

Contract for the sale and purchase of land 2022 edition

TERM	MEANING OF TERM	NSW DAN:
vendor's agent	PRD Penrith Unit 1 27 Lawson Street PENRITH NSW 2750	phone: 02 4732 3711 email: admin@prd.net.au
co-agent		
vendor	Marie Ann Gallagher, Charles Chitos 15 Blue Ridge Place ORCHARD HILLS NSW 2748	
vendor's solicitor	Joseph Grassi + Associates PO Box 286, PENRITH 2751	phone: (02) 4702 5905 email: info@grassiassociates.com.au ref: 251156
date for completion	42 days after the contract date	(clause 15)
land (address, plan details and title reference)	437 High Street Penrith NSW 2750 LOT 2 DEPOSITED PLAN 82325 Folio Identifier 2/82325	
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: Commercial Shops	
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	
balance	_____ (10% of the price, unless otherwise stated)
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."

VENDOR		PURCHASER													
<p>Signed by</p> <p>Marie Ann Gallagher</p> <hr/> <p>Vendor</p> <p>Charles Chitos</p> <hr/> <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> <table><tr><td>_____ Signature of authorised person</td><td>_____ Signature of authorised person</td></tr><tr><td>_____ Name of authorised person</td><td>_____ Name of authorised person</td></tr><tr><td>_____ Office held</td><td>_____ Office held</td></tr></table>		_____ Signature of authorised person	_____ Signature of authorised person	_____ Name of authorised person	_____ Name of authorised person	_____ Office held	_____ Office held	<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> <table><tr><td>_____ Signature of authorised person</td><td>_____ Signature of authorised person</td></tr><tr><td>_____ Name of authorised person</td><td>_____ Name of authorised person</td></tr><tr><td>_____ Office held</td><td>_____ Office held</td></tr></table>		_____ Signature of authorised person	_____ Signature of authorised person	_____ Name of authorised person	_____ Name of authorised person	_____ Office held	_____ Office held
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_____ Office held	_____ Office held														

ChoicesVendor 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**☒ NO ☐ yes (if yes, vendor must provide

(GST residential withholding payment)

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

General	Strata or community title (clause 23 of the contract)
<ul style="list-style-type: none"> <input checked="" type="checkbox"/> 1 property certificate for the land <input checked="" type="checkbox"/> 2 plan of the land <input type="checkbox"/> 3 unregistered plan of the land <input type="checkbox"/> 4 plan of land to be subdivided <input type="checkbox"/> 5 document that is to be lodged with a relevant plan <input checked="" type="checkbox"/> 6 section 10.7(2) planning certificate under Environmental Planning and Assessment Act 1979 <input type="checkbox"/> 7 additional information included in that certificate under section 10.7(5) <input checked="" type="checkbox"/> 8 sewerage infrastructure location diagram (service location diagram) <input checked="" type="checkbox"/> 9 sewer lines location diagram (sewerage service diagram) <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 <input type="checkbox"/> 11 <i>planning agreement</i> <input type="checkbox"/> 12 section 88G certificate (positive covenant) <input type="checkbox"/> 13 survey report <input type="checkbox"/> 14 building information certificate or building certificate given under <i>legislation</i> <input type="checkbox"/> 15 occupation certificate <input checked="" type="checkbox"/> 16 lease (with every relevant memorandum or variation) <input type="checkbox"/> 17 other document relevant to tenancies <input type="checkbox"/> 18 licence benefiting the land <input type="checkbox"/> 19 old system document <input type="checkbox"/> 20 Crown purchase statement of account <input type="checkbox"/> 21 building management statement <input checked="" type="checkbox"/> 22 form of requisitions <input type="checkbox"/> 23 <i>clearance certificate</i> <input type="checkbox"/> 24 land tax certificate 	<ul style="list-style-type: none"> <input type="checkbox"/> 33 property certificate for strata common property <input type="checkbox"/> 34 plan creating strata common property <input type="checkbox"/> 35 strata by-laws <input type="checkbox"/> 36 strata development contract or statement <input type="checkbox"/> 37 strata management statement <input type="checkbox"/> 38 strata renewal proposal <input type="checkbox"/> 39 strata renewal plan <input type="checkbox"/> 40 leasehold strata - lease of lot and common property <input type="checkbox"/> 41 property certificate for neighbourhood property <input type="checkbox"/> 42 plan creating neighbourhood property <input type="checkbox"/> 43 neighbourhood development contract <input type="checkbox"/> 44 neighbourhood management statement <input type="checkbox"/> 45 property certificate for precinct property <input type="checkbox"/> 46 plan creating precinct property <input type="checkbox"/> 47 precinct development contract <input type="checkbox"/> 48 precinct management statement <input type="checkbox"/> 49 property certificate for community property <input type="checkbox"/> 50 plan creating community property <input type="checkbox"/> 51 community development contract <input type="checkbox"/> 52 community management statement <input type="checkbox"/> 53 document disclosing a change of by-laws <input type="checkbox"/> 54 document disclosing a change in a development or management contract or statement <input type="checkbox"/> 55 document disclosing a change in boundaries <input type="checkbox"/> 56 information certificate under Strata Schemes Management Act 2015 <input type="checkbox"/> 57 information certificate under Community Land Management Act 2021 <input type="checkbox"/> 58 disclosure statement - off the plan contract <input type="checkbox"/> 59 other document relevant to the off the plan contract
<p>Home Building Act 1989</p> <ul style="list-style-type: none"> <input type="checkbox"/> 25 insurance certificate <input type="checkbox"/> 26 brochure or warning <input type="checkbox"/> 27 evidence of alternative indemnity cover <p>Swimming Pools Act 1992</p> <ul style="list-style-type: none"> <input type="checkbox"/> 28 certificate of compliance <input type="checkbox"/> 29 evidence of registration <input type="checkbox"/> 30 relevant occupation certificate <input type="checkbox"/> 31 certificate of non-compliance <input type="checkbox"/> 32 detailed reasons of non-compliance 	<p>Other</p> <ul style="list-style-type: none"> <input type="checkbox"/> 60

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 <i>served</i> 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</i> by a <i>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, 1/11 th 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, all fixtures 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.

437 HIGH ST PENRITH NSW 2750

ADDITIONAL CONDITIONS attaching to the **CONTRACT FOR SALE OF LAND**

33. Interpretation and amendments

33.1 Interpretation

The following rules of interpretation apply unless the context requires otherwise: -

- (a) The singular includes the plural and conversely.
- (b) A gender includes all genders.
- (c) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) “clause”, “paragraph” or “sub-clause” means clause, paragraph or sub-clause, respectively, of this contract.
- (e) Unless stated otherwise, one provision does not limit the effect of another.
- (f) A reference to “solicitor” includes a party’s representative if named in the contract.
- (g) A reference to this contract includes any amendment, novation, supplement, variation or replacement to it from time to time, except to the extent prohibited by this contract.

33.2 Service on non-business day

Where a document is served on a day which is not a business day, it will be taken to have been served on the commencement of the next business day.

33.3 Service by email

- (a) Despite anything in clause 20.6, a document under or relating to this contract is regarded as served if:
 - (i) it is sent by electronic mail to a party's solicitor;
 - (ii) it is sent on a business day;
 - (iii) the delivery receipt is received for electronic mail; and
 - (iv) the delivery receipt does not state that any error occurred in transmission.
- (b) If the delivery receipt states that the document was sent:
 - (i) on or before 5.00 pm on the transmission day - the document is served when transmission is completed; or
 - (ii) after 5.00 pm on the transmission day - the document is served at 9.00 am on the next business day.

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33.4 Documents attached to the contract (Paragraph (b) replaces clause 20.1)

- (a) For the purpose of clause 10, the substance of all material contained in any document (or copy of any document) attached to this contract is disclosed in this contract.
- (b) If before this contract is signed by or on behalf of the Purchaser a document or copy of a document, at the request of the Vendor or the Vendor's solicitor, was attached to this contract by or on behalf of the Purchaser or the Purchaser's solicitor, the person attaching that document or copy did so as the agent of the Vendor.

33.5 Severance

Any provision of this contract which is prohibited or unenforceable is ineffective to the extent of the prohibition or unenforceability but the validity or enforceability of the remaining provisions of this contract will not be affected.

33.6 Further amendment to clauses 1 to 29 inclusive

- (a) The definition of "*requisition*" in clause 1 is amended to read "*an objection, question, requisition or claim.*"
- (b) Clause 5.3 is deleted.
- (c) In clause 8 the words "*The vendor can rescind if*" are deleted and the words "*Notwithstanding any other provision contained in this contract, the vendor can rescind if*" in lieu thereof.
- (d) In clause 8.1 delete the words "*on reasonable grounds*".
- (e) Delete "*substance*" in clauses 10.1.8 and 10.1.9 and insert in lieu thereof the word "*existence*".
- (f) Clause 14.4.2 is deemed deleted from this contract in circumstances where the purchaser is purchasing on behalf of a special trust or is or will be a non-concessional company, within the meaning of the *Land Tax Management Act, 1956*.

34. BREACH OF STATUTORY WARRANTY BY VENDOR

- (a) If the Vendor breaches any warranty under *section 52A(2)(a) of the Conveyancing Act 1919* and/or the *Conveyancing (Sale of Land) Regulation 2022*, the Vendor may, before completion, serve a notice:
 - (i) specifying the breach;
 - (ii) requesting the Purchaser to serve a notice irrevocably waiving the breach ("Waiver"); and
 - (iii) indicating that the Vendor intends to rescind this contract if the Waiver is not served within 14 days of service of the notice.

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- (b) The Vendor may rescind if;
 - (i) the Vendor serves notice under paragraph (a); and
 - (ii) the Purchaser does not serve the Waiver within the time required under the notice.
 - (iii) is declared bankrupt,

then the other party may rescind this contract, **PROVIDED THAT** If the Purchaser serves a Waiver before the Vendor rescinds, the Vendor is no longer entitled to rescind.

35. NOTICE TO COMPLETE

35.1 Issue of notice

- (a) If completion does not occur on or before 3.00 p.m. on the completion date as a result of the breach of or default by a party, then the other party may:
 - (i) at any time serve a notice requiring completion of this contract on a specified date (being not less than 14 days ("Notice Period") after the date of service of that notice); and
 - (ii) make time of the essence for compliance with that notice.
- (b) The parties agree that the Notice Period is sufficient.

35.2 Notice Period

For the purpose of calculating the Notice Period:

- (a) the Notice Period commences at midnight on the business day on which the notice is served; and
- (b) a reference to a day means the period of time commencing at midnight and ending 24 hours later.

35.3 Time essential

Any notice making time of the essence may specify any time of the day between 11.00 a.m. and 3.00 p.m. as the time for performance of any obligation under this contract in which event performance by that specified time is of the essence.

36. INTEREST

36.1 Payment of interest

Payment does not occur on or before completion date, the Purchaser shall pay to the Vendor, in cash on completion, interest calculated:

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- (a) daily at the rate of 10% per annum; and
 - (b) on the balance of the purchase price under this contract,
- in respect of the period (“Interest Period”) commencing on the day following the completion date and ending on completion.

36.2 Essential term

The Purchaser may not require the vendor to complete this contract unless interest payable under this contract is paid to the Vendor on completion. It is an essential term of this contract that the interest is paid.

36.3 Delay by Vendor

Clause 36.1 does not apply in respect of any part of the Interest Period during which completion has been delayed due to the fault of the Vendor.

36.4 Completion after 3.00 p.m.

If due to no fault of the Vendor completion takes place after 3.00 p.m. on the completion date or after 3.00 p.m. on any day after the completion date, sub-clause 1 applies as if completion takes place on the business day after the day on which completion actually takes place.

37. NO WARRANTY

Without in any manner excluding modifying or restricting the rights of the Purchasers pursuant to section 52A(2)(b) of the Conveyancing Act 1919 and the Conveyancing (Sale of Land) Regulation 2022, the vendor makes no warranty as to the completeness or accuracy of any of the documents or copy documents annexed hereto.

38. INFORMATION FOR TRANSFER

For the purposes of clause 4.3, the Purchasers acknowledge that sufficient information needed for the form of transfer is disclosed in this contract and the vendor is under no obligation to provide any further such information to the Purchasers.

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39. PROPERTY SOLD IN PRESENT CONDITION

39.1 Without in any manner excluding, modifying or restricting the rights of the Purchaser pursuant to section 52A(2)(b) of the *Conveyancing Act 1919* and the *Conveyancing (Sale of Land) Regulation 2022*: -

- (a) the property is sold in its condition and state of repair (including structural repair) at the date of this contract and subject to all faults and defects both latent and patent and any infestations and dilapidations, and the Purchaser shall not make any objection, requisition or claim for compensation or attempt to delay completion regarding the same;
- (b) no objection, requisition or claim for compensation or attempt to delay completion shall be made by the Purchasers should any water or sewerage remain or any underground or surface storm water pipe or drain pass through, over or under or should any sewer manhole or vent be upon the property or should the downpipes be connected to the sewer.

39.2 The Purchaser acknowledges and warrants that the Purchaser: -

- (a) has not been induced to enter into this contract by any statement made or given by or on behalf of the Vendor; and
- (b) has relied entirely upon suitable enquires and inspections as to the condition of the property and the purposes for which it can be used before entering into this contract.

40. CLAIMS FOR COMPENSATION

In relation to a claim pursuant to clause 7, if the total amount claimed is less than or equal to 1% of the price and if the Contract has not been rescinded in accordance with clause 7.1 then either party may require this contract to be completed in accordance with the provisions of this contract and clause 7.2 shall apply.

41. ADDITIONAL RIGHTS OF RESCISSION

If a party to this contract:-

- (a) is a corporation, and before completion: -
 - (i) enters into a scheme;
 - (ii) it makes any arrangement for the benefit of creditors;
 - (iii) an order is made to wind up the party;
 - (iv) a Liquidator, Administrator or Official Manager is appointed in respect of the parties;

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- (v) a Mortgagee enters into possession of all essential parts of the assets of the parties;
- (vi) a Receiver, Receiver and Manager or Agent of a Mortgages as appointed to all for a substantial part of the assets of the party; or
- (b) Is an individual who before completion: -
 - (i) dies;
 - (ii) becomes mentally ill; or
 - (iii) is declared bankrupt,

then the other party may rescind this contract.

42. REAL ESTATE AGENT

42.1 Purchaser's Warranty

The Purchaser warrants that the Purchaser was not introduced to the Vendor or to the property by any real estate agent or any other who may be entitled to claim commission from the Vendor in respect of this sale other than the Vendor's Agent (if any) specified in this contract.

42.2 Purchaser's Indemnity

The Purchaser indemnifies the Vendor against any claim by any agent or any other person arising out of or as a consequence of any breach of warranty in sub-clause 42.1 and against all costs and expenses incidental to defending any such claim. It is agreed that this indemnity shall be a continuing indemnity and shall not merge on completion.

42.3 Vendor's Warranty

The Vendor warrants that it has not entered into any selling agency agreement with any agent other than the agent referred to in this contract.

43. PURCHASER TO COMPLY WITH WORK ORDER

Notwithstanding clause 11.1 the Vendor need not comply with a work order made on or before the contract date if the work order is made as a consequence of a request, prior to the exchange of contracts by the Purchaser or any person on his behalf, to the responsible Council for a building certificate under *division 6.7* of the *Environmental Planning & Assessment Act, 1979*.

44. ADJUSTMENT OF WATER USAGE CHARGES

44.1 Allowance on Completion

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The Vendor must, on completion, allow amounts for water and sewerage usage charges for which the relevant authority has not issued accounts. The amounts must be calculated by multiplying:

- (a) the number of unbilled days up to and including the adjustment date by;
- (b) the average charge per day for usage for the last period for which an account was issued.

44.2 Vendor not liable to Purchaser

Other than the above, the Vendor is not liable to account to the Purchaser for water and sewerage usage charges for which the relevant authority has not issued accounts.

45. INTENTIONALLY DELETED

46. WARRANTIES

46.1 For the purpose of this clause 46: -

“Contamination” has the same meaning as is referred to in section 5(1) of the *Contaminated Land Management Act, 1997* (as amended) (“the CLM Act”) and includes the existence or likely existence of any substance (whether a solid, liquid or gas) of whatever kind or connection, whether existing or future, including: -

- (a) Anything which would or would be likely to make the property unsafe under the Work Health and Safety Act 2011;
- (b) Anything which is stated to be a contaminant or pollutant in any criteria for soil or groundwater contamination adopted, applied or otherwise relied on by the Environmental Protection Authority;

“Remediation” has the same meaning as is referred to in section 4 of the CLM Act, including any work or other action relating to Contamination, including without limitation: -

- (a) The capping, treatment, monitoring or removal of Contamination in accordance with the provisions of the CLM Act, the *Environmental Hazardous Chemicals Act, 1985* (as amended) or any act which replaces those Acts; or
- (b) The validation of any such work or action.

The Purchaser warrants to the Vendor that, because of the Purchaser's own inspection and enquiries, the Purchaser: -

- (a) Is satisfied as to the nature, quality, condition and state of repair of the property;
- (b) Accepts the property as it is, subject to all defects (latent or patent), dilapidation and infestation; and

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(c) Is satisfied that the purposes for which the property may be used.

46.2 The Purchaser may not make any objection, acquisition or claim or delay completion of or rescind or terminate this contract because of anything in connection with: -

- (a) the nature, quality, condition or state of repair of the property, including defects (latent or patent), dilapidation or infestation of the property;
- (b) the purposes for which the property may be used;
- (c) loss, damage, dilapidation, infestation, mechanical breakdown or reasonable wear and tear which may affect the property between the date of this contract and completion;
- (d) the presence in or upon the property of hazardous substances;
- (e) the presence of any sewer, manhole or vent on the property;
- (f) any rainwater downpipes being connected to the sewer; and
- (g) Any matter disclosed in this contract.

46.3 Without limiting the generality of the preceding paragraph, the Purchaser acknowledges that neither the Vendor nor anyone on behalf of the Vendor has made any representation or warranty upon which the Purchaser relies as to the fitness or suitability for any particular purpose or otherwise in respect of the property or any part thereof or of any financial return or income to be derived there from.

46.4 (a) The Purchaser agrees not to raise any requisition or claim for compensation or delay completion by reason of any Contamination.

(b) The Vendor does not give and is not required to give under this clause any representation or warranty concerning the existence of any Contamination of the property, and the purchaser relies on its own enquiries.

(c) On and from completion, the Purchaser unconditionally and irrevocably: -

- (i) Releases the Vendor from all legal liability for damages, losses, claims, demands, costs and expenses or other legal liability arising out of or in connection with any Contamination of the property or adjacent land; and
- (ii) Indemnifies the Vendor from and against the costs and expenses of any Remediation or other legal liability of any kind in relation to Contamination of the property or adjacent land with a cost, expense or legal liability arising on or at completion. The Vendor is not required to incur any costs or expenses before claiming under this indemnity.

47. GOODS AND SERVICES TAX (GST)

47.1 In this clause 47:

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GST means any tax calculated by reference to the value of goods or services provided calculated and levied at the point of sale or supply of the goods or services and includes GST within the meaning of that abbreviation in the GST Act.

GST Act means *A New Tax System (Goods & Services Tax) Act 1999* and includes other GST related legislation and regulations under the legislation as amended from time to time.

- 47.2 The parties agree that the sale of the Property under this contract involves the GST-free sale of a going concern within the meaning of subdivision 38J of the GST Act and accordingly, the Vendor will, in supplying a tax invoice, show GST as nil.
- 47.3 Notwithstanding clause 47.2 if at any time the Commissioner of Taxation lawfully advises either party that the sale of the Property the subject of this contract does not involve the sale of a going concern and that accordingly GST is payable in relation to the transaction, then the Purchaser will be liable to pay the GST and the Purchaser will indemnify the Vendor in relation to the amount of GST payable by the Vendor in relation to the transaction. The Vendor will provide the Purchaser with an appropriate tax invoice in the event that the Commissioner of Taxation decides that GST is payable in relation to the transaction.
- 47.4 For the purposes of this clause 47 the Purchaser warrants that it is registered or required to be registered under the GST Act.
- 47.5 The Vendor warrants it has an ABN and agrees that it will carry on the enterprise conducted in respect of the property in the same manner as the enterprise is currently conducted up to and including completion.
- 47.6 This clause 47 will not merge on completion but will enure for the benefit of the parties hereafter.

48. PURCHASER'S ACKNOWLEDGMENTS

48.1 No Claim

The Purchaser cannot make a claim, objection or requisition or rescind or terminate in respect of:

- (a) the presence of any sewer, manhole or vent on the property;
- (b) any rainwater downpipe being connected to the sewer;
- (c) any environmental hazard or contamination; and/or
- (d) any latent or patent defect in the property.

48.2 Release and Indemnity

- (a) From the date of completion, the Purchaser releases and discharges the Vendor from all actions, suits, causes of action, claims and demands (including, without limitation, any claim or demand for costs or expenses) which the Purchaser:

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- (i) now has; or
- (ii) may have in the future,

against the Vendor arising out of or in any way connected with the matters referred to in this contract.

- (b) From the date of completion, the Purchaser will indemnify the Vendor against any claims, liability, demands, suits, proceedings, losses, costs, penalties or damages incurred by the Vendor as a result, directly or indirectly arising out of the matters referred to in this contract.

49. PPSA

49.1 Application

This general condition applies if any part of the property is subject to a security interest to which the *Personal Property Securities Act 2009 (Cth)* ("the Act") applies.

49.2 Pre-Settlement Requirements

Subject to the general conditions below, the Vendor must ensure that at or before settlement, the purchaser receives:

- (a) A release from the secured party releasing the security interest in respect of the property; or
- (b) A statement in writing in accordance with section 275(1)(b) of the Act setting out that the amount or obligation that is secured is nil at the due date for settlement; or
- (c) A written approval or correction in accordance with section 275(1)(c) of the Act indicating that, on the due date for settlement, the personal property included in the contract is not or will not be property in which the security interest is granted,

if the security interest is registered in the Personal Property Securities Register ("the Register").

49.3 Items sold in the Ordinary Course of Business

The Vendor is not obliged to ensure that the purchaser receives a release, statement, approval or correction in respect of any personal property that is sold in the ordinary course of the Vendor's business of selling personal property of that kind unless, in the case of goods that may or must be described by serial number in the Register, the purchaser advises the Vendor at least 21 days before the due date for settlement that the goods are to be held as inventory.

49.4 Circumstances where no Release Required

The Vendor is not obliged to ensure that the Purchaser receives a release, statement, approval or correction in respect of any personal property that:

- (a) Is not described by serial number in the Register;
- (b) Is predominantly used for personal, domestic or household purposes; and

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- (c) Has a market value of not more than \$5,000.00 or, if a greater amount has been prescribed for the purposes of section 47(1) of the Act, not more than that prescribed amount.

49.5 Form

A release must be in writing and in an approved form.

49.6 Release

If the Purchaser receives a release the purchaser must provide the Vendor with a copy of the release at or as soon as practicable after settlement.

49.7 Undertaking

In addition to ensuring a release is received the Vendor must ensure that at or before settlement the purchaser receives a written undertaking from a secured party to register a financing change statement to reflect that release if the property being released includes goods of a kind that are described by serial number in the Register.

49.9 Security Interest to be Released

The Purchaser must inform the Vendor of any security interest that the Purchaser reasonably requires to be released at least 21 days before the due date for settlement.

49.10 Purchaser to Inform Vendor

If the Purchaser does not inform the Vendor, the Vendor may delay settlement until 21 days after the Purchaser informs the Vendor of the security interests that the Purchaser reasonably requires to be released.

49.11 Vendor's Rights

If settlement is delayed due to the Purchaser not providing the information, the Purchaser must pay the Vendor:

- (a) Interest from the due date for settlement until the date on which settlement occurs or 21 days after the Vendor receives the information, whichever is the earlier; and

- (b) Any reasonable costs incurred by the Vendor as a result of the delay,

as though the Purchaser was in default.

49.12 Interpretation

Words and phrases have the meaning given to them in the Act.

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50. GOVERNING LAW

The Vendor and the Purchaser agree that this contract shall be construed according to the laws of New South Wales and they each submit to the non-exclusive jurisdiction of the Courts of New South Wales in respect of all matters arising under or in connection with this contract.

51. NOTICES

Notwithstanding the provisions contained in clause 20.6, a document shall be sufficiently served for the purpose of this contract if the document is sent by facsimile transmission to any party whose facsimile number appears in this contract and in any case where a document is served on party or its solicitor by facsimile transmission then service shall be deemed to be fully given or made when the transmission has been completed except where:

- (a) the sender's machine indicates a malfunction in transmission or the recipient immediately notifies the sender of an incomplete transmission in which case the facsimile transmission shall not be deemed to have been given or made;
- (b) the time of dispatch is not a day on which business is generally carried on in the place to which such notice is sent or is at or after 17:00 (local time) on a business day, in which case the document shall be deemed to have been received on the next business day.

52. SEVERABILITY

Each clause and sub-clause of the conditions of this contract shall be severable from each other clause and sub-clause and if for any reason any clause or sub-clause is invalid or unenforceable including due to the operation of section 52A of the *Conveyancing Act 1919* or the *Conveyancing (Sale of Land) Regulations 2022*, then this contract will be read and construed as if that provision is severed from this contract and the invalidity of that provision shall not prejudice or in any way affect the validity or enforceability of any of the remaining clauses.

53. GENERAL NON-MERGER

Notwithstanding the completion of this contract and notwithstanding the registration of the transfer in favour of the Purchaser any clause or special condition to which effect is not given by such completion or registration and which is capable of taking effect after completion or registration will not merge but will remain in full force and effect.

54. TENANCIES AND NEW TENANCIES

- (a) The Purchaser purchases the property subject to such of the leases, licences and other occupancy rights (if any) as set out in the copies of leases annexed hereto or otherwise specified or referred to in this contract ("the Tenancies") which are subsisting on completion.

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- (b) The Vendor shall not between the date hereof and the date of completion without the consent of the Purchaser (which consent shall not be unreasonably withheld), grant any new lease, licence or other occupancy rights ("New Tenancy") in respect of premises forming part of the property **PROVIDED THAT: -**
- (i) the Purchaser's consent to any New Tenancy shall be deemed to have been given by the Purchaser unless, within seven (7) days from the date on which an application for such consent is made by the Vendor in writing, the Purchaser notifies the Vendor in writing that the Purchaser does not consent to that New Tenancy and gives reasons for withholding such consent, and
 - (ii) the Vendor may without the consent of the Purchaser between the date hereof and the date of completion grant any New Tenancy which the Vendor is obliged to grant pursuant to any agreement for lease, option for renewal, first right of refusal or other right contained in any of the Tenancies.
- (c) The Purchaser shall not be entitled to:
- (i) make any objections, requisition or claim for compensation in respect of, or
 - (ii) rescind this contract by reason of the Tenancies or any New Tenancy granted pursuant to the preceding sub-clause (b).
- (d) The Vendor shall not between the date hereof and the date of completion consent to any transfer of any of the Tenancies or any New Tenancy (except where, in the reasonable opinion of the Vendor, the Vendor is obliged to do so by virtue of that Tenancy) or grant any other consent or exercise any right of forfeiture or waive any breach of covenant in respect thereof without first obtaining the consent in writing of the Purchaser, which consent shall not be unreasonably withheld or delayed.

55. FUTURE RIGHTS AND OBLIGATIONS

- (a) The Vendor hereby as and from the date of completion assigns to the Purchaser the benefit arising after the date of completion of
- (i) all covenants, agreements and obligations contained or implied in any of the Tenancies or any New Tenancy on the part of the lessee or licensee, as the case may be, in favour of the Vendor whether or not the same touch and concern or run with the land with the exception only of covenants relating to the payment of rent and any other moneys payable prior to the date at which adjustments are to be made pursuant to this contract;
 - (ii) all guarantees, if any, in favour of the Vendor in respect of the Tenancies and any New Tenancy.
- (b) From the date of completion the Purchaser shall duly and punctually observe and perform all of the Vendor's covenants, agreements and obligations contained or implied in any of the Tenancies or any New Tenancy whether or not they touch and concern or run with the land including, but without limiting the generality of the foregoing, the obligation to grant any lease licence or other occupancy rights pursuant

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to any option or any agreement for lease whether or not a lease has been executed by the Vendor.

- (c) 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 not duly observing and performing any of the Vendor's obligations referred to in the preceding sub-clause and shall, if so requested by the Vendor, enter into a Deed of Indemnity with the Vendor further and better to perfect the indemnity contained herein, such deed to be in such form as is reasonably required by the Vendor.

56. POSSESSION

Notwithstanding anything herein to the contrary, the benefit of possession shall be given as follows:-

- (a) with respect to those parts of the property which, on completion, are subject to any of the Tenancies and any New Tenancy, subject to those tenancies, and
- (b) with respect to the balance of the property, with vacant possession subject to any rights of Tenants under any of the tenancies to use common areas more particularly described in such tenancies.

PROVIDED ALWAYS that the Purchaser shall not be entitled to make any requisition, objection or claim for compensation should prior to completion any person entitled to the benefit of any Tenancy or any New Tenancy as Lessee or Licensee or otherwise:-

- (c) repudiate or purport to repudiate that tenancy and vacate the premises occupied pursuant thereto, or
- (d) vacate the premises occupied pursuant to that tenancy upon the expiry by effluxion of time of that tenancy or the determination of any holding over arrangement by notice or otherwise

and the Purchaser shall accept on completion vacant possession of any premises so vacated.

57. ADJUSTMENT OF OUTGOINGS AND RENT

- (a) The provisions of this clause are in addition to those contained in Clause 14 hereof.
- (b) The Vendor and Purchaser agree that where pursuant to any of the Tenancies or any New Tenancy the Lessee or Licensee or other person entitled to occupancy rights in respect of the property ("the Tenants") has paid or is liable to pay an amount or amounts in respect of rates, taxes and any other outgoings of the property ("the Outgoings") any Outgoings paid by the Tenants at the time of completion shall be deemed to be rent and adjusted as such on a daily basis on completion and:

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- (i) if the Outgoings have been paid or are payable in advance on an estimate basis, then the Purchaser shall on the next occasion that the relevant estimates are to be reconciled with the Tenants pursuant to each Tenancy supply to the Vendor at the same time all information supplied to the Tenants as to the actual Outgoings for the relevant period, and
 - (ii) if the Outgoings have been paid or are payable in arrears, then the Purchaser shall on the next occasion that the Outgoings are recoverable from the Tenants under each Tenancy supply to the Vendor at the same time all information supplied to the Tenants, and the Purchaser and the Vendor shall promptly carry out any further adjustment of Outgoings which is appropriate, pursuant to information then available, in respect of the period prior to the adjustment date.
- (c) the Purchaser shall promptly pay to the Vendor the Vendor's proportion of any rents payable under any of the Tenancies or any New Tenancy which are received by the Purchaser after completion and which:-
- (i) were not apportioned on completion, and
 - (ii) relate to the period prior to the adjustment date.
- and such payment shall include the Vendor's proportion of any increases in rent paid as a result of the rent review provisions of any of such Tenancies.
- (d) The Purchaser acknowledges and agrees that the rights of the Vendor to recover:-
- (i) arrears of rent, and
 - (ii) any moneys expended by the Vendor on behalf of the Tenants or otherwise owing to the Vendor by the Tenants in connection with Outgoings or the fitting out of any premises in the property or otherwise are not assigned to the Purchaser and that the Vendor may institute proceedings in the Vendor's own name or in the name of the Purchaser against any of the current or former Tenants to recover any such moneys. The Purchaser shall if requested by the Vendor render all assistance and do all acts and things as may reasonably be required by the Vendor in connection with the recovery of such moneys.
- (e) The Purchaser hereby irrevocably appoints the Vendor his attorney in the name of the Purchaser or of the Vendor at any time or times after the date of completion and before the first anniversary of the date of completion (with power to delegate to any person when employed by the Vendor the power and authority hereby conferred) to require any managing agent of the property appointed by the Purchaser to furnish to the Vendor or that employee for inspection of such records, receipts, books of account and other documents or print-outs of computer records which relate to the rents, and Outgoings apportionable hereunder to establish such facts as are necessary properly to apportion all the amounts to be apportioned hereunder.

58. MISCELLANEOUS

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- (a) The Purchaser acknowledges that certain fixtures and fittings located in or about or attached to the property in the nature of tenant's fixtures and fittings are owned by the Tenants or other persons and that all such fixtures and fittings are excluded from this sale.
- (b) The Vendor shall not be required by the Purchaser to cancel or to request the LPI to cancel the registration of any lease recorded on any Certificate of Title for the property which has expired by effluxion of time.
- (c) The Vendor shall on completion deliver to the Purchaser and the Purchaser shall accept:
 - (i) in respect of each lease which has been registered, the lessor's duplicate or a photocopy of that lease from LPI,
 - (ii) in respect of each lease which has been lodged for registration but not registered:
 - (1) an authority to LPI to deliver to the Purchaser or as the Purchaser may direct, the duplicate of the lease to issue following registration, and
 - (2) an undertaking from the Vendor to comply with any requisitions raised in connection with the registration of that lease,
 - (iii) in respect of each lease which has not been lodged for registration (and which the Vendor proposes to register) the lease in duplicate and any moneys held by the Vendor on account of the stamping and registration thereof and it is expressly acknowledged and agreed by the Purchaser that the Purchaser shall promptly after completion attend to the registration thereof and promptly after the registration forward the lessee's copy of the lease to the lessee or his solicitor,
 - (iv) a copy of any other licence, agreement or deed in the Vendor's possession relating to any Tenancies or New Tenancy and relating to solely to the property.

59. GUARANTEE AND INDEMNITY

59.1 If the Purchaser is a corporation (other than a corporation listed on any Australian Stock Exchange), the Purchaser must procure the completion and execution of the unconditional guarantee set out in Schedule 1 by two natural persons over the age of 18 years who are directors of or substantial shareholders of the Purchaser.

59.2 The Guarantors:

59.2.1 give this guarantee and indemnity in consideration of the Vendor agreeing to enter into this Contract; and

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- 59.2.2 acknowledge that the Vendor has given valuable consideration for this guarantee and indemnity.
- 59.3 The Guarantors unconditionally and irrevocably guarantee to the Vendor:
- 59.3.1 payment to the Vendor of all monies due to the Vendor under this Contract; and
- 59.3.2 the due and punctual performance by the Purchaser of all of its obligations under this Contract.
- 59.4 If the Purchaser does not pay any amount due to the Vendor on time and in accordance with the terms of this Contract, then the Guarantors agree to pay those monies to the Vendor on demand by the Vendor.
- 59.5 As an independent and principal obligation the Guarantors indemnify the Vendor against all liability or loss arising from, and any costs, charges or expenses incurred in connection with, or arising out of the failure of the Purchaser to make payment to the Vendor of all monies due to the Vendor under this Contract or the failure of the Purchaser to duly and punctually perform all or any of its obligations under this Contract.
- 59.6 The indemnity in the previous clause shall extend to any loss arising from any monies payable by the Purchaser under this Contract or from the Purchaser because of any circumstances whatsoever.
- 59.7 This Guarantee and Indemnity is a continuing security and extends to all monies payable under this Guarantee and Indemnity.
- 59.8 The Vendor need not make a demand on the Purchaser before making a demand on the Guarantors or any one of them. A demand on the Guarantors or any one of them may be made at any time and from time to time.
- 59.9 The Guarantors waive any right they have of first requiring the Vendor to proceed against or enforce any other right against the Purchaser or any other person, including another of the Guarantors, before making any claim against the Guarantors under this Guarantee and Indemnity.
- 59.10 The liabilities of the Guarantors under this Guarantee and Indemnity of the Guarantors, whether as guarantors or as principals, are not affected by anything which might otherwise affect them at law or in equity, including, without limitation, one or more of the following:
- 59.10.1 the Vendor or other person granting time or other indulgence to, compounding or compromising with or releasing the Purchaser; or
- 59.10.2 acquiescence, delay, acts, omissions or mistakes on the part of the Vendor; or
- 59.10.3 any variation or novation of a right of the Vendor, or alteration of this Contract or document, in respect of the Purchaser.
- 59.11 As long as any monies payable under this Guarantee and Indemnity remain unpaid the Guarantors may not, without the consent of the Vendor:

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- 59.11.1 make claim or enforce a right against the Purchaser or its property; or
- 59.11.2 prove in competition with the Vendor in any bankruptcy or liquidation of the Purchaser.
- 59.12 The Guarantors represent and warrant that:
 - 59.12.1 their obligations under this Guarantee and Indemnity are valid and binding;
 - 59.12.2 they do not enter into this Guarantee and Indemnity in the capacity of a trustee of any trust or settlement;
 - 59.12.3 they are natural persons over the age of 18 years; and
 - 59.12.4 they are directors of or substantial shareholders of the Purchaser.
- 59.13 This clause is an essential term of this Contract.

60. HEADINGS

All headings contained in this contract are purely for guidance and do not form part of the substance of this contract.

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Schedule 1
(clause 60)

GUARANTEE AGREEMENT

To: The Vendor

1. We, of* and
.....of.....*

are both directors or substantial shareholders of**

Pty Limited (“the Purchaser”), which is the purchaser under this Contract.

2. In consideration of your agreeing to enter into this Contract with the Purchaser, we hereby jointly and severally unconditionally guarantee to you the obligations of the Purchaser under this Contract and the due performance of the Purchasers' obligations under this Contract and the due and punctual payment by the Purchaser of all monies due to be paid by the Purchaser under this Contract upon the terms set out in clause 59 of this Contract.

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COMMERCIAL REQUISITIONS ON TITLE

Vendor:
Purchaser:
Property:
Dated:

Possession and tenancies

1. Vacant possession of the Property must be given on completion unless the Contract provides otherwise.
2. Is anyone in adverse possession of the Property or any part of it?
3.
 - (a) What is the nature of any tenancy or occupancy?
 - (b) If it is in writing, all relevant documentation should be produced, found in order and handed over on completion with notices of attornment.
 - (c) Please specify any existing breaches.
 - (d) What is the current rent payable?
 - (e) All rent should be paid up to or beyond the date of completion.
 - (f) Please provide details of any bond money held, which money is to be paid to or allowed to the purchaser on completion.
 - (g) If the bond money is held by the Rental Bond Board, the appropriate transfer documentation duly signed should be handed over on completion.
 - (h) Please provide details of any security deposits and copies of any bank guarantees which are held by the vendor.
 - (i) Appropriate transfer documentation duly signed should be handed over on completion assigning the vendor's interest in the security deposits, bank guarantees and any personal guarantees.
 - (j) Are there any sub-leases? If so, copies should be provided.
 - (k) Please provide details of current insurances held by the tenant over the improvements and/or for public liability and plate glass, in particular the type of the cover, the name of the insurer, the period of the cover and the amount of the cover.
4. Is any tenancy subject to the *Retail Leases Act 1994 (NSW)*?
If so:
 - (a) complete copies of the disclosure statements as required by the *Retail Leases Act 1994 (NSW)* should be provided;
 - (b) a copy of a certificate given under Section 16(3) of the *Retail Leases Act 1994 (NSW)* should be provided or other evidence to confirm that Section 16 would not apply to the lease;
 - (c) is the vendor aware of any provision of the lease which is not enforceable because of a non disclosure in the disclosure statement or any lease which has been entered into in contravention of the *Retail Leases Act 1994 (NSW)*?
5. Is any part of the Property affected by a protected tenancy (a tenancy affected by Parts 2, 3, 4 or 5 of the *Landlord and Tenant (Amendment) Act 1948 (NSW)*)? If so, please provide details.
6. If any tenancy is subject to the *Residential Tenancies Act 2010 (NSW)*:
 - (a) has either the vendor or any predecessor or the tenant applied to the NSW Civil and Administrative Tribunal for an order?
 - (b) have any orders been made by the NSW Civil and Administrative Tribunal? If so, please provide details.

Title

7. Subject to the Contract, on completion the vendor should be registered as proprietor in fee simple of the Property free from all encumbrances and notations.
8. On or before completion, any mortgage, caveat, writ or priority notice must be discharged, withdrawn, cancelled or removed as the case may be or, in the case of a mortgage, caveat or priority notice, an executed discharge or withdrawal or removal handed over on completion.
9. Are there any proceedings pending or concluded that could result in the recording of any writ on the title to the Property or in the General Register of Deeds? If so, full details should be provided at least 14 days prior to completion.
10. When and where may the title documents be inspected?
11.
 - (a) In these requisitions, *personal property*, *secured party*, *security agreement*, *security interest* and *verification certificate* have the same meanings as in the *Personal Property Securities Act 2009 (Cth)*.
 - (b) Are the inclusions or other items of personal property included in the sale (*inclusions*) subject to a security interest or has the vendor entered into any security agreement in respect of the inclusions and in respect of which the vendor has received, or waived its right to receive, a verification certificate? If so, please provide full details of the property the subject of the security interest, the nature of the security agreement giving rise to the security interest and the full name, address, ACN and/or ABN of the secured party or security agreement counterparty.
 - (c) If a security interest has arisen or been granted over the inclusions, the vendor must procure a full release and discharge of that security interest by the secured party to the extent that it relates to the inclusions. Please provide details of whether the release will be a full or partial release of the security interest and confirm the manner in which the release is to be effected (eg. by provision of a duly executed *Deed Poll*

of Release and Undertaking to Amend Registration in the form recommended by the Australian Bankers' Association).

12. A depreciation schedule or all details of the written down values of all fixtures, fittings and chattels included in the Property must be provided.

Rates and taxes

13. All rates, taxes, levies, other charges and assessments, including land tax, affecting the Property must be paid up to the date of completion and receipts produced.
14. Is the vendor liable to pay land tax or is the Property otherwise charged or liable to be charged with land tax?
If so:
 - (a) to what year has a return been made?
 - (b) what is the taxable value of the Property for land tax purposes for the current year?
15. The vendor must serve on the purchaser a current land tax certificate (issued under Section 47 of the *Land Tax Management Act 1956 (NSW)*) at least 14 days before completion.

Survey, Building, fencing, etc

16. Subject to the Contract, survey should be satisfactory and show that the whole of the Property is available and that there are no encroachments by or upon the Property and that all improvements comply with local government/planning legislation.
17. Is the vendor in possession of a survey report? If so, please produce a copy for inspection prior to completion. The original should be handed over on completion.
18.
 - (a) Have the provisions of the *Local Government Act 1993 (NSW)*, the *Environmental Planning and Assessment Act 1979 (NSW)* and their regulations and instruments or former instruments been complied with?
 - (b) Have there been any alterations to improvements since 1959 requiring the consent of the Local Council or other authority? If so, please provide details and evidence of consents.
 - (c) Has the vendor a Building Information Certificate or Building Certificate? If so, it should be handed over on completion. Please provide a copy prior to completion.
 - (d) Has the vendor a Final Occupation Certificate (as referred to in the former s109C of the *Environmental Planning and Assessment Act 1979*) or an Occupation Certificate as referred to in s6.4 of that Act for all current buildings or structures? If so, it should be handed over on completion. Please provide a copy in advance.
 - (e) Has there been any building work on the Property to which provisions of the *Home Building Act 1989 (NSW)* apply? If so, please provide details and state whether the work was done pursuant to an owner/builder permit or by a licensed builder and provide details as to the permit, names of the parties and licence number(s).
19. Has any notice been given or received or has an application been made under the *Encroachment of Buildings Act 1922 (NSW)* or are there circumstances which would give rise to a notice or application under that Act in respect of the Property. If the answer is *yes*, please provide full details.
20. Are the improvements affected or have they been previously affected by:
 - (a) termite infestation, treatment or repair?
 - (b) flooding or dampness of areas below ground levels?
 - (c) functional problems with equipment such as air conditioning, roofs or inclinators, pool equipment, building management and security systems?
21. Are there any pipes or structures below the surface of the land which are not disclosed in the Contract?
22. Is there any development approval consent to use the Property which is not disclosed in the Contract?
23. Has all the structural work including any retaining walls been designed by a qualified structural engineer?
24. If the answer to any of Requisitions 20 to 23 is *yes*, please provide full details.
25. Has the vendor (or any predecessor) entered into any agreement with or granted any indemnity to the local council, any water or sewerage authority or any other authority concerning any development on the Property?
26. Is there any planning agreement or other arrangement referred to in s7.4 of the *Environmental Planning and Assessment Act*, (registered or unregistered) affecting the Property. If so please provide details and indicate if there are any proposals for amendment or revocation?
27. Is there a swimming pool in the Property to which the *Swimming Pools Act 1992 (NSW)* applies? If so:
 - (a) did its installation or construction commence before or after 1 August 1990?
 - (b) has the swimming pool been installed or constructed in accordance with approvals under the *Local Government Act 1919 (NSW)* and *Local Government Act 1993 (NSW)*?
 - (c) does it comply with the provisions of the *Swimming Pools Act 1992 (NSW)* and regulations relating to access? If not, please provide details or the exemptions claimed;
 - (d) have any notices or orders issued or been threatened under the *Swimming Pools Act 1992 (NSW)* or regulations?
 - (e) if a certificate of non-compliance has issued, please provide reasons for its issue if not disclosed in the Contract;
 - (f) originals of certificate of compliance or non-compliance and occupation certificate should be handed over on settlement.
28.
 - (a) To whom do the boundary fences belong?
 - (b) Are there any party walls?
 - (c) If the answer to Requisition 28(b) is *yes*, specify what rights exist in relation to each party wall and produce any agreement. The benefit of any such agreement should be assigned to the purchaser on completion.

- (d) Is the vendor aware of any dispute regarding boundary or dividing fences or party walls?
- (e) Has the vendor received any notice, claim or proceedings under the *Dividing Fences Act 1991 (NSW)*?
29. Are any rainwater downpipes connected to the sewer? If so, they must be disconnected prior to completion.

Use and enjoyment of the Property

30. (a) Is the vendor aware of any rights, licences, easements, covenants or restrictions as to use affecting or benefiting the Property other than those disclosed in the Contract? If a licence benefits the Property please provide a copy and indicate:
- (i) whether there are any existing breaches by any party to it;
 - (ii) whether there are any matters in dispute; and
 - (iii) whether the licensor holds any deposit, bond or guarantee.
- (b) In relation to such licence:
- (i) All licence fees and other moneys payable should be paid up to and beyond the date of completion;
 - (ii) The vendor must comply with all requirements to allow the benefit to pass to the purchaser.
- (c) Have the covenants and restrictions disclosed in the Contract been complied with?
31. Is the vendor aware of:
- (a) any road, drain, sewer or storm water channel which intersects or runs through the land?
 - (b) any dedication to or use by the public of any right of way or other easement over any part of the land?
 - (c) any building line fixed by the Local Council affecting the land?
 - (d) any judgment, order, decree or execution against the vendor or the Property?
 - (e) any suit current, pending or proposed in respect of the Property?
 - (f) any latent defects in the Property?
 - (g) the existence of any contamination in or on the Property including, but not limited to, materials or substances dangerous to health such as asbestos, fibreglass or polyethylene or other flammable or combustible material including cladding?
32. Has the vendor any notice or knowledge that the Property is affected by any of the following:
- (a) any resumption or acquisition or proposed resumption or acquisition?
 - (b) any notice, order or proposed order requiring work to be done or money to be spent on the Property or any footpath or road adjoining? Full details of any notice, order or proposed order must be provided. Any notice or order must be complied with prior to completion.
 - (c) any work done or intended to be done on the Property or the adjacent street which may create a charge on the Property or the cost of which might be or become recoverable from the purchaser?
 - (d) any sum due to any local or public authority? If so, the same must be paid prior to completion.
 - (e) any realignment or proposed realignment of any road adjoining the Property?
 - (f) any contamination including, but not limited to, materials or substances dangerous to health such as asbestos and fibreglass?
 - (g) any charge or liability including liability for restoration of the Property, or proceedings under the *Contaminated Land Management Act 1997 (NSW)* or any environment protection legislation (as defined in that Act) or any circumstances which could lead to any such liability, charge or proceedings being commenced?
33. If the answer to any of Requisitions 32(a) to (g) is *yes*, please:
- (a) provide full details;
 - (b) advise whether any applicable notice, order, direction, resolution or liability has been fully complied with; and
 - (c) provide full details regarding the extent of any non-compliance.
34. (a) Does the Property have the benefit of water, sewerage, drainage, electricity, gas and telephone services?
- (b) If so, do any of the connections for such services pass through any adjoining land? If so, it must be shown that the vendor has a right thereto which will vest in the purchaser on completion.
- (c) Do any service connections for any other property pass through the Property?
35. Has asbestos, fibreglass or other material injurious to health been used in the construction of the Property? If the answer is *yes*, please provide full details.
36. Is the Property required for the purpose of paying a fine or satisfying an order for compensation?
37. Has any claim been made by any person to close, obstruct or limit access to or from the Property or to an easement over any part of the Property?

Warranties and service contracts

38. Please provide copies of any warranty or maintenance or service contract for the Property which is assignable on completion.
39. Please provide details, or copies if available, of any warranty or maintenance or service contract which is not assignable.

Zoning

40. Is the vendor aware of the Property being subject to any existing or proposed instrument or former instruments under the *Environmental Planning and Assessment Act 1979 (NSW)* or other restriction on user not disclosed in the Contract? If the answer is *yes*, please provide full details.

Capacity

41. If the Contract discloses that the vendor is a trustee, evidence should be produced to establish the trustee's power of sale.

Requisitions and transfer

42. If not attached to the Contract and the transaction is not an excluded transaction, any *clearance certificate* under Section 14-220 of Schedule 1 of the *Taxation Administration Act 1953 (Cth)* should be served on the purchaser at least 7 days prior to completion.
43. The vendor should furnish completed details within the time specified in the contract, sufficient to enable the purchaser to make any RW payment.
44. If the transfer or any other document to be handed over on completion is executed pursuant to a power of attorney, then at least 7 days prior to completion a copy of the power of attorney should be produced and found in order.
45. If the vendor has or is entitled to have possession of the title deeds the Certificate Authentication Code must be provided 7 days prior to settlement.
46. Searches, surveys, enquiries and inspection of title documents must prove satisfactory.
47. The purchaser reserves the right to make further requisitions prior to completion.
48. Unless we are advised by you to the contrary prior to completion, it will be assumed that your replies to these requisitions remain unchanged as at the completion date.

Completion

49. Please confirm that on completion you will hand to us:
- (a) a discharge of any mortgage, a withdrawal of any caveat and removal of any priority notice;
 - (b) the Certificate of Title Folio Identifier;
 - (c) Transfer executed by the vendor;
 - (d) the vendor's copies of all leases and disclosure statements;
 - (e) notices of attornment;
 - (f) all keys in the possession of the vendor;
 - (g) original of any Building Information Certificate or Building Certificate, Survey Report, occupation certificate and swimming pool compliance or non-compliance certificate;
 - (h) instruction manuals and warranties for any plant belonging to the vendor;
 - (i) any third party guarantees together with appropriate assignments;
 - (j) any documents required for the purchaser to have benefit of any bonds;
 - (k) tax invoice;
 - (l) depreciation schedule;
 - (m) any documents required for the purchaser to have good title to any fixtures, fittings or personal property;
 - (n) information or devices necessary for the operation of the security system, air conditioning systems, building management systems, etc;
 - (o) any security deposits or bank guarantees pursuant to any of the leases; and
 - (p) keys and other mechanisms (such as remote control equipment) for access to the premises (internal and external).



FOLIO: 2/82325

SEARCH DATE	TIME	EDITION NO	DATE
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12/5/2025	10:20 AM	12	1/9/2018

LAND

LOT 2 IN DEPOSITED PLAN 82325
LOCAL GOVERNMENT AREA PENRITH
PARISH OF CASTLEREAGH COUNTY OF CUMBERLAND
TITLE DIAGRAM DP82325

FIRST SCHEDULE

MARIE ANN GALLAGHER
CHARLES CHITOS
AS JOINT TENANTS (T AI598997)

SECOND SCHEDULE (3 NOTIFICATIONS)

- 1 RESERVATIONS AND CONDITIONS IN THE CROWN GRANT(S)
- 2 LAND EXCLUDES THE ROAD(S) BEING LOT 38 IN DP217346, BUT NOT THE MINERALS THEREUNDER SEE SEC.536AA OF THE LOCAL GOVERNMENT ACT, 1919
- 3 AI598998 MORTGAGE TO AUSTRALIA AND NEW ZEALAND BANKING GROUP LIMITED

NOTATIONS

UNREGISTERED DEALINGS: NIL

*** END OF SEARCH ***

DP 82325

M. PENRITH
PA. 32325
PA. 32326

PLAN

of 29 $\frac{3}{4}$ perches and 30 perches, being part of the Woodriff Estate.

Parish of Castlereagh County of Cumberland

Scale. 40 feet to an Inch.

ST.

to 12' off peg found.

HENRY

From 42' off Kerb as Laid

Align. 12.42.12'

LANE

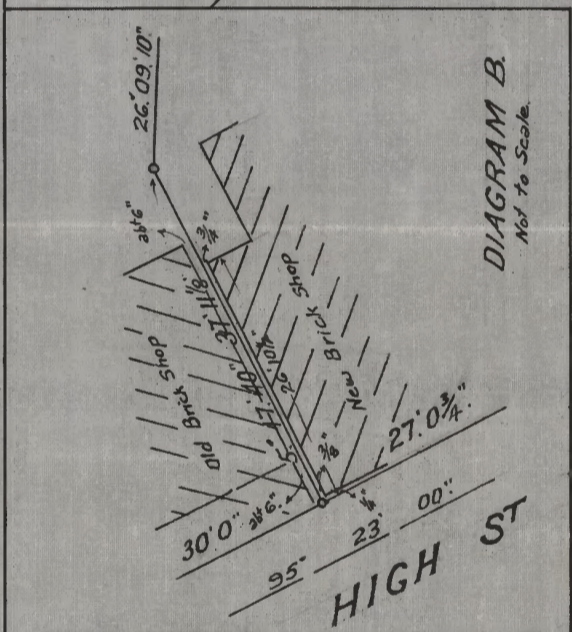
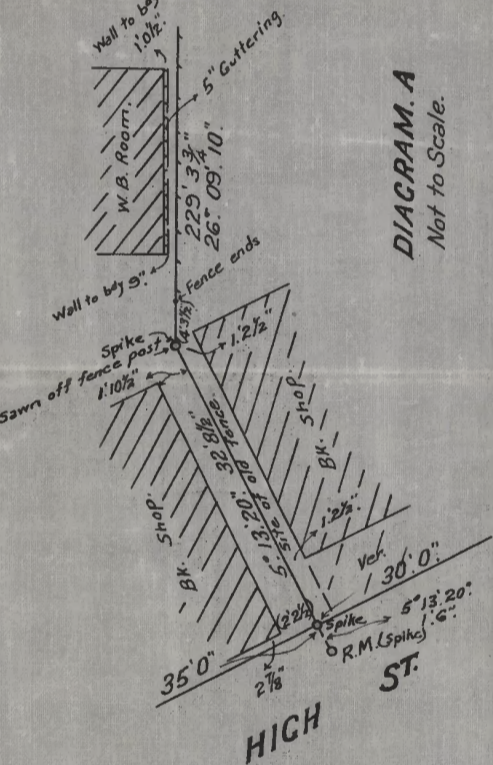
WIDE

20 FT.

STREET

WOODRIFFE

Align. 5' 6", 22' 5' 6"



HIGH

HIGH

ST.

STATION

HIGH

STREET

Re-declared before me at Sydney
this 28th day of Nov. 1935

G. G. G. G.
J. P.

Datum line of Azimuth A.B.
Dates of Survey 22nd May & 18th July 1935.

S. J. Haines
S. J. Haines

Subscribed and declared before me at Sydney
this 19th day of July, 1935

H. J. Haines
J. P.

I, Geoffrey Maule Kent of 58 Pitt St, Sydney a Surveyor registered under the Surveyors Act 1929, do hereby solemnly and sincerely declare (a) that all boundaries and measurements shown on this plan are correct (b) that all survey marks found and relevant physical objects on or adjacent to the boundaries are correctly represented (c) that all physical objects indicated actually exist in the positions shown (d) that the whole of the material facts in relation to the land are correctly represented (e) that the survey represented in this plan has been made in accordance with the Survey Practice Regulations 1933 by me, was completed on 18th July 1935 and the reference marks have been placed as shown hereon, and I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act 1900.

G. Maule Kent

Surveyor registered under the
Surveyors Act 1929.

LOT. NOS. ADDED IN REG. GEN. DEPT. 22 26.7.1976



CONVERSION TABLE ADDED IN
REGISTRAR GENERAL'S DEPARTMENT

DP 82325

FEET INCHES		METRES
-	0 3/8	0.010
-	0 3/4	0.019
-	2 1/2	0.064
-	5	0.127
-	6	0.152
-	9	0.229
-	10 1/2	0.267
1	0 1/2	0.318
1	2 1/2	0.368
1	3	0.381
1	5	0.432
1	6	0.457
1	8	0.508
1	10 1/2	0.572
2	2 1/2	0.673
2	3	0.686
2	7	0.787
2	9	0.838
5	6	1.676
12	-	3.658
16	-	4.877
20	-	6.096
20	2 3/4	6.166
22	-	6.706
22	9 1/4	6.941
26	10 1/2	8.192
27	0 1/4	8.236
27	0 3/4	8.249
28	7 1/2	8.725
30	-	9.144
32	8 1/2	9.970
35	-	10.668
37	11 1/8	11.560
38	5 7/8	11.732
40	-	12.192
42	-	12.802
49	11 1/2	15.227
52	-	15.850
59	10 3/8	18.247
76	9	23.393
91	2 3/4	27.807
101	3 1/4	30.867
104	2	31.750
117	11 1/4	35.947
126	10 3/4	38.678
129	10 3/4	39.592
132	8 1/4	40.443
133	0 1/2	40.551
146	9 1/4	44.736
198	10 1/4	60.611
216	0 5/8	65.853
227	11 1/4	69.475
229	3 3/4	69.894
281	8 3/4	85.871
AC RD P		SQ M
-	- 29 3/4	752.5
-	- 30	758.8

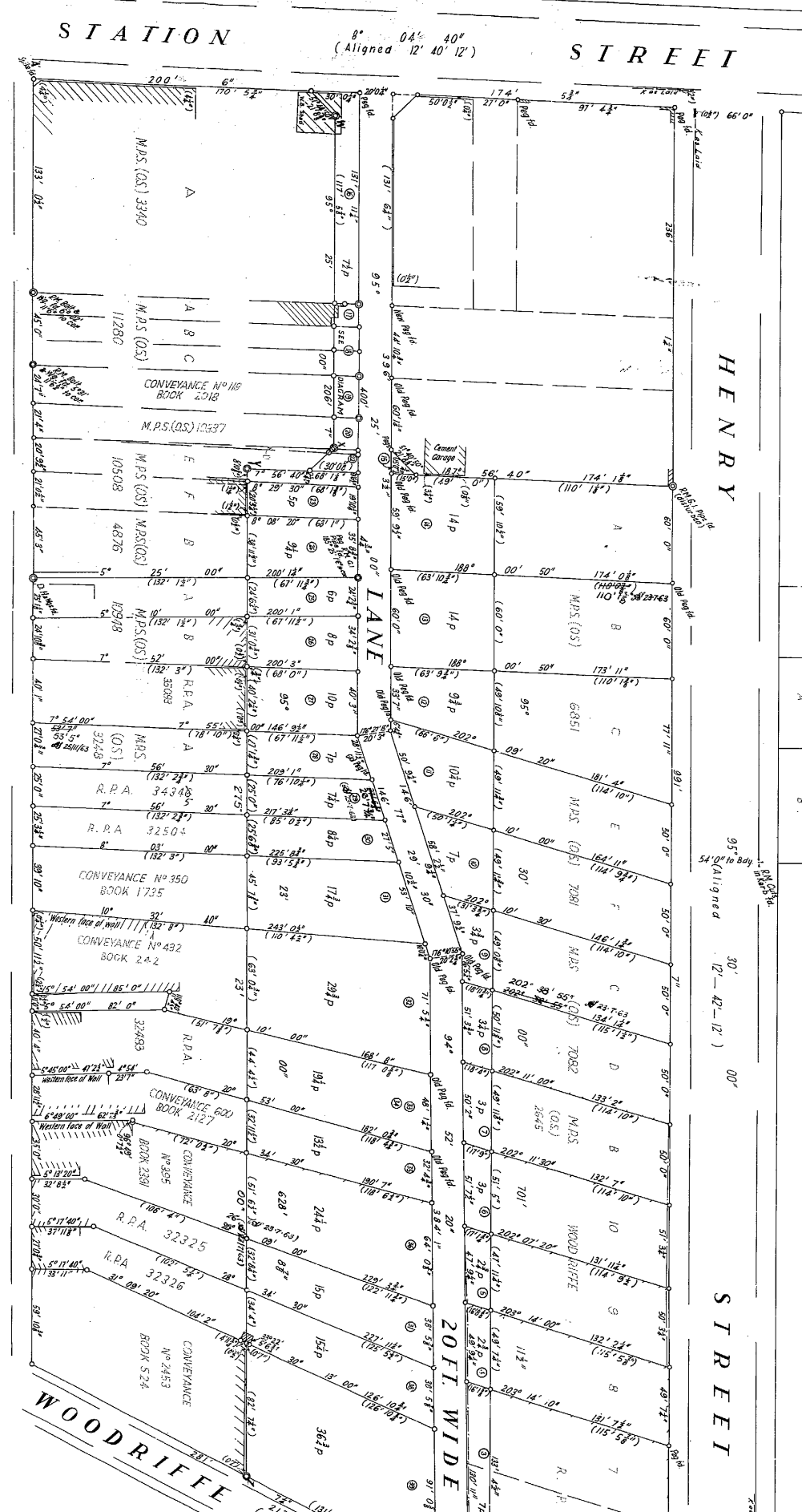
MUNICIPALITY OF PENRITH
DP 217346

STREET (40 feet wide)

DP 217346

PLAN

of resumption for road widening purposes
of part of Captain Daniel Woodriffes 1000 acres Grant (Portion 90 Ph)
PARISH OF CASTLEREAGH COUNTY OF CUMBERLAND
Scale 40 ft. to an inch.



1. Bruce Richard Davies, Registrar General for New South Wales, certify that this map is a photograph made as a permanent record of a document in my custody this 24th day of August, 1979

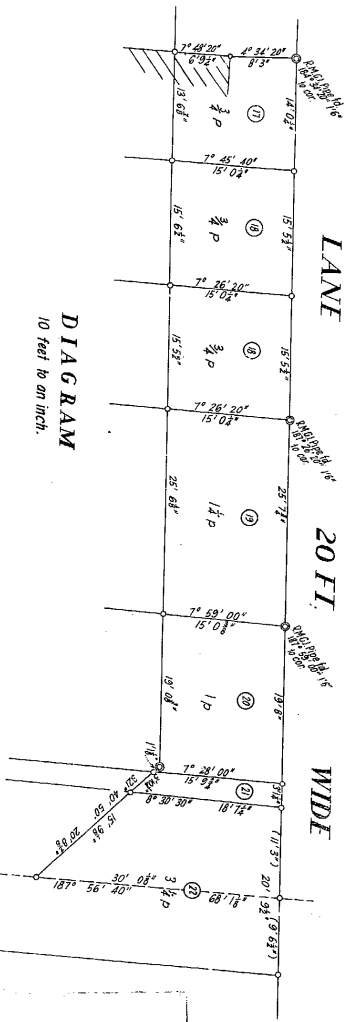
PERMANENT MARKS (LOW)		
M	BEARING	DISTANCE
W	185° 25' 00"	1' 6"
X	165° 25' 00"	1' 6"
Y	205° 30' 00"	2' 2"
Z	205° 30' 00"	1' 6"

DATCH LINE OF ARROW 1/8"

SS
Portion 90 Ph)
DUMBERLAND

DP 217346
Registered: *Richard Davies*
Title System: *Indemnity System*
Purpose: *Proposed Road*
Ref: *Deed 11/54/1*
Last Plan: *Part 150 of 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000*

DIAGRAM
10 feet to an inch.



NO	REFERENCE TO TITLE	OWNER
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PLANNING CERTIFICATE UNDER SECTION 10.7

Environmental Planning and Assessment Act, 1979

Property No: 326007
Your Reference: 251156-#161969304#
Contact No.

Issue Date: 14 May 2025
Certificate No: 25/02176

Issued to: Infotrack Pty Ltd
Level 8 135 King Street
SYDNEY NSW 2000

PRECINCT 2010

DESCRIPTION OF LAND

County: CUMBERLAND Parish: CASTLEREAGH

Location: 437 High Street PENRITH NSW 2750

Land Description: Lot 2 DP 82325

- PART 1 PRESCRIBED MATTERS -

In accordance with the provisions of Section 10.7 of the Act the following information is furnished in respect of the abovementioned land:

1 NAMES OF RELEVANT PLANNING INSTRUMENTS AND DCPs

1(1) The name of each environmental planning instrument and development control plan that applies to the carrying out of development on the land:

The following Local environmental planning instruments apply to the land:

Penrith Local Environmental Plan 2010, published 22nd September 2010, as amended, applies to the land.

The following State environmental planning instruments apply to the land:

State Environmental Planning Policy (Biodiversity and Conservation) 2021, Chapter 2 - *Vegetation in non-rural areas*.

State Environmental Planning Policy (Biodiversity and Conservation) 2021, Chapter 6 - *Water*

Catchments - (Note: This policy does not apply to land to which State Environmental Planning Policy (Precincts - Western Parkland City) 2021, Chapter 5 - *Penrith Lakes Scheme*, applies.)

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 (Precincts - Western Parkland City) 2021, Chapter 2 - *State Significant Precincts*.

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State Environmental Planning Policy (Precincts - Western Parkland City) 2021, Chapter 4 - *Western Sydney Aerotropolis*.
State Environmental Planning Policy (Primary Production) 2021, Chapter 2 - *Primary production and rural development*.
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 (Resources and Energy) 2021, Chapter 3 - *Extractive industries in Sydney area*.
State Environmental Planning Policy (Transport and Infrastructure) 2021, Chapter 2 - *Infrastructure*.
State Environmental Planning Policy (Transport and Infrastructure) 2021, Chapter 3 - *Educational establishments and childcare facilities*.
State Environmental Planning Policy (Sustainable Buildings) 2022
State Environmental Planning Policy (Biodiversity and Conservation) 2021, *Chapter 13 - Strategic Conservation Planning* applies to the land.

The following Development Control Plans apply to the land:

Penrith Development Control Plan 2014 applies to the land.

1(2) The name of each proposed environmental planning instrument and draft development control plan, which is or has been the subject of community consultation or on public exhibition under the Act, that will apply to the carrying out of development on the land:

(Information is provided in this section only if a proposed environmental planning instrument that is or has been the subject of community consultation or on public exhibition under the Act will apply to the carrying out of development on the land.)

Draft State Environmental Planning Policy (Housing) 2021 applies to this land.
Draft State Environmental Planning Policy (Transport and Infrastructure) 2021 applies to this land.
Draft State Environmental Planning Policy (Planning Systems) 2021 applies to this land.
Draft State Environmental Planning Policy (Precincts - Western Parkland City) 2021 applies to this land.
Draft State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 applies to this land.
Draft State Environmental Planning Policy (Biodiversity and Conservation) 2021 applies to this land.

2 ZONING AND LAND USE UNDER RELEVANT PLANNING INSTRUMENTS

For each environmental planning instrument or draft environmental planning instrument referred that includes the land in a zone (however described):

2(a)-(b) the identity of the zone; the purposes for which development in the zone may be carried out without development consent; the purposes for which development in the zone may not be carried out except with development consent; and the purposes for which development in the zone is prohibited. Any zone(s) applying to the land is/are listed below and/or in annexures.

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Zone MU1 - Mixed Use (Penrith Local Environmental Plan 2010)

1 Objectives of zone

- To encourage a diversity of business, retail, office and light industrial land uses that generate employment opportunities.
- To ensure that new development provides diverse and active street frontages to attract pedestrian traffic and to contribute to vibrant, diverse and functional streets and public spaces.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To encourage business, retail, community and other non-residential land uses on the ground floor of buildings.
- To allow for residential development in accessible locations to maximise public transport patronage and encourage walking and cycling.

2 Permitted without consent.

Home occupations

3 Permitted with consent.

Amusement centres; Boarding houses; Car parks; Centre-based child care facilities; Commercial premises; Community facilities; Entertainment facilities; Environmental facilities; Environmental protection works; Flood mitigation works; Function centres; Home businesses; Home-based child care; Information and education facilities; Light industries; Local distribution premises; Medical centres; Mortuaries; Oyster aquaculture; Passenger transport facilities; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Registered clubs; Residential accommodation; Respite day care centres; Restricted premises; Roads; Sex services premises; Shop top housing; Signage; Tank-based aquaculture; Tourist and visitor accommodation; Vehicle repair stations; Veterinary hospitals

4 Prohibited

Rural workers' dwellings; Any other development not specified in item 2 or 3

Note: On 26 April 2023, the NSW Government made changes to clause 2.1 Land use zones of the Standard Instrument - Principal Local Environmental Plan (2006). All Business zones B1, B2, B3, B4, B5, B6, B7 and B8 along with Industrial zones IN1, IN2, IN3 and IN4 have now been replaced with Employment zones E1, E2, E3, E4, E5, MU1, SP4, SP5 and W4 respectively. This change occurred across all standardised local environmental plans that are in force across New South Wales.

2(c) whether additional permitted uses apply to the land,

(Information is provided in this section only if environmental planning instruments apply additional permitted use provisions to this land.)

Additional information relating to Penrith Local Environmental Plan 2010

Note 1: Under the terms of Clause 2.4 of Penrith Local Environmental Plan 2010 development may be carried out on unzoned land only with development consent.

Note 2: Under the terms of Clause 2.6 of Penrith Local Environmental Plan 2010 land may be subdivided but only with development consent, except for the exclusions detailed in the clause.

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Note 3: Under the terms of Clause 2.7 of Penrith Local Environmental Plan 2010 the demolition of a building or work may be carried out only with development consent.

Note 4: A temporary use may be permitted with development consent subject to the requirements of Clause 2.8 of Penrith Local Environmental Plan 2010.

Note 5: Under the terms of Clause 4.1A of Penrith Local Environmental Plan 2010, despite any other provision of this plan, development consent must not be granted for dual occupancy on an internal lot in Zone R2 Low Density Residential.

Note 6: Under the terms of Clause 5.1 of Penrith Local Environmental Plan 2010 development on land acquired by an authority of the State under the owner-initiated acquisition provisions may, before it is used for the purpose for which it is reserved, be carried out, with development consent, for any purpose.

Note 7: Under the terms of Clause 5.3 of Penrith Local Environmental Plan 2010 development consent may be granted to development of certain land for any purpose that may be carried out in an adjoining zone.

Note 8: Clause 5.10 of Penrith Local Environmental Plan 2010 details when development consent is required/not required in relation to heritage conservation.

Note 9: Under the terms of Clause 5.11 of Penrith Local Environmental Plan 2010 bush fire hazard reduction work authorised by the *Rural Fires Act 1997* may be carried out on any land without development consent.

Note 10: Under the terms of Clause 7.1 of Penrith Local Environmental Plan 2010 (PLEP 2010) development consent is required for earthworks unless the work is exempt development under PLEP 2010 or another applicable environmental planning instrument, or the work is ancillary to other development for which development consent has been given.

Note 11: Sex services premises and restricted premises may only be permitted subject to the requirements of Clause 7.23 of Penrith Local Environmental Plan 2010.

2(d) 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 fixed minimum land dimensions.

(Information is provided in this section only if any 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.)

2(e) whether the land is in an area of outstanding biodiversity value under the Biodiversity Conservation Act 2016

(Information is provided in this section only if the land is identified in an area of outstanding biodiversity value under the Biodiversity Conservation Act 2016.)

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2(f) whether the land is in a conservation area, however described:

(Information is provided in this section only if the land is in a conservation area, however described.)

2(g) whether an item of environmental heritage, however described, is situated on the land:

An item/Items of environmental heritage (identified in Penrith Local Environmental Plan 2010) is/are situated on the land.

(Information is provided in this section only if an item of environmental heritage, however described, is situated on the land.)

3 CONTRIBUTIONS PLANS

The name of each contributions plan under the Act, Division 7.1 applying to the land, including draft contributions plans:

The Cultural Facilities Development Contributions Plan applies anywhere residential development is permitted within the City of Penrith.

The Penrith City Local Open Space Development Contributions Plan applies anywhere residential development is permitted within the City of Penrith, excluding industrial areas and the release areas identified in Appendix B of the Plan (Penrith Lakes, Cranebrook, State Environmental Planning Policy (Precincts - Western Parkland City) 2021, Chapter 6 - *St Marys*, Waterside, Thornton, the WELL Precinct, Glenmore Park and Erskine Park).

The Penrith City District Open Space Facilities Development Contributions Plan applies anywhere residential development is permitted within the City of Penrith, with the exclusion of industrial lands and the Penrith Lakes development site.

The Penrith City Centre Civic Improvement Plan applies to the land.

Penrith Citywide Section 7.12 Development Contributions Plan for non-residential development applies to non-residential development across Penrith Local Government Area, with the exception of the Mamre and Aerotropolis Precincts.

The Environmental Planning and Assessment (Housing and Productivity Contribution) Order 2023 applies to the Greater Sydney region which includes the Penrith Local Government Area, with the exception of the Western Sydney Aerotropolis Precinct. Please refer to www.legislation.nsw.gov.au for further information.

4 COMPLYING DEVELOPMENT

HOUSING CODE

(The Housing Code only applies if the land is within Zones R1, R2, R3, R4 or RU5 under Penrith Local Environmental Plan 2010 or an equivalent zone in a non standard template planning instrument.)

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- The land contains an item of environmental heritage, a heritage item and/or a draft heritage item. If the land is within the relevant zones complying development under the Housing Code **may not** be carried out on any part of the land that is identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is located an item that is so identified, or that comprises, or on which there is, a draft heritage item. Complying development **may** be carried out on any part of the land that is not identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is not located an item that is so identified, or that does not comprise, or on which there is not, a draft heritage item. Plans of the above items may be found in the applicable planning instrument(s)/draft planning instrument(s).

RURAL HOUSING CODE

(The Rural Housing Code only applies if the land is within Zones RU1, RU2, RU3, RU4, RU6 or R5 under Penrith Local Environmental Plan 2010 or an equivalent zone in a non standard template planning instrument.)

- The land contains an item of environmental heritage, a heritage item and/or a draft heritage item. If the land is within the relevant zones complying development under the Rural Housing Code **may not** be carried out on any part of the land that is identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is located an item that is so identified, or that comprises, or on which there is, a draft heritage item. Complying development **may** be carried out on any part of the land that is not identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is not located an item that is so identified, or that does not comprise, or on which there is not, a draft heritage item. Plans of the above items may be found in the applicable planning instrument(s)/draft planning instrument(s).

LOW RISE HOUSING DIVERSITY CODE

(The Low Rise Housing Diversity Code only applies if the land is within Zones R1, R2, R3 or RU5 under Penrith Local Environmental Plan 2010 or an equivalent zone in a non standard template planning instrument.)

- The land contains an item of environmental heritage, a heritage item and/or a draft heritage item. If the land is within the relevant zones complying development under the Low Rise Housing Diversity Code **may not** be carried out on any part of the land that is identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is located an item that is so identified, or that comprises, or on which there is, a draft heritage item. Complying development **may** be carried out on any part of the land that is not identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is not located an item that is so identified, or that does not comprise, or on which there is not, a draft heritage item. Plans of the above items may be found in the applicable planning instrument(s)/draft planning instrument(s).

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GREENFIELD HOUSING CODE

(The Greenfield Housing Code only applies if the land is within Zones R1, R2, R3, R4 or RU5 under Penrith Local Environmental Plan 2010 or an equivalent zone in a non standard template planning instrument, and if the land is identified as a Greenfield Housing Code Area by the Greenfield Housing Code Area Map.)

- The land contains an item of environmental heritage, a heritage item and/or a draft heritage item. If the land is within the relevant zones, and if the land is identified as a Greenfield Housing Code Area by the Greenfield Housing Code Area Map complying development under the Greenfield Housing Code **may not** be carried out on any part of the land that is identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is located an item that is so identified, or that comprises, or on which there is, a draft heritage item. Complying development **may** be carried out on any part of the land that is not identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is not located an item that is so identified, or that does not comprise, or on which there is not, a draft heritage item. Plans of the above items may be found in the applicable planning instrument(s)/draft planning instrument(s).

HOUSING ALTERATIONS CODE

- The land contains an item of environmental heritage, a heritage item and/or a draft heritage item. Complying development under the Housing Alterations Code **may not** be carried out on any part of the land that is identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is located an item that is so identified, or that comprises, or on which there is, a draft heritage item. Complying development **may** be carried out on any part of the land that is not identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is not located an item that is so identified, or that does not comprise, or on which there is not, a draft heritage item. Plans of the above items may be found in the applicable planning instrument(s)/draft planning instrument(s).

GENERAL DEVELOPMENT CODE

- The land contains an item of environmental heritage, a heritage item and/or a draft heritage item. Complying development under the General Development Code **may not** be carried out on any part of the land that is identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is located an item that is so identified, or that comprises, or on which there is, a draft heritage item. Complying development **may** be carried out on any part of the land that is not identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is not located an item that is so identified, or that does not comprise, or on which there is not, a draft heritage item. Plans of the above items may be found in the applicable planning instrument(s)/draft planning instrument(s).

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INDUSTRIAL AND BUSINESS BUILDINGS ALTERATIONS CODE

- The land contains an item of environmental heritage, a heritage item and/or a draft heritage item. Complying development under the Industrial and Business Alterations Code **may not** be carried out on any part of the land that is identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is located an item that is so identified, or that comprises, or on which there is, a draft heritage item. Complying development **may** be carried out on any part of the land that is not identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is not located an item that is so identified, or that does not comprise, or on which there is not, a draft heritage item. Plans of the above items may be found in the applicable planning instrument(s)/draft planning instrument(s).

INDUSTRIAL AND BUSINESS BUILDINGS CODE

(The Industrial and Business Buildings Code only applies if the land is within E1, E2, E3, E4, E5, MU1, B1, B2, B3, B4, B5, B6, B7, B8, IN1, IN2, IN3 IN4, SP1, SP2, SP3, SP5 or W4 under Penrith Local Environmental Plan 2010 or an equivalent zone in a non-standard template planning instrument.)

- The land contains an item of environmental heritage, a heritage item and/or a draft heritage item. If the land is within the relevant zones complying development under the Industrial and Business Buildings Alterations Code **may not** be carried out on any part of the land that is identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is located an item that is so identified, or that comprises, or on which there is, a draft heritage item. Complying development **may** be carried out on any part of the land that is not identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is not located an item that is so identified, or that does not comprise, or on which there is not, a draft heritage item. Plans of the above items may be found in the applicable planning instrument(s)/draft planning instrument(s).

CONTAINER RECYCLING FACILITIES CODE

(The Container Recycling Facilities Code only applies if the land is within Zones B1, B2, B3, B4, B5, B6, B7, B8, E1, E2, E3, E4, E5, MU1, IN1, IN2, IN3, IN4, SP3, SP5 or W4 under Penrith Local Environmental Plan 2010 or an equivalent zone in a non-standard template planning instrument.)

- The land contains an item of environmental heritage, a heritage item and/or a draft heritage item. If the land is within the relevant zones complying development under the Container Recycling Facilities Code **may not** be carried out on any part of the land that is identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is located an item that is so identified, or that comprises, or on which there is, a draft heritage item. Complying development **may** be carried out on any part of the land that is not identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is not located an item that is so identified, or that does not comprise, or on which there is not, a draft heritage item. Plans of the above items may be found in the applicable planning instrument(s)/draft planning instrument(s).

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SUBDIVISIONS CODE

- The land contains an item of environmental heritage, a heritage item and/or a draft heritage item. Complying development under the Subdivisions Code **may not** be carried out on any part of the land that is identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is located an item that is so identified, or that comprises, or on which there is, a draft heritage item. Complying development **may** be carried out on any part of the land that is not identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is not located an item that is so identified, or that does not comprise, or on which there is not, a draft heritage item. Plans of the above items may be found in the applicable planning instrument(s)/draft planning instrument(s).

DEMOLITION CODE

- The land contains an item of environmental heritage, a heritage item and/or a draft heritage item. Complying development under the Demolition Code **may not** be carried out on any part of the land that is identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is located an item that is so identified, or that comprises, or on which there is, a draft heritage item. Complying development **may** be carried out on any part of the land that is not identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is not located an item that is so identified, or that does not comprise, or on which there is not, a draft heritage item. Plans of the above items may be found in the applicable planning instrument(s)/draft planning instrument(s).

AGRITOURISM AND FARM STAY ACCOMMODATION CODE

(The Agritourism and Farm Stay Accommodation Code only applies if the land is within Zones RU1, RU2 and RU4 under Penrith Local Environmental Plan 2010 or an equivalent zone in a non-standard template planning instrument.)

- The land contains an item of environmental heritage, a heritage item and/or a draft heritage item. If the land is within the relevant zones complying development under the Agritourism and Farm Stay Accommodation Code **may not** be carried out on any part of the land that is identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is located an item that is so identified, or that comprises, or on which there is, a draft heritage item. Complying development **may** be carried out on any part of the land that is not identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is not located an item that is so identified, or that does not comprise, or on which there is not, a draft heritage item. Plans of the above items may be found in the applicable planning instrument(s)/draft planning instrument(s).

FIRE SAFETY CODE

- The land contains an item of environmental heritage, a heritage item and/or a draft heritage item. Complying development under the Fire Safety Code **may not** be carried out on any part of the land that is identified as an item of environmental heritage or a heritage item by an

PLANNING CERTIFICATE UNDER SECTION 10.7**Environmental Planning and Assessment Act, 1979**

environmental planning instrument or on which is located an item that is so identified, or that comprises, or on which there is, a draft heritage item. Complying development **may** be carried out on any part of the land that is not identified as an item of environmental heritage or a heritage item by an environmental planning instrument or on which is not located an item that is so identified, or that does not comprise, or on which there is not, a draft heritage item. Plans of the above items may be found in the applicable planning instrument(s)/draft planning instrument(s).

NOTE:

(1) Council has relied on Planning and Infrastructure Circulars and Fact Sheets in the preparation of this information. Applicants should seek their own legal advice in relation to this matter with particular reference to State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

(2) Penrith Local Environmental Plan 2010 (if it applies to the land) contains additional complying development not specified in State Environmental Planning Policy (Exempt and Complying Development Codes) 2008.

5 EXEMPT DEVELOPMENT***GENERAL EXEMPT DEVELOPMENT CODE***

Exempt development under the General Exempt Development Code may be carried out on the land.

ADVERTISING AND SIGNAGE EXEMPT DEVELOPMENT CODE

Exempt development under the Advertising and Signage Exempt Development Code may be carried out on the land.

TEMPORARY USES AND STRUCTURES EXEMPT DEVELOPMENT CODE

Exempt development under the Temporary Use and Structures Exempt Development Code may be carried out on the land

6 AFFECTED BUILDING NOTICES AND BUILDING PRODUCT RECTIFICATION ORDERS

(Information is provided in this section only if Council is aware that an affected building notice or a building product rectification order in force for the land that has not been fully complied with, or a notice of intention to make a building product rectification order given in relation to the land is outstanding.)

7 LAND RESERVED FOR ACQUISITION

No environmental planning instrument or proposed environmental planning instrument referred to in clause 1 makes provision in relation to the acquisition of the land by an authority of the State, as referred to in the Act, section 3.15.

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8 ROAD WIDENING AND ROAD REALIGNMENT

The land is not affected by any road widening or road realignment under:

- (a) Division 2 of Part 3 of the Roads Act 1993, or
- (b) an environmental planning instrument, or
- (c) a resolution of council.

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.

Yes, the land or part of the land is within the flood planning area and subject to flood related development controls.

(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, flood related development controls for land between the flood planning area and the probable maximum flood do not apply to the land or part of the land.

Note - The land is subject to Clause 5.21 in Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2014 Section C3.5 Flood Planning. On application and payment of the prescribed fee Council may be able to provide in writing a range of advice in regard to the extent of flooding affecting the property

10 COUNCIL AND OTHER PUBLIC AUTHORITY POLICIES ON HAZARD RISK RESTRICTIONS

(a) Council Policies

The land is affected by the Asbestos Policy adopted by Council.

The land is not affected by any other policy adopted by the council that restricts the development of the land because of the likelihood of land slip, bushfire, tidal inundation, subsidence, acid sulfate soils, contamination, aircraft noise, salinity, coastal hazards, sea level rise or another risk, other than flooding.

(b) Other Public Authority Policies

The Bush Fire Co-ordinating Committee has adopted a Bush Fire Risk Management Plan that covers the local government area of Penrith City Council, and includes public, private and Commonwealth lands.

The land is not affected by a policy adopted by any other public authority and notified to the council for the express purpose of its adoption by that authority being referred to in planning certificates issued by the council, that restricts the development of the land because of the likelihood of land slip, tidal inundation, subsidence, acid sulfate soils, contamination, aircraft noise, salinity, coastal hazards, sea level rise or another risk, other than flooding.

PLANNING CERTIFICATE UNDER SECTION 10.7

Environmental Planning and Assessment Act, 1979

11 BUSH FIRE PRONE LAND

The land is not identified as bush fire prone land, under section 10.3 of the Act.

12 LOOSE FILL ASBESTOS INSULATION

(Information is provided in this section only if there is a residential premises listed on the register of residential premises that contain or have contained loose-fill asbestos insulation (as required by Division 1A of Part 8 of the Home Building Act 1989))

13 MINE SUBSIDENCE

The land is not declared to be a mine subsidence district within the meaning of the Coal Mine Subsidence Compensation Act 2017.

14 PAPER SUBDIVISION INFORMATION

(Information is provided in this section only if a development plan adopted by a relevant authority applies to the land or is proposed to be subject to a consent ballot, or a subdivision order applies to the land.)

15 PROPERTY VEGETATION PLANS

(Information is provided in this section only where a property vegetation plan approved and in force under the Native Vegetation Act 2003, Part 3, but only where Council has been notified of the existence of a plan, by the person or body that approved the plan under that Act.)

16 BIODIVERSITY STEWARDSHIP SITES

(Information is provided in this section only if Council has been notified by the Chief Executive of the Office of Environment and Heritage that the land is land to which a biobanking stewardship agreement under Part 5 of the Biodiversity Conservation Act 2016 relates.)

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

(Information is provided in this section only if the land is 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.

PLANNING CERTIFICATE UNDER SECTION 10.7**Environmental Planning and Assessment Act, 1979**

18 ORDERS UNDER TREES (DISPUTES BETWEEN NEIGHBOURS) ACT 2006

(Information is provided in this section only if Council has been notified that an order has been 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

(Information is provided in this section only If the Coastal Management Act 2016 applies to the council, whether the owner, or a previous owner, of the land has given written consent to the land being subject to annual charges under the Local Government Act 1993, section 496B, for coastal protection services that relate to existing coastal protection works.)

20 WESTERN SYDNEY AEROTROPOLIS

Whether the land is subject to planning considerations under *State Environmental Planning Policy (Precincts—Western Parkland City) 2021*, Chapter 4:

	Planning Control	Affected?
(a)	Subject to an ANEF or ANEC contour of 20 or greater	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 “3km zone” or the “13km zone” of the Wildlife Buffer Zone Map	No

21 DEVELOPMENT CONSENT FOR SENIORS HOUSING

(Information is provided in this section only If State Environmental Planning Policy (Housing) 2021, Chapter 3, Part 5 applies to the land, any conditions of a development consent granted after 11 October 2007 in relation to the land that are of the kind set out in that Policy, clause 88(2).)

22 SITE COMPATIBILITY CERTIFICATES AND DEVELOPMENT CONSENT CONDITIONS FOR AFFORDABLE RENTAL HOUSING

(Information is provided in this section only if:

(1) there is a current site compatibility certificate under the *State Environmental Planning Policy (Housing) 2021*, or a former site compatibility certificate, of which council is aware, in respect of proposed development on the land; and/or

(2) *State Environmental Planning Policy (Housing) 2021*, Chapter 2, Part 2, Division 1 or 5 applies to the land and conditions of a development consent in relation to the land that are of a kind referred to in the Policy, section 21(1) or 40(1).

(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).)

PLANNING CERTIFICATE UNDER SECTION 10.7

Environmental Planning and Assessment Act, 1979

23 WATER OR SEWERAGE SERVICES

Water or sewerage services under the Water Industry Competition Act 2006 (WIC Act) are not required to be provided on this land.

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.

(a) (Information is provided in this section only if, as at the date of this certificate, the land (or part of the land) is significantly contaminated land within the meaning of the Contaminated Land Management Act 1997.)

(b) (Information is provided in this section only if, as at the date of this certificate, the land is subject to a management order within the meaning of the Contaminated Land Management Act 1997.)

(c) (Information is provided in this section only if, as at the date of this certificate, the land is the subject of an approved voluntary management proposal within the meaning of the Contaminated Land Management Act 1997.)

(d) (Information is provided in this section only if, at the date of this certificate, the land subject to an ongoing maintenance order within the meaning of the Contaminated Land Management Act 1997.)

(e) (Information is provided in this section only if the land is the subject of a site audit statement within the meaning of the Contaminated Land Management Act 1997 - a copy of which has been provided to Council.)

Note: Section 10.7(5) information for this property may contain additional information regarding contamination issues.

Note:

The following section of this certificate is set aside under section 10.7(5) of the Act for the inclusion of information about other matters affecting the land of which the Council may be aware. The Council is not required under the Act to include any information in this section. Please be aware that the inclusion of information about a matter does not indicate that there are no other matters affecting the land of which the Council may be aware. Upon payment by an applicant of the required fee the Council may, pursuant to section 10.7(5) of the Act, provide further advice on other relevant matters affecting the subject land of which it may be aware.

Additional matters that consent authority must consider

Clause 61(6) of *Environmental Planning and Assessment Regulation 2021* (the Regulation) applies to the land. Relevantly this clause provides:

(6) In determining a development application for development for the erection of a building for residential purposes on land in Penrith City Centre, within the meaning of Penrith Local Environmental Plan 2010, the consent authority must consider the Development Assessment Guideline: An Adaptive Response to Flood Risk Management for Residential Development in the Penrith City Centre published by the Department on 28 June 2019.

PLANNING CERTIFICATE UNDER SECTION 10.7

Environmental Planning and Assessment Act, 1979

A copy of this Guideline is available on the website of the Department.

Clause 61(1)-(6) of the Regulation may also apply to the land.

Notes:

The Environmental Planning and Assessment Amendment Act 2017 commenced operation on the 1 March 2018. As a consequence of this Act the information contained in this certificate needs to be read in conjunction with the provisions of the Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017, and Environmental Planning and Assessment Regulation 2021.


Information is provided only to the extent that Council has been notified by the relevant government departments.

This is a certificate under section 10.7 of the Environmental Planning and Assessment Act, 1979 and is only provided in accordance with that section of the Act.

Further information relating to the subject property can be provided under section 10.7(5) of the Act. If such further information is required Council indicates that a full certificate under sections 10.7(2) **and** 10.7(5) should be applied for.

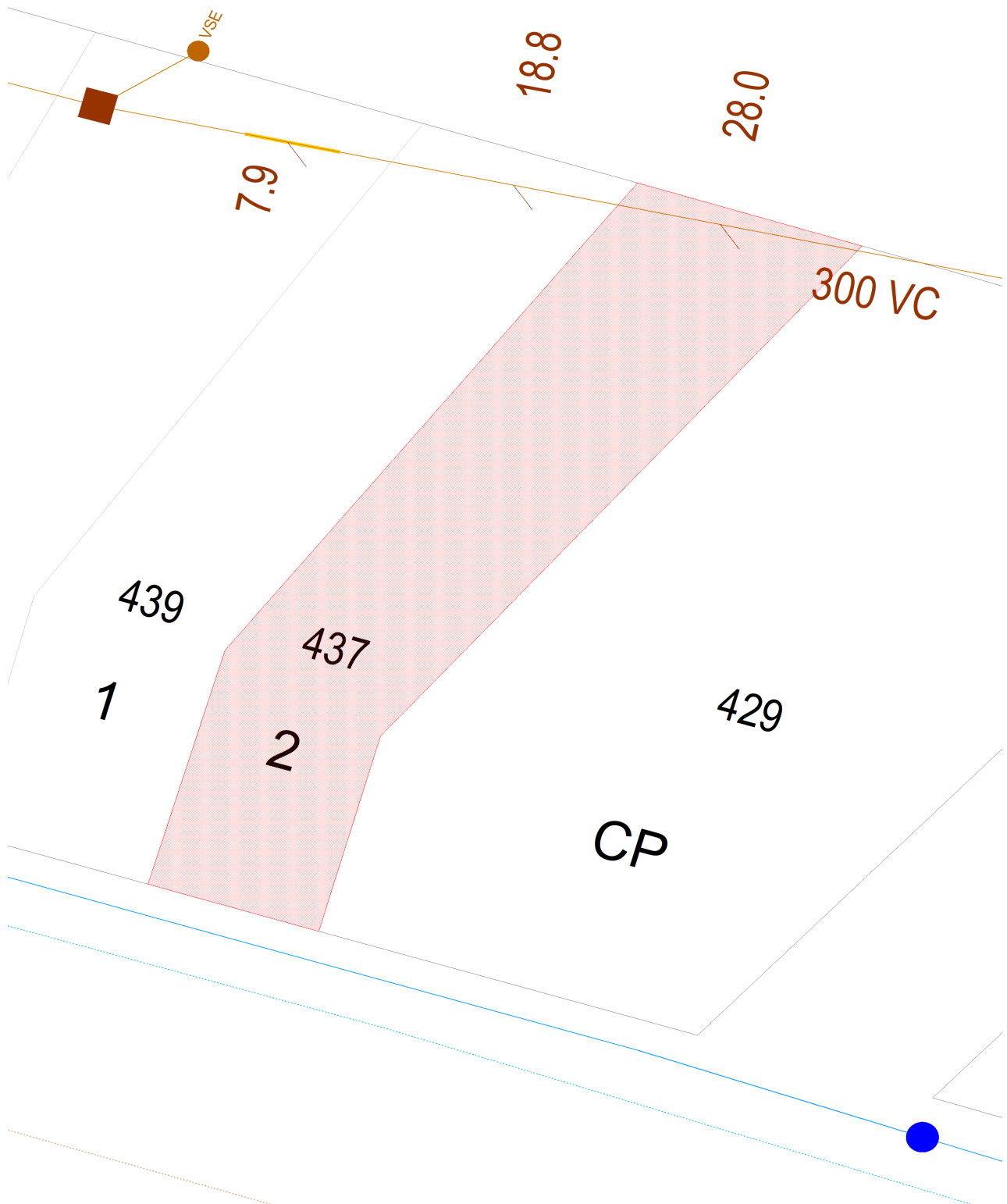
Contact Council for details as to obtaining the additional information.

Andrew Moore
General Manager

per 

Service Location Print

Application Number: 8004293605



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Disclaimer

The information on this print shows if we provide any water, wastewater or stormwater services to this property. It may not be accurate or to scale. If you'd like to see the location of private wastewater pipes on the property, please buy a **Sewer service diagram**.

Asset Information

Legend

Sewer		Property Details	
Sewer Main (with flow arrow & size type text)		Boundary Line	
Disused Main		Easement Line	
Rising Main		House Number	
Maintenance Hole (with upstream depth to invert)		Lot Number	
Sub-surface chamber		Proposed Land	
Maintenance Hole with Overflow chamber		Sydney Water Heritage Site (please call 132 092 and ask for the Heritage Unit)	
Ventshaft EDUCT			
Ventshaft INDUCT			
Property Connection Point (with chainage to downstream MH)			
Concrete Encased Section			
Terminal Maintenance Shaft			
Maintenance Shaft			
Rodding Point			
Lamphole			
Vertical			
Pumping Station			
Sewer Rehabilitation			
Pressure Sewer		Water	
Pressure Sewer Main		WaterMain - Potable (with size type text)	
Pump Unit (Alarm, Electrical Cable, Pump Unit)		Disconnected Main - Potable	
Property Valve Boundary Assembly		Proposed Main - Potable	
Stop Valve		Water Main - Recycled	
Reducer / Taper		Special Supply Conditions - Potable	
Flushing Point		Special Supply Conditions - Recycled	
		Restrained Joints - Potable	
		Restrained Joints - Recycled	
		Hydrant	
		Maintenance Hole	
		Stop Valve	
		Stop Valve with By-pass	
		Stop Valve with Tapers	
		Closed Stop Valve	
		Air Valve	
		Valve	
		Scour	
		Reducer / Taper	
		Vertical Bends	
		Reservoir	
		Recycled Water is shown as per Potable above. Colour as indicated	
Vacuum Sewer		Private Mains	
Pressure Sewer Main		Potable Water Main	
Division Valve		Recycled Water Main	
Vacuum Chamber		Sewer Main	
Clean Out Point		Symbols for Private Mains shown grey	
Stormwater			
Stormwater Pipe			
Stormwater Channel			
Stormwater Gully			
Stormwater Maintenance Hole			

Disclaimer

The information on this print shows if we provide any water, wastewater or stormwater services to this property. It may not be accurate or to scale. If you'd like to see the location of private wastewater pipes on the property, please buy a **Sewer service diagram**.

Pipe Types

ABS	Acrylonitrile Butadiene Styrene	AC	Asbestos Cement
BRICK	Brick	CI	Cast Iron
CICL	Cast Iron Cement Lined	CONC	Concrete
COPPER	Copper	DI	Ductile Iron
DICL	Ductile Iron Cement (mortar) Lined	DIPL	Ductile Iron Polymeric Lined
EW	Earthenware	FIBG	Fibreglass
FL BAR	Forged Locking Bar	GI	Galvanised Iron
GRP	Glass Reinforced Plastics	HDPE	High Density Polyethylene
MS	Mild Steel	MSCL	Mild Steel Cement Lined
PE	Polyethylene	PC	Polymer Concrete
PP	Polypropylene	PVC	Polyvinylchloride
PVC - M	Polyvinylchloride, Modified	PVC - O	Polyvinylchloride, Oriented
PVC - U	Polyvinylchloride, Unplasticised	RC	Reinforced Concrete
RC-PL	Reinforced Concrete Plastics Lined	S	Steel
SCL	Steel Cement (mortar) Lined	SCL IBL	Steel Cement Lined Internal Bitumen Lined
SGW	Salt Glazed Ware	SPL	Steel Polymeric Lined
SS	Stainless Steel	STONE	Stone
VC	Vitrified Clay	WI	Wrought Iron
WS	Woodstave		

Further Information

Please consult the Dial Before You Dig enquiries page on the Sydney Water website.

For general enquiries please call the Customer Contact Centre on 132 092

In an emergency, or to notify Sydney Water of damage or threats to its structures, call 13 20 90 (24 hours, 7 days)

Disclaimer

The information on this print shows if we provide any water, wastewater or stormwater services to this property. It may not be accurate or to scale. If you'd like to see the location of private wastewater pipes on the property, please buy a **Sewer service diagram**.

Sewer Service Diagram

Application Number: 8004293594

SEWERAGE SERVICE DIAGRAM

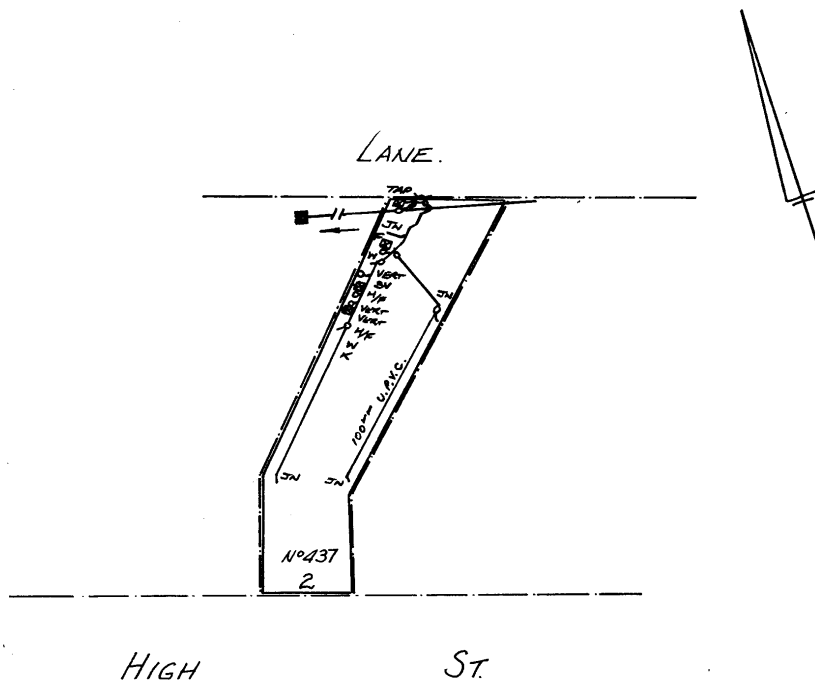
MUNICIPALITY OF PENRITH SUBURB OF PENRITH
PROPERTY/RATE NO. 4609983 SEWER REF. SHEET NUMBER

M.W.S. & D.I.
Copy of Diagram No. 3005994
Scale 1:500

INDICATES - DRAINAGE FITTINGS				SYMBOLS AND ABBREVIATIONS				INDICATES - PLUMBING FIXTURES & OR FITTINGS			
■	Manhole	☒	P	P. Trap	CO	Clear Out		⌘	Bid	Bidet	
□	Chr. Chamber	☒	R	Reflux Valve	O V	Vent Pipe		S	S	Shower	
●	L.H. Lamphole	☒	Vert.	Cleaning Eye	T	Tubs		DW.	DW.	Dishwasher	
⊠	Boundary Trap	☒	IP	Induct Pipe	K	Kitchen Sink		F	F	Floor Waste	
⊙	Inspection Shaft	☒	MF	Mica Flap	W	Water Closet		M	M	Washing Machine	
■	Pit	☒	Jn.	Junction	B	Bath Waste		BS	BS	Bar Sink	
☒	Grease Interceptor	☒	RP	Rodding Point	H	Handbasin		LS	LS	Lab Sink	
☒	Gully				O SV	Soil Vent Pipe		O WS	O WS	Waste Stack	

SEWER AVAILABLE
Where the sewer is not available and a special inspection is involved the Board accepts no responsibility for the suitability of the drainage in relation to the eventual position of the Board's sewer. The existence and position of the Board's sewers, stormwater channels, pipes, mains and structures should be ascertained by inspection of records available at Board's Business Offices. (Section 33 Of Board's Act). Position of structures, boundaries, sewers and sewerage service shown hereon are approximate only and in general the outlines of buildings may have been drawn from initial building plans submitted to the Board. Discrepancies in outline can occur from amendment to these plans. Discrepancies in position and type of drainage lines and fittings can be due to unnotified work. Before building work is commenced location of drainage lines is recommended. Licensee is required to submit to the Board a Certificate Of Compliance as not all work may have been supervised.

NOTE: This diagram only indicates availability of a sewer and any sewerage service shown as existing in Board's records (By-Law 8, Clause 3).



CONNECTION POINT	Depth.....m
Junction.....m	from DS 428 Manhole
S/L.....m	
Inlet into Manhole	

Connection Date: 16.1.6.92

For Regional Manager

Document generated at 12-05-2025 10:40:07 AM

Disclaimer

The information in this diagram shows the private wastewater pipes on this property. It may not be accurate or to scale and may not show our pipes, structures or all property boundaries. If you'd like to see these, please buy a **Service location print**.

Form: 071
 Release: 4.7
 Licence: 01-05-028
 Licensee: LEAP Legal Software Pty Limited
 Firm name: Joseph Grassi & Associates

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

Insert Duties Assessment No. as issued by Revenue NSW Office

Duties Assessment No.

(A) TORRENS TITLE

Property leased; if appropriate, specify the part or premises
 PART of the land in certificate of title Folio Identifier 2/82325 being the premises more particularly described in the Reference Schedule.

(B) LODGED BY

Document Collection Box	Name, Address or DX, Telephone, and Customer Account Number if any		CODE L
	Email:		
	Reference:		

(C) LESSOR

Marie Ann Gallagher and Charles Chitos

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

(D)

Encumbrances (if applicable):

(E) LESSEE

3 Circles Group Pty Limited (ACN 677 163 549)

(F)

TENANCY:

(G)

- TERM** 5 years
- COMMENCING DATE** 15 September 2024
- TERMINATING DATE** 14 September 2029
- With an **OPTION TO RENEW** for a period of Two options of 5 years each set out in item 7 of the Reference Schedule
- With an **OPTION TO PURCHASE** set out in clause N/A of N/A
- Together with and reserving the **RIGHTS** set out in clause N/A of N/A
- Incorporates the provisions or additional material set out in **ANNEXURE(S)** A hereto.
- Incorporates the provisions set out in N/A No. N/A
- The **RENT** is set out in clause No. 2 of Annexure A

DATE / /

- (H) I certify that I am an eligible witness and that the lessor signed this dealing in my presence.
[See note** below].

Signature of witness:

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) appears(s) below pursuant to the authority specified.

Corporation: 3 Circles Group Pty. Limited (ACN 677 163 549)

Authority: section 127 of the Corporations Act 2001

Signature of authorised person:

Name of authorised person: Alhassan Hadi Ibrahim

Office held: Director/Secretary

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

Signature of lessor:

Signed by:

9/7/2025 | 4:11:37 PM AEST

Signed by:

9/7/2025 | 4:13:11 PM AEST

Signature of authorised person:

Name of authorised person: Ramsin Petro

Office held: Director

(I) **STATUTORY DECLARATION ***

I

solemnly and sincerely declare that—

1. The time for the exercise of option to renew in expired lease No. has ended;
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

☐ 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 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 the identification document and the document I relied on was a

Signature of witness: _____

Signature of lessor: _____

* 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.

** s117 RP Act requires that you must have known the signatory for more than 12 months or have sighted identifying documentation.

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This page and the following 32 pages constitute the Annexure "A" to the Lease between **MARIE ANN GALLAGHER** as Lessor and **3 CIRCLES GROUP PTY. LIMITED** (A.C.N. 677 163 549) as Lessee dated this day of 2025.

The Premises shall be held by the Lessee as tenant for the term hereinbefore referred to together with the option for a further term (if any) set out in **Item 7** of the Reference Schedule at the annual rental set out in **Item 3** of the Reference Schedule and payable in the manner provided in this Lease subject to and with the benefit of the terms, covenants, conditions and provisions hereinafter contained: -

1. DEFINITIONS AND INTERPRETATIONS

1.1 Definitions

In this Lease unless the contrary intention appears:

"Adjustment Period" means each consecutive period of twelve (12) months ending on the date referred to in **Item 2** of the Reference Schedule in each year of the term of this Lease and any holding over period where any such period or part of any such period is part of the term of this Lease and any holding over period;

"Building" means the building or buildings and improvements erected on the Land including any extensions or modifications made thereto from time to time and such of the plant, equipment, fixtures and fittings related thereto or contained therein as are from time to time owned by the Lessor;

"Guarantors" means the person (if any) described as Guarantor in **Item 12** of the Reference Schedule his executor administrator and assigns and where two or more persons are Guarantors shall mean and include the Guarantors and the executor, administrator and assigns of them and each of them;

"Institute" means the Australian Property Institute Inc. New South Wales Division Inc. or should such institute cease to exist such other body or association as then has substantially the same objects as such institute;

"Land" means the land described on the front page of this Lease;

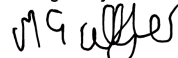
"Lease" means this lease including any Appendix, Schedules and annexures hereto;

"Lessee" means and includes the Lessee named and described, the Lessee's successors and permitted assigns or, being a person, the Lessee's executors administrators and permitted assigns and where not repugnant to the context the servants and agents of the Lessee and if more than one the Lessees and each and every of them and each and every of their executors, administrators, successors and permitted assigns **AND** shall mean and extend to and include any permitted sub-tenant or licensee of the Lessor;

"Lessor" means and includes the Lessor named and described, the Lessor's successors and permitted assigns or, being a person, the Lessor's executors administrators and assigns and where not repugnant to the context the Lessor's servants and agents and if more than one the Lessors and each and every of them and each and every of their executors, administrators, successors and permitted assigns;

"Premises" means the premises which are described in **Item 1** of the Reference Schedule and where the context so admits such of the fixtures, fittings, furnishings, plant, machinery

Signed by:



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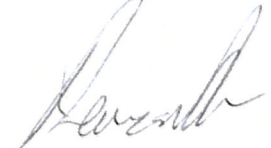
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and equipment (if any) from time to time installed therein and owned by the Lessor including the plant and equipment referred to in the Property Schedule;

“PPSA” means the Personal Property Securities Act 2009 (Cth.) as amended from time to time;

“Reference Schedule” means the reference schedule described as such in the Lease;

“Rent” means the amount set out in **Item 3** of the Reference Schedule as varied from time to time pursuant to this Lease; and

“Review Date” means each of the dates referred to in **Item 4** of the Reference Schedule or the date of commencement of the new term in accordance with any option granted pursuant to the terms of this Lease or the date of the request if the Rent is to be determined in accordance with a notice given pursuant to clause 2.2.2 as the case may be.

1.2 Singular, Plural etc.

Words importing the singular or plural number shall be deemed to include the plural or singular number respectively and words importing the masculine gender only shall include the feminine or neuter gender and vice versa as the case may require.

1.3 Joint and Several Liability

Any covenant or agreement on the part of two or more persons shall be deemed to bind them jointly and severally and shall also bind the executors and administrators or successors of them and each of them and every two or greater number of them jointly and severally.

1.4 Severability

If any term covenant or condition of the Lease or the application thereof to any person or circumstance shall be or become void or unenforceable the remaining terms covenants and conditions shall not be affected and such terms covenants and conditions of the Lease shall be valid and enforceable to the fullest extent permitted by law.

1.5 Headings

Headings and sub-headings are included for the sake of reference only and none of the terms covenants conditions or restrictions herein appearing are to be construed or interpreted by reference to such headings or sub-headings.

1.6 Exclusion of Implied Covenants and Powers

1.6.1 The covenants conditions and restrictions implied by Section 84, 84A and 85 of the Conveyancing Act 1919 shall not apply to or be implied in the Lease except in so far as the same or some part or parts thereof are included in the covenants herein contained.

1.6.2 The use in this Lease of any word or words in any form of words contained in the first column of Part II of the Fourth Schedule of the Conveyancing Act, 1919 shall not imply any covenant under Section 86 of that Act.

2. RENT AND OPERATING EXPENSES

2.1 Rent

- 2.1.1 The Lessee shall at such place or places as the Lessor may from time to time direct and otherwise without demand from the Lessor pay to the Lessor free from all deductions during the term of this Lease in the manner set out in sub-clause 2.1.2 hereof the Rent at the rate per annum set out in **Item 3** of the Reference Schedule including any variation thereto pursuant to clause 2.2.
- 2.1.2 The Rent payable under this Lease for each year shall be paid by equal monthly instalments of one twelfth of such rental in advance on the 1st day of each month and for any broken period being less than one month by an instalment calculated in accordance with the following formula: -

No. of days in broken period x rental for particular year

365

2.2 Rent Review

2.2.1 Review

With effect from the Review Date the Rent shall be reviewed to an amount calculated in accordance with such of the following sub-clauses 2.2.2, 2.2.3 and 2.2.4 the corresponding number of which (if any) appears in **Item 4** of the Reference Schedule.

2.2.2 Market Reviews

- (i) At any time not earlier than sixty (60) days prior to each Review Date the Lessor may notify the Lessee in writing of the amount which the Lessor considers to be the current market rental appropriate to the Premises as from that particular Review Date taking into account those matters referred to in clause 2.4 hereof.
- (ii) If the Lessor and the Lessee agree on the rent as notified in sub-clause 2.2.2(i) above, then the Rent shall be changed to the amount in that notice.
- (iii) If either the Lessor or the Lessee, within thirty (30) days of the Review Date, do not agree with the current market rent as notified by the Lessor the Rent shall be determined in accordance with clause 2.3.

2.2.3 Consumer Price Index Adjustment

The Rent shall be increased by multiplying the annual rent for the first year of the Lease by the Index Number (as hereinafter defined) for the quarter ending immediately prior to the commencement of the particular year of the Lease and divided by the Index Number for the quarter ending immediately prior to the commencement of the Lease.

2.2.4 Fixed Percentage Increase

The Rent shall be calculated by increasing the Rent payable immediately prior to the relevant Review Date by the percentage (if any) referred to in **Item 4** of the Reference Schedule.

2.2.5 Continuing obligation to pay Rent

If applicable whenever the reviewed annual rental shall not have been determined in accordance with sub-clauses 2.2.2, 2.2.3 and 2.2.4 on or before the relevant Review Date then the Lessee shall, pending such determination continue paying Rent at the rate applicable immediately prior to the relevant Review Date and shall forthwith upon demand pay to the Lessor any necessary adjustment of Rent as soon as the reviewed rental has been determined.

2.2.6 Rent not to reduce

Notwithstanding anything contained in this Lease no determination adjustment or revision of the rent pursuant to this clause 2.2 or clause 2.3 shall operate to reduce the rent below the rent payable prior to any Review Date or the previous year of the Lease whichever is applicable.

2.3 Rent Review Valuation

Should written notice be given pursuant to sub-clause 2.2.2 or sub-clause 3.2.2 that the annual rental is to be determined in accordance with the provisions of this clause then the following procedure shall apply: -

- (a) The Lessor and the Lessee may agree on a valuer who shall decide the current market rental or in the absence of agreement either the Lessor or the Lessee may ask the President for the time being of the Institute to appoint a valuer;
- (b) In determining such annual market rental value any such valuer shall be deemed to be acting as an expert and not as an arbitrator;
- (c) The costs incurred in the determination of such rental value shall be borne by the parties equally;

2.4 Matters for consideration in determining the current market rent

In determining the Rent of the Premises any valuer shall at the Review Date take into account all relevant valuation principles having regard to the terms and conditions of this Lease and any other relevant documentation and without limiting what has been stated must: -

- (a) take no account of: -
 - (i) the value of any personal goodwill attributable to the Lessee's business and the value of the Lessee's fixtures and fittings in the Premises; and
 - (ii) any deleterious condition of the Premises if such condition results from any breach of any clause of this Lease by the Lessee;
- (b) having regard to the length of the whole term of the Lease disregard the fact that part of the term of the Lease will have elapsed at the Review Date;
- (c) assume that all covenants on the part of the Lessee and the Lessor contained in this Lease have been fully performed and observed;
- (d) assume that the Lessee is being offered vacant possession;
- (e) take no account of any concession otherwise required to secure a lessee for any period of rent abatement and any fit-out allowance or any other concession granted by the Lessor to the Lessee at the commencement of any term of this Lease;

- (f) have regard to the rental value of comparable premises and the value of the local goodwill attaching to the Premises (as distinct from the goodwill attached to the Lessee's business conducted from the Premises) attributable to the location, facilities, management and promotion of the Building;
- (g) have regard to the fact that the Lessor is a willing but not anxious Lessor, and the Lessee is a willing but not anxious Lessee;
- (h) make no reduction on account of any GST paid or payable by the Lessee in connection with or as a result of its occupancy of the Premises or any GST paid or payable by any lessee of comparable premises;
- (i) have regard to the use to which the Premises is being put; and
- (j) furnish a written valuation.

2.5 Index Number

2.5.1 In this Lease the words "Index Number" shall mean: -

the All-Groups Consumer Price Index for Sydney published from time to time in the Commonwealth Statistician's Summary of Australian Statistics. In the event that the Commonwealth Statistician shall up-date the reference base of such Index Number due conversion shall be made to preserve the intended continuity of calculation by using the appropriate arithmetical factor determined by that Statistician;

2.5.2 In the event of the discontinuance or suspension of the Consumer Price Index then the rent shall only be reviewed in accordance with the procedure set out in clause 2.3.

2.6 Operating Expenses

2.6.1 Obligation to pay

Subject to sub-clause 2.6.4 hereof the Lessee shall in respect of each year or part of a year of the Lease in addition to the Rent reimburse and pay to the Lessor without deduction the Lessee's share of the Operating Expenses referred to in **Item 5** of the Reference Schedule relative to each year or part thereof such proportion shall be calculated and payable as follows: -

- A. Within three (3) months after the end of the Adjustment Period the Lessor will furnish to the Lessee a statement giving reasonable details of the Operating Expenses. Except in the case of manifest error notified by either party to the other within fourteen (14) days of the service of such statement on the Lessee such statement shall be prima facie evidence of the matters stated therein.
- B. Within twenty-one (21) days of receipt by the Lessee from the Lessor of a statement in writing of the amount of the Lessee's proportion of the Operating Expenses the Lessee shall pay such amount to the Lessor **AND** it is hereby agreed and declared: -
 - (i) that subject to sub-paragraph (ii) of this sub-clause the liability of the Lessee to pay the Lessee's proportion of the Operating

Expenses shall not be determined or otherwise prejudiced by the prior expiry of the term of or other determination of this Lease;

- (ii) that if the term of this Lease expires or if this Lease is otherwise determined before the Adjustment Period expires in any year or if as at the date of the Adjustment Period less than one (1) year of the term of this Lease has expired then the Operating Expenses shall be deemed to accrue from day to day and the Lessee's proportion thereof shall be calculated accordingly;

2.6.2 Operating Expenses applying solely to the Premises

- (a) Should any of the Operating Expenses apply wholly to the Premises then the Lessee shall pay one hundred percent (100%) of those Operating Expenses in lieu of the percentage referred to in **Item 5** of the Reference Schedule together with any GST paid or payable thereon.
- (b) Should any of the Operating Expenses arise wholly out of the use of the Premises then the Lessee shall pay the whole of those Operating Expenses.
- (c) All strata levies, and special levies paid or payable to the strata corporation in respect of the Premises.

2.6.3 Notification by the Lessor

- (a) The Lessor may no later than one (1) month before the commencement of the Adjustment Period notify the Lessee of the Lessor's reasonable estimate of the Operating Expenses for any period not exceeding one (1) year in advance to be provided by the Lessor to the Lessee at least twice in each Accounting Period.
- (b) The Lessee will then pay to the Lessor during such period such estimated proportion by equal monthly instalments in advance on the days hereinbefore fixed for payment of the Rent.
- (c) Upon computation of the Operating Expenses at the end of the then current Adjustment Period any necessary adjustment between the estimated and actual Lessee's proportion shall be made and any refund to or further payment by the Lessee shall be allowed or made by or to the Lessor accordingly.

2.6.4 Definition of Operating Expenses

For the purpose of this clause the expression "Operating Expenses" means all costs, charges, expenses, fees and other outgoings paid or payable by the Lessor in managing, insuring, supervising, maintaining and keeping secure the Land, Building and the Premises including in particular, but without limiting the generality of the foregoing, the following outgoings relating to the Land, Building and the Premises: -

- (i) All rates and taxes (including land tax at the rate payable by the Lessor) charges, assessments, duties and fees of any public, municipal, governmental, or semi-governmental body authority or department levied assessed or charged in respect of the Building and of the land

(irrespective of the ownership thereof) and in respect of land tax upon the basis that the land is the only land owned by the Lessor;

- (ii) All charges for water, gas, oil, electricity, light, power, fuel, sewerage, drainage, garbage removal and other services supplied or furnished to the Premises;
- (iii) All insurance premiums payable by the Lessor in respect of the Building and the fixtures and fittings of the Lessor in their full insurable reinstatement value including public risk and loss of rents insurance;
- (iv) The cost of all services supplied to the Land and the Building including, but without limiting the generality of the foregoing, all charges for electricity, gas, water, oil, telephone, sewerage and garbage services;
- (v) The cost of all services provided by the Lessor for the Lessee and visitors to the Building including, but without limiting the generality of the foregoing, cleaning, lighting and servicing the Land and Building;
- (vi) All costs for or in connection with the maintenance, operation and upkeep of the Land and the Building excluding the cost of any structural work and the cost of any work the payment for which is the responsibility of a particular lessee or occupier in the Building;
- (vii) All reasonable management expenses, (including any fees payable to the Lessor's managing agents) control and security costs in connection with the Land and the Building including, but without limiting the generality of the foregoing, salaries, wages, payroll tax, superannuation and pension payments and workers' compensation insurance premiums.

3. TERM AND OPTION FOR RENEWAL

3.1 Term

The term of the Lease shall be for the period referred to in **Item 6** of the Reference Schedule and shall commence and terminate on the respective dates referred to therein.

3.2 Option

3.2.1 Precondition

If the Lessee desires to have a further lease of the Premises for the period stated in **Item 7** of the Reference Schedule and; -

- 3.2.1.1 the Lessee has not more than six (6) months and not less than three (3) months prior to the date of termination of this Lease notified the Lessor in writing that the Lessee has exercised the Lessee's option for renewal of this Lease; and
- 3.2.1.2 there is neither then nor at the date of expiry of this Lease any existing breach of any of the terms of the Lease which the Lessee has failed to rectify; and
- 3.2.1.3 if the Lessee has not already done so deliver a bank guarantee or provide a security bond as the case may be;

THEN the Lessor shall grant (and the Lessee shall accept) a new lease in accordance with clause 3.3 hereof.

3.2.2 Exercise of Option

Should the Lessee exercise the option for renewal of this Lease then in the absence of agreement between the Lessor and the Lessee then the Lessor may within one (1) month of receipt of that notice, give written notice ("the Lessor's Statement of Rent") to the Lessee setting out the amount which the Lessor considers should be the rent to apply from the commencement of the further term.

3.2.3 Acceptance of Rent

The Lessee shall be deemed to have accepted the Lessor's Statement of Rent (given pursuant to clause 3.2.2) and such rent shall apply from the commencement of the further term unless, within fourteen (14) days of the date of receipt of the Lessor's notice, the Lessee notifies the Lessor in writing that the Lessee requires the market rental to be determined in accordance with clause 2.3.

3.2.4 Lessor's Deemed Notice

Should the Lessee exercise the option for renewal and should the Lessor fail to give to the Lessee the notice referred to in clause 3.2.2 then the Lessee shall be deemed to have given to the Lessor the notice referred to in clause 3.2.3 and for the purpose of clause 2.3 such notice shall be deemed to have been given within the time limited by clause 3.2.3.

3.3 Grant of Lease

Where the Lessee has complied with the provisions of clause 3.2 then the Lessor shall grant (and the Lessee shall accept) a further Lease of the Premises for the respective periods stated in **Item 7** of the Reference Schedule on the same terms and conditions as this Lease except as to the term and except that: -

- 3.3.1 the Reference Schedule in such further Lease shall contain the following variations from the Reference Schedule to this Lease: -

Reference Schedule Item	Details to be inserted in Reference. Schedule to New Lease.
Item 3 - Rent	The rent agreed or determined by clause 3.2 of this Lease.
Item 6 - Term	Commencement and termination date referred to in Item 7.
Item 7- Option	Shall be amended or omitted as appropriate.

- 3.3.2 this clause 3.3 and clause 3.2 shall be omitted from the Lease granted pursuant to the last option referred to in **Item 7**.

- 3.3.3 Clause 21 shall be omitted from the Lease granted pursuant to any option referred to in **Item 7**.

4. USE OF THE DEMISED PREMISES AND ASSIGNMENT

4.1 Permitted Use

The Lessee will not use or permit to be used the Premises for any purpose other than as set out in **Item 8** of the Reference Schedule and will not permit or suffer the use of the same for any residential purpose whether temporary or permanent nor permit or suffer any storage space forming part of the Premises to be used for any purpose other than storage and shall operate the Premises.

4.2 No Noxious use of Premises

The Lessee will not permit any noxious, immoral, noisome, offensive or illegal act, trade, business occupation or calling at any time during the term to be exercised, carried on, permitted or suffered in or upon the Premises and will not permit any act, matter or thing whatsoever at any time during the term to be done in or upon the Premises which shall or may cause annoyance, nuisance, grievance, damage or disturbance to the occupiers or owners of adjoining or neighbouring lands or buildings or to the Lessor's other Lessees in the Building of which the Premises form part.

4.3 Assignment

The Lessee will not during the continuance of this Lease assign transfer mortgage charge or otherwise deal with the Lessee's interest in the Premises or demise sublet or part with the possession of or grant any licence affecting the Premises or do any act or deed to procure any of the foregoing. Any assignment transfer subletting or licence shall be deemed not to be a breach of the foregoing provisions of this clause if prior thereto: -

- (a) The Lessee has made application in writing to the Lessor requesting the Lessor's consent containing such information as the Lessor may reasonably require concerning the financial standing and business experience of the proposed assignee, transferee, sublessee or licensee ("Ingoing Lessee")
- (b) The Lessee either has not committed any default under this Lease or has committed a default under this Lease which has been waived or excused.
- (c) The Lessee has proved to the reasonable satisfaction of the Lessor that the Ingoing Lessee is financially sound with experience in and a good reputation for carrying on a business permitted by this Lease.
- (d) The Ingoing Lessee has entered into a covenant with the Lessor in the form required by the Lessor that it will duly perform and observe the covenants and agreements on the Lessee's part herein contained.
- (e) The Ingoing Lessee has furnished the Lessor with such guarantee or guarantees (including a bank guarantee or payment of a security bond as referred to in clause 15) of the performance of the Lessee's obligations under this Lease as the Lessor shall require.
- (f) The Lessee has entered into a deed in the form required by the Lessor under which the Lessee releases the Lessor from all claims against the Lessor in respect of, or in any way arising from, this Lease, and containing such other terms and provision as the Lessor may in its absolute discretion require.
- (g) The Lessee pays to the Lessor the Lessor's proper costs and disbursements of and incidental to the giving of the Lessor's consent.

- (h) In the case of a sublease or licence the Lessee has established to the reasonable satisfaction of the Lessor that the Ingoing Lessee is obliged to pay a full market rental or licence fee.

4.4 Company Lessee

The Lessee being a company, other than a company whose shares are listed on any Australian Stock Exchange, hereby covenants with the Lessor that: -

- (a) no transfer of any share or shares in the capital of the Lessee shall be registered, recorded or entered in its books;
- (b) no beneficial interest in any such share or shares shall be issued or other action taken or attempted to be taken;
- (c) having the effect that the shareholders of the Lessee at the date hereof together beneficially hold or control less than fifty-one per centum (51%) of the voting, income and capital participation rights in the Lessee;
- (d) or less than that percentage of any one or more of such rights or less than that percentage of the voting rights at a meeting of Directors of the Lessee,

without the prior consent in writing of the Lessor which shall not be unreasonably withheld where the proposed new shareholders satisfy the same requirements applicable to the Ingoing Tenant referred to in paragraphs (e) and (f) of clause 4.3 and the Lessee complies with the requirements of paragraphs (c), (d) and (g) of clause 4.3.

4.5 Director's Guarantees on Assignment

If the within Lease has been assigned or transferred and the assignee is a company, then the Lessor may require all or any Directors of such company to guarantee the performance by the Lessee of the covenants contained in the Lease and such guarantee shall contain such covenants and conditions as are acceptable to the Lessor.

4.6 Conduct of Business

If applicable the Lessee shall at all times keep the Premises open for business and shall conduct the business in the Premises during the regular customary days and hours for such type of business in the Building and from time to time if applicable to the particular use to which the Premises are used and if so required by the Lessor during all legal night trading times and in accordance with the best methods and in a reputable manner and shall keep on foot all licences and permits required for the carrying on of such business.

5. MAINTENANCE REPAIR AND ALTERATIONS

5.1 Repair of Premises

- 5.1.1 The Lessee will during the whole of the term and otherwise so long as the Lessee may remain in possession or occupation when where and so often as need shall be maintain replace repair and keep the whole of the Premises in good and substantial repair order and condition (having regard to their condition at the commencement of the Lease) damage by explosion, earthquake, aircraft, riot, civil commotion, fire, flood, lightning, storm, tempest and reasonable wear and tear, act of God and war damage only excepted unless any insurance moneys are irrecoverable through the neglect default or misconduct of the Lessee.

5.1.2 This covenant shall not impose on the Lessee any obligation in respect of any structural maintenance replacement or repair except when the same is rendered necessary by any act neglect default or omission on the part of the Lessee or by the Lessee's use or occupancy of the Premises.

5.1.3 The Lessee acknowledges that the Premises were in good and substantial repair order and condition at the commencement of the term.

5.2 Redecorating

5.2.1 Requirement

The Lessee shall redecorate the Premises throughout to the reasonable satisfaction of the Lessor in the last year of the term. The term "redecorate" shall include the washing down of the whole of the interior of the Premises including all partitions or additions made to the Premises and the treatment as previously treated of all internal surfaces of the Premises by painting staining polishing or otherwise to a specification approved by the Lessor.

5.2.2 Lessee's failure

Should the Lessee fail to redecorate the Premises the Lessor may undertake redecoration at the Lessee's expense and the Lessee shall repay amounts so expended by the Lessor on demand.

5.3 Trade Waste

The Lessee will during the term cause the Premises to be kept clean and free from dirt and rubbish and particularly shall store and keep all trade waste trash and garbage in proper receptacles and arrange for the regular removal thereof from the Premises and without affecting the generality of the foregoing shall clean all glass surfaces (if any) forming part of the Premises.

5.4 Replacement of Breakages

5.4.1 Lessee to make good

The Lessee will immediately make good any breakage defect or damage to the Building or to any adjoining Premises or any facility or appurtenance thereto occasioned by the Lessee or the Lessee's invitees, employees or contractors.

5.4.2 Lessee to repair and replace

The Lessee will immediately repair and replace all broken glass including exterior windows with glass of the same or similar quality and all damaged or broken heating lighting electrical equipment and plumbing installed upon the Premises.

5.5 Installation of Plant & Equipment

The Lessee will not, nor will the Lessee permit any person to penetrate the ceiling or roof decking of the Building for the purposes of installing any plant or equipment of the Lessee without the prior written consent of the Lessor.

5.6 Partitioning and Alterations

5.6.1 The Lessee will not, nor will the Lessee permit any person to partition the Premises or make any alteration or addition to the structure or exterior of the Premises or any partitions therein or any additions or alterations thereto without the prior written consent of the Lessor which shall not be unreasonably withheld.

- 5.6.2 The Lessee shall in the course of such partitioning, alterations or additions made with the consent of the Lessor observe and comply with all requirements of the Lessor and public authorities.
- 5.6.3 Without prejudice to clauses 5.6.1 and 5.6.2 of this clause, the Lessee will, when applying for the Lessor's approval to any alterations or additions to the Premises, submit with the application drawings and specifications in respect thereof prepared by a qualified consultant or consultants approved by the Lessor.
- 5.6.4 Work in respect of the alterations or additions to the Premises approved by the Lessor shall only be carried out by contractors or qualified tradesmen approved by the Lessor and if required by the Lessor.
- 5.6.5 The Lessee shall on completion of such work hand to the Lessor a certificate by a consultant approved by the Lessor to the effect that such work has been carried out in accordance with the drawings and specifications relating thereto and in accordance with the requirements of all relevant public authorities.

6. AIR-CONDITIONING

6.1 Installation by Lessee

The Lessee may subject to obtaining the Lessor's prior consent in writing install in the Premises at the Lessee's own expense plant and machinery or equipment for heating cooling or circulating air (all of which are herein included in the expression "air-conditioning plant").

6.2 Operation and Maintenance by Lessee

Such air-conditioning plant shall be and remain the property of the Lessee who shall be responsible for all operating costs, maintenance and insurance thereof and the Lessee shall effect and keep current and in force during the continuance of this Lease a comprehensive maintenance and repair contract in respect thereof with some competent contractor approved by the Lessor.

6.3 Removal by Lessee

If so required by the Lessor such air-conditioning plant (or the relevant portion thereof) shall be removed by the Lessee from all portions of the Premises vacated by the Lessee at or prior to the expiration of the occupation of the Premises by the Lessee and in default thereof the Lessor may at the expense of the Lessee remove and dispose of the same and any air-conditioning plant not so removed by the Lessee prior to the expiration of the occupation of the Premises by the Lessee shall become the property of the Lessor.

6.4 Lessee to make good damage

All damage done to the Premises by reason of any such installation or removal aforesaid shall be made good by the Lessee and if the Lessee fails so to do the Lessor may make good all such damage at the expense of the Lessee.

7. INSURANCE

7.1 Lessee to Insure

The Lessee will during the term keep insured at all times the contents of the Premises (including all air-conditioning and other plant equipment fixtures from time to time being part thereof) against damage or destruction by fire, water, earthquake, theft, attempted theft,

lightning, explosion, storm, tempest, riot, strikes, civil commotion, malicious damage, sprinkler leakage, impact by vehicles or aircraft or articles dropped there from and from any other insurable risk required by the Lessor by written notice to the Lessee in not less than their full insurable value on a replacement and/or reinstatement basis including extra costs reinstatement.

7.2 Public Risk

The Lessee will effect and keep effected in respect of the Premises adequate public risk insurance (being not less than the amount referred to in **Item 9** of the Reference Schedule) and will, if required by the Lessor, notify the Lessor of details thereof. The Lessee shall ensure that such insurance covers the indemnities referred to in clause 10.2 hereof and otherwise conforms with the reasonable requirements from time to time of the Lessor of which the Lessee is given notice.

7.3 Plate Glass

The Lessee will insure and keep insured in such amount (not being less than the full insurable value) and against breakage from any cause whatsoever and against such other risks as the Lessor may from time to time reasonably require all plate glass forming part of the Premises together with the exterior windows and shop front (if any) of the Premises.

7.4 Lessee liable for under insurance

In the case of any loss or damage to any of the items referred to in the preceding clause arising from any cause covered by such insurances the Lessee will immediately apply for and expend the moneys received by virtue of such insurances in restoring, replacing, repairing or reinstating the same and in case such moneys shall be insufficient for that purpose will pay the balance out of its own money.

7.5 Rules applicable to Lessee's insurance

Notwithstanding anything expressed or implied in this Lease, the following provisions apply to all policies of insurance required to be effected by the Lessee pursuant to the Lessee's obligations under this Lease:

- (a) All policies are to be placed with a reputable insurer and shall be for such amounts and cover such risks and contain such conditions endorsements and exclusions as are reasonably acceptable to or reasonably required by the Lessor.
- (b) All policies are to be taken out in the name of the Lessor and Lessee for their respective rights and interests.
- (c) Duplicate or certified copies of the policies and all renewal certificates and endorsement slips are to be lodged by the Lessee with the Lessor immediately they are received by the Lessee.
- (d) All premiums in respect of all such policies and renewals of policies are to be paid punctually by the Lessee and the receipt for each premium payable in respect of each policy (or other proof of payment to the Lessor's satisfaction) is to be produced by the Lessee to the Lessor if required by the Lessor.

7.6 Approved heating and lighting only

The Lessee will not use or permit or suffer to be used any method of heating or lighting the Premises in contravention of any policy of insurance in respect of the Premises.

7.7 Extra Premiums

- (d) for the purpose of complying with the terms of any present or future legislation affecting the Premises or the Building or of any notice served on the Lessor or Lessee by any competent authority for which the Lessee is not responsible under this Lease;
- (e) in the event the Premises or the Building are either destroyed or damaged for the purpose of rebuilding or restoration;
- (f) for the purpose of carrying out any repairs alterations additions or other works to the utility or other services provided to the Lessee and/or other tenants of the Building;

PROVIDED ALWAYS in exercising such rights the Lessor shall use its best endeavours to minimise any disturbance caused to the Lessee in its occupation and use of the Premises.

9. COVENANTS BY THE LESSOR

9.1 Quiet Enjoyment

The Lessee paying the rent hereby reserved and duly and punctually observing and performing the covenants obligations and provisions in this Lease on the part of the Lessee to be observed and performed shall peaceably possess and enjoy the Premises during the term without any interruption or disturbance from the Lessor or any other person or persons lawfully claiming by from or under the Lessor.

9.2 Removal of Lessee's Fixtures

The Lessee may at or prior to the determination of this Lease (and will if so required by the Lessor at or immediately following the expiration or sooner determination of the term) take remove and carry away from the Premises all the Lessee's personal property and all fixtures fittings plant equipment or other articles upon the Premises in the nature of trade or tenants fixtures brought upon the Premises by the Lessee with the consent of the Lessor together with any items referred to in clause 12.1 hereof but the Lessee shall in such removal do no damage to the Premises or shall forthwith make good any damage to the Premises which the Lessee may occasion thereto.

9.3 Lessor may remove Lessee's Fixtures

If the Lessee does not remove and carry away any of such personal property, fixtures, fittings, plant equipment and other articles or items (hereinafter called "the goods") at or immediately following the termination of this Lease, the Lessor may do either or both of the following: -

- (a) Remove the goods from the Premises to such place or places as the Lessor may deem fit and shall be deemed to have the authority of the Lessee to deposit the same in the name and at the expense of the Lessee with a warehouseman selected by the Lessor and in doing so the Lessor shall not be liable or responsible for loss or damage to or warehousing expenses in respect of the whole or any part of the goods which shall be at the Lessee's risk and expense at all times and all costs and expenses incurred by the Lessor in such removal and deposit shall notwithstanding that this Lease shall then have terminated be deemed to be a liquidated debt payable by the Lessee to the Lessor upon demand.
- (b) Sell the goods either with or without removing them from the Premises and the Lessor shall be deemed to have the authority of the Lessee to sell the goods for whatever price may be obtained therefore and to apply the net proceeds of sale in

reduction or payment as the case may be of any indebtedness by the Lessee to the Lessor and to pay the surplus (if any) of such proceeds to the Lessee.

9.4 Holding Over

In the event of the Lessee holding over after the expiration or sooner determination of the term of this Lease with the consent of the Lessor otherwise than pursuant to a further lease granted by the Lessor to the Lessee the Lessee shall become a monthly tenant only of the Lessor at a monthly rental equivalent to a monthly proportion of the Rent reserved and payable by the Lessee hereunder (and as adjusted pursuant to the provisions hereof) at the expiration or sooner determination of the term of this Lease or at a monthly rental as may be agreed upon between the Lessor and the Lessee subject to the payment of the relevant amount of Operating Expenses and otherwise on the same terms and conditions as those herein contained as far as applicable. Such tenancy shall be terminable at any time by either party giving the other one month's notice in writing expiring on any day.

10. INDEMNITIES AND RELEASE

10.1 Release of Lessor from Accidental Damage

The Lessee agrees to occupy and use and keep the Premises at the risk of the Lessee and hereby releases to the full extent permitted by law the Lessor and the Lessor's contractors and employees from all claims and demands of every kind and from all liability which may arise in respect of any accident or damage to property or death of or injury to any person of whatsoever kind or nature in or near the Premises or the Building other than as may be caused by the negligence of the Lessor its contractors or employees and the Lessee agrees that the Lessor shall have no responsibility or liability for any loss of or damage to fixtures or personal property of the Lessee other than as may be caused by the negligence of the Lessor.

10.2 Lessee's Indemnities

10.2.1 Generally

The Lessee shall indemnify and keep indemnified the Lessor from and against all actions, claims, demands, notices, losses, damages, costs and expenses for which the Lessor shall or may be or become liable in respect of all or any of the following: -

- (a) any loss or damage to property, or death or injury of whatsoever nature or kind and howsoever or wherever sustained, caused or contributed to by the use or occupation of the Premises and not caused by the negligence or wilful act default or omission of the Lessor;
- (b) resulting from any act, default or omission by the Lessee hereunder and whether the same arises through any act default or omission of the Lessee or any of its agents, contractors, servants, licensees, sub-lessees, invitees or any trespassers;
- (c) resulting from any notice claim or demand to pay do or perform any act, matter or thing to be paid done or performed by the Lessee under this Lease except however to the extent that the Lessor shall be obliged under the provisions of this Lease to pay for or contribute to the cost of the same;

10.2.2 Specifically

Without limiting the generality of sub-clause 10.2.1 hereof the Lessee will and does hereby indemnify the Lessor from and against all actions claims demands, losses, damages, costs and expenses for which the Lessor shall or may become liable in respect of or arising from: -

- (a) any damage to property loss of life or injury to persons which may be suffered or sustained by the Lessee or any employee or invitee or visitor of the Lessee in or upon the Premises whether in the occupation or control of the Lessor or of the Lessee or any other person except to the extent that the same is caused by negligence on the part of the Lessor its contractors or employees;
- (b) overflow or leakage of water including rainwater and other fluids in into or from the Premises.

11. DEFAULTS AND TERMINATIONS

11.1 Essential Terms

The Lessor and the Lessee expressly covenant and agree that the covenants by the Lessee in:

- (a) Clauses 2.1 and 2.5 (dealing with the payment of the rent and operating expenses);
- (b) Clause 4.1 (dealing with restrictions on the use of the Premises);
- (c) Clause 4.3 (dealing with restrictions on the assignment and subletting of the Premises);
- (d) Clauses 5.1, 5.2 and 5.3 (dealing with maintenance, repair and redecorating);

are essential and fundamental terms of this Lease.

11.2 Consequences of Default

In the event that:

- (a) any rent or any other moneys payable under this Lease shall remain unpaid for fourteen (14) days next after the date appointed for payment although no formal demand has been made (except where moneys are herein specifically made payable on demand); or
- (b) any moneys herein specifically made payable on demand remain unpaid for fourteen (14) days after demand; or
- (c) the Lessee defaults in performing or observing any one or more of the covenants or provisions on the part of the Lessee expressed or implied in this Lease (unless the default in performance or observance has been waived or excused by the Lessor in writing) and such default shall have remained unremedied for fourteen (14) days after notice in writing shall have been given by the Lessor to the Lessee specifying such default; or
- (d) the Lessee being a corporation, an order is made or a resolution is effectively passed for the appointment of an official manager of a provisional liquidator or for the winding up of the Lessee (other than for the purposes of amalgamation or

reconstruction with the consent of the Lessor such consent not be unreasonably withheld) or ceases or threatens to cease to carry on business or a receiver is appointed of the whole or any part of the assets and undertaking of the Lessee; or

- (e) any event occurs entitling the holder or proprietor of any mortgage charge or other security over the whole or any part of the assets and undertaking of the Lessee to require immediate repayment of moneys thereby secured;

THEN the Lessor may at any time thereafter but without prejudice to any claim which the Lessor may have against the Lessee in respect of any breach of the covenants and provisions in this Lease on the part of the Lessee to be observed and performed either re-enter into and repossess and enjoy the Premises as of the Lessor's former estate (anything herein contained to the contrary notwithstanding) and thereupon this Lease shall be determined, or call for an immediate surrender of the Lessee's estate and interest under this Lease and for the most effectual enforcement of this right the Lessee hereby irrevocably appoints the Lessor the Lessee's true and lawful Attorney to surrender or cause to be surrendered this Lease and to sign all notices deeds and documents for the purpose of such surrender in the name of the Lessee, and upon such surrender the Lessor shall be freed and discharged from any action suit claim or demand by or obligation to the Lessee under or by virtue of this Lease.

11.3 Compensation by Lessee

- 11.3.1 The Lessee covenants to compensate the Lessor in respect of any breach of an essential or fundamental term of this Lease and the Lessor is entitled to recover damages from the Lessee in respect of such breach or breaches.
- 11.3.2 In the event that the Lessee's conduct (whether acts or omissions) constitutes a repudiation of the Lease (or of the Lessee's obligations under the Lease) or constitutes a breach of any Lease covenant the Lessee covenants to compensate the Lessor for the Lessor's damage suffered by reason of the repudiation or breach.
- 11.3.3 The Lessor shall be entitled to recover damages against the Lessee in respect of repudiation or breach of covenants for the damage suffered by the Lessor during the entire term of this Lease.

11.4 Certain Consequences not to affect Lessor's rights

In addition to and without prejudice to any other remedies of the Lessor, upon a default by the Lessee under any of the essential and fundamental terms, the Lessor shall be entitled to recover damages from the Lessee for the loss of the benefit of this Lease as a whole notwithstanding that: -

- (a) the Lessor has exercised a right to or may be entitled to terminate this Lease or re-enter into possession of the Premises under or pursuant to the provisions of this Lease or otherwise; or
- (b) the Lessee shall have abandoned or vacated the Premises; or
- (c) the Lessor shall have accepted or shall have elected not to accept a repudiation of this Lease by the Lessee; or
- (d) the conduct of either or both of the parties to this Lease shall constitute a surrender by operation of law; or
- (e) the Lessor shall have accepted payment of any arrears of rent; or

- (f) the Lessor shall have expressly or impliedly waived any other obligation on the part of the Lessee to be performed or right of the Lessor under this Lease.

11.5 Lessor may claim for entire Term

The Lessor shall be entitled to institute legal proceedings claiming damages against the Lessee in respect of the entire Lease term, including the period before and after the Lessee has vacated the Premises and before and after the abandonment, termination, repudiation, acceptance of repudiation, or surrender by operation of law, referred to in clause 11.4, whether the proceedings are instituted either before or after such conduct.

11.6 Lessor to mitigate loss

In the event of the Lessee vacating the Premises whether with or without the Lessor's consent, the Lessor shall be obligated to take reasonable steps to mitigate the Lessor's damages and to endeavour to lease the Premises at a reasonable rent and on reasonable terms. The Lessor's entitlement for damages shall be assessed on the basis that the Lessor should have observed the obligations to mitigate damages contained in this clause. The Lessor's conduct taken in pursuance of the duty to mitigate damages shall not by itself constitute acceptance of the Lessee's breach or repudiation or a surrender by operation of law.

11.7 Right of Lessor to remedy Lessee's default

If the Lessee omits or neglects to pay any money or to do or effect anything which the Lessee has herein covenanted to pay do or effect then on each and every such occasion it shall be lawful for but not obligatory upon the Lessor and without prejudice to any rights or powers arising from such default to pay such money or to do or effect such thing by itself as if it were the Lessee and for that purpose the Lessor may enter upon the Premises and there remain for the purpose of doing or effecting any such thing and without prejudice to the rights powers and remedies of the Lessor under this Lease the Lessee will pay to the Lessor interest at the rate referred to in **Item 10** of the Reference Schedule hereto on any moneys due by the Lessee to the Lessor on any account whatsoever pursuant to the Lease but unpaid for fourteen (14) days such interest to be computed from the due date for the payment of moneys in respect of which the interest is chargeable until payment of such moneys in full and be recoverable in like manner as rent in arrears.

11.8 Lessee to yield up on Termination

The Lessee will forthwith upon the expiration of the term or sooner determination of this Lease peaceably surrender and yield up to the Lessor the Premises clean and free from rubbish and in good and substantial repair and condition (having regard to the age of what is being surrendered or yielded up) in all respects and as nearly as possible in the same condition as at the date of such surrender or yielding up having regard to the age thereof damage by explosion, earthquake, aircraft, riot, civil commotion, fire, flood, lightning, storm, tempest, reasonable wear and tear, act of God and war damage only excepted.

12. GENERAL LESSEE'S COVENANTS

12.1 Affixing of signs

The Lessee will not without the prior approval in writing of the Lessor erect display affix or exhibit on to the exterior of the Premises or any part of the interior thereof any signs lights embellishments advertisements names or notices visible from outside the Premises **PROVIDED HOWEVER** that the lessor shall not unreasonably withhold approval in respect of a sign or notice which reasonably identifies the Lessee.

12.2 Music & Aerials

The Lessee will not without the consent in writing of the Lessor (such consent shall not be unreasonably withheld) erect or place in or outside the Premises any radio or television aerial or antenna and will not without the like consent use or permit to be used any radio, record player, tape recorder, television, loudspeaker, screen or other equipment or like media, likely to be heard or seen from outside the Premises provided however that any consent so given as aforesaid may at any time be withdrawn where the Lessor reasonably so determines having regard to the interests of the Lessor in the Premises and/or the rights or interests of other occupiers of the Building or the owners or occupiers of nearby properties.

12.3 Charges for gas, electricity, water & telephone

The Lessee will as and when the same become due for payment pay all accounts for the supply of all gas, electricity, telephone and all excess water rates and other services to or from the Premises. The Lessee will, if so, required by the Lessor in writing, install separate meters for such services as are capable of being separately metered.

12.4 Requirements of Public Authorities

The Lessee will forthwith comply with all statutes, ordinances, proclamations, orders and regulations present or future affecting or relating to the Premises or the use thereof, and with all requirements which may be made or notices or orders which may be given by any governmental semi-governmental, city, municipal, health, licensing or other authority having jurisdiction or authority in respect of the Premises or the use thereof **PROVIDED ALWAYS** that the Lessee shall be under no liability in respect of any structural alteration required by any such authority the necessity for which was not caused or contributed to by the Lessee's use or occupation of the Premises.

12.5 Overloading of floors

The Lessee will not do nor permit or suffer to be done upon the Premises anything in the nature of overloading any floor of the Building whereby in the reasonable opinion of the Lessor the Building may be strained or any walls or floors caused to sag or deflect from their right line, or the Building may be otherwise damaged.

12.6 Lavatories and drains

The Lessee will not use nor permit nor suffer to be used the lavatories toilets sinks and drainage and other plumbing facilities in the Premises for any purposes other than those for which they were constructed or provided and shall not deposit or permit to be deposited therein any sweepings rubbish or other matter and any damage thereto caused by misuse shall be made good by the Lessee forthwith.

12.7 Premises to be kept free of pests

The Lessee will take all reasonable precautions to keep the Premises free of rodents, vermin, insects, pests, birds and animals and in the event of failing to do so will if so, required by the Lessor but at the cost of the Lessee employ from time to time or periodically pest exterminators approved by the Lessor.

12.8 Infectious illness

The Lessee will in the event of any infectious illness occurring in the Premises forthwith give notice thereof to the Lessor and to the proper public authorities and at the expense of the Lessee will thoroughly fumigate and disinfect the Premises to the satisfaction of the Lessor

and such public authority and otherwise comply with their reasonable and lawful requirements in regard to the same.

12.9 Notice of accident or defect in services

The Lessee will give to the Lessor prompt notice in writing of any accident to or defect or want of repair in any services or fixtures fittings plant or equipment in the Premises and of any circumstances likely to be or to cause any danger risk or hazard to the Premises or to the Building or any person therein or thereon.

13. DAMAGE OR DESTRUCTION OR RESUMPTION OF PREMISES

13.1 Resumption

If the Land, the Building or the Premises or any part thereof shall be resumed, or a notice of intended resumption be given by any government or other competent authority then the Lessor by not less than fourteen (14) days' notice in writing to the Lessee may terminate this Lease. The Lessee shall have no claim against the Lessor by reason thereof or by reason of such resumption or termination **PROVIDED THAT** the provisions of this clause 13.1 shall not affect any claim which the Lessor or Lessee may have against the resuming authority.

13.2 Destruction or damage to Premises

It is hereby agreed and declared that in case the Premises, the Building or the Land or any part thereof shall at any time during the continuance of this Lease be destroyed or damaged by fire, flood, lightning, storm, tempest, riots, strikes, malicious damage, aircraft, explosion, earthquake or any other cause whatsoever so as to render the Premises unfit for the occupation and use of the Lessee:

- (a) The Lessor may notwithstanding anything herein contained or implied terminate this Lease by giving not less than one (1) month notice in writing to the Lessee and at the expiration of that notice this Lease shall be at an end, and no liability shall attach to the Lessor by reason of any such termination;
- (b) Except where the destruction or damage aforesaid has been caused by the act or omission of the Lessee or any servant, agent or licensee of the Lessee or by any sub-lessee or other occupier claiming through or under the Lessee: -
 - (i) the rent hereby reserved or a proportionate part thereof according to the nature and extent of the damage sustained shall abate, and all or any remedies for recovery of the rent or such proportionate part thereof shall be suspended until the Premises have been restored or made fit for the occupation of the Lessee;
 - (ii) if the Premises have not been restored so as to make them fit for the occupation and use of the Lessee within three (3) months from the date of occurrence of any such damage or within such other time as the parties agree in writing or if the Lessor gives written notice to the Lessee any time that he does not intend to restore the Premises then the Lessee may terminate this Lease by giving not less than one (1) month notice in writing to the Lessor and at the expiration of that notice this Lease shall be at an end.
- (c) Any termination of this Lease pursuant to paragraph (a) or pursuant to sub-paragraph (ii) of paragraph (b) of this clause shall be without prejudice to the rights

of either party in respect of any antecedent breach or non-observance of any covenant or provision hereof.

- (d) Any dispute arising under sub-paragraph (i) of paragraph (b) of this clause shall be determined by a member of the Institute appointed by the President for the time being of the Institute or if there be no President by the Chief Executive Officer of the Institute. The person so appointed shall in making his determination act as an expert and not as an arbitrator and his determination shall be final and binding on both parties. The cost of any such determination shall be borne by either or both of the parties hereto (and if by both of the parties in the proportion between them) as the person making the determination shall decide.

13.3 Lessor not obliged to rebuild

Nothing herein contained or implied shall be deemed to impose any obligation upon the Lessor to rebuild or reinstate or make fit for occupation the Premises in case of destruction or damage.

14. TRUSTS

14.1 Lessee's Covenants

If the Lessee at any time upon or subsequent to entering into this Lease or entering into or incurring the obligations contained in this Lease is acting in the capacity of trustee of any trust ("the Trust") then whether or not the Lessor may have notice of the Trust, the Lessee covenants with the Lessor as follows:

- (a) This Lease extends to all rights of indemnity which the Lessee now or subsequently may have against the Trust and the trust fund.
- (b) The Lessee has full and complete power and authority under the Trust to enter into this Lease and the provisions of the Trust do not purport to exclude or take away the right of indemnity of the Lessee against the Trust or the trust Fund. The Lessee will not release that right of indemnity or commit any breach of trust or be a party to any other action which might prejudice that right of indemnity.
- (c) Despite the terms of any deed of trust or settlement or other document, the Lessee will be and at all times remain personally liable to the Lessor for the use performance fulfilment and observance of the obligations in this Lease.
- (d) During the currency of this Lease the Lessee will not without the consent in writing of the Lessor cause, permit, or suffer to happen any of the following events:
 - (i) the removal replacement or retirement of the Lessee as sole trustee of the Trust;
 - (ii) any alteration to or variation of the terms of the Trust;
 - (iii) any advancement or distribution of capital of the Trust; or
 - (iv) any resettlement of the trust property.

14.2 Event of Default

The Lessee further covenants with the Lessor that it will be an event of default under this Lease if the Lessee is guilty of any breach of trust in respect of the Trust or ceases to be the sole trustee of the Trust or otherwise suffers removal, replacement, or retirement as trustee of the Trust.

15. SECURITY BOND / BANK GUARANTEE

15.1 Application

If **Item 11** of the Reference Schedule shall specify that the Lessee shall furnish a Bond or Bank Guarantee or if pursuant to clause 4.3(e) the Lessor shall require that an Ingoing Lessee shall furnish a Bond or Bank Guarantee, then the provisions of clause 15.2 (Bond) or clause 15.3 ("Bank Guarantee") shall apply.

15.2 Bond

15.2.1 Subject to clause 15.1 the Lessee on or before the date of commencement hereof or the Ingoing Lessee on or before the date of assignment hereof (as the case may be) shall pay the sum (if any) referred to in **Item 11** of the Reference Schedule or referred to in a deed pursuant to clause 4.3(f) ("the Bond") as a security bond in earnest of performance of the Lessee's obligations hereunder.

15.2.2 the Lessor shall invest the Bond with an Australian bank of the Lessor's choosing and the Lessee shall in all circumstances be entitled to all interest earned by investment of the Bond.

15.2.3 In the event of the Lessee defaulting in the payment of Rent or in performing some other obligation or obligations under the Lease, the Lessor shall be entitled to forfeit all or part of the Bond and any interest earned by investment of the Bond and to apply the same towards the rent and Operating Expenses and damages for breach of covenant.

15.2.4 Subject to clause 15.2.3 and 15.4 the Lessor shall repay to the Lessee the Bond or any unforfeited part hereof (not including any interest as referred to in clause 15.2.2 on expiry or termination of this Lease.

15.3 Bank Guarantee

15.3.1 Subject to clause 15.1 the Lessee on or before the date of commencement hereof or the Ingoing Lessee on or before the date of assignment hereof (as the case may be) shall deliver to the Lessor the guarantee of an Australian trading bank to pay the sum (if any) referred to in **Item 11** of the Reference Schedule or referred to in a deed pursuant to clause 4.3(f) ("the Bank Guarantee") as security in earnest of performance of the Lessee's obligations hereunder.

15.3.2 In the event of the Lessee defaulting in the payment of Rent or in performing some other obligation or obligations under the Lease, the Lessor shall be entitled to demand payment under the Bank Guarantee and to apply the same towards the rent and Operating Expenses and damages for breach of covenant.

15.4 Generally

The Lessor's entitlement in respect of the Bond and its entitlement to call for payment under the Bank Guarantee and to apply same as provides in clause 15.3.2 shall be in addition to any other remedy or entitlement to which the Lessor shall be entitled.

16. GUARANTEE

16.1 Joint and several liability of Guarantors

This Lease has been granted to the Lessee at the request of the Guarantors and in consideration of the Lessor granting the Lease to the Lessee the Guarantors as evidenced by their execution hereof for themselves, their executors and administrators and for their successors and assigns jointly and severally guarantee the performance by the Lessee of the covenants contained in this Lease and the payment when demanded from the Guarantors of every sum of money whatsoever that may become payable by the Lessee to the Lessor under or in accordance with or by virtue or in consequence of this Lease and whether such sum of money is for or in respect of the rent reserved in this Lease or for payment of the Lessee's proportion of Operating Expenses or for damages or costs charges and expenses local or otherwise which the Lessor may pay incur sustain or be put to in connection with the exercise or attempted exercise of any right or remedy conferred on the Lessor under or by virtue or in consequence of this Lease.

16.2 Guarantors to pay on default of Lessee

The Guarantors for their Executors, administrators and assigns hereby jointly and severally covenant that in the event of the Lessee in any respect failing to carry out or observe any of the terms or conditions contained in this Lease or in the event of the Lessee in any other respect committing any breach of the obligations of the Lessee occurring there under or in consequence thereof then the Guarantors hereby covenant that they will indemnify the Lessor against all losses, damages, costs and expenses or otherwise which may be incurred by reason of any and all breaches and of any and all defaults on the part of the Lessee in performing and observing or in failing to perform and observe any or all agreements covenants or conditions on the Lessee's part to be performed and observed.

16.3 Guarantee to be continuing

The Guarantees and indemnities given in clause 16.1 and 16.2 hereof shall be continuing guarantees and indemnities and shall remain in full force and effect respectively for as long as any monies due to the Lessor pursuant to this Lease remain unpaid. The liability of the Guarantors shall not be, nor be deemed to have been discharged:

- (a) by any payment made on account hereof in whole or in part if such payment shall not at any time thereafter be avoided by the operation of any provisions of the law of bankruptcy or insolvency or otherwise however; or
- (b) by reason of any variation or variations whether with or without knowledge or consent of the Guarantors and whenever made of the provisions contained in these presents or by reason of any breach or breaches whether wilful or otherwise of the obligations of the Lessee committed hereafter whether with or without the consent or knowledge of the Guarantors or on behalf of the Lessee or with the knowledge or consent or otherwise of the Lessor the Lessor's agents or servants or by the granting heretofore or hereafter by the Lessor or any other person on the Lessor's behalf at any time of any forbearance or other indulgence or consideration to the Lessee in respect of the obligations on the Lessee's part herein contained; or
- (c) by the registration in bankruptcy of the estate of the lessee and/or the Guarantors; or
- (d) by the winding up of the Lessee company and/or any one or more of the Guarantors; or

- (c) by the non-enforcement of the guarantees and indemnities herein contained against the Guarantors or the fact that it has been held that the guarantees and indemnities herein contained are unenforceable against the Guarantors or any of them.

17 ENVIRONMENTAL COMPLIANCE

17.1 Compliance by Lessee

- 17.1.1 The Lessee must not in any way pollute or contaminate the Premises or any part of the Land or Building.
- 17.1.2 The Lessee must comply with all relevant legislation and the requirements of all relevant authorities regarding or controlling pollution or contamination of the Premises.
- 17.1.3 The Lessee must comply with any requirements of the Lessor relating to potential or actual pollution or contamination of the Premises.

17.2 Lessee to indemnify Lessor

- 17.2.1 As an additional and separate obligation, the Lessee must not make any claim against the Lessor, and releases and indemnifies the Lessor from and against any obligations, costs or damages, relating to:
- (a) any pollution, contamination or other environmental damage to the Premises arising out of the Lessee's use and occupation of the Premises, and
 - (b) any notice or order issued by any authority relating to any actual or potential pollution, contamination or other damage to or from the Premises.
- 17.2.2 The Lessor acknowledges that the release and indemnity by the Lessee does not apply to any pollution, contamination or other environmental damage occurring as a result of any wilful act or omission by the Lessor done or omitted with knowledge that it was likely to cause pollution, contamination or other environmental damage.

18. PLANT AND EQUIPMENT

18.1 Plant and Equipment

The plant and equipment referred to in Property Schedule is owned by the Lessor and shall form part of the Premises as defined pursuant to clause 1.1 of this Lease.

18.2 Usage

At no additional cost the Lessor shall permit the Lessee to have the use of the plant and equipment pursuant to the terms of this Lease. The Lessor shall take no responsibility with respect to the plant and equipment in and upon the subject premises which shall be operated by the Lessee at the Lessee's risk.

18.3 No Representation

The Lessor makes no representations that the plant and equipment is in good working order and condition as at the date of the Lease and the Lessee shall inspect it and it is the responsibility of the Lessee to put and keep the plant and equipment in good working order and condition.

18.4 Plant and Equipment to be returned

In addition to anything else contained in this Lease at the end of the Lease the Lessee shall hand up to the Lessor the plant and equipment in at least the same condition as it was when the Lessee took possession of the premises.

18.5 Costs

In addition to anything else contained in this Lease any costs of maintaining and repairing the plant and equipment shall be to the Lessee's account and the Lessee shall be responsible for the cost of all repairs to the plant and equipment including costs of capital nature.

18.6 Insurance

In addition to anything else contained in this Lease the Lessee shall insure the plant and equipment in the name of the Lessor and shall keep the same insured against all usual risks at its own expense.

19. PERSONAL PROPERTY SECURITIES ACT 2009 (CTH)

19.1 Registration on PPSR

The Lessee consents to the Lessor effecting a registration on the PPSR (in any manner the Owner considers appropriate) in relation to any plant and equipment listed (if any) in the Property Schedule and arising under or in connection with this Lease and the Lessee agrees to provide all assistance reasonably required by the Lessor to facilitate this.

19.2 Verification Certificate

The Lessee waives its right to receive any notice under the PPSA (including notice of a verification statement) unless the notice is required by the PPSA and cannot be excluded.

19.3 Proceeds and Security Agreement

The Lessee acknowledges that if the Lessor's interest under this Lease is a Security Interest for the purposes of the PPSA:

- (a) that Security Interest relates to the plant & equipment listed in Property Schedule and all Proceeds of any kind;
- (b) this Lease insofar as it grants the Lessee a right to use the Lessor's plant and equipment is a security agreement for the purposes of the PPSA.

20. MISCELLANEOUS

20.1 No warranties given by Lessor

The Lessee acknowledges and declares that no promise representation warranty or undertaking has been given by or on behalf of the Lessor in respect of the suitability of the Premises for any business to be carried on therein or to air conditioning plant (if any) or other plant or elevators (if any) or to the fittings, finish, facilities and amenities of the Premises or as to the other businesses to be carried on in the Building.

20.2 Lease to be whole Agreement

The covenants and provisions contained in this Lease expressly or by statutory implication cover and comprise the whole of the agreement between the parties to the Lease and it is expressly agreed and declared that no further or other covenants or provisions whether in respect of the Premises or otherwise shall be implied in this Lease or to arise between the parties hereto by way of collateral or other agreement by reason of any promise representation warranty or undertaking given or made by any party of the Lease to another on or prior to the execution of this Lease and the existence of any such implication or collateral or other agreement is hereby negated.

20.3 Waiver negated

No waiver by the Lessor of one breach of any covenant obligation or provision in this Lease shall operate as a waiver of another breach of the same or of any other covenant obligation or provision in this Lease.

20.4 Costs of Lease

20.4.1 The Lessee shall pay upon demand all stamp duty, whether assessed and payable at the commencement of the Lease term or from time to time during the term of the Lease and all the Lessor's reasonable and appropriate legal and other costs, charges and expenses of and incidental to the preparation, completion, stamping and registration of this Lease and obtaining the consent of any mortgagee of the Lessor, but not including the costs of obtaining any certified copy of this Lease required by the Lessor.

20.4.2 The Lessee shall pay upon demand all the Lessor's reasonable and appropriate legal costs on a solicitor and client basis and other costs, charges and expenses of and incidental to the assignment, subletting, surrender or termination (otherwise then by expiry of the term) of this Lease or for the granting of any consents of the Lessor or the exercise of any power by the Lessor.

20.4.3 In the case of default of the Lessee in observing or performing any of its covenants in the Lease contained or implied, the Lessee shall pay to the Lessor upon demand all legal costs on a solicitor and client basis and other costs, charges and expenses for which the Lessor shall become liable in consequence of or in connection with such default within seven (7) days of demand being made by the Lessor.

20.5 Notices

All notices given pursuant to this Lease shall be in writing and may be given to or served upon a party hereto by being left at that party's registered office or principal place of business in the State or place in which the Premises are situated or by being posted in a prepaid certified or registered letter addressed to that party at such office or principal place of business AND any such or notice shall be deemed duly served at the expiration of two (2) days after the time of posting AND in proving and giving of the same it shall be sufficient to prove the envelope containing the same was properly addressed stamped and registered, and put into a post office box in the Commonwealth of Australia. Any notice may be signed by

the Lessor or on its behalf by the Manager, the Secretary or other authorised officer for the time being of the Lessor.

20.6 Inspection by purchaser or lessee

The Lessee will at all reasonable times permit the Lessor to exhibit to prospective tenants or purchasers the Premises and will at all times within the three (3) months immediately preceding the termination of this Lease allow the Lessor to affix and exhibit where the Lessor shall think fit at any time the usual "For Sale" and the usual "To be Let" notices and in each case with the name and address of the Lessor and/or the Lessor's agent thereon and the Lessee will not remove any such notice without the written consent of the Lessor.

20.7 Lessor's discretion regarding consents

In any case where pursuant to this Lease the doing or execution of any act matter or thing by the Lessee is dependent upon the consent or approval of the Lessor such consent or approval may be given conditionally or unconditionally or withheld by the Lessor in the Lessor's absolute uncontrolled discretion unless otherwise herein provided.

20.8 Lessor may sell Building

- 20.8.1 The Lessor shall be entitled to sell or otherwise dispose of any part of the Land or to acquire other land and for the purpose of the provisions of public or private access to and egress from the Premises, or support of structures hereafter erected on or from adjoining lands or of services (including water drainage, gas and electricity supply and telephonic and electronic communication services) to grant easements or enter into any arrangement or agreement with any of the owners, lessees, tenants or occupiers or others interested in any land adjacent or near to the Premises or with any public authority as the Lessor thinks fit.
- 20.8.2 The Lessor may likewise for the above purpose dedicate land or transfer grant or create any easement privilege or other right in favour of such parties or in favour of any such adjoining or neighbouring land or any public authority over or affecting the Premises.
- 20.8.3 This Lease shall be deemed to be subject to any such agreement, arrangement, right, easement or privilege. Notwithstanding the reservation contained in this clause 21.8, the Lessor in the exercise of the rights herein conferred shall not sell dedicate land or transfer, grant or create any easement privilege or other right to any other person which shall substantially and permanently derogate from the enjoyment of rights conferred on the Lessee by this Lease.

20.9 Merger

None of the terms or conditions of this Lease nor any act matter or thing done under or by virtue of or in connection with this Lease or any other agreement between the parties hereto shall operate as a merger of any of the rights and remedies of the parties in or under this Lease or in or under any such other agreement all of which shall continue in full force and effect.

21.10 Lessor not liable for failure of services

The Lessor will not be under any liability for any loss injury or damage sustained by the Lessee or any other person at any time as a result of or arising in any way out of the failure of the electricity or water supply or any other services or facilities provided by the Lessor or enjoyed by the Lessee in conjunction with the Premises.

20.11 Lessee to act at own risk

Whenever the Lessee is obliged or required hereunder to do or effect any act matter or thing then the doing of such act matter or thing shall, unless this Lease otherwise provides, be at the sole risk and expense of the Lessee.

20.12 Application of law to Lease

Unless application is mandatory by law no statute ordinance proclamation order regulation or moratorium present, or future shall apply to this Lease so as to abrogate extinguish impair diminish fetter delay or otherwise prejudicially affect any rights powers remedies or discretions given or accruing to the Lessor.

20.13 Lessee to pay moneys payable by Lessor on Premises

To the extent permissible at law the Lessee will forthwith upon demand pay to the Lessor by way of additional rent an amount equivalent to any moneys paid by the Lessor in respect of any liability imposed on the Lessee under or by virtue of this Lease notwithstanding that any statute ordinance proclamation order regulation or moratorium present or future directly or indirectly imposes such liability upon the Lessor.

20.14 Head Lease and/other interests

20.14.1 The Lessee will at all times during the term hereby granted permit the Lessor and any person having any estate or interest in the Premises superior to or concurrent with the Lessor to exercise the Lessor's powers to enter and view the Premises and to carry out repairs, renovations, maintenance and other work thereon and otherwise to exercise or perform their lawful rights and obligations in relation thereto.

20.14.2 In the event of a person other than the Lessor becoming entitled to receive the rent or any other moneys payable by the Lessee to the Lessor under this Lease, either by operation of law or otherwise, the Lessee agrees that such person shall have the benefit of all covenants and agreements on the part of the Lessee under this Lease to be performed and the Lessee at the cost of the Lessor will enter into such covenants and agreements with such other person in that regard as the Lessor and/or that person may reasonably require.

20.15 GST

20.15.1 In this Lease the expressions "GST", "input tax credit", "supply", "tax invoice", "recipient" and "taxable supply" have the meanings given to those expressions in the A New Tax System (Goods and Services Tax) Act 1999.

20.15.2 With the exception of any amount payable under this clause 21.15, unless otherwise expressly stated all amounts stated to be payable under this Lease are exclusive of GST.

20.15.3 If GST is imposed on any supply made under or in accordance with this Lease, the recipient of a taxable supply must pay to the supplier an additional amount equal to the GST payable on or for that taxable supply. Payment of the additional amount will be made at the same time as payment for the taxable supply is required to be made in accordance with this Lease.

20.15.4 If this Lease requires a party to pay for, reimburse or contribute to any expense, loss, indemnity or outgoing ("reimbursable expense") suffered or incurred by

another party, the amount required to be paid, reimbursed or contributed by the first party will be the sum of:

- (a) the amount of the reimbursable expense net of input tax credits (if any) to which the other party is entitled in respect of the reimbursable expense; and
- (b) if the other party's recovery from the first party is a taxable supply, any GST payable in respect of that supply.

20.15.5 If a GST inclusive price is charged, the supplier must provide the recipient of the supply a valid tax invoice at or before the time of payment or such other time as agreed between the parties.

20.15.6 Any valuer or umpire returning a valuation must return a GST exclusive market value for it in any case where the valuation is for the purpose of determining a supply value to which GST is to be added under this Lease.

20.16 Conversion of title

- (a) The Lessor may at any time convert the title to the Land to strata title, by obtaining the approval and registration of a subdivision.
- (b) If required, the Lessee will sign consents to that subdivision and conversion.

21. FURTHER LEASE

21.1 In the event that Suite 1, 437 High Street, Penrith ("Adjoining Premises") is available for rent, as notified to the Lessee by the Lessor in writing, then the Lessee must, within 7 days of receiving that notice, confirm in writing to the Lessor whether they wish to lease the Adjoining Premises.

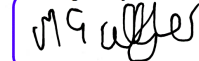
21.2 The rent for the Adjoining Premises will be as agreed between the Lessor and the Lessee.

21.2 If the Lessee wishes to lease the Adjoining Premises pursuant to clause 21.1 then the Lessee must:

- (a) surrender this Lease; and
- (b) take a new lease on materially the same terms as the Lease in relation to the whole of the land in certificate of title Folio Identifier 2/82325 and will include any adjustment in the rent and the Bond or Bank Guarantee as the case may be in adding the rent for Suite 1 to the rent payable under the lease to be surrendered.

21.3 If the Lessee declines to take a lease contemplated by clause 21.1 hereof or no response is received within the timeframe contemplated by clause 21.1, or the parties cannot agree on a rent pursuant to clause 21.2, then the Lessor may lease the Adjoining Premises on the open market.

Signed by:



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Signed by:

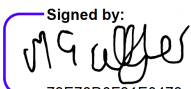


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PROPERTY SCHEDULE

Signed by:



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Signed by:



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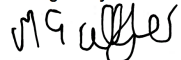
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THE REFERENCE SCHEDULE

- ITEM 1: PREMISES** (clause 1.1)
- Those premises being Suites 2 and 3, 437 High Street, Penrith in the State of New South Wales situate on part of that piece or parcel of land in certificate of title Folio Identifier 2/82325.
- ITEM 2: ADJUSTMENT PERIOD** (clause 1.1)
- 30 June each year
- ITEM 3: RENT** (clause 2.1)
- One Hundred and Forty-Six Thousand Five Hundred and Forty-Five Dollars and Forty-Six Cents (\$146,545.46) per annum, plus GST.
- ITEM 4: RENT REVIEW** (sub-clause 2.2.1)
- | Review Date | Applicable clause | Further variation | If sub-clause 2.2.4 applies - percentage |
|--|--|-------------------|--|
| On each anniversary of the commencement date of the Lease. | The greater of clauses 2.2.3 and 2.2.4 | N/A | 3.5% |
- ITEM 5: LESSEE'S PROPORTION OF OPERATING EXPENSES** (clause 2.6)
- 100%
- ITEM 6: TERM** (clause 3.1)
- 5 years commencing on 15 September 2024 and ending on 14 September 2029
- ITEM 7: OPTION** (clause 3.2)
- 5 years commencing on 15 September 2029 and ending on 14 September 2034; and
5 years commencing on 15 September 2034 and ending on 14 September 2039
- ITEM 8: PERMITTED USES** (clause 4.1)
- Bar and restaurant
- ITEM 9: AMOUNT OF PUBLIC RISK INSURANCE** (clause 7.2)
- Twenty million Dollars (\$20,000,000.00).
- ITEM 10: INTEREST RATE APPLICABLE TO OVERDUE PAYMENTS** (clause 11.7)
- Twelve per centum (12%) per annum
- ITEM 11: BOND/BANK GUARANTEE** (clause 15.1)
- \$40,300.00
- ITEM 12: GUARANTORS** (clause 1.1)
- Not Applicable

Signed by:



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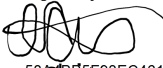
Signed by:



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We hereby certify this Lease to be correct for the purpose of the Real Property Act, 1900.

I certify that the persons(s) signing opposite, with whom I am personally acquainted or as to whose identity I am otherwise satisfied, signed this instrument in my presence.


Signed by:
Signature of witness: 
Name of witness: Alice Chiflos
Office held:

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


Signed by:
Signature of Lessor: 
Name of Lessor: Maria Ann Gallagher
9/7/2025 | 4:11:37 PM AEST
Signed by:
Signature of Lessor: 
Name of Lessor: Charles Chiflos

9/7/2025 | 4:13:11 PM AEST

Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the corporation named below by the authorised persons whose signatures appear below pursuant to the authority specified.
Corporation: 3 CIRCLES GROUP PTY LIMITED
Authority: Section 127 of the Corporations Act 2001

Signature of authorised person: 
Ramsin Petro
Name of authorised person:
Office held: Director

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

Signature of authorised person: 
Alhassan Hadi Ibrahim
Name of authorised person:
Office held: Director/Secretary

Form: 07L
Release: 4.8
Licence: 01-05-028
Licensee: LEAP Legal Software Pty Limited
Firm name: Joseph Grassi + Associates

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

Insert Duties Assessment No. as issued by Revenue NSW Office.

Duties Assessment No. _____

(A) TORRENS TITLE

Property leased
2/82325 part being Suite 1, 1st Floor/437 High Street, Penrith

(B) LODGED BY

Document Collection Box	Name, Address, Telephone, and Customer Account Number if any		CODE L
	Email:		
	Reference:		

(C) LESSOR

MARIA ANN GALLAGHER AND CHARLES CHITOS

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

(D)

Encumbrances (if applicable):

(E) LESSEE

DIGITAL BOOKS NSW PTY LTD A.C.N. 678 174 760

(F)

TENANCY:

(G)

- TERM** Five (5) years
- COMMENCING DATE** 24 June 2025
- TERMINATING DATE** 23 June 2030
- With an **OPTION TO RENEW** for a period of Five (5) Years set out in Clause 3.2 of Annexure A
- With an **OPTION TO PURCHASE** set out in clause of
- Together with and reserving the **RIGHTS** set out in clause of
- Incorporates the provisions or additional material set out in **ANNEXURE(S)** A hereto.
- Incorporates the provisions set out in N/A No.
- The **RENT** is set out in clause No. 2.1 of Annexure A

DATE / /

- (H) I certify that I am an eligible witness and that the lessor signed this dealing in my presence.
[See note** below].

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

Signature of witness:

Signature of lessor:

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) appears(s) below pursuant to the authority specified.

Corporation: Digital Books NSW Pty Ltd

Authority: section 127 of the Corporations Act 2001

Signature of authorised person:

Signature of authorised person:

Name of authorised person: James Richard Ange

Name of authorised person:

Office held: Sole Director

Office held:

(I) **STATUTORY DECLARATION ***

I

solemnly and sincerely declare that—

1. The time for the exercise of option to renew 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 ,

☐ 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 lessor: _____

* 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.

** s117 RP Act requires that you must have known the signatory for more than 12 months or have sighted identifying documentation.

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This page and the following pages constitute the Annexure “A” to the Lease between **MARIA ANN GALLAGHER AND CHARLES CHITOS** as Lessor and **DIGITAL BOOKS NSW PTY LTD** as Lessee dated this day of 2025

The Premises shall be held by the Lessee as tenant for the term hereinbefore referred to together with the option for a further term (if any) set out in **Item 7** of the Reference Schedule at the annual rental set out in **Item 3** of the Reference Schedule and payable in the manner provided in this Lease subject to and with the benefit of the terms, covenants, conditions and provisions hereinafter contained:-

1. DEFINITIONS AND INTERPRETATIONS

1.1 Definitions

In this Lease unless the contrary intention appears:

“Act” means the *Retail Leases Act 1994* (as amended);

“Adjustment Period” means each consecutive period of twelve (12) months ending on the date referred to in **Item 2** of the Reference Schedule in each year of the term of this Lease and any holding over period where any such period or part of any such period is part of the term of this Lease and any holding over period;

“Amendments Schedule” means the schedule referred to in clause 18 of this Lease.

“Building” means the building or buildings and improvements erected on the Land including any extensions or modifications made thereto from time to time and such of the plant, equipment, fixtures and fittings related thereto or contained therein as are from time to time owned by the Lessor;

“Common Area” means those parts of the building provided by the Lessor from time to time for common use by the occupants of the building and including (but without limiting the generality hereof) the entrances, lobbies, corridors, toilets, stairways, elevators, the truck dock, loading bay, car park and other common amenities and conveniences (if any) thereof other than those reserved to the Lessor or to any person claiming through or authorised by the Lessor;

“Disclosure Statement” has the same meaning as in the Act;

“Guarantors” means the person (if any) described as Guarantor in **Item 13** of the Reference Schedule his executor administrator and assigns and where two or more persons are Guarantors shall mean and include the Guarantors and the executor, administrator and assigns of them and each of them;

“Institute” means the Australian Property Institute Inc. New South Wales Division or should such institute cease to exist such other body or association as then has substantially the same objects as such institute;

“Land” means the land described on the front page of this Lease;

“Lease” means this Lease including any Appendix, Schedules and annexures hereto;

“Lessee” means and includes the Lessee named and described, the Lessee's successors and permitted assigns or, being a person, the Lessee's executors administrators and permitted assigns and where not repugnant to the context the servants and agents of the Lessee and if more than one the Lessees and each and every of them and each and every of their executors, administrators, successors and permitted assigns **AND** shall mean and extend to and include any permitted sub-tenant or licensee of the Lessor;

“Lessor” means and includes the Lessor named and described, the Lessor's successors and permitted assigns or, being a person, the Lessor's executors administrators and assigns and where not repugnant to the context the Lessor's servants and agents and if more than one the Lessors and each and every of them and each and every of their executors, administrators, successors and permitted assigns;

“Premises” means the premises which are described in **Item 1** of the Reference Schedule and where the context so admits such of the fixtures, fittings, furnishings, plant, machinery and equipment (if any) from time to time installed therein and owned by the Lessor including the plant and equipment referred to in the Property Schedule and includes, with reference to these premises:-

- (a) the internal surfaces of external walls and of internal structural walls of the Building;
- (b) the internal surfaces of the ceiling and of concrete or other floors;
- (c) the centre line of partitions separating the Premises from other adjoining premises
- (d) the external surfaces of partitions and doors separating the Premises from Common Areas of the Building or from other premises not intended to be leased
- (e) the internal surfaces of glass contained in external windows
- (f) all internal partitions, divisions, windows and window frames, doors and door frames, which are fully within the Premises
- (g) the external surfaces and finishes on walls, floors, ceilings, partitions, doors and windows included in the Premises, including paint, wallpaper and other materials or substances;

“PPSA” means the Personal Property Securities Act 2009 (Cth.) as amended from time to time;

“Reference Schedule” means the reference schedule described as such in the Lease;

“Review Date” means each of the dates referred to in **Item 4** of the Reference Schedule or the date of commencement of the new term in accordance with any option granted pursuant to the terms of this Lease; and

“Rules Regulations and Operating Procedures” means the Rules Regulations and Procedures referred in the Schedule hereto as amended from time to time pursuant to clause 14.17 hereof.

1.2 Singular, Plural etc.

Words importing the singular or plural number shall be deemed to include the plural or singular number respectively and words importing the masculine gender only shall include the feminine or neuter gender and vice versa as the case may require.

1.3 Joint and Several Liability

Any covenant or agreement on the part of two or more persons shall be deemed to bind them jointly and severally and shall also bind the executors and administrators or successors of them and each of them and every two or greater number of them jointly and severally.

1.4 Severability

If any term covenant or condition of the lease or the application thereof to any person or circumstance shall be or become void or unenforceable the remaining terms covenants and

conditions shall not be affected and such terms covenants and conditions of the lease shall be valid and enforceable to the fullest extent permitted by law.

1.5 Headings

Headings and sub-headings are included for the sake of reference only and none of the terms covenants conditions or restrictions herein appearing are to be construed or interpreted by reference to such headings or sub-headings.

1.6 Exclusion of Implied Covenants and Powers

- 1.6.1 The covenants conditions and restrictions implied by Section 84, 84A and 85 of the Conveyancing Act 1919 shall not apply to or be implied in the Lease except in so far as the same or some part or parts thereof are included in the covenants herein contained.
- 1.6.2 The use in this Lease of any word or words in any form of words contained in the first column of Part II of the Fourth Schedule of the Conveyancing Act, 1919 shall not imply any covenant under Section 86 of that Act.

2. RENT AND OPERATING EXPENSES

2.1 Rent

- 2.1.1 The Lessee shall at such place or places as the Lessor may from time to time direct and otherwise without demand from the Lessor pay to the Lessor free from all deductions during the term of this Lease in the manner set out in sub-clause 2.1.2 hereof the rental at the rate per annum set out in **Item 3** of the Reference Schedule including any variation thereto pursuant to clause 2.2.
- 2.1.2 The rental payable under this Lease for each year shall be paid by equal monthly instalments of one twelfth of such rental in advance on the 1st day of each month and for any broken period being less than one month by an instalment calculated in accordance with the following formula:-

$$\frac{\text{No. of days in broken period} \times \text{rental for particular year}}{365}$$

2.2 Rent Review

- 2.2.1 With effect from the Review Date the annual rent shall be reviewed to an amount calculated in accordance with such of the following sub-clauses 2.2.2, 2.2.3 and 2.2.4 the corresponding number of which (if any) appears in **Item 4** of the Reference Schedule.
- 2.2.2 (i) At any time not earlier than sixty (60) days prior to each Review Date the Lessor may notify the Lessee in writing of the amount which the Lessor considers to be the current market rental appropriate to the Premises as from that particular Review Date taking into account those matters referred to in clause 2.4 hereof.
- (ii) If the Lessor and the Lessee agree on the rent as notified in sub-clause 2.2.2(i) above, then the rent shall be changed to the amount in that notice.
- (iii) If either the Lessor or the Lessee, within thirty (30) days of the Review Date, do not agree with the current market rent as notified by the relevant party the rent shall be determined in accordance with clause 2.3.

- 2.2.3 The annual rent shall be increased by multiplying the annual rent for the first year of the Lease by the Index Number (as hereinafter defined) for the quarter ending immediately prior to the commencement of the particular year of the Lease and divided by the Index Number for the quarter ending immediately prior to the commencement of the Lease.
- 2.2.4 The annual rent shall be calculated by increasing the annual rental payable immediately prior to the relevant Review Date by the percentage (if any) referred to in **Item 4** of the Reference Schedule.
- 2.2.5 If applicable whenever the reviewed annual rental shall not have been determined in accordance with sub-clauses 2.2.2, 2.2.3 and 2.2.4 on or before the relevant Review Date then the Lessee shall, pending such determination continue paying rent at the rate applicable immediately prior to the relevant Review Date and shall forthwith upon demand pay to the Lessor any necessary adjustment of rental as soon as the reviewed rental has been determined.

2.3 Rent Review Valuation

Should written notice be given pursuant to sub-clause 2.2.2 that the annual rental is to be determined in accordance with the provisions of this clause then the following procedure shall apply: -

- (a) The Lessor and the Lessee may agree on a valuer who shall decide the current market rental or in the absence of agreement either the Lessor or the Lessee may ask the President for the time being of the Institute to appoint a valuer;
- (b) The valuer so appointed shall (subject to paragraph (c) of this clause) determine the annual market rental value of the Premises as at the date of the commencement of any further term or as at the particular rent Review Date as the case may be in accordance with the Act;
- (c) In determining such annual market rental value any such valuer shall be deemed to be acting as an expert and not as an arbitrator;
- (d) The costs incurred in the determination of such rental value shall be borne by the parties equally;

2.4 Matters for consideration in determining the current market rent

In determining the Annual Rent of the Premises any valuer shall at the Review Date take into account all relevant valuation principles having regard to the terms and conditions of this Lease and any other relevant documentation and without limiting what has been stated must: -

- (a) take no account of: -
 - (i) the value of any personal goodwill attributable to the Lessee's business and the value of the Lessee's fixtures and fittings in the Premises; and
 - (ii) any deleterious condition of the Premises if such condition results from any breach of any clause of this Lease by the Lessee;
- (b) having regard to the length of the whole term of the Lease disregard the fact that part of the term of the Lease will have elapsed at the Review Date;

- (c) assume that all covenants on the part of the Lessee and the Lessor contained in this Lease have been fully performed and observed;
- (d) assume that the Lessee is being offered vacant possession;
- (e) take account of any concession otherwise required to secure a tenant for any period of rent abatement;
- (f) have regard to the rental value of comparable premises and the value of the local goodwill attaching to the Premises (as distinct from the goodwill attached to the Lessee's business conducted from the Premises) attributable to the location, facilities, management and promotion of the Building;
- (g) having regard to the fact that the Lessor is a willing but not anxious Lessor and the Lessee is a willing but not anxious Lessee;
- (h) make no reduction on account of any GST paid or payable by the Lessee in connection with or as a result of its occupancy of the Premises or any GST paid or payable by any lessee of comparable premises;
- (i) have regard to the use to which the Premises is being put; and
- (j) furnish a written valuation.

2.5 Index Number

2.5.1 In this Lease the words "Index Number" shall mean: -

the All-Groups Consumer Price Index for Sydney published from time to time in the Commonwealth Statistician's Summary of Australian Statistics. In the event that the Commonwealth Statistician shall up-date the reference base of such Index Number due conversion shall be made to preserve the intended continuity of calculation by using the appropriate arithmetical factor determined by that Statistician;

2.5.2 In the event of the discontinuance or suspension of the Consumer Price Index, then the rent shall only be reviewed in accordance with the procedure set out in clause 2.3.

2.6 Operating Expenses

2.6.1 Obligation to pay

Subject to sub-clause 2.6.4 hereof the Lessee shall in respect of each year or part of a year of the Lease in addition to the Rent reimburse and pay to the Lessor without deduction the Lessee's share of the Operating Expenses referred to in **Item 5** of the Reference Schedule relative to each year or part thereof such proportion shall be calculated and payable as follows: -

- A. Within three (3) months after the end of the Adjustment Period the Lessor will furnish to the Lessee a statement giving reasonable details of the Operating Expenses. Except in the case of manifest error notified by either party to the other within fourteen (14) days of the service of such statement on the Lessee, such statement shall be prima facie evidence of the matters stated therein.
- B. Within twenty-one (21) days of receipt by the Lessee from the Lessor of a statement in writing of the amount of the Lessee's proportion of the

Operating Expenses the Lessee shall pay such amount to the Lessor **AND** it is hereby agreed and declared: -

- (i) that subject to sub-paragraph (ii) of this sub-clause the liability of the Lessee to pay the Lessee's proportion of the Operating Expenses shall not be determined or otherwise prejudiced by the prior expiry of the term of or other determination of this Lease;
- (ii) that if the term of this Lease expires or if this Lease is otherwise determined before the Adjustment Period expires in any year or if as at the date of the Adjustment Period less than one (1) year of the term of this Lease has expired then the Operating Expenses shall be deemed to accrue from day to day and the Lessee's proportion thereof shall be calculated accordingly;

2.6.2 Operating Expenses applying solely to the Premises

- (a) Should any of the Operating Expenses apply wholly to the Premises then the Lessee shall pay one hundred percent (100%) of those Operating Expenses in lieu of the percentage referred to in **Item 5** of the Reference Schedule together with any GST paid or payable thereon.
- (b) Should any of the Operating Expenses arise wholly out of the use of the Premises then the Lessee shall pay the whole of those Operating Expenses.
- (c) All strata levies and special levies paid or payable to the strata corporation in respect of the Premises.

2.6.3 Notification by the Lessor

The Lessor may no later than one (1) month before the commencement of the Adjustment Period notify the Lessee of the Lessor's reasonable estimate of the Operating Expenses for any period not exceeding one (1) year in advance to be provided by the Lessor to the Lessee at least twice in each Accounting Period, whereupon the Lessee will pay to the Lessor during such period such estimated proportion by equal monthly instalments in advance on the days hereinbefore fixed for payment of the Rent **PROVIDED ALWAYS** that upon computation of the Operating Expenses at the end of the then current Adjustment Period any necessary adjustment between the estimated and actual Lessee's proportion shall be made and any refund to or further payment by the Lessee shall be allowed or made by or to the Lessor accordingly.

2.6.4 Definition of Operating Expenses

For the purpose of this clause the expression "Operating Expenses" means all costs, charges, expenses, fees and other outgoings paid or payable by the Lessor in managing, insuring, supervising, maintaining and keeping secure the Land, Building and the Premises including in particular, but without limiting the generality of the foregoing, the following outgoings relating to the Land, Building and the Premises: -

- (a) All rates and taxes (including land tax at the rate payable by the Lessor) charges, assessments, duties and fees of any public, municipal, governmental, or semi-governmental body authority or department levied assessed or charged in respect of the Building and/of the land (irrespective of the ownership thereof) and in respect of land tax upon the basis that the land is the only land owned by the Lessor;

- (b) All charges for water, gas, oil, electricity, light, power, fuel, sewerage, drainage, garbage removal and other services supplied or furnished to the Premises;
- (c) All insurance premiums payable by the Lessor in respect of the Building and the fixtures and fittings of the Lessor in their full insurable reinstatement value including public risk and loss of rents insurance;
- (d) The cost of all services supplied to the Land and the Building including, but without limiting the generality of the foregoing, all charges for electricity, gas, water, oil, telephone, sewerage and garbage services;
- (e) The cost of all services provided by the Lessor for the Lessee and other occupants in the building and visitors to the Building including, but without limiting the generality of the foregoing, cleaning, lighting and servicing the Land and Building and the Common Area;
- (f) All costs for or in connection with the maintenance, operation and upkeep of the Land and the Building excluding the cost of any structural work and the cost of any work the payment for which is the responsibility of a particular lessee or occupier in the Building;
- (g) All reasonable management expenses, (including any fees payable to the Lessor's managing agents) control and security costs in connection with the Land and the Building including, but without limiting the generality of the foregoing, salaries, wages, payroll tax, superannuation and pension payments and workers' compensation insurance premiums.

3. TERM AND OPTION FOR RENEWAL

3.1 Term

The term of the Lease shall be for the period referred to in **Item 6** of the Reference Schedule and shall commence and terminate on the respective dates referred to therein.

3.2 Option

3.2.1 If the Lessee desires to have a further lease of the Premises for the period stated in **Item 7** of the Reference Schedule and: -

- 3.2.1.1 the Lessee has not more than six (6) months and not less than three (3) months prior to the date of termination of this Lease notified the Lessor in writing that the Lessee has exercised the Lessee's option for renewal of this Lease; and
- 3.2.1.2 there is neither then, nor at the date of expiry of this Lease, any existing breach of any of the terms of the Lease which the Lessee has failed to rectify; and
- 3.2.1.3 if the Lessee has not already done so deliver a bank guarantee or provide a security bond as the case may be;

THEN the Lessor shall grant (and the Lessee shall accept) a new lease in accordance with clause 3.3 hereof.

- 3.2.2 Should the Lessee exercise the option for renewal of this Lease, the first year's rent for the further term shall be determined in accordance with the provisions of clause 2.2.2.

3.3 Grant of Lease

Where the Lessee has complied with the provisions of clause 3.2 then the Lessor shall grant (and the Lessee shall accept) a further Lease of the Premises for the respective periods stated in **Item 7** of the Reference Schedule on the same terms and conditions as this Lease except as to the term and except that: -

- 3.3.1 the Reference Schedule in such further Lease shall contain the following variations from the Reference Schedule to this Lease: -

Reference Schedule Item	Details to be inserted in Reference Schedule to New Lease.
Item 3 - Rent	The rent agreed or determined by clause 3.2 of this Lease.
Item 6 - Term	Commencement and termination date referred to in Item 7.
Item 7- Option	Shall be amended or omitted as appropriate.

- 3.3.2 this clause 3.3 and clause 3.2 shall be omitted from the Lease granted pursuant to the last option referred to in **Item 7**.

4. USE OF THE DEMISED PREMISES AND ASSIGNMENT

4.1 Permitted Use

The Lessee will not use or permit to be used the Premises for any purpose other than as set out in **Item 8** of the Reference Schedule and will not permit or suffer the use of the same for any residential purpose whether temporary or permanent nor permit or suffer any storage space forming part of the Premises to be used for any purpose other than storage, and shall operate the Premises in accordance with the Rules, Regulations and Operating Procedures of the Building. The Lessee covenants to use the Premises in accordance with the permitted use.

4.2 No Noxious use of Premises

The Lessee will not permit any noxious, immoral, noisome, offensive or illegal act, trade, business occupation or calling at any time during the term to be exercised, carried on, permitted or suffered in or upon the Premises and will not permit any act, matter or thing whatsoever at any time during the term to be done in or upon the Premises which shall or may cause annoyance, nuisance, grievance, damage or disturbance to the occupiers or owners of adjoining or neighbouring lands or buildings or to the Lessor's other Lessees in the Building of which the Premises form part.

4.3 Assignment

The Lessee will not during the continuance of this Lease assign transfer mortgage charge or otherwise deal with the Lessee's interest in the Premises or demise sublet or part with the

possession of or grant any licence affecting the Premises or do any act or deed to procure any of the foregoing. Any assignment transfer subletting or licence shall be deemed not to be a breach of the foregoing provisions of this clause if prior thereto: -

- (a) The Lessee has made application in writing to the Lessor requesting the Lessor's consent containing such information as the Lessor may reasonably require concerning the financial standing and business experience of the proposed assignee, transferee, sublessee or licensee (hereinafter called the "Ingoing Lessee")
- (b) Prior to requesting such consent the Lessee must provide the Ingoing Tenant with a copy of the Disclosure Statement together with details of any changes in respect of the information contained in that Disclosure Statement.
- (c) The Lessee either has not committed any default under this Lease or has committed a default under this Lease which has been waived or excused.
- (d) The Lessee has proved to the reasonable satisfaction of the Lessor that the Ingoing Lessee is financially sound with experience in and a good reputation for carrying on a business permitted by this Lease.
- (e) The Ingoing Lessee has entered into a covenant with the Lessor in the form required by the Lessor that it will duly perform and observe the covenants and agreements on the Lessee's part herein contained.
- (f) The Ingoing Lessee has furnished the Lessor with such guarantee or guarantees (including a bank guarantee or payment of a security bond as referred to in clause 15) of the performance of the Lessee's obligations under this Lease as the Lessor shall require.
- (g) The Lessee has entered into a deed in the form required by the Lessor under which the Lessee releases the Lessor from all claims against the Lessor in respect of, or in any way arising from, this Lease, and containing such other terms and provision as the Lessor may in its absolute discretion require.
- (h) The Lessee pays to the Lessor the Lessor's proper costs and disbursements of and incidental to the giving of the Lessor's consent.
- (i) In the case of a sublease or licence the Lessee has established to the reasonable satisfaction of the Lessor that the Ingoing Lessee is obliged to pay a full market rental or licence fee.

4.4 Disclosure Statement

If the Act applies to this Lease prior to applying to the Lessor for consent to an assignment of the Lease the Lessee must furnish to the Ingoing Lessee with a copy of the Disclosure Statement in accordance with the Act furnished by the Lessor to the Lessee updated by the Lessee to disclose any variation in the terms of the Lease or any other matter required to be disclosed since the commencement of the Lease and supply a copy of such update statement to the Lessor.

4.5 Notification of Approval or Objection

The Lessor must notify the Lessee of its approval or objection to the proposed assignment within forty-two (42) days of receiving the written request for consent to the assignment. If the Lessor fails to give the Lessee notice in writing consenting or

withholding consent to the assignment within the forty-two (42) day period, then the Lessor is deemed to have consented to the assignment.

4.6 Company Lessee

The Lessee being a company other than a company whose shares are listed on any Australian Stock Exchange hereby covenants with the Lessor that no transfer of any share or shares in the capital of the Lessee shall be registered, recorded or entered in its books and that no beneficial interest in any such share or shares shall be issued or other action taken or attempted to be taken having the effect that the shareholders of the Lessee at the date hereof together beneficially hold or control less than fifty-one per centum (51%) of the voting, income and capital participation rights in the Lessee or less than that percentage of any one or more of such rights or less than that percentage of the voting rights at a meeting of Directors of the Lessee without the prior consent in writing of the Lessor which shall not be unreasonably withheld where the proposed new shareholders satisfy the same requirements applicable to the Incoming Tenant referred to in paragraphs (e) and (f) of clause 4.3 and the Lessee complies with the requirements of paragraphs (c), (d) and (g) of clause 4.3.

4.7 Director's Guarantees on Assignment

If the within Lease has been assigned or transferred and the assignee is a company, then the Lessor may require all or any Directors of such company to guarantee the performance by the Lessee of the covenants contained in the Lease and such guarantee shall contain such covenants and conditions as are acceptable to the Lessor.

4.8 Stock

The Lessee shall, where applicable, at all times at the Lessee's own expense, provide stock in trade, facilities and staff necessary and adequate for the conduct of the Lessee's business with all diligence and efficiency and in a proper and business-like manner.

4.9 Conduct of Business

The Lessee shall at all times keep the Premises open for business and shall conduct the business in the Premises during the regular customary days and hours for such type of business in the Building and from time to time in accordance with the Permitted Use and if so required by the Lessor during all legal night trading times and in accordance with the best methods and in a reputable manner and shall keep on foot all licences and permits required for the carrying on of such business.

4.10 Storage

If applicable, the Lessee shall store and/or stock in the Premises only such goods, wares and merchandise as the Lessee intends to offer for sale by retail at, in, from or upon the Premises or as are necessary to supply services for customers.

4.11 Lessor's intentions at end of Lease

If the Act applies to this Lease, then the following will apply: -

4.11.1 If this Lease contains no option, then the Lessor must, not less than six (6) months and not more than twelve (12) months before the expiry of the Lease, by notice in writing to the Lessee either: -

- (a) offer the Lessee a renewal or extension of the Lease on terms specified in the notification (including terms as to rent); or

- (b) inform the Lessee that the Lessor does not propose to offer the Lessee a renewal or extension of the Lease.
- 4.11.2 An offer made in accordance with sub-clause 4.11.1 cannot be revoked for one (1) month after it is made.
- 4.11.3 If the Lessor fails to give a notice in accordance with sub-clause 4.11.1 the term of the Lease is extended until the expiry of six (6) months after the Lessor gives the notice required by that sub-clause.
- 4.11.4 The Lessee may terminate the lease at any time during any extension given pursuant to sub-clause 4.11.3 by giving one (1) months' notice in writing to the Lessor.

5. MAINTENANCE REPAIR AND ALTERATIONS

5.1 Repair of Premises

The Lessee will during the whole of the term and otherwise so long as the Lessee may remain in possession or occupation when where and so often as need shall require, maintain, replace, repair and keep the whole of the Premises in good and substantial repair, order and condition (having regard to their condition at the commencement of the Lease), damage by explosion, earthquake, aircraft, riot, civil commotion, fire, flood, lightning, storm, tempest and reasonable wear and tear, act of God and war damage only excepted, unless any insurance moneys are irrecoverable through the neglect default or misconduct of the Lessee. This covenant shall not impose on the Lessee any obligation in respect of any structural maintenance, replacement or repair except when the same is rendered necessary by any act neglect default or omission on the part of the Lessee or by the Lessee's use or occupancy of the Premises. The Lessee acknowledges that the Premises were in good and substantial repair order and condition at the commencement of the term.

5.2 Redecorating

5.2.1 Requirement

The Lessee shall redecorate the Premises throughout to the reasonable satisfaction of the Lessor in the last year of the term. The term "redecorate" shall include the washing down of the whole of the interior of the Premises including all partitions or additions made to the Premises and the treatment as previously treated of all internal surfaces of the Premises by painting staining polishing or otherwise to a specification approved by the Lessor.

5.2.2 Lessee's failure

Should the Lessee fail to redecorate the Premises the Lessor may undertake redecoration at the Lessee's expense and the Lessee shall repay amounts so expended by the Lessor on demand.

5.3 Trade Waste

The Lessee will during the term cause the Premises to be kept clean and free from dirt and rubbish and particularly shall store and keep all trade waste trash and garbage in proper receptacles and arrange for the regular removal thereof from the Premises and without affecting the generality of the foregoing shall clean all glass surfaces (if any) forming part of the Premises.

5.4 Replacement of Breakages

5.4.1 Lessee to make good

The Lessee will immediately make good any breakage, defect, or damage to the Building or to any adjoining Premises or any facility or appurtenance thereto occasioned by the Lessee or the Lessee's invitees, employees, or contractors.

5.4.2 Lessee to repair and replace

The Lessee will immediately repair and replace all broken glass including exterior windows with glass of the same or similar quality and all damaged or broken heating lighting electrical equipment and plumbing installed upon the Premises.

5.5 Installation of Plant & Equipment

The Lessee will not nor will the Lessee permit any person to penetrate the ceiling or roof decking of the Building for the purposes of installing any plant or equipment of the Lessee without the prior written consent of the Lessor.

5.6 Partitioning and Alterations

The Lessee will not nor will the Lessee permit any person to partition the Premises or make any alteration or addition to the structure or exterior of the Premises or any partitions therein or any additions or alterations thereto without the prior written consent of the Lessor which shall not be unreasonably withheld and shall in the course of such partitioning, alterations or additions made with the consent of the Lessor observe and comply with all requirements of the Lessor and public authorities. Without prejudice to the foregoing provisions of this clause, the Lessee will when applying for the Lessor's approval to any alterations or additions to the Premises submit with the application drawings and specifications in respect thereof prepared by a qualified consultant or consultants approved by the Lessor. Work in respect of the alterations or additions to the premises approved by the Lessor shall only be carried out by contractors or qualified tradesmen approved by the Lessor and if required by the Lessor the Lessee shall on completion of such work hand to the Lessor a certificate by a consultant approved by the Lessor to the effect that such work has been carried out in accordance with the drawings and specifications relating thereto and in accordance with the requirements of all relevant public authorities.

6. AIR-CONDITIONING

6.1 Operation and Maintenance by Lessee

The Lessee shall be responsible for all operating costs, maintenance, repairs and insurance of the air-conditioning plant installed in the Premises and the Lessee shall effect and keep current and in force during the continuance of this Lease a comprehensive maintenance and repair contract in respect thereof with a competent contractor approved by the Lessor. The Lessor shall not be responsible to replace any component other than a major component in the event of a breakdown of the air-conditioning plant. In the event that the air-conditioning system is unable to be repaired or it is not economic to repair, the Lessee will replace that system at its own cost.

6.2 Lessor not liable

If the air-conditioning plant fails to function for any reason the Lessee shall not by reason of such failure be entitled to determine this Lease or claim any abatement of Rent nor shall the Lessee have any right of action or claim for compensation or damages against the lessor in respect thereof.

7. INSURANCE

7.1 Lessee to Insure

The Lessee will during the term keep insured at all times the contents of the Premises (including all air-conditioning and other plant equipment fixtures from time to time being part thereof) against damage or destruction by fire, water, earthquake, theft, attempted theft, lightning, explosion, storm, tempest, riot, strikes, civil commotion, malicious damage, sprinkler leakage, impact by vehicles or aircraft or articles dropped therefrom and from any other insurable risk required by the Lessor by written notice to the Lessee in not less than their full insurable value on a replacement and/or reinstatement basis including extra costs reinstatement.

7.2 Public Risk

The Lessee will effect and keep effected in respect of the Premises adequate public risk insurance (being not less than the amount referred to in **Item 9** of the Reference Schedule) and will, if required by the Lessor, notify the Lessor of details thereof. The Lessee shall ensure that such insurance covers the indemnities referred to in clause 10.2 hereof and otherwise conforms with the reasonable requirements from time to time of the Lessor of which the Lessee is given notice.

7.3 Plate Glass

The Lessee will insure and keep insured in such amount (not being less than the full insurable value) and against breakage from any cause whatsoever and against such other risks as the Lessor may from time to time reasonably require all plate glass forming part of the Premises together with the exterior windows and shop front (if any) of the Premises.

7.4 Lessee liable for under insurance

In the case of any loss or damage to any of the items referred to in the preceding clause arising from any cause covered by such insurances the Lessee will immediately apply for and expend the moneys received by virtue of such insurances in restoring, replacing, repairing or reinstating the same and in case such moneys shall be insufficient for that purpose will pay the balance out of its own money.

7.5 Rules applicable to Lessee's insurance

Notwithstanding anything expressed or implied in this Lease, the following provisions apply to all policies of insurance required to be effected by the Lessee pursuant to the Lessee's obligations under this Lease:

- (a) All policies are to be placed with a reputable insurer and shall be for such amounts and cover such risks and contain such conditions endorsements and exclusions as are reasonably acceptable to or reasonably required by the Lessor.
- (b) All policies are to be taken out in the name of the Lessor and Lessee for their respective rights and interests.
- (c) Duplicate or certified copies of the policies and all renewal certificates and endorsement slips are to be lodged by the Lessee with the Lessor immediately they are received by the Lessee.
- (d) All premiums in respect of all such policies and renewals of policies are to be paid punctually by the Lessee and the receipt for each premium payable in respect of

each policy (or other proof of payment to the Lessor's satisfaction) is to be produced by the Lessee to the Lessor if required by the Lessor.

7.6 Approved heating and lighting only

The Lessee will not use or permit or suffer to be used any method of heating or lighting the Premises in contravention of any policy of insurance in respect of the Premises.

7.7 Extra Premiums

The Lessee will not at any time during the term do or suffer to be done or allow any act matter or thing upon the Premises or bring or keep anything whereby any insurance relating to the Premises against damage by fire and other risks as aforesaid may be rendered void or voidable or whereby the rate of premium on such insurance shall be liable to be increased and that in case the Lessor shall approve in writing of any proposal of the Lessee to increase the risk of fire the Lessee will pay all additional premiums of insurance on the Premises (if any) required on account of the additional risk caused by the use to which the Premises are put by the Lessee with the consent aforesaid.

7.8 Compliance with Sprinkler & Fire Alarm Regulations

The Lessee will comply with insurance sprinkler and fire alarm regulations in respect of any partitions which may be erected by the Lessee upon the Premises and the Lessee will pay to the Lessor the cost of any alterations to the sprinkler and fire alarm installation which may become necessary by reason of the non-compliance by the Lessee with those regulations or the requirements of the Insurance Council of Australia or the requirements of the insurer.

8. RIGHTS RESERVED BY LESSOR

8.1 Lessor may inspect Premises

The Lessor may at all reasonable times upon giving to the Lessee reasonable notice (except in the case of emergency when no notice shall be required) enter upon the Premises and view the state of the repair thereof and may serve upon the Lessee a notice in writing of any defect for the repair of which the Lessee may be responsible hereunder requiring the Lessee within a reasonable time to repair the same.

8.2 Lessor may enter to repair and comply with Regulations

The Lessor shall have the right to enter upon the Premises with all necessary materials and equipment at all reasonable times and on reasonable notice (but at any time and without notice in the case of an emergency): -

- (a) to enter and view the state of repair of the Premises and to ascertain whether or not there has been any breach of the terms of this Lease;
- (b) to carry out repairs or other works to the Premises or to the Building or to any adjacent building;
- (c) to execute any work required to remedy a defect which is the Lessee's duty to repair if the Lessee has not within twenty one (21) days of the date of receipt by the Lessee of written notice from the Lessor requiring such defect to be repaired taken steps to remedy the defect and without prejudice to other remedies the Lessor may recover the costs of such repairs from the Lessee forthwith on demand;
- (d) for the purpose of complying with the terms of any present or future legislation affecting the Premises or the Building or of any notice served on the Lessor or

Lessee by any competent authority for which the Lessee is not responsible under this Lease;

- (e) in the event the Premises or the Building are either destroyed or damaged for the purpose of rebuilding or restoration;
- (f) for the purpose of carrying out any repairs alterations additions or other works to the utility or other services provided to the Lessee and/or other tenants of the Building;

PROVIDED ALWAYS in exercising such rights the Lessor shall use its best endeavours to minimise any disturbance caused to the Lessee in its occupation and use of the Premises.

9. COVENANTS BY THE LESSOR

9.1 Quiet Enjoyment

The Lessee paying the rent hereby reserved and duly and punctually observing and performing the covenants obligations and provisions in this Lease on the part of the Lessee to be observed and performed shall but subject to any applicable Rules and Regulations of the Building peaceably possess and enjoy the Premises during the term without any interruption or disturbance from the Lessor or any other person or persons lawfully claiming by from or under the Lessor.

9.2 Removal of Lessee's Fixtures

The Lessee may at or prior to the determination of this Lease (and will if so required by the Lessor at or immediately following the expiration or sooner determination of the term) take remove and carry away from the Premises all the Lessee's personal property and all fixtures fittings plant equipment or other articles upon the Premises in the nature of trade or tenants fixtures brought upon the Premises by the Lessee with the consent of the Lessor together with any items referred to in clause 12.1 hereof but the Lessee shall in such removal do no damage to the Premises or shall forthwith make good any damage to the Premises which the Lessee may occasion thereto.

9.3 Lessor may remove Lessee's Fixtures

If the Lessee does not remove and carry away any of such personal property, fixtures, fittings, plant equipment and other articles or items (hereinafter called "the goods") at or immediately following the termination of this Lease, the lessor may do either or both of the following:-

- (a) Remove the goods from the Premises to such place or places as the Lessor may deem fit and shall be deemed to have the authority of the Lessee to deposit the same in the name and at the expense of the Lessee with a warehouseman selected by the Lessor and in doing so the Lessor shall not be liable or responsible for loss or damage to or warehousing expenses in respect of the whole or any part of the goods which shall be at the Lessee's risk and expense at all times and all costs and expenses incurred by the Lessor in such removal and deposit shall notwithstanding that this Lease shall then have terminated be deemed to be a liquidated debt payable by the Lessee to the Lessor upon demand.
- (b) Sell the goods either with or without removing them from the Premises and the Lessor shall be deemed to have the authority of the Lessee to sell the goods for whatever price may be obtained therefore and to apply the net proceeds of sale in reduction or payment as the case may be of any indebtedness by the Lessee to the Lessor and to pay the surplus (if any) of such proceeds to the Lessee.

9.4 Holding Over

In the event of the Lessee holding over after the expiration or sooner determination of the term of this Lease with the consent of the Lessor otherwise than pursuant to a further lease granted by the Lessor to the Lessee the Lessee shall become a monthly tenant only of the Lessor at a monthly rental equivalent to a monthly proportion of the Rent reserved and payable by the Lessee hereunder (and as adjusted pursuant to the provisions hereof) at the expiration or sooner determination of the term of this Lease or at a monthly rental as may be agreed upon between the Lessor and the Lessee subject to the payment of the relevant amount of Operating Expenses and otherwise on the same terms and conditions as those herein contained as far as applicable. Such tenancy shall be terminable at any time by either party giving the other one month's notice in writing expiring on any day.

9.5 Right of ingress and egress

The Lessee has the right in common with the Lessor and all other persons entitled to use the same, the Common Area of the land and the building and the right of ingress to and egress from the Premises through those parts of the Common Area designated for those purposes.

10. INDEMNITIES AND RELEASE

10.1 Release of Lessor from Accidental Damage

The Lessee agrees to occupy and use and keep the Premises at the risk of the Lessee and hereby releases to the full extent permitted by law the Lessor and the Lessor's contractors and employees from all claims and demands of every kind and from all liability which may arise in respect of any accident or damage to property or death of or injury to any person of whatsoever kind or nature in or near the Premises or the Building other than as may be caused by the negligence of the Lessor its contractors or employees and the Lessee agrees that the Lessor shall have no responsibility or liability for any loss of or damage to fixtures or personal property of the Lessee other than as may be caused by the negligence of the Lessor.

10.2 Lessee's Indemnities

10.2.1 Generally

The Lessee shall indemnify and keep indemnified the Lessor from and against all actions, claims, demands, notices, losses, damages, costs and expenses for which the Lessor shall or may be or become liable in respect of all or any of the following: -

- (a) any loss or damage to property, or death or injury of whatsoever nature or kind and howsoever or wherever sustained, caused or contributed to by the use or occupation of the Premises and not caused by the negligence or wilful act default or omission of the Lessor;
- (b) resulting from any act, default or omission by the Lessee hereunder and whether the same arises through any act default or omission of the Lessee or any of its agents, contractors, servants, licensees, sub-lessees, invitees or any trespassers;
- (c) resulting from any notice claim or demand to pay do or perform any act, matter or thing to be paid done or performed by the Lessee under this Lease except however to the extent that the Lessor shall be obliged under the provisions of this Lease to pay for or contribute to the cost of the same;

10.2.2 Specifically

Without limiting the generality of sub-clause 10.2.1 hereof the Lessee will and does hereby indemnify the Lessor from and against all actions claims demands, losses, damages, costs and expenses for which the Lessor shall or may become liable in respect of or arising from: -

- (a) any damage to property loss of life or injury to persons which may be suffered or sustained by the Lessee or any employee or invitee or visitor of the Lessee in or upon the Premises whether in the occupation or control of the Lessor or of the Lessee or any other person except to the extent that the same is caused by negligence on the part of the Lessor its contractors or employees;
- (b) overflow or leakage of water including rain water and other fluids in into or from the Premises.

11. DEFAULTS AND TERMINATIONS

11.1 Essential Terms

The Lessor and the Lessee expressly covenants and agree that the covenants by the Lessee in: -

- (a) Clause 2.1 and 2.6 dealing with the payment of the rent and operating expenses;
- (b) Clause 4.1 dealing with restrictions on the use of the Premises;
- (c) Clause 4.3 dealing with restrictions on the assignment and subletting of the Premises;
- (d) Clause 5.1, 5.2 and 5.3 dealing with maintenance, repair and redecorating;
- (e) Clause 7.1, 7.2, 7.3, 7.5, 7.7 and 7.8 dealing with insurance, compliance with fire regulations and payment of additional premiums;
- (f) Clause 10.1 and 10.2 dealing with indemnities and releases; and
- (g) Clause 12.4 dealing with compliance with requirements of public authorities;

are essential and fundamental terms of this Lease.

11.2 Consequences of Default

In the event that:

- (a) any rent or any other moneys payable under this Lease shall remain unpaid for fourteen (14) days next after the date appointed for payment although no formal demand has been made (except where moneys are herein specifically made payable on demand); or
- (b) any moneys herein specifically made payable on demand remain unpaid for fourteen (14) days after demand; or
- (c) the Lessee defaults in performing or observing any one or more of the covenants or provisions on the part of the Lessee expressed or implied in this Lease (unless the default in performance or observance has been waived or excused by the Lessor in writing) and such default shall have remained unremedied for fourteen (14) days

after notice in writing shall have been given by the Lessor to the Lessee specifying such default; or

- (d) the Lessee being a corporation, an order is made or a resolution is effectively passed for the appointment of an official manager or a provisional liquidator or for the winding up of the Lessee (other than for the purposes of amalgamation or reconstruction with the consent of the Lessor such consent not be unreasonably withheld) or ceases or threatens to cease to carry on business or a receiver is appointed of the whole or any part of the assets and undertaking of the Lessee; or
- (e) any event occurs entitling the holder or proprietor of any mortgage charge or other security over the whole or any part of the assets and undertaking of the Lessee to require immediate repayment of moneys thereby secured;

THEN the Lessor may at any time thereafter but without prejudice to any claim which the Lessor may have against the Lessee in respect of any breach of the covenants and provisions in this Lease on the part of the Lessee to be observed and performed either re-enter into and repossess and enjoy the Premises as of the Lessor's former estate (anything herein contained to the contrary notwithstanding) and thereupon this Lease shall be determined, or call for an immediate surrender of the Lessee's estate and interest under this Lease and for the most effectual enforcement of this right the Lessee hereby irrevocably appoints the Lessor the Lessee's true and lawful Attorney to surrender or cause to be surrendered this Lease and to sign all notices deeds and documents for the purpose of such surrender in the name of the Lessee, and upon such surrender the Lessor shall be freed and discharged from any action suit claim or demand by or obligation to the Lessee under or by virtue of this Lease.

11.3 Compensation by Lessee

- 11.3.1 The Lessee covenants to compensate the Lessor in respect of any breach of an essential or fundamental term of this Lease and the Lessor is entitled to recover damages from the Lessee in respect of such breach or breaches.
- 11.3.2 In the event that the Lessee's conduct (whether acts or omissions) constitutes a repudiation of the Lease (or of the Lessee's obligations under the Lease) or constitutes a breach of any Lease covenant the Lessee covenants to compensate the Lessor for the Lessor's damage suffered by reason of the repudiation or breach.
- 11.3.3 The Lessor shall be entitled to recover damages against the Lessee in respect of repudiation or breach of covenants for the damage suffered by the Lessor during the entire term of this Lease.

11.4 Certain Consequences not to affect Lessor's rights

In addition to and without prejudice to any other remedies of the Lessor, upon a default by the Lessee under any of the essential and fundamental terms, the Lessor shall be entitled to recover damages from the Lessee for the loss of the benefit of this Lease as a whole notwithstanding that: -

- (a) the Lessor has exercised a right to or may be entitled to terminate this Lease or re-enter into possession of the Premises under or pursuant to the provisions of this Lease or otherwise; or
- (b) the Lessee shall have abandoned or vacated the Premises; or
- (c) the Lessor shall have accepted or shall have elected not to accept a repudiation of this Lease by the Lessee; or

- (d) the conduct of either or both of the parties to this Lease shall constitute a surrender by operation of law; or
- (e) the Lessor shall have accepted payment of any arrears of rent; or
- (f) the Lessor shall have expressly or impliedly waived any other obligation on the part of the Lessee to be performed or right of the Lessor under this Lease.

11.5 Lessor may claim for entire Term

The Lessor shall be entitled to institute legal proceedings claiming damages against the Lessee in respect of the entire Lease term, including the period before and after the Lessee has vacated the Premises and before and after the abandonment, termination, repudiation, acceptance of repudiation, or surrender by operation of law, referred to in clause 11.4, whether the proceedings are instituted either before or after such conduct.

11.6 Lessor to mitigate loss

In the event of the Lessee vacating the Premises whether with or without the Lessor's consent, the Lessor shall be obligated to take reasonable steps to mitigate the Lessor's damages and to endeavour to lease the Premises at a reasonable rent and on reasonable terms. The Lessor's entitlement for damages shall be assessed on the basis that the Lessor should have observed the obligations to mitigate damages contained in this clause. The Lessor's conduct taken in pursuance of the duty to mitigate damages shall not by itself constitute acceptance of the Lessee's breach or repudiation or a surrender by operation of law.

11.7 Right of Lessor to remedy Lessee's default

If the Lessee omits or neglects to pay any money or to do or effect anything which the Lessee has herein covenanted to pay do or effect then on each and every such occasion it shall be lawful for but not obligatory upon the Lessor and without prejudice to any rights or powers arising from such default to pay such money or to do or effect such thing by itself as if it were the Lessee and for that purpose the Lessor may enter upon the Premises and there remain for the purpose of doing or effecting any such thing and without prejudice to the rights powers and remedies of the Lessor under this Lease the Lessee will pay to the Lessor interest at the rate referred to in **Item 10** of the Reference Schedule hereto on any moneys due by the Lessee to the Lessor on any account whatsoever pursuant to the lease but unpaid for fourteen (14) days such interest to be computed from the due date for the payment of moneys in respect of which the interest is chargeable until payment of such moneys in full and be recoverable in like manner as rent in arrears.

11.8 Lessee to yield up on Termination

The Lessee will forthwith upon the expiration of the term or sooner determination of this Lease peaceably surrender and yield up to the Lessor the Premises clean and free from rubbish and in good and substantial repair and condition (having regard to the age of what is being surrendered or yielded up) in all respects and as nearly as possible in the same condition as at the date of such surrender or yielding up having regard to the age thereof damage by explosion, earthquake, aircraft, riot, civil commotion, fire, flood, lightning, storm, tempest, reasonable wear and tear, act of God and war damage only excepted.

12. GENERAL LESSEE'S COVENANTS

12.1 Affixing of signs

The Lessee will not without the prior approval in writing of the Lessor erect display affix or exhibit on to the exterior of the Premises or any part of the interior thereof any signs lights embellishments advertisements names or notices visible from outside the Premises

PROVIDED HOWEVER that the lessor shall not unreasonably withhold approval in respect of a sign or notice which reasonably identifies the Lessee.

12.2 Music & Aerials

The Lessee will not without the consent in writing of the Lessor (such consent shall not be unreasonably withheld) erect or place in or outside the Premises any radio or television aerial or antenna and will not without the like consent use or permit to be used any radio, record player, tape recorder, television, loudspeaker, screen or other equipment or like media, likely to be heard or seen from outside the Premises provided however that any consent so given as aforesaid may at any time be withdrawn where the Lessor reasonably so determines having regard to the interests of the Lessor in the Premises and/or the rights or interests of other occupiers of the Building or the owners or occupiers of nearby properties.

12.3 Charges for gas, electricity, water & telephone

The Lessee will as and when the same become due for payment pay all accounts for the supply of all gas, electricity, telephone and all excess water rates and other services to or from the Premises. The Lessee will if so required by the Lessor in writing install separate meters for such services as are capable of being separately metered.

12.4 Requirements of Public Authorities

The Lessee will forthwith comply with all statutes, ordinances, proclamations, orders and regulations present or future affecting or relating to the Premises or the use thereof, and with all requirements which may be made or notices or orders which may be given by any governmental semi-governmental, city, municipal, health, licensing or other authority having jurisdiction or authority in respect of the Premises or the use thereof **PROVIDED ALWAYS** that the Lessee shall be under no liability in respect of any structural alteration required by any such authority the necessity for which was not caused or contributed to by the Lessee's use or occupation of the Premises.

12.5 Overloading of floors

The Lessee will not do nor permit or suffer to be done upon the Premises anything in the nature of overloading any floor of the Building whereby in the reasonable opinion of the Lessor the Building may be strained or any walls or floors caused to sag or deflect from their right line or the Building may be otherwise damaged.

12.6 Lavatories and drains

The Lessee will not use nor permit nor suffer to be used the lavatories toilets sinks and drainage and other plumbing facilities in the Premises or the Common Area for any purposes other than those for which they were constructed or provided and shall not deposit or permit to be deposited therein any sweepings rubbish or other matter and any damage thereto caused by misuse shall be made good by the Lessee forthwith.

12.7 Premises to be kept free of pests

The Lessee will take all reasonable precautions to keep the Premises free of rodents, vermin, insects, pests, birds and animals and in the event of failing to do so will if so required by the Lessor but at the cost of the Lessee employ from time to time or periodically pest exterminators approved by the Lessor.

12.8 Infectious illness

The Lessee will in the event of any infectious illness occurring in the Premises forthwith give notice thereof to the Lessor and to the proper public authorities and at the expense of the Lessee will thoroughly fumigate and disinfect the Premises to the satisfaction of the Lessor and such public authority and otherwise comply with their reasonable and lawful requirements in regard to the same.

12.9 Notice of accident or defect in services

The Lessee will give to the Lessor prompt notice in writing of any accident to or defect or want of repair in any services or fixtures fittings plant or equipment in the Premises and of any circumstances likely to be or to cause any danger risk or hazard to the Premises or to the Building or any person therein or thereon.

13. DAMAGE OR DESTRUCTION OR RESUMPTION OF PREMISES

13.1 Resumption

If the Land, the Building or the Premises or any part thereof shall be resumed or a notice of intended resumption be given by any government or other competent authority then the Lessor by not less than fourteen (14) days' notice in writing to the Lessee may terminate this Lease. The Lessee shall have no claim against the Lessor by reason thereof or by reason of such resumption or termination **PROVIDED THAT** the provisions of this clause 13.1 shall not affect any claim which the Lessor or Lessee may have against the resuming authority.

13.2 Destruction or damage to Premises

It is hereby agreed and declared that in case the Premises, the Building or the Land or any part thereof shall at any time during the continuance of this Lease be destroyed or damaged by fire, flood, lightning, storm, tempest, riots, strikes, malicious damage, aircraft, explosion, earthquake or any other cause whatsoever so as to render the Premises unfit for the occupation and use of the Lessee:

- (a) The Lessor may notwithstanding anything herein contained or implied terminate this Lease by giving not less than one (1) months' notice in writing to the Lessee and at the expiration of that notice this Lease shall be at an end, and no liability shall attach to the Lessor by reason of any such termination;
- (b) Except where the destruction or damage aforesaid has been caused by the act or omission of the Lessee or any servant, agent or licensee of the Lessee or by any sub-lessee or other occupier claiming through or under the Lessee:-
 - (i) the rent hereby reserved or a proportionate part thereof according to the nature and extent of the damage sustained shall abate, and all or any remedies for recovery of the rent or such proportionate part thereof shall be suspended until the Premises have been restored or made fit for the occupation of the Lessee;

- (ii) if the Premises have not been restored so as to make them fit for the occupation and use of the Lessee within three (3) months from the date of occurrence of any such damage or within such other time as the parties agree in writing or if the Lessor gives written notice to the Lessee any time that he does not intend to restore the Premises then the Lessee may terminate this Lease by giving not less than one (1) month's notice in writing to the Lessor and at the expiration of that notice this Lease shall be at an end.
- (c) Any termination of this Lease pursuant to paragraph (a) or pursuant to sub-paragraph (ii) of paragraph (b) of this clause shall be without prejudice to the rights of either party in respect of any antecedent breach or non-observance of any covenant or provision hereof.
- (d) Any dispute arising under sub-paragraph (i) of paragraph (b) of this clause shall be determined by a member of the Institute appointed by the President for the time being of the Institute or if there be no President by the Chief Executive Officer of the Institute. The person so appointed shall in making his determination act as an expert and not as an arbitrator and his determination shall be final and binding on both parties. The cost of any such determination shall be borne by either or both of the parties hereto (and if by both of the parties in the proportion between them) as the person making the determination shall decide.

13.3 Lessor not obliged to rebuild

Nothing herein contained or implied shall be deemed to impose any obligation upon the Lessor to rebuild or reinstate or make fit for occupation the Premises in case of destruction or damage.

14. TRUSTS

14.1 Lessee's Covenants

If the Lessee at any time upon or subsequent to entering into this Lease or entering into or incurring the obligations contained in this Lease is acting in the capacity of trustee of any trust ("the Trust") then whether or not the Lessor may have notice of the Trust, the Lessee covenants with the Lessor as follows:

- 14.1.1 This Lease extends to all rights of indemnity which the Lessee now or subsequently may have against the Trust and the trust fund.
- 14.1.2 The Lessee has full and complete power and authority under the Trust to enter into this Lease and the provisions of the Trust do not purport to exclude or take away the right of indemnity of the Lessee against the Trust or the trust Fund. The Lessee will not release that right of indemnity or commit any breach of trust or be a party to any other action which might prejudice that right of indemnity.
- 14.1.3 Despite the terms of any deed of trust or settlement or other document, the Lessee will be and at all times remain personally liable to the Lessor for the use performance fulfilment and observance of the obligations in this Lease.

14.1.4 During the currency of this Lease the Lessee will not without the consent in writing of the Lessor cause, permit, or suffer to happen any of the following events:

- (a) the removal replacement or retirement of the Lessee as sole trustee of the Trust;
- (b) any alteration to or variation of the terms of the Trust;
- (c) any advancement or distribution of capital of the Trust; or
- (d) any resettlement of the trust property.

14.2 Event of Default

The Lessee further covenants with the Lessor that it will be an event of default under this Lease if the Lessee is guilty of any breach of trust in respect of the Trust or ceases to be the sole trustee of the Trust or otherwise suffers removal, replacement, or retirement as trustee of the Trust.

15. SECURITY BOND / BANK GUARANTEE

15.1 Application

If **Item 12** of the Reference Schedule shall specify that the Lessee shall furnish a Bond or Bank Guarantee or if pursuant to clause 4.3(e) the Lessor shall require that an Ingoing Lessee shall furnish a Bond or Bank Guarantee then the provisions of clause 15.2 (Bond) or clause 15.3 (Bank Guarantee) shall apply.

15.2 Bond

- 15.2.1 Subject to clause 15.1 the Lessee on or before the date of commencement hereof or the Ingoing Lessee on or before the date of assignment hereof (as the case may be) shall pay the sum (if any) referred to in **Item 12** of the Reference Schedule or referred to in a deed pursuant to clause 4.3(f) (herein called "the Bond") as a security bond in earnest of performance of the Lessee's obligations hereunder.
- 15.2.2 the Lessor shall invest the Bond with an Australian bank of the Lessor's choosing and the Lessee shall in all circumstances be entitled to all interest earned by investment of the Bond.
- 15.2.3 In the event of the Lessee defaulting in the payment of Rent or in performing some other obligation or obligations under the Lease, the Lessor shall be entitled to forfeit all or part of the Bond and any interest earned by investment of the Bond and to apply the same towards the rent and Operating Expenses and damages for breach of covenant.
- 15.2.4 Subject to clause 15.2. 3 and 15.4 the Lessor shall repay to the Lessee the Bond or any unforfeited part hereof (not including any interest as referred to in clause 15.2. 2 on expiry or termination of this Lease.

15.3 Bank Guarantee

- 15.3.1 Subject to clause 15.1 the Lessee on or before the date of commencement hereof or the Ingoing Lessee on or before the date of assignment hereof (as the case may be) shall deliver to the Lessor the guarantee of an Australian trading bank to pay the sum (if any) referred to in **Item 12** of the Reference Schedule or referred to in a deed pursuant to clause 4.3(f) ("the Bank Guarantee") as security in earnest of performance of the Lessee's obligations hereunder.
- 15.3.2 In the event of the Lessee defaulting in the payment of Rent or in performing some other obligation or obligations under the Lease, the Lessor shall be entitled to demand payment under the Bank Guarantee and to apply the same towards the rent and Operating Expenses and damages for breach of covenant.

15.4 Generally

The Lessor's entitlement in respect of the Bond and its entitlement to call for payment under the Bank Guarantee and to apply same as provides in clause 15.3.2 shall be in addition to any other remedy or entitlement to which the Lessor shall be entitled.

16. GUARANTEE

16.1 Joint and several liability of Guarantors

This lease has been granted to the Lessee at the request of the Guarantors and in consideration of the lessor granting the lease to the lessee the Guarantors as evidenced by their execution hereof for themselves their executors and administrators and for their successors and assigns jointly and severally guarantee the performance by the Lessee of the covenants contained in this lease and the payment when demanded from the Guarantors of every sum of money whatsoever that may become payable by the Lessee to the Lessor under or in accordance with or by virtue or in consequence of this lease and whether such sum of money is for or in respect of the rent reserved in this lease or for payment of the Lessee's proportion of operating expenses or for damages or costs charges and expenses local or otherwise which the Lessor may pay incur sustain or be put to in connection with the exercise or attempted exercise of any right or remedy conferred on the Lessor under or by virtue or in consequence of this lease.

16.2 Guarantors to pay on default of Lessee

The Guarantors for their Executors administrators and assigns hereby jointly and severally covenant that in the event of the Lessee in any respect failing to carry out or observe any of the terms or conditions contained in this lease or in the event of the Lessee in any other respect committing any breach of the obligations of the Lessee occurring there under or in consequence thereof then the Guarantors hereby covenant that they will indemnify the Lessor against all losses, damages, costs and expenses or otherwise which may be incurred by reason of any and all breaches and of any and all defaults on the part of the Lessee in performing and observing or in failing to perform and observe any or all agreements covenants or conditions on the Lessee's part to be performed and observed.

16.3 Guarantee to be continuing

The Guarantees and indemnities given in clause 16.1 and 16.2 hereof shall be continuing guarantees and indemnities and shall remain in full force and effect respectively for as long as any monies due to the Lessor pursuant to this lease remain unpaid. The liability of the Guarantors shall not be nor be deemed to have been discharged:

- (a) by any payment made on account hereof in whole or in part if such payment shall not at any time thereafter be avoided by the operation of any provisions of the law of bankruptcy or insolvency or otherwise however; or
- (b) by reason of any variation or variations whether with or without knowledge or consent of the Guarantors and whenever made of the provisions contained in these presents or by reason of any breach or breaches whether wilful or otherwise of the obligations of the Lessee committed hereafter whether with or without the consent or knowledge of the Guarantors or on behalf of the Lessee or with the knowledge or consent or otherwise of the Lessor the Lessor's agents or servants or by the granting heretofore or hereafter by the Lessor or any other person on the Lessor's behalf at any time of any forbearance or other indulgence or consideration to the Lessee in respect of the obligations on the Lessee's part herein contained; or
- (c) by the registration in bankruptcy of the estate of the lessee and/or the Guarantors; or
- (d) by the winding up of the Lessee company and/or any one or more of the Guarantors; or
- (e) by the non-enforcement of the guarantees and indemnities herein contained against the Guarantors or the fact that it has been held that the guarantees and indemnities herein contained are unenforceable against the Guarantors or any of them.

17 ENVIRONMENTAL COMPLIANCE

17.1 Compliance by Lessee

- (a) The Lessee must not in any way pollute or contaminate the Premises or any part of the Land or Building.
- (b) The Lessee must comply with all relevant legislation and the requirements of all relevant authorities regarding or controlling pollution or contamination of the Premises.
- (c) The Lessee must comply with any requirements of the Lessor relating to potential or actual pollution or contamination of the Premises.

17.2 Lessee to indemnify Lessor

- (a) As an additional and separate obligation, the Lessee must not make any claim against the Lessor, and releases and indemnifies the Lessor from and against any obligations, costs or damages, relating to:
 - (i) any pollution, contamination or other environmental damage to the Premises arising out of the Lessee's use and occupation of the Premises, and
 - (ii) any notice or order issued by any authority relating to any actual or potential pollution, contamination or other damage to or from the Premises.
- (b) The Lessor acknowledges that the release and indemnity by the Lessee does not apply to any pollution, contamination or other environmental damage occurring as a result of any wilful

act or omission by the Lessor done or omitted with knowledge that it was likely to cause pollution, contamination or other environmental damage.

18. PLANT AND EQUIPMENT

18.1 Plant and Equipment

The plant and equipment referred to in Property Schedule is owned by the Lessor and shall form part of the Premises as defined pursuant to clause 2.1.18 of this Lease.

18.2 Usage

At no additional cost the Lessor shall permit the Lessee to have the use of the plant and equipment pursuant to the terms of this Lease. The Lessor shall take no responsibility with respect to the plant and equipment in and upon the subject premises which shall be operated by the Lessee at the Lessee's risk.

18.3 No Representation

The Lessor makes no representations that the plant and equipment is in good working order and condition as at the date of the Lease and the Lessee shall inspect it and it is the responsibility of the Lessee to put and keep the plant and equipment in good working order and condition.

18.4 Plant and Equipment to be returned

In addition to anything else contained in this lease at the end of the lease the Lessee shall hand up to the Lessor the plant and equipment in at least the same condition as it was when the Lessee took possession of the premises.

18.5 Costs

In addition to anything else contained in this lease any costs of maintaining and repairing the plant and equipment shall be to the Lessee's account and the Lessee shall be responsible for the cost of all repairs to the plant and equipment including costs of capital nature.

18.6 Insurance

In addition to anything else contained in this lease the Lessee shall insure the plant and equipment in the name of the Lessor and shall keep the same insured against all usual risks at its own expense.

19. PERSONAL PROPERTY SECURITIES ACT 2009 (CTH)

19.1 Registration on PPSR

The Lessee consents to the Lessor effecting a registration on the PPSR (in any manner the Owner considers appropriate) in relation to any plant and equipment listed (if any) in the Property Schedule and arising under or in connection with this Lease and the Lessee agrees to provide all assistance reasonably required by the Lessor to facilitate this.

19.2 Verification Certificate

The Lessee waives its right to receive any notice under the PPSA (including notice of a verification statement) unless the notice is required by the PPSA and cannot be excluded.

19.3 Proceeds and Security Agreement

The Lessee acknowledges that if the Lessor's interest under this Lease is a Security Interest for the purposes of the PPSA:

- (a) that Security Interest relates to the plant & equipment listed in Property Schedule and all Proceeds of any kind;
- (b) this Lease insofar as it grants the Lessee a right to use the Lessor's plant and equipment is a security agreement for the purposes of the PPSA.

20. MISCELLANEOUS

20.1 No warranties given by Lessor

The Lessee acknowledges and declares that no promise representation warranty or undertaking has been given by or on behalf of the Lessor in respect of the suitability of the Premises for any business to be carried on therein or to air conditioning plant (if any) or other plant or elevators (if any) or to the fittings, finish, facilities and amenities of the Premises or as to the other businesses to be carried on in the Building.

20.2 Lease to be whole Agreement

The covenants and provisions contained in this lease expressly or by statutory implication cover and comprise the whole of the agreement between the parties to the Lease and it is expressly agreed and declared that no further or other covenants or provisions whether in respect of the Premises or otherwise shall be implied in this Lease or to arise between the parties hereto by way of collateral or other agreement by reason of any promise representation warranty or undertaking given or made by any party of the Lease to another on or prior to the execution of this Lease and the existence of any such implication or collateral or other agreement is hereby negated.

20.3 Waiver negated

No waiver by the Lessor of one breach of any covenant obligation or provision in this lease shall operate as a waiver of another breach of the same or of any other covenant obligation or provision in this lease.

20.4 Costs of Lease

20.4.1 The Lessee shall pay upon demand all stamp duty, whether assessed and payable at the commencement of the Lease or from time to time during the term of the Lease all the Lessor's reasonable and appropriate legal and other costs, charges and expenses of and incidental to the preparation, completion, stamping and registration of this Lease but only that part of those costs and expenses which are permitted to be recovered by a Lessor under section 14 and section 45 of the Act.

20.4.2 The Lessee shall pay upon demand all the Lessor's reasonable and appropriate legal costs on a solicitor and client basis and other costs, charges and expenses of and incidental to the assignment, subletting, surrender or termination (otherwise then

by expiry of the term) of this Lease or for the granting of any consents of the Lessor or the exercise of any power by the Lessor.

- 20.4.3 In the case of default of the Lessee in observing or performing any of its covenants in the Lease contained or implied, the Lessee shall pay to the Lessor upon demand all legal costs on a solicitor and client basis and other costs, charges and expenses for which the Lessor shall become liable in consequence of or in connection with such default within seven (7) days of demand being made by the Lessor.

20.5 Notices

All notices given pursuant to this Lease shall be in writing and may be given to or served upon a party hereto by being left at that party's registered office or principal place of business in the State or place in which the Premises are situated or by being posted in a prepaid certified or registered letter addressed to that party at such office or principal place of business **AND** any such or notice shall be deemed duly served at the expiration of two (2) days after the time of posting **AND** in proving and giving of the same it shall be sufficient to prove the envelope containing the same was properly addressed stamped and registered, and put into a post office box in the Commonwealth of Australia. Any notice may be signed by the Lessor or on its behalf by the Manager, the Secretary or other authorised officer for the time being of the Lessor.

20.6 Inspection by purchaser or lessee

The Lessee will at all reasonable times permit the Lessor to exhibit to prospective tenants or purchasers the Premises and will at all times within the three (3) months immediately preceding the termination of this lease allow the Lessor to affix and exhibit where the Lessor shall think fit at any time the usual "For Sale" and the usual "To be Let" notices and in each case with the name and address of the Lessor and/or the Lessor's agent thereon and the Lessee will not remove any such notice without the written consent of the Lessor.

20.7 Lessor's discretion regarding consents

In any case where pursuant to this lease the doing or execution of any act matter or thing by the Lessee is dependent upon the consent or approval of the Lessor such consent or approval may be given conditionally or unconditionally or withheld by the Lessor in the Lessor's absolute uncontrolled discretion unless otherwise herein provided.

20.8 Lessor may sell Building

The Lessor shall be entitled to sell or otherwise dispose of any part of the Land or to acquire other land and for the purpose of the provisions of public or private access to and egress from the Premises, or support of structures hereafter erected on or from adjoining lands or of services (including water drainage, gas and electricity supply and telephonic and electronic communication services) to grant easements or enter into any arrangement or agreement with any of the owners, lessees, tenants or occupiers or others interested in any land adjacent or near to the Premises or with any public authority as the Lessor thinks fit the Lessor may likewise for the above purpose dedicate land or transfer grant or create any easement privilege or other right in favour of such parties or in favour of any such adjoining or neighbouring land or any public authority over or affecting the Premises and this lease shall be deemed to be subject to any such agreement arrangement right easement or privilege. Notwithstanding the reservation contained in this clause, the Lessor in the exercise of the rights herein conferred shall not sell dedicate land or transfer, grant or create any easement privilege or other right to any other person which shall substantially and permanently derogate from the enjoyment of rights conferred on the Lessee by this lease.

20.9 Merger

None of the terms or conditions of this lease nor any act matter or thing done under or by virtue of or in connection with this lease or any other agreement between the parties hereto shall operate as a merger of any of the rights and remedies of the parties in or under this lease or in or under any such other agreement all of which shall continue in full force and effect.

20.10 Lessor not liable for failure of services

The Lessor will not be under any liability for any loss injury or damage sustained by the Lessee or any other person at any time as a result of or arising in any way out of the failure of the electricity or water supply or any other services or facilities provided by the Lessor or enjoyed by the Lessee in conjunction with the Premises.

20.11 Lessee to act at own risk

Whenever the Lessee is obliged or required hereunder to do or effect any act matter or thing then the doing of such act matter or thing shall, unless this lease otherwise provides, be at the sole risk and expense of the Lessee.

20.12 Application of law to Lease

Unless application is mandatory by law no statute ordinance proclamation order regulation or moratorium present or future shall apply to this lease so as to abrogate extinguish impair diminish fetter delay or otherwise prejudicially affect any rights powers remedies or discretions given or accruing to the Lessor.

20.13 Lessee to pay moneys payable by Lessor on Premises

To the extent permissible at law the Lessee will forthwith upon demand pay to the Lessor by way of additional rent an amount equivalent to any moneys paid by the Lessor in respect of any liability imposed on the Lessee under or by virtue of this lease notwithstanding that any statute ordinance proclamation order regulation or moratorium present or future directly or indirectly imposes such liability upon the Lessor.

20.14 Head Lease and/other interests

20.14.1 The Lessee will at all times during the term hereby granted permit the Lessor and any person having any estate or interest in the Premises superior to or concurrent with the Lessor to exercise the Lessor's powers to enter and view the Premises and to carry out repairs, renovations, maintenance and other work thereon and otherwise to exercise or perform their lawful rights and obligations in relation thereto.

20.14.2 In the event of a person other than the Lessor becoming entitled to receive the rent or any other moneys payable by the Lessee to the Lessor under this lease, either by operation of law or otherwise, the Lessee agrees that such person shall have the benefit of all covenants and agreements on the part of the Lessee under this lease to be performed and the Lessee at the cost of the Lessor will enter into such covenants and agreements with such other person in that regard as the Lessor and/or that person may reasonably require.

20.15 GST

20.15.1 In this Lease the expressions "GST", "input tax credit", "supply", "tax invoice", "recipient" and "taxable supply" have the meanings given to those expressions in the *A New Tax System (Goods and Services Tax) Act 1999*.

- 20.15.2 With the exception of any amount payable under this clause 20.15, unless otherwise expressly stated all amounts stated to be payable under this Lease are exclusive of GST.
- 20.15.3 If GST is imposed on any supply made under or in accordance with this Lease, the recipient of a taxable supply must pay to the supplier an additional amount equal to the GST payable on or for that taxable supply. Payment of the additional amount will be made at the same time as payment for the taxable supply is required to be made in accordance with this Lease.
- 20.15.4 If this Lease requires a party to pay for, reimburse or contribute to any expense, loss, indemnity or outgoing ("reimbursable expense") suffered or incurred by another party, the amount required to be paid, reimbursed or contributed by the first party will be the sum of:
- (a) the amount of the reimbursable expense net of input tax credits (if any) to which the other party is entitled in respect of the reimbursable expense; and
 - (b) if the other party's recovery from the first party is a taxable supply, any GST payable in respect of that supply.
- 20.15.5 If a GST inclusive price is charged, the supplier must provide the recipient of the supply a valid tax invoice at or before the time of payment or such other time as agreed between the parties.
- 20.15.6 Any valuer or umpire returning a valuation must return a GST exclusive market value for it in any case where the valuation is for the purpose of determining a supply value to which GST is to be added under this Lease.

20.16 Compliance with Retail Leases Act

If the Act applies to this Lease the Lessee acknowledges and agrees that the Lessor or its authorised agent, as the case may be, has provided to the Lessee: -

- (a) at least seven (7) days before the date of commencement of this Lease a Disclosure Statement; and
- (b) a copy of the proposed lease.

20.17 Conversion of title

- (a) The Lessor may at any time convert the title to the Land to strata title, by obtaining the approval and registration of a subdivision.
- (b) If required, the Lessee will sign consents to that subdivision and conversion.
- (c) In any subdivision the Lessee's entitlement to the Premises will be preserved and the Common Area of the Building will be retained as common area.

PROPERTY SCHEDULE

THE REFERENCE SCHEDULE

ITEM 1: PREMISES (clause 1.1)

Those premises being Suite 1, 1st Floor, 437 High Street, Penrith situate on that piece or parcel of land in certificate of title Folio Identifier 2/82325.

ITEM 2: ADJUSTMENT PERIOD (clause 1.1)

30 June each year

ITEM 3: RENT (clause 2.1)

Sixty Five Thousand Five Hundred and Fourteen Dollars and Ninety Six Cents (\$65,514.96) including GST

ITEM 4: RENT REVIEW (sub-clause 2.2.1)

Review Date	Applicable clause	Further variation	If sub-clause 2.2.4 applies - percentage
On each anniversary of the commencement date of the Lease.	The greater of clauses 2.2.3 and 2.2.4	N/A	3%

ITEM 5: LESSEE'S PROPORTION OF OPERATING EXPENSES (clause 2.6)

Nil

ITEM 6: TERM (clause 3.1)

Five (5) Years commencing on 24 June 2025 and terminating on 23 June 2030.

ITEM 7: OPTION (clause 3.2)

Five (5) Years commencing on 24 June 2030 and terminating on 23 June 2035.

ITEM 8: PERMITTED USES (clause 4.1)

Adult store

ITEM 9: AMOUNT OF PUBLIC RISK INSURANCE (clause 7.2)

Ten Million Dollars (\$20,000,000.00).

ITEM 10: INTEREST RATE APPLICABLE TO OVERDUE PAYMENTS (clause 11.7)

Twelve per centum (12%) per annum

ITEM 11: BOND/BANK GUARANTEE (clause 15.1)

Three month's rent including GST (\$16,378.74).

ITEM 12: GUARANTORS (clause 1.1)

James Richard Ange of 102 Sugarloaf Crescent, Castlecrag NSW 2068

We hereby certify this Lease to be correct for the purpose of the Real Property Act, 1900.

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