

Enwerd Pty Ltd
ACN 004 645 612

and

FNZ (Australia) Pty Ltd
ACN 138 819 119

Deed of Renewal and Variation of Lease

Premises: Part Level 10, 459 Little Collins Street,
Melbourne VIC 3000

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PARTIES

Enwerd Pty Ltd

ACN 004 645 612

of Level 31, 459 Collins Street, Melbourne VIC 3000

Tel: (03) 9613 9999

Ref: Chief Operating Officer

Fax: (03) 9613 9998

E-mail: secretary@juilliard.com

("Landlord")

and

FNZ (Australia) Pty Ltd

ACN 138 819 119

of Level 5, 37-49 Pitt Street, Sydney NSW 2000

Tel: (02) 9237 6662

Ref: Jessamine Carton

Fax: N/A

E-mail: Jessamine.Carton@fnz.com.au

("Tenant")

BACKGROUND

- A By a lease (undated), the Landlord leased the Premises to the Tenant for a period of three (3) years commencing on 29 October 2018 and ending on 28 October 2021 ("**Original Lease**"). A copy of the Original Lease is contained at **Attachment A** to this Lease.
- B The Tenant has requested that the Landlord grant it a renewal of the Original Lease of the Premises for the Further Term which the Landlord has agreed to do on the following terms and conditions.

AGREED TERMS

1 Definitions and interpretation

1.1 Definitions

In this Lease, unless the context requires otherwise, words and phrases used in the Particulars of Lease have the same meanings when used in this Lease. Other terms used in this Lease are defined below:

"**Act**" means the *Retail Leases Act 2003* (Vic).

"**Cost**" means any cost, charge, expense, outgoing, payment, fee, liability or penalty of any kind, including legal and professional fees.

“Duty” means any duty charged pursuant to the *Duties Act 2000* (Vic) (or similar duties under the laws of any jurisdiction).

“Further Term” means a term of two (2) years, nine (9) months and 14 days, commencing on 29 October 2021 and ending on 11 August 2024.

“Original Lease” means the Original Lease specified in recital A.

“Premises” means Part Level 10, 459 Little Collins Street, Melbourne VIC 3000, as more particularly described in the Original Lease.

“Rent” means \$60,340 per annum (plus GST).

1.2 Interpretation

In this Lease, unless the context requires otherwise, all words and phrases used in this Lease will have the same meaning as in the Original Lease and any capitalised term not defined in this Lease has the meaning given to that term in the Original Lease.

2 Lease

2.1 Grant of Lease

The Landlord grants to the Tenant, and the Tenant takes, a lease of the Premises for the Further Term at the Rent and upon the terms and conditions:

- (a) set out expressly in this Lease; and
- (b) incorporated into this Lease by reference pursuant to clause 2.3.

2.2 Covenant to perform

The Landlord and the Tenant must, during the Further Term, perform and observe the terms and conditions of this Lease as fully as if all of its terms and conditions had been repeated in full in this Lease.

2.3 Terms and conditions

The terms and conditions of the Original Lease are incorporated into this Lease as if they were set out in full in this Lease, except that:

- (a) **(Particulars of Lease)**: the Particulars of Lease to the Original Lease is deleted and replaced with the Particulars of Lease to this Lease;
- (b) **(Rent)**: the covenant for payment of the Rent in the Original Lease applies to the Rent payable under this Lease;
- (c) **(Clause 1.1)**: in clause 1.1 of the Original Lease:
 - (i) the definition of *“Condition Report”* is deleted and replaced with the following:

“Condition Report” means the condition report in respect of the Premises which is Attachment 4 to this Lease.

- (ii) the definition of *“CPI”* is deleted;
 - (iii) a new definition of *“Initial Commencement Date”* is inserted as follows:

“Initial Commencement Date” means the earlier of:

- (a) *the Commencement Date;*
 - (b) *if this Lease is one in a series of consecutive leases (whether granted pursuant to the exercise of options or*

otherwise) the commencement date of the first lease in that series ("**Initial Lease**"); and

- (c) the date that the Tenant or, if applicable, the tenant under the Initial Lease, first took occupation of the Premises, whether under this Lease, the Initial Lease or any other occupancy of all or any part of the Premises."; and
- (iv) the definition of "Landlord Works" is deleted;
- (d) (**Clause 4.3**): clause 4.3 of the Original Lease is deleted and replaced with the following:

"4.3 Rent adjustment

On an Adjustment Date, the Rent will be increased by the Fixed Percentage Increase."

- (e) (**Clause 6.1(f)**): in clause 6.1(f) of the Original Lease, the words "4 years after the Commencement Date" are deleted and replaced with the words "12 months after the expiry of the Term";
- (f) (**Clause 10.2(a)**): in clause 10.2(a), the words "Commencement Date" are deleted and replaced with the words "Initial Commencement Date";
- (g) (**Clause 23**): clause 23 of the Original Lease is amended as follows:
 - (i) in clause 23.1(b), the reference to "\$23,333" is deleted and replaced with a reference to "\$57,163 (exclusive of GST)"; and
 - (ii) in clause 23.2(a), the words "(apportioned for any part calendar month)" are inserted between the words "equal consecutive monthly instalments" and the words "with effect from the Commencement Date";
- (h) (**Clause 24**): clause 24 of the Original Lease is deleted and replaced with the following:

"Not used"; and
- (i) (**Clause 25**): clause 25 of the Original Lease is deleted and replaced with the following:

"Not used".

3 No change to Original Lease

The Landlord and the Tenant confirm that this Lease does not vary the Original Lease in any way.

4 Retail Leases Act 2003 (Vic)

The Tenant acknowledges and warrants that the Act does not apply to this Lease.

5 Costs and Duty

5.1 Costs

The Tenant must pay all the Landlord's Costs of and incidental to the negotiation, preparation, completion and stamping of this Lease to the extent that such Costs exceed \$6,000 (plus GST).

5.2 Duty

The Tenant must:

- (a) pay any Duty (including penalties or interest) assessed on or in relation to:
 - (i) this Lease;
 - (ii) any variation, assignment, subletting, renewal, surrender (whether by the Tenant or any assignee) or other early termination of this Lease or other dealing with the Tenant's interest in the Premises; and
 - (iii) any other instrument or transaction contemplated by this Lease, and
- (b) if Duty is payable, deliver to the Landlord a cheque in favour of the State Revenue Office for the Duty payable and all supporting documentation necessary to enable the Landlord to lodge this Lease and any other instrument referred to in clause 5.2(a) for payment of Duty no later than 5 Business Days before the due date for payment of the Duty.

PARTICULARS OF LEASE

| | | |
|----|---------------------------|--|
| 1 | LANDLORD | Enwerd Pty Ltd ACN 004 645 612 of Level 31, 459 Collins Street, Melbourne VIC 3000 Tel: (03) 9613 9962 Ref: Chief Operating Officer Fax: (03) 9613 9998 Email: secretary@juilliard.com |
| 2 | TENANT | FNZ (Australia) Pty Ltd ACN 138 819 119 of Level 5, 37-49 Pitt Street, Sydney NSW 2000 Tel: (02) 9237 6662 Ref: Jessamine Carton Fax: N/A E-mail: Jessamine.Carton@fnz.com.au |
| 3 | LAND | The land in Certificate of Title Volume 10948 Folio 183 |
| 4 | BUILDING | The building known as 459 Little Collins Street, Melbourne VIC 3000 and other improvements on the Land from time to time. |
| 5 | PREMISES | Part of Level 10 of the Building and which is identified on the Plan. |
| 6 | TERM | Two (2) years, nine (9) months and 14 days. |
| 7 | COMMENCEMENT DATE | 29 October 2021 |
| 8 | RENT | \$60,340 per annum (plus GST). |
| 9 | MARKET REVIEW DATES | None. |
| 10 | ADJUSTMENT DATES | Each anniversary of the Commencement Date that is not a Market Review Date. |
| 11 | FIXED PERCENTAGE INCREASE | 3.5% |
| 12 | PERMITTED USE | Commercial Office. |
| 13 | SECURITY AMOUNT | An amount equal to the average of 12 months' Rent and estimated amounts payable under clause 4.5 (Building Outgoings) during the Term, plus GST on those amounts, being \$91,230.51 at the Commencement Date. |
| 14 | CORE BUILDING HOURS | 8.00am to 6.00pm |

EXECUTED as a **DEED**

SIGNED SEALED and **DELIVERED** by the)
said **ENWERD PTY LTD** by its attorney)
SHLOMO WERDIGER under a Power of)
Attorney dated 4 June 2019 pursuant to)
which the said Attorney executed this)
document, acknowledging that he has no)
notice of the revocation of the said Power)
of Attorney in the presence of:

Signature of witness

S Werdiger

Name of witness (print)

EXECUTED by **FNZ (AUSTRALIA) PTY**)
LTD ACN 138 819 119 by:)
)

Signature of director

Signature of director/company secretary
(delete as applicable)

Full name of director (print)

Full name of director/company secretary
(print) (delete as applicable)

ATTACHMENT A - ORIGINAL LEASE

Lease

Premises:

Part Level 10, 459 Little Collins Street,
Melbourne 3000

Enwerd Pty Ltd
ACN 004 645 612

And

FNZ (Australia) Pty Ltd
ACN 138 819 119

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PARTICULARS OF LEASE

| | | |
|----|---------------------------|---|
| 1 | LANDLORD | Enwerd Pty Ltd ACN 004 645 612 of Level 31, 459 Collins Street Melbourne Tel: 03 9613 9962 Ref: Chief Operating Officer Fax: 03 9613 9998 Email: secretary@juilliard.com |
| 2 | TENANT | FNZ (Australia) Pty Ltd ACN 138 819 119 of Level 13, 459 Little Collins Street, Melbourne VIC 3000 Tel: 02 9237 6662 Ref: Jessamine Carton E-mail: Jessamine.Carton@fnz.com.au |
| 3 | LAND | The land in Certificate of Title Volume 10948 Folio 183 |
| 4 | BUILDING | The building known as 459 Little Collins Street, Melbourne VIC 3000 and other improvements on the Land from time to time |
| 5 | PREMISES | Part Level 10 of the Building and which is identified on the Plan |
| 6 | TERM | 3 years |
| 7 | COMMENCEMENT DATE | The later of: (a) 29 October 2018; or (b) the day after completion of the Landlord Works. |
| 8 | RENT | \$56,000.00 per annum plus GST |
| 9 | MARKET REVIEW DATES | None |
| 10 | ADJUSTMENT DATES | Each anniversary of the Commencement Date that is not a Market Review Date. |
| 11 | FIXED PERCENTAGE INCREASE | 3.75% |
| 12 | PERMITTED USE | Commercial Office |
| 13 | SECURITY AMOUNT | \$84,451.68 (including GST) |
| 14 | CORE BUILDING HOURS | 8.00am to 6.00pm |

LEASE TERMS AND CONDITIONS

1 Definitions and Interpretation

1.1 Definitions

In this Lease unless the context requires otherwise words and phrases described in the Particulars of Lease have the same meanings when used in this Lease, and other terms used in this Lease are defined below:

"Accounting Year" means a period of 12 consecutive months adopted by the Landlord from time to time for the recovery of Building Outgoings which at the Commencement Date is the period 1 July to 30 June.

"Act" means the *Retail Leases Act 2003* (Vic).

"Adjustment Dates" means those Review Dates specified in Item 10 (if any) upon which an adjustment of the Rent is stated to occur pursuant to clause 4.3.

"Approval" means any permit, approval, authorisation, consent or licence.

"ASX" means ASX Limited ACN 008 624 691.

"Authority" means any authority having jurisdiction over the Land, the Building or the Premises (including their development, use or occupation) including any governmental, municipal statutory or public body, department, agency or entity, or any Owners Corporation or service provider.

"Bank" means a corporation authorised by law to carry on the general business of banking in Australia whose identity is approved by the Landlord.

"Bank Guarantee" means an irrevocable and unconditional undertaking without an expiry date (subject to clause 6.1(f)) from a Bank in favour of the Landlord to pay on demand to the Landlord the amount specified in Item 13 on terms and conditions acceptable to the Landlord.

"BEED Act" means the *Building Energy Efficiency Disclosure Act 2010* (Cth).

"Building Manual" means the Landlord's manual in relation to the use and occupancy of the Building issued to the Tenant from time to time.

"Building Outgoings" means all amounts incurred or payable by the Landlord in respect of the Building and the Land and their ownership, operation, management, repair and maintenance including amounts attributable to:

- (a) **(utilities)** gas, electricity, telephone, water and other services which are not separately metered to another tenant or occupier;
- (b) **(Rates and Taxes)** Rates and Taxes including:
 - (i) land tax calculated on the basis that the Land is the only land owned by the Landlord in the State of Victoria; and
 - (ii) all Rates and Taxes (and any other Costs which the Landlord incurs or becomes liable for) in respect of or incidental to the implementation of and compliance with a carbon pollution reduction or emissions trading

scheme (or other Environmental Law with a similar objective) but excluding income and capital gains tax;

- (c) (**insurances**) insurances including public risk and consequential loss insurance, and expenses payable on claims;
- (d) (**maintenance and repair**) the maintenance and repair of the Building;
- (e) (**Building Services**) the provision, running, maintenance, repair, servicing, testing and monitoring of the Building Services and Essential Safety Measures, including the Cost of any service and maintenance contracts and the fees paid to any specialist contractor;
- (f) (**other facilities and services**) the provision of any other facility or service for tenants of the Building including pest control, garbage removal, equipment cleaning and hiring, provision of a directory board, and security;
- (g) (**Common Areas**) the provision of cleaning services, refuse collection, lighting, security, landscaping, gardening and other services to the Common Areas and the provision and upkeep of any common toilet facilities; and
- (h) (**management**) the management, administration, control and security of the Building and the Land including the Costs associated with employing building managers and other staff, auditing and accountancy fees and managing agent fees.

"Building Rules" means any rules adopted by the Landlord from time to time for the use and management of the Building and the Land. The rules current at the Commencement Date are set out in **Schedule 1**.

"Building Services" means all services in or supplied to the Building or the Land (including power, water, drainage, telecommunications, heating, air-conditioning, security, fire prevention and detection and Essential Safety Measures) and all equipment, plant and machinery and pipes, wires, ducting and other means of providing these services to the Building or the Land.

"Business Day" means a day on which Banks are open for general banking business in Melbourne, excluding Saturdays, Sundays and public holidays.

"Claim" means any claim, notice, demand, action, proceeding, litigation, investigation or judgment, however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

"Common Areas" means all those areas in the Building or on the Land provided by the Landlord from time to time for common use by tenants of the Building or the general public.

"Condition Report" means the report to be prepared in respect of the Premises once the Landlord Works are complete and which is **Attachment 4** to this Lease.

"Confidential Information" means:

- (a) the terms and conditions of this Lease; and
- (b) all information disclosed by (or on behalf of) one party to the other party (or anyone on behalf of the other party) in connection with this Lease.

"Consideration" has the meaning given by section 195-1 of the GST Act.

"Contamination" means the presence in or under land or groundwater of a substance, gas, odour or heat at a concentration above the concentration at which such substance, gas, odour or heat is normally present and being a presence that:

- (a) fails to comply with any Environmental Law;
- (b) fails to comply with any standard prescribed for that matter; or
- (c) presents, or may present, a risk of harm to human health or the Environment.

"Controller" means, in relation to a party's property:

- (a) a receiver or receiver and manager of that property; or
- (b) anyone else who (whether or not as agent for that party) is in possession, or has control of that property to enforce an Encumbrance.

"Core Building Hours" means the hours specified in Item 14 on Business Days.

"Corporations Act" means the *Corporations Act 2001* (Cth).

"Cost" means any cost, charge, expense, outgoing, payment, fee, liability or penalty of any kind, including legal and professional fees.

"CPI" means the Consumer Price Index (All Groups) for the city of Melbourne published by the Australian Bureau of Statistics (or any other index published in substitution for this index).

"Direct Debit Authority" means an authority in the form of **Attachment 3** addressed to the Tenant's Bank requiring regular payments in Australian dollars to be made by banker's order on the first day of each month to the Landlord's nominated Bank account.

"Directors" means directors of the Tenant as at the Commencement Date, being Damian Kevin Millin, Trevor John Matthews, Nicholas John Sherry, Annette Louise King, Katherine Jane Hyndman, Christian Somerville Dougal and Adrian John Durham.

"Duty" means any duty charged pursuant to the *Duties Act 2000* (Vic) (or similar duties under the Laws of any jurisdiction).

"Effective Control" means:

- (a) in respect of a corporation:
 - (i) control of the composition of the board of directors of;
 - (ii) the ability to cast more than one half of the maximum votes that might be cast at a general meeting of;
 - (iii) control of more than one half of the issued capital in; or
 - (iv) the capacity to determine the outcome of decisions about the financial and operating policies of,that corporation or any holding company (including the ultimate holding company) of that corporation, and
- (b) in respect of a trust estate:
 - (i) the right to remove or appoint a trustee;
 - (ii) the right to control (directly or indirectly) the manner in which the trustee of that trust estate deals with the income or the capital of the trust estate; or
 - (iii) the right to nominate or alter the beneficiaries of that trust estate.

"Electronic Transmission" means the giving of a document by one party to another:

- (a) transmitting the document by email; or
- (b) transmitting, by email, notification that the document is given together with a hyperlink at which the document can be viewed and downloaded or the web address where the document can be viewed and downloaded.

"Encumbrance" means any mortgage, lien, hypothecation, charge, security interest, bill of sale, caveat, pledge, claim, trust arrangement, preferential right, right of set-off, title retention or other form of encumbrance.

"Environment" has the meaning given in the *Environment Protection Act 1970* (Vic).

"Environmental Initiatives" means any initiatives established to promote the sustainable management of the Building and minimise any adverse environmental impact caused by its operation (including initiatives regarding energy usage and waste generation).

"Environmental Law" means any Law concerning the protection or enhancement of the Environment, or the health or safety of persons, including Laws relating to:

- (a) emissions of substances (including greenhouses gases) into the Environment;
- (b) pollution of the Environment (including a carbon pollution reduction or emissions trading scheme);
- (c) energy and resource efficiency;
- (d) production, handling, transportation and disposal of hazardous substances or dangerous goods;
- (e) land use and planning; and
- (f) public health and occupational health and safety.

"Environmental Notice" means any notice, order, guideline, direction or requirement issued under any Environmental Law.

"Enwerd Trust" means the N & N Werdiger Family Trust No. 2 (ABN 25 413 423 192).

"Essential Safety Measures" has the meaning given in the *Building Regulations 2006* (Vic).

"Exclusive Building Services" means those Building Services which are installed in and exclusively serve the Premises or which are located outside of but exclusively serve the Premises.

"Fundamental Term" has the meaning given in clause 16.2(a).

"GST" has the meaning given by section 195-1 of the GST Act.

"GST Act" means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

"GST Amount" means the amount of GST payable in respect of a Taxable Supply under or in connection with this Lease.

"GST Rate" means the GST rate from time to time provided for in the *A New Tax System (Goods and Services Imposition - General) Act 1999* (Cth), which rate is 10% at the Commencement Date.

"Guarantee" means a deed of guarantee and indemnity in the form of **Attachment 2**.

"Guarantor" means any person (if any) who is jointly or jointly and severally liable with the Tenant for, or who has guaranteed (whether alone or jointly or jointly and severally or severally) to the Landlord, the payment of the Rent or the performance and observance of the Tenant's obligations contained or implied in this Lease.

"Input Tax Credit" has the meaning given by section 195-1 of the GST Act.

"Institute" means the Victorian Division of the Australian Property Institute Inc.

"Item" refers to an item in the Particulars of Lease.

"Keys" means any key, access card, access code or other device required to access the Premises, the Building or the Land.

"Land" means the Land specified in Item 3 and any additional land that the Landlord owns, develops, controls or uses from time to time, in conjunction with that land.

"Landlord" means the party specified in Item 1 and includes any other person who will be entitled to possession of the Premises when this Lease ends.

"Landlord Payment" means an amount paid or payable by the Landlord to a third party for the acquisition of goods or services by the Landlord.

"Landlord's Consultant" means any advisor to the Landlord (such as an architect, engineer, valuer or other professional person) considered by the Landlord to have the necessary qualification or experience relevant to any particular task, including a person engaged by the Landlord in connection with the Landlord Works.

"Landlord's Property" means all plant, equipment, machinery, furniture, chattels, fixtures and fittings and other property in the Premises from time to time belonging to, or supplied by, the Landlord including the Exclusive Building Services.

"Landlord Works" means:

- (a) removing all existing partitions within the Premises;
- (b) repainting the perimeter walls;
- (c) replacing all ceiling tiles;
- (d) replacing carpet with new carpet tiles;
- (e) installing base build roller blinds; and
- (f) removing all existing data cables and cable poles marked on the Plan.

"Law" means any law (whether that law arises under common law or pursuant to any act, statutory instrument, regulation, order, ordinance, rule, by-law, proclamation, control, Approval, notice or directive of any Authority or otherwise) and includes any law relating to or affecting:

- (a) the Premises, the Building or the Land or their occupation, use or development;
- (b) fire prevention and detection or Essential Safety Measures;
- (c) insurance;
- (d) Works; or
- (e) the Environment.

"Lease Year" means each 12 month period of the Term and:

- (a) the first Lease Year commences on the Commencement Date;
- (b) each subsequent Lease Year commences on the corresponding day of each succeeding year; and
- (c) a Lease Year may include a proportionate period between the end of the last complete Lease Year and the expiry or sooner termination of the Term.

"Loss" means any loss, damage (including death or injury) or Cost of any kind.

"Market Review Dates" means those Review Dates specified in Item 9 (if any) upon which a market review of the Rent is stated to occur.

"NABERS" means the National Australian Built Environment Rating Scheme administered by the NSW Office of Environment and Heritage (or by any successor or other body administering NABERS from time to time) or any equivalent replacement scheme.

"Notice" means any notice, request, demand, statement, consent, approval, offer, agreement or other communication.

"Out of Hours Charge" means an additional charge nominated by the Landlord from time to time which in its opinion is referable to the Tenant's use of the Premises outside of the Core Building Hours.

"Owners Corporation" has the meaning given in the *Subdivision Act 1988* (Vic).

"Owners Corporation Covenant" means any obligation under this Lease which the Landlord is unable to lawfully comply with, or any right or discretion which the Landlord is unable to exercise, because the lawful right, entitlement or power to carry out such obligation or exercise such right or discretion is vested in and exercisable by an Owners Corporation.

"Particulars of Lease" means the Particulars of Lease to which these Lease Terms and Conditions are attached.

"Payment" means any Consideration (except the GST Amount) payable or to be provided by a party to any other party under or in connection with this Lease, including but not limited to the Rent.

"Plan" means the plan which is **Attachment 1** to this Lease.

"PPSA" means the *Personal Property Securities Act 2009* (Cth).

"Premises" means:

- (a) the premises described in Item 5 the boundaries of which are:
 - (i) the lower surface of any ceiling provided by the Landlord (above any ceiling tiles or other covering provided by the Landlord);
 - (ii) the upper surface of any floor provided by the Landlord (beneath any floor tiles or other floor covering provided by the Landlord); and
 - (iii) the centre line of inter-tenancy walls and the internal surface of any other walls (under any wall covering); and
- (b) the Landlord's Property.

"Property Law Act" means the *Property Law Act 1958* (Vic).

"Rates and Taxes" means any rates, taxes, levies, charges, assessments, duties, impositions, deductions and fees (including any related interest, penalties and fines to the extent attributable to the act or omission of the Tenant) imposed by any Authority on or in respect of the Premises, the Building or the Land, or their ownership, use or occupation.

"Reinstatement Cost" means the Cost to the Landlord of procuring compliance with the Reinstatement Obligations to be determined pursuant to clause 10.7(c).

"Reinstatement Obligations" means the Tenant's reinstatement and make good obligations detailed in clauses 10.2 and 10.4(a).

"Rent" means the annual rent specified in Item 8, as reviewed or adjusted under this Lease.

"Review Dates" means the dates specified in Items 9 and 10 (if any) upon which a review or adjustment of the Rent under this Lease is stated to occur.

"Security Deposit" means an amount equal to the amount specified in Item 13.

"Security Interest" has the meaning given in the PPSA.

"Taxable Supply" has the meaning given by section 195-1 of the GST Act.

"Tenant" means the party specified in Item 2 and includes, where not contrary to the context, the Tenant's Agents.

"Tenant's Agents" means the Tenant's subtenants, employees, contractors, agents, licensees, franchisees, concessionaires, invitees, clients, customers or visitors or, where the context permits, any person for whom the Tenant is responsible and any other person claiming through or under the Tenant.

"Tenant Service Agreement" means any agreement or contract with another party for the provision of services to the Premises (including the supply of utilities or telecommunications) which involves works or the installation of cables, equipment or other items:

- (a) in parts of the Building which are outside of the Premises;
- (b) which may overload, jeopardize or prejudice the proper working of the Building Services or restrict their current or future operating capacity; or
- (c) which may affect the Premises or the Building or the Landlord's ability to lease the Building.

"Tenant's Predecessor" means each and every predecessor in title of the Tenant as tenant under this Lease and, where this Lease is one in a series of consecutive leases (whether granted pursuant to the exercise of options or otherwise), it means each and every tenant under a prior lease in the series.

"Tenant's Property" means all equipment, machinery, furniture, chattels, stock, fixtures and fittings and other property in the Premises from time to time other than the Landlord's Property.

"Tenant's Proportion" means the proportion determined by the Landlord having regard to the proportion which the lettable value or area of the Premises bears to the total lettable value or area of the property to which such item relates, or which derives benefit from that item, and taking into account any special factors.

"Term" means the term specified in Item 6 commencing on and from the Commencement Date and, where the context requires, any period of extension or renewal of that term and any period of overholding under clause 2.3.

"Valuer" means a member of the Institute that has at least 5 years experience in valuing rentals in comparable premises in the vicinity of the Building.

"Works" means any works to at or in the Premises (including alterations, additions, modifications, improvements, earthworks, the installation of fixtures, fittings, plant or equipment and works associated with make good and reinstatement) whether carried out before or after the Commencement Date.

1.2 Words and expressions

In this Lease, unless the context requires otherwise:

- (a) the singular includes the plural and vice versa;
- (b) words denoting any gender include all genders;
- (c) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a party, clause, paragraph, schedule or attachment is a reference to a party, clause, paragraph, schedule or attachment to or of this Lease;
- (e) a reference to this Lease includes any schedules or attachments;
- (f) headings are for convenience and do not affect interpretation;
- (g) the background or recitals to this Lease are adopted as and form part of this Lease;
- (h) a reference to any document or agreement includes a reference to that document or agreement as amended, novated, supplemented, varied or replaced from time to time;
- (i) a reference to "\$", "A\$" or "dollar" is a reference to Australian currency;
- (j) a reference to a time is a reference to Australian Eastern Standard Time or Australian Eastern Daylight Time, whichever is appropriate;
- (k) a reference to a party includes its executors, administrators, successors, substitutes (including persons taking by novation) and permitted assigns;
- (l) a reference to writing includes any method of representing words, figures or symbols in a permanent and visible form;
- (m) words and expressions denoting natural persons include bodies corporate, partnerships, associations, firms, governments and governmental authorities and agencies and vice versa;
- (n) a reference to any legislation or to any provision of any legislation includes:
 - (i) any modification or re-enactment of the legislation;
 - (ii) any legislative provision substituted for, and all legislation, statutory instruments and regulations issued under, the legislation or provision; and
 - (iii) where relevant, corresponding legislation in any Australian State or Territory;
- (o) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this Lease or any part of it;
- (p) the words "including", "for example", "such as" or other similar expressions (in any form) are not words of limitation; and

- (q) the obligations and powers implied in leases by the *Transfer of Land Act 1958* (Vic) do not apply to this Lease unless expressly incorporated in it.

1.3 Other rules of interpretation

In this Lease, unless expressly provided otherwise:

- (a) **(Approvals)** if the doing of any act, matter or thing requires the Approval or agreement of any party, that Approval or agreement may be given conditionally or unconditionally or withheld in that party's absolute discretion and is not deemed to have been given unless it is given in writing;
- (b) **(joint and several liability)** a promise, representation or warranty given by or in favour of two or more persons under this Lease is given by them or for their benefit jointly and severally;
- (c) **(Business Days)** subject to clause 4.8(b), if the day on or by which any act, matter or thing is to be done is a day other than a Business Day, the act, matter or thing must be done on the next Business Day;
- (d) **(area of Premises)** for the purpose of determining the area of the Premises (or any part or parts of it) the Property Council of Australia Limited Method of Measurement of Buildings current at the relevant time appropriate to the dominant nature and Permitted Use of the Premises must be used; and
- (e) **(inconsistency within document)** if a clause of this Lease is inconsistent with a schedule or attachment of this Lease, the clause prevails to the extent of the inconsistency.

2 Lease of the Premises and the Term

2.1 Grant of Lease

The Landlord leases the Premises to the Tenant and the Tenant takes the Premises together with the right, in common with others, to use the Common Areas for their intended purposes, for the Term at the Rent and on and subject to the terms and conditions of this Lease.

2.2 Reservations

The Landlord reserves the exclusive right to:

- (a) **(services)** use the Premises for the passage of Building Services and any other services;
- (b) **(access)** subject to clause 15.12, enter the Premises (with other persons that it authorises, including its contractors) in order to:
 - (i) view its state of repair;
 - (ii) carry out any Works considered necessary or desirable by the Landlord;
 - (iii) inspect, repair, renovate and maintain the Building, the Building Services or the Land;
 - (iv) comply with any Law;
 - (v) obtain information, carry out tests and undertaking auditing to enable it to comply with its disclosure obligations under the BEED Act or obtain a NABERS rating for the Building (or any part of it);
 - (vi) show prospective tenants (during the last 9 months of the Term) or purchasers around the Premises; or
 - (vii) perform any of its obligations or exercise any of its rights under this Lease including remedying a default of the Tenant under this Lease;

- (c) ("**To Let**") display on the exterior or interior of the Premises a "To Let" or "For Lease" sign (or any sign of a similar nature) of reasonable size during the last 6 months of the Term (if by then the Tenant is not entitled to a renewal or extension of this Lease); and
- (d) ("**For Sale**") display on the exterior or interior of the Premises a "For Sale" sign (or any sign of a similar nature) of reasonable size if the Landlord proposes to sell the Premises at any time during the Term.

2.3 Holding over

If, without the Landlord objecting, the Tenant remains in possession of the Premises after the end of the Term:

- (a) the Tenant is a monthly tenant on the terms and conditions of this Lease but modified so as to apply to a monthly tenancy;
- (b) either party may end the tenancy by giving one month's notice to the other which may expire at any time;
- (c) the monthly rent starts at one twelfth of 120% of the Rent which the Tenant was paying immediately before the Term ended unless a different rent has been agreed; and
- (d) the Landlord may increase the monthly rent by giving the Tenant one month's notice at any time.

3 Deliberately Omitted

4 Payments by the Tenant to the Landlord

4.1 Rent

(a) Payment

- (i) The Tenant must pay the Rent to the Landlord without demand or deduction or set-off in the manner and at such place as the Landlord directs from time to time.
- (ii) No later than the earlier of the Commencement Date and the date the Tenant first enters into possession of the Premises the Tenant must provide a Direct Debit Authority in respect of the payment of Rent, Building Outgoings and any other amounts payable under this Lease.

(b) Instalments

The Rent must be paid by equal consecutive monthly instalments in advance by not later than the first day of each month (and the first and last payments if necessary will be proportionate ones).

(c) First payment

The first Rent payment must be made on or before the Commencement Date.

4.2 Deliberately Omitted

4.3 Rent adjustment

- (a) On an Adjustment Date, the Rent will be adjusted according to the following formula:

New R = *the greater of:*

(1) $Current\ R \times (CPI \div CPIX)$; and

(2) *Current R increased by the Fixed Percentage Increase*

Where:

New R = the Rent payable from the relevant Adjustment Date

Current R = the Rent payable immediately before the relevant Adjustment Date

CPI the CPI number published for the quarter ending immediately before the relevant Adjustment Date

CPIX the CPI number published for the quarter ending immediately before the immediately preceding Review Date or, where there is no earlier Review Date, the quarter ending immediately before the Commencement Date

- (b) If the base of the CPI is changed between the two comparison dates an appropriate compensating adjustment must be made so that a common base is used.

4.4 Charges

The Tenant must pay to the assessing Authority or pay or reimburse to the Landlord (as directed by the Landlord) without deduction or set-off:

- (a) the whole (or where appropriate if not separately assessed then the Tenant's Proportion) of:
- (i) all charges for gas, electricity, telephone, water and all other services used in or charged against the Premises including the cost of connecting and installing separate meters if required;
 - (ii) the Costs of operating and maintaining the Exclusive Building Services (including the cost of any service and maintenance contracts which the Tenant is required to enter into under clause 8.4);
 - (iii) the Costs incurred or payable by the Landlord in respect of any cleaning or garbage removal service it may provide for the Premises; and
 - (iv) all Rates and Taxes (including land tax calculated on the basis that the Land is the only land owned by the Landlord in the State of Victoria) to the extent that they are not included in Building Outgoings;.
- (b) all charges connected with the operation of the Tenant's business at the Premises including licence and inspection fees; and
- (c) the Out of Hours Charge if the Tenant uses the Premises outside of the Core Building Hours pursuant to clause 15.5(b).

4.5 Building Outgoings

- (a) The Tenant must pay the Tenant's Proportion of Building Outgoings for each Accounting Year to the Landlord in accordance with this clause 4.5 with appropriate adjustment at the beginning and end of the Term.
- (b) As soon as possible after the start of each Accounting Year the Landlord must notify the Tenant of its estimate of the Building Outgoings for that Accounting Year and the Tenant's Proportion of that estimate. The Landlord may update its estimate from time to time by notice to the Tenant.

- (c) The Tenant must pay to the Landlord the Tenant's Proportion of the estimated Building Outgoings by equal consecutive monthly instalments on the days when Rent is due.
- (d) After the end of the Accounting Year the Landlord must give the Tenant a statement of the actual Building Outgoings for that Accounting Year and the Tenant's Proportion of those Building Outgoings. Unless the Tenant notifies the Landlord of a clear error in the Landlord's statement within 10 Business Days of the date of its issue the Tenant is deemed to have accepted the Landlord's statement as correct and accurate.
- (e) Any disputed item must be handled in isolation and does not affect the Tenant's liability to pay the balance due.
- (f) If the Tenant's proportion of the actual Building Outgoings exceeds the Tenant's Proportion of the estimated Building Outgoings paid by the Tenant pursuant to clause 4.5(c) the Tenant must pay the balance due to the Landlord within 5 Business Days of receiving the Landlord's statement.
- (g) If the Tenant's proportion of the actual Building Outgoings is less than the Tenant's Proportion of the estimated Building Outgoings paid by the Tenant pursuant to clause 4.5(c) the Tenant will be credited with the excess it has paid.
- (h) Building Outgoings which relate to a period other than an Accounting Year must be brought in to account in the Accounting Year in which the Building Outgoing first became due disregarding any arrangement which might be available to the Landlord to defer payment or pay by instalments and whether the amount is assessed, charged or payable for an Accounting Year prior or subsequent to the Accounting Year in which payment first became due.

4.6 Costs

(a) Landlord's Costs

The Tenant must pay all the Landlord's reasonably incurred Costs of and incidental to:

- (i) the negotiation, preparation, completion and stamping of this Lease and any Guarantee to the extent that such Costs exceed \$6,000 plus GST;
- (ii) the variation, assignment, subletting, renewal, surrender or other early termination of this Lease and any other dealing with the Tenant's interest in the Premises;
- (iii) any other instrument or transaction contemplated by this Lease;
- (iv) the exercise (or attempted exercise) of any of the Landlord's rights, powers, privileges, or remedies under or by virtue of this Lease; and
- (v) every application made by the Tenant for consent or approval for any act, matter or thing under or in connection with this Lease.

(b) Cost of Tenant default

The Tenant must pay all Costs incurred by the Landlord or for which the Landlord becomes liable:

- (i) in remedying a default of the Tenant under this Lease; and
- (ii) of and incidental to every breach of this Lease by the Tenant.

(c) Litigation Costs

If the Landlord is, without fault on its part, made a party to any litigation commenced by or against the Tenant (other than litigation between the Landlord and the Tenant) which arises directly or indirectly out of the Tenant's occupancy of the Premises the Tenant must pay to the Landlord all Costs which the Landlord

incurs or becomes liable to pay to any other party in connection with that litigation.

4.7 Duty

The Tenant must:

- (a) pay all Duty (if any) (including penalties or interest) assessed on or in relation to:
 - (i) this Lease;
 - (ii) any variation, assignment, subletting, renewal, surrender (whether by the Tenant or any assignee) or other early termination of this Lease or other dealing with the Tenant's interest in the Premises; and
 - (iii) any other instrument or transaction contemplated by this Lease, and
- (b) if Duty is payable, deliver to the Landlord a cheque in favour of the State Revenue Office for the Duty payable and all supporting documentation necessary to enable the Landlord to lodge this Lease and any other instrument referred to in clause 4.7(a) for payment of Duty no later than 5 Business Days before the due date for payment of the Duty.

4.8 Due date for payment

- (a) Unless expressly stated otherwise, an amount payable by a party under this Lease (except for Rent) is due on the 5th Business Day after written demand is made for that amount.
- (b) If any Rent or other money falls due for payment on a date other than a Business Day, that money must be paid on the immediately preceding Business Day.

4.9 Interest

(a) **Tenant must pay**

The Tenant must pay to the Landlord interest at the rate of 2% above the rate prescribed from time to time under the *Penalty Interest Rates Act 1983* (Vic) on:

- (i) any Rent or other money which the Tenant has not paid within 5 Business Days after its due date for payment until actually paid; and
- (ii) any judgment which the Landlord may obtain against the Tenant from the date of any judgment until it is satisfied.

(b) **Basis of calculation**

Interest is calculated daily from the due date until the overdue money is paid and is capitalised monthly.

5 GST

5.1 Payments exclusive of GST

The Landlord and the Tenant acknowledge that each Payment specified in this Lease is exclusive of GST.

5.2 Recovery of GST Amount

If any Payment, or part of any Payment, is made to a party for or in connection with a Taxable Supply, that party is also entitled to receive from the party making the Payment, or the relevant part of the Payment, the GST Amount calculated by multiplying the Payment, or the relevant part of the Payment, by the GST Rate.

5.3 Payment of GST Amount

The GST Amount is due when a Payment is due and on receipt of a tax invoice.

5.4 Landlord Payments

Where the Tenant is required by this Lease to pay, reimburse or contribute to a Landlord Payment, the Tenant must pay, reimburse or contribute an amount equal to the GST inclusive Consideration for the relevant acquisition by the Landlord less an amount equal to any Input Tax Credit which the Landlord has claimed in respect of the Landlord Payment.

6 Lease security

6.1 Bank Guarantee

(a) Delivery

The Tenant must on signing this Lease or on the Commencement Date (whichever is earlier), give the Bank Guarantee to the Landlord and must ensure that the Bank Guarantee remains current during the Term.

(b) Draw down

(i) If the Tenant does not comply with any of its obligations under this Lease (including during any extension or holding over period) then the Landlord may, without notice to the Tenant, draw on the Bank Guarantee to recoup any Loss it has incurred or become liable for and must hold any balance as a cash security deposit to be applied in the same manner as the Bank Guarantee under this clause 6.1.

(ii) For the avoidance of doubt, the Landlord may draw down on the Bank Guarantee pursuant to clause 6.1(b)(i) if, in the Landlord's sole opinion acting in good faith, the Tenant has not complied with any of its obligations under this Lease and it is not a precondition to the exercise of the Landlord's right to draw down on the Bank Guarantee that it has been established by judgement or award that the Tenant is in default.

(c) Replacement

If the Landlord draws on the Bank Guarantee, the Landlord may give the Tenant a notice stating the amount required to top up the Bank Guarantee to the level required under Item 13 and, no later than 7 days after the Landlord gives this notice, the Tenant must give the Landlord a substitute or additional Bank Guarantee for that amount.

(d) New owner

The Tenant must, if asked to by the Landlord, give the Landlord a substitute Bank Guarantee addressed to a person nominated by the Landlord who is a person who has purchased, or agreed to purchase, the Premises or who will be entitled to possession at the end of this Lease.

(e) Lease expiry

When this Lease expires or is terminated and the Tenant has fully complied with its obligations under this Lease the Landlord will return any unused part of the Bank Guarantee to the Tenant.

(f) Further Bank Guarantee

As long as the tenant in occupation of the Premises is FNZ (Australia) Pty Ltd (ACN 138 819 119) the Tenant may provide a Bank Guarantee which has an expiry date provided that such expiry date is no earlier than the date that is 4

years after the Commencement Date. If this Lease has not expired or the Tenant has not fully complied with its obligations under this Lease by the date that is 30 days before the expiry of that Bank Guarantee, and the Tenant does not provide either an additional or replacement:

- (i) Bank Guarantee without an expiry date; or
- (ii) Bank Guarantee with an expiry date that has been approved by the Landlord,

the Tenant is in default and the Landlord may draw against the Bank Guarantee and hold the balance as a cash security deposit to be applied in the same manner as the Bank Guarantee under this clause 6.1.

(g) **Electronic format**

If a Bank Guarantee is issued by a Bank exclusively in an electronic format acceptable to the Landlord, then:

- (i) the Tenant must procure that the Bank issue the Bank Guarantee (and any substitute or additional Bank Guarantee) directly to the Landlord by Electronic Transmission; and
- (ii) the Landlord must, when required pursuant to this clause to return any unused part of the Bank Guarantee to the Tenant, do so by notifying the Tenant and the Bank in writing that the Bank Guarantee is no longer required.

6.2 Guarantee

- (a) If the Tenant is a corporation (other than a corporation which is included in the official list of ASX) the Tenant must on signing this Lease or on the Commencement Date (whichever is earlier), provide the personal guarantee of each of its directors and shareholders to the performance of this Lease by the Tenant in the form of the Guarantee.
- (b) As long as the tenant in occupation of the Premises is FNZ (Australia) Pty Ltd ACN 138 819 119, clause 6.2(a) will not apply.

7 Tenant's operational obligations

7.1 Use

(a) **Permitted Use**

The Tenant must:

- (i) use the Premises only for the Permitted Use and must not use the Premises or allow them to be used for any other purpose whether industrial, commercial, retail or residential and whether temporary or permanent;
- (ii) conduct its business from the Premises in a businesslike and reputable manner on the days and during the hours usual for businesses of that kind in the area in which the Premises are situated; and
- (iii) keep all Approvals required to carry on any business conducted by the Tenant from the Premises in force and available for inspection by the Landlord.

(b) **Continue trading**

The Tenant must not without the Landlord's prior approval suspend or discontinue the operation of the business at the Premises or leave the Premises

unoccupied for a period of more than 10 Business Days (other than on a temporary basis during seasonal holidays).

7.2 Signs and advertisements

- (a) The Tenant must not without the Landlord's prior approval:
 - (i) impair or detract from the architecture, form, style or appearance of the Premises or the Building by installing any fittings, equipment, facilities or illuminations or displaying any merchandise or other objects; or
 - (ii) put up any signs, lights, designs, advertisements or notices on the exterior of the Premises or anywhere else which is visible outside the Premises and the Building.
- (b) The Landlord must not unreasonably refuse to approve any signs stating the Tenant's name and business or any sign required to be displayed by Law if they are of a design, standard and quality in keeping with the quality of appearance of the Premises.
- (c) The Landlord may, at its discretion and at the Tenant's Cost, carry out the installation or painting of any signs, lights, designs, advertisements or notices which it has approved pursuant to clause 7.2(a)(ii).

7.3 Curtains and Blinds

The Tenant must obtain the Landlord's approval to any curtains or blinds it proposes to install in the Premises.

7.4 Aerials and equipment

The Tenant must not without the Landlord's prior approval:

- (a) erect or place on or within the Premises any radio or television aerial or antenna or similar device or equipment; or
- (b) use any radio, stereo, television, video, loudspeaker, screen or other similar media or equipment or musical instrument likely to be heard or seen from outside the Premises.

7.5 Landlord's Property

The Tenant must not use the Landlord's Property for any purpose other than that for which it was intended and must not do anything that might block, obstruct or otherwise affect or damage it.

7.6 Overloading

(a) Structure

The Tenant must not bring on to the Premises or the Building any:

- (i) heavy machinery or other plant or equipment unless those items:
 - (A) are reasonably necessary or appropriate for the conduct of the Permitted Use;
 - (B) do not exceed the loading limits for which the Premises or the Building were designed; and
 - (C) are installed under the supervision of the Landlord at a time approved by the Landlord; or
- (ii) machinery, plant or equipment of a nature, weight, size or operation which, in the Landlord's reasonable opinion, is likely to cause any structural or other damage to the floors, walls, roads, hard standing areas or any other part of the Premises or the Building.

(b) **Building Services**

The Tenant must not:

- (i) install or use any electrical equipment or other items in the Premises which may overload the Building Services; or
- (ii) use the Building Services for any purpose other than that for which they were intended and must not do anything that might block or otherwise affect or damage them.

7.7 Air conditioning

The Tenant must not, without the Landlord's prior approval, use any air conditioning or heating plant or equipment in the Premises other than that which is provided by the Landlord.

7.8 Comply with Laws

(a) **Tenant must comply**

Subject to clause 7.8(c), the Tenant must comply with all Laws (and this includes complying with all notices and orders issued by any Authority in respect of the Premises).

(b) **Evidence of compliance**

The Tenant must keep all Approvals and other records, reports, logs and other documents required to evidence its compliance with clause 7.8(a) in force and available for inspection by the Landlord.

(c) **Structural Works**

The Tenant is not required to undertake structural Works unless they are necessary because of:

- (i) the nature of the use or occupation of the Premises by the Tenant or the Tenant's Agents;
- (ii) any Works carried out by or on behalf of the Tenant (whether or not the Landlord has approved such Works);
- (iii) requirements relating to the health and safety of the occupants of, and visitors to, the Premises; or
- (iv) any negligence, wilful act or default of the Tenant or the Tenant's Agents.

7.9 Nuisance

(a) The Tenant must not:

- (i) allow the Premises to be used for any illegal purpose or activity, or any noxious, noisy or offensive purpose, or for an auction sale or public meetings; or
- (ii) do anything which will or may annoy, damage, disturb or be a nuisance to the Landlord or any occupiers or owners of the Building or other neighbouring premises.

(b) The Landlord may exclude from the Premises persons which it considers are disruptive or materially adversely affect the amenity of the Building or its use by the Landlord and others.

7.10 Cleaning

- (a) The Tenant must give access to the Landlord's cleaners and contractors to enable the Premises to be cleaned.

- (b) The Tenant must ensure that any cleaning services required by the Tenant in addition to those provided by the Landlord are carried out at the expense of the Tenant by the contractor engaged by the Landlord.

7.11 Pests, vermin and disease and hazards

The Tenant must at its own expense:

- (a) take all proper precautions to keep the Premises free of all rodents, vermin, insects, pests, birds and animals and must employ pest exterminators approved by the Landlord for that purpose if asked to by the Landlord;
- (b) immediately notify the Landlord verbally (and with a follow up written notice) of any accident to, or defect in, the Premises or the Building Services and of any circumstances likely to be or to cause any danger, risk or hazard to the Premises or any person in or near the Premises; and
- (c) immediately notify the Landlord and the proper Authorities if it becomes aware that a prescribed infectious disease affects any person in the Premises, and thoroughly fumigate and disinfect the Premises to the satisfaction of the Authorities and the reasonable satisfaction of Landlord and otherwise comply with their reasonable and lawful requirements.

7.12 Contamination

- (a) The Tenant must not Contaminate the Premises, the Building, the Land or any adjacent land.
- (b) The Tenant must:
 - (i) take all necessary measures to ensure that no trade effluent, pollutants or Contaminants are spilled released or deposited in, on or from the Premises, the Building, the Land or any adjacent land, or into any sewer or drain unless authorised by and in accordance with a current trade waste agreement with a relevant Authority; and
 - (ii) immediately notify the Landlord if:
 - (A) Contamination occurs on, or emanates from, the Premises; or
 - (B) an Environmental Notice is issued in respect of the Premises.

7.13 Environmental Initiatives

The Tenant must comply with the Landlord's Environmental Initiatives.

7.14 No smoking

The Tenant must not allow smoking in the Premises, the Building or immediately outside the entrances to the Building (except in designated outdoor smoking areas if permitted by Law). The Tenant must display "no smoking" signs in the Premises if asked to do so by the Landlord.

7.15 Security

- (a) The Tenant must:
 - (i) secure the Premises when leaving them unoccupied; and
 - (ii) keep any windows in the Premises shut at all times.
- (b) The Landlord may enter the Premises to secure them if the Tenant does not comply with clause 7.15(a).
- (c) The Tenant must pay to the Landlord all Costs which the Landlord incurs or becomes liable for in relation to any additional security arrangements or precautions which the Landlord reasonably considers necessary or prudent to

implement in light of the identity of the Tenant or the business or activities carried on by the Tenant.

7.16 Emergency and evacuation procedures

The Tenant must comply with the requirements of any Authority and the Landlord in relation to the safety and security of the Building including emergency and evacuation procedures and drills.

7.17 Common Areas

- (a) The Tenant must use the Common Areas only for their intended purposes.
- (b) The Tenant must not obstruct the Common Areas or any access to them.

7.18 Building Rules and the Building Manual

The Tenant must comply with the Building Rules and the Building Manual. In the event of a conflict between the Building Rules and this Lease, this Lease prevails.

7.19 Tenant Service Agreement

- (a) The Tenant must not enter into a Tenant Service Agreement without the prior approval of the Landlord.
- (b) The Tenant must pay all Costs incurred by the Landlord or for which the Landlord becomes liable, of and incidental to:
 - (i) any request by the Tenant for the Landlord's approval pursuant to clause 7.19(a); and
 - (ii) any negotiations with the Tenant or any other party relating to or arising because of access and installation rights under a Tenant Service Agreement.
- (c) "Costs" in clause 7.19(b) includes:
 - (i) all Costs arising out of the examination and approval of plans, drawings and specifications, the inspection or supervision of any works and any investigation or report in relation to any aspect of those works (including those payable to the Landlord's Consultant); and
 - (ii) the Costs of negotiating the terms of any agreement with the Tenant or any other party.

7.20 Vicarious liability

- (a) The Tenant must not allow any of the Tenant's Agents to breach any of the Tenant's obligations under this Lease.
- (b) Any act of a subtenant or licensee which, if it had been done by the Tenant, would have been a breach of this Lease, will be deemed to be a breach of this Lease by the Tenant.

7.21 Head Landlord

The Tenant must permit any person with an interest in the Premises which is superior to or concurrent with the Landlord's to perform any of the Landlord's obligations or exercise any of the Landlord's rights under this Lease and to exercise its own rights and obligations in respect of the Premises, the Building and the Land.

7.22 No caveat

The Tenant must not lodge a caveat against the Land or any part of it.

7.23 Tradespersons

If, in order to comply with its obligations in this Lease, the Tenant proposes to engage or employ any contractor, tradesperson or other third party, the Tenant must obtain the Landlord's prior approval to that party, which will not be unreasonably withheld.

7.24 Energy efficiency disclosure obligations

- (a) The Landlord may, from time to time, by notice to the Tenant, require the Tenant to give to the Landlord all information relevant to the Premises necessary to enable the Landlord to:
 - (i) satisfy its energy efficiency disclosure obligations in relation to the Building (or any part of it) pursuant to the BEED Act; and
 - (ii) obtain a NABERS rating for the Building (or any part of it).
- (b) The Tenant must provide the information required by the Landlord at its own Cost and within 10 Business Days of receipt of the Landlord's notice pursuant to clause 7.24(a).

7.25 Director resignations

- (a) The Tenant must promptly notify the Landlord if a Director ceases to be a director of the Tenant.
- (b) If more than two Directors cease to be directors of the Tenant then:
 - (i) the Tenant must promptly provide to the Landlord such financial information about the Tenant as the Landlord may require to enable the Landlord to assess the financial capacity of the Tenant to meet its obligations under this Lease; and
 - (ii) if the Landlord believes the Tenant's financial capacity to meet its obligations under this Lease has deteriorated when compared with its financial capacity to meet its obligations under this Lease as at the Commencement Date,

the Landlord may reassess the Tenant's security requirements, and if the Landlord determines, the Tenant must provide any additional security which the Landlord considers is appropriate acting reasonably.

8 Tenant's maintenance and repair obligations

8.1 Tenant's general repair obligation

- (a) The Tenant acknowledges that the Premises were in good and substantial repair, order and condition on the Commencement Date or, if earlier, on the date the Tenant (or the Tenant's Predecessor) first took occupation of the Premises.
- (b) Subject to clause 8.2, the Tenant must keep the Premises in good and substantial repair, order and condition.
- (c) In this Lease, repair includes replacement where repair is not, in the Landlord's opinion, reasonably practicable. If a repair or replacement would be conspicuous then it also includes any additional works or further replacements which are, in the Landlord's opinion, required in order to make that repair or replacement inconspicuous.

8.2 Exclusion from Tenant's repair obligation

The Tenant is not responsible under clause 8.1(b) for:

- (a) damage for which the Landlord is entitled to indemnity under any insurance policy it holds in respect of the Premises unless:

- (i) that insurance has been cancelled, any rights under the policy prejudiced or invalidated or payment of any insurance premium or claim prejudiced or refused because of any negligence, wilful act or default of the Tenant or the Tenant's Agents; or
 - (ii) the damage was caused or contributed to by the negligence, wilful act or default of the Tenant or the Tenant's Agents; or
- (b) damage or dilapidation from fair wear and tear unless:
 - (i) the Tenant has failed to comply with its obligations under this clause 7.25; or
 - (ii) the Tenant has failed to take all reasonable measures and precautions to ensure that any damage or dilapidation which at any time may be attributable to fair wear and tear will not cause or contribute to any further consequential damage to the Premises, the Building Services or the Land.

8.3 Tenant's specific repair obligations

In addition to its obligations in clause 8.1, the Tenant must:

- (a) **(Landlord's Property)** replace any item of Landlord's Property which is damaged or destroyed beyond use, or is incapable of complete reinstatement to its former condition with a similar item of at least equal value and utility (which will then become an item of Landlord's Property). The Tenant must not, without the Landlord's prior approval, remove the Landlord's Property from the Premises except to enable it to be repaired;
- (b) **(painting and redecorating)** keep in good order and condition all painted and decorated surfaces of the Premises;
- (c) **(clean and free from rubbish)** keep the Premises (including external surfaces of windows, walls and doors) clean and free from dirt and rubbish and in particular ensure that all general and trade waste is stored in proper receptacles either in the locations within the Building designated by the Landlord or in the Premises (and where kept in the Premises ensure that these receptacles are regularly emptied and the contents removed from the Premises);
- (d) **(grounds and gardens)** maintain any grounds and gardens which form part of the Premises in good condition and tidy and free from weeds;
- (e) **(Tenant's Property)** keep the Tenant's Property clean and in good and substantial repair, working order and condition;
- (f) **(worn or damaged items)** replace any items of hardware, floor coverings, wall tiles, ceiling tiles, wall paper or other treatment or items of a similar nature that, in the Landlord's reasonable opinion, are worn or damaged and in need of replacement and if an identical replacement item cannot be sourced then the Tenant must use a substitute of at least equivalent standard which has been approved by the Landlord. The Tenant must not, without the Landlord's prior approval, drill or drive nails, screws or similar articles into, or in any other way deface, the walls, ceilings, floors, partitions or other parts of the Premises;
- (g) **(glass)** immediately replace any broken glass with glass of equivalent quality;
- (h) **(light bulbs)** replace all worn out or broken light bulbs or tubes, starters, ballasts or other lighting equipment; and
- (i) **(Exclusive Building Services)** keep the Exclusive Building Services in a clean and free flowing condition and at the Tenant's own expense employ licensed tradesmen to clear any blockages which may occur in them and to regularly clean any grease traps which exclusively serve the Premises.

8.4 Maintenance contracts for Exclusive Building Services

The Tenant must:

- (a) maintain a comprehensive preventative maintenance contract (approved by the Landlord) with a specialist contractor (approved by the Landlord acting reasonably) for the regular service, maintenance and repair of such of the Exclusive Building Services as the Landlord may require; and
- (b) provide the Landlord with:
 - (i) written evidence of its compliance with clause 8.4(a) on the Commencement Date and each successive anniversary of the Commencement Date; and
 - (ii) copies of all reports from the contractor issued pursuant to those contracts.

8.5 Tenant must make good damage

If any misuse or any careless act, omission or default by the Tenant or the Tenant's Agents results in any defect or damage to the Premises, the Building, the Building Services or any neighbouring premises or facility, the Tenant must:

- (a) immediately notify the Landlord of this verbally (and with a follow up written incident report); and
- (b) promptly make good the defect or damage caused at its own expense and to the Landlord's reasonable satisfaction.

9 Tenant's obligations relating to Works

9.1 Approval required

The Tenant must not undertake any Works without the Landlord's prior approval.

9.2 Approval process

(a) **Submit drawings and specifications**

The Tenant must submit drawings and specifications to the Landlord which show sufficient detail and specifications to allow the Landlord to readily identify from them the proposed Works and the intended materials and colour schemes. The drawings and specifications must be prepared by a suitably qualified consultant approved by the Landlord.

(b) **Refer to Landlord's Consultant**

The Landlord may refer the drawings and specifications to the Landlord's Consultant for its approval. In approving or rejecting the proposed Works the Landlord's Consultant will have regard to the impact which the proposed Works may have on the Building and the Building Services.

(c) **Landlord's conditions**

- (i) The Landlord may impose conditions on any approval it gives to the proposed Works.
- (ii) The Landlord may require the Tenant to deposit the estimated Cost of the proposed Works with the Landlord before they are started.

(d) **Obtain Authority approvals**

After obtaining the Landlord's approval and before starting its proposed Works, the Tenant must obtain all Approvals required by Law.

(e) **Approve parties**

- (i) The Tenant must obtain the Landlord's prior approval to every party which it intends to use to carry out the proposed Works. The Landlord's approval will not be unreasonably withheld in respect of any party that proves to the Landlord's reasonable satisfaction that it has the necessary skills, experience and standards of competence and behaviour and holds appropriate insurances noting the Landlord and the Tenant for their respective interests.
- (ii) The appropriate insurances under clause 9.2(e)(i) include a public liability policy for an amount of not less than \$20,000,000 and a contractor's all risk policy in respect of the proposed Works for the full value of the Premises and the proposed Works.

9.3 The Works

The Tenant must ensure that any Works approved by the Landlord in accordance with this clause 9 are carried out:

- (a) at its own Cost;
- (b) by contractors approved by the Landlord;
- (c) in a proper and workmanlike manner to the Landlord's satisfaction;
- (d) under the supervision of the Landlord's Consultant if required by the Landlord;
- (e) in accordance with the plans and specifications approved by the Landlord;
- (f) in accordance with all Laws; and
- (g) in accordance with the Landlord's requirements and directions.

9.4 Breach by Tenant

If the Tenant is in breach of any obligation in clauses 9.1 to 9.3 the Landlord is entitled to enforce an immediate stoppage of any Works, eject every person currently on site who intends to carry out Works or who in the Landlord's opinion may be unsafe and refuse entry to the Premises to the Tenant or any of the Tenant's Agents intending to carry out any Works until such time as the Tenant proves to the Landlord's satisfaction that the requirements of clauses 9.1 to 9.3 have been, or will be, met.

9.5 Completion

As soon as the Works are complete the Tenant must provide the Landlord with:

- (a) as built plans and specifications of the Works;
- (b) a certificate by the Landlord's Consultant to the effect that the Works have been carried out in accordance with the approved drawings and specifications and all relevant Laws; and
- (c) copies of all certificates, clearances or Approvals relating to the Works or occupancy of the Premises.

9.6 Costs

The Tenant must pay all Costs incurred reasonably by the Landlord or for which the Landlord becomes liable, of and incidental to any Works proposed by the Tenant, including all Costs arising out of the examination and approval of plans, drawings and specifications, the inspection or supervision of any Works and any investigation or report in relation to any aspect of the Works (including those payable to the Landlord's Consultant).

10 Tenant's obligations when the Lease ends

10.1 Vacant possession

At the expiry or earlier termination of this Lease the Tenant must hand back the Premises (including any Works carried out by the Tenant and which the Landlord has directed the Tenant not to remove pursuant to clause 10.2) to the Landlord with vacant possession, clean and tidy and in a condition consistent with the Tenant having fully complied with its obligations under this Lease.

10.2 Reinstatement

In addition to its obligations under clause 10.1, at the expiry or earlier termination of this Lease the Tenant must, unless the Landlord directs otherwise:

- (a) reinstate the Premises to the Landlord's reasonable satisfaction back to its original condition on the Commencement Date as shown in attached Condition Report, fair wear and tear excepted;
- (b) remove the Tenant's Property from the Premises;
- (c) reinstate any Works carried out by the Tenant (or the Tenant's Predecessor) or by the Landlord at the Tenant's (or the Tenant's Predecessor's) request;
- (d) reinstate any works undertaken pursuant to clause 7.19 (Tenant Service Agreement) and whether under this Lease or any other occupancy by the Tenant (or the Tenant's Predecessor) of all or part of the Premises;
- (e) repair and replace any damaged ceiling tiles;
- (f) reinstate all floor coverings, treated and applied finishes, and the Landlord's Property fair wear and tear excepted and install the Landlord's standard carpet where reasonably required throughout the Premises;
- (g) repaint and redecorate all those parts of the Premises which have or ought to have been painted or decorated;
- (h) remove all electrical and other cables which exclusively serve the Premises to the perimeter of the Premises or to any cable risers in the Premises;
- (i) adjust all Exclusive Building Services to the Landlord's standard requirements for vacant lettable areas to an open plan basis.

10.3 Signs and Keys

At the expiry or earlier termination of this Lease the Tenant must also:

- (a) remove all signs, names, advertisements or notices erected painted displayed affixed or exhibited onto or in the Premises or the Building; and
- (b) return all Keys to the Landlord.

10.4 Tenant must make good

The Tenant must immediately make good all damage caused by or arising from the installation or removal of the items referred to in:

- (a) clause 10.2; and
 - (b) clause 10.3(a),
- to the Landlord's satisfaction.

10.5 Storage and ownership of items not removed

- (a) If the Tenant fails to remove any item required under this clause 10 (including any item of Tenant's Property) then the item is considered to be abandoned by the

Tenant and subject to clause 10.5(a) becomes the Landlord's absolute property and the Landlord may deal with or dispose of the item in any way it sees fit in its absolute discretion without being guilty of conversion or liable to the Tenant for any Loss.

- (b) Despite clause 10.5(a), the Landlord may, by notice to the Tenant, elect not to accept title to an abandoned item and may remove that item from the Premises and store it at the cost and risk of the Tenant.

10.6 Additional payment pending compliance

- (a) Until the Tenant has fully complied with its obligations under this clause 10 the Tenant must pay to the Landlord as a liquidated debt an amount equivalent to the Rent and other payments due immediately before the expiry or termination of this Lease calculated on a daily basis.
- (b) The Tenant's obligation to pay under clause 10.6(a):
 - (i) does not prejudice any notice to quit or notice of re-entry which has been served or any possession proceedings; and
 - (ii) does not limit any other rights or remedies of the Landlord arising out of the Tenant's breach of this clause 10.

10.7 Payment in lieu of reinstatement

- (a) The Landlord may not less than 2 months before the expiry of this Lease give the Tenant notice that the Tenant is required to pay to the Landlord the Reinstatement Cost in lieu of complying with the Reinstatement Obligations.
- (b) The Landlord's notice pursuant to clause 10.7(a) must be accompanied with 2 independent quotations obtained by the Landlord for the Reinstatement Cost.
- (c) The Reinstatement Cost payable by the Tenant is the amount of the lowest of the 2 independent quotations obtained by the Landlord.
- (d) The Tenant must pay the Reinstatement Cost 10 Business Days after the date of the Landlord's notice pursuant to clause 10.7(a).

11 Tenant's insurance obligations

11.1 Tenant must insure

The Tenant must maintain the following insurances during the Term:

- (a) **(glass)** all glass in the Premises against breakage or damage from any cause and such other risks as the Landlord may from time to time reasonably require for its full replacement value;
- (b) **(Tenant's Property)** all Tenant's Property and any Works to the Premises carried out by the Tenant (or on its behalf) against loss, 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 from aircraft and other risks usually covered under a comprehensive insurance policy for fire and related risks for not less than their full insurable value on a replacement or reinstatement basis;
- (c) **(public risk)** a public risk insurance policy in respect of liability for death, personal injury and property damage arising out of the Tenant's use and occupation of the Premises and the Building which:
 - (i) is extended to expressly cover the Tenant's liability under this Lease including the indemnities given by the Tenant to the Landlord; and

- (ii) is in the sum of \$20,000,000 (or such greater amount as the Landlord may reasonably require from time to time in order to effect a sufficient and proper cover) in respect of a single accident or event; and
- (d) **(other insurances)** such other insurances as are required by Law.

11.2 Policy requirements

The insurances required under clauses 11.1(a) to 11.1(c) and, if applicable, clause 11.1(d) must:

- (a) be taken out in the name of the Tenant and note the respective interests of the Landlord and any mortgagee of the Premises on the certificate of currency;
- (b) cover the Landlord's and the Tenant's interests;
- (c) be with an insurance office approved by the Landlord acting reasonably; and
- (d) require the insurer to give the Landlord not less than 14 day's written notice before it materially amends, cancels or fails to renew the policy.

11.3 Payment of premiums

The Tenant must punctually pay all the premiums in respect of the required insurances and must, if asked, give the Landlord copies of the certificates of currency and all receipts evidencing payment of premiums, such request not to be made more than once annually.

11.4 Tenant must make good damage

The Tenant must promptly make good any Loss in respect of which it is required to insure. It must use its own funds to do this if the insurance proceeds are insufficient.

11.5 Conduct affecting insurance

(a) Not to affect policy

The Tenant must not:

- (i) do anything or bring or keep anything in the Premises which:
 - (A) creates any actual or potential fire hazard;
 - (B) may prevent the Landlord from fully recovering under any insurance policy it holds;
 - (C) (except with the Landlord's prior approval) may increase the rate of premium on any insurance held by the Landlord; or
 - (D) does or might (in the Landlord's reasonable opinion) invalidate or violate the terms of any insurance; and
- (ii) (without limiting clause 11.5(a)(i) and subject to clause 11.5(b)) store or use chemicals, inflammable dangerous or explosive substances such as acetylene, gas or industrial alcohol on or about the Premises.

(b) Approval to storage

The Landlord will not unreasonably withhold approval to the storage and use of substances prohibited under clause 11.5(a) if:

- (i) the substances are necessary for the purpose of the Tenant's business carried out at the Premises;
- (ii) the substances are used and stored in accordance with all applicable Laws;
- (iii) the Landlord's reasonable requirements are complied with; and

- (iv) the requirements of the Landlord's insurers are complied with.
- (c) **Additional premiums**

The Tenant must pay all extra premiums for any insurance of the Premises and its contents which are payable because of:

 - (i) the extra risk caused by the use to which the Premises are put by the Tenant; or
 - (ii) the Tenant bringing or keeping on the Premises any substance, even if that use or substance is expressly authorised by this Lease or subsequently approved by the Landlord.
- (d) **Insurer's requirements**

The Tenant must comply with the requirements of the Landlord's insurer and the Tenant's insurer in respect of its use and occupation of the Premises, including those which relate to partitions and alterations in the Premises and the installation and repair and maintenance of fire alarms, sprinklers and fire prevention equipment.
- (e) **Tenant must remedy breach**

The Tenant must immediately remedy any breach or potential breach by the Tenant of any obligation under this clause 11.5 or clause 7.8 which, if it continued, may invalidate or make voidable or contravene the terms of any insurance effected by either party in respect of the Premises.

12 Tenant's release and indemnification of the Landlord

12.1 Own risk

The Tenant occupies and uses the Premises at its own risk.

12.2 Release of Landlord

The Tenant releases the Landlord from all Claims and Loss which the Tenant may incur or may become liable for in relation to its use and occupation of the Premises the Building and the Land, except to the extent that any Claim or Loss is caused or contributed to by the negligence, wilful act or default of the Landlord or the Landlord's employees.

12.3 Indemnification of Landlord

(a) Indemnity

The Tenant indemnifies the Landlord against all Claims and Loss which the Landlord may incur or may become liable for (whether during or after the Term) wholly or partly due to or arising from:

- (i) the negligence, wilful act or default of the Tenant or the Tenant's Agent;
- (ii) the use and occupation of the Premises the Building and the Land by the Tenant and the Tenant's Agents; or
- (iii) any incident occurring during the Term on or near the Premises or the Land,

except to the extent that any Claim or Loss is caused or contributed to by the negligence, wilful act or default of the Landlord or the Landlord's employees.

(b) **Scope of indemnity**

- (i) Each indemnity in this Lease is separate and independent from the Tenant's other obligations and continues during this Lease and after it expires or is terminated.
- (ii) The Landlord may recover under an indemnity before incurring expense.

13 Dealings

13.1 Restriction on dealings

(a) **General restriction**

The Tenant must not, subject to the rest of this clause 13:

- (i) assign, transfer, sublet, deal with, hold on trust or grant any interest in the whole or any part of this Lease;
- (ii) part with or share possession of the whole or any part of the Premises;
- (iii) grant any licence, franchise or concession affecting the whole or any part of the Premises; or
- (iv) mortgage charge or encumber this Lease or finance the Tenant's Property.

(b) **S144 not applicable**

Section 144 of the Property Law Act does not apply to this Lease.

13.2 Assignment

(a) **Application for approval**

If the Tenant wants to assign the whole of this Lease the Landlord will not unreasonably withhold its approval to such an assignment if the Tenant proves to the Landlord's satisfaction that the following conditions are or will be satisfied:

- (i) **(no default)** the Tenant must not be in notified default under this Lease;
- (ii) **(in writing)** the Tenant must request the Landlord's approval to the proposed assignment in writing;
- (iii) **(Permitted Use)** the proposed assignment must not result in a change in the Permitted Use;
- (iv) **(Act does not apply)** the proposed assignment must not result in the Act applying to this Lease or applying if this Lease was subsequently renewed or surrendered and re-granted;
- (v) **(capacity of assignee)** the Tenant must:
 - (A) provide the Landlord with all the information that it reasonably requires about the proposed assignee's financial resources and business experience; and
 - (B) prove to the Landlord's reasonable satisfaction that the proposed assignee:
 - (1) is a respectable, responsible, solvent person or company with at least equal business experience and financial status as the Tenant had at the date the Tenant first took occupation of the Premises;

- (2) is capable of adequately conducting a business from the Premises which is substantially similar to that of the Tenant and consistent with the Permitted Use; and
 - (3) has the financial capacity to perform the obligations of the Tenant under this Lease;
- (vi) **(additional security)** the Tenant must procure that the proposed assignee provides any additional security which the Landlord considers is appropriate. This may include a Guarantee by the directors and shareholders of the proposed assignee and a Bank Guarantee for such amount as the Landlord considers is appropriate to the risk of the proposed assignee failing to comply with this Lease;
- (vii) **(other Approvals)** all other Approvals which are required to the assignment (such as from a head landlord or a mortgagee) must be obtained before the assignment;
- (viii) **(Costs and Duty)** the Tenant must pay Costs and Duty in accordance with clauses 4.6 and 4.7; and
- (ix) **(execute deed)** the Tenant, the proposed assignee and any existing and new guarantors must complete a deed of assignment of this Lease to which the Landlord is a party in a form approved by the Landlord's lawyers in which:
 - (A) the proposed assignee covenants with the Landlord that it will at all times during the Term pay the Rent and other moneys due and perform and observe all of the Tenant's obligations under this Lease;
 - (B) the Tenant confirms that the proposed assignee's obligations are supplemental to this Lease and that the Tenant is not released from any liability under this Lease (including, in the event of an assignment occurring during a period for which a rent review determination has not been made, its liability to pay the Landlord any additional Rent and interest due from the relevant Review Date to the date of the assignment after a determination is made); and
 - (C) any other matters which are a condition of the grant of the Landlord's approval to the proposed assignment are addressed to the Landlord's satisfaction.
- (b) **Change of Effective Control**
 - (i) Subject to clause 13.2(b)(ii), if the Tenant is a corporation:
 - (A) any change in the Tenant's shareholding or the shareholding of any holding company of the Tenant (including the Tenant's ultimate holding company) altering the Effective Control of the Tenant; or
 - (B) any change altering the Effective Control of, or the ultimate beneficial entitlement pursuant to, any trust of which the Tenant is the trustee,

will be considered to be an assignment of this Lease to which the requirements of this clause 13.2 apply and will require the Landlord's approval. For the purpose of this clause 13.2, the party to whom Effective Control is given will be considered to be the assignee.
 - (ii) Clause 13.2(b)(i) does not apply to a change in ownership of shares in a corporation where both before and after the change of ownership that

company is listed on ASX and the change in ownership will not result in the company becoming unlisted.

(c) **Acceptance of rent**

If the Landlord accepts any Rent or other payment from any person other than the Tenant this does not in itself constitute acknowledgment by the Landlord that it recognises that person as an approved assignee.

(d) **Surrender**

- (i) Despite any other provisions of this Lease, if the Tenant wants to assign the whole of this Lease it must, before applying to the Landlord for its consent to that assignment, give the Landlord notice offering to surrender the whole of this Lease to the Landlord for the same consideration as it is prepared to accept for the proposed assignment.
- (ii) The Landlord may accept the Tenant's offer to surrender by notice at any time within 28 days of the date of receipt of the offer to surrender.
- (iii) If the Landlord accepts the Tenant's offer to surrender this Lease then on the date which is 1 month after the date on which the Landlord accepts the Tenant's offer to surrender ("**Surrender Date**"):
 - (A) the Tenant as beneficial owner surrenders the Tenant's interest in this Lease and the Premises to the Landlord with vacant possession and free of all encumbrances so that the unexpired residue of the term of this Lease merges and is absolutely extinguished in the Landlord's reversion;
 - (B) the Landlord releases the Tenant from further liability under this Lease but only to the extent that such liability relates to events arising on or after the Surrender Date (and not to any liability arising out of any default under this Lease prior to the Surrender Date); and
 - (C) the Tenant releases the Landlord from future liability under this Lease but only to the extent that such liability relates to events arising on or after the Surrender Date (and not to any liability arising out of any default under this Lease prior to the Surrender Date).

14 PPSA

14.1 Security Interests

- (a) If the Landlord determines that this Lease is or contains a Security Interest in favour of the Landlord, the Tenant agrees to do anything which the Landlord asks and considers necessary for the purposes of:
 - (i) ensuring that the Security Interest is enforceable, perfected and otherwise effective;
 - (ii) enabling the Landlord to apply for any registration, or give any notification, in connection with the Security Interest (including providing its date of birth); or
 - (iii) enabling the Landlord to exercise rights in connection with the Security Interest.
- (b) If this Lease is or contains a Security Interest in favour of the Landlord the parties agree, to the extent permitted:

- (i) to contract out of the enforcement provisions detailed in section 115 of the PPSA and any other provision of the PPSA notified to the Tenant by the Landlord after the date of this Lease; and
- (ii) that the Landlord is not required to give any notice required under any provision of the PPSA;

in relation to any Security Interest in favour of the Landlord created under this Lease.

14.2 Receipt of statements

The Tenant waives its right to receive any verification statement (or notice of any verification statement) in respect of any financing statement or financing change statement relating to any Security Interest in favour of the Landlord created under this Lease.

15 Landlord's rights and obligations

15.1 Quiet enjoyment

Subject to the terms of this Lease and the Tenant paying the Rent and complying with its obligations in this Lease, the Tenant is entitled to occupy and use the Premises for the Term without any interruption or disturbance by the Landlord.

15.2 Landlord's insurance

The Landlord must maintain an insurance policy insuring the Building (but excluding the Tenant's Property and any Works to the Premises carried out by the Tenant or on its behalf) against loss or damage by fire and any other risks (including public risk and loss of Rent) which the Landlord considers appropriate and with such extensions and exclusions as the Landlord considers appropriate.

15.3 Common Areas

- (a) The Landlord retains control of the Common Areas and may manage, deal with, and regulate them as it considers appropriate.
- (b) Without limiting clause 15.3(a) the Landlord may:
 - (i) police the Common Areas;
 - (ii) temporarily close off or block any part of the Common Areas or restrict or prohibit access during certain hours or on certain days;
 - (iii) close the Building and restrict access to the Land for one period of 24 hours in each Lease Year for the purpose of preventing any prescriptive public or private right of way being claimed to or across any part of the Building or the Land;
 - (iv) alter the Common Areas including increasing or reducing their size, varying their nature, arrangement and configuration;
 - (v) change the flow or direction of pedestrian or vehicular traffic into or out of and within the Building;
 - (vi) reconfigure or relocate parking areas or other facilities and restrict parking by tenants in the parking areas (subject to any written agreement with a tenant to the contrary); and
 - (vii) exclude persons from the Common Areas which the Landlord considers are disruptive or may materially adversely affect the amenity of the Building or its use by the Landlord and others.

15.4 Building Rules and the Building Manual

- (a) The Landlord may make and vary the Building Rules and update and vary the Building Manual from time to time.
- (b) In the event of any inconsistency between this Lease and the Building Rules or the Building Manual, this Lease prevails.
- (c) The Landlord is not liable for any Loss caused or contributed to by its non-enforcement of the Building Rules or the requirement to comply with the Building Manual, or the non-enforcement of its rights against other occupiers of the Building for breach of their terms of occupancy.

15.5 Building access

- (a) The Landlord may close the Building or any part of it, or prohibit the use of any parking areas in the Common Areas:
 - (i) during public holidays;
 - (ii) if required by Law or for safety, security or other emergency reasons; and
 - (iii) outside the Core Building Hours.
- (b) Despite clause 15.5(a) the Tenant may, provided it complies with the Landlord's security requirements and pays the Out of Hours Charge, access the Premises at all times except when:
 - (i) prohibited from doing so by Law; or
 - (ii) in the Landlord's opinion, the safety of the Building or the Tenant would be threatened if the Landlord permitted the Tenant to have access to the Premises.

15.6 Building name and logo

The Landlord may:

- (a) change the name or logo of the Building from time to time;
- (b) promote, advertise and publicise the Building in such manner as it considers appropriate; and
- (c) permit functions, displays, parades, marketing and other activities to take place in the Building.

15.7 Agents

- (a) The Landlord may appoint agents or others to perform any of its obligations or exercise any of its rights under this Lease.
- (b) Communications from the Landlord override those from its agents or others if they are inconsistent.

15.8 Owners Corporation

- (a) The Tenant does not have any claim against the Landlord for any failure by the Landlord to perform an Owners Corporation Covenant provided that the Landlord uses such powers as are reasonably available to it as a member of that Owners Corporation to endeavour to procure that the Owners Corporation performs that Owners Corporation Covenant.
- (b) Where the Tenant is required to obtain the consent of the Landlord in relation to an Owners Corporation Covenant the Tenant must, in addition, obtain the consent of the Owners Corporation.

15.9 Easements

- (a) The Landlord may grant easements or other rights over the Premises on such terms as it considers appropriate provided that this does not materially adversely affect the Tenant's use of the Premises under this Lease.
- (b) The Tenant must execute such consent or other instrument as the Landlord may reasonably require in connection with any grant pursuant to clause 15.9(a).

15.10 Subdivision

- (a) The Landlord may subdivide the Building or the Land and sell any lot in that subdivision, provided that the subdivision does not result in the Premises comprising less than one lot.
- (b) The Tenant must not object to, obstruct or make any Claim in respect of any subdivision or sale.
- (c) The Tenant must execute such consent or other instrument as the Landlord may reasonably require in connection with any subdivision pursuant to clause 15.10(a).
- (d) The Tenant appoints the Landlord as its attorney and agent for the purpose of executing any consent or other instrument referred to in clause 15.10(c) which the Tenant fails to execute.
- (e) Production of this Lease constitutes sufficient evidence of the appointment of attorney pursuant to clause 15.10(d).

15.11 Landlord's right to remedy breaches

- (a) The Landlord may but is not obliged to remedy at any time any default by the Tenant under this Lease following the Landlord first providing notice of the default to the Tenant (except in an emergency).
- (b) If the Landlord does this all Costs incurred by the Landlord or for which the Landlord becomes liable in remedying a default are amounts payable by the Tenant under this Lease and will constitute a liquidated debt payable by the Tenant to the Landlord.

15.12 Access rights

The Landlord's rights to enter the Premises under clause 2.2 must be exercised at reasonable times and on prior notice (except in the case of emergency when the Landlord may enter at any time without notice).

15.13 Benefit of Tenant's obligations

If another person becomes entitled to receive the Rent:

- (a) the Landlord is released from any obligations under this Lease arising after that person has become entitled;
- (b) that person will have the benefit of the Tenant's covenants in this Lease; and
- (c) the Tenant must enter into any agreement reasonably required by the Landlord in respect of this entitlement.

15.14 Building Works and repairs

- (a) The Tenant acknowledges that the Landlord may repair, renovate, refurbish, maintain, alter, extend, modify, redesign or carry out works to, the Building, the Building Services or the Land.

- (b) The Tenant acknowledges that any works contemplated by clause 15.14(a), may affect the quiet enjoyment of the Premises by the Tenant or may be otherwise inconsistent with the rights granted to the Tenant under this Lease.
- (c) Despite any other provision of this Lease the Tenant:
 - (i) consents to the works contemplated by clause 15.14(a) and assumes the risk of any impact that any works contemplated by clause 15.14(a) may have on its use and occupation of the Premises;
 - (ii) releases the Landlord from, and must not make, any Claim against the Landlord in respect of any Loss which the Tenant may incur or may become liable for in respect of or arising directly or indirectly from any works undertaken pursuant to clause 15.14(a) (including any claim for breach of the quiet enjoyment covenant in clause 15.1 of this Lease or a breach of the implied covenant not to derogate from grant); and
 - (iii) the Tenant must not:
 - (A) ask the Landlord to take any action or incur any Cost; or
 - (B) seek to terminate this Lease,
 because of or in connection with any works undertaken pursuant to clause 15.14(a).

15.15 Structural repairs

The Landlord will use reasonable endeavours to keep the Premises weatherproof.

16 Tenant default and repudiation

16.1 Default

If:

- (a) the Tenant does not pay the Rent when due (whether or not any demand has been made);
- (b) the Tenant does not pay any other amounts payable under this Lease when due or does not comply with any of its other obligations under this Lease;
- (c) any of the following events occur in relation to the Tenant or the Guarantor (unless the event occurs as part of a solvent reconstruction, amalgamation, merger or consolidation that has been approved in writing by the Landlord):
 - (i) it becomes insolvent as defined in the Corporations Act, states that it is insolvent or is presumed to be insolvent under an applicable law;
 - (ii) it is wound up, dissolved or declared bankrupt or takes, or tries to take, advantage of Part X of the *Bankruptcy Act 1966* (Cth);
 - (iii) it becomes an insolvent under administration as defined in the Corporations Act;
 - (iv) a liquidator, provisional liquidator, Controller, administrator, trustee for creditors, trustee in bankruptcy or other similar person is appointed to, or takes possession or control of, any or all of its assets or undertaking;
 - (v) it enters into or becomes subject to:
 - (A) any arrangement or composition with one or more of its creditors or any assignment for the benefit of one or more of its creditors; or

- (B) any re-organisation, moratorium, deed of company arrangement or other administration involving one or more of its creditors;
- (vi) an application or order is made (and, in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken which is preparatory to or could result in any of 16.1(c)(ii) -16.1(c)(v) above;
- (vii) it is taken, under section 459F(1) of the Corporations Act, to have failed to comply with a statutory demand;
- (viii) it suspends payment of its debts, ceases or threatens to cease to carry on all or a material part of its business or becomes unable to pay its debts when they fall due;
- (ix) any matter relating to it becomes subject to an investigation under the *Australian Securities and Investments Commission Act 2001* (Cth) or the Corporations Act; or
- (x) it dies or ceases to be of legal capacity or is otherwise incapable of managing its own affairs; or
- (d) anything occurs which has a substantially similar effect to any of the events listed in clause 16.1(c) or any action is taken that is preparatory to or could result in any of those events; or
- (e) execution is levied against the Tenant or the Guarantor and not discharged within 30 days,

then the Tenant is in default.

16.2 Fundamental Terms

(a) Fundamental Terms

The Tenant's obligations relating to:

- (i) the payment of Rent or any other moneys;
- (ii) the provision of a Guarantee or any other lease security;
- (iii) Permitted Use;
- (iv) insurance;
- (v) Works;
- (vi) Laws;
- (vii) maintenance and repairs; and
- (viii) assignments and other dealings,

are fundamental and essential provisions of this Lease ("**Fundamental Terms**"). The Landlord would not have entered into this Lease if these obligations had not been agreed by the parties as being Fundamental Terms. Other obligations under this Lease may also be fundamental and essential.

(b) Breach of a Fundamental Term

Any breach by the Tenant of a Fundamental Term constitutes a repudiation of this Lease.

16.3 Consequences of default or repudiation

- (a) The Landlord may end this Lease by re-entry or notice of termination if:
 - (i) the Tenant is in default under clause 16.1(a) for a period of at least 7 days; or

- (ii) the Tenant is otherwise in default under clause 16.1, or has repudiated this Lease (including a repudiation pursuant to clause 16.2(b)) and the Landlord has (if required) complied with the notice requirements in section 146 of the Property Law Act.
- (b) The period of notice which the Landlord is required to give under section 146 of the Property Law Act within which the Tenant must remedy a breach of capable of remedy and pay reasonable compensation for the breach is 14 days.

16.4 Remedies

(a) Damages

If this Lease is terminated pursuant to clause 16.3 the Landlord may sue the Tenant for unpaid money or for damages for breach of its obligations under this Lease including compensation for the loss of the benefits the Landlord would have received if this Lease had continued for the full Term.

(b) Payment

- (i) In this clause 16.4(b), the term "**rent**" includes moneys in the nature of Rent, contributions to Building Outgoings and other moneys payable by the Tenant in consideration of the right to occupy the Premises
- (ii) In addition to its other remedies, if the Landlord terminates this Lease pursuant to clause 16.3 the Tenant must pay to the Landlord from time to time, the amount (if any) by which the rent for that part of the Term as had not expired at the date of re-entry or acceptance of repudiation exceeds the rent actually received from any other replacement tenant to whom the Premises are relet during that period.

16.5 Mitigation

The Landlord must use reasonable endeavours to mitigate its Loss following any termination including taking reasonable steps to seek a replacement tenant on the best terms and conditions that it can reasonably secure in the circumstances at that time.

16.6 Indemnity for loss after termination

The Tenant indemnifies the Landlord against all Claims and Loss which the Landlord may incur or may become liable for because of any repudiation of or default by the Tenant under this Lease. This includes any Loss sustained by the Landlord because of its inability to relet the Premises at a similar rental or upon similar terms to those contained in this Lease following the re-entry or termination of this Lease.

16.7 When re-entry by Landlord does not constitute forfeiture

(a) Lease continues if Tenant vacates or repudiates

If the Tenant vacates the Premises or repudiates this Lease (whether or not it ceases to pay the Rent or other moneys payable) then, unless the Landlord accepts a surrender of this Lease by written agreement or gives a formal notice of termination or re-entry, this Lease continues in full force and effect until the earlier of the date on which a new tenant actually starts to occupy the Premises and the end of the Term.

(b) Meaning of vacates

For the purpose of clause 16.7(a) the Tenant vacates the Premises if, without the Landlord's approval:

- (i) it ceases to carry on the Permitted Use in the Premises for a period of at least one calendar month; or

- (ii) all or a substantial part of the Tenant's Property is removed and the Premises are left unattended.

(c) **While Lease continues**

While the Lease remains in full force and effect in the circumstances set out in clause 16.7(a):

- (i) the Landlord may, but is not obliged to, try to find another tenant for the Premises and to do this it may:
 - (A) enter the Premises and allow prospective tenants to view it; and
 - (B) do anything which in the Landlord's opinion is necessary to renovate, restore, clean and secure the Premises, including changing the locks; and
- (ii) any entry to the Premises by the Landlord is deemed to be with the Tenant's permission.

(d) **No re-entry**

If the Landlord:

- (i) accepts the Keys;
- (ii) exercises its rights under clause 16.7(c); or
- (iii) advertises the Premises for reletting,

this does not constitute a re-entry of the Premises, a termination or surrender of this Lease or a waiver of the Landlord's right to recover in full all Rent and other moneys from time to time payable.

16.8 Monthly tenancy

If the Landlord becomes entitled to re-enter the Premises or end this Lease pursuant to clause 16.3 then the Landlord may, by notice to the Tenant, immediately convert the Term to a monthly tenancy under which:

- (a) the Tenant is a monthly tenant on the terms and conditions of this Lease but modified so as to apply to a monthly tenancy;
- (b) the monthly rent payable is one twelfth of the Rent which the Tenant was paying immediately before service of the Landlord's notice;
- (c) the Landlord may increase the monthly rent by giving the Tenant one month's notice at any time; and
- (d) either party may end the tenancy by giving one month's notice to the other which may expire at any time.

16.9 Waiver

(a) **Failure to exercise power or right**

The failure or delay of the Landlord to exercise any power or right under this Lease does not operate as a waiver of that power or right.

(b) **Single or partial exercise**

The single or partial exercise by the Landlord of any power or right under this Lease does not preclude any other or future exercise of that or any other power or right under this Lease.

(c) **Independent waivers**

A waiver of one breach of this Lease by the Landlord does not operate as a waiver of another breach of the same provision of this Lease.

(d) **Waiver to be in writing**

Waiver of any power or right under this Lease:

- (i) must be in writing signed by the party entitled to the benefit of that power or right; and
- (ii) is effective only to the extent set out in that written waiver.

(e) **Acceptance of Rent**

Demand for, or acceptance of, Rent by the Landlord after default by the Tenant under the Lease does not prevent the Landlord from exercising or enforcing any of its rights under this Lease including its rights under clause 16.3.

17 Damage or destruction of the Premises

17.1 Suspension of Rent

(a) **Suspension**

Subject to clause 17.3, if the Premises or the Building are damaged so that the Premises or a substantial part of the Premises cannot be used or accessed for the Permitted Use then a fair portion of the Rent and Building Outgoings will be suspended during that time. The suspended portion of the Rent and Building Outgoings must be proportional to the nature and extent of the damage and inaccessibility.

(b) **Dispute**

- (i) Any dispute about the amount of Rent and Building Outgoings to be suspended must be referred (by either party) to a Valuer appointed by the senior office bearer of the Institute at the time.
- (ii) Each party must pay half of the Valuer's fees.
- (iii) The decision of the Valuer is final and binds the parties and the Valuer must act as expert and not as arbitrator.
- (iv) The Tenant must continue to pay the Rent and Building Outgoings under this Lease pending determination of any dispute by the Valuer.

17.2 Reinstatement

(a) **Total destruction**

- (i) If the Premises are wholly or substantially destroyed the Landlord may elect by notice to the Tenant within 3 months of the destruction to reinstate the Premises or terminate this Lease.
- (ii) If the Landlord elects to reinstate the Premises pursuant to clause 17.2(a)(i) it must:
 - (A) start the reinstatement within a reasonable period of time after making the election; and
 - (B) use reasonable endeavours to diligently proceed with and complete the reinstatement within a reasonable period of time; having regard to the nature and extent of the destruction.
- (iii) If the Landlord does not elect to reinstate the Premises pursuant to clause 17.2(a)(i), and has not commenced reinstatement, the Tenant may terminate this Lease by notice to the Landlord.
- (iv) Subject to clause 17.3, if the Landlord elects to reinstate the Premises pursuant to clause 17.2(a)(i) but does not do so in accordance with

clause 17.2(a)(ii) the Tenant may give notice to the Landlord requiring it to observe the provisions of clause 17.2(a)(ii) and if the Landlord does not do so within a reasonable period of time the Tenant may terminate this Lease by notice to the Landlord without compensation or other liability attaching to either party in respect of that termination.

- (v) Termination of this Lease pursuant to this clause 17.2(a) does not affect any accrued rights or remedies of either party.

(b) **Partial damage**

- (i) Subject to clauses 17.2(b)(ii) and 17.3, if the Premises or the Building are partly damaged so that the Tenant is unable to use or access the Premises or a substantial part of the Premises the Landlord must reinstate the damage as soon as reasonably practical.
- (ii) The Landlord is not required under clause 17.2(b)(i) to reinstate the Premises or the Building exactly to their former specifications so long as:
 - (A) the layout and area of the Premises is not substantially different from the layout and area of the Premises before the damage occurred; and
 - (B) the materials used are not inferior to the materials previously used.

17.3 If Tenant is at fault

If:

- (a) any policy of insurance in respect of the Building or the Land has been cancelled or any rights under a policy prejudiced or the payment of any insurance premium or claim prejudiced or refused because of any negligence, wilful act or default of the Tenant or the Tenant's Agents: or
- (b) any damage or destruction was caused or contributed to by the negligence, wilful act or default of the Tenant or the Tenant's Agents,

then the Tenant is not entitled to a suspension of Rent under clause 17.1(a) or to terminate this Lease under clause 17.2(a) and the Landlord is not obliged to reinstate any damage or destruction.

17.4 Continuation of business

Subject to any Law and the requirements of the Landlord, its builder and insurer, the Tenant is, during any period of reinstatement or repair of the Premises or the Building, entitled to continue to conduct its business in the Premises so far as it may be reasonably practical for it to do so having regard to the nature of the Tenant's business and the nature and extent of the damage sustained.

18 Entire agreement

(a) **Entire agreement**

This Lease constitutes the entire agreement between the parties in relation to its subject matter. All prior discussions, undertakings, agreements, representations, warranties and indemnities in relation to that subject matter are replaced by this Lease and have no further effect.

(b) **No warranties or representations**

Without limiting clause 18(a) the Tenant acknowledges that other than as set out in this Lease no promise, representation, warranty or undertaking has been given

by or on behalf of the Landlord or its agents or anyone acting or purporting to act on its behalf regarding:

- (i) the suitability of the Premises for any business to be carried on by the Tenant;
- (ii) the quality, nature or extent of the fittings, finish, facilities and amenities of the Premises, the Building or the Building Services; or
- (iii) the lawful use of the Premises.

19 Retail lease warranty

- (a) The Tenant warrants to the Landlord that this Lease is not a retail premises lease to which the provisions of the Act apply.
- (b) The Tenant must not at any time during the Term use the Premises in a manner which results in the Premises being "retail premises" as that term is defined in the Act.

20 Limitation of Liability

- (a) The Landlord enters into this Lease only in its capacity as trustee of the Enwerd Trust and in no other capacity.
- (b) A liability of the Landlord arising under or in connection with this Lease is limited to the amount the Landlord actually receives in the exercise of its right of indemnity from the property of the Enwerd Trust. This limitation of the Landlord's liability applies despite any other provision of this Lease and extends to all liabilities and obligations of the Landlord in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Lease.
- (c) The parties other than the Landlord may not sue the Landlord in any capacity other than as the trustee of the Enwerd Trust, including seeking the appointment of a receiver, a liquidator, an administrator or any similar person to the Landlord or prove in any liquidation, administration or arrangement of or affecting the Landlord.
- (d) The provisions of this clause 20 will not apply to any obligation or liability of the Landlord to the extent that it is not satisfied because there is a reduction in the extent of the Landlord's indemnification out of the assets of the Enwerd Trust as a result of the Landlord's fraud, gross negligence or breach of trust.
- (e) The Landlord is not obliged to do or refrain from doing anything under this Lease (including incurring any liability) unless the Landlord's liability is limited in the same manner as set out in clauses 20(a) to 20(d).

21 Notices

21.1 Form of Notices

All Notices given by a party under or in connection with this Lease must be:

- (a) in writing; and
- (b) signed by a person duly authorised by the sender (or where transmitted by e-mail, sent by a person duly authorised by the sender).

21.2 Address for service of Notices

- (a) Notices given to the Landlord must be:
 - (i) addressed to the Landlord at its registered office and marked for the attention of the Chief Operating Officer; and
 - (ii) hand delivered, sent by prepaid post or transmitted by facsimile to that address.
- (b) Notices given to the Tenant must be addressed to the Tenant at the Premises or its registered office and:
 - (i) hand delivered or sent by prepaid post to that address; or
 - (ii) transmitted by facsimile or e-mail to the facsimile number or e-mail address detailed in Item 2 (or as varied by notice).
- (c) The Tenant must, within 10 Business Days after the date of this Lease provide the Landlord with its current e-mail address and that of its lawyers and must notify the Landlord of any changes to these email addresses from time to time.

21.3 Receipt

A Notice given in accordance with this clause is taken as having been given and received:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post, either:
 - (i) on the day on which the relevant postal service estimates delivery will occur; or
 - (ii) on the first day of the period during which the relevant postal service estimates delivery will occur,based on the most recent estimate published by the relevant postal service as at the date on which the Notice is sent;
- (c) if transmitted by e-mail, on transmission; or
- (d) if transmitted by facsimile, at the time recorded on the transmission report indicating successful transmission of the entire Notice,

but if the delivery or transmission is not on a Business Day or is after 5.00pm (recipient's time) on a Business Day, the Notice is taken to be received at 9.00am (recipient's time) on the next Business Day.

21.4 Requirement for written Notice

For the avoidance of doubt, the requirement in clause 21.1(a) applies to all Notices unless expressly excluded and no implication to the contrary is to be drawn from the use of the expressions "written" or "in writing" in relation to some but not all Notices.

22 General

22.1 Paramountcy of Lease

If this Lease conflicts with any other document, agreement or arrangement, this Lease prevails to the extent of the inconsistency.

22.2 Attorneys

Each person who executes this Lease on behalf of a party under a power of attorney warrants that he or she has no notice of the revocation of that power or of any fact or

circumstance that might affect his or her authority to execute this Lease under that power.

22.3 No merger

The provisions of this Lease will not merge on completion and to the extent any provision has not been fulfilled, will remain in force.

22.4 Amendment

This Lease may not be amended or varied unless the amendment or variation is in writing signed by all parties.

22.5 Rights, remedies additional

Any rights and remedies that a person may have under this Lease are in addition to and do not replace or limit any other rights or remedies that the person may have.

22.6 No deduction or set-off

Subject to clause 23, the Rent and all other monies payable by the Tenant under this Lease must be paid without deduction, set-off, counterclaim or withholding.

22.7 Tenant to give Landlord notice of default

Despite any other provision of this Lease, the Landlord is not in default of its obligations under this Lease unless the Tenant has first given the Landlord notice of breach and the Landlord has failed, within a reasonable time after receiving the notice, to take proper steps to rectify the breach.

22.8 Further assurances

Each party must do or cause to be done all things necessary or reasonably desirable to give full effect to this Lease and the transactions contemplated by it (including, but not limited to, the execution of documents).

22.9 Counterparts

This Lease may be executed in any number of counterparts and all counterparts taken together will constitute one document.

22.10 Electronic delivery of document

If a party delivers an executed counterpart of this Lease by facsimile, e-mail or Electronic Transmission:

- (a) the delivery will be deemed to be an effective delivery of an originally executed counterpart; and
- (b) the party will still be obliged to deliver an originally executed counterpart, but the failure to do so will not affect the validity or effectiveness of the Lease.

22.11 Interpretation

If any provision of this Lease is illegal or unenforceable, then the provision must be read down so as to give it as much effect as possible. If it is not possible to give the provision any effect at all, then it must be severed from the rest of the Lease.

22.12 Governing law and jurisdiction

This Lease will be governed by and construed in accordance with the laws in force in the State of Victoria and each party submits to the exclusive jurisdiction of the courts of that State.

22.13 Inconsistent Laws

To the extent permitted, any Law which is contrary to or otherwise inconsistent with any provision of this Lease, or otherwise affects the operation of this Lease, is excluded.

22.14 Keep confidential

- (a) The Tenant must keep the Confidential Information confidential and ensure that its officers, employees, agents and advisers keep it confidential and must not disclose this information to any person except:
 - (i) with the prior written approval of the Landlord; or
 - (ii) to the extent required by Law or the rules of any stock exchange.
- (b) The obligations of the Tenant under this clause 22.14 will survive termination of this Lease and continue indefinitely.

23 Incentive

23.1 Definitions

In this clause 23:

- (a) “**Adjustment Date**” has the meaning given in clause 23.4(a);
- (b) “**Rent Credit**” is \$23,333 (subject to clause 23.2(b));
- (c) “**Rent Credit Received**” is the amount of the Rent Credit that has actually been applied to the Tenant’s account as at the Adjustment Date.

23.2 Rent Credit

- (a) Subject to clause 23.2(b), the Landlord grants to the Tenant the Rent Credit for the Term of this Lease (excluding any period of holding over) to be applied to the Tenant’s account by equal consecutive monthly instalments with effect from the Commencement Date.
- (b) If the Tenant is in breach of this Lease and has failed to remedy that breach within 14 days of receipt of a notice from the Landlord to do so (“**Default Notice**”) application of the Rent Credit will be suspended. No instalments will be applied to the Tenant’s account for the period from the date of service of the Default Notice until the Tenant rectifies the breach.
- (c) The Landlord is not required to grant to the Tenant the Rent Credit, until the Tenant has provided the Bank Guarantee in accordance with clause 6.1.

23.3 Rent Credit to be disregarded

The Rent Credit must be disregarded when determining the Rent payable for the second and subsequent Lease Years of the Term.

23.4 Rent Credit adjustment

- (a) This clause 23.4 applies if this Lease is terminated, or surrendered (in whole or in part) and in this clause 23.4 “**Adjustment Date**” means the date of that termination, assignment or surrender.
- (b) Subject to clause 23.4(c), the Tenant must, on the Adjustment Date, pay to the Landlord the Rent Credit Received.
- (c) Where, on the Adjustment Date, there is a surrender of part of the Premises the amount payable pursuant to clauses 23.4(b) must then be pro-rated in respect of the lettable area of the Premises and the amounts payable pursuant to those clauses are the amount referable to the surrendered part of the Premises only.

23.5 Renewal

This clause 23 does not apply to and must be deleted from any renewal of this Lease.

24 Landlord to carry out works

24.1 Landlord Works

- (a) Prior to the Commencement Date the Landlord must carry out the Landlord Works in a proper and workmanlike manner and at its own cost (including the costs of the Landlord's Consultant).
- (b) The Landlord must notify the Tenant when it has completed the Landlord Works. A certificate from the Landlord will be satisfactory evidence that the Landlord Works are complete.
- (c) Once the Landlord Works are complete, the Landlord must prepare a Condition Report and provide a copy to the Tenant for its approval, which the Tenant must not unreasonably withhold. The Tenant must approve or provide comments regarding the Condition Report within 5 business days after receipt and otherwise it will be deemed to have approved it. The Landlord is authorised to include the Condition Report at **Attachment 4** to this Lease once approved, or deemed to be approved, by the Tenant.

24.2 Renewal

This clause 24 does not apply to and must be deleted from any renewal of this Lease.

25 Tenant permitted to carry out Fit-Out before lease commences - under licence

25.1 Definitions

In this clause 25:

- (a) **"Approved Purpose"** means the carrying out of the Fit-Out by the Tenant;
- (b) **"Fit-Out"** means any works which the Tenant requires for its use and occupation of the Premises approved by the Landlord pursuant to clause 9.
- (c) **"Licence Period"** means the period from the later of:
 - (i) the date the Landlord Works are complete; and
 - (ii) the date the Tenant has complied with clause 25.2(b),until midnight on the day immediately prior to the Commencement Date.
- (d) **"Tenant's Contractors"** means the contractors and consultants employed by the Tenant to undertake the Fit-Out and approved by the Landlord.

25.2 Grant of Licence

- (a) Subject to clause 25.2(b), the Landlord grants to the Tenant and the Tenant takes a non-exclusive licence to access the Premises during the Licence Period for the Approved Purpose upon the terms and conditions set out in this clause 25 (**"Licence"**).
- (b) The Licence does not commence until the Tenant has provided to the Landlord:
 - (i) the Bank Guarantee and other security required by clause 6 of this Lease;and

- (ii) satisfactory evidence of the insurances required by clause 11.1 of this Lease.

25.3 Terms and conditions of Licence

- (a) The Fit-Out must be approved and undertaken in accordance with the provisions of clause 9 of this Lease.
- (b) Subject to clause 25.3(c), the Tenant must comply with the terms and condition of this Lease during the Licence Period except clauses 4.1 and 4.5 do not apply.
- (c) The Tenant must not trade from the Premises during the Licence Period and may use the Premises for the Approved Purpose only.

25.4 Suspension

- (a) The Licence may be withdrawn or suspended by the Landlord if the Landlord reasonably considers it necessary or expedient to do so for safety reasons or to complete work on the Building. Upon receipt of a notice of withdrawal or suspension of the Licence the Tenant must act in accordance with the provisions of the notice which will remain in operation until withdrawn by the Landlord.
- (b) If the Tenant is in breach of any obligation in the Licence, the Landlord is entitled to enforce an immediate stoppage of the Fit-Out, eject every person currently on site and refuse entry to the Premises to the Tenant or any of the Tenant's Contractors until such time as the Tenant proves to the Landlord's satisfaction that the requirements of the Licence have been, or will be, met.

25.5 Termination

- (a) The Licence ends at midnight on the day immediately preceding the Commencement Date.
- (b) The Licence may be immediately terminated at any time by notice from the Landlord if the Tenant breaches its terms.
- (c) Upon termination pursuant to clause 25.5(b) the Tenant must remove its property and the Fit-Out and leave the Premises and the Building in the same condition as they were in on the date the Licence was granted.
- (d) The termination of the Licence pursuant to this clause 25.5 does not affect any accrued rights or remedies of either party.

25.6 Tenant's release and indemnification of the Landlord

- (a) The Tenant carries out the Fit-Out and uses and occupies the Premises at its own risk.
- (b) The Tenant releases the Landlord from all Claims and Loss which the Tenant may incur or may become liable for in relation to the Fit-Out or its use of the Building, except to the extent that any Claim or Loss is caused or contributed to by the negligence, wilful act or default of the Landlord or the Landlord's employees or contractors.
- (c) The Tenant indemnifies the Landlord against all Claims and Loss which the Landlord may incur or may become liable for (whether during or after the Licence Period) to the extent caused or contributed to by:
 - (i) the negligence, wilful act or default of the Tenant or the Tenant's Agents;
 - (ii) the Fit-Out or the use of the Building by the Tenant and the Tenant's Agents; or
 - (iii) any incident occurring during the Licence Period in or near the Building,

except to the extent that any Claim or Loss is caused or contributed to by the negligence, wilful act or default of the Landlord or the Landlord's employees or contractors.

- (d) Each indemnity in the Licence is separate and independent from the Tenant's other obligations and continues during the Licence and after it expires or is terminated.
- (e) The Landlord may recover under an indemnity before incurring expense.

25.7 Renewal

This clause 25 does not apply to and must be deleted from any renewal of this Lease.

SCHEDULE 1 - BUILDING RULES

(as at the Commencement Date)

1 Use of Common Areas

- (a) The Tenant must use the Common Areas for their intended purposes only. This includes:
 - (i) using foyers, lobbies, passages and staircases to enter and leave the Building only;
 - (ii) using loading bays (if provided) for loading and unloading only and at times permitted by the Landlord;
 - (iii) using any lifts in the Building for passenger traffic only and not for goods unless specifically permitted by, and in accordance with, the directions of, the Landlord;
 - (iv) not parking any vehicle or bicycle in any part of the Common Areas unless specifically permitted by, and in accordance with, the directions of, the Landlord;
 - (v) not leaving any goods, or items of any kind in any part of the Common Areas; and
 - (vi) not using the Common Areas for business or display purposes or for soliciting business by, for example, distributing handbills or other advertising materials.
- (b) The Tenant must not obstruct foyers, lobbies, passages and staircases in the Building.
- (c) The Tenant must not interfere with the lawful use and enjoyment of the Common Areas by any other person.

2 Security

- (a) The Tenant must notify the Landlord of the current private address and telephone number of the Tenant or, if the Tenant is a company, a responsible officer of that company.
- (b) The Tenant must:
 - (i) ensure that its Keys are not copied and do not come into the possession or control of any person other than the Tenant and its employees;
 - (ii) pay for any extra Keys required; and
 - (iii) immediately notify the Landlord if its Keys are lost or stolen.
- (c) To apply for, update or replace a Key the Tenant must:
 - (i) complete the Landlord's application form which includes providing information regarding the current private address and telephone number of the proposed Key holder; and

- (ii) pay all the Landlord's Costs of and incidental to the lost Key, the issuing of a new Key or the reprogramming of an existing Key.

3 **Health and Safety**

- (a) The Tenant must ensure that its garbage and waste disposal practices do not adversely affect the health, hygiene or comfort of other tenants.
- (b) The Tenant must not bring any animal, bird or reptile into the Building.
- (c) The Tenant must not use any device whereby any electrical point is used for the conduct of electricity to more than one electrically operated apparatus.
- (d) The Tenant must not, without proper authorisation from the Landlord, enter any part of the Building which is not the Premises or the Common Areas.
- (e) The Tenant must not wedge open or otherwise impair the opening or closing of any self closing or automatically closing fire door or similar fire barrier in the Building.

4 **Fitted carpet**

- (a) The Tenant must ensure that damage is not caused to any fitted carpet installed throughout the Premises.
- (b) The Tenant must not use a trolley with a wheel width of less than 75 millimetres or a chair with roller castors in the Premises.
- (c) Despite Rule 4(b) the Tenant may use a chair with double roller castors in the Premises provided that a plastic protective mat of adequate size is placed under it.

5 **Bicycle parking**

The Tenant may utilise any bicycle parking facilities made available for use in common with other tenants on terms and conditions specified by the Landlord from time to time. The Landlord does not guarantee that there will be sufficient bicycle parking facilities for any particular tenant.

EXECUTION PAGE FOR LEASE



THIS LEASE is made on

2018

EXECUTED as a **DEED**

SIGNED SEALED and **DELIVERED** by the)
said **ENWERD PTY LTD** by its attorney)
SHLOMO WERDIGER under a Power of)
Attorney dated 23rd October 1991 pursuant)
to which the said Attorney executed this)
document, acknowledging that he has no)
notice of the revocation of the said Power of)
Attorney in the presence of:

Signature of witness

S Werdiger

Name of witness (print)

EXECUTED by **FNZ (AUSTRALIA) PTY LTD**)

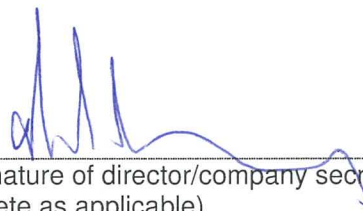


Signature of director

Damian Millin
Director

Name of director (print)



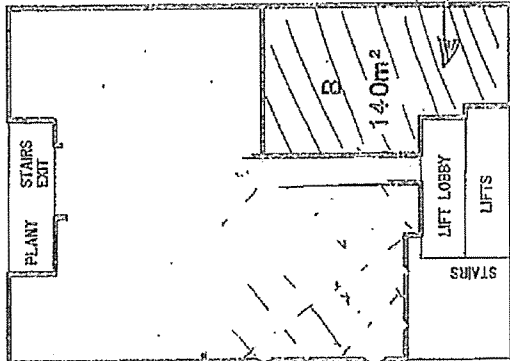


Signature of director/company secretary
(delete as applicable)



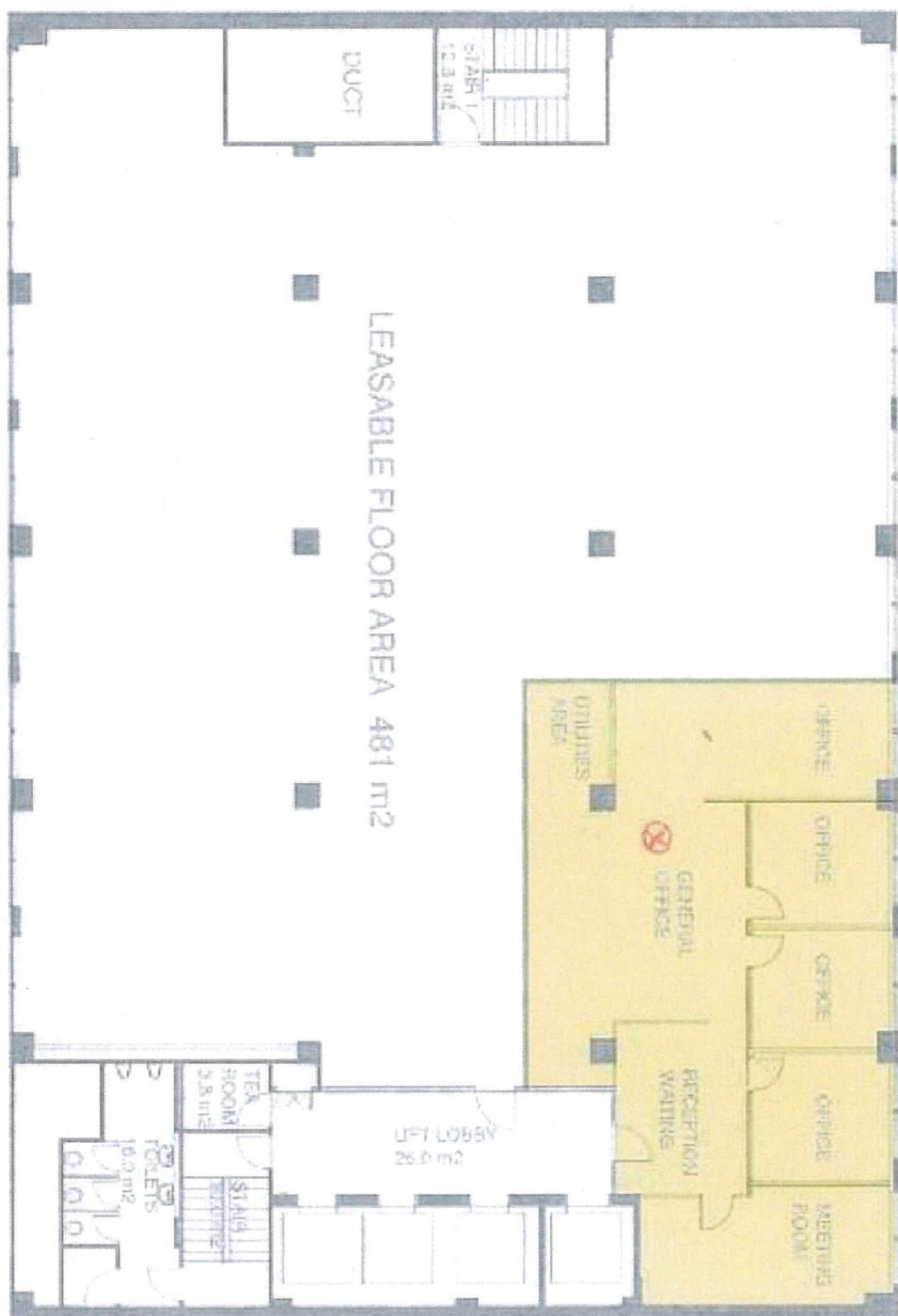
Name of director/company secretary (print)

ATTACHMENT 1 - PLAN OF PREMISES

| | | | | | | |
|---|---|--|--|--|---|-------------------------------------|
| <p>LIFT LOBBY 26m² PASSAGE 48m²</p> | <p>NOTATIONS</p> <p>THE AREA IS DEFINED ADOPTING THE GUIDELINES SET OUT BY THE PROPERTY COUNCIL OF AUSTRALIA (1997 Rev.).</p> <p>THE M.L.A. IS SHOWN ENCLOSED BY CONTINUOUS THICK LINES.</p> | <p>CERTIFICATION BY SURVEYOR</p> <p><i>James A. Murphy</i> 6/11/03 LICENSED SURVEYOR DATE</p> | <p>PLAN FOR CERTIFICATION OF AREA</p> | <p>JAMES A MURPHY & ASSOCIATES PTL. LTD. A.C.N. 085 725 337 A MEMBER FIRM OF THE PROPERTY COUNCIL OF AUSTRALIA CONSULTING LAND SURVEYORS REGISTERED IN VICTORIA & NEWCASTLE 17 PHILLIPS CRESCENT, ROSANNA VIC 3084 TEL. (03) 9457 1411 FAX (03) 9457 4661</p> | <p>459 Lt Collins Street Melbourne</p> | |
| <div style="display: flex; justify-content: space-between;"> <div style="width: 45%;"> <p>LEASE PLAN</p> <p>LEVEL 10</p>  </div> <div style="width: 50%; text-align: right;"> <p>LEVEL 10</p> <p>TENANT : VACANT</p> <p>NET LETTABLE AREAS AS SHOWN</p> </div> </div> | | | | | <p>REF. No. 3062/00</p> | <p>ORIGINAL SCALE A4</p> |

LITTLE COLLINS STREET

LEASABLE FLOOR AREA 140 m²



ATTACHMENT 2 - GUARANTEE

GUARANTEE

THIS DEED OF LEASE GUARANTEE AND INDEMNITY is made on 2018

BACKGROUND

- A By the Lease, the Landlord leases the Premises to the Tenant.
- B The Guarantor has agreed to guarantee the obligations of the Tenant under the Lease upon the terms set out in this deed.

AGREED TERMS

1 Definitions and interpretation

1.1 Definitions and interpretation

- (a) The terms defined in clause 1.1 of the Lease have the same meaning when used in this deed.
- (b) In this deed, words and phrases described in the Reference Schedule have the same meanings when used in this deed. Other terms are defined below:

"**Guarantor**" means the party or parties detailed in Item 3.

"**Guarantee**" means the guarantee set out in clause 3.

"**Guaranteed Amounts**" means all rent, interest, damages and any other money due under the Lease.

"**Guaranteed Obligations**" means:

- (a) the payment of the Guaranteed Amounts; and
- (b) the observance and performance of all the Tenant's obligations under or in connection with the Lease whether present or future, actual or contingent.

"**Indemnity**" means the indemnity set out in clause 4.

"**Insolvency Event**" means the occurrence of any of the following events in relation to any person (unless the event occurs as part of a solvent reconstruction, amalgamation, merger or consolidation that has been approved in writing by the Landlord):

- (a) the person becomes insolvent as defined in the Corporations Act, states that it is insolvent or is presumed to be insolvent under an applicable law;
- (b) the person is wound up, dissolved or declared bankrupt or takes, or tries to take, advantage of Part X of the *Bankruptcy Act 1966* (Cth);
- (c) the person becomes an insolvent under administration as defined in the Corporations Act;
- (d) a liquidator, provisional liquidator, Controller, administrator, trustee for creditors, trustee in bankruptcy or other similar person is appointed to, or

takes possession or control of, any or all of the person's assets or undertaking;

- (e) the person enters into or becomes subject to:
 - (i) any arrangement or composition with one or more of its creditors or any assignment for the benefit of one or more of its creditors; or
 - (ii) any re-organisation, moratorium, deed of company arrangement or other administration involving one or more of its creditors;
- (f) an application or order is made (and, in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken which is preparatory to or could result in any of (a) to (e) above;
- (g) the person is taken, under section 459F(1) of the Corporations Act, to have failed to comply with a statutory demand;
- (h) the person suspends payment of its debts, ceases or threatens to cease to carry on all or a material part of its business or becomes unable to pay its debts when they fall due;
- (i) it dies or ceases to be of legal capacity or is otherwise incapable of managing its own affairs; or
- (j) anything occurs which has a substantially similar effect to any of the events listed in the other paragraphs of this definition.

"Item" means the relevant item in the Reference Schedule.

"Lease" means the lease to which this deed is an attachment and includes any variation, replacement, extension, renewal or holding over under the lease (and every interest or right of occupation of the Premises vested in the Tenant)

"Notices" means all notices, letters, requests, demands, consents, approvals, offers, agreements or other communications.

"Reference Schedule" means the reference schedule which forms part of this deed.

1.2 Terms incorporated from Lease

The terms and conditions of the following clauses of the Lease are incorporated into this deed as if they were set out in full in this deed:

- (a) clause 1.2 (Words and expressions);
- (b) clause 1.3 (Other rules of interpretation);
- (c) clause 5 (GST); and
- (d) clause 22 (General).

2 Consideration

In consideration of the Landlord, at the request of the Guarantor, agreeing to enter into the Lease with the Tenant in respect of the Premises, the Guarantor enters into this deed in favour of the Landlord.

3 Guarantee

The Guarantor guarantees to the Landlord the due and punctual payment, performance and observance by the Tenant of the Guaranteed Obligations.

4 Indemnity

4.1 Indemnity

As a separate and additional obligation, the Guarantor indemnifies the Landlord against all Claims and Loss which the Landlord may incur or may become liable for wholly or partly due to or arising from:

- (a) any failure by the Tenant to pay perform or observe any of the Guaranteed Obligations;
- (b) the disclaimer of the Lease by a liquidator or trustee in bankruptcy;
- (c) the Lease being determined otherwise than by effluxion of time;
- (d) the repudiation of the Lease;
- (e) the Lease or any part of it becoming illegal, void, voidable or unenforceable; or
- (f) the Landlord finding it necessary or expedient following the determination or forfeiture of the Lease to relet the whole or any part of the Premises on terms less favourable to the Landlord than the Guaranteed Obligations.

4.2 Acknowledgement

The Guarantor acknowledges that this indemnity will remain in full force and effect notwithstanding any determination, repudiation or forfeiture of the Lease.

5 Payment to Landlord

The Guarantor must pay any money payable under this deed on demand to, or as directed by, the Landlord.

6 Nature of obligations

6.1 Continuing obligations

The Guarantee and Indemnity are separate and continuing obligations of the Guarantor and will remain in full force and effect (despite any payment or the occurrence of any other thing) until:

- (a) the Guaranteed Obligations have been irrevocably paid and performed in full; and
- (b) a formal discharge is given by the Landlord to the Guarantor.

6.2 Principal obligations

The Guarantee and Indemnity:

- (a) are principal obligations and will not be treated as ancillary or collateral to any other right or obligation; and
- (b) may be enforced against the Guarantor without the Landlord first being required to exhaust any remedy it may have against the Tenant, or any other party, or to enforce any other security it may hold with respect to the Guaranteed Obligations. The Landlord may recover under the Guarantee and Indemnity before incurring expense.

7 Absolute and unconditional

The Guarantee and the Indemnity are absolute, unconditional and irrevocable. The Guarantor's liability extends to and will not be affected by any circumstances, act, omission or thing which but for this clause 7 might otherwise affect it at law or in equity. This includes:

- (a) (**variations**) the variation (including a variation which alters, increases or extends the duration of the Guaranteed Obligations) of any provision of the Lease or any other agreement relating to any of the Guaranteed Obligations;
- (b) (**transfer by Tenant**) any transfer, assignment, mortgage, renewal or other dealing by the Tenant of the whole or any part of its interest under the Lease;
- (c) (**transfer by Landlord**) any transfer, assignment, or other dealing by the Landlord of the whole or any part of the Premises, or its rights under the Lease.
- (d) (**grant of concession**) the grant of any time, concession, waiver or indulgence by the Landlord to the Tenant or to the Guarantor;
- (e) (**delay or failure to enforce**) the Landlord's failure or delay in enforcing any of the right, powers or remedies conferred on it by the Lease, the law or by this or any other agreement;
- (f) (**release of Guaranteed Obligations**) the release of the Tenant or any other person from all, or any part of, the Guaranteed Obligations;
- (g) (**dealing with security**) any dealings with the whole or any part of any security held by the Landlord from the Tenant, the Guarantor or any other person (including the enforcement, discharge or release of such security);
- (h) (**failure to notify or disclose**) the failure by the Landlord to give notice to the Guarantor of any default by the Tenant under the Lease or to disclose any other thing in relation to its affairs with the Tenant;
- (i) (**void or invalid**) the Lease, the Guaranteed Obligations, this deed, or any other agreement, being or becoming in whole or in part illegal, void, voidable or unenforceable; and
- (j) (**Insolvency Event**) the occurrence of an Insolvency Event in relation to the Tenant or the Guarantor or any other person;

regardless of whether the Guarantor is aware of, or consents to, any of these matters.

8 Additional obligations

8.1 Guarantor's obligations

If, for any reason (including incapacity, disability, voidness, unenforceability or illegality) the Tenant ceases to be bound by the Lease or its liabilities under the Lease are for any reason abrogated, reduced, diminished, disclaimed or modified in any way then:

- (a) the Guarantor must pay to the Landlord an amount equal to the total Loss (whether direct or consequential) which the Landlord incurs or becomes liable for as a result; and
- (b) the Guarantor must do everything the Landlord may require it to do in order to place the Landlord in as good a position as the Landlord would otherwise have been in.

8.2 Obligation is separate and distinct

- (a) The obligations of the Guarantor under this clause 8 are separate and distinct and are independently designed to indemnify the Landlord.

- (b) The covenant by the Guarantor in clause 8 is supplementary to the other provisions of this deed and will take effect only if and to the extent to which such other provisions are inapplicable to the circumstances or do not confer upon the Landlord rights as valuable or extensive as those provided in this clause 8.

9 Restrictions on Guarantor

9.1 Insolvency Event

- (a) If an Insolvency Event occurs in respect of the Tenant, the Guarantor:
 - (i) must not, without the prior written consent of the Landlord, prove in the insolvency in competition with the Landlord;
 - (ii) irrevocably authorises the Landlord to prove in the Tenant's insolvency for any money that the Guarantor has paid to the Landlord under this deed; and
 - (iii) must, until the Landlord's claims against the Tenant and the Guarantor have been fully satisfied, hold on trust for the Landlord any money which is received by the Guarantor from such Insolvency Event.
- (b) The Guarantor must pay to the Landlord all money received by the Landlord for credit of any account of the Tenant and which the Landlord may be obliged to account, or may in its discretion account, in any Insolvency Event of the Tenant.

9.2 Other restrictions

The Guarantor must not, without the prior written consent of the Landlord;

- (a) claim the benefit of securities held by the Landlord from the Tenant, by subrogation;
- (b) enforce a right or claim against the Tenant in respect of any money it has paid to the Landlord under this deed; or
- (c) exercise any rights as surety in competition with the Landlord.

10 Void or voidable payments or transactions

If any payment or transaction relating to the Guaranteed Obligations is wholly or partly void or voidable for any reason:

- (a) the payment or transaction will be deemed not to have discharged or affected the liability of the Guarantor under this deed; and
- (b) the Guarantor must immediately do everything required by the Landlord to restore to the Landlord the benefit of its rights in relation to the Guaranteed Obligations.

11 More than one Guarantor

Where the Guarantor consists of more than one party:

- (a) the term Guarantor in this clause refers to each of the Guarantors and to all of them;
- (b) the Landlord may enforce the Guarantee and Indemnity against all or any of them without in any way releasing or affecting the liability of, or any rights the Landlord may have against, any such other person;
- (c) any Notice may be served on all of them by serving any one of them; and

- (d) this deed remains binding on the other Guarantors even if:
 - (i) another Guarantor failed to execute this deed;
 - (ii) this deed is not binding on any other Guarantor; or
 - (iii) the Landlord releases any Guarantor from liability under this deed.

12 Insolvency Event

12.1 Guarantor's obligations

If an Insolvency Event occurs in relation to the Tenant, the Guarantor will assume:

- (a) every debt and liability of the Tenant to the Guarantor;
- (b) every other right and security of the Guarantor against the Tenant; and
- (c) all property of the Tenant in trust for the Landlord.

12.2 Guarantor's undertaking

The Guarantor undertakes to do all such things, and to execute and deliver to the Landlord at its own Cost, all deeds and assignments of such of the debts, liabilities, rights and securities referred to in clause 12.1 above as the Landlord may require.

12.3 Landlord as attorney

The Guarantor irrevocably appoints the Landlord as its attorney to:

- (a) demand, sue for, recover and enforce any debt, liability, right or security referred to in clause 12.1 above and to lodge on behalf of the Guarantor any proof that the Guarantor is entitled to lodge in respect of any such debt, liability, right or security;
- (b) to agree upon any valuation of any asset of the Tenant; and
- (c) demand, sue for and recover all compositions, dividends and other amounts payable in respect of such proof on behalf of the Guarantor.

All amounts received by the Landlord pursuant to this clause may be appropriated and applied by the Landlord on account of the Guaranteed Obligations.

13 Guarantor warranties

The Guarantor (and if there is more than one party as Guarantor each individual Guarantor separately) represents and warrants to the Landlord that:

- (a) save for the consideration stated in clause 2, the Guarantor was not induced to enter into this deed by any consideration, representation, warranty or other information given or offered by, or on behalf, of the Landlord;
- (b) it has full legal capacity and power to enter into and perform its obligations under this deed;
- (c) it has taken all action required, and obtained or been granted all consents, approvals, permissions and authorisations, whether internal or external, necessary to enable it to enter into, and perform its obligations under, this deed;
- (d) this deed constitutes a valid and legally binding obligation of it in accordance with its terms;
- (e) no representation, warranty or other information provided by the Guarantor contains any untrue statement of material fact or omits to state a material fact

- necessary to ensure that the representation, warranty or information is not misleading;
- (f) the Tenant has full legal capacity and power to enter into and perform its obligations under the Lease;
 - (g) each statement, representation and warranty made by the Tenant in the Lease is true and correct;
 - (h) where the Guarantor enters into this deed in its capacity as trustee of a trust:
 - (i) it is the sole trustee of that trust and no action has been taken or proposed to remove it as trustee of that trust or to appoint an additional trustee;
 - (ii) the trust is duly constituted under relevant laws and no action has been taken or proposed to terminate the trust;
 - (iii) the deed governing the trust discloses all of the terms of the trust and true and complete copies of the trust deed and all other documents relating to the trust have been provided to the Landlord and disclose all of the terms of the trust;
 - (iv) it has the right to be fully indemnified out of the assets of the trust in respect of its obligations under this deed and that right has not been restricted or limited in any;
 - (v) the assets of the trust are, and will continue to be, sufficient to satisfy all obligations assumed by the Guarantor under this deed; and
 - (vi) it is not in default and has never been in default of any obligation under the trust deed and its directors and other officers have complied with their obligations in respect of the trust; and
 - (i) where the Tenant has entered into the Lease in its capacity as trustee of a trust:
 - (i) the Tenant is the sole trustee of that trust and no action has been taken or proposed to remove it as trustee of that trust or to appoint an additional trustee;
 - (ii) the trust is duly constituted under relevant laws and no action has been taken or proposed to terminate the trust;
 - (iii) the deed governing the trust discloses all of the terms of the trust and true and complete copies of the trust deed and all other documents relating to the trust have been provided to the Landlord and disclose all of the terms of the trust;
 - (iv) the Tenant has the right to be fully indemnified out of the assets of the trust in respect of its obligations under the Lease and that right has not been restricted or limited in any;
 - (v) the assets of the trust are, and will continue to be, sufficient to satisfy all obligations assumed by the Tenant under the Lease; and
 - (vi) the Tenant is not in default and has never been in default of any obligation under the trust deed and its directors and other officers have complied with their obligations in respect of the trust.

14 Landlord's certificate

Any certificate signed by the Landlord (or its lawyer) certifying the amount of any liability of the Guarantor under this deed, or certifying as to any other act, matter or thing relating to this deed will, at the date stated in the certificate, be prima facie evidence of what is certified.

15 Further Deed

The Guarantor must, if required by the Landlord, (and without prejudice to its liability under this deed) execute a further document in the same terms as this deed (except for any changes which the Landlord's lawyer may consider appropriate) following any variation, replacement, execution or renewal of, or any other dealing with, the Lease.

16 Notices

16.1 Method

All Notices given by a party under or in connection with this deed must be:

- (a) in writing; and
- (b) signed by a person duly authorised by the sender (or, where transmitted by e-mail, sent by a person duly authorised by the sender).

16.2 Address for service of Notices

- (a) Notices given to the Landlord must be:
 - (i) addressed to the Landlord at its registered office and marked for the attention of the Chief Operating Officer; and
 - (ii) hand delivered, sent by prepaid post or transmitted by facsimile to that address.
- (b) Notices given to the Guarantor must be
 - (i) addressed to the Guarantor at the address and other details specified in Item 3 (or as varied by notice); and
 - (ii) hand delivered, sent by prepaid post or transmitted by facsimile or email to the appropriate address.
- (c) The Guarantor must, within 10 Business Days after the date of this deed provide the Landlord with its current e-mail address and must notify the Landlord of any changes to that email address from time to time.

16.3 Receipt

A Notice given in accordance with this clause is taken as having been given and received:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post, either:
 - (i) on the day on which the relevant postal service estimates delivery will occur; or
 - (ii) on the first day of the period during which the relevant postal service estimates delivery will occur,based on the most recent estimate published by the relevant postal service as at the date on which the Notice is sent;
- (c) if transmitted by e-mail, on transmission; or
- (d) if transmitted by facsimile, at the time recorded on the transmission report indicating successful transmission of the entire Notice,

but if the delivery or transmission is not on a Business Day or is after 5.00pm (recipient's time) on a Business Day, the Notice is taken to be received at 9.00am (recipient's time) on the next Business Day.

16.4 Requirement for written Notice

For the avoidance of doubt, the requirement in clause 16.1(a) applies to all Notices unless expressly excluded and no implication to the contrary is to be drawn from the use of the expressions "written" or "in writing" in relation to some but not all Notices.

17 General

17.1 Costs

The Guarantor must promptly pay all the Landlord's Costs of and incidental to the preparation, completion, lodgement for payment of Duty and enforcement of this deed.

17.2 Duty

The Guarantor must:

- (a) pay all Duty (including penalties or interest) assessed on or in relation to:
 - (i) this deed;
 - (ii) any variation, assignment, surrender or other early termination of this deed; and
 - (iii) any other instrument or transaction contemplated by this deed or which gives rise to or relates to any of the Guaranteed Obligations, and
- (b) deliver to the Landlord a cheque in favour of the State Revenue Office for the Duty payable and all supporting documentation necessary to enable the Landlord to lodge this deed and any other instrument referred to in clause 17.2(a) for payment of Duty no later than 5 Business Days before the due date for payment of the Duty.

17.3 Electronic delivery of deed

If a party delivers an executed counterpart of this deed or any other document executed in connection with it ("**Relevant Document**") by facsimile or other electronic means:

- (a) the delivery will be deemed to be an effective delivery of an originally executed counterpart; and
- (b) the party will still be obliged to deliver an originally executed counterpart, but the failure to do so will not affect the validity or effectiveness of the Relevant Document.

17.4 Governing law and jurisdiction

This deed will be governed by and construed in accordance with the laws in force in the State of Victoria and each party submits to the exclusive jurisdiction of the courts of that State.

REFERENCE SCHEDULE

1 LANDLORD

Enwerd Pty Ltd

ACN 004 645 612

of Level 31, 459 Collins Street Melbourne

Tel: 03 9613 9962

Ref: Chief Operating Officer

Fax: 03 9613 9998

E-mail: secretary@juilliard.com

2 TENANT

ACN

of

Tel:

Ref: Director

Fax:

4 PREMISES

Part Level 13 of the building known as 459 Little Collins Street,
Melbourne

SIGNED SEALED and DELIVERED by _____)
 _____)
 in the presence of _____)

Name of witness (print)

Signature of director

Name of director/company secretary (print)

ATTACHMENT 3 - DIRECT DEBIT AUTHORITY

Level 31, 459 Collins Street
Melbourne 3000 Australia
areceivable@juilliard.com

T +613 9613 9976
F +613 9613 9998

Juilliard Corporation Pty Ltd
ABN 77 007 226 904

**Owned & Managed
by Juilliard**

Direct Debit Request

| | |
|---|--|
| Request and Authority to debit the account named below to pay Enwerd Pty. Ltd. (ACN 004 645 612) in its personal capacity and in its capacity as trustee of the N & N Werdiger Family Trust No. 2 (ABN 25 413 423 192) | |
| Request and Authority to debit | Tenant Number _____ Lessee Name _____ ("you") ACN/ABN _____ request and authorise <i>Enwerd Pty. Ltd. (ACN 004 645 612) in its personal capacity and in its capacity as trustee of the N & N Werdiger Family Trust No. 2 (ABN 25 413 423 192)</i> Debit User Identification Number 412191, through its own financial institution, for any amount <i>Enwerd Pty. Ltd. (ACN 004 645 612) in its personal capacity and in its capacity as trustee of the N & N Werdiger Family Trust No. 2 (ABN 25 413 423 192)</i> may debit or charge you to be debited through the Bulk Electronic Clearing System from an account held at the financial institution identified below and paid to the Debit User, subject to the terms and conditions of the Direct Debit Request Service Agreement. |
| Insert the name and address of financial institution at which account is held | Financial institution name _____ Address _____ |
| Insert details of account to be debited | Name of account _____ BSB number - Account number |
| Acknowledgment | By signing this Direct Debit Request you acknowledge having read and understood the terms and conditions governing the debit arrangements between you and <i>Enwerd Pty. Ltd. (ACN 004 645 612) in its personal capacity and in its capacity as trustee of the N & N Werdiger Family Trust No. 2 (ABN 25 413 423 192)</i> as set out in this Request and in your Direct Debit Request Service Agreement. |
| Insert your signature and address | Signature _____ (If signing for a company, sign and print full name and capacity for signing eg. director) Address _____ Date ____ / ____ / ____ |
| Please return this form to the address listed above | |

Direct Debit Request – Service Agreement

The following is your Direct Debit Service Agreement with **Famewerd Property Partnership (ABN 75 935 871 905) comprising Enwerd Pty Ltd (ACN 004 645 612) ATFT N & N Werdiger Family Trust No. 2 (ABN 25 413 423 192) and S.H.L. Nominees (1965) Pty Ltd (ACN 004 645 603) ATFT H & S Lederman Family Trust No. 2 (ABN 61 884 327 767)** Debit User Identification Number 412193. The agreement is designed to explain what your obligations are when undertaking a Direct Debit arrangement with us. It also details what our obligations are to you as your Direct Debit Provider.

We recommend you keep this agreement in a safe place for future reference. It forms part of the terms and conditions of your Direct Debit Request (DDR) and should be read in conjunction with your DDR form.

Definitions

- account** means the account held at *your financial institution* from which *we* are authorised to arrange for funds to be debited.
- agreement** means this Direct Debit Request Service Agreement between *you* and *us*.
- banking day** means a day other than a Saturday or a Sunday or a public holiday listed throughout Australia.
- debit day** means the day that payment by *you* to *us* is due.
- debit payment** means a particular transaction where a debit is made.
- direct debit request** means the Direct Debit Request between *us* and *you*.
- us** or **we** means Famewerd Property Partnership (ABN 75 935 871 905) comprising Enwerd Pty Ltd (ACN 004 645 612) ATFT N & N Werdiger Family Trust No. 2 (ABN 25 413 423 192) and S.H.L. Nominees (1965) Pty Ltd (ACN 004 645 603) ATFT H & S Lederman Family Trust No. 2 (ABN 61 884 327 767). (the Debit User) *you* have authorised by signing a *direct debit request*.
- you** means the customer who signed the *Direct Debit Request*.
- your financial institution** means the financial institution nominated by *you* on the DDR at which the *account* is maintained.

1. Debiting your account

By signing a *Direct Debit Request*, *you* have authorised *us* to arrange for the standing monthly charges per *your* lease or other arrangement with *us* to be debited from *your account* on the first banking day of each month. *You* should refer to the *Direct Debit Request* and this *agreement* for the terms of the arrangement between *us* and *you*.

We will only arrange for funds to be debited from *your account* as authorised in the *Direct Debit Request*.

If the *debit day* falls on a day that is not a *banking day*, *we* may direct *your financial institution* to debit *your account* on the following *banking day*.

If *you* are unsure about which day *your account* has or will be debited *you* should ask *your financial institution*.

Any additional charges will also be deducted from *your account* on the first banking day of the month following the date of invoicing, unless the charges are invoiced after the 18th of the month, in which case they will be carried forward a further month before being deducted on the first banking day of the month.

2. Amendments by us

We may vary any details of this *agreement* or a *Direct Debit Request* at any time by giving *you* at least fourteen (14) days' written notice.

3. Amendments by you

You may change, stop or defer a debit payment, or terminate this agreement by providing *us* with at least fourteen (14) days' notification by writing to: Famewerd Property Partnership (ABN 75 935 871 905) comprising Enwerd Pty Ltd (ACN 004 645 612) ATFT N & N Werdiger Family Trust No. 2 (ABN 25 413 423 192) and S.H.L. Nominees (1965) Pty Ltd (ACN 004 645 603) ATFT H & S Lederman Family Trust No. 2 (ABN 61 884 327 767)

C/- Juilliard Corporation Pty Ltd
Attention: Accounts Receivable
Level 31, 459 Collins Street
Melbourne Victoria 3000

or arranging it through your own financial institution.

4. Your obligations

Is *your* responsibility to ensure that there are sufficient clear funds available in *your account* to allow a *debit payment* to be made in accordance with the *Direct Debit Request*.

If there are insufficient clear funds in *your account* to meet a *debit payment*: (a) *you* may be charged a fee and/or interest by *your financial institution*;

(b) *you* may also incur fees or charges imposed or incurred by *us*; and

(c) *you* must arrange for the *debit payment* to be made by another method or arrange for sufficient clear funds to be in *your account* by an agreed time so that *we* can process the *debit payment*.

You should check *your account* statement to verify that the amounts debited from *your account* are correct

If **Famewerd Property Partnership (ABN 75 935 871 905) comprising Enwerd Pty Ltd (ACN 004 645 612) ATFT N & N Werdiger Family Trust No. 2 (ABN 25 413 423 192) and S.H.L. Nominees (1965) Pty Ltd (ACN 004 645 603) ATFT H & S Lederman Family Trust No. 2 (ABN 61 884 327 767)** is liable to pay goods and services tax ("GST") on a supply made in connection with this *agreement*, then *you* agree to pay **Famewerd Property Partnership (ABN 75 935 871 905) comprising Enwerd Pty Ltd (ACN 004 645 612) ATFT N & N Werdiger Family Trust No. 2 (ABN 25 413 423 192) and S.H.L. Nominees (1965) Pty Ltd (ACN 004 645 603) ATFT H & S Lederman Family Trust No. 2 (ABN 61 884 327 767)** on demand an amount equal to the consideration payable for the supply multiplied by the prevailing GST rate.

5. Dispute

If *you* believe that there has been an error in debiting *your account*, *you* should notify *us* directly on (03) 9613 9976 and confirm that notice in writing with *us* as soon as possible so that *we* can resolve *your* query more quickly. Alternatively *you* can take it up with *your financial institution* direct.

If *we* conclude as a result of our investigations that *your account* has been incorrectly debited *we* will respond to *your* query by arranging for *your financial institution* to adjust *your account* (including interest and charges) accordingly. *We* will also notify *you* in writing of the amount by which *your account* has been adjusted.

If *we* conclude as a result of our investigations that *your account* has not been incorrectly debited *we* will respond to *your* query by providing *you* with reasons and any evidence for this finding in writing.

6. Accounts

You should check:

- (a) with *your financial institution* whether direct debiting is available from *your account* as direct debiting is not available on all accounts offered by financial institutions.
- (b) *your account* details which *you* have provided to *us* are correct by checking them against a recent *account* statement; and
- (c) with *your financial institution* before completing the *Direct Debit Request* if *you* have any queries about how to complete the *Direct Debit Request*.

7. Confidentiality

We will keep any information (including *your account* details) in *your Direct Debit Request* confidential. *We* will make reasonable efforts to keep any such information that *we* have about *you* secure and to ensure that any of *our* employees or agents who have access to information about *you* do not make any unauthorised use, modification, reproduction or disclosure of that information.

We will only disclose information that *we* have about *you*:

- (a) to the extent specifically required by law; or
- (b) for the purposes of this *agreement* (including disclosing information in connection with any query or claim).

8. Notice

If *you* wish to notify *us* in writing about anything relating to this *agreement*, *you* should write **Famewerd Property Partnership (ABN 75 935 871 905) comprising Enwerd Pty Ltd (ACN 004 645 612) ATFT N & N Werdiger Family Trust No. 2 (ABN 25 413 423 192) and S.H.L. Nominees (1965) Pty Ltd (ACN 004 645 603) ATFT H & S Lederman Family Trust No. 2 (ABN 61 884 327 767)**.

C/- Juilliard Corporation Pty Ltd
Attention: Accounts Receivable
Level 31, 459 Collins Street
Melbourne Victoria 3000

We will notify *you* by sending a notice in the ordinary post to the address *you* have given *us* in the *Direct Debit Request*.

Any notice will be deemed to have been received on the third banking day after posting.

ATTACHMENT 4 - CONDITION REPORT

Level 31, 459 Collins Street
Melbourne 3000 Australia

T +613 9613 9999
F + 613 9613 9998

Juilliard Corporation Pty Ltd
ABN 77 007 226 904

**Owned & Managed
by Juilliard**

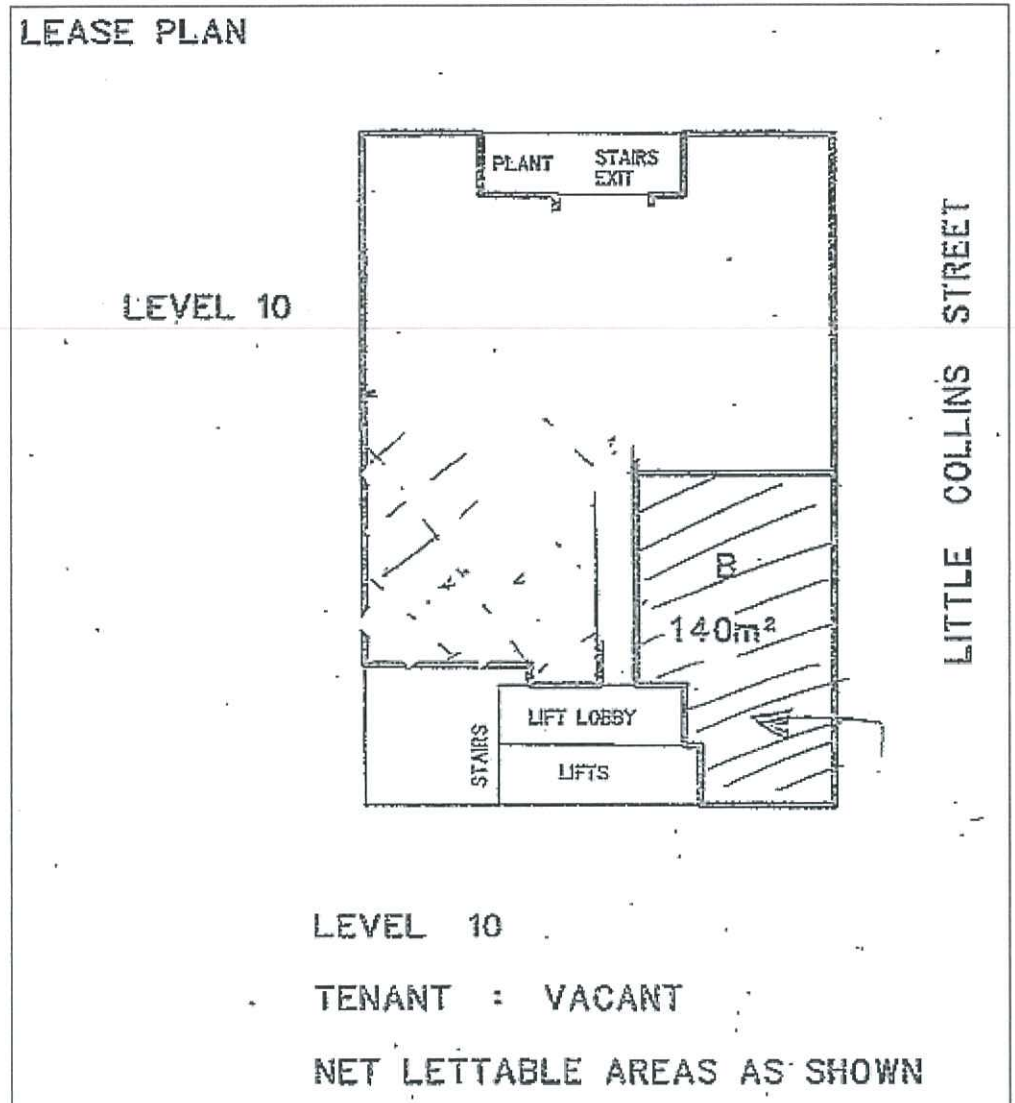
FNZ Pty Limited
Part Level 10, 495 Little Collins
Street
Melbourne

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1 Survey Plan and Plan of Premises

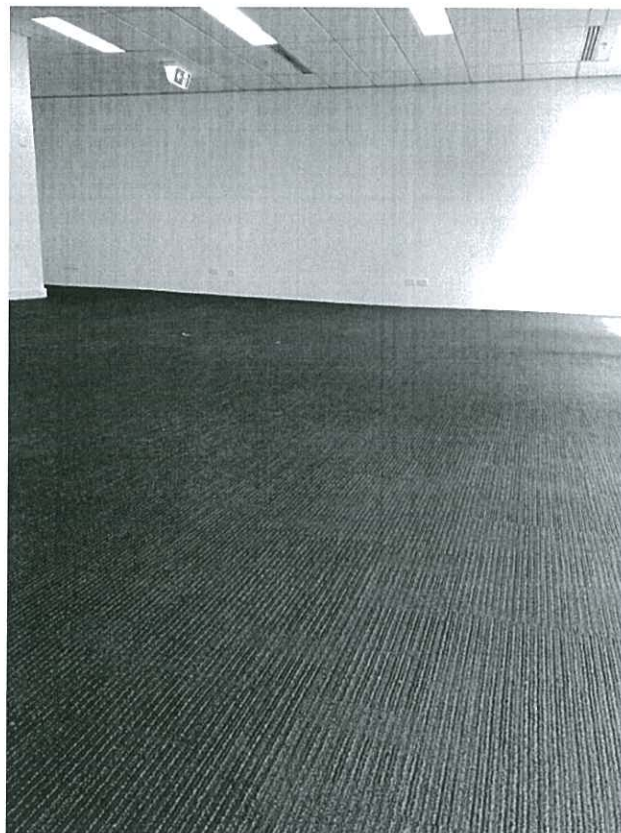
FNZ (Australia) Pty Ltd – Tenancy B (Hatched) the survey plan shown below



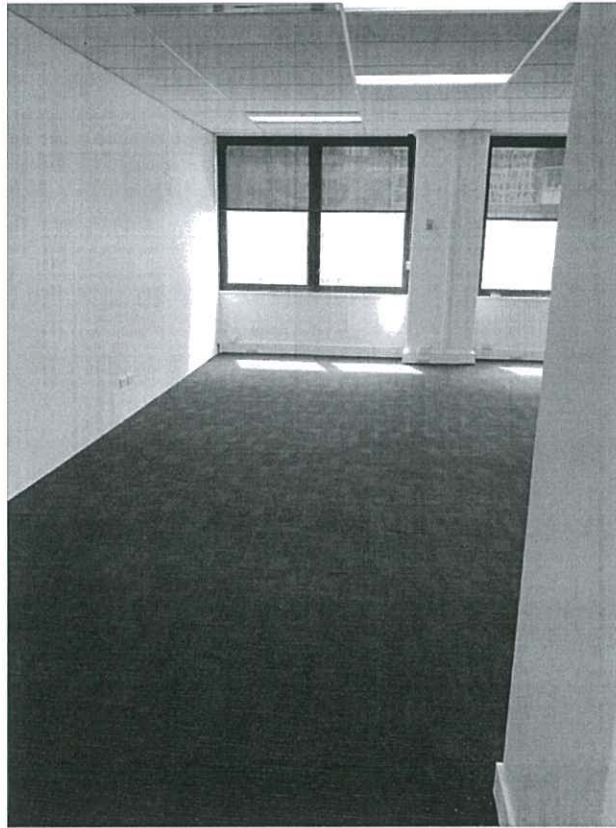
1.1 Open area



1.2 Open area



1.3 Open area



1.4 Open area



**1.5 Open area –
ceiling grid**



**1.6 Open area –
ceiling grid**



1.7 Open area –
ceiling grid



1.8 Open area –
ceiling grid



1.9 Windows
and blinds



1.10 Windows
and blinds



**1.11 Windows
and blinds**



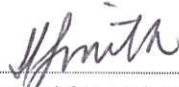
2 Notes on condition

- The premises were handed over to FNZ on 29th October 2018;
- As agreed, Landlord works have been undertaken which includes the following:
 - Remove all existing partitions within the tenancy;
 - Repaint the perimeter walls;
 - Replace all ceiling tiles;
 - Replace carpet with new carpet tiles;
 - Install base build roller blinds; and
 - All existing data cables and cable pole to be removed
- Landlord works was carried out by Aspect One.

3 Execution Page for Condition Report

Condition report prepared based on existing condition as at 29 October 2018:

Date:



Signed for and on behalf of FNZ (Australia) Pty Ltd



Signed for and on behalf of The Juilliard Group

29/10/18

Note: Damage on front door jam, holes in metal, door a bit loose.

Level 31, 459 Collins Street
Melbourne 3000 Australia

T +613 9613 9999
F + 613 9613 9998

Juilliard Corporation Pty Ltd
ABN 77 007 226 904

**Owned & Managed
by Juilliard**

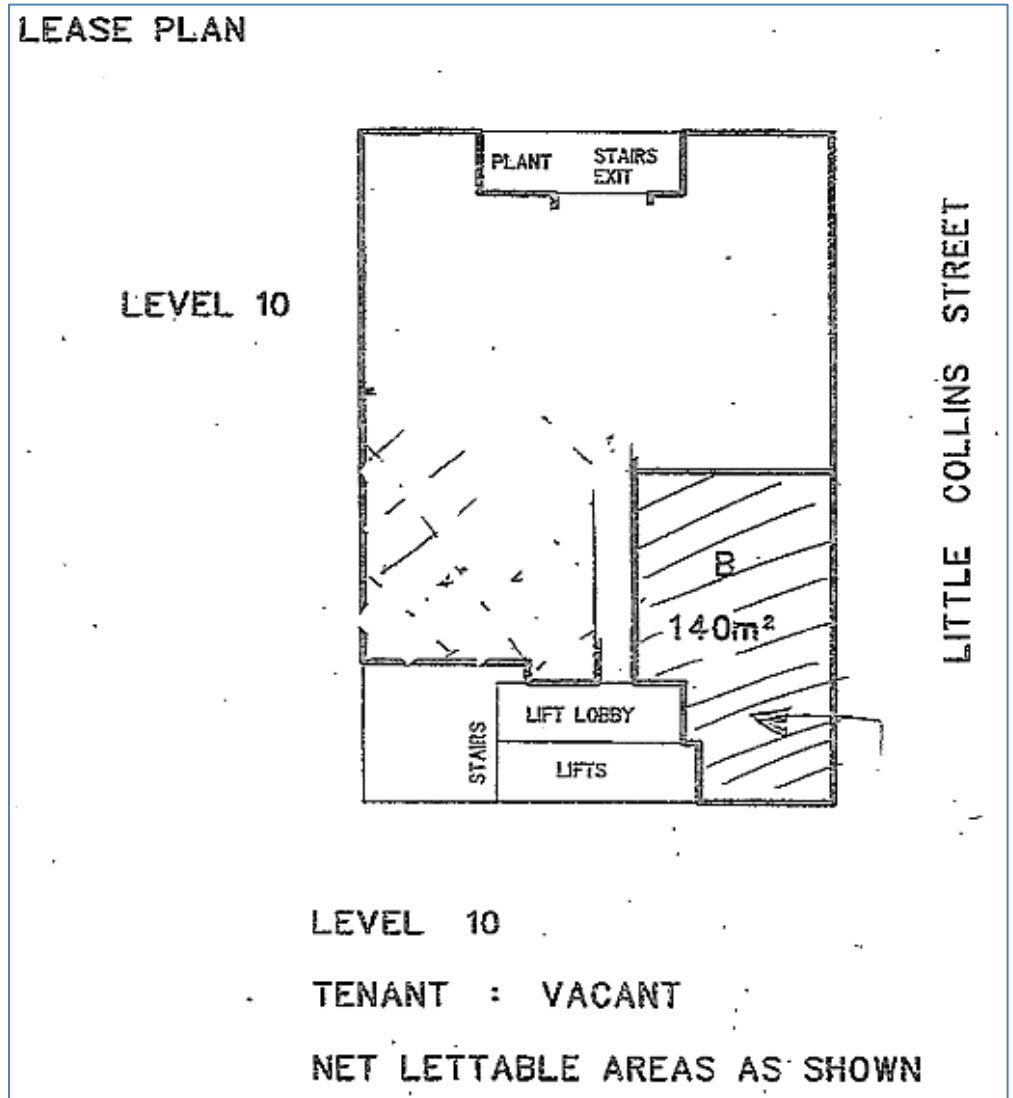
FNZ Pty Limited
Part Level 10, 495 Little Collins
Street
Melbourne

Contents

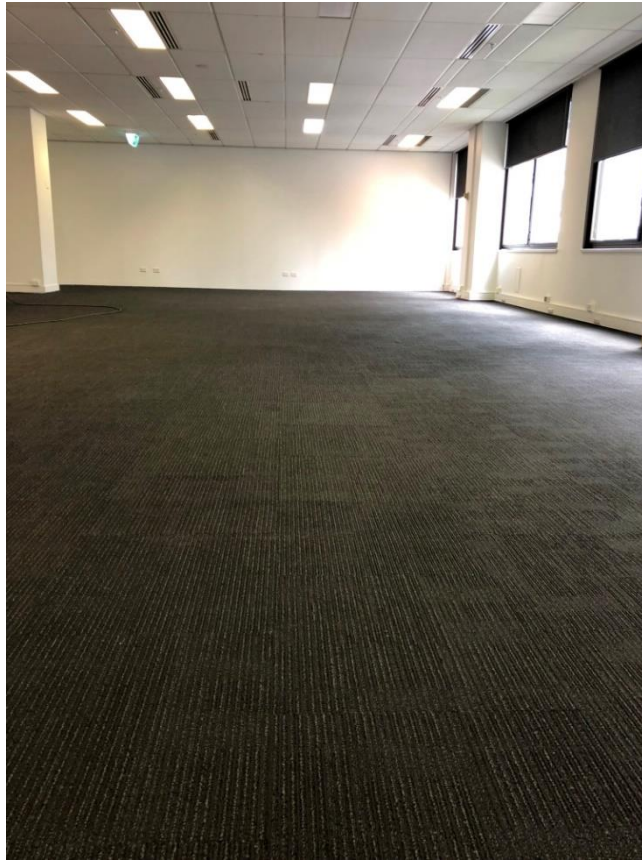
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1 Survey Plan and Plan of Premises

FNZ (Australia) Pty Ltd – Tenancy B (Hatched) the survey plan shown below



1.1 Open area



1.2 Open area



1.3 Open area



1.4 Open area



1.5 Open area –
ceiling grid



1.6 Open area –
ceiling grid



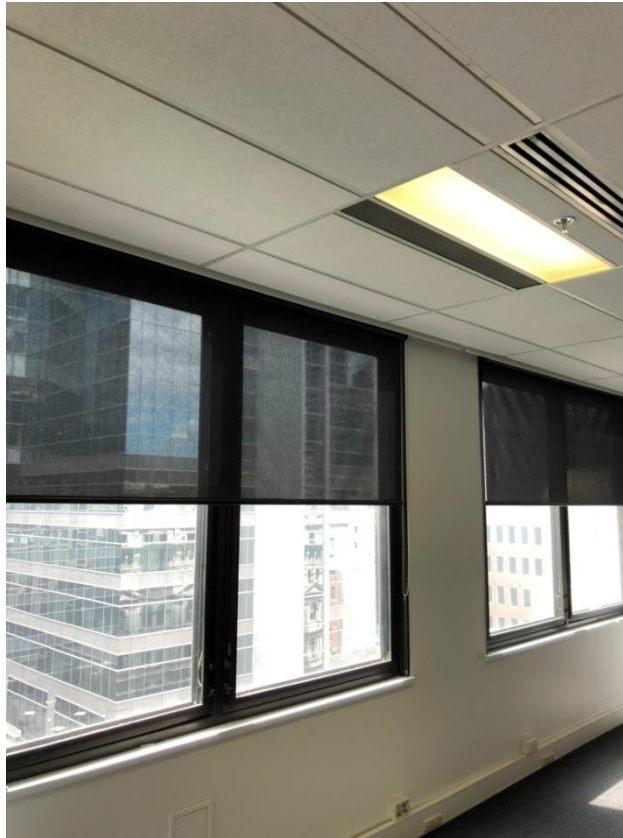
**1.7 Open area –
ceiling grid**



**1.8 Open area –
ceiling grid**



**1.9 Windows
and blinds**



**1.10 Windows
and blinds**



**1.11 Windows
and blinds**



2 Notes on condition

- The premises were handed over to FNZ on 29th October 2018;
- As agreed, Landlord works have been undertaken which includes the following:
 - Remove all existing partitions within the tenancy;
 - Repaint the perimeter walls;
 - Replace all ceiling tiles;
 - Replace carpet with new carpet tiles;
 - Install base build roller blinds; and
 - All existing data cables and cable pole to be removed
- Landlord works was carried out by Aspect One.

3 Execution Page for Condition Report

Condition report prepared based on existing condition as at 29 October 2018:

Date:

Signed for and on behalf of FNZ (Australia) Pty Ltd

Signed for and on behalf of The Juilliard Group