wales under which the bank agrees to pay to the Landlord on demand not less than the amount of Rent and of the Tenant's Proportion of Outgoings stated in Item 18 increased by the rate of GST (applicable from time to time) expressed as a percentage;
- (e) *Business Day* means a day that is not a Saturday, Sunday, public holiday or bank holiday in Sydney;
- (f) *Centre* means the land and buildings described in Item 4 together with all improvements in the Centre owned or controlled by the Landlord, the Landlord's Equipment and any extensions or alterations to the Centre and includes any part of the Centre;
- (g) *Centre Operating Hours* means the hours stated in Item 19 as varied, if applicable, under this Lease;
- (h) *Commencing Date* means the lease starting date stated in Item 6;
- (i) *Common Areas* means all those parts of the Centre available for use by the Tenant in common with others and includes any part of the Common Areas;
- (j) *CPI Rent Review Date* means each of the dates stated in Item 11;
- (k) *Demolition Date* means the date specified in the Demolition Notice as the date on which this Lease is terminated;
- (l) *Demolition Notice* means a written notice given by the Landlord to the Tenant:
 - (i) if the Term is more than 12 Months, giving the Tenant not less than 6 Months prior notice of a Demolition Proposal and requiring the Tenant to vacate the Premises on the Demolition Date; and

- (ii) if the Term is 12 Months or less, giving the Tenant not less than 3 Months prior notice of a Demolition Proposal and requiring the Tenant to vacate the Premises on the Demolition Date;
- (m) *Demolition Proposal* means a genuine proposal by the Landlord to carry out within a reasonably practical time a substantial repair, renovation or reconstruction of the Centre which cannot be carried out without vacant possession of the Premises;
- (n) *Demolition Termination Notice* means a written notice given by the Tenant to the Landlord terminating this Lease by giving not less than 7 Business Days prior notice;
- (o) *Director-General* means the Director-General of the NSW Department of State and Regional Development;
- (p) *GST* has the meaning given in *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*;
- (q) *Guarantor* means the person described in Item 3 and includes:
 - (i) if the Guarantor is a natural person, the Guarantor's executors and administrators; and
 - (ii) if the Guarantor is a corporation, the Guarantor's successors in title;
- (r) *Item* means an Item in the Schedule;
- (s) *Landlord and Lessor* means the Person described in Item 1 and includes:
 - (i) if the Landlord is a natural person, the Landlord's executors, administrators and assigns; and
 - (ii) if the Landlord is a corporation, the Landlord's successors in title and assigns;
- (t) *Landlord PPS Items* means any item of Personal Property which:
 - (i) is owned or leased by the Landlord; and
 - (ii) is situated on the Premises at any time during the term of this Lease;
- (u) *Landlord's Equipment* means:
 - (i) all wires and cables, pipes drains and sewers, ducts, plant, machinery, fixtures fittings and equipment, kitchens, toilets, grease traps, wash basins, water gas and electrical fittings and equipment and other services in or to the Premises or the Centre owned or controlled by the Landlord, except the Tenant's Goods;
 - (ii) all plant and machinery for circulating air and ventilating or air conditioning the Centre owned or controlled by the Landlord; and
 - (iii) all fire fighting, detection, prevention, warning and evacuation equipment in the Centre;
- (v) *Lease* means this Lease and includes any other tenancy which exists between the Landlord and the Tenant;
- (w) *Lessor's Disclosure Statement* has the meaning given in the *Retail Leases Act*;
- (x) *Market Rent Review Date* means each of the dates stated in Item 10;
- (y) *Marketing Levy* means an amount equal to that proportion of the Rent stated in Item 23;

- (z) *Marketing Report* means a report given by the Landlord to the Tenant detailing any expenditure by the Landlord on advertising, promotion or marketing of the Centre to which a contribution by the Tenant is required;
- (aa) *Month* means calendar month;
- (bb) *Nominator* means the president or other principal officer (acting or otherwise) for the time being of the New South Wales Division of the Australian Property Institute (Inc) or the president or other principal officer (acting or otherwise) for the time being of the Real Estate Institute (NSW);
- (cc) *Option Lease* means the Option Lease (if any) referred to in Item 8;
- (dd) *Option Leases* means the Option Lease and the Second Option Lease;
- (ee) *Outgoings* means the total of all the Landlord's costs and expenses paid or payable in relation to the Centre including, but not limited to, the following:
 - (i) all rates, taxes, charges and assessments of every kind assessed, charged or imposed on the Landlord or the Centre not including GST, income tax or capital gains tax. In the case of land tax (including any similar tax on land), this means the land tax assessed or charged because of the Landlord's interest in the Centre calculated on the basis that the Centre is the only land owned by the Landlord, that the Centre is not subject to a special trust within the meaning of the *Land Tax Management Act 1956* and that the Landlord is not a company classified under Section 29 of the *Land Tax Management Act 1956*;
 - (ii) the cost of providing and maintaining services to the Centre including light, power, air-conditioning, ventilation, lifts, escalators, security, supervision, waste removal and the cleaning and lighting of the Common Areas;
 - (iii) the cost of operating, repairing and maintaining the Centre and the Landlord's Equipment (but not including structural or capital works);
 - (iv) the cost of the management, control and administration of the Centre including wages, on costs and consultancy fees;
 - (v) the cost of all premiums to insure the Centre in its full insurable replacement value including demolition and debris removal with an escalation provision, broker's fees and duty, valuations required for insurance purposes, loss of rent insurance and such other insurances as the Landlord requires;
 - (vi) the cost of supplying towels, soap, sanitary units and other facilities in the washrooms and toilets of the Centre;
 - (vii) the cost of statutory inspections and reports;
 - (viii) the cost of purchasing, hiring, maintaining and servicing all plants and flowers, gardens, lawns, planted areas and artificial water courses;
 - (ix) the cost of pest control;
 - (x) the cost of Outgoings and Marketing Report audits; and
 - (xi) any payments in relation to car spaces in the Centre under the *Taxation Administration Act 1996* or of any other levy, charge or fee imposed by any competent Authority in relation to such car spaces or the use of such car spaces;
- (ff) *Outgoings Estimate* means a written estimate given by the Landlord to the Tenant in accordance with the *Retail Leases Act* of the Tenant's Proportion of Outgoings for any period up to 1 year in advance;

- (gg) *Outgoings Report* means a report given by the Landlord to the Tenant detailing all expenditure by the Landlord on Outgoings for the preceding Accounting Year;
- (hh) *Percentage Rent Review Dates* means each of the dates stated in Item 12;
- (ii) *Permitted Use* means the use specified in Item 16;
- (jj) *Person* includes natural persons and incorporated and unincorporated associations;
- (kk) *Personal Property* has the meaning given in the *PPS Act*;
- (ll) *PPS Act* means the *Personal Property Securities Act 2009 (Cth)*;
- (mm) *Premises* means the Premises described in Item 5 and any of the Landlord's Equipment located within or servicing the Premises and includes any part of the Premises;
- (nn) *Premises Services* means any services and facilities provided or installed by or for the Landlord in the Premises or for the benefit of the Premises in any false floor of the Premises or in any ceiling cavity or structural walls adjoining the Premises including but, not limited to, air-conditioning thermostats, ducts and outlets, fire sprinkler heads and piping, security and fire alarm equipment, lighting, central electrical switching arrangements, emergency lighting and exit signs;
- (oo) *Principal Contractor* has the same meaning as in the WH&S Regulation;
- (pp) *Property Council* means the Property Council of Australia Limited (ABN 13 008 474 422) trading as Property Council of Australia;
- (qq) *Refurbishment Proposal* means a genuine proposal by the Landlord to carry out within a reasonably practical time a refurbishment, redevelopment or extension of the Centre which cannot practically be carried out without vacant possession of the Premises;
- (rr) *Relocation Date* means the date specified in the Relocation Notice as the date on which the Tenant is to give vacant possession of the Premises to the Landlord;
- (ss) *Relocation Notice* means a written notice given by the Landlord to the Tenant:
 - (i) specifying the Relocation Date, being a date not less than 3 Months after the Landlord gives the Relocation Notice;
 - (ii) giving details of the Refurbishment Proposal and of the Substituted Premises;
 - (iii) requiring the Tenant to surrender this Lease and to give vacant possession of the Premises to the Landlord on the Relocation Date; and
 - (iv) requiring the Tenant to relocate to the Substituted Premises on the day after the Relocation Date;
- (tt) *Relocation Termination Notice* means a written notice given by the Tenant to the Landlord terminating this Lease as at that date which is 3 Months after the date that the Landlord gives the Relocation Notice to the Tenant;
- (uu) *Rent* means the amounts payable under clause 5.1;
- (vv) *Rent Agreement Period* means the period of 14 days during which the Landlord and the Tenant will try to agree on the annual current market rent to apply from a Market Rent Review Date;
- (ww) *Rent Review Notice* means a written notice given by the Landlord to the Tenant of the Landlord's assessment of the annual current market rent to apply as the Rent from a Market Rent Review Date;

- (xx) *Retail Leases Act* means the *Retail Leases Act 1994*;
- (yy) *Schedule* means the Schedule in Annexure A to this Lease;
- (zz) *Second Option Lease* means the lease for a further term referred to in Item 9;
- (aaa) *Security Deposit* means a sum of cash of an amount not less than the amount of Rent and of the Tenant's Proportion of Outgoings stated in Item 24 increased by the rate of GST (applicable from time to time) expressed as a percentage as provided in clause 13.3;
- (bbb) *Security Interest* has the meaning given in the *PPS Act*;
- (ccc) *Specialist Retail Valuer* has the same meaning as that term has in the *Retail Leases Act*;
- (ddd) *Substituted Premises* means those alternative premises in the Centre referred to in the Relocation Notice;
- (eee) *Substituted Premises Lease* means the lease of the Substituted Premises;
- (fff) *Tenant and Lessee* means the Person described in Item 2 and includes:
 - (i) if the Tenant is a natural person, the Tenant's executors, administrators and permitted assigns;
 - (ii) if the Tenant is a corporation, the Tenant's successors in title and permitted assigns;
 - (iii) unless contrary to the context, the Tenant's employees; and
 - (iv) unless contrary to the context, the Tenant's licensees, subtenants, contractors, agents, customers and visitors at any time in the Centre;
- (ggg) *Tenant's Goods* means all the Tenant's fixtures, fittings and goods in the Premises and includes any fixtures, fittings and goods of a previous occupier of the Premises but does not include any fixtures, fittings or goods in the Premises to replace the Landlord's Equipment;
- (hhh) *Tenant's Proportion of Outgoings* is the proportion of the Outgoings payable by the Tenant which, as at the date that the Tenant first occupied the Premises, is the proportion stated in Item 14;
- (iii) *Tenant's Sales* means the gross amount received or receivable whether as cash or otherwise by the Tenant from the sale of goods, hirings or the provision of services at or associated with the Tenant's business at the Premises;
- (jjj) *Term* means the term of this Lease as stated in Item 6;
- (kkk) *Terminating Date* means the lease ending date stated in Item 6;
- (lll) *Tribunal* has the meaning given in the *Retail Leases Act*;
- (mmm) *Turnover Rent* means an amount equal to that percentage of the Tenant's Sales stated in Item 22 that exceed the Turnover Rent Base Figure stated in Item 21;
- (nnn) *WH&S Laws* means the laws relating to work health and safety that apply to the Premises and the use of it and includes the *WH&S Regulation*; and
- (ooo) *WH&S Regulation* means the *Work Health and Safety Regulation 2011 (NSW)*.

16.2. Interpretation

Unless otherwise provided in this Lease:

- (a) all covenants or obligations in this Lease are to be regarded as separate and independent covenants made by 1 party to this Lease in favour of the other parties;
- (b) the law of New South Wales and the jurisdiction of the New South Wales Courts and of the High Court and Federal Court of Australia apply to this Lease;
- (c) the Landlord and the Tenant agree that nothing will be implied by this Lease or will arise between the Landlord and the Tenant (whether by other agreement or because of any promise, representation, warranty or undertaking given by or for the Landlord or the Tenant);
- (d) reference to any body (including, but not limited to, any institute, association, Authority or government agency) which ceases to exist or whose powers or functions are transferred to any other body also includes the body which replaces it or which substantially takes over its powers and functions;
- (e) headings in this Lease do not form part of the content of this Lease and do not affect the meaning of this Lease;
- (f) Sections 84, 85 and 133B of the *Conveyancing Act 1919* do not apply to this Lease;
- (g) words importing the singular include the plural and vice versa and words importing a particular gender include every gender;
- (h) any agreement in this Lease by 2 or more Persons binds them jointly and each of them separately;
- (i) if any part of this Lease is invalid, illegal or unenforceable, the remaining parts of this Lease will not be affected and will continue to be enforceable;
- (j) references to statutes, regulations, ordinances and by-laws include all statutes, regulations, ordinances and by-laws amending, consolidating or replacing them;
- (k) words and expressions that are not defined in this Lease but which have a defined meaning in the *PPS Act* have the same meaning as in the *PPS Act*;
- (l) a provision of this Lease must not be construed against a party only because that party was responsible for preparation of this Lease or the drafting of that provision; and
- (m) *including* and similar expressions are not words of limitation.

17. RIGHT OF LESSOR TO DETERMINE TERM

If at any time during the continuance of this Lease, the Lessor wishes to renovate, rebuild, reconstruct, pull down or demolish the Building or the Demised Premises or any part of either, then the Lessor may give to the Lessee not less than six (6) month's notice in writing (the "Notice") to terminate this Lease and at the expiration of the time set out in the Notice this Lease shall terminate without prejudice to the rights and remedies of either party against the other in respect of any antecedent claim or breach of covenant. The parties agree however, that no such Notice can be served prior to 8 November 2024.

Certified correct for the purposes of the Real Property Act 1900 and
executed on behalf of the corporation named below by the
authorised person(s) whose signature(s) appear(s) below pursuant
to the authority specified:

Corporation: KHUN & TAN ENTERPRISES PTY LTD
Authority: Section 127 of the Corporations Act 2001

Signature of authorised person:

Name of authorised person: [Redacted]
Office held: Sole Director/Secretary

Certified correct for the purposes of the Real Property Act 1900 and
executed on behalf of the corporation named below by the
authorised person(s) whose signature(s) appear(s) below pursuant
to the authority specified:

Corporation: QR & MK PTY LTD
Authority: Section 127 of the Corporations Act 2001

Signature of authorised person:

Name of authorised person: [Redacted]
Office held: Sole Director/Secretary

I certify I am an eligible witness and that the
guarantor signed this dealing in my presence.

Signature of witness:

[Redacted] Witness: [Redacted]
[Redacted] [Redacted]
[Redacted] [Redacted]
[Redacted] [Redacted]

Certified correct for the purposes of the Real Property
Act 1900 by the guarantor.

Signature of guarantor

[Redacted] [Redacted]
[Redacted] [Redacted]



25 June 2025

HPL LAWYERS
PO Box 705
FRESHWATER NSW 2096

Our Ref:177049
Your Ref:
ATM:AA:250698:203966
ABN 81 065 027 868

**PLANNING CERTIFICATE UNDER THE
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979**

Fee Paid: 69.00
Receipt No: 14126246
Receipt Date: 24 June 2025

DESCRIPTION OF LAND

Address: 600 Pacific Highway, BELMONT NSW 2280
Lot Details: Lots 1 & 2 DP 319486 & Lot 301 DP 590786
Parish: Kahibah
County: Northumberland

For: MORVEN CAMERON
GENERAL MANAGER

A handwritten signature in black ink, appearing to read "J. Hayes", written in a cursive style.

ADVICE PROVIDED IN ACCORDANCE WITH SUBSECTION (2)

1 Names of Relevant Planning Instruments and Development Control Plans

- (1) The name of each environmental planning instrument and development control plan that applies to the carrying out of development on the land.

Lake Macquarie Local Environmental Plan 2014

Lake Macquarie Development Control Plan 2014

State Environmental Planning Policy (Biodiversity and Conservation) 2021 -

Chapter 4 Koala habitat protection 2021

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

State Environmental Planning Policy (Housing) 2021

State Environmental Planning Policy (Industry and Employment) 2021 –

Chapter 3 Advertising and signage

State Environmental Planning Policy (Planning Systems) 2021 –

Chapter 2 State and regional development

State Environmental Planning Policy (Planning Systems) 2021 –

Chapter 4 Concurrences and consents

State Environmental Planning Policy (Precincts—Central River City) 2021 –

Chapter 2 State significant precincts

State Environmental Planning Policy (Precincts-Eastern Harbour City) 2021 –

Chapter 2 State significant precincts

State Environmental Planning Policy (Precincts-Regional) 2021

Chapter 2 State significant precincts

State Environmental Planning Policy (Precincts—Western Parkland City) 2021 –

Chapter 2 State significant precincts

State Environmental Planning Policy (Primary Production) 2021 –

Chapter 2 Primary production and rural development

State Environmental Planning Policy (Resilience and Hazards) 2021 –

Chapter 2 Coastal management

State Environmental Planning Policy (Resilience and Hazards) 2021 –

Chapter 3 Hazardous and offensive development

State Environmental Planning Policy (Resilience and Hazards) 2021 –

Chapter 4 Remediation of land

State Environmental Planning Policy (Resources and Energy) 2021 –

Chapter 2 Mining, petroleum production and extractive industries

State Environmental Planning Policy (Transport and Infrastructure) 2021 –

Chapter 2 Infrastructure

State Environmental Planning Policy (Transport and Infrastructure) 2021 –

Chapter 3 Educational establishments and child care facilities

State Environmental Planning Policy No. 65 – Design Quality of Residential Apartment Development

- (2) The name of each proposed environmental planning instrument and draft development control plan, which is or has been subject to community consultation or public exhibition under the Act, that will apply to the carrying out of development on the land.

Lake Macquarie Local Environmental Plan 2014 (Amendment No. RZ/4/2023) – Housing Diversity

Lake Macquarie Draft Development Control Plan 2014

- (3) Subsection (2) does not apply in relation to a proposed environmental planning instrument or draft development control plan if —
- (a) it has been more than 3 years since the end of the public exhibition period for the proposed instrument or draft plan, or
 - (b) for a proposed environmental planning instrument—the Planning Secretary has notified the council that the making of the proposed instrument has been deferred indefinitely or has not been approved.
- (4) In this section, proposed environmental planning instrument includes a planning proposal for a Local Environmental Plan or a Draft environmental planning instrument.

2 Zoning and land use under relevant Local Environmental Plans

(1) The following answers (a) to (f) relate to the instrument (see 1(1) above).

- (a) (i) The identity of the zone applying to the land.
E1 Local Centre
under Lake Macquarie Local Environmental Plan 2014
- (ii) The purposes for which the Instrument provides that development may be carried out within the zone without the need for development consent.
Building identification signs; Business identification signs; Home businesses; Home industries; Home occupations
- (iii) The purposes for which the Instrument provides that development may not be carried out within the zone except with development consent.
Amusement centres; Boarding houses; Centre-based child care facilities; Commercial premises; Community facilities; Entertainment facilities; Function centres; Hostels; Hotel or motel accommodation; Information and education facilities; Local distribution premises; Medical centres; Oyster aquaculture; Places of public worship; Public administration buildings; Recreation facilities (indoor); Residential flat buildings; Respite day care centres; Service stations; Shop top housing; Tank-based aquaculture; Veterinary hospitals; Any other development not specified in item 2 or 4
- (iv) The purposes for which the Instrument provides that development is prohibited within the zone.
Advertising structures; Agriculture; Air transport facilities; Airstrips; Biosolids treatment facilities; Boat building and repair facilities; Boat launching ramps; Camping grounds; Caravan parks; Cemeteries; Charter and tourism boating facilities; Correctional centres; Crematoria; Depots; Eco-tourist facilities; Electricity generating works; Exhibition homes; Exhibition villages; Extractive industries; Farm buildings; Farm stay accommodation; Forestry; Freight transport facilities; Heavy industrial storage establishments; Highway service centres; Industrial retail outlets; Industries; Jetties; Marinas; Mooring pens; Moorings; Open cut mining; Recreation facilities (major); Recreation facilities (outdoor); Research stations; Residential accommodation; Resource recovery facilities; Rural industries; Sex services premises; Storage premises; Transport depots; Truck depots; Vehicle body repair workshops; Warehouse or distribution centres; Waste disposal facilities; Water recreation structures

NOTE: The advice in sections (a) above relates only to restrictions that apply by virtue of the zones indicated. The Lake Macquarie LEP 2014 includes additional provisions that require development consent for particular types of development, or in particular circumstances, irrespective of zoning.

(b) Whether additional permitted uses apply to the land,

No

- (c) Whether development standards applying to the land fix minimum land dimensions for the erection of a dwelling-house on the land and, if so, the minimum land dimensions so fixed.

There are no development standards applying to the land that fix minimum land dimensions for the erection of a dwelling house.

- (d) Whether the land is in an area of outstanding biodiversity value under the *Biodiversity Conservation Act 2016*,

No

- (e) Whether the land is in a conservation area (however described).

No

- (f) Whether an item of environmental heritage (however described) is situated on the land.

Local Environmental Plan 2014 Schedule 5 Part 1 Heritage Items

There are no items listed for this land under Local Environmental Plan 2014 Schedule 5 Part 1 Heritage items.

Local Environmental Plan 2014 Schedule 5 Part 2 Heritage conservation areas

There are no items listed for this land under Local Environmental Plan 2014 Schedule 5 Part 2 Heritage conservation areas.

Local Environmental Plan 2014 Schedule 5 Part 3 Archaeological sites

There are no items listed for this land under Local Environmental Plan 2014 Schedule 5 Part 3 Archaeological sites.

Local Environmental Plan 2014 Schedule 5 Part 4 Landscape Items

There are no items listed for this land under Local Environmental Plan 2014 Schedule 5 Part 4 Landscape items.

Local Environmental Plan 2004 Schedule 4 Part 1 Heritage Items

There are no heritage items listed for this land within Local Environmental Plan 2004 Schedule 4 Part 1.

Local Environmental Plan 2004 Part 11 Clause 150 Environmental Heritage

There are no heritage items listed for this land within Local Environmental Plan 2004 Part 11 Clause 150 – South Wallarah Peninsula.

Local Environmental Plan 2014 Heritage Map

The land is not identified as a Village Precinct on the Heritage Map.

NOTE: An item of environmental heritage, namely Aboriginal heritage, listed within the Aboriginal Heritage Information Management System (AHIMS), may affect the land. Aboriginal objects are protected under the National Parks and Wildlife Act 1974. If Aboriginal objects are found during development, works are to stop and the Office of Environment and Heritage (OEH) contacted

immediately. For further information and to access the AHIMS registrar, refer to <http://www.environment.nsw.gov.au>

- (2) The following answers relate to the Draft Instrument (see 1(2) above).
- (a) Nil

NOTE: The advice in section (a) above relates only to restrictions that apply by virtue of the zones indicated. The Draft instrument may include additional provisions that require development consent for particular types of development, or in particular circumstances, irrespective of zoning.

- (b) Whether draft additional permitted uses apply to the land
No
- (c) Whether any draft development standards applying to the land fix minimum land dimensions for the erection of a dwelling-house on the land and, if so, the minimum land dimensions so fixed.
There are no development standards applying to the land that fix minimum land dimensions for the erection of a dwelling house.
- (d) Whether the land is in a draft area of outstanding biodiversity value under *the Biodiversity Conservation Act 2016*,
No
- (e) Whether the land is in a draft conservation area (however described).
No
- (f) Whether a draft item of environmental heritage (however described) is situated on the land.
No

3 Contributions Plans

- (1) The name of each contributions plan under the Act, Division 7.1 applying to the land, including draft contributions plans.
Lake Macquarie City Council Development Contributions Plan - Belmont Contributions Catchment - 2017
The Lake Macquarie City Council Section 7.12 Contributions Plan – Citywide 2019
- (2) If the land is in a region within the meaning of the Act, Division 7.1, Subdivision 4, and the name of the Ministerial planning order in which the region is identified.

Yes,

The subject land is within The Lower Hunter Region to which the Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023 applies.

- (3) If the land is in a special contributions area to which a continued 7.23 determination applies,
Nil

- (4) In this section continued 7.23 determination means a 7.23 determination that -
(a) has been continued in force by the Act, Schedule 4, Part 1, and
(b) has not been repealed as provided by that part.

NOTE: The Act, Schedule 4, Part 1 contains other definitions that affect the interpretation of this section.

4 Complying development

The extent to which the land is land on which complying development may be carried out under each of the codes for complying development because of the provisions of clauses 1.17A (1) (c) to (e), (2), (3) or (4), and 1.18 (1) (c3) and 1.19 of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

Housing Code

Note: If a lot is not specifically listed in this section then, complying development under this Code **MAY** be carried out on any part of that lot.

Low Rise Housing Diversity Code

Note: If a lot is not specifically listed in this section then, complying development under this Code **MAY** be carried out on any part of that lot.

Housing Alterations Code

Note: If a lot is not specifically listed in this section then, complying development under this Code **MAY** be carried out on any part of that lot.

Commercial and Industrial Alterations Code

Note: If a lot is not specifically listed in this section then, complying development under this Code **MAY** be carried out on any part of that lot.

Commercial and Industrial (New Buildings and Additions) Code

Note: If a lot is not specifically listed in this section then, complying development under this Code **MAY** be carried out on any part of that lot.

Subdivisions Code

Note: If a lot is not specifically listed in this section then, complying development under this Code **MAY** be carried out on any part of that lot.

Rural Housing Code

Note: If a lot is not specifically listed in this section then, complying development under this Code **MAY** be carried out on any part of that lot.

Greenfield Housing Code

Note: If a lot is not specifically listed in this section then, complying development under this Code **MAY** be carried out on any part of that lot.

General Development Code

Note: If a lot is not specifically listed in this section then, complying development under this Code **MAY** be carried out on any part of that lot.

Demolition Code

Note: If a lot is not specifically listed in this section then, complying development under this Code **MAY** be carried out on any part of that lot.

Fire Safety Code

Note: If a lot is not specifically listed in this section then, complying development under this Code **MAY** be carried out on any part of that lot.

Container Recycling Facilities Code

Note: If a lot is not specifically listed in this section then, complying development under this Code **MAY** be carried out on any part of that lot.

5 Exempt development

The extent to which the land is land on which exempt development may be carried out under each of the codes for exempt development because of the provisions of clauses 1.16(1)(b1)–(d) or 1.16A of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

Note: If a lot is not specifically listed in this section then, Exempt development under this Code **MAY** be carried out on the lot.

6 Affected building notices and building product rectification orders

- (1) (a) Whether there is any affected building notice of which the council is aware that is in force in respect of the land.

No, Council **has not** been notified that an affected building notice is in force in respect of this land.

- (b) Whether there is any building product rectification order of which the council is aware that is in force in respect of the land and has not been fully complied with.

A building rectification order **is not** in force in respect of this land.

- (c) Whether any notice of intention to make a building product rectification order of which the council is aware has been given in respect of the land and is outstanding.

A notice of intention to make a building product rectification order **has not** been given in respect of this land.

- (2) In this section -

Affected building notice has the same meaning as in Part 4 of the *Building Products (Safety) Act 2017*

Building product rectification order has the same meaning as in the *Building Products (Safety) Act 2017*

7 Land reserved for acquisition

Whether or not any environmental planning instrument or proposed environmental planning instrument referred to in Section 1 makes provision in relation to the acquisition of the land by a public authority, as referred to in section 3.15 of the Act.

No

8 Road widening and road realignment

Whether the land is affected by any road widening or realignment under:

- (a) Division 2 of Part 3 of the *Roads Act 1993*.

No

- (b) any environmental planning instrument.

No

- (c) any resolution of the Council.

No, other road widening proposals may affect this land and if so, will be noted on the Section 10.7 Subsection (5) certificate.

9 Flood related development controls information

- (1) If the land or part of the land is within the flood planning area and subject to flood related development controls.

No

- (2) If the land or part of the land is between the flood planning area and the probable maximum flood and subject to flood related development controls.

No

- (3) In this section -
flood planning area has the same meaning as in the Flood Risk Management Manual.

Flood Risk Management Manual means the *Flood Risk Management Manual*, ISBN 978-1-923076-17-4, published by the NSW Government in June 2023.

probable maximum flood has the same meaning as in the Flood Risk Management Manual.

10 Council and other public authority policies on hazard risk restrictions

- (1) Whether or not the land is affected by a **POLICY** that restricts the development of the land because of the likelihood of:

- (a) land slip or subsidence

Yes

Relevant sections of Lake Macquarie Development Control Plan 2014 and Lake Macquarie Development Control Plan No.1 apply when development is proposed on land covered by Council's geotechnical areas map. The map is available for viewing at the Council. If you require any further clarification on the policy and how it may affect any possible development contact the Council on 02 4921 0333.

(b) bushfire

No

(c) tidal inundation

No

(d) acid sulfate soils

Yes

Relevant sections of Lake Macquarie Development Control Plan 2014 and Lake Macquarie Development Control Plan No.1 apply when development is proposed on land covered by the Acid Sulfate Soils Map. If you require any further clarification on the policy and how it may affect any possible development contact the Council on 02 4921 0333.

(e) contaminated or potentially contaminated land

Yes

Council has adopted a policy that may restrict the development of Contaminated or Potentially Contaminated land. This policy is implemented when zoning, development, or land use changes are proposed. Council does not hold sufficient information about previous use of the land to determine whether the land is contaminated. Consideration of Council's adopted Policy located in the applicable DCP noted in Clause 1(3) above, and the application of provisions under relevant State legislation is recommended.

(f) aircraft noise

No

(g) salinity

No

(h) any other risk (other than flooding).

No

(2) In this section —

adopted policy means a policy adopted —

(a) by the council, or

- (b) by another public authority, if the public authority has notified the council that the policy will be included in a planning certificate issued by the council.

NOTE: The absence of a council policy restricting development of the land by reason of a particular natural hazard does not mean that the risk from that hazard is non-existent.

11 Bush Fire Prone Land

Note: If a lot is not specifically listed in this section then, **NONE** of that lot is bush fire prone land.

12 Loose-fill asbestos insulation

If the land includes any residential premises (within the meaning of Division 1A of Part 8 of the *Home Building Act 1989*) that are listed on the register that is required to be maintained under that Division

No. Council **has not** been notified that a residential premises erected on this land has been identified in the NSW Fair Trading Loose-Fill Asbestos Insulation Register as containing loose-fill asbestos ceiling insulation.

13 Mine subsidence

Whether the land is declared to be a mine subsidence district, within the meaning of the *Coal Mine Subsidence Compensation Act 2017*.

The land IS NOT WITHIN a Mine Subsidence District declared under section 20 of the Coal Mine Subsidence Compensation Act 2017.

NOTE: The advice in section 13 above relates only to a Mine Subsidence District. Further information relating to underground mining which may occur outside Mine Subsidence Districts should be sought. Underground mining information can be found on the Subsidence Advisory NSW website.

14 Paper subdivision information

- (1) The name of any development plan adopted by a relevant authority that applies to the land or that is proposed to be subject to a consent ballot.

Nil

- (2) The date of any subdivision order that applies to the land.

Not Applicable

- (3) Words and expressions used in this section have the same meaning as in this

Regulation, Part 10 and the Act, Schedule 7.

15 Property Vegetation Plans

The land IS NOT subject to a property vegetation plan approved under Part 4 of the Native Vegetation Act 2003 (and that continues in force).

16 Biodiversity stewardship sites

The land is not a biodiversity stewardship site under a biodiversity stewardship agreement under Part 5 of the Biodiversity Conservation Act 2016.

NOTE: Biodiversity stewardship agreements include biobanking agreements under the Threatened Species Conservation Act 1995, Part 7A that are taken to be biodiversity stewardship agreements under the Biodiversity Conservation Act 2016, Part 5.

17 Biodiversity Certified Land

This land is not biodiversity certified land under Part 8 of the Biodiversity Conservation Act 2016.

NOTE: Biodiversity certified land includes land certified under the Threatened Species Conservation Act 1995, Part 7AA that is taken to be certified under the Biodiversity Conservation Act 2016, Part 8.

18 Orders under *Trees (Disputes Between Neighbours) Act 2006*

Has an order been made under the *Trees (Disputes Between Neighbours) Act 2006* to carry out work in relation to a tree on the land (but only if the council has been notified of the order).

The land IS NOT subject to an order made under the *Trees (Disputes Between Neighbours) Act 2006* to carry out work in relation to a tree on the land.

19 Annual charges under *Local Government Act 1993* for coastal protection services that relate to existing coastal protection works

Whether the owner (or any previous owner) of the land has consented in writing to the land being subject to annual charges under section 496B of the *Local Government Act 1993* for coastal protection services that relate to existing coastal protection works (within the meaning of section 553B of that Act).

Nil

NOTE: "Existing coastal protection works" are works to reduce the impact of coastal hazards on land (such as seawalls, revetments, groynes and beach nourishment) that existed before the commencement of

section 553B of the Local Government Act 1993.

20 Western Sydney Aerotropolis

Under State Environmental Planning Policy (Precincts—Western Parkland City) 2021, Chapter 4, is the land:

- (a) in an ANEF or ANEC contour of 20 or greater, as referred to in that Chapter, section 4.17,
No
- (b) shown on the Lighting Intensity and Wind Shear Map,
No
- (c) shown on the Obstacle Limitation Surface Map,
No
- (d) in the “public safety area” on the Public Safety Area Map,
No
- (e) in the “3 kilometre wildlife buffer zone” or the “13 kilometre wildlife buffer zone” on the Wildlife Buffer Zone Map.
No

21 Conditions for seniors housing

If *State Environmental Planning Policy (Housing) 2021*, Chapter 3, Part 5 applies to the land, a statement setting out terms of a kind referred to in the Policy, clause 88(2) that have been imposed as a condition of development consent granted after 11 October 2007 in relation to the land.

Nil

22 Site compatibility certificates and conditions for affordable rental housing

- (1) Whether there is a current site compatibility certificate, or a former site compatibility certificate, of which the council is aware, in relation to proposed development on the land.

Council is not aware of any site capability certificate for any proposed development on the land.
- (2) If *State Environmental Planning Policy (Housing) 2021*, Chapter 2, Part 2, Division 1 or 5 applies to the land, any conditions of a development consent in relation to the land that are of a kind referred to in that Policy, section 21(1) or 40(1).

Nil

- (3) Any conditions of a development consent in relation to land that are of a kind referred to in *State Environmental Planning Policy (Affordable Rental Housing) 2009*, clause 17(1) or 38(1).

Council is not aware of any conditions of a development consent referred to in *State Environmental Planning Policy (Affordable Rental Housing) 2009*, clause 17(1) or 38(1).

- (4) In this section—

former site compatibility certificate means a site compatibility certificate issued under *State Environmental Planning Policy (Affordable Rental Housing) 2009*.

23 Water or sewerage services

Whether water or sewerage services are, or are to be, provided by a utility, other than a public water utility, under the Water Industry Competition Act 2006.

No

NOTE: The following matters are prescribed by section 59 (2) of the *Contaminated Land Management Act 1997* as additional matters to be specified in a planning certificate:

Matters arising under the Contaminated Land Management Act 1997 (s59 (2))

- (a) The land to which the certificate relates is significantly contaminated land within the meaning of that Act - if the land (or part of the land) is significantly contaminated land at the date when the certificate is issued,

No

- (b) The land to which the certificate relates is subject to a management order within the meaning of that Act - if it is subject to such an order at the date when the certificate is issued,

No

- (c) The land to which the certificate relates is the subject of an approved voluntary management proposal within the meaning of that Act - if it is the subject of such an approved proposal at the date when the certificate is issued,

No

- (d) The land to which the certificate relates is subject to an ongoing maintenance order within the meaning of that Act - if it is subject to such an order at the date when the certificate is

issued,

No

- (e) The land to which the certificate relates is the subject of a site audit statement within the meaning of that Act - if a copy of such a statement has been provided at any time to the local authority issuing the certificate.

No



HUNTER WATER CORPORATION

A.B.N. 46 228 513 446

SERVICE LOCATION PLAN

Enquiries: 1300 657 657

APPLICANT'S DETAILS



InfoTrack

N/A

N/A/

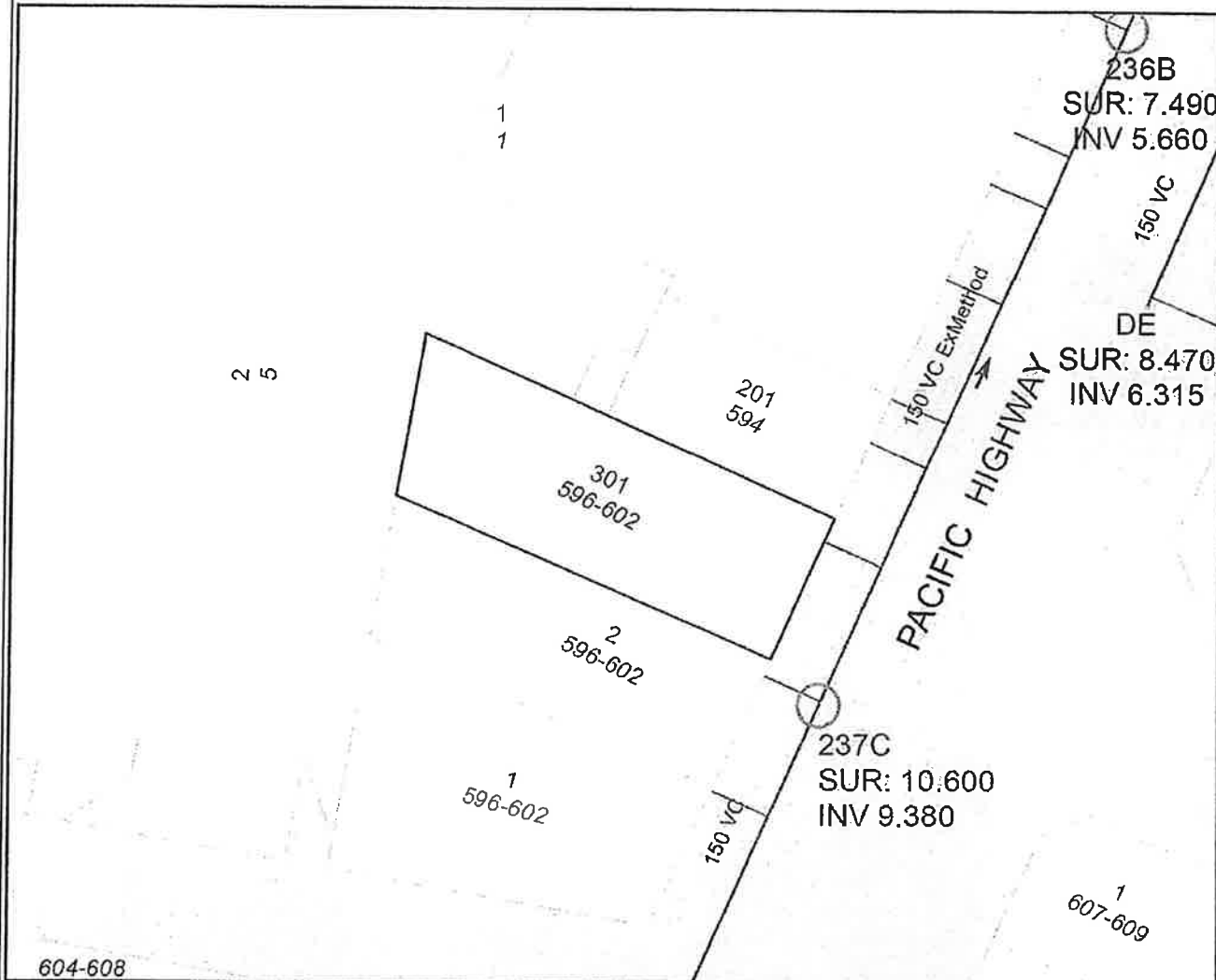
APPLICATION NO.: 3800690239

APPLICANT REF: M 16/800

RATEABLE PREMISE NO.: 0628300260

PROPERTY ADDRESS: 596-602 PACIFIC HWY BELMONT 2280

LOT/SECTION/DP:SP: 301/DP 590786



SEWER POSITION APPROXIMATE ONLY.
SUBJECT PROPERTY BOLDDED.
ALL MEASUREMENTS ARE METRIC.

IF THE ABOVE DIAGRAM SHOWS A HUNTER WATER CORPORATION ASSET LOCATED WITHIN THE PROPERTY, YOUR ATTENTION IS DRAWN TO SECTION 25 OF THE HUNTER WATER ACT 1991 (NSW). ANY DEVELOPMENT LIKELY TO IMPACT THESE ASSETS REQUIRES PRIOR APPROVAL FROM HUNTER WATER CORPORATION AND SPECIAL PROTECTION WORKS MAY BE REQUIRED. PHONE 1300 657 657, FOR MORE INFORMATION.

IMPORTANT:

IF THIS PLAN INDICATES A SEWER CONNECTION IS AVAILABLE OR PROPOSED FOR THE SUBJECT PROPERTY, IT IS THE OWNERS RESPONSIBILITY TO DETERMINE WHETHER IT IS PRACTICABLE TO DISCHARGE WASTEWATER FROM ALL PARTS OF THE PROPERTY TO THAT CONNECTION.

INFORMATION ON THIS PLAN MAY NOT BE UP TO DATE AND THE CORPORATION ACCEPTS NO RESPONSIBILITY FOR ITS ACCURACY.

Date: 29/08/2018

Scale at A4: 1:500

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HUNTER WATER CORPORATION

A.B.N. 46 228 513 446

SERVICE LOCATION PLAN

Enquiries: 1300 657 657

APPLICANT'S DETAILS



InfoTrack

N/A

N/A/

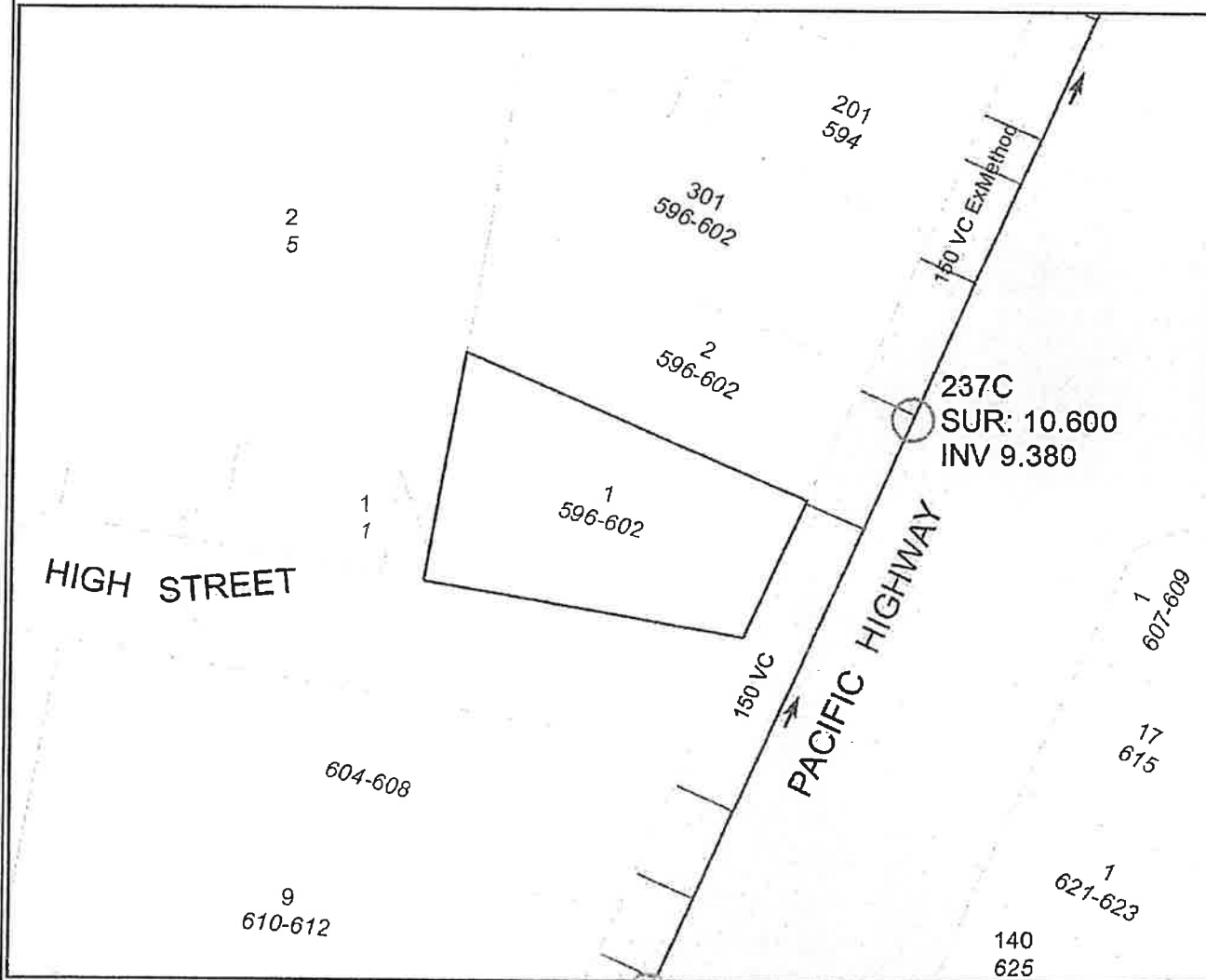
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APPLICANT REF: M 16/800

RATEABLE PREMISE NO.: 0628300260

PROPERTY ADDRESS: 596-602 PACIFIC HWY BELMONT 2280

LOT/SECTION/DP:SP: 1//DP 319436



SEWER POSITION APPROXIMATE ONLY.
SUBJECT PROPERTY BOLD.
ALL MEASUREMENTS ARE METRIC.

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Date: 29/08/2018

Scale at A4: 1:500

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HUNTER WATER CORPORATION

A.B.N. 46 228 513 446

SERVICE LOCATION PLAN

Enquiries: 1300 657 657

APPLICANT'S DETAILS



InfoTrack

N/A

N/A

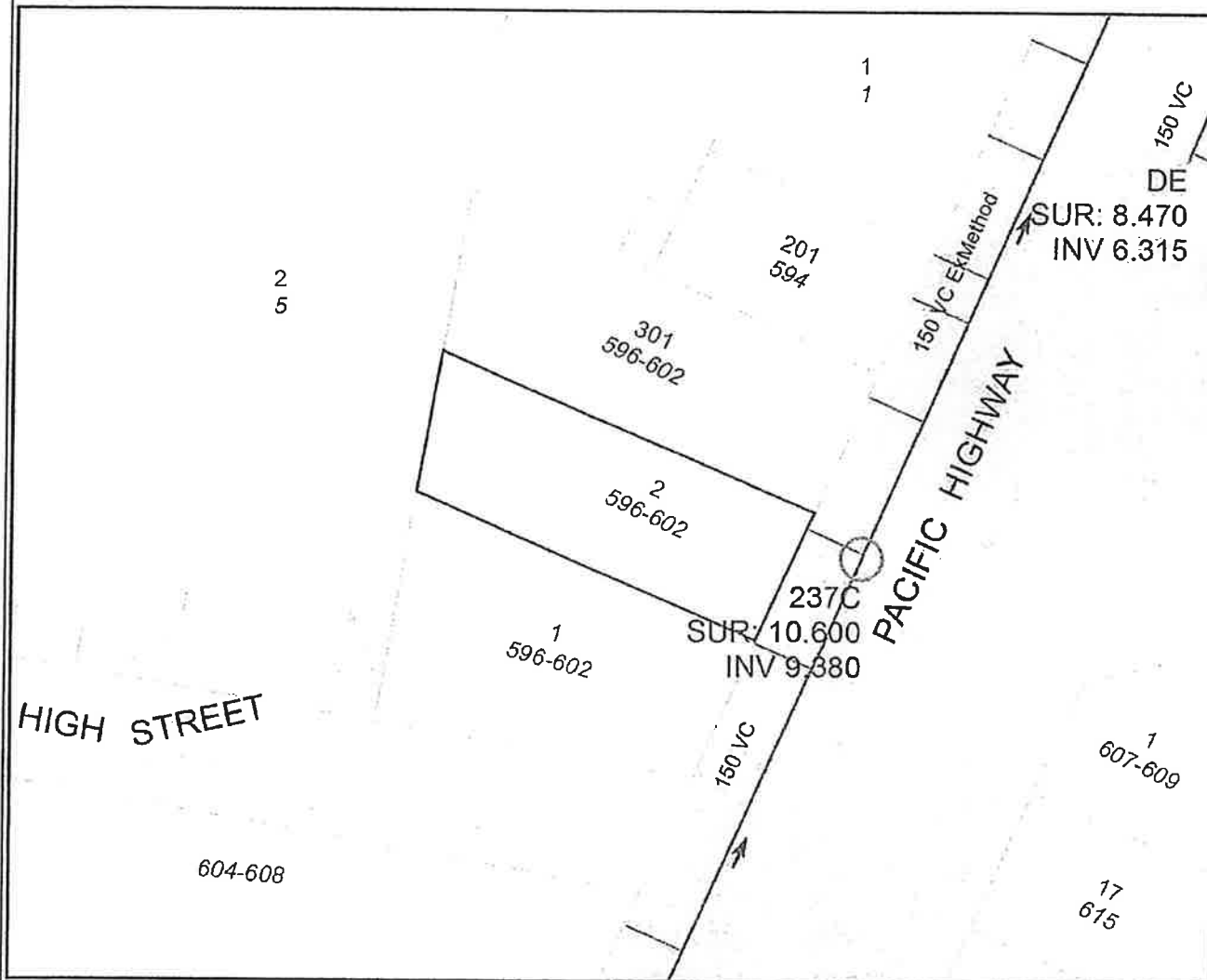
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APPLICANT REF: M 16/800

RATEABLE PREMISE NO.: 0628300260

PROPERTY ADDRESS: 596-602 PACIFIC HWY BELMONT 2280

LOT/SECTION/DP:SP: 2//DP 319436



SEWER POSITION APPROXIMATE ONLY.
SUBJECT PROPERTY BOLD.
ALL MEASUREMENTS ARE METRIC.

IF THE ABOVE DIAGRAM SHOWS A HUNTER WATER CORPORATION ASSET LOCATED WITHIN THE PROPERTY, YOUR ATTENTION IS DRAWN TO SECTION 25 OF THE HUNTER WATER ACT 1991 (NSW). ANY DEVELOPMENT LIKELY TO IMPACT THESE ASSETS REQUIRES PRIOR APPROVAL FROM HUNTER WATER CORPORATION AND SPECIAL PROTECTION WORKS MAY BE REQUIRED. PHONE 1300 657 657, FOR MORE INFORMATION.

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THE LANDLORD AGREES

Possession

1. To give possession of the Premises to the Tenant on the day on which the term of the lease commences.

Condition of Premises

2. To ensure that the Premises are in a reasonably fit condition for use at the commencement of the lease.

Security

3. To ensure that all external doors and windows contain locks and catches in working order at the commencement of the lease.

Insurance

4. To insure the Premises against damage arising from fire, lightning and explosion and other hazards (including earthquake, storm and tempest, water damage, impact, aircraft, riots / civil commotions and malicious damage).

Use of Premises

5. To allow the Tenant to use and occupy the Premises without unreasonable interference by the Landlord or their Agent.

Rates and Taxes

6. To pay council, water and sewerage rates, land tax and other levies promptly.

Lease copy

7. To provide the Tenant within one (1) month after:
 - a notice of mortgage consent, if required;
 - b execution of the lease; and
 - c stamping, if applicable

with a copy of the lease.

Tax Invoices and Receipts

8. To issue rent receipts and tax invoices (where applicable) showing the Tenant's name, the address of the Premises, the ABN of the parties, the amount received, the date of payment and the period for which the payment was made, and other such requirements as determined by the Australian Taxation Office.

THE TENANT AGREES

Rent

9. To pay the rent promptly and in advance and in the manner that the Landlord may direct from time to time.

Consents

10. To obtain at their own expense all necessary consents that may be required from local government or other authorities to carry on their proposed business at the Premises (being the use and/or fit-out for which the Premises are leased).

Charges

11. To pay all charges for gas, electricity and telephone and any water, garbage or sanitary rates or charges relating to the Tenant's use of the Premises.

Care of Premises

12. To take care of the Premises and to keep them in a clean condition and in particular:
 - a To make no alterations or additions to the Premises, including the erection of any sign or antenna, without the prior written consent of the Landlord.
 - b To do no decorating that involves marking, defacing or painting any part of the Premises without the prior written consent of the Landlord.
 - c To put nothing down any sink, toilet or drain likely to cause obstruction or damage.
 - d To keep no animals or birds on the Premises without the prior written consent of the Landlord.
 - e To ensure that rubbish is not accumulated on the Premises and to cause all trade refuse to be removed regularly and in a manner acceptable to the Landlord.
 - f To ensure that nothing is done that might prejudice any insurance policy which the Landlord has in relation to the Premises.
 - g To notify the Landlord promptly of any loss, damage or defect in the Premises.
 - h To notify the Landlord promptly of any infectious disease or the presence of rats, cockroaches or similar pests.

Permitted Use and Occupation

13. a To use the Premises for the purpose stated on the front page of this lease and not for any other purpose.
- b Not to sleep or permit anyone to sleep on the Premises unless the Premises or a portion of the Premises is zoned for residential use.

Rules and Regulations

14. To ensure that they, their employees, licensees and agents observe, obey and perform the rules and regulations forming part of this lease and such further rules and regulations as the Landlord may from time to time make and communicate to the Tenant (not being inconsistent with this lease) for the safety, care and cleanliness of the Premises and the building.

Insurance

15. a To do nothing in the building or keep anything therein that would increase the insurance premium payable by the Landlord in relation to the building except with the prior written consent of the Landlord.
- b To do nothing which would make any insurance policy void.

- c To insure all external fixed glass and window frames for which the Tenant is responsible.
- d To pay any insurance premiums payable by the Landlord increased as a result of the Tenant's actions.
- e To insure for public risk covering liability in respect of bodily injury, property damage, product liability and contractual liability arising from the occupation and use of the Premises by the Tenant for the minimum amount as noted on the front page of the lease.

Indemnity

16. a To compensate and meet all claims of:
- i the Landlord for the loss of or damage to part or whole of the Premises,
 - ii any person for the loss of or damage to their personal property,
 - iii any person for personal injury or death, as a result of any accident or neglect or a deliberate or careless act on the Premises or a breach of any conditions of the lease by the Tenant, their employees or agents or any person present on the Premises with the consent of the Tenant, their employees or agents.
- b In such circumstances, the Tenant shall meet all claims whether they are made directly against them or against the Landlord. Any resultant repairs to the Premises or to any other parts of the building shall be carried out at the expense of the Tenant by a builder or tradesperson approved by the Landlord.

Outgoings

17. a To reimburse the Landlord immediately, when requested, for the Tenant's percentage of outgoing rates noted on the front page of this lease for all local government rates, water, garbage and sewerage rates, land tax, insurance premiums, waste disposal costs, car park levies and such other outgoing rates as specified in the lessors disclosure statement. Land tax shall be calculated on the basis that the land on which the building is situated was the only land owned by the Landlord.

OR

17. b To reimburse the Landlord immediately, when requested, for the agreed percentage of all increases in local government rates, water, garbage and sewerage rates, land tax, insurance premiums, waste disposal costs, car park levies and such other outgoing rates as specified in the lessors disclosure statement above the level at 30 June immediately preceding the commencement of the lease. Land tax shall be calculated on the basis that the land on which the building is situated was the only land owned by the Landlord.

Disclosure

18. a That they received and read and obtained their own independent legal and financial and other advice on all of the disclosure materials as required by the *Retail Leases Act 1994* (NSW) such as a draft lease, the lessor's disclosure statement and the retail tenancy guide before entering into the lease.
- b That they have provided a lessees disclosure statement as required by the *Retail Leases Act 1994* (NSW).

BOTH PARTIES AGREE THAT**Unforeseen event**

19. If something happens to the Premises so that the whole or a substantial part can no longer be occupied and the parties are in no way responsible, then either party shall have the right to terminate the lease on the giving of seven (7) days notice in writing.

Inspections

20. The Landlord or Agent shall inspect the Premises at the commencement of the lease and on its termination and take note of the condition of the Premises including the state of cleanliness, state of repair and working order of appliances.

Repairs

21. a The Tenant shall have repaired in a proper manner any damage to the Premises resulting from neglect or a deliberate or careless act or a breach of any condition of the lease by the Tenant or any person on the Premises with their consent.
- b Except as in Clause 21a, the Landlord shall carry out without delay all reasonable repairs necessary for the Tenant's ordinary use and occupation of the Premises, having regard to the condition of the Premises at the commencement of the lease and having regard for fair wear and tear.

Access

22. a The Landlord shall respect the Tenant's right to privacy.
- b The Tenant shall allow access to the Landlord or Agent:
- i when it is reasonable that they or either of them should view the condition of the Premises or to carry out repairs.
 - ii to erect "to let" signs in accordance with the *Retail Leases Act 1994* (NSW) and to show the Premises to prospective tenants after notice terminating the lease has been given; or
 - iii to erect "for sale" signs and to show the Premises to prospective purchasers after the Landlord has given reasonable notice to the Tenant of their intention to sell.
- c The Landlord shall give the Tenant reasonable notice of the time and date for such access. As far as possible it shall be convenient for both parties.
- d The Landlord or Agent may have access to the Premises at any time on reasonable notice to the Tenant or without notice in the case of an emergency or to carry out urgent repairs.

Costs

23. a Each party shall pay their own legal costs in relation to the preparation of this lease.
- b The Tenant shall pay all reasonable costs in connection with making an amendment to this lease that was requested by the Tenant other than:
- i an amendment to insert or vary particulars of the Tenant, the rent or the term; or
 - ii an amendment to remedy a failure by or on behalf of the Landlord to include or omit a term of this lease that was, at the time of the failure to include or omit, agreed between the Landlord and the Tenant to be included in or omitted from the lease; or
 - iii an amendment requested before the Landlord was given a lessee's disclosure statement.
- c The Tenant shall pay the registration fees payable (if any) in connection with this lease.

- d The Landlord shall provide the Tenant with a copy of any account presented to the Landlord in respect of any costs referred to in Clause 23b.
- e The Landlord shall pay any mortgagee consent fees in connection with this lease.

GST

24. Any amounts, including rent and outgoings, referred to in this lease which are payable by the Tenant to the Landlord, or on behalf of the Landlord, under this lease, are expressed inclusive of the Goods and Service Tax ("GST"), (if any), at the rate of 10% (the current rate). If the current rate is increased or decreased, the parties agree that any amounts referred to in this lease will be varied accordingly.

Statutes

25. Each party shall observe as applicable to themselves all relevant statutes, statutory regulations and by-laws relating to work, health, safety, noise and other standards with respect to the Premises.

Notices

26. Any written notice required or authorised by the lease:
- a Shall be served on the Tenant personally or by pre-paid post or by facsimile transmission to the Premises or by being left there in the post box, if any, at the address.
 - b Shall be served on the Landlord or Agent personally or by prepaid post or by facsimile transmission to their address as shown in the lease or as notified in writing.
 - c Shall be deemed to be served on the second business day after posting where it has been sent by pre-paid post.
 - d May take effect on any day of the month if it relates to the termination of a periodic lease provided it gives the required length of notice.
 - e Shall be served on either party to the email address of the addressee or such other email address notified as being the email address to use.
 - f An email will be deemed to have been served if:
 - i where an email is sent during the period between 8:00am to 6:00pm on a business day, upon the return of a receipt which confirms successful transmission of the email to the email address of the recipient or, where no return receipt is produced by the recipient's email system, by the end of 6:00pm on the day the email was sent; or
 - ii where the email is sent after 6:00pm on a business day or on a non-business day, the email will be deemed to be received at 8:00am on the next business day.

Mitigation

27. Where there has been a breach of any of the conditions of the lease by either party, the other party shall take all reasonable steps to minimise any resultant loss or damage.

Disputes

28. In any dispute or proceeding between the parties, both shall act reasonably and without delay and make all admissions necessary to enable the real issues to be decided.

Payment after Notice

29. a After a notice terminating the lease or demanding possession has been given, any acceptance of or demand for rent or money by the Landlord shall not of itself be evidence of a new lease with the Tenant nor alter the legal effect of the notice.
- b Where the Tenant unlawfully remains in possession after the termination of the lease, the Landlord shall be entitled, in addition to any other claim, to payment equal to the rent as compensation for the Tenant's use and occupation of the Premises.

Renewal

30. The Tenant shall give the Landlord or the Agent not more than six (6) months and not less than (3) months prior to the expiration of the term granted in this lease notice in writing if they wish to take a renewal of the lease for the further term offered. Provided the Tenant has duly and punctually paid the rent and shall have duly performed and observed on their part all the conditions and agreements contained in this lease up to the expiration of the term granted, then the Landlord will grant to the Tenant the further term at the current market rent notified in writing by the Landlord. If the parties do not agree as to the current market rent then the rent is to be determined in accordance with Clause 36a ii.

Expiry of Term

31. a Not less than six (6) months and not more than twelve (12) months before the expiry of the lease term the Landlord shall by written notification to the Tenant either:
- i offer the Tenant a renewal or extension of the lease on terms specified in the notification; or
 - ii inform the Tenant that the Landlord does not propose to offer a renewal or extension of the lease.
- b A notification to the Tenant in accordance with Clause 31a.i. shall include terms as to rent and may specify that the Landlord intends to allow the Tenant to remain in possession as a periodic tenant under the holding over provisions of the lease.
- c In the event that the lease is for a term of twelve (12) months or less, the periods of twelve (12) and six (6) months referred to in Clause 31a are shortened to six (6) and three (3) months respectively.

Termination

32. a Upon the expiry of the lease term or where the lease has become a periodic lease from month to month, either party may terminate it by giving one (1) month's written notice to the other party.
- b The Landlord shall have the right to re-enter the Premises peacefully or to continue the lease as a periodic lease from week to week;
- i where the Tenant has failed to pay rent for a period in excess of fourteen (14) days, whether formally demanded or not;
 - ii where the Tenant has seriously or persistently breached any of the conditions of the lease; or
 - iii upon the Tenant and/or Guarantor being declared bankrupt or insolvent according to law or making any assignment for the benefit of creditors or taking the benefit of any Act now or hereafter to be in force for the relief of bankrupts or insolvents.

- c Section 85(1)(d) of the Conveyancing Act 1919 as amended is hereby varied accordingly.
- d If the Landlord intends to exercise their right to continue the lease as a periodic lease from week to week, they shall serve the Tenant with a written notice stating the reason and informing the Tenant of the variation to the lease. Upon service of the notice, the lease shall continue with all its conditions, except for the term and holding over conditions, as a periodic lease from week to week which may be terminated by seven (7) days' written notice from either party.
- e The Landlord shall have the right to re-enter the Premises without giving notice if there are reasonable grounds to believe the Premises have been abandoned.
- f The Tenant shall have the right to terminate the lease if the Landlord has seriously or persistently breached any of its conditions. The Tenant shall give the Landlord written notice of a reasonable period, of no less than fourteen (14) days indicating at the same time the nature of the breach.
- g Any action by the Landlord or the Tenant in accordance with Clauses 32b, d, e, or f, shall not affect any claim for damages in respect of a breach of a condition of the lease.
- h Upon the termination or expiry of the lease the Tenant must remove their own fixtures and shall remove their signs provided that any damage or defacement occasioned to any part of the Premises in the course of such removal shall be remedied by the Tenant immediately or, if they fail to do so, by the Landlord at the Tenant's expense.
- i Upon the termination or expiry of the lease for any reason the Tenant shall promptly and peacefully give the Landlord vacant possession of the Premises in the condition and state of repair required by Clauses 12 and 21a of the lease and shall, at the same time, hand over all keys.

Sub-leasing, etc

33. The Landlord may, at their absolute discretion refuse consent to:
- a the grant of any sub-lease, licence or concession;
 - b the Tenant parting with possession; or
 - c the Tenant mortgaging or otherwise encumbering the Tenant's estate or interest in the lease.

Assignment

34. a The Tenant shall not assign their interest in the whole or any part of the Premises without the written consent of the Landlord.
- b The Landlord shall not withhold consent to any assignment unless:
- i the proposed assignee proposes to change the use to which the Premises are put;
 - ii the proposed assignee has financial resources or retailing skills that are inferior to those of the Tenant; or
 - iii the Tenant has not complied with Section 41 of the *Retail Leases Act 1994* (NSW); or
 - iv in the case of a retail shop lease awarded by public tender, the proposed assignee fails to meet any criteria of the tender.
- c The Tenant shall pay the Landlord all reasonable legal or other expenses incurred in connection with giving consent to the proposed assignment.

Guarantor

35. In consideration of the Landlord leasing the premises to the Tenant in accordance with this lease, the Guarantors for themselves and each of them and each of their executors and administrators by their execution of this lease unconditionally agree that they and each of them, together with the Tenant, will be jointly and severally liable to the Landlord for the payment of rent and all other monies payable by the Tenant and also for the due performance and observance of all the terms and conditions on the part of the Tenant contained or implied in the lease. It is further expressly agreed and declared that the Landlord may grant to the Tenant any time or indulgence and may compound or compromise or release the Tenant without releasing or affecting the liability of the Guarantors.

Rent Review (tick appropriate box - if no choice is selected, Clause 36b i is deemed to be selected)

36. a i The rent payable by the Tenant shall be reviewed within sixty (60) days after the expiration of each period of twelve (12) months during the term and either party may notify the other party in writing that the rent is to be varied to an amount representing the current market rent of the Premises.
- ii If the parties do not agree as to current market rent, the rent is to be determined by valuation carried out by a specialist retail valuer pursuant to the *Retail Leases Act 1994* (NSW) appointed by agreement between the parties or, failing such agreement, by a specialist retail valuer appointed by the Registrar of the Retail Tenancy Disputes pursuant to the *Retail Leases Act 1994* (NSW).

OR

36. b i The rent payable by the Tenant shall be reviewed on the basis that the Landlord shall be entitled by serving on the Tenant written notice to that effect during a review period the rent to be revised. "Review period" means each twelve (12) month anniversary of the date of commencement of the term and expiring on the subject anniversary.
- ii The revised rent shall be determined in accordance with the following formula: $A = B \times C/D$ where
- A = the revised rent;
 - B = the rent payable in the twelve (12) month period immediately preceding the expiration of the relevant review period,
 - C = the Consumer Price Index (Sydney All Groups) last published immediately prior to the expiration of the relevant review period; and
 - D = the Consumer Price Index (Sydney All Groups) last published twelve (12) months prior to the expiration of the relevant review period.

OR

- ☒ 36. c The rent payable by the Tenant shall be adjusted by the monetary or percentage amount and on the dates as specified in the Special Conditions to the lease.

Security

37. a As security for the performance and observance by the Tenant of the terms and conditions of the lease, the Tenant shall on or before the commencement of the term obtain and maintain at their own expense and furnish to the Landlord a continuing guarantee or bond from a bank licensed to carry on banking business in Australia and approved by the Landlord whereby the Bank agrees that it will pay to the Landlord an amount not exceeding the sum noted or calculated on the front page of the lease. The guarantee or bond must be in favour of the Landlord and noted to cover "all the Tenant's obligations under the Lease".

OR

37. b As security for the performance and observance by the Tenant of the terms and conditions of the lease, the Tenant shall pay to the Landlord a security deposit in the amount noted on the front page of the lease which shall be paid to the Secretary of NSW Treasury to be held in accordance with the *Retail Leases Act 1994* (NSW).

Relocation

38. If the Landlord wants to refurbish, redevelop or extend the building or any part thereof and requires the leased Premises or any part thereof then the Landlord may give the Tenant a relocation notice in accordance with the *Retail Leases Act 1994* (NSW). The Tenant acknowledges that the Landlord has the right to relocate the Tenant at any time throughout the term provided the Landlord complies with all and any requirements of the *Retail Leases Act 1994* (NSW) and at law.

Demolition

39. If the Landlord wants to demolish, substantially repair, renovate or reconstruct the building or any part thereof which contains the leased Premises and which cannot be carried out practicably without vacant possession of the Premises, then the Landlord may do so provided the Landlord gives the Tenant sufficient details and notice in accordance with the *Retail Leases Act 1994* (NSW) and at law. The Tenant acknowledges the Landlord has the right to terminate the lease for any or all of these events provided the Landlord complies with the requirements of the *Retail Leases Act 1994* (NSW) and at law.

Strata Title Conversion

40. The Landlord may register a strata plan insofar as the same relates to the building or any part of it. The Landlord will if required by law request the consent of the Tenant to the registration of the strata plan such consent must not be unreasonably withheld by the Tenant and if requested the Tenant will provide their written consent to the strata plan to the Land and Property Information or any other government authority. After registration of the strata plan the Tenant will comply with any by-laws which are not inconsistent with the terms of this lease.

Interpretation

41. a "Agent" in context with "Landlord" includes the Landlord's estate agent or managing agent and any other person authorised to act on behalf of the Landlord.
 b "Landlord" includes the heirs, executors, administrators and assigns of the Landlord, and where the context permits, includes the Landlord's Agent.
 c "Tenant" includes the executors, administrators and permitted assigns of the Tenant.
 d "Fixtures" includes fittings, furnishings, furniture, appliances, plant, machinery and equipment.
 e "Month" means calendar month.
 f "Term" means the term of this lease.
 g Where the context permits, words expressed in the singular include the plural and vice versa and words referred to a person include a company.
 h Where two or more Tenants or Landlords are parties, the terms and conditions of the lease shall bind them jointly and severally.
 i When this lease is signed by both parties and witnessed, it shall operate as a deed at law from that time.
 j Headings in bold have been inserted to assist the parties but do not form a legal part of the lease.

Personal Property Securities Act 2009 (Cth)

42. a In this clause words and expressions that are not defined in this lease but which have a defined meaning in the Personal Property Securities Act 2009 (Cth) have the same meaning as in the Personal Property Securities Act 2009 (Cth).
 b The Tenant:
 i charges its interest in the Tenant's Personal Property in favour of the Landlord, as security for the performance of the Tenant's obligations under this lease;
 ii acknowledges and agrees that the charge granted by the Tenant under sub-clause (i) above constitutes the grant of a Security Interest which the Landlord is entitled to register; and
 iii must do all things required by the Landlord from time to time (including signing any documents required by the Landlord) to enable the Landlord to register its Security Interest in the Tenant's Personal Property.
 c On default by the Tenant under this lease the Landlord may take possession of any item of the Tenant's Personal Property, dispose of that item and apply the proceeds of the disposal less the cost of the disposal to pay any money owed to the Landlord under this lease.
 d The Tenant:
 i warrants that it has not granted a Security Interest in the Tenant's Personal Property on or prior to execution of this lease;
 ii must not create a Security Interest in respect of any Tenant's Personal Property in favour of any person other than the Landlord without the Landlord's prior written consent, which consent may be granted or withheld in the Landlord's absolute discretion; and
 iii must not create a Security Interest in any Leased Personal Property.
 e The Tenant acknowledges and agrees that:
 i it has no right and waives any entitlement under the Personal Property Securities Act 2009 (Cth) to receive a copy of any verification statement or financing change statement from the Landlord; and
 ii at the end of the lease, the Tenant must sign (and procure any holder of a registered Security Interest to sign) any document that the Landlord considers necessary or desirable under or as a result of the Personal Property Securities Act 2009 (Cth) to discharge any registered Security Interests in the Leased Personal Property or the Tenant's Personal Property.

SPECIAL CONDITIONS

Special conditions forming part of this lease are to be signed by both parties and attached.

We hereby enter into this lease and agree to all its conditions.

SIGNED BY THE LANDLORD

in the presence of: ELIZABETH BEECHAM
Name of Witness

[Signature]
Signature of Witness

[Signature]
Signature of Landlord

SIGNED BY THE TENANT

in the presence of: ELIZABETH BEECHAM
Name of Witness

[Signature]
Signature of Witness

X [Signature]
Signature of Tenant

X [Signature]

SIGNED BY THE GUARANTOR

in the presence of: ELIZABETH BEECHAM
Name of Witness

[Signature]
Signature of Witness

X [Signature]
Signature of Guarantor

X [Signature]

THE COMMON SEAL of

was hereunto affixed by
 the authority of the the
 Board of Directors and
 in the presence of:

 Secretary

THE COMMON SEAL of

was hereunto affixed by
 the authority of the the
 Board of Directors and
 in the presence of:

 Secretary

ANNEXURE



If applicable, include additional Terms and Conditions below

1. The tenant acknowledges that the landlord is not responsible for the removal of pests (spiders, cockroaches, mice etc), within the premises during the term of their occupancy
2. The tenant acknowledges that they are responsible for the maintenance of light globes and fluro tubes within the premises during the term of their occupancy and these are to be in working order at the date of vacating of premises.
3. The tenant acknowledges that they are responsible for cleaning glass windows and doors both inside and outside of the premises on a regular basis.
4. Outgoing actuals will be done on/or shortly after yearly anniversary, an invoice will be issues if there is a difference.
5. Demolition - the first two (2) years this lease has no demolition clause. Demolition clause will form part of the lease after this two (2) year period.
6. Air conditioning - lessee (tenant) responsible for all repairs.
7. Rent - fixed percentage of 3% on each anniversary of the commencing date of this lease.

ANNEXURE



Note: Suitable for shops and other retail premises subject to the *Retail Leases Act 1994* (NSW) where the term of Lease (including the period of any option) does not exceed three years.

This Lease is made in duplicate on 6 / 4 / 2023

at Belmont in the State of New South Wales.

PARTIES

Between	C/- First National Engage Eastlakes, ABN: 63 123 645 349	Landlord
	(Name, address and ABN)	
whose agent is	DBE Real Estate Pty Ltd Trading As First National Engage Eastlakes	Agent
	(Name, business address and ABN)	
	603 Pacific Hwy, Belmont NSW 2280, ABN: 63 123 645 349	
and	James J. Buckley, The Little Garden Australia, 175 Bayswater Rd, Bayswater, ABN 15 581 518 888	Tenant
	(Name, business address and ABN)	
		Guarantor
	(Name, business address and ABN)	

GST REGISTRATION

The Landlord is registered for GST. ☒ Yes ☐ No

The Tenant is registered for GST. ☒ Yes ☐ No

PREMISES

The Landlord leases the premises known as Shop 5/600 Pacific Hwy, Belmont NSW 2280

(the Premises) including all fixtures, fittings and equipment listed in the lessors disclosure statement provided by the Landlord to the Tenant.

PERMITTED USE

The Premises shall be used only as **Florist Retail**

RENT

Except as otherwise provided the rent shall be \$ 1072.17 incl. GST (Annual 3% Increase on Anniversary) (incl GST)

per	Calendar Month	commencing on	6 / 4 / 2023
-----	----------------	---------------	--------------

and payable in advance by the Tenant on the 6th day of every Month

to the Landlord / Agent at the above address or at any other reasonable place as the Landlord / Agent notifies in writing.

SECURITY BOND / DEPOSIT (tick applicable box)

\$2865.64 as referred to in Clause 37a ☐ OR 37b ☐

TERM

The term of the lease shall be 3 years commencing on 6 / 4 / 2023 and ending on 5 / 4 / 2023

OPTION

Subject to Clause 30 of this lease the Landlord / Agent offers a renewal of this lease for a further term of Nil years.

HOLDING OVER

Unless either party gives the other written notice of termination in accordance with Clause 32a, the lease shall continue as a periodic lease from month to month at the same rent or at a rent to which both parties agree.

OUTGOINGS (tick applicable box)

☒ The Tenant's percentage of outgoings to be paid in accordance with Clause 17a is 9.6%

OR

☐ The Tenant's percentage of any increases in outgoings to be paid in accordance with Clause 17b is %

INSURANCE

The amount of cover for public liability referred to in Clause 15e is \$ 20,000,000

CONDITIONS

The parties agree to the conditions set out above and on the following pages and also to those conditions implied by Sections 84 and 85 of the Conveyancing Act 1919 which are not expressly negated or modified by this lease.

NOTE It is advisable for the Tenant to insure the Tenant's own property

THE LANDLORD AGREES

Possession

1. To give possession of the Premises to the Tenant on the day on which the term of the lease commences.

Condition of Premises

2. To ensure that the Premises are in a reasonably fit condition for use at the commencement of the lease.

Security

3. To ensure that all external doors and windows contain locks and catches in working order at the commencement of the lease.

Insurance

4. To insure the Premises against damage arising from fire, lightning and explosion and other hazards (including earthquake, storm and tempest, water damage, impact, aircraft, riots / civil commotions and malicious damage).

Use of Premises

5. To allow the Tenant to use and occupy the Premises without unreasonable interference by the Landlord or their Agent.

Rates and Taxes

6. To pay council, water and sewerage rates, land tax and other levies promptly.

Lease copy

7. To provide the Tenant within one (1) month after:
 - a notice of mortgage consent, if required;
 - b execution of the lease; and
 - c stamping, if applicable

with a copy of the lease.

Tax Invoices and Receipts

8. To issue rent receipts and tax invoices (where applicable) showing the Tenant's name, the address of the Premises, the ABN of the parties, the amount received, the date of payment and the period for which the payment was made, and other such requirements as determined by the Australian Taxation Office.

THE TENANT AGREES

Rent

9. To pay the rent promptly and in advance and in the manner that the Landlord may direct from time to time.

Consents

10. To obtain at their own expense all necessary consents that may be required from local government or other authorities to carry on their proposed business at the Premises (being the use and/or fit-out for which the Premises are leased).

Charges

11. To pay all charges for gas, electricity and telephone and any water, garbage or sanitary rates or charges relating to the Tenant's use of the Premises.

Care of Premises

12. To take care of the Premises and to keep them in a clean condition and in particular:
 - a To make no alterations or additions to the Premises, including the erection of any sign or antenna, without the prior written consent of the Landlord.
 - b To do no decorating that involves marking, defacing or painting any part of the Premises without the prior written consent of the Landlord.
 - c To put nothing down any sink, toilet or drain likely to cause obstruction or damage.
 - d To keep no animals or birds on the Premises without the prior written consent of the Landlord.
 - e To ensure that rubbish is not accumulated on the Premises and to cause all trade refuse to be removed regularly and in a manner acceptable to the Landlord.
 - f To ensure that nothing is done that might prejudice any insurance policy which the Landlord has in relation to the Premises.
 - g To notify the Landlord promptly of any loss, damage or defect in the Premises.
 - h To notify the Landlord promptly of any infectious disease or the presence of rats, cockroaches or similar pests.

Permitted Use and Occupation

13.
 - a To use the Premises for the purpose stated on the front page of this lease and not for any other purpose.
 - b Not to sleep or permit anyone to sleep on the Premises unless the Premises or a portion of the Premises is zoned for residential use.

Rules and Regulations

14. To ensure that they, their employees, licensees and agents observe, obey and perform the rules and regulations forming part of this lease and such further rules and regulations as the Landlord may from time to time make and communicate to the Tenant (not being inconsistent with this lease) for the safety, care and cleanliness of the Premises and the building.

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15.
 - a To do nothing in the building or keep anything therein that would increase the insurance premium payable by the Landlord in relation to the building except with the prior written consent of the Landlord.
 - b To do nothing which would make any insurance policy void.

- c To insure all external fixed glass and window frames for which the Tenant is responsible.
- d To pay any insurance premiums payable by the Landlord increased as a result of the Tenant's actions.
- e To insure for public risk covering liability in respect of bodily injury, property damage, product liability and contractual liability arising from the occupation and use of the Premises by the Tenant for the minimum amount as noted on the front page of the lease.

Indemnity

16. a To compensate and meet all claims of:
- i the Landlord for the loss of or damage to part or whole of the Premises,
 - ii any person for the loss of or damage to their personal property,
 - iii any person for personal injury or death, as a result of any accident or neglect or a deliberate or careless act on the Premises or a breach of any conditions of the lease by the Tenant, their employees or agents or any person present on the Premises with the consent of the Tenant, their employees or agents.
- b In such circumstances, the Tenant shall meet all claims whether they are made directly against them or against the Landlord. Any resultant repairs to the Premises or to any other parts of the building shall be carried out at the expense of the Tenant by a builder or tradesperson approved by the Landlord.

Outgoings

17. a To reimburse the Landlord immediately, when requested, for the Tenant's percentage of outgoing noted on the front page of this lease for all local government rates, water, garbage and sewerage rates, land tax, insurance premiums, waste disposal costs, car park levies and such other outgoing as specified in the lessors disclosure statement. Land tax shall be calculated on the basis that the land on which the building is situated was the only land owned by the Landlord.

OR

17. b To reimburse the Landlord immediately, when requested, for the agreed percentage of all increases in local government rates, water, garbage and sewerage rates, land tax, insurance premiums, waste disposal costs, car park levies and such other outgoing as specified in the lessors disclosure statement above the level at 30 June immediately preceeding the commencement of the lease. Land tax shall be calculated on the basis that the land on which the building is situated was the only land owned by the Landlord.

Disclosure

18. a That they received and read and obtained their own independent legal and financial and other advice on all of the disclosure materials as required by the *Retail Leases Act 1994* (NSW) such as a draft lease, the lessor's disclosure statement and the retail tenancy guide before entering into the lease.
- b That they have provided a lessees disclosure statement as required by the *Retail Leases Act 1994* (NSW).

BOTH PARTIES AGREE THAT**Unforeseen event**

19. If something happens to the Premises so that the whole or a substantial part can no longer be occupied and the parties are in no way responsible, then either party shall have the right to terminate the lease on the giving of seven (7) days notice in writing.

Inspections

20. The Landlord or Agent shall inspect the Premises at the commencement of the lease and on its termination and take note of the condition of the Premises including the state of cleanliness, state of repair and working order of appliances.

Repairs

21. a The Tenant shall have repaired in a proper manner any damage to the Premises resulting from neglect or a deliberate or careless act or a breach of any condition of the lease by the Tenant or any person on the Premises with their consent.
- b Except as in Clause 21a, the Landlord shall carry out without delay all reasonable repairs necessary for the Tenant's ordinary use and occupation of the Premises, having regard to the condition of the Premises at the commencement of the lease and having regard for fair wear and tear.

Access

22. a The Landlord shall respect the Tenant's right to privacy.
- b The Tenant shall allow access to the Landlord or Agent:
- i when it is reasonable that they or either of them should view the condition of the Premises or to carry out repairs.
 - ii to erect "to let" signs in accordance with the *Retail Leases Act 1994* (NSW) and to show the Premises to prospective tenants after notice terminating the lease has been given; or
 - iii to erect "for sale" signs and to show the Premises to prospective purchasers after the Landlord has given reasonable notice to the Tenant of their intention to sell.
- c The Landlord shall give the Tenant reasonable notice of the time and date for such access. As far as possible it shall be convenient for both parties.
- d The Landlord or Agent may have access to the Premises at any time on reasonable notice to the Tenant or without notice in the case of an emergency or to carry out urgent repairs.

Costs

23. a Each party shall pay their own legal costs in relation to the preparation of this lease.
- b The Tenant shall pay all reasonable costs in connection with making an amendment to this lease that was requested by the Tenant other than:
- i an amendment to insert or vary particulars of the Tenant, the rent or the term; or
 - ii an amendment to remedy a failure by or on behalf of the Landlord to include or omit a term of this lease that was, at the time of the failure to include or omit, agreed between the Landlord and the Tenant to be included in or omitted from the lease; or
 - iii an amendment requested before the Landlord was given a lessee's disclosure statement.
- c The Tenant shall pay the registration fees payable (if any) in connection with this lease.

- d The Landlord shall provide the Tenant with a copy of any account presented to the Landlord in respect of any costs referred to in Clause 23b.
- e The Landlord shall pay any mortgagee consent fees in connection with this lease.

GST

24. Any amounts, including rent and outgoings, referred to in this lease which are payable by the Tenant to the Landlord, or on behalf of the Landlord, under this lease, are expressed inclusive of the Goods and Service Tax ("GST"), (if any), at the rate of 10% (the current rate). If the current rate is increased or decreased, the parties agree that any amounts referred to in this lease will be varied accordingly.

Statutes

25. Each party shall observe as applicable to themselves all relevant statutes, statutory regulations and by-laws relating to work, health, safety, noise and other standards with respect to the Premises.

Notices

26. Any written notice required or authorised by the lease:
- a Shall be served on the Tenant personally or by pre-paid post or by facsimile transmission to the Premises or by being left there in the post box, if any, at the address.
 - b Shall be served on the Landlord or Agent personally or by prepaid post or by facsimile transmission to their address as shown in the lease or as notified in writing.
 - c Shall be deemed to be served on the second business day after posting where it has been sent by pre-paid post.
 - d May take effect on any day of the month if it relates to the termination of a periodic lease provided it gives the required length of notice.
 - e Shall be served on either party to the email address of the addressee or such other email address notified as being the email address to use.
 - f An email will be deemed to have been served if:
 - i where an email is sent during the period between 8:00am to 6:00pm on a business day, upon the return of a receipt which confirms successful transmission of the email to the email address of the recipient or, where no return receipt is produced by the recipient's email system, by the end of 6:00pm on the day the email was sent; or
 - ii where the email is sent after 6:00pm on a business day or on a non-business day, the email will be deemed to be received at 8:00am on the next business day.

Mitigation

27. Where there has been a breach of any of the conditions of the lease by either party, the other party shall take all reasonable steps to minimise any resultant loss or damage.

Disputes

28. In any dispute or proceeding between the parties, both shall act reasonably and without delay and make all admissions necessary to enable the real issues to be decided.

Payment after Notice

29. a After a notice terminating the lease or demanding possession has been given, any acceptance of or demand for rent or money by the Landlord shall not of itself be evidence of a new lease with the Tenant nor alter the legal effect of the notice.
- b Where the Tenant unlawfully remains in possession after the termination of the lease, the Landlord shall be entitled, in addition to any other claim, to payment equal to the rent as compensation for the Tenant's use and occupation of the Premises.

Renewal

30. The Tenant shall give the Landlord or the Agent not more than six (6) months and not less than (3) months prior to the expiration of the term granted in this lease notice in writing if they wish to take a renewal of the lease for the further term offered. Provided the Tenant has duly and punctually paid the rent and shall have duly performed and observed on their part all the conditions and agreements contained in this lease up to the expiration of the term granted, then the Landlord will grant to the Tenant the further term at the current market rent notified in writing by the Landlord. If the parties do not agree as to the current market rent then the rent is to be determined in accordance with Clause 36a ii.

Expiry of Term

31. a Not less than six (6) months and not more than twelve (12) months before the expiry of the lease term the Landlord shall by written notification to the Tenant either:
- i offer the Tenant a renewal or extension of the lease on terms specified in the notification; or
 - ii inform the Tenant that the Landlord does not propose to offer a renewal or extension of the lease.
- b A notification to the Tenant in accordance with Clause 31a.i. shall include terms as to rent and may specify that the Landlord intends to allow the Tenant to remain in possession as a periodic tenant under the holding over provisions of the lease.
- c In the event that the lease is for a term of twelve (12) months or less, the periods of twelve (12) and six (6) months referred to in Clause 31a are shortened to six (6) and three (3) months respectively.

Termination

32. a Upon the expiry of the lease term or where the lease has become a periodic lease from month to month, either party may terminate it by giving one (1) month's written notice to the other party.
- b The Landlord shall have the right to re-enter the Premises peacefully or to continue the lease as a periodic lease from week to week;
- i where the Tenant has failed to pay rent for a period in excess of fourteen (14) days, whether formally demanded or not;
 - ii where the Tenant has seriously or persistently breached any of the conditions of the lease; or
 - iii upon the Tenant and/or Guarantor being declared bankrupt or insolvent according to law or making any assignment for the benefit of creditors or taking the benefit of any Act now or hereafter to be in force for the relief of bankrupts or insolvents.

- c Section 85(1)(d) of the Conveyancing Act 1919 as amended is hereby varied accordingly.
- d If the Landlord intends to exercise their right to continue the lease as a periodic lease from week to week, they shall serve the Tenant with a written notice stating the reason and informing the Tenant of the variation to the lease. Upon service of the notice, the lease shall continue with all its conditions, except for the term and holding over conditions, as a periodic lease from week to week which may be terminated by seven (7) days' written notice from either party.
- e The Landlord shall have the right to re-enter the Premises without giving notice if there are reasonable grounds to believe the Premises have been abandoned.
- f The Tenant shall have the right to terminate the lease if the Landlord has seriously or persistently breached any of its conditions. The Tenant shall give the Landlord written notice of a reasonable period, of no less than fourteen (14) days indicating at the same time the nature of the breach.
- g Any action by the Landlord or the Tenant in accordance with Clauses 32b, d, e, or f, shall not affect any claim for damages in respect of a breach of a condition of the lease.
- h Upon the termination or expiry of the lease the Tenant must remove their own fixtures and shall remove their signs provided that any damage or defacement occasioned to any part of the Premises in the course of such removal shall be remedied by the Tenant immediately or, if they fail to do so, by the Landlord at the Tenant's expense.
- i Upon the termination or expiry of the lease for any reason the Tenant shall promptly and peacefully give the Landlord vacant possession of the Premises in the condition and state of repair required by Clauses 12 and 21a of the lease and shall, at the same time, hand over all keys.

Sub-leasing, etc

33. The Landlord may, at their absolute discretion refuse consent to:

- a the grant of any sub-lease, licence or concession;
- b the Tenant parting with possession; or
- c the Tenant mortgaging or otherwise encumbering the Tenant's estate or interest in the lease.

Assignment

- 34. a The Tenant shall not assign their interest in the whole or any part of the Premises without the written consent of the Landlord.
- b The Landlord shall not withhold consent to any assignment unless:
 - i the proposed assignee proposes to change the use to which the Premises are put;
 - ii the proposed assignee has financial resources or retailing skills that are inferior to those of the Tenant; or
 - iii the Tenant has not complied with Section 41 of the *Retail Leases Act 1994* (NSW); or
 - iv in the case of a retail shop lease awarded by public tender, the proposed assignee fails to meet any criteria of the tender.
- c The Tenant shall pay the Landlord all reasonable legal or other expenses incurred in connection with giving consent to the proposed assignment.

Guarantor

35. In consideration of the Landlord leasing the premises to the Tenant in accordance with this lease, the Guarantors for themselves and each of them and each of their executors and administrators by their execution of this lease unconditionally agree that they and each of them, together with the Tenant, will be jointly and severally liable to the Landlord for the payment of rent and all other monies payable by the Tenant and also for the due performance and observance of all the terms and conditions on the part of the Tenant contained or implied in the lease. It is further expressly agreed and declared that the Landlord may grant to the Tenant any time or indulgence and may compound or compromise or release the Tenant without releasing or affecting the liability of the Guarantors.

Rent Review (tick appropriate box - if no choice is selected, Clause 36b i is deemed to be selected)

- ☐ 36. a i The rent payable by the Tenant shall be reviewed within sixty (60) days after the expiration of each period of twelve (12) months during the term and either party may notify the other party in writing that the rent is to be varied to an amount representing the current market rent of the Premises.
- ii If the parties do not agree as to current market rent, the rent is to be determined by valuation carried out by a specialist retail valuer pursuant to the *Retail Leases Act 1994* (NSW) appointed by agreement between the parties or, failing such agreement, by a specialist retail valuer appointed by the Registrar of the Retail Tenancy Disputes pursuant to the *Retail Leases Act 1994* (NSW).

OR

- ☐ 36. b i The rent payable by the Tenant shall be reviewed on the basis that the Landlord shall be entitled by serving on the Tenant written notice to that effect during a review period the rent to be revised. "Review period" means each twelve (12) month anniversary of the date of commencement of the term and expiring on the subject anniversary.
- ii The revised rent shall be determined in accordance with the following formula: $A = B \times C/D$ where
- A = the revised rent;
 - B = the rent payable in the twelve (12) month period immediately preceding the expiration of the relevant review period,
 - C = the Consumer Price Index (Sydney All Groups) last published immediately prior to the expiration of the relevant review period; and
 - D = the Consumer Price Index (Sydney All Groups) last published twelve (12) months prior to the expiration of the relevant review period.

OR

- ☒ 36. c The rent payable by the Tenant shall be adjusted by the monetary or percentage amount and on the dates as specified in the Special Conditions to the lease.

Security

37. a As security for the performance and observance by the Tenant of the terms and conditions of the lease, the Tenant shall on or before the commencement of the term obtain and maintain at their own expense and furnish to the Landlord a continuing guarantee or bond from a bank licensed to carry on banking business in Australia and approved by the Landlord whereby the Bank agrees that it will pay to the Landlord an amount not exceeding the sum noted or calculated on the front page of the lease. The guarantee or bond must be in favour of the Landlord and noted to cover "all the Tenant's obligations under the Lease".

OR

37. b As security for the performance and observance by the Tenant of the terms and conditions of the lease, the Tenant shall pay to the Landlord a security deposit in the amount noted on the front page of the lease which shall be paid to the Secretary of NSW Treasury to be held in accordance with the *Retail Leases Act 1994* (NSW).

Relocation

38. If the Landlord wants to refurbish, redevelop or extend the building or any part thereof and requires the leased Premises or any part thereof then the Landlord may give the Tenant a relocation notice in accordance with the *Retail Leases Act 1994* (NSW). The Tenant acknowledges that the Landlord has the right to relocate the Tenant at any time throughout the term provided the Landlord complies with all and any requirements of the *Retail Leases Act 1994* (NSW) and at law.

Demolition

39. If the Landlord wants to demolish, substantially repair, renovate or reconstruct the building or any part thereof which contains the leased Premises and which cannot be carried out practicably without vacant possession of the Premises, then the Landlord may do so provided the Landlord gives the Tenant sufficient details and notice in accordance with the *Retail Leases Act 1994* (NSW) and at law. The Tenant acknowledges the Landlord has the right to terminate the lease for any or all of these events provided the Landlord complies with the requirements of the *Retail Leases Act 1994* (NSW) and at law.

Strata Title Conversion

40. The Landlord may register a strata plan insofar as the same relates to the building or any part of it. The Landlord will if required by law request the consent of the Tenant to the registration of the strata plan such consent must not be unreasonably withheld by the Tenant and if requested the Tenant will provide their written consent to the strata plan to the Land and Property Information or any other government authority. After registration of the strata plan the Tenant will comply with any by-laws which are not inconsistent with the terms of this lease.

Interpretation

41. a "Agent" in context with "Landlord" includes the Landlord's estate agent or managing agent and any other person authorised to act on behalf of the Landlord.
 b "Landlord" includes the heirs, executors, administrators and assigns of the Landlord, and where the context permits, includes the Landlord's Agent.
 c "Tenant" includes the executors, administrators and permitted assigns of the Tenant.
 d "Fixtures" includes fittings, furnishings, furniture, appliances, plant, machinery and equipment.
 e "Month" means calendar month.
 f "Term" means the term of this lease.
 g Where the context permits, words expressed in the singular include the plural and vice versa and words referred to a person include a company.
 h Where two or more Tenants or Landlords are parties, the terms and conditions of the lease shall bind them jointly and severally.
 i When this lease is signed by both parties and witnessed, it shall operate as a deed at law from that time.
 j Headings in bold have been inserted to assist the parties but do not form a legal part of the lease.

Personal Property Securities Act 2009 (Cth)

42. a In this clause words and expressions that are not defined in this lease but which have a defined meaning in the Personal Property Securities Act 2009 (Cth) have the same meaning as in the Personal Property Securities Act 2009 (Cth).
 b The Tenant:
 i charges its interest in the Tenant's Personal Property in favour of the Landlord, as security for the performance of the Tenant's obligations under this lease;
 ii acknowledges and agrees that the charge granted by the Tenant under sub-clause (i) above constitutes the grant of a Security Interest which the Landlord is entitled to register; and
 iii must do all things required by the Landlord from time to time (including signing any documents required by the Landlord) to enable the Landlord to register its Security Interest in the Tenant's Personal Property.
 c On default by the Tenant under this lease the Landlord may take possession of any item of the Tenant's Personal Property, dispose of that item and apply the proceeds of the disposal less the cost of the disposal to pay any money owed to the Landlord under this lease.
 d The Tenant:
 i warrants that it has not granted a Security Interest in the Tenant's Personal Property on or prior to execution of this lease;
 ii must not create a Security Interest in respect of any Tenant's Personal Property in favour of any person other than the Landlord without the Landlord's prior written consent, which consent may be granted or withheld in the Landlord's absolute discretion; and
 iii must not create a Security Interest in any Leased Personal Property.
 e The Tenant acknowledges and agrees that:
 i it has no right and waives any entitlement under the Personal Property Securities Act 2009 (Cth) to receive a copy of any verification statement or financing change statement from the Landlord; and
 ii at the end of the lease, the Tenant must sign (and procure any holder of a registered Security Interest to sign) any document that the Landlord considers necessary or desirable under or as a result of the Personal Property Securities Act 2009 (Cth) to discharge any registered Security Interests in the Leased Personal Property or the Tenant's Personal Property.

SPECIAL CONDITIONS

Special conditions forming part of this lease are to be signed by both parties and attached.

We hereby enter into this lease and agree to all its conditions.

SIGNED BY THE LANDLORD

in the presence of: <u>Kimberley Bailey</u> <div style="text-align: center; margin-top: 10px;"> <u>Kimberley Bailey</u> <small>Name of Witness</small> <u>Kimberley Bailey</u> <small>Signature of Witness</small> </div>	<div style="text-align: center; margin-top: 50px;"> <u>[Signature]</u> <small>Signature of Landlord</small> </div>
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SIGNED BY THE TENANT

in the presence of: <u>Kimberley Bailey</u> <div style="text-align: center; margin-top: 10px;"> <u>Kimberley Bailey</u> <small>Name of Witness</small> <u>Kimberley Bailey</u> <small>Signature of Witness</small> </div>	<div style="text-align: center; margin-top: 50px;"> <u>[Signature]</u> <small>Signature of Tenant</small> </div>
---	---

SIGNED BY THE GUARANTOR

in the presence of: _____ <div style="text-align: center; margin-top: 10px;"> _____ <small>Name of Witness</small> _____ <small>Signature of Witness</small> </div>	<div style="text-align: center; margin-top: 50px;"> _____ <small>Signature of Guarantor</small> </div>
---	---

THE COMMON SEAL of

was hereunto affixed by
the authority of the the
Board of Directors and
in the presence of:

Secretary

THE COMMON SEAL of

was hereunto affixed by
the authority of the the
Board of Directors and
in the presence of:

Secretary

ANNEXURE

If applicable, include additional Terms and Conditions below



1. The Tenant acknowledges that the Landlord is not responsible for the removal of pests (spiders, cockroaches, mice etc.).
2. The Tenant acknowledges that they are responsible for the maintenance of light globes and fluoro tubes within the premises during the term of their occupancy and these are to be in working order at the date of vacating of Premises.
3. The Tenant acknowledges that they are responsible for cleaning glass windows and doors both inside and outside of the Premises on a regular basis.
4. 2022 - 2023 Outgoings Estimate \$4,680.58 Outgoings Actuals will be done on/or shortly after yearly anniversary, an invoice will be issues if there is a difference.
5. Annexure 'F' - Demolition - The first two (2) years this lease has no demolition clause. Demolition clause will form part of the lease after this two (2) year period.
6. Air conditioning - Lessee (Tenant) responsible for all repairs.
7. Completed and Signed Disclosure Statement and Annexures, A,B,C,D,E,F also form part of this lease.
8. Rent - Fixed percentage of 3% on each anniversary of the commencing date of this lease
9. Fitout and Mural was purchased from previous tenant and forms part of the make good clause.

ANNEXURE

Form: 07L
Release: 4.5

LEASE
New South Wales
Real Property Act 1900

Leave this space clear. Affix additional
pages to the top left-hand corner.

PRIVACY NOTE: Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

STAMP DUTY

Revenue NSW use only

(A) TORRENS TITLE

Property leased

PART 1/319436 & 2/312436 BEING SHOP 7, 600 PACIFIC HIGHWAY, BELMONT NSW as shown on the plan attached hereto and marked "B"

(B) LODGED BY

Document Collection Box	Name, Address or DX, Telephone, and Customer Account Number if any HPL LAW GROUP 21/22 Darley Road MANLY NSW 2095 Reference: AM:AM:210480	CODE L
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(C) LESSOR

KHUN & TAN ENTERPRISES P/L ATF SANSREY FAMILY TRUST ()

The lessor leases to the lessee the property referred to above.

(D)

Encumbrances (if applicable):

(E) LESSEE

BOGI AUSTRALIA PTY LTD T/As SIGNMO ()

(F)

TENANCY:

(G) 1. TERM TWO (2) YEARS

2. **COMMENCING DATE** 14 MAY 2021

3. **TERMINATING DATE** 14 MAY 2023

4. With an **OPTION TO RENEW** for a period of TWO (2) YEARS
set out in clause 8 of Annexure A

5. With an **OPTION TO PURCHASE** set out in clause N.A. of N.A.

6. Together with and reserving the **RIGHTS** set out in clause N.A. of N.A.

7. Incorporates the provisions or additional material set out in **ANNEXURE(S) A** hereto.

8. Incorporates the provisions set out in N.A.
No. N.A.

9. The **RENT** is set out in item No. 7 of Annexure A

DATE

- (H) Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the company named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified.

Company: KHUN & TAN ENTERPRISES P/L ATF SANSREY FAMILY TRUST ()
Authority: section 127 of the Corporations Act 2001

Signature of authorised person:

Signature of authorised person:

Name of authorised person: ()
Office held: Director

Name of authorised person:
Office held:

Same

Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the company named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified.

Company: BOGI AUSTRALIA PTY LTD T/As SIGNMO ()
Authority: section 127 of the Corporations Act 2001

Signature of authorised person:

Signature of authorised person:

Name of authorised person: ()
Office held: Director

Name of authorised person:
Office held:

(I) STATUTORY DECLARATION*

I

solemnly and sincerely declare that—

1. The time for the exercise of option to in expired lease No. has ended; and
2. The lessee under that lease has not exercised the option.

I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act 1900.

Made and subscribed at in the State of New South Wales on
in the presence of of ,

☐ Justice of the Peace (J.P. Number:) ☐ Practising Solicitor

☐ Other qualified witness [specify] ,

who certifies the following matters concerning the making of this statutory declaration by the person who made it:

1. I saw the face of the person OR I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had a special justification for not removing the covering; and
2. I have known the person for at least 12 months OR I have confirmed the person's identity using an identification document and the document I relied on was a [Omit ID No.]

Signature of witness:

Signature of applicant:

* As the services of a qualified witness cannot be provided at lodgment, the declaration should be signed and witnessed prior to lodgment. # If made outside NSW, cross out the witness certification. If made in NSW, cross out the text which does not apply.

[Handwritten signature]

LANDLORD: KHUN & TAN ENTERPRISES P/L ATF SANSREY FAMILY TRUST (680 99 680 99)
TENANT: BOGI AUSTRALIA T/AS SIGNMO (680 99 680 99)

SCHEDULE

- | | |
|--------|---|
| Item 1 | Landlord
Khun & Tan Enterprises P/L ATF Sansrey Family Trust (1971 83 688 688 688) of care of
Engage Property, 584 Pacific Highway, Belmont NSW 2280 |
| Item 2 | Tenant
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Signature of Tenant

Item 14	Tenant's Proportion of Outgoings 16.55% per annum
Item 15	Interest Rate 8% per annum
Item 16	Permitted Use Retail/ office
Item 17	Initial Public Liability Insurance Amount \$20,000,000.00 including glass replacement
Item 18	Bank Guarantee Amount \$4,835.79
Item 19	Operating Hours of the Centre 9am-5pm Monday to Friday
Item 20	Rent Free Period Eight (8) weeks
Item 21	Turnover Rent Base Figure Not applicable
Item 22	Turnover Rent Percentage Figure Not applicable
Item 23	Marketing Levy Amount Not applicable
Item 24	Security Deposit Amount Not applicable
Item 25	Right of Lessor to Determine Term If at any time during the continuance of this Lease and after 14 May 2023, the Lessor wishes to renovate, rebuild, reconstruct, pull down or demolish the Building or the Demised Premises or any part of either, then the Lessor may give to the Lessee not less than six (6) month's notice in writing (the "Notice") to terminate this Lease and at the expiration of the time set out in the Notice this Lease shall terminate without prejudice to the rights and remedies of either party against the other in respect of any antecedent claim or breach of covenant.



RETAIL LEASES ACT ACKNOWLEDGMENTS

A. Lessor's Disclosure Statement

The Tenant acknowledges that it received the Lessor's Disclosure Statement not less than 7 days before this Lease was entered into.

1. FORM OF THIS LEASE

1.1. This Lease is a Deed.

1.2. This Lease consists of the front page of this Lease and Annexure A.

2. PARTIES

The parties to this Lease are the Landlord and the Tenant and the Guarantor.

3. PROPERTY LEASED

The Landlord leases the Premises to the Tenant for the Term on the conditions in this Lease.

4. LEASE PERIOD

4.1. Term of this Lease

This Lease is for the Term starting and ending on the dates stated in Item 6.

4.2. Option Lease

If Item 8 refers to a lease for a further term and the Tenant wishes to take up the Option Lease and strictly follows the procedures set out in clause 4.3, the Landlord will lease the Premises to the Tenant on the conditions set out in clause 4.4.

4.3. Option Procedure for Option Lease

(a) If the Tenant wishes to take up the Option Lease, the Tenant must:

- (i) give written notice to the Landlord not more than 6 Months and not less than 3 Months before the Terminating Date of this Lease;
- (ii) not be in default under this Lease unless either the Landlord has waived the default or the default has been remedied by the Tenant;
- (iii) ensure that the Guarantor enters into the OptionLeases as guarantor; and
- (iv) ensure that any Bank Guarantee under this Lease is applied to the Option Lease.

(b) After the Landlord receives a notice under clause 4.3(a)(i), the Landlord will give to the Tenant a written statement updating the Lessor's Disclosure Statement.

4.4. Option Lease Conditions

The Option Lease will be on the same conditions as this Lease except that:

- (a) clauses 4.2 to 4.5 will not be included;
- (b) Item 8 will be deleted;
- (c) any clause of this Lease which contains a provision excluding that clause from the Option Lease will not be included;

- (d) the commencing date will be the Option Lease commencing date;
- (e) the terminating date will be the Option Lease terminating date; and
- (f) the initial Rent payable during the Option Lease will be determined in accordance with this Lease.

4.5. Option Lease Market Rent Determination

- (a) If the commencing date of the Option Lease is a Market Rent Review Date and the Landlord and the Tenant have not agreed on the Rent to apply as at that date, the Tenant can request a determination of the annual current market rent at any time within the period beginning 6 Months before and ending 3 Months before the last date on which the option to enter into the Option Lease can be exercised by the Tenant.
- (b) If the Tenant requests a determination of the annual current market rent, the period referred to in clause 4.3(a)(i) will be extended so that the last day of the period is 21 days after written notice is given to the Tenant of the determination.
- (c) If the Term is 12 Months or less, the periods of 6 Months and 3 Months in clause 4.5(a) will instead be 3 Months and 30 days.

4.6. New Lease Offer

- (a) Unless there are either Option Leases or an Option Lease, no earlier than 12 Months before the Terminating Date and no later than 6 Months before the Terminating Date, the Landlord will by written notice to the Tenant either:
 - (i) offer the Tenant a new lease on the terms (including Rent) specified in the notice; or
 - (ii) inform the Tenant that the Landlord does not propose to offer the Tenant a new lease.
- (b) If the Term is 12 Months or less, the periods of 12 Months and 6 Months in clause 4.6(a) will instead be 6 Months and 3 Months.
- (c) The Landlord cannot withdraw an offer made under clause 4.6(a)(i) until 1 Month after the offer is made.
- (d) If the Landlord does not give a notice to the Tenant under clause 4.6(a) and the Tenant requests an extension by written notice given to the Landlord before the Terminating Date, the Term will be extended until 6 Months after the Landlord gives the notice required under clause 4.6(a).
- (e) During an extension of this Lease under this clause 4.6(d), the Tenant can terminate this Lease by giving not less than 1 Month written notice to the Landlord.

4.7. Intentionally Deleted

4.8. Intentionally Deleted

4.9. Intentionally Deleted

4.10. Intentionally Deleted

4.11. Relocation

- (a) If the Landlord has a Refurbishment Proposal then, despite anything to the contrary in this Lease, the Landlord can give a Relocation Notice to the Tenant.

- (b) Within 1 Month of the Landlord giving a Relocation Notice to the Tenant (time being of the essence) the Tenant can give a Relocation Termination Notice to the Landlord.
- (c) If the Tenant gives a Relocation Termination Notice under clause 4.11(b):
- (i) no later than 1 Month before the Relocation Termination Date the Tenant will deliver to the Landlord a surrender of this Lease in registrable form, except for execution by the Landlord;
 - (ii) the Tenant will give vacant possession of the Premises to the Landlord on the Relocation Termination Date in the condition that would be required under this Lease if the Relocation Termination Date were the Terminating Date; and
 - (iii) this Lease will terminate on the Relocation Termination Date and neither the Landlord nor the Tenant will have any claim against the other as a consequence of the giving of either the Relocation Notice or the Relocation Termination Notice.
- (d) If the Tenant does not give a Relocation Termination Notice under clause 4.11(b):
- (i) this Lease will terminate on the Relocation Date;
 - (ii) the Tenant will be regarded as having accepted the Landlord's offer to enter into the Substituted Premises Lease;
 - (iii) the Landlord will deliver the Substituted Premises Lease to the Tenant within 2 Months of the Landlord giving the Relocation Notice;
 - (iv) the Tenant and the Guarantor will sign and deliver the Substituted Premises Lease to the Landlord within 14 Business Days of receipt from the Landlord of the Substituted Premises Lease;
 - (v) the Tenant will do all things necessary before the Relocation Date to ensure that any Bank Guarantee or Security Deposit under this Lease is applied to the Substituted Premises Lease; and
 - (vi) the Landlord will pay the Tenant's reasonable costs of relocating from the Premises to the Substituted Premises including, but not limited to:
 - (A) the Tenant's reasonable legal costs of surrendering this Lease and of entering into the Substituted Premises Lease; and
 - (B) the Tenant's reasonable costs of dismantling and reinstalling the Tenant's Goods.
- (e) The Landlord and the Tenant agree that the Substituted Premises Lease will be on the same terms and conditions as this Lease except that:
- (i) the Premises under the Substituted Premises Lease will be the Substituted Premises;
 - (ii) the Commencing Date of the Substituted Premises Lease will be the day after the Relocation Date;
 - (iii) the term of the Substituted Premises Lease will be equal balance of the Term calculated from the day after the Relocation Date; and
 - (iv) the Rent and the Tenant's Proportion of Outgoings payable under the Substituted Premises Lease will be calculated at the same rate per square metre of the Substituted Premises as the rate per square metre payable under this Lease.

4.12. Demolition

- (a) If the Landlord has a Demolition Proposal then, despite anything to the contrary in this Lease, the Landlord can give a Demolition Notice to the Tenant.
- (b) At any time after the Landlord gives a Demolition Notice to the Tenant but no later than 10 Business Days before the Demolition Date, the Tenant can give a Demolition Termination Notice to the Landlord.
- (c) If the Landlord gives a Demolition Notice or the Tenant gives a Demolition Termination Notice:
 - (i) no later than the earlier of the Demolition Date and the Demolition Termination Date, the Tenant will deliver to the Landlord a surrender of this Lease in registrable form, except for execution by the Landlord;
 - (ii) the Tenant will give vacant possession of the Premises to the Landlord on the earlier of the Demolition Date and the Demolition Termination Date in the condition that would be required under this Lease if such date were the Terminating Date;
 - (iii) this Lease will terminate on the earlier of the Demolition Date and the Demolition Termination Date and neither the Landlord nor the Tenant will have any claim against the other as a consequence of the giving of either the Demolition Notice or the Demolition Termination Notice;
- (d) If the Landlord gives a Demolition Notice or the Tenant gives a Demolition Termination Notice and demolition of the Centre is not carried out within a reasonably practicable time after the Demolition Date, the Landlord is liable to pay the Tenant reasonable compensation for damage suffered by the Tenant as a consequence of the early termination of this Lease, unless the Landlord establishes that at the time the Demolition Notice was given by the Landlord there was a genuine proposal to demolish the Centre within a reasonably practical time.
- (e) If the Landlord gives a Demolition Notice or the Tenant gives a Demolition Termination Notice and the Tenant has installed fixtures in the Premises the Landlord is liable to pay the Tenant compensation for the Tenant's fixtures, whether or not the Demolition Proposal is carried out.

5. PAYMENTS

5.1. Rates of Rent and Method of Payment

Rent is payable at the annual rate stated in Item 7 until varied under this Lease and is then payable at the varied rates. All payments must be made in full at the Landlord's address stated in Item 1 or at any other place notified in writing by the Landlord to the Tenant. If required by the Landlord, Rent must be paid by irrevocable automatic order on the Tenant's bank.

5.2. Instalments of Rent

The Tenant will pay Rent at the following rates:

- (a) if the Commencing Date is not the first day of a Month the first Rent payment will be calculated on a daily basis based on the number of days in the relevant Month;
- (b) by instalments monthly in advance on the first day of each full Month within the Term equal to one-twelfth of the annual Rent then payable; and
- (c) if the Terminating Date is not the last day of a Month, the last Rent payment will be calculated on a daily basis based on the number of days in the relevant Month.

5.3. **Market Rent Reviews**

- (a) On each Market Rent Review Date the annual Rent payable under this Lease will be varied to the annual current market rent agreed or determined under this clause 5.3.
- (b) In this Lease current market rent means the annual rent that would reasonably be expected to be paid for the Premises, determined on an effective rent basis:
 - (i) having regard to:
 - (A) the terms and conditions of this Lease;
 - (B) the rent concessions or other benefits that are frequently or generally offered to prospective tenants of unoccupied retail premises;
 - (C) the rent that would reasonably be expected to be paid for the Premises if the Premises were unoccupied and offered for renting for the same or a substantially similar use to the Permitted Use; and
 - (D) the Rent and Outgoings;
 - (ii) without having regard to:
 - (A) the value of the Tenant's Goods; or
 - (B) the Tenant's goodwill.
- (c) No earlier than 3 Months before a Market Rent Review Date, the Landlord will give the Rent Review Notice to the Tenant.
- (d) Unless the Tenant objects to the Rent Review Notice by giving written notice to the Landlord within 14 Business Days of the Tenant receiving the Rent Review Notice (time being of the essence), the annual current market rent payable from the Market Rent Review Date will be the amount in the Rent Review Notice.
- (e) If the Tenant objects to the Rent Review Notice by giving written notice to the Landlord within 14 Business Days of the Tenant receiving the Rent Review Notice (time being of the essence), the Rent Agreement Period will start. If the Landlord and the Tenant do not agree within the Rent Agreement Period (time being of the essence) on the annual current market rent to apply from the Market Rent Review Date clauses 5.3(f) to 5.3(o) will apply.
- (f) The Landlord and the Tenant will try to agree on a Specialist Retail Valuer to determine the annual current market rent to apply from the Market Rent Review Date. Failing agreement within 7 Business Days of the end of the Rent Agreement Period either the Landlord or the Tenant can apply to the Tribunal to nominate a Specialist Retail Valuer.
- (g) The Landlord and the Tenant can make written submissions to the Specialist Retail Valuer before the date on which the Specialist Retail Valuer is required to make the determination. The Specialist Retail Valuer is entitled to take into account any such written submissions when making the determination but is not obliged to do so.
- (h) The Specialist Retail Valuer in determining the amount of the rent must take into account the matters set out in clause 5.3(b)(i).
- (i) Within 14 days after a request by the Specialist Retail Valuer, the Landlord must supply the Specialist Retail Valuer with information reasonably available to the Landlord requested by the Specialist Retail Valuer to assist the Specialist Retail Valuer to determine the current market rent.

- (j) A Specialist Retail Valuer may apply to the Tribunal for an order that the Landlord comply with a request referred to in clause 5.3(i) to supply relevant information about leases for retail shops situated in the Centre.
- (k) The Specialist Retail Valuer will make a determination and will notify the Landlord and the Tenant of the Specialist Retail Valuer's determination within 1 Month after the Specialist Retail Valuer receives the information requested in clause 5.3(i). The Specialist Retail Valuer must give his or her valuation in writing and must give detailed reasons for the Specialist Retail Valuer's determination. The Specialist Retail Valuer must specify the matters to which the Specialist Retail Valuer has had regard in making the determination.
- (l) The Specialist Retail Valuer will act as an expert and not as an arbitrator.
- (m) Subject to Section 32A of the *Retail Leases Act*, the Specialist Retail Valuer's determination will be final and binding as between the Landlord and the Tenant.
- (n) Either the Landlord or the Tenant can request the Tribunal to appoint another Specialist Retail Valuer if the appointed Specialist Retail Valuer:
 - (i) fails to accept the appointment;
 - (ii) resigns the appointment;
 - (iii) becomes incapacitated or dies; or
 - (iv) fails to notify the Landlord and the Tenant of the determination within 1 Month after accepting the appointment.
- (o) The Landlord and the Tenant will each pay one half of the Specialist Retail Valuer's costs of making the determination.
- (p) If the Rent has not been agreed or determined by a Market Rent Review Date, the Tenant will pay the Landlord instalments of Rent on account equal to the Rent payable before that Market Rent Review Date. Within 14 days of the Rent being agreed or determined the Tenant will pay to the Landlord or the Landlord will credit to the Tenant any difference between the amount paid on account and the Rent as agreed or determined.

5.4. ~~CPI Rent Reviews~~

- (a) ~~On each CPI Rent Review Date the annual Rent payable under this Lease will be the amount determined under this clause 5.4.~~
- (b) ~~The annual Rent payable from the CPI Rent Review Date will be the amount calculated by applying the following formula:~~

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

where:

R — is the annual Rent to be payable from the CPI Rent Review Date;

A — is the Australian Statistician's Consumer Price Index (All Groups) figure for Sydney last published before the CPI Rent Review Date;

B — is the Australian Statistician's Consumer Price Index (All Groups) figure for Sydney last published before whichever is the later of the Commencing Date and the most recent date on which Rent was reviewed under this Lease; and

C — is the annual Rent payable immediately before the CPI Rent Review Date.

- ~~(c) If the Australian Statistician updates the reference base of the Consumer Price Index, the intended continuity of calculation will be preserved by applying the appropriate factor, as chosen by the Landlord, to such updated reference base.~~
- ~~(d) If the Consumer Price Index is discontinued or suspended:~~
 - ~~(i) the Landlord and the Tenant will try to agree within 14 Business Days after the CPI Rent Review Date on an alternative index which reflects fluctuations in the cost of living in Sydney;~~
 - ~~(ii) if the Landlord and the Tenant do not agree on an alternative index, the Landlord will request the Nominator to nominate an alternative index which reflects fluctuations in the cost of living in Sydney. The decision of the Nominator will be final and binding as between the Landlord and the Tenant. The Landlord and the Tenant will each pay one half of the Nominator's costs of making the determination.~~

5.5. Percentage Rent Reviews

On each Percentage Rent Review Date the annual Rent payable under this Lease will be the annual Rent payable immediately before the Percentage Review Date increased by the percentage stated in Item 13.

5.6. Centre Outgoings

- (a) In each Accounting Year the Tenant will pay the Tenant's Proportion of Outgoings.
- (b) At least 1 Month before the start of each Accounting Year the Landlord will give to the Tenant the Outgoings Estimate for the next Accounting Year.
- (c) The Tenant will pay the Outgoings Estimate by equal monthly instalments in advance on the same days and in the same manner as Rent.
- (d) Within 1 Month of the end of each Accounting Year the Landlord will give to the Tenant a written statement as required by the *Retail Leases Act* detailing all expenditure by the Landlord on the Outgoings for the preceding Accounting Year.
- (e) Within 3 Months of the end of each Accounting Year the Landlord will give the Outgoings Report to the Tenant. The Outgoings Report will:
 - (i) be prepared by a registered company auditor in accordance with accounting standards within the meaning of the *Corporations Act 2001*; and
 - (ii) include a statement by the auditor about whether the amounts paid by the Tenant for Outgoings were properly payable by the Tenant and whether the Outgoings Estimate for the relevant period exceeded the amount actually spent by the Landlord on the Outgoings.
- (f) If the Outgoings Report relates only to insurance, land tax, water sewerage and drainage rates and charges, local council rates and charges and strata levies and the Outgoings Report is accompanied by copies of receipts for all expenditure, the Landlord does not have to comply with either clause 5.6(e)(i) or clause 5.6(e)(ii).
- (g) Within 1 Month after the end of each Accounting Year an adjustment will be made of any underpayment or overpayment of the Outgoings. The adjustment is to be the difference between the Outgoings Estimate and the amount actually spent by the Landlord on the Outgoings during the relevant Accounting Year, taking into account only expenditure properly and reasonably incurred by the Landlord in payment of the Outgoings.
- (h) Despite anything to the contrary in this Lease, the Tenant is only liable to contribute to non-specific Outgoings referable to the Premises the amount calculated by multiplying the total

amount of that Outgoing by the ratio that the gross lettable area - retail of the Premises bears to the total gross lettable area - retail of all retail premises in the Centre to which that non-specific Outgoing is referable.

5.7. Interest on Arrears

The Tenant will pay to the Landlord interest on any Rent and on any other moneys due but unpaid for 14 days. Interest will be calculated at the rate stated in Item 15 as at the dates on which such moneys fall due to the date on which such moneys are received by the Landlord.

5.8. Duty and Landlord's Costs

- (a) The Tenant will pay the Landlord's costs, including legal costs as between solicitor and client, in relation to any amendment to the terms of this Lease that was requested by the Tenant and any transfer, surrender or termination of this Lease (including the cost of obtaining the consent of any Person whose consent is required) and in relation to any breach of this Lease by the Tenant.
- (b) The Tenant must pay the Landlord's costs and disbursements of lodging a financing statement in respect of any Security Interest arising under this Lease.
- (c) The Tenant will pay all duty when due and any registration fees when payable in relation to this Lease and in relation to anything done under this Lease.

5.9. Cost of Landlord Remedying Tenant Defaults

After giving reasonable notice to the Tenant, the Landlord can remedy any default by the Tenant under this Lease. The Tenant will pay on demand any costs that the Landlord incurs in doing so.

5.10. GST

- (a) The Rent and other moneys payable under this Lease by the Tenant have been calculated without regard to GST.
- (b) The Tenant must pay to the Landlord any amount which is payable by the Landlord for GST as a consequence of any supply made by the Landlord to the Tenant under this Lease, such payment on account of GST to be made by the Tenant at the same time as payment is made for the relevant supply.
- (c) If at any time an adjustment is made as between the Landlord and the relevant taxing Authority of an amount paid on account of GST on any supply made by the Landlord to the Tenant under this Lease, a corresponding adjustment must be made as between the Landlord and the Tenant and any payments required to give effect to the adjustment must be made.
- (d) No later than 14 days after the date of payment of any GST the Landlord must provide to the Tenant a tax invoice complying with any legislation under which GST is imposed.
- (e) The Tenant will pay on demand to the Landlord any interest or penalties incurred by the Landlord as a result of the Tenant's failure to make a payment under clause 5.10(b).
- (f) The amount of Outgoings will be calculated by applying the following formula:

$$(A - B) \times (1 + C)$$

where:

- A is the GST inclusive price of the component of Outgoings, being the amount paid by the Landlord;
- B is the GST input tax credit for which the Landlord is eligible on the component of Outgoings; and

C is the rate of GST expressed as a decimal.

5.11. Period Free of Rent

- (a) If an amount appears in Item 20 then, despite clauses 5.1 and 5.2, the Tenant is entitled the period free of Rent stated in Item 20 commencing on the Commencing Date.
- (b) Additionally, the Tenant is entitled to a period of one (1) month free of Outgoings commencing on the Commencing Date.
- (c) The Landlord and the Tenant agree that if this Lease is terminated before the Terminating Date because of the Tenant's default, the Tenant will immediately pay to the Landlord the two (2) months' Rent and one (1) month's Outgoings that the Tenant would have paid but for the benefit of this clause. The Tenant agrees that this is not a penalty but a genuine pre-estimate of the Landlord's loss arising from early termination.
- (d) This clause and Item 20 will not be included in the Option Lease.

5.12. INTENTIONALLY DELETED

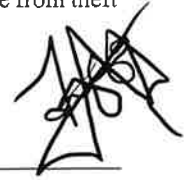
5.13. Marketing Levy

- (a) In each Accounting Year the Tenant will pay the Marketing Levy by equal monthly instalments in advance on the same days and in the same manner as Rent.
- (b) The Landlord will apply the Marketing Levy to the Landlord's costs of advertising, marketing and promoting the Centre.
- (c) At least 1 Month before the start of each Accounting Year the Landlord will give to the Tenant a marketing plan detailing the Landlord's proposed expenditure on advertising, marketing and promoting the Centre during that Accounting Year to which a contribution by the Tenant is required.
- (d) Within 1 Month of the end of each 6 Month period of each Accounting Year the Landlord will give to the Tenant a written statement as required by the *Retail Leases Act* detailing all expenditure by the Landlord for the preceding 6 Month period on advertising, marketing and promotion costs to which a contribution by the Tenant is required.
- (e) Within 3 Months of the end of each Accounting Year the Landlord will give the Marketing Report to the Tenant. The Marketing Report will be prepared by a registered company auditor in accordance with accounting standards within the meaning of the *Corporations Act 2001*.
- (f) The Landlord and the Tenant agree that any of the Marketing Levy not spent in the Accounting Year in which the Marketing Levy was paid will be applied to the Landlord's future costs of advertising, marketing and promoting the Centre.

6. USE

6.1. Tenant's Use of the Premises

- (a) The Tenant will only use the Premises for the Permitted Use.
- (b) The Tenant will keep the Premises clean and tidy and arrange for the regular removal of any waste or rubbish from the Premises.
- (c) The Tenant will endeavour to keep the Premises and any property in the Premises safe from theft and will keep the Premises secure when the Premises are not in use.



- (d) The Tenant will not give any keys to the Premises to any other Person and will deliver all keys to the Landlord at the expiry or earlier termination of this Lease.
- (e) The Tenant will not keep any animal in the Premises and will keep the Premises free of all pests and vermin.
- (f) The Tenant will immediately notify the Landlord and the proper public authorities of any infectious illness in the Premises and thoroughly fumigate the Premises to the Landlord's satisfaction.
- (g) The Tenant will not use the Premises in an unsafe, noisy, offensive or unlawful manner.
- (h) The Tenant will not allow any article whatsoever to fall from the Premises and will not place any article on any ledge or other similar part of the Premises.
- (i) The Tenant will not mark or damage the Premises.
- (j) The Tenant will not obstruct any windows or lights in the Premises without the Landlord's prior consent.
- (k) The Tenant will not without the Landlord's prior consent put either on the outside of the Premises or on anywhere visible from the outside of the Premises any sign, advertisement or notice. Before the expiry or earlier termination of this Lease, the Tenant will remove any such sign, advertisement or notice and make good to the Landlord's satisfaction any damage.
- (l) The Tenant agrees that any blinds, awnings, window ventilators and other similar fittings installed by the Tenant and visible from outside the Premises must conform to the Landlord's requirements about design, quality and appearance.
- (m) The Tenant will not allow the floor of the Premises to be broken, strained or damaged by overloading.
- (n) The Tenant will not use the Landlord's Equipment for any purpose other than those for which they were supplied.
- (o) The Tenant will not do anything to affect the working or efficiency of any air conditioning equipment.
- (p) The Tenant will promptly notify the Landlord in writing of any defect in or need to repair the Premises or the Landlord's Equipment of which the Tenant is aware.
- (q) The Tenant will promptly notify the Landlord in writing of any circumstance of which the Tenant is aware which is likely to cause a danger or hazard to the Premises or to any Person in the Centre.
- (r) The Tenant will not store inflammable or dangerous substances in the Premises other than where reasonably required by the Tenant in connection with the Permitted Use but then only in such quantities and containers as are permitted by law and approved by the Landlord.
- (s) The Tenant will not do anything that would make any insurance policy taken out by the Landlord or the Tenant void or voidable or which would breach any laws or regulations.
- (t) The Tenant will only use light, power or heat generated by electric current or gas supplied through meters.
- (u) The Tenant will promptly pay all utility and service charges in relation to the Premises and, where appropriate, install any necessary meters.
- (v) The Tenant will keep any waste pipes and drains in or servicing the Premises free from blockages.

- (w) The Tenant will not do anything that might result in a statutory Authority issuing a notice in relation to the Premises or the Centre.
- (x) The Tenant will not sell any alcohol in the Premises without the Landlord's written consent.
- (y) The Tenant will not hold any auction, fire or bankruptcy sale in the Premises without the Landlord's written consent.
- (z) The Tenant will replace all non-operating light globes and light tubes.

6.2. Cleaning

- (a) The Tenant will clean the Premises at the Tenant's cost.
- (b) The Tenant acknowledges that the security concerns of the Landlord and of other tenants or occupiers of the Centre will be relevant matters to be considered by the Landlord when the Landlord is asked to approve any Person proposed by the Tenant to clean the Premises.
- (c) If the Landlord requests that a Person is not engaged to clean the Premises or that a Person who is a cleaner is not to be allowed access to the Centre or Premises, the Tenant must immediately comply with that request.
- (d) The Tenant will require the Tenant's cleaners to provide such personal information and identification and to comply with such security checks as the Landlord acting reasonably requires.

6.3. Trading and Stock

- (a) The Tenant will keep the Premises open for trading during the Centre Operating Hours.
- (b) The Tenant will keep current all licences and permits required for the use of the Premises by the Tenant.
- (c) The Tenant will keep the Premises adequately lit.
- (d) The Tenant will provide all necessary staff and stock to ensure that the Tenant's business is conducted in a proper and reputable manner in accordance with best practice.

6.4. Tenant's Use of the Centre

- (a) The Tenant will not do anything to obstruct the Common Areas or the Landlord's Equipment.
- (b) The Tenant will keep clean and free from rubbish those parts of the Common Areas and of any public footpath that immediately adjoin the Premises.
- (c) The Tenant will not burn any waste or rubbish in the Premises or on the Common Areas.
- (d) The Tenant will not cover any light, sky-light, window or other means of illuminating the Common Areas or the Centre.
- (e) The Tenant will not solicit business or distribute advertising material in the Common Areas.
- (f) The Tenant will not without the Landlord's consent put any antenna or similar equipment on the Common Areas.
- (g) The Tenant will not without the Landlord's consent use any loudspeaker or similar equipment likely to be seen or heard in the Common Areas.
- (h) The Tenant will not smoke in the Common Areas.

- (i) The Tenant will comply with the Landlord's requirements in relation to Centre security.
- (j) The Tenant will comply with the Landlord's requirements in relation to emergency evacuation procedures and fire drills.
- (k) The Tenant will not use any part of the Common Areas except the approved customer parking areas for parking vehicles except for pick-up or delivery of goods or Persons in the ordinary course of the Tenant's business.
- (l) The Tenant will ensure that the Tenant's customers, visitors and invitees park only in those parts of the Common Areas approved by the Landlord from time to time as customer parking.
- (m) The Tenant will not grease, oil, repair, clean or wash vehicles within the Common Areas.
- (n) The Tenant will not bring into the Centre any vehicle without rubber tyres.
- (o) Where the Landlord provides the Tenant with identification on any sign installed by the Landlord near an entrance to the Centre the Tenant will pay on demand the Landlord's costs of providing such identification.
- (p) The Tenant will only use for moving goods of bulk or quantity such parts of the Common Areas and at such times as the Landlord from time to time directs.

6.5. **Energy consumption information**

- (a) The Tenant agrees and acknowledges that the Landlord has or may have mandatory reporting obligations which may include disclosing to the relevant authorities and other Persons information relating to the Tenant's level of energy consumption in the Premises, greenhouse gas emissions, energy efficiency initiatives and associated data, records and other information.
- (b) The Tenant will provide such data, records and other information as the Landlord may reasonably require to enable the Landlord to comply with its reporting obligations relating to the Tenant's level of energy consumption in the Premises, greenhouse gas emissions and energy efficiency initiatives.
- (c) The Tenant will within 7 days of receipt by the Tenant provide to the Landlord copies of all records and accounts received by the Tenant from a utility or service provider in respect of the consumption of electricity or gas in the Premises.
- (d) If the Tenant does not provide information required by the Landlord pursuant to this clause 6.5 the Tenant will pay on demand to the Landlord an amount equal to any expense, fine or penalty incurred by the Landlord arising as a result of the Tenant's default.

7. **CONDITION AND REPAIRS**

7.1. **Keeping and Delivering Up in Repair**

- (a) The Tenant will at all times keep the Premises and any of the Landlord's Equipment in or servicing the Premises in good repair and condition having regard to the condition of the Premises and of the Landlord's Equipment at the earlier of the Commencing Date or the date that the Tenant first occupied the Premises.
- (b) Unless required because of the Tenant's particular use of the Premises, the Tenant's obligations under clause 7.1(a) do not extend to:
 - (i) any repair required because of fair wear and tear or because of the Landlord's negligence;
 - (ii) any capital costs or structural repairs; or

- (iii) anything beyond the control of the Tenant.

7.2. Repair of Damage

The Tenant will make good any defect in or damage to the Premises, the Landlord's Equipment or the Centre caused by lack of care or misuse by the Tenant.

7.3. Painting Etc

Before the Tenant ceases to occupy the Premises, the Tenant will to the Landlord's satisfaction:

- (a) paint with at least 2 coats of high quality paint and otherwise treat appropriately all the internal brickwork, masonry, timber, metalwork and other surfaces of the Premises usually painted or treated; and
- (b) wash down all washable surfaces of the Premises.

7.4. Alterations and Additions

- (a) The Tenant will not make any alterations or additions to the Premises without first obtaining the Landlord's written consent. The Landlord can give or withhold consent in its absolute discretion.
- (b) When requesting consent for any such works the Tenant will give to the Landlord for approval detailed plans and specifications of the works. The Landlord can give or withhold approval of the plans and specifications in its absolute discretion.
- (c) Any such works can only be undertaken either by the Landlord or by Persons approved by the Landlord.
- (d) The Tenant must comply with the requirements of the Landlord, the law and the relevant public authorities in carrying out any such works.
- (e) The Tenant will pay the Landlord's costs in connection with any works.

7.5. Statutory Requirements

- (a) The Tenant will at all times comply with all statutes, ordinances, proclamations, orders and regulations affecting the Premises, the use of the Premises by the Tenant and the Tenant's Goods.
- (b) The Tenant will comply with all notices and orders given by any statutory, public or other competent Authority in respect of the Premises, the use of the Premises by the Tenant and the Tenant's Goods.
- (c) The Tenant will comply with all WH&S Laws in relation to the Premises.
- (d) The Tenant indemnifies the Landlord in relation to any failure by the Tenant to comply with the Tenant's obligations under this clause 7.5.
- (e) Despite clauses 7.5(a) and 7.5(b) the Tenant is not responsible for any capital costs nor for any structural alterations unless required because of the Tenant's particular use of the Premises.

7.6. Principal Contractor and WH&S Regulation

- (a) If any work is to be carried out on the Premises by the Tenant during the Term of the lease, including any Option Lease or holding over period which requires the appointment of a Principal Contractor under the *WH&S Regulation*, the Landlord appoints the Tenant as the Principal Contractor in respect of those works and the Tenant accepts that appointment.

- (b) The Landlord authorises the Tenant to exercise such authority of the Landlord as is necessary to ensure that the Tenant can carry out the responsibilities imposed on the Tenant as Principal Contractor under the *WH&S Regulation*.
- (c) The Tenant may propose that another Person is appointed as Principal Contractor for specific works in place of the Tenant, subject to the Tenant first obtaining the Landlord's consent.
- (d) The Tenant must ensure that when any work is carried out in the Premises all the requirements of the *WH&S Regulation* and any other laws relating to work health and safety are met.
- (e) The Tenant must consult, co-operate and co-ordinate its activities with the Landlord in connection with the Premises to ensure that the parties at all times comply with *WH&S Law* including, but not limited to, scheduling and participating in regular meetings, maintaining current information on an accident registers and conducting regular risk assessment reports of the Premises including taking the views of Tenant's workers into consideration and to take any other steps as agreed between the parties.
- (f) The Landlord will make itself available to the Tenant on a regular basis to discuss any matters related to health and safety at work arising from its obligations in relation to the Premises.
- (g) The Tenant must immediately notify the Landlord of any accident, notifiable incident (being an incident which is notifiable under *WH&S Law*) or injury which occurs on the Premises in connection with the activities at the Premises. The Tenant must take all reasonably practicable steps to safely isolate any dangers from occurring or reoccurring before the Landlord is informed.
- (h) The Tenant undertakes to inform itself of the serious injury or illness and dangerous incident notification obligations. The Tenant undertakes to advise the regulator by the fastest possible means, prior to advising the Landlord in the event that a notifiable incident occurs.

8. INSURANCE AND DAMAGE

8.1. Public Risk and Plate Glass

The Tenant will keep current in the name of the Tenant, noting the interest of the Landlord and, if required by the Landlord, the Landlord's mortgagee:

- (a) a public risk insurance policy for not less than the amount stated in Item 17 or for such higher amount as the Landlord from time to time requires;
- (b) adequate reinstatement insurance of all glass in the Premises for the amount to replace the glass in accordance with the then current Australian Standards; and
- (c) other insurances which are required by law or which in the Landlord's reasonable opinion a prudent tenant would take out.

8.2. Workers Compensation

The Tenant will keep current workers compensation insurance (including common law liability) with a reputable insurer for all Persons employed by the Tenant in relation to whom death or bodily injury claims can be made against the Landlord.

8.3. Insurance of Tenant's Goods

The Tenant will keep the Tenant's Goods adequately insured against loss or damage.

8.4. Evidence of Insurance

The Tenant will provide to the Landlord any insurance policy which the Tenant is required to take out under this Lease and certificates of currency in relation to any such policy.

8.5. Risk

The Tenant occupies and uses the Premises at the Tenant's risk. The Landlord is only liable to the Tenant for any injury, loss or damage to any property or Person to the extent that such injury, loss or damage is caused by the Landlord's negligence.

8.6. Indemnities by Tenant

- (a) The Tenant indemnifies the Landlord against all claims, costs and expenses for which the Landlord is liable in relation to any death, personal injury or property damage caused by any act or failure to act of the Tenant or because of the Tenant's use of the Premises and the Centre.
- (b) The Tenant indemnifies the Landlord against all loss or damage caused by the Tenant including, but not limited to, the Tenant's use or misuse of the Premises and the Centre or of the Landlord's Equipment or by the Tenant's failure to notify the Landlord of any major or continuing defect in the Premises or in any of the Landlord's Equipment in or servicing the Premises and the Centre.

8.7. Termination and Abatement on Damage

- (a) If the Premises or Centre are damaged so that the Premises are inaccessible or unable to be used and the Landlord notifies the Tenant in writing that the Landlord considers repairing the damage impractical or undesirable, either the Landlord or the Tenant can terminate this Lease without compensation by giving not less than 7 days written notice to the other.
- (b) If the Premises or Centre are damaged so that the Premises are inaccessible or unable to be used and the Landlord fails to repair the damage within a reasonable time after written notice from the Tenant requesting the Landlord to do those repairs, the Tenant can terminate this Lease by giving not less than 7 days written notice to the Landlord.
- (c) If the Premises or Centre are damaged so that the Premises are inaccessible or unable to be used, no Rent or Outgoings will be payable by the Tenant until the Premises are made accessible or useable.
- (d) If the Premises are damaged and are still useable but the use of the Premises is diminished due to damage, the Rent and the Outgoings will abate according to the extent of the diminished use until the use of the Premises is no longer diminished.
- (e) Nothing in this clause 8.7 affects the Landlord's right to recover damages from the Tenant in respect of any damage or destruction referred to in this clause nor obliges the Landlord to restore or reinstate the Premises.

8.8. Increased Premiums

If the Tenant's acts or omissions cause any premium for insurances effected by the Landlord to increase, the Tenant will pay the amount of that increased premium to the Landlord within 14 days of demand.

9. ACCESS

9.1. Right to Enter to Inspect or Carry Out Works

- (a) The Landlord can enter the Premises at reasonable times after giving reasonable notice or at any time without notice in an emergency to:
 - (i) inspect the Premises;
 - (ii) do any works that the Landlord considers desirable;
 - (iii) collect data and to check or monitor the performance of the Premises;
 - (iv) exercise any of the Landlord's rights under this Lease; and

- (v) repair the Premises where the Premises have been damaged.
- (b) The Landlord will give to the Tenant 2 Months prior written notice of any alteration to or refurbishment of the Centre to be carried out by the Landlord which is likely to adversely affect the Tenant's business. In emergencies reasonable notice only of any such alteration or refurbishment is required
- (c) In exercising the Landlord's right to enter the Premises and to do works:
 - (i) the Landlord and the Landlord's employees, agents and contractors will be entitled to enter the Premises with all necessary materials; and
 - (ii) the Landlord will use all reasonable endeavours to ensure that as little disruption as is practical is caused to the Tenant's use of the Premises.

9.2. Landlord's Signs and Inspections

- (a) The Landlord is entitled to attach 'For Sale' and 'For Lease' signs to the Centre, including to the outside of the Premises. 'For Lease' signs in relation to the Premises will only be attached during the 3 Months immediately preceding the Terminating Date.
- (b) The Tenant will not obscure the Landlord's signs.
- (c) The Tenant will allow all Persons authorised in writing by the Landlord to inspect the Premises at reasonable times after reasonable notice from the Landlord.

9.3. Easements and Other Rights

- (a) The Landlord can transfer or create any easement, covenant, restriction, licence or other right or dedicate land in favour of any Person or in favour of any land near the Premises or in favour of any Authority for the purposes of access, support or services or such other purposes that the Landlord reasonably requires or which may be required by an Authority. This Lease is subject to any such easement, covenant, restriction, licence, other right or dedication.
- (b) The Landlord may release, cancel, modify or extinguish any easement, covenant, restriction licence or other right which benefits or burdens the Land.
- (c) Within 7 days of written request by the Landlord the Tenant will sign and return to the Landlord any consents or other documents necessary to enable the Landlord to carry out any activity referred to in clauses 9.3(a) and 9.3(b) and will make no objection or claim for compensation in relation to such activity.
- (d) The Landlord will not dedicate land or transfer, create, release, cancel, modify or extinguish any easement, covenant, restriction, licence or other right which would substantially and permanently lessen the Tenant's rights under this Lease.

9.4. Landlord's Reservations

The Landlord reserves the right:

- (a) to use the roof of the Premises;
- (b) to run substances through any pipes, ducts or wires passing through the Premises; and
- (c) to enter the Premises to exercise such rights.

9.5. Landlord's Repair Obligation

The Landlord agrees to use reasonable endeavours to ensure that the structure of the Premises and of the Centre is kept in good repair having regard to their condition at the earlier of the Commencing Date or the date that the Tenant first occupied the Premises except for:

- (a) fair wear and tear;
- (b) anything that the Tenant is required to do under this Lease; and
- (c) damage from any cause beyond the Landlord's reasonable control.

10. ASSIGNMENT AND SUB-LETTING

10.1. Restrictions on Assignment, Sub-Letting and Licensing

The Tenant will not assign this Lease without first obtaining the Landlord's written consent. The Landlord can withhold consent if:

- (a) the proposed assignee proposes to change the Permitted Use;
- (b) the proposed assignee has financial resources or retailing skills inferior to those of the Tenant; or
- (c) the Tenant has not complied with the procedures set out in clause 10.2.

10.2. Procedures for Obtaining Consent to Assignment

If the Tenant wishes to assign this Lease:

- (a) the Tenant will in writing request the Landlord's consent to any proposed assignment and will provide the Landlord with such information as the Landlord requires about the financial standing and business experience of the proposed assignee and of the Tenant;
- (b) before requesting the consent of the Landlord to a proposed assignment of the Lease, the Tenant must furnish the proposed assignee with a copy of any Lessor's Disclosure Statement given to the Tenant in respect of this Lease, together with details of any changes that have occurred in respect of the information contained in that Lessor's Disclosure Statement since it was given to the Tenant (being changes of which the Tenant is aware or could reasonably be expected to be aware);
- (c) the Tenant can request the Landlord to provide the Tenant with a copy of the Lessor's Disclosure Statement. If the Landlord does not do so within 14 days after the Tenant's request, clause 10.2(b) will not apply to the proposed assignment;
- (d) if the Premises will be used by the proposed assignee for the continued operation of the Tenant's business the Tenant may provide the proposed assignee with an Assignor's Disclosure Statement. The Tenant may provide the Landlord with a copy of the Assignor's Disclosure Statement;
- (e) the Landlord will deal promptly with any request for consent. If the Tenant has complied with clauses 10.2(a) and 10.2(b) and the Landlord has not within 28 days after the Tenant's request given written notice to the Tenant either consenting or withholding consent, the Landlord will be regarded as having consented;
- (f) the New Tenant will provide to the Landlord such securities or guarantees of the New Tenant's obligations under this Lease as the Landlord requires including, but not limited to, a Bank Guarantee or Security Deposit;

- (g) the Tenant will ensure that any guarantors of the proposed assignee required by the Landlord enter into a deed in a form required by the Landlord; and
- (h) the Tenant will pay the Landlord's costs in connection with the proposed assignment.

10.3. Restrictions on Shares Dealings

- (a) If the Tenant is a corporation (other than a corporation whose shares are listed on the Australian Stock Exchange) then, unless the Tenant first complies with clause 10.3(b), the Tenant will not:
 - (i) register, record or enter in its books any transfer of any share in the capital of the Tenant;
 - (ii) deal with the beneficial interest in any such share;
 - (iii) issue any new shares; or
 - (iv) take any other action,

which would have the effect that the shareholders of the Tenant at the Commencing Date would, after such action, beneficially hold or control less than 51% of the voting rights or of the income or capital participation rights in the Tenant or less than 51% of the voting rights at a meeting of directors of the Tenant.
- (b) The requirements referred to in clause 10.3(a) are that the Tenant:
 - (i) gives to the Landlord not less than 1 Month written notice of its intention;
 - (ii) is not in default under this Lease unless either the Landlord has waived the default or the default has been remedied by the Tenant;
 - (iii) proves to the Landlord's satisfaction that the Persons to whom the Tenant proposes to transfer or issue such shares or in whom the Tenant proposes to vest such other rights are each respectable, responsible and solvent;
 - (iv) ensures that the Persons referred to in clause 10.3(b)(iii) provide to the Landlord such guarantees of the Tenant's obligations under this Lease as the Landlord requires; and
 - (v) pays the Landlord's costs.

10.4. Restrictions on Units Dealings

- (a) If the Tenant is the trustee of a unit trust (unless the unit trust is listed on the Australian Stock Exchange) then, unless the Tenant first complies with clause 10.4(b), the Tenant will not:
 - (i) register, record or enter in its books any transfer of any unit or units in the Unit Trust or the holding trust;
 - (ii) deal with the beneficial interest in any such unit or units;
 - (iii) issue any new unit or units; or
 - (iv) take any other action, take or attempt to take any action having the effect of:
 - (A) effectively altering the control of the unit trust; or
 - (B) the unitholders in the unit trust at the date of this Lease at any time ceasing to beneficially hold or control at least 51% of the units in the unit trust.

- (b) The requirements referred to in clause 10.4(a) are that the Tenant:
 - (i) gives to the Landlord not less than 1 Month written notice of its intention;
 - (ii) is not in default under this Lease unless either the Landlord has waived the default or the default has been remedied by the Tenant;
 - (iii) proves to the Landlord's satisfaction that the Persons to whom the Tenant proposes to transfer or issue such units or in whom the Tenant proposes to vest such other rights are each respectable, responsible and solvent;
 - (iv) ensures that the Persons referred to in clause 10.4(b)(iii) provide to the Landlord such guarantees of the Tenant's obligations under this Lease as the Landlord requires; and
 - (v) pays the Landlord's costs.

10.5. Restrictions on Sub-Letting, Mortgaging, Etc

- (a) The Tenant will not sub-let or part with possession or grant any licence or concession affecting the Premises.
- (b) The Tenant will not mortgage or charge the Tenant's interest in the Premises.

11. LANDLORD'S OBLIGATIONS

11.1. Quiet Enjoyment

Unless provided to the contrary in this Lease, so long as the Tenant pays the Rent and the other moneys payable under this Lease when due and performs the Tenant's obligations under this Lease, the Tenant can occupy the Premises without interruption or disturbance from the Landlord.

11.2. Disturbance

- (a) The Landlord will not:
 - (i) inhibit the Tenant's access to the Premises in any substantial way;
 - (ii) take any action that substantially inhibits or alters the flow of customers to the Premises;
 - (iii) unreasonably take any action that causes significant disruption to or has a significant adverse affect on the Tenant trading in the Premises;
 - (iv) fail to take all reasonable steps to prevent or stop anything that causes significant disruption to or has a significant adverse affect on the Tenant trading in the Premises where such thing is within the Landlord's control;
 - (v) fail to rectify any breakdown of plant or equipment that the Landlord is required to maintain; or
 - (vi) fail to adequately clean, maintain or repair the Centre.
- (b) If the Landlord breaches clause 11.2(a) and does not rectify its breach as soon as reasonably practical after written request by the Tenant, the Landlord is liable to pay the Tenant reasonable compensation for any loss or damage (other than nominal damage) suffered by the Tenant as a consequence. The Tenant acknowledges that any claim for compensation is limited to matters not disclosed to the Tenant before this Lease was entered into.
- (c) In deciding whether the Landlord has acted reasonably for the purposes of clause 11.2(a), due consideration will be given to whether the Landlord acted in accordance with recognised shopping centre management practices.

- (d) Clauses 11.2(a) to 11.2(c) do not apply to any action taken by the Landlord as a reasonable response to an emergency or in compliance with any duty imposed under any legislation or resulting from a claim imposed by a public or local Authority under the authority of any legislation.

11.3. Management of the Centre and Maintenance of Common Areas

- (a) The Landlord will manage and operate the Centre and will pay the Outgoings.
- (b) The Landlord will maintain the Common Areas. The way the Common Areas are maintained is in the Landlord's discretion.

12. TENANT'S DEFAULT AND END OF LEASE

12.1. Re-entry on Default and Forfeiture

The Tenant will be in default under this Lease and the Landlord can lawfully re-enter the Premises if:

- (a) Rent is unpaid for 14 days after the due date;
- (b) any other monies are unpaid for 14 days after due;
- (c) any repairs required by a notice are not completed within the time required by such notice;
- (d) the Tenant fails to perform any other of the Tenant's obligations for 14 days after the Landlord gives the Tenant written notice of the Tenant's default;
- (e) the Tenant becomes insolvent when:
 - (i) they are (or state that they are) an insolvent under administration or insolvent (each as defined in the *Corporations Act 2001 (Cth)*);
 - (ii) they have a controller appointed, are in liquidation, in provisional liquidation, under administration or wound up or have had a receiver appointed to any part of their property;
 - (iii) execution or distress or any other process is levied or attempted or imposed against or over any of their undertaking, property or assets;
 - (iv) a compromise, arrangement, assignment, moratorium or composition is proposed with, or becomes effective in relation to, their creditors or any class of their creditors (in each case, other than to carry out a reconstruction or amalgamation while solvent);
 - (v) an application or order has been made (and, in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward or any other action taken, in each case in connection with them, which is preparatory to or could result in any of the things referred to above;
 - (vi) they are taken (under Section 459F of the *Corporations Act 2001 (Cth)*) to have failed to comply with a statutory demand;
 - (vii) they are the subject of an event described in Section 459C(2)(b) or Section 585 of the *Corporations Act 2001 (Cth)*;
 - (viii) they are a natural person, they commit an act of bankruptcy within the meaning of the *Bankruptcy Act 1966 (Cth)*;
 - (ix) they are otherwise unable to pay their debts as and when they fall due, or

- (x) something having a substantial similar effect to any of the things referred to above happens in connection with them under any law.

12.2. Removal of Tenant's Goods

- (a) If the Tenant is not in default under this Lease the Tenant can during the last Month of the Tenant's occupation of the Premises remove the Tenant's Goods from the Centre so long as such removal is done under the supervision of and in accordance with the directions of the Landlord. The Tenant will make good any damage caused to the Premises and the Centre.
- (b) If the Tenant does not remove the Tenant's Goods as provided under clause 12.2(a) and the Landlord requires the Tenant to remove the Tenant's Goods, the Tenant will remove the Tenant's Goods prior to the expiry of the last Month of the Tenant's occupation of the Premises so long as such removal is done under the supervision of and in accordance with the directions of the Landlord. The Tenant will make good any damage caused to the Premises and the Centre.
- (c) If the Tenant does not remove the Tenant's Goods as provided under clauses 12.2(a) and 12.2(b) the Landlord may:
 - (i) keep, remove, sell or otherwise dispose of the Tenant's Goods at the Tenant's risk and cost; and
 - (ii) treat any of the Tenant's Goods as if they were the Landlord's property and deal with them in any way (including by sale) without being liable to account to the Tenant.
- (d) The Tenant indemnifies the Landlord in relation to the removal and storage of the Tenant's Goods and in relation to claims by any Person of an interest in the Tenant's Goods.
- (e) Despite anything to the contrary in this Lease, this Lease will be deemed to continue until such time as the Tenant's Goods are removed from the Premises.

12.3. Delivering Up In Good Repair

- (a) Unless the Landlord notifies the Tenant in writing before the expiry or earlier termination of this Lease that the Tenant is not required to comply with any of its obligations under this clause 12.3(a), at the expiry or earlier termination of this Lease the Tenant will give vacant possession of the Premises to the Landlord with the Premises in the state of repair required under this Lease including, but not limited to, the following:
 - (i) the Premises being painted and treated as required under clause 7.3;
 - (ii) the Premises being in the state of repair required under clause 7.1;
 - (iii) the Tenant's Goods being removed from the Premises as required under clause 12.2;
 - (iv) any fitting out in the Premises carried out by, for or at the cost of the Landlord on behalf of or at the request of the Tenant being removed from the Premises and any consequential damage made good;
 - (v) the Premises Services being returned to the configuration they were in before the Tenant first occupied the Premises;
 - (vi) all cables, wires, ducting and pipes installed by or on behalf of the Tenant being removed from the Premises and terminated at the source;
 - (vii) any part of the Premises structure in which holes have been made by or on behalf of the Tenant being made good; and
 - (viii) ensuring that the ceiling tiles and the ceiling support grid are in good repair.

- (b) Despite anything to the contrary in this Lease, this Lease will be deemed to continue until such time as the Tenant complies with all of its obligations under clause 12.3(a).

12.4. **Holding Over**

- (a) If the Landlord agrees to the Tenant remaining in the Premises after the expiry or earlier termination of this Lease, the Tenant will be a monthly tenant at a rent equal to one-twelfth of the Rent payable at the expiry or earlier termination of this Lease, payable monthly in advance and otherwise on the same terms as this Lease.
- (b) The monthly tenancy under clause 12.4(a) can be terminated at any time by either the Landlord or the Tenant giving the other 1 Month written notice, expiring on any day.

12.5. **Essential Terms and Damages**

- (a) The following are essential terms of this Lease:
 - (i) that the Tenant pay the Rent and any other money payable by the Tenant under this Lease no later than 14 days after their due dates;
 - (ii) clause 6.1(a); and
 - (iii) clause 10.1.
- (b) The Tenant will compensate the Landlord for any loss or damage suffered by the Landlord because of the Tenant's breach of an essential term of this Lease.
- (c) The Landlord can recover damages from the Tenant for any loss or damage suffered by the Landlord because of the repudiation or breach of this Lease during the entire Term, including both before and after any of the events listed below:
 - (i) the Tenant vacating the Premises;
 - (ii) the Landlord accepting the Tenant's repudiation of this Lease;
 - (iii) the Landlord lawfully re-entering the Premises or terminating this Lease; and
 - (iv) this Lease being surrendered by operation of law because of the Tenant's and the Landlord's conduct.
- (d) If the Tenant (whether with or without the Landlord's consent) vacates the Premises, the Landlord will take reasonable steps to mitigate the Landlord's damages and will try to lease the Premises at a rent and on terms satisfactory to the Landlord. The Landlord's entitlement to damages will be assessed on the basis that the Landlord has mitigated its damages.

12.6. **INTENTIONALLY DELETED**

13. **GUARANTEE**

13.1. **Bank Guarantee**

- (a) If an amount is stated in Item 18, this clause 13.1 applies to this Lease unless the Tenant pays a Security Deposit in accordance with clause 13.3 below.
- (b) Before the earlier of the Commencing Date and the date that the Tenant first occupies the Premises, the Tenant will deliver the Bank Guarantee to the Landlord.
- (c) If for any reason the Bank Guarantee held by the Landlord is for less than the amount stated in Item 18, the Tenant will within 7 Business Days of written notice from the Landlord, provide to

the Landlord additional security by way of Bank Guarantee for such amount as is necessary to ensure that the Landlord holds a Bank Guarantee for not less than the amount stated in Item 18.

- (d) The Landlord is entitled to claim under the Bank Guarantee amounts equal to any monies due but unpaid by the Tenant to the Landlord under this Lease.
- (e) The Landlord will deliver the Bank Guarantee (or so much of the Bank Guarantee as is then held by the Landlord) to the Tenant not later than 14 days after the last to occur of:
 - (i) the Terminating Date of this Lease or, if applicable, the Terminating Date of the last of the Option Leases (whichever is the later);
 - (ii) the expiry date of any holding over under this Lease or, if applicable, under the Option Lease (whichever is the later); and
 - (iii) the date that the Tenant complies with all the Tenant's obligations under this Lease or, if applicable, the date that the Tenant complies with all the Tenant's obligations under the last of the Option Leases (whichever is the later).
- (f) If the identity of the Landlord changes the Tenant will do all things necessary to ensure a replacement Bank Guarantee issues in favour of the then Landlord no later than 14 days after written request from the Landlord.

13.2. Guarantee and Indemnity

- (a) The expression *this Lease* in this clause includes the Option Leases.
- (b) In consideration of the Landlord granting this Lease to the Tenant at the Guarantor's request, the Guarantor (as shown by the Guarantor signing this Lease) guarantees to the Landlord the punctual payment of all Rent and of the Tenant's Proportion of Outgoings and the punctual observance by the Tenant of all the Tenant's obligations under this Lease.
- (c) The Guarantor unconditionally indemnifies the Landlord in respect of any failure by the Tenant to make any payment or to perform any obligation under this Lease.
- (d) The Landlord and the Guarantor agree that this guarantee and indemnity is a continuing guarantee and indemnity which is absolute and unconditional in all circumstances and will remain in force until all the Tenant's obligations under this Lease are performed.
- (e) The Landlord and the Guarantor agree that this guarantee and indemnity will not be discharged by the payment of any monies on account or by any concession given to the Tenant or to the Guarantor or to any other Person or by any compounding, compromise, release, abandonment, waiver, variation, relinquishment or renewal of any of the Landlord's rights against the Tenant or the Guarantor or any other Person or by the Landlord's failure to enforce any such rights or by any other thing whatsoever which but for this clause might abrogate, prejudice or affect this guarantee and indemnity or by any variation or addition to this Lease.
- (f) The Landlord and the Guarantor agree that this guarantee and indemnity is in addition to any other rights which the Landlord has under this Lease and can be enforced against the Guarantor without the Landlord first having recourse to any other rights and without the Landlord first taking any action against the Tenant.
- (g) The Landlord and the Tenant agree that this guarantee and indemnity will not prejudicially affect or be prejudicially affected by any security held by the Landlord for any monies owing under this Lease and that such security will be collateral and the Guarantor will not, as against the Landlord, in any way claim the benefit or seek the transfer of any security.
- (h) The Guarantor warrants that the Guarantor has full power and authority to enter into this guarantee and indemnity and that the Guarantor's obligations under this guarantee and indemnity

are in no way diminished, fettered or controlled by any deed or instrument including, but not limited to, any debenture trust deed relating to securities issued or given by the Guarantor.

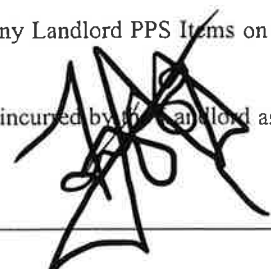
- (i) The Landlord and the Guarantor agree that this guarantee and indemnity will not be affected by any assignment, sub-letting or parting with possession of the Premises by the Tenant.

13.3. Security Deposit

- (a) If an amount is stated in Item 24, clause 13.3 applies to this Lease unless the Tenant provides a Bank Guarantee in accordance with clause 13.1 above.
- (b) Before the earlier of the Commencing Date and the date that the Tenant first occupies the Premises, the Tenant will deliver the Security Deposit to the Landlord.
- (c) The Landlord must deposit the Security Deposit with the Director-General in accordance with the *Retail Lease Act*.
- (d) If for any reason the Security Deposit is for less than the amount stated in Item 24, the Tenant will within 7 Business Days of written notice from the Landlord provide to the Landlord additional security by way of Security Deposit for such amount as is necessary to ensure that the Security Deposit is for not less than the amount stated in Item 24.
- (e) The Landlord is entitled to claim from the Security Deposit an amount equal to any monies due but unpaid by the Tenant to the Landlord under this Lease:
- (f) The Landlord will apply to the Director-General to pay the Security Deposit (or so much of the Security Deposit as is then held by the Director-General) to the Tenant after deduction of any amount due to the Landlord on the later of the following dates:
 - (i) whichever is the later of the Terminating Date of this Lease or, if applicable, the terminating date of the last of the Option Leases; and
 - (ii) whichever is the later of the date that the Tenant complies with all the Tenant's obligations under this Lease or, if applicable, the date that the Tenant complies with all the Tenant's obligations under the last of the Option Leases.

14. *PERSONAL PROPERTY SECURITIES ACT 2009 (CTH)*

- 14.1. The Tenant must notify the Landlord on or before the Commencement Date if the Tenant's Goods or any other personal property of the Tenant relevant to this Lease is subject to a Security Interest.
- 14.2. The Tenant agrees not to create a Security Interest in favour of a third party in respect of the Tenant's Goods or any other personal property of the Tenant relevant to this Lease except with the prior written consent of the Landlord, such consent not to be unreasonably withheld.
- 14.3. The Tenant:
 - (a) acknowledges that the grant of this Lease also constitutes the grant of a Security Interest in the Landlord PPS Items in favour of the Landlord, which interest the Landlord is entitled to register under the *PPS Act*;
 - (b) must do all things required by the Landlord from time to time (including, without limitation, signing any documents required by the Landlord) to enable the Landlord to register its above Security Interests under the *PPS Act*;
 - (c) warrants that it has not created a Security Interest in respect of any Landlord PPS Items on or prior to execution of this Lease; and
 - (d) must indemnify the Landlord against all claims, damages or loss incurred by the Landlord as a consequence of any breach by the Tenant of this clause.



15. **GENERAL**

15.1. **Change of Operating Hours of the Centre**

If the Landlord gets the written consent of a majority of the tenants of retail shop premises in the Centre, the Landlord can from time to time by giving 1 Month written notice to the Tenant change the Operating Hours of the Centre specified in Item 19 to such other hours as the Landlord reasonably requires.

15.2. **Tenant Contact**

The Tenant will ensure that the Landlord has the home address and telephone number of a 24 hour contact for the Tenant.

15.3. **Notices**

- (a) Any notice or other document to be given by the Landlord will be validly signed if signed by any managing agent, property manager, director, secretary, attorney or solicitor of the Landlord or by any Person nominated by the Landlord.
- (b) Any notice or document to be given under this Lease can be given:
 - (i) in any manner authorised by Section 170 of the *Conveyancing Act 1919*;
 - (ii) by being left at or posted to:
 - (A) an address shown in this Lease;
 - (B) in the case of a corporation, at its registered office;
 - (C) in the case of the Tenant, at the Premises; or
 - (iii) by fax.
- (c) A notice or document will be regarded as having been received:
 - (i) in the case of posting, 2 Business Days after it is placed in the post; or
 - (ii) in the case of a fax, when the machine sending the fax generates a report showing the total number of pages of the fax were successfully sent to the fax number of the addressee.
- (d) If any notice is received by a party after 5pm on any Business Day, the notice will be deemed to have been received on the next Business Day.

15.4. **Landlord's Consents and Costs**

Unless provided to the contrary in this Lease where:

- (a) the Landlord is required to exercise a discretion, the Landlord will exercise its discretion reasonably;
- (b) the Tenant is to pay the Landlord's costs, the Landlord will act reasonably in incurring such costs; and
- (c) the Landlord's consent or approval is required, such consent or approval will not be unreasonably withheld.

15.5. Landlord's approvals

- (a) The Tenant acknowledges that the Landlord, when giving approval in connection with this Deed or proposed work, has no objection to the act, matter or thing the subject of the approval.
- (b) Without limiting clause 15.5(a), neither the Landlord nor the Landlord's consultant, in giving approval or imposing a condition in connection with approval, assumes any duty of care to the Tenant or makes any warranty or representation in connection with the proposed work or the act, matter or thing the subject of the approval including any warranty as to suitability or fitness for intended purpose of any plans, drawings, specifications, materials, contractors, suppliers, construction methods or sequence of work or otherwise.

15.6. Relationship between the Parties

The only relationship between the parties to this Lease is that of Landlord and Tenant and the Guarantor on the terms of this Lease.

15.7. Miscellaneous

- (a) No waiver by the Landlord or the Tenant of any right under this Lease will be a waiver of any other right.
- (b) No action taken by either the Landlord or by the Tenant under this Lease will limit their other rights and remedies.
- (c) Termination of this Lease will not affect the rights of either the Landlord or the Tenant accrued before termination.

15.8. Common Areas

- (a) The Tenant can use the Common Areas jointly with the Landlord and with other Persons for access to the Premises and for any other purposes which the Landlord in its absolute discretion allows.
- (b) The Landlord can vary the Common Areas, temporarily close the Common Areas and do such other acts on the Common Areas as the Landlord in its absolute discretion decides.

15.9. Suitability of Premises and Centre

The Landlord gives no warranty and makes no representation to the Tenant that the Premises are or will remain suitable for the Tenant's purposes nor about any other Tenants in the Centre or likely in the future to be in the Centre.

15.10. Rules and Regulations

The Tenant will comply with any rules and regulations that the Landlord makes from time to time in relation to the Centre to the extent that such rules and regulations are not inconsistent with the Tenant's rights under this Lease.

15.11. Measurements

- (a) Any measurements of either the Premises or the Centre will be made in accordance with the then current method of measurement of the Property Council for retail premises located in shopping centres.
- (b) The Tenant acknowledges that the Tenant's Percentage of Outgoings was calculated in accordance with the Property Council method of measurement that applied at the Commencing Date and that such percentage may vary if the areas on which such calculation was made change.

15.12. Deemed Rent

The Landlord and the Tenant agree that any money due by the Tenant under this Lease but unpaid are deemed to be rent for the purposes of this Lease.

15.13. Interruption of Services

Subject to any law to the contrary, the Landlord is not liable to the Tenant for any loss or damage suffered by the Tenant because the Landlord's Equipment fails to function.

15.14. Strata Conversion

- (a) The Tenant acknowledges that the Landlord is entitled at any time to carry out a Strata Conversion.
- (b) The Landlord will give the Tenant as much prior notice as is reasonably practical of the Strata Conversion.
- (c) Within 7 days of written request by the Landlord the Tenant will sign and return to the Landlord any consents or other documents necessary to enable the Landlord to carry out the Strata Conversion and will make no objection or claim for compensation in relation to the Strata Conversion.
- (d) If the Strata Conversion occurs:
 - (i) any reference in this Lease to the Estate will be deemed to be a reference to the buildings comprised in the registered plan or plans of which the Premises form part;
 - (ii) any levies or other monies payable to the owners corporation will be payable by the Tenant (excluding contributions to the Capital Works Fund or its equivalent and special levies relating to the Capital Works Fund);
 - (iii) the Rules and Regulations will be deemed to include any by-laws of the owners corporation; and
 - (iv) this Lease will be deemed to be amended in any respect that is necessary to ensure that this Lease reflects the fact that the Strata Conversion has been carried out.

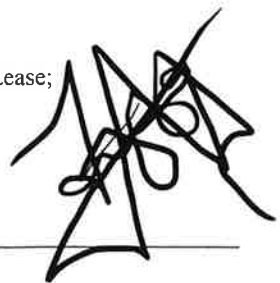
16. DEFINITIONS AND INTERPRETATION

16.1. Definitions

Unless otherwise provided in this Lease, the following words have the following meanings:

- (a) *Accounting Year* means each 12 Month period during the Term ending on 30 June or on such other date as the Landlord chooses and gives written notice of to the Tenant;
- (b) *Assignor's Disclosure Statement* has the meaning given in the *Retail Leases Act*;
- (c) *Authority* means any government, semi-government, city, municipal, administrative, statutory or judicial body, instrumentality, department, agency or similar entity;
- (d) *Bank Guarantee* means an irrevocable bank guarantee in a form approved by the Landlord from a bank trading in New South Wales under which the bank agrees to pay to the Landlord on demand not less than the amount of Rent and of the Tenant's Proportion of Outgoings stated in Item 18 increased by the rate of GST (applicable from time to time) expressed as a percentage;
- (e) *Business Day* means a day that is not a Saturday, Sunday, public holiday or bank holiday in Sydney;

- (f) *Centre* means the land and buildings described in Item 4 together with all improvements in the Centre owned or controlled by the Landlord, the Landlord's Equipment and any extensions or alterations to the Centre and includes any part of the Centre;
- (g) *Centre Operating Hours* means the hours stated in Item 19 as varied, if applicable, under this Lease;
- (h) *Commencing Date* means the lease starting date stated in Item 6;
- (i) *Common Areas* means all those parts of the Centre available for use by the Tenant in common with others and includes any part of the Common Areas;
- (j) *CPI Rent Review Date* means each of the dates stated in Item 11;
- (k) *Demolition Date* means the date specified in the Demolition Notice as the date on which this Lease is terminated;
- (l) *Demolition Notice* means a written notice given by the Landlord to the Tenant:
 - (i) if the Term is more than 12 Months, giving the Tenant not less than 6 Months prior notice of a Demolition Proposal and requiring the Tenant to vacate the Premises on the Demolition Date; and
 - (ii) provided that such notice shall not be served on or before 14 May 2023;
- (m) *Demolition Proposal* means a genuine proposal by the Landlord to carry out within a reasonably practical time a substantial repair, renovation or reconstruction of the Centre which cannot be carried out without vacant possession of the Premises;
- (n) *Demolition Termination Notice* means a written notice given by the Tenant to the Landlord terminating this Lease by giving not less than 7 Business Days prior notice;
- (o) *Director-General* means the Director-General of the NSW Department of State and Regional Development;
- (p) *GST* has the meaning given in *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*;
- (q) *Guarantor* means the person described in Item 3 and includes:
 - (i) if the Guarantor is a natural person, the Guarantor's executors and administrators; and
 - (ii) if the Guarantor is a corporation, the Guarantor's successors in title;
- (r) *Item* means an Item in the Schedule;
- (s) *Landlord and Lessor* means the Person described in Item 1 and includes:
 - (i) if the Landlord is a natural person, the Landlord's executors, administrators and assigns; and
 - (ii) if the Landlord is a corporation, the Landlord's successors in title and assigns;
- (t) *Landlord PPS Items* means any item of Personal Property which:
 - (i) is owned or leased by the Landlord; and
 - (ii) is situated on the Premises at any time during the term of this Lease;



- (u) *Landlord's Equipment* means:
- (i) all wires and cables, pipes drains and sewers, ducts, plant, machinery, fixtures fittings and equipment, kitchens, toilets, grease traps, wash basins, water gas and electrical fittings and equipment and other services in or to the Premises or the Centre owned or controlled by the Landlord, except the Tenant's Goods;
 - (ii) all plant and machinery for circulating air and ventilating or air conditioning the Centre owned or controlled by the Landlord; and
 - (iii) all fire fighting, detection, prevention, warning and evacuation equipment in the Centre;
- (v) *Lease* means this Lease and includes any other tenancy which exists between the Landlord and the Tenant;
- (w) *Lessor's Disclosure Statement* has the meaning given in the *Retail Leases Act*;
- (x) *Market Rent Review Date* means each of the dates stated in Item 10;
- (y) *Marketing Levy* means an amount equal to that proportion of the Rent stated in Item 23;
- (z) *Marketing Report* means a report given by the Landlord to the Tenant detailing any expenditure by the Landlord on advertising, promotion or marketing of the Centre to which a contribution by the Tenant is required;
- (aa) *Month* means calendar month;
- (bb) *Nominator* means the president or other principal officer (acting or otherwise) for the time being of the New South Wales Division of the Australian Property Institute (Inc) or the president or other principal officer (acting or otherwise) for the time being of the Real Estate Institute (NSW);
- (cc) *Option Lease* means the Option Lease (if any) referred to in Item 8;
- (dd) *Option Leases* means the Option Lease;
- (ee) *Outgoings* means the total of all the Landlord's costs and expenses paid or payable in relation to the Centre including, but not limited to, the following:
- (i) all rates, taxes, charges and assessments of every kind assessed, charged or imposed on the Landlord or the Centre not including GST, income tax or capital gains tax. In the case of land tax (including any similar tax on land), this means the land tax assessed or charged because of the Landlord's interest in the Centre calculated on the basis that the Centre is the only land owned by the Landlord, that the Centre is not subject to a special trust within the meaning of the *Land Tax Management Act 1956* and that the Landlord is not a company classified under Section 29 of the *Land Tax Management Act 1956*;
 - (ii) the cost of providing and maintaining services to the Centre including light, power, air-conditioning, ventilation, lifts, escalators, security, supervision, waste removal and the cleaning and lighting of the Common Areas;
 - (iii) the cost of operating, repairing and maintaining the Centre and the Landlord's Equipment (but not including structural or capital works);
 - (iv) the cost of the management, control and administration of the Centre including wages, on costs and consultancy fees;
 - (v) the cost of all premiums to insure the Centre in its full insurable replacement value including demolition and debris removal with an escalation provision, broker's fees and duty, valuations required for insurance purposes, loss of rent insurance and such other insurances as the Landlord requires;

- (vi) the cost of supplying towels, soap, sanitary units and other facilities in the washrooms and toilets of the Centre;
 - (vii) the cost of statutory inspections and reports;
 - (viii) the cost of purchasing, hiring, maintaining and servicing all plants and flowers, gardens, lawns, planted areas and artificial water courses;
 - (ix) the cost of pest control;
 - (x) the cost of Outgoings and Marketing Report audits; and
 - (xi) any payments in relation to car spaces in the Centre under the *Taxation Administration Act 1996* or of any other levy, charge or fee imposed by any competent Authority in relation to such car spaces or the use of such car spaces;
- (ff) *Outgoings Estimate* means a written estimate given by the Landlord to the Tenant in accordance with the *Retail Leases Act* of the Tenant's Proportion of Outgoings for any period up to 1 year in advance;
- (gg) *Outgoings Report* means a report given by the Landlord to the Tenant detailing all expenditure by the Landlord on Outgoings for the preceding Accounting Year;
- (hh) *Percentage Rent Review Dates* means each of the dates stated in Item 12;
- (ii) *Permitted Use* means the use specified in Item 16;
- (jj) *Person* includes natural persons and incorporated and unincorporated associations;
- (kk) *Personal Property* has the meaning given in the *PPS Act*;
- (ll) *PPS Act* means the *Personal Property Securities Act 2009 (Cth)*;
- (mm) *Premises* means the Premises described in Item 5 and any of the Landlord's Equipment located within or servicing the Premises and includes any part of the Premises;
- (nn) *Premises Services* means any services and facilities provided or installed by or for the Landlord in the Premises or for the benefit of the Premises in any false floor of the Premises or in any ceiling cavity or structural walls adjoining the Premises including but, not limited to, air-conditioning thermostats, ducts and outlets, fire sprinkler heads and piping, security and fire alarm equipment, lighting, central electrical switching arrangements, emergency lighting and exit signs;
- (oo) *Principal Contractor* has the same meaning as in the WH&S Regulation;
- (pp) *Property Council* means the Property Council of Australia Limited (ABN 13 008 474 422) trading as Property Council of Australia;
- (qq) *Refurbishment Proposal* means a genuine proposal by the Landlord to carry out within a reasonably practical time a refurbishment, redevelopment or extension of the Centre which cannot practically be carried out without vacant possession of the Premises;
- (rr) *Relocation Date* means the date specified in the Relocation Notice as the date on which the Tenant is to give vacant possession of the Premises to the Landlord;
- (ss) *Relocation Notice* means a written notice given by the Landlord to the Tenant:
- (i) specifying the Relocation Date, being a date not less than 3 Months after the Landlord gives the Relocation Notice;

- (ii) giving details of the Refurbishment Proposal and of the Substituted Premises;
- (iii) requiring the Tenant to surrender this Lease and to give vacant possession of the Premises to the Landlord on the Relocation Date; and
- (iv) requiring the Tenant to relocate to the Substituted Premises on the day after the Relocation Date;
- (tt) *Relocation Termination Notice* means a written notice given by the Tenant to the Landlord terminating this Lease as at that date which is 3 Months after the date that the Landlord gives the Relocation Notice to the Tenant;
- (uu) *Rent* means the amounts payable under clause 5.1;
- (vv) *Rent Agreement Period* means the period of 14 days during which the Landlord and the Tenant will try to agree on the annual current market rent to apply from a Market Rent Review Date;
- (ww) *Rent Review Notice* means a written notice given by the Landlord to the Tenant of the Landlord's assessment of the annual current market rent to apply as the Rent from a Market Rent Review Date;
- (xx) *Retail Leases Act* means the *Retail Leases Act 1994*;
- (yy) *Schedule* means the Schedule in Annexure A to this Lease;
- (zz) *Second Option Lease* means the lease for a further term referred to in Item 9;
- (aaa) *Security Deposit* means a sum of cash of an amount not less than the amount of Rent and of the Tenant's Proportion of Outgoings stated in Item 24 increased by the rate of GST (applicable from time to time) expressed as a percentage as provided in clause 13.3;
- (bbb) *Security Interest* has the meaning given in the *PPS Act*;
- (ccc) *Specialist Retail Valuer* has the same meaning as that term has in the *Retail Leases Act*;
- (ddd) *Substituted Premises* means those alternative premises in the Centre referred to in the Relocation Notice;
- (eee) *Substituted Premises Lease* means the lease of the Substituted Premises;
- (fff) *Tenant and Lessee* means the Person described in Item 2 and includes:
 - (i) if the Tenant is a natural person, the Tenant's executors, administrators and permitted assigns;
 - (ii) if the Tenant is a corporation, the Tenant's successors in title and permitted assigns;
 - (iii) unless contrary to the context, the Tenant's employees; and
 - (iv) unless contrary to the context, the Tenant's licensees, subtenants, contractors, agents, customers and visitors at any time in the Centre;
- (ggg) *Tenant's Goods* means all the Tenant's fixtures, fittings and goods in the Premises and includes any fixtures, fittings and goods of a previous occupier of the Premises but does not include any fixtures, fittings or goods in the Premises to replace the Landlord's Equipment;

- (hhh) *Tenant's Proportion of Outgoings* is the proportion of the Outgoings payable by the Tenant which, as at the date that the Tenant first occupied the Premises, is the proportion stated in Item 14;
- (iii) *Tenant's Sales* means the gross amount received or receivable whether as cash or otherwise by the Tenant from the sale of goods, hirings or the provision of services at or associated with the Tenant's business at the Premises;
- (jjj) *Term* means the term of this Lease as stated in Item 6;
- (kkk) *Terminating Date* means the lease ending date stated in Item 6;
- (lll) *Tribunal* has the meaning given in the *Retail Leases Act*;
- (mmm) *Turnover Rent* means an amount equal to that percentage of the Tenant's Sales stated in Item 22 that exceed the Turnover Rent Base Figure stated in Item 21;
- (nnn) *WH&S Laws* means the laws relating to work health and safety that apply to the Premises and the use of it and includes the *WH&S Regulation*; and
- (ooo) *WH&S Regulation* means the *Work Health and Safety Regulation 2011 (NSW)*.

16.2. Interpretation

Unless otherwise provided in this Lease:

- (a) all covenants or obligations in this Lease are to be regarded as separate and independent covenants made by 1 party to this Lease in favour of the other parties;
- (b) the law of New South Wales and the jurisdiction of the New South Wales Courts and of the High Court and Federal Court of Australia apply to this Lease;
- (c) the Landlord and the Tenant agree that nothing will be implied by this Lease or will arise between the Landlord and the Tenant (whether by other agreement or because of any promise, representation, warranty or undertaking given by or for the Landlord or the Tenant);
- (d) reference to any body (including, but not limited to, any institute, association, Authority or government agency) which ceases to exist or whose powers or functions are transferred to any other body also includes the body which replaces it or which substantially takes over its powers and functions;
- (e) headings in this Lease do not form part of the content of this Lease and do not affect the meaning of this Lease;
- (f) Sections 84, 85 and 133B of the *Conveyancing Act 1919* do not apply to this Lease;
- (g) words importing the singular include the plural and vice versa and words importing a particular gender include every gender;
- (h) any agreement in this Lease by 2 or more Persons binds them jointly and each of them separately;
- (i) if any part of this Lease is invalid, illegal or unenforceable, the remaining parts of this Lease will not be affected and will continue to be enforceable;
- (j) references to statutes, regulations, ordinances and by-laws include all statutes, regulations, ordinances and by-laws amending, consolidating or replacing them;
- (k) words and expressions that are not defined in this Lease but which have a defined meaning in the *PPS Act* have the same meaning as in the *PPS Act*;

- (l) a provision of this Lease must not be construed against a party only because that party was responsible for preparation of this Lease or the drafting of that provision; and
- (m) *including* and similar expressions are not words of limitation.

A handwritten signature in black ink, consisting of stylized, overlapping loops and lines, located in the bottom right corner of the page.

Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the corporation named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified:

Corporation: **KHUN & TAN ENTERPRISES P/L ATF SANSREY FAMILY TRUST** (1234 56 7890 1234)

Authority: Section 127 of the Corporations Act 2001

Signature of authorised person:



Name of authorised person: [REDACTED]

Office held: Sole Director/Secretary

I certify I am an eligible witness and that the lessee signed this dealing in my presence.

Signature of Witness:

Signature of Lessee:

Name of Witness:

Address of Witness:

Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the corporation named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified:

Corporation: **BOGI AUSTRALIA PTY LTD T/AS SIGNMO** (1234 56 7890 1234)

Authority: Section 127 of the Corporations Act 2001

Signature of authorised person:

Name of authorised person: [REDACTED]

Office held: Sole Director/Secretary

I certify I am an eligible witness and that the lessee signed this dealing in my presence.

Signature of Witness:



Signature of Lessee:

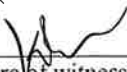


Name of Witness:

Address of Witness:

[REDACTED]
[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

Signed in my presence by the Guarantor who is personally known to me.



Signature of witness:

Name of witness:

[REDACTED]

Address of witness:

[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]



Signature of Guarantor:

[REDACTED]

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Annexure B

PLAN SHOWING AREA'S TO BE LEASED OVER LOTS 1 & 2 DP 319436 No. 600 PACIFIC HIGHWAY, BELMONT

SCALE 1:200

