Lease

[IRDI Legal Pro forma – Industrial]

[##]
(Landlord)

[##]
(Tenant)

[##]
(Guarantor)

Draft

Our Ref: {[##]}:{[##]}
#iManageFooter

248 Oxford Street, Leederville WA 6007 | PO Box 95, Leederville WA 6902
P 08 9443 2544 | F 08 9444 3808 | irdi.com.au
Riverlord Holdings Pty Ltd ABN 57 349 088 119 | atf The Trinity Trust | an Incorporated Legal Practice trading as IRDI Legal

Draft

Copyright

Copyright in this document is the property of IRDI Legal. This document (or any part thereof) must not be published or reproduced in any way without IRDI Legal's prior permission. IRDI Legal may seek an injunction restraining the unauthorised use of this document, in addition to seeking damages or an account of profits (as appropriate) against any person responsible for its unauthorised reproduction.

Table of Contents

Page No.

Lease

1 Definitions and Interpretation 1

1.1 Definitions 1

1.2 Interpretation 8

2 Grant of Lease 10

2.1 Lease 10

2.2 Quiet Enjoyment 10

3 Rent 10

3.1 Payment of Rent 10

3.2 Review of Rent 10

3.3 CPI Rent Review 11

3.4 Fixed ##% Rent Increase 11

3.5 Market Rent Review 11

4 Other Payments by the Tenant 12

4.1 Utility Costs 12

4.2 Outgoings 13

5 Security 14

5.1 Tenant may provide a Bank Guarantee or Security Bond 14

5.2 Bank Guarantee 14

5.3 Security Bond 16

6 Use of Premises 17

6.1 Positive Obligations 17

6.2 Negative Obligations 18

6.3 Tenancy Mix 19

6.4 Landlord's Property 19

6.5 Work Health and Safety 19

6.6 Suitability of Premises 19

6.7 Access Conditions 20

7 Care of the Premises 20

7.1 General obligations 20

7.2 Cleaning 20

7.3 Repair or replace 21

7.4 Floors and coverings 21

7.5 Refurbishment 21

7.6 Air Conditioning Plant 22

7.7 Drains, Pipes and Waste 23

7.8 Service Facilities 23

Draft

7.9 Safety and Security of the Premises ... 23
7.10 Pest control ... 24
7.11 Garden maintenance ... 24
7.12 Tenant to report damage and defects ... 24

8 Alterations and Tenant's Works ... 24

8.1 Alterations to Premises ... 24
8.2 Work Standards ... 25

9 Signage ... 25

10 Management and Control of the Land ... 26

10.1 Use of Common Areas ... 26
10.2 Positive Obligations ... 26
10.3 Negative Obligations ... 26
10.4 Control ... 27

11 Car Parking ... 27

11.1 Car Parking and Access Areas ... 27
11.2 Tenant's obligations ... 28
11.3 Risk and liability ... 28

12 Access by the Landlord ... 28

12.1 Access ... 28
12.2 Inspection by prospective tenants or purchasers ... 29
12.3 General ... 29

13 Risk and Insurance ... 29

13.1 Landlord's insurance ... 29
13.2 Tenant's insurance ... 30
13.3 Tenant's conduct affecting insurance ... 31
13.4 Indemnity by Tenant ... 31

14 Assignment and Sub-letting ... 32

14.1 No dealings without consent ... 32
14.2 Assignment ... 32
14.3 Sub-Letting ... 33
14.4 Change in Control ... 33
14.5 Costs and Liability ... 34
14.6 Property Law Act exclusions ... 34

15 Environmental Protection ... 34

15.1 Definitions ... 34
15.2 Pre-existing Contamination ... 36
15.3 Hazardous Materials and Dangerous Goods ... 36
15.4 Comply with relevant Laws and requirements ... 37
15.5 Notification of Pollution Event ... 37
15.6 Prevention and Remediation of Contamination ... 37

Draft

15.7 Environmental Exit Report ... 38
15.8 Indemnity and Release ... 38
15.9 Survival ... 38
16 Option to Renew Lease ... 39
16.1 Grant of Option ... 39
16.2 Exercise of Option ... 39
16.3 When Option does not apply ... 39
16.4 New Lease after exercise of Option ... 39
17 Holding Over ... 39
18 Tenant's Obligations when Lease Ends ... 40
18.1 Vacate Premises ... 40
18.2 Make Good Obligations ... 40
18.3 Extent and Standard of Work ... 41
18.4 Abandonment of Tenant's Property ... 42
18.5 Failure to comply with Make Good Obligations ... 42
19 Essential Terms ... 42
20 Default and Termination ... 43
20.1 Interest on overdue money ... 43
20.2 Landlord's right to remedy ... 43
20.3 Payment of Landlord's Costs ... 43
20.4 Termination ... 43
20.5 Re-Entry ... 44
20.6 Prior breaches ... 44
20.7 No waiver ... 44
20.8 Landlord may re-lease ... 44
20.9 Entitlement to Damages ... 44
20.10 Mitigation of Damages ... 45
21 Damage to the Premises or Building ... 45
21.1 Termination or reinstatement ... 45
21.2 Failure to Reinstate ... 45
21.3 Reduction of Rent and other money ... 45
21.4 Dispute resolution ... 46
21.5 No Other Liability ... 46
21.6 Tenant's Fault ... 46
22 Strata Lot ... 46
22.1 Application of Strata Lot Provisions ... 46
22.2 Definitions ... 46
22.3 Strata Company and Strata Titles Act ... 47
22.4 Tenant's right to use Strata Common Property ... 47
22.5 By-Laws and regulations ... 47

Draft

22.6 Interpretation 48
22.7 Insurance policies 48
23 Dealing with the Land 48
23.1 Change of Ownership 48
23.2 Future Dealings 48
23.3 Alterations and Additions 49
24 PPSA 49
24.1 PPSA definitions 49
24.2 Application of clause to security interests 49
24.3 Acknowledgements 49
24.4 PPSA obligations and third party information 50
24.5 Waivers and PPSA provisions not applicable 50
25 Guarantee and Indemnity 51
25.1 Guarantee and Indemnity 51
25.2 Continuing obligation 51
25.3 Suspension of Guarantor's Rights 51
25.4 Persons benefited by guarantee and indemnity 51
25.5 Charge 52
25.6 Guarantee not affected 52
25.7 End of Lease 53
25.8 Time for payment 53
25.9 General 53
26 Notices 54
26.1 Requirement for writing 54
26.2 Serving notices 54
26.3 When effective 54
27 Trustee Covenants 55
28 Limitation on Landlord's Liability 55
28.1 General Limitation 55
28.2 Landlord as trustee 55
29 Non-Retail Use 56
30 Encumbrances 56
30.1 Encumbrances 56
30.2 Tenant Not to Encumber Leasehold Interest 56
30.3 No Absolute Caveat to be Lodged 56
30.4 Removal by Power of Attorney 57
31 GST 57
32 Foreign Investment Approval 57
33 Costs 58

Draft

34 Special Conditions 58
35 General 58
35.1 Registration 58
35.2 Confidential Information 58
35.3 Landlord's consents and approvals 59
35.4 Landlord may act by agent 59
35.5 Statutory powers add to express powers 59
35.6 Execution by Attorney 59
35.7 No waiver 59
35.8 No merger 59
35.9 Severance 60
35.10 Survival of covenants 60
35.11 No Moratorium 60
35.12 Indemnities 60
35.13 Entire agreement 60
35.14 Digital Signature 60
35.15 Execution by counterparts 61
35.16 Governing law 61
Schedule – Lease Details 62
Annexure A – Premises Plan 66

Draft

Lease

Date

2023

Parties

[##] ACN 000 000 000 of [##] (**Landlord**)

[##] ACN 000 000 000 of [##] (**Tenant**)

[##] of [##] (**Guarantor**)

Background

A. The Landlord is the registered proprietor of the Premises.

B. The Landlord has agreed to lease the Premises to the Tenant and the Tenant has agreed to lease the Premises from the Landlord on the terms set out in this lease.

The parties agree

1 Definitions and Interpretation

1.1 Definitions

In this lease:

(a) **Air Conditioning Plant** means any plant, equipment, ducting, vents or machinery for heating, cooling or circulating air;

(b) **API** means the Australian Property Institute Inc (WA office);

(c) **Authority** means any government or any governmental, semi-governmental, local government, administrative, fiscal or judicial body, department, committee, commission, authority, tribunal, agency, Minister, statutory body or entity;

(d) **Bank Guarantee** means a bank guarantee that meets the requirements of clause 5.2(a);

(e) **Building** means all improvements erected on the Land from time to time including the Service Facilities and any modifications, extensions or alterations to those improvements;

(f) **Business Day** means any day other than a Saturday, Sunday or public holiday in Perth, Western Australia;

(g) **Car Parking and Access Areas** means those parts of the Land which are designated by the Landlord for use in connection with car parking and vehicular

Draft

access to and from the Land, including all car bays and vehicle access, exit and thoroughfare areas;

(h) **Commencement Date** means the date specified in Item 4;

(i) **Common Areas** means those parts of the Land and the Building (other than leased areas) which the Landlord designates as common areas;

(j) **CPI** means the Consumer Price Index (All Groups Index - Perth) published by the Australian Bureau of Statistics or if that index is discontinued, the index substituted by the President for the time being of Chartered Accountants Australia and New Zealand as an index which reflects changes in the cost of living for the City of Perth;

(k) **CPI Rent Review Date** means each of the dates specified in Item 7(a);

(l) **Encumbrance** means any mortgage, easement, restrictive covenant, caveat, memorial or notification and includes any right and interest;

(m) **Environmental Law** means any Law in connection with or for the protection or improvement of the environment including Laws relating to greenhouse gas emissions or concentrations, pollution, the production of clean energy and any emissions trading scheme;

(n) **Façade** means the façade(s) of the Premises, including all windows, doors, window frames and door frames, Tenant's Signage, paint and coatings and any other item or fixture forming part of the façade(s);

(o) **Financial Year** means respectively:

(i) the period from the Commencement Date to the next 30 June;

(ii) each successive full period of 12 months commencing on 1 July and expiring on 30 June during the Term; and

(iii) the period from 1 July in the last year of the Term to the date of expiration of the Term;

(p) **Fire Services** means all stop-cocks, hydrants, alarms, fire and smoke alarms, drench curtains, fire sprinkler systems, hoses, extinguishers or other fire prevention or safety equipment at, on or serving the Premises or the Land from time to time;

(q) **Fixed ##% Rent Increase Date** means each of the dates specified in Item 7(b);

(r) **Floor Covering** means any surface or material covering the floors of the Premises, including carpets, rugs, tiles and floor boards and any sealer or paint that has been applied to the floors;

(s) **Item** means an item in the Schedule;

(t) **Keys** means all keys, access cards or other means of access to any part of the Premises, the Building or the Land;

(u) **Land** means:

(i) the land described in Item 2; and

(ii) includes, at the election of the Landlord at any time, any additional land that is owned, developed or used by the Landlord for the purposes of or in connection with this lease or the Building (including for the calculation of any payments owing by the Tenant under this lease),

Draft

and any revised description of the land from time to time, whether resulting from subdivision, amalgamation or any other reason;

(v) **Landgate** means the authority established under section 5 of the *Land Information Authority Act 2006* (WA);

(w) **Landlord** includes the landlord's successors in title;

(x) **Landlord's Property** means anything on the Land that is not the Tenant's Property, including the property specified in Item 3 (if any);

(y) **Law** includes any present or future requirement of any statute, regulation, proclamation, ordinance or by-law, whether State, Federal, local or otherwise;

(z) **Lettable Area** means the area measured in accordance with the relevant method of measurement as recommended by the Property Council of Australia or the method or criteria which the Landlord otherwise selects as the most appropriate, in respect of an area;

(aa) **Loss** means any damage, loss, cost, expense, liability, claim, action, proceeding or demand, however arising and whether present or future, fixed or unascertained, actual or contingent;

(bb) **Make Good Obligations** means each of the Tenant's obligations under clauses 18.2 and 15.7(b);

(cc) **Managing Agent** means the person or firm as may be appointed by the Landlord from time to time to manage the Premises and includes the employees and agents of the Managing Agent and if no person or firm is nominated at any time, means the Landlord;

(dd) **Market Rent** means the highest annual rent that can be reasonably obtained for the Premises at the relevant Rent Review Date:

(i) assuming that:

(A) the Premises are available for leasing with vacant possession in a free and open market and for a term equal to the Term including any Option Term;

(B) the Premises and the Building have been reinstated, if they have been destroyed or damaged;

(C) all of the covenants and obligations in this lease have been fully observed and performed;

(ii) taking into account:

(A) the Permitted Use and any other use for which the Premises may lawfully be used;

(B) the terms, conditions, covenants, rights and obligations in this lease;

(C) rental values of comparable premises;

(D) any structural or other improvements which the Tenant may not remove at the end of this lease;

(E) any other valuation principles relevant to a market review; and

(iii) not taking into account:

Draft

(A) the goodwill of the business carried on the Premises;

(B) the Tenant's Property which the Tenant may remove at the end of this lease;

(C) that part of the Term has elapsed;

(D) any sub-lease of the Premises;

(E) any rental concessions, inducements and other benefits that are frequently or normally offered and available to prospective tenants of similar premises at that Market Rent Review Date;

(F) any rental concessions, inducements and other benefits that were or are to be given to the Tenant;

(G) any temporary disturbance due to repairs or maintenance; and

(iv) if the Retail Shops Act applies to this lease, then the definition of Market Rent is modified so that:

(A) the meaning of 'market rent' in the Retail Shops Act applies; and

(B) except to the extent prohibited by the Retail Shops Act, all of the other criteria in this clause 1.1(dd) apply;

(ee) **Market Rent Review Date** means each of the dates specified in Item 7(c);

(ff) **Option Term** means each option term set out in Item 5 (if any);

(gg) **Outgoings** means every cost, expense or charge that is paid or payable by the Landlord in respect of a Financial Year that is in connection with the ownership, operation, administration, insurance, management, maintenance, repair or use of the Land, the Building, Common Areas and/or the Premises, including:

(i) Rates and Taxes;

(ii) insurance premiums and other charges in connection with insurance cover which the Landlord takes out in connection with this lease;

(iii) costs in connection with:

(A) cleaning, including rubbish, sullage and sanitary storage and removal;

(B) prevention and removal of graffiti;

(C) caretaking and security;

(D) providing toilet requisites, washing equipment and consumables, electric hand dryers, sanitary bins and all associated services;

(E) preventing, controlling or eradicating pests and vermin; and

(F) gardening, landscaping and reticulation;

(iv) costs in connection with maintenance, refurbishment and repair;

(v) costs in connection with the Service Facilities (including Air Conditioning Plant), including:

Draft

(A) supplying, providing, running, maintaining, servicing, upgrading, repairing, testing and (where applicable) replacing the Service Facilities; and

(B) installation, testing and reading of instruments, gauges, thermometers and meter reading equipment, including connection charges and rents;

(vi) costs in connection with any signage, including any line markings, symbols and displays;

(vii) costs in connection with the Car Parking and Access Areas, including:

(A) providing, maintaining, surfacing and managing the Car Parking and Access Areas; and

(B) all levies, charges or fees (if any) imposed on the Landlord by an Authority with respect to the car parking bays or facilities on the Land;

(viii) costs in connection with management of the Premises and Land, including fees and expenses paid or payable to the Managing Agent;

(ix) costs in connection with administration, including:

(A) postage, petties and disbursements;

(B) costs of and in connection with the preparation of Outgoings reconciliation statements and audit costs in respect of verifying or determining Outgoings; and

(C) costs of property condition reports and inspection fees;

(x) costs in connection with Environmental Laws, including doing anything the Landlord reasonably considers to be necessary or beneficial having regard to any Environmental Laws or environmental rating;

(xi) all contributions levied by the Strata Company (if any) on the Landlord, including all administrative fund levies, reserve fund levies, sinking fund levies and other strata levies;

but excluding:

(xii) costs of a capital or structural nature;

(xiii) a cost which the Law does not allow the Landlord to recover from the Tenant;

(hh) **Painted Surface** means any internal or external surface of the Premises (including any walls, ceiling, floor, skirting, cornices, doors or frames) which was painted, treated or wallpapered at the Commencement Date or during the Term;

(ii) **Permitted Use** means the permitted use specified in Item 8;

(jj) **Pipes** means any pipes, drains and conduits in or connected to the Premises;

(kk) **PPSA** means the *Personal Property Securities Act 2009* (Cth);

(ll) **Premises** means the premises described in Item 1 and includes the Landlord's Property in or on it. In the case of premises that are not standalone, the boundaries of the Premises are:

Draft

(i) the upper surface of the floor, below any Floor Coverings;

(ii) if there is a suspended ceiling, the upper surface of that suspended ceiling, or if there is no suspended ceiling, the lower surface of the ceiling slab or roof (as the case may be);

(iii) the centre line of any inter-tenancy walls and any external walls;

(iv) the outside surface of any external glass windows; and

(v) the outside surfaces of the Façade;

(mm) **Premises Plan** means the plan set out in Annexure A to this lease;

(nn) **Rates and Taxes** means all rates, taxes, levies, charges, duties and impositions of any kind now or in the future charged, assessed or imposed by any Authority in connection with the Land, the Building, the Premises or the ownership or occupation of the Land, the Building or the Premises, including:

(i) council rates and charges together with all rubbish removal rates and charges;

(ii) land tax and Metropolitan Region Improvement Tax on the basis that the Land is the only land owned by the Landlord;

(iii) any fee, levy or charge in relation to any car bays or parking facilities on the Land (including any levy imposed by the Department of Transport);

(iv) any fire services levy; and

(v) water drainage and sewerage rates and service charges;

but excluding the Landlord's income tax and capital gains tax;

(oo) **Related Party** means, in relation to a party:

(i) a related entity (as defined in the *Corporations Act 2001* (Cth)) of that party; or

(ii) an associate (as defined in the *Income Tax Assessment Act* 1997 (Cth)) of that party; or

(iii) controlled by or capable of being controlled by that party (whether by virtue of equity ownership, directorships or any agreement or arrangement);

(pp) **Rent** means the rent specified in Item 6 or as varied or reviewed from time to time under this lease;

(qq) **Rent Commencement Date** means the date specified in Item 6(c);

(rr) **Rent Review Date** means each of the dates specified in Item 7;

(ss) **Repaint** means:

(i) in respect of painted surfaces, the application of paint by applying an undercoat and two top coats of good quality paint in a colour, brand and type nominated by the Landlord and after removing any wall coverings installed by the Tenant (if any) and filling and patching any holes;

(ii) in respect of any treated surface, the treatment of the surface in the same manner as previously treated (including by staining, polishing or sealing), to a type, specification, colour, brand and finish nominated by the Landlord; and

Draft

(iii) in respect of any wallpapered surface, at the election of the Landlord:

(A) the removal of that wallpaper and application of paint in accordance with clause 1.1(ss)(i); or

(B) the removal of that wallpaper and re-application of new wallpaper of a type, material, design and brand nominated by the Landlord;

(tt) **Retail Shops Act** means the *Commercial Tenancy (Retail Shops) Agreements Act 1985* (WA);

(uu) **Schedule** means the schedule to this lease;

(vv) **Security Amount** means the amount specified in Item 10, as varied or reviewed from time to time under this lease;

(ww) **Security Bond** means the money held by the Landlord or Managing Agent under clause 5 and includes any replacement or addition to it;

(xx) **Service Facilities** means any plant, equipment, Pipes, services and apparatus on or servicing the Land, the Building, the Common Areas or the Premises, including Air Conditioning Plant, lifts, Fire Services, wires, cables, conduits, other electronic communication equipment, gas and electrical fittings, power points, toilets, sewerage, plumbing, grease traps and wash basins);

(yy) **Tenant** means the tenant described in this lease and includes:

(i) if a company or incorporated association, its permitted assigns; and

(ii) if an individual, his or her executors, administrators and permitted assigns;

(zz) **Tenant's Associates** means each of the Tenant's sub-tenants, licensees, officers, employees, contractors, subcontractors, agents, customers, invitees and visitors;

(aaa) **Tenant's Property** means all property which has been installed or brought onto the Premises or the Land by the Tenant or the Tenant's Associates, including stock, fitout, partitions, wiring, fittings, fixtures, goods, equipment, Tenant's Signage and Floor Coverings;

(bbb) **Tenant's Proportion** means in respect of any item of the Outgoings or any Utility Cost:

(i) the same proportion of that item as the Lettable Area of the Premises bears to the total Lettable Area of all premises on the Land; or

(ii) if that item is attributable to, referrable to or for the benefit of a group of premises including the Premises, then the same proportion of that item as the Lettable Area of the Premises bears to the total Lettable Area of that group of premises; or

(iii) if that item is directly assessed against or is entirely attributable to, referrable to or for the benefit of, the Premises, the Tenant or any area that the Tenant has exclusive use of, then 100% of that item;

(ccc) **Tenant's Signage** means:

(i) any signage, advertising material, ornamentation, decoration or logo, whether painted, applied or otherwise attached; and

(ii) any pylon, mast or structure to which those things are attached,

Draft

which has been installed by, or on behalf of, the Tenant or the Tenant's Associates;

(ddd) **Term** means the period specified in Item 4 (as may be extended or renewed, including for any Option Term and holding over period of this lease);

(eee) **Trading Name** means the name specified in Item 9;

(fff) **Utility Cost** means a cost or charge in connection with the connection, usage or consumption of a Utility Service which is used or consumed in the Premises or by the Tenant or which the Premises has the benefit of;

(ggg) **Utility Service** means a utility or consumable service, including electricity, gas, water, sewerage, data and telecommunications;

(hhh) **Valuer** means:

(i) a valuer licensed under the *Land Valuers Licensing Act 1978* (WA);

(ii) is a member of at least 5 years standing with the API; and

(iii) at the time of appointment is actively engaged in valuing similar premises to the Premises;

(iii) **WHS Laws** means the *Work Health and Safety Act 2020* (WA); and

(jjj) **Work Standards** means work (including any maintenance, repair or servicing work) that is carried out and completed:

(i) promptly and efficiently and to the satisfaction of the Landlord (acting reasonably);

(ii) using good quality materials and contractors either approved by or nominated by the Landlord (acting reasonably);

(iii) in accordance with plans and specifications approved by the Landlord (acting reasonably);

(iv) in accordance with the directions of the Landlord (acting reasonably), including directions about the times when work may be done, when work must not be done, safety standards, noise levels, dust levels and odours;

(v) in a manner that does not interfere with or disturb any other occupants of the Land or of other properties;

(vi) in accordance with all relevant Laws and the requirements of all relevant Authorities; and

(vii) if the work involves the replacement of anything, then the replacement must be at least of equivalent quality, type, colour and specification to the original (or such other quality, type, colour and specification as may be approved by the Landlord in its discretion).

1.2 Interpretation

In this lease, unless the context otherwise requires:

(a) a month means a calendar month;

(b) if anything is to be or may be done on a day that is not a Business Day, then it must be done on the next Business Day;

(c) if a word or phrase is defined in this lease, its other grammatical forms have a corresponding meaning;

Draft

(d) words importing the singular include the plural and vice versa;

(e) words denoting a gender include any gender;

(f) an act or omission of any of the Tenant's Associates is deemed to be the act or omission of the Tenant;

(g) a provision of this lease prohibiting the Tenant from doing or requiring it to do any act or thing requires the Tenant to ensure that the Tenant's Associates comply with that provision;

(h) the word 'person' includes corporations, firms, unincorporated associations, bodies corporate, authorities and agencies;

(i) the word 'including' (in any form) is not a word of limitation and is to be taken to be followed by the words 'but not limited to';

(j) the phrase 'this lease' means this document (including its schedules and annexures) as may be extended, renewed, assigned, varied and supplemented from time to time and includes:

    (i) the lease of the Premises granted by this document,

    (ii) any other leasehold interest created by this document; and

    (iii) any tenancy or other rights, whether legal or equitable, under which the Tenant occupies or is entitled to occupy the Premises including a tenancy for a fixed term, a holding over tenancy, a periodic tenancy or a tenancy at will;

(k) a reference to any schedule, annexure or attachment means a schedule, annexure or attachment to this lease;

(l) headings and clause numbers are for convenience only and do not affect the interpretation of this lease;

(m) a reference to a party to this lease includes the party's successors, permitted substitutes and permitted assigns and, where applicable, the party's legal personal representatives;

(n) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them occurring at any time;

(o) a reference to a body or Authority includes a reference, if that body or Authority ceases to exist, to the successor of that body or Authority or if there is no direct successor then to the body or Authority which has substantially the same functions and objects as the first body or Authority;

(p) no rules of construction will apply to the disadvantage of a party on the basis that that party was responsible for the preparation of this lease or any part of it; and

(q) an agreement, representation, covenant, warranty, guarantee or indemnity:

    (i) in favour of two or more persons, is in favour of them jointly and severally; and

    (ii) given or made by two or more persons, is given and binds them jointly and severally.

Draft

2 Grant of Lease

2.1 Lease

The Landlord grants a lease of the Premises to the Tenant for the Term subject to the terms and conditions in this lease and the Tenant accepts that grant.

2.2 Quiet Enjoyment

Subject to the Landlord's rights under this lease and while the Tenant complies with all its obligations under this lease, the Tenant may occupy and use the Premises without the Landlord's interference or interruption.

3 Rent

3.1 Payment of Rent

The Tenant must pay the Rent to the Landlord:

(a) on and from the Rent Commencement Date during the Term;

(b) by the instalments, on the dates and in the manner set out in Item 6;

(c) by electronic funds transfer to an account nominated by the Landlord or as the Landlord may otherwise direct in writing; and

(d) without any deduction or set-off.

3.2 Review of Rent

(a) The Rent will be reviewed on each Rent Review Date in accordance with this clause 3.

(b) The parties agree that:

(i) the reviewed Rent is payable from the relevant Rent Review Date regardless of when it is agreed or determined;

(ii) until the reviewed Rent is agreed or determined under this clause 3, the Tenant must continue to pay the Rent at the rate that applied immediately before the relevant Rent Review Date; and

(iii) when the reviewed Rent has been agreed or determined, the amount of any difference in Rent for the period from the relevant Rent Review Date until the next date on which an instalment of Rent is payable must be paid or allowed with that instalment.

(c) Notwithstanding anything else in this lease to the contrary, the Rent payable from and after a Rent Review Date must not be less than the Rent payable during the period immediately before the relevant Rent Review Date.

Draft

3.3 CPI Rent Review

The Rent payable from and after a CPI Rent Review Date will be the amount represented by A in the formula:

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

where:

B is the annual Rent payable immediately before the relevant CPI Rent Review Date (ignoring rent-free periods, rent reductions, concessions and incentives);

C is the CPI for the calendar quarter ending immediately before the relevant CPI Rent Review Date; and

D is the CPI for the calendar quarter ending immediately before the last Rent Review Date or, in the case of the first Rent Review Date, the Commencement Date.

3.4 Fixed ##% Rent Increase

The Rent payable from and after a Fixed ##% Rent Increase Date will be the Rent payable immediately before the relevant Fixed ##% Rent Increase Date (ignoring any rent-free periods, rent reductions, concessions and incentives), increased by ##%.

3.5 Market Rent Review

(a) The Rent payable from and after a Market Rent Review Date will be determined in accordance with this clause 3.5.

(b) Before the Market Rent Review Date, the Landlord may give the Tenant a written notice stating what the Landlord proposes to be the Rent payable as at the Market Rent Review Date (**Landlord's Notice**).

(c) The Rent payable from the Market Rent Review Date will be the amount specified in the Landlord's Notice if, within 10 Business Days of service of the Landlord's Notice, the Tenant:

(i) accepts that amount; or

(ii) does not object to that amount by written notice to the Landlord.

(d) If, within 10 Business Days of service of the Landlord's Notice, the Tenant notifies the Landlord (**Tenant's Notice**) that it objects to the Rent stated in the Landlord's Notice, then (subject to clause 3.2(c)) the Rent payable from that Market Rent Review Date will be the Market Rent determined:

(i) by a Valuer appointed by the Landlord and the Tenant jointly; or

(ii) if the Landlord and Tenant cannot agree on making that appointment within 15 Business Days of service of the Tenant's Notice, then by a Valuer nominated by the Chair of the API at the request of either the Landlord or the Tenant.

(e) Where a Valuer is appointed under clause 3.5(d):

(i) the Valuer will act as an expert and not as an arbitrator;

(ii) the decision of the Valuer is final and binding on the Landlord and Tenant; and

Draft

(iii) the fees and expenses in respect of the valuation or determination of the Market Rent must be paid equally by the Landlord and the Tenant.

(f) The Landlord is not deemed to forfeit its right to have the Rent reviewed from a Market Rent Review Date by reason of any failure to give notice of the proposed Rent in accordance with clause 3.5(b). The Landlord's Notice, no matter when given, will be valid and effective as if given in accordance with clause 3.5(b).

4 Other Payments by the Tenant

4.1 Utility Costs

(a) The Tenant must pay for all Utility Costs.

(b) If any Utility Cost is not separately metered or assessed against the Tenant or the Premises, the Tenant must pay a proportion of that Utility Cost, being:

(i) the Tenant's Proportion; or

(ii) if required by the Landlord (acting reasonably), such other proportion as the Landlord considers fair and reasonable having regard to the Tenant's use of the relevant Utility Service.

(c) The Tenant must pay each Utility Cost to the Landlord (or directly to the relevant Authority, if required by the Landlord) within 14 days of demand by the Landlord.

(d) If the Landlord does not provide any Utility Services to the Tenant, then the Tenant must make its own arrangements to obtain and purchase that Utility Service from a supplier.

(e) The Landlord is not required to install separate meters to measure the consumption of any Utility Service.

(f) The Landlord may at any time elect to supply any Utility Service directly to the Tenant. If the Landlord makes that election, then:

(i) the Tenant must purchase from the Landlord the Tenant's requirements for that Utility Service to the extent that it is supplied to the Tenant by the Landlord;

(ii) the amount payable for that Utility Service will be determined by the Landlord but will not exceed the maximum amount that the relevant Authority or usual supplier would ordinarily charge a single consumer (or in the case of electricity, a single non-contestable consumer) for that Utility Service in accordance with maximum pricing set by the relevant regulations or tariffs as applicable from time to time;

(iii) the Tenant must pay the Landlord for the Utility Services within 14 days of the Landlord billing the Tenant for that service; and

(iv) the Tenant must comply with the Landlord's general terms and conditions of supply as prescribed from time to time.

(g) If the Tenant fails to pay any Utility Cost to the Landlord in accordance with this clause 4.1, the Landlord may discontinue the supply of the relevant Utility Service until the Tenant has paid the relevant Utility Cost. The Tenant must also pay all costs and charges in respect of reconnecting the Utility Service.

Draft

4.2 Outgoings

(a) The Tenant must pay the Tenant's Proportion of Outgoings to the Landlord.

(b) The Landlord may require the Tenant to pay the Tenant's Proportion of any Outgoings item:

(i) by equal monthly instalments in advance on or before the first day of each month. If the Commencement Date is not the first day of a month, the first and last instalments during the Term will be proportionate; or

(ii) in full within 14 days of demand by the Landlord and either directly to the Landlord or to the relevant Authority or supplier.

(c) If the Landlord directs the Tenant to pay any item of Outgoings directly to a third party, then the Tenant must (on request) provide to the Landlord all receipts in respect of the payment.

(d) Prior to the commencement of each Financial Year, the Landlord will notify the Tenant of the Landlord's estimate of the Outgoings payable by the Tenant for that Financial Year.

(e) The Landlord may amend the Landlord's estimate at any time (by giving notice to the Tenant) and the Tenant must pay the Tenant's Proportion of the Outgoings in accordance with the Landlord's revised estimate from the date of receipt of that notice.

(f) Within 3 months after the end of each Financial Year or as soon as is practicable after that period, the Landlord must give the Tenant a statement of the actual Outgoings for that Financial Year. If the statement discloses that:

(i) the Tenant's Proportion of the actual Outgoings is more than the Outgoings that have been paid by the Tenant, then the Tenant must pay the deficiency to the Landlord within 14 days after the date of the Landlord's statement; or

(ii) the Tenant's Proportion of the actual Outgoings is less than the Outgoings that have been paid by the Tenant, then the Landlord must credit the excess to the Tenant in the next monthly statement or refund the difference.

(g) Clauses 4.2(d) to 4.2(f) only apply if the Landlord requires payment of any Outgoings in accordance with clause 4.2(b)(i).

(h) If there is a variation of any area relevant to the calculation of the amount of the Tenant's Proportion:

(i) the Tenant's Proportion is to be correspondingly varied from the date the variation of the area takes effect; and

(ii) the Landlord will notify the Tenant of the variation of the Tenant's Proportion and the effective date of the variation as soon as is practicable.

Draft

5 Security

5.1 Tenant may provide a Bank Guarantee or Security Bond

(a) On or before the date that the Tenant takes possession of the Premises, the Tenant must provide to the Landlord as security for the performance of the Tenant's obligations under this lease, either:

(i) a Bank Guarantee; or

(ii) a Security Bond.

(b) Clause 5.2 applies if the Tenant has provided a Bank Guarantee.

(c) Clause 5.3 applies if the Tenant has provided a Security Bond.

(d) Once the Tenant has provided a Bank Guarantee or a Security Bond, that type of security must be maintained (and cannot change) during the Term, unless the Landlord otherwise agrees in writing.

5.2 Bank Guarantee

(a) **Requirements of Bank Guarantee**

The Bank Guarantee must be an irrevocable and unconditional undertaking given by an Australian bank with a branch in Perth, Western Australia to pay the Security Amount to the Landlord on demand and which:

(i) has no expiry date; and

(ii) is otherwise on terms and conditions acceptable to the Landlord (acting reasonably).

(b) **Landlord may call on Bank Guarantee**

The Landlord may (at any time, including after this lease ends) call on the Bank Guarantee and apply all or part of the proceeds as its own property to:

(i) pay for any Rent or other money that is due but not paid by the Tenant; and

(ii) pay for any cost incurred or Loss suffered by the Landlord in connection with any breach of this lease by the Tenant (including costs in remedying that breach or in performing any obligation which the Tenant has failed to perform).

(c) **Replacement of Bank Guarantee**

(i) The Tenant must deliver a replacement Bank Guarantee to the Landlord:

(A) within 7 days after the Landlord has called on the Bank Guarantee;

(B) if required by the Landlord, within 7 days after each Rent Review Date; and

(C) if the Bank Guarantee has an expiry date, by no later than 30 days before that expiry date.

(ii) If the Tenant fails to replace the Bank Guarantee by the date that is 30 days before the expiry date, then (without affecting the Tenant's obligation to provide a replacement Bank Guarantee) the Landlord may

Draft

call on the existing Bank Guarantee and hold, use and apply the proceeds in the same manner as if those proceeds were a Bank Guarantee.

(iii) If the registered proprietor of the Land changes at any time during the Term, the Tenant must, when requested by the Landlord, replace the Bank Guarantee with a new Bank Guarantee in the name of the new registered proprietor.

(iv) If the Tenant is required to replace the Bank Guarantee, the Tenant must (if required by the Landlord) ensure that the Security Amount for the replacement Bank Guarantee is:

(A) equal to the sum of all relevant amounts specified in Item 10, calculated as at the latest date by which the Tenant is required to replace the Bank Guarantee; or

(B) if the Security Amount is only described as a fixed amount in Item 10, then equal to the Security Amount (as it was before the requirement to replace the Bank Guarantee) increased by the same percentage as the Rent has increased since the last time the Security Amount was increased, or if the Security Amount has not previously increased, then since the Commencement Date.

(v) The Security Amount will not, in any event, decrease.

(d) **Return of Bank Guarantee**

The Landlord must return to the Tenant what is left of the Bank Guarantee within 3 months after the later of:

(i) the date that the Tenant has vacated the Premises;

(ii) the date on which this lease has come to an end; and

(iii) the date upon which the Landlord has received all money it is entitled to receive under this lease and the Tenant is not liable to compensate the Landlord for any Loss.

(e) **Rights and liability not affected**

(i) The Tenant's liability is not limited to the amount of the Bank Guarantee.

(ii) The rights of the Landlord under this clause are in addition to all other rights and remedies of the Landlord under this lease, at law or in equity.

(iii) The Landlord’s rights under this clause 5.2 and under the bank guarantee are not affected or prejudiced by anything which might otherwise affect the bank guarantee in law or in equity including:

(A) the Landlord not enforcing this lease against the Tenant or any delay by the Landlord in enforcing this lease;

(B) any assignment, sub-lease, extension or variation of this lease;

(C) the termination or disclaimer of this lease;

(D) the death, insolvency, bankruptcy, liquidation or mental incapacity of the Tenant; or

Draft

(E) any failure or delay by the Landlord in registering this lease or registering, perfecting or maintaining any security interest created by this lease.

5.3 Security Bond

(a) **Amount of Security Bond**

The amount of the Security Bond must be equal to the Security Amount.

(b) **Landlord may use the Security Bond**

The Landlord may (at any time, including after this lease ends) use and apply all or part of the Security Bond as its own property to:

(i) pay for any Rent or other money that is due but not paid by the Tenant; and

(ii) pay for any cost incurred or Loss suffered by the Landlord in connection with any breach of this lease by the Tenant (including costs in remedying that breach or in performing any obligation which the Tenant has failed to perform).

(c) **Replacement of Security Bond**

(i) The Tenant must increase or replace the Security Bond:

(A) within 7 days after the Landlord has used all or any part of the Security Bond; and

(B) if required by the Landlord, within 7 days after each Rent Review Date.

(ii) If the registered proprietor of the Land changes at any time during the Term, the Tenant must do all things necessary to ensure that the new registered proprietor is given the rights to use the Security Bond in accordance with this clause.

(iii) If the Tenant is required to increase or replace the Security Bond, the Tenant must (if required by the Landlord) ensure that the Security Amount of the increased or replaced Security Bond is:

(A) equal to the sum of all relevant amounts specified in Item 10, calculated as at the latest date by which the Tenant is required to increase or replace the Security Bond; or

(B) if the Security Amount is only described as a fixed amount in Item 10, then equal to the Security Amount (as it was before the requirement to increase or replace the Security Bond) increased by the same percentage as the Rent has increased since the last time the Security Amount was increased or if the Security Amount has not previously increased, then since the Commencement Date.

(iv) The Security Amount will not, in any event, decrease.

Draft

(d) **Return of Security Bond**

The Landlord must return to the Tenant what is left of the Security Bond within 3 months after the later of:

(i) the date that the Tenant has vacated the Premises;

(ii) the date on which this lease has come to an end; and

(iii) the date upon which the Landlord has received all money it is entitled to receive under this lease and the Tenant is not liable to compensate the Landlord for any Loss.

(e) **Rights and liability not affected**

(i) The Tenant's liability is not limited to the amount of the Security Bond.

(ii) The rights of the Landlord under this clause are in addition to all other rights and remedies of the Landlord under this lease, at law or in equity.

(iii) The Landlord's rights under this clause 5.3 are not affected or prejudiced by anything which might otherwise have that effect, including:

(A) the Landlord not enforcing this lease against the Tenant or any delay by the Landlord in enforcing this lease;

(B) any assignment, sub-lease, extension or variation of this lease;

(C) the termination or disclaimer of this lease;

(D) the death, insolvency, bankruptcy, liquidation or mental incapacity of the Tenant; or

(E) any failure or delay by the Landlord in registering this lease or registering, perfecting or maintaining any security interest created by this lease.

(f) **Security interest under PPSA**

The Tenant acknowledges and agrees that the Landlord's rights in respect of the Security Bond under this clause 5 constitute a security interest in the Security Bond as the collateral under the PPSA.

6 Use of Premises

6.1 Positive Obligations

The Tenant must:

(a) only use the Premises for the Permitted Use and not for any other use without the prior written consent of the Landlord;

(b) at its cost, obtain and continue to hold all approvals, consents, licences and other authorisations that are required by any relevant Authority or Law to enable the Tenant to use the Premises for the Permitted Use;

(c) comply with each order, requisition or requirement of any Authority, the Landlord's insurer(s) and every Law (whether imposed on the Landlord or the Tenant) which arises or applies because of or in connection with:

(i) the Tenant's use of the Premises or the nature of its business;

Draft

(ii) the persons who are permitted to enter the Premises;

(iii) any works undertaken by the Tenant or at the Tenant's request;

(iv) the Tenant's Property; or

(v) any deliberate or negligent act or omission by the Tenant or the Tenant's Associates;

(d) comply with the reasonable requirements of the Landlord and the manufacturer in respect of any plant and equipment installed in the Premises;

(e) comply with all drills in respect of fire or emergency, whether or not such drills involve the evacuation of the Premises;

(f) use the Service Facilities only for the purpose for which they were designed;

(g) use all reasonable endeavours to keep the Premises free of infectious diseases and carry out regular preventative maintenance for such purposes by properly qualified persons;

(h) if the Tenant believes (or reasonably suspects) that there is any notifiable infectious disease in the Premises, the Tenant must promptly notify the Landlord and comply with the requirements of the Landlord; and

(i) ensure that the Tenant and the Tenant's Associates only park their vehicles in the areas set aside by the Landlord for the purposes of parking vehicles (if any).

6.2 Negative Obligations

The Tenant must not:

(a) discontinue its business or vacate the Premises other than in accordance with the terms of this lease;

(b) sell, supply or offer goods or services of a kind other than goods or services usually sold, supplied or offered in the Permitted Use;

(c) change the Trading Name without the Landlord's consent;

(d) install any equipment or do anything that overloads any of the Service Facilities;

(e) do or permit to be done anything which might negate, reduce or modify any warranty given by the manufacturer of any plant and equipment in the Premises or any insurance policy relating to it;

(f) do or allow to be done anything which may cause loss or damage to the Premises;

(g) hold any auction, fire or bankruptcy sale in the Premises;

(h) store any hazardous thing on the Premises except to the extent that is necessary for the conduct of the Permitted Use and in accordance with the Law;

(i) do or allow to be done on the Premises anything which may be a nuisance or annoyance or cause loss or damage to the Landlord or any other person;

(j) do anything in the Premises or on the Land which involves the use of asbestos, fibreglass wool or any other harmful material;

(k) do anything which would breach any relevant town planning scheme or zoning requirements or which would change the current zoning or permitted use of the Premises under any Law;

Draft

(l) smoke or allow any person to smoke in any internal or enclosed part of the Building (except in any zones specifically designated by the Landlord for smoking, if any);

(m) use the Premises as a residence;

(n) keep or allow to be kept any animals or pets at the Premises (except as may otherwise be expressly permitted by the Permitted Use); or

(o) use or allow the Premises to be used for any unlawful purpose.

6.3 Tenancy Mix

(a) The Landlord makes no representation, warranty or undertaking that the Tenant has any exclusive right to carry on the Permitted Use on the Land.

(b) The Landlord may allow other tenants or occupiers of the Land to carry on the same or similar use as the Permitted Use.

6.4 Landlord's Property

The Tenant acknowledges and agrees that:

(a) the Landlord owns the Landlord's Property;

(b) the Landlord has a security interest and a purchase money security interest in the Landlord's Property as the collateral under the PPSA; and

(c) the Landlord's Property is not intended, and will not be used, for personal, household or domestic use under this lease.

6.5 Work Health and Safety

For the purposes of the WHS Laws, the Tenant:

(a) is conducting a business or undertaking from the Premises;

(b) has management and control of the Premises and the Tenant's Property from the date that the Tenant is first given access to the Premises and at all times during the Term; and

(c) must comply with all relevant WHS Laws in connection with the Premises and the Tenant's Property.

6.6 Suitability of Premises

(a) The Landlord does not warrant, expressly or impliedly, that the Premises:

(i) is suitable for any purpose;

(ii) may be used for the Permitted Use; or

(iii) is now or will remain suitable or adequate for all or any of the Tenant's purposes.

(b) Except as may otherwise be expressly provided for in this lease:

(i) the Premises is taken by the Tenant under this lease on an 'as is' basis;

(ii) the Tenant occupies and uses the Premises at its own risk;

(iii) the Tenant acknowledges and declares that in entering into this lease, it has not relied on any promise, representation, undertaking or warranty given by or on behalf of the Landlord as to the suitability of the Premises

Draft

or its facilities, finishes, amenities or Service Facilities for any business or undertaking to be carried on or conducted there; and

(iv) this lease is not affected and the Landlord is not responsible or liable to the Tenant in any way if at any time:

(A) the Permitted Use is not permitted (or becomes prohibited) by any Law or Authority; or

(B) the Tenant is unable to obtain or maintain any necessary permit, licence or other approval that is required for the Permitted Use.

6.7 Access Conditions

Notwithstanding anything else in this lease to the contrary, the Tenant will not be entitled to access and use the Premises until the Tenant has first:

(a) executed this lease and procured the Guarantor to execute this lease;

(b) provided at least one original executed version to the Landlord (or such other number as the Landlord requires);

(c) paid the deposit pursuant to any offer to lease the Premises made between the Landlord and the Tenant;

(d) paid all costs that the Tenant is required to pay under clause 33 (if any);

(e) provided all insurance certificates to the Landlord in accordance with this lease; and

(f) provided a Bank Guarantee or Security Bond (as the case may be) to the Landlord.

7 Care of the Premises

7.1 General obligations

The Tenant must at its own expense and at all times keep and maintain the Premises in good, clean and substantial repair and condition, excluding:

(a) fair wear and tear; and

(b) repairs or replacements of a structural or capital nature unless they are required because of:

(i) the Tenant's or the Tenant's Associates' use or occupation of the Premises;

(ii) any works or alterations carried out by or at the request of the Tenant; or

(iii) any act, omission, default or negligence of the Tenant or the Tenant's Associates.

7.2 Cleaning

The Tenant must:

(a) keep the Premises clean and tidy and free from dirt to the satisfaction of the Landlord and each relevant Authority;

(b) store all waste, garbage and refuse in a proper and hygienic manner in the Premises and attend to its proper disposal; and

Draft

(c) comply with the Landlord's reasonable directions in connection with cleaning and waste disposal.

7.3 Repair or replace

The Tenant must immediately:

(a) repair and make good any damage to the Land, Building or the Premises that is caused by the Tenant or the Tenant's Associates and where the Tenant cannot adequately repair the damaged item (as determined by the Landlord), then replace that item with a new item;

(b) replace all broken or damaged window frames and glass in the doors, walls, windows or any other part of the Premises, irrespective of the cause of breakage or damage unless broken or damaged by the Landlord, its employees, agents or contractors; and

(c) replace any lights (including bulbs, LEDs and fluorescent tubes) which are not working properly, with the same specification, luminosity and colour as the original.

7.4 Floors and coverings

(a) The Tenant must:

(i) maintain all exposed floors and the Floor Coverings in good and clean condition;

(ii) not overload the floors or Floor Coverings. The Landlord may prescribe the weight limit and position of heavy articles or goods;

(iii) promptly make good all damage or deterioration to the floors and Floor Coverings (excluding fair wear and tear) that is caused by the Tenant or the Tenant's Associates; and

(iv) protect the Floor Coverings by providing protective mats, covers or devices approved by the Landlord under heavy items or equipment, under the legs and casters of chairs and furniture in the Premises and at such other places in the Premises reasonably nominated by the Landlord.

(b) If the Tenant fails to comply with its obligations under clause 7.4(a), any damage or deterioration caused by wear and tear will not be fair wear and tear.

7.5 Refurbishment

(a) The Landlord may require the Tenant to refurbish the Premises in accordance with this clause 7.5 by giving notice to the Tenant (**Refurbishment Notice**).

(b) The Landlord may give a Refurbishment Notice at any of the following times:

(i) at such times as the Landlord may reasonably require, but not more often than once every 5 years; or

(ii) if the Tenant has failed to keep the Premises to a standard and condition that is consistent with the proper compliance with the Tenant's obligations under this lease, at such times as the Landlord may reasonably require.

(c) The Refurbishment Notice may require the Tenant to carry out all or any of the following works:

(i) Repaint all Painted Surfaces;

Draft

(ii) replace or upgrade any part of the Façade, Tenant's Signage or lighting that has become worn, damaged or deteriorated or is no longer in keeping with the standard and quality of the Building;

(iii) replace any Floor Coverings, window treatments and other furnishings and decorations which have become worn, damaged or deteriorated; and

(iv) any other works consistent with these works which the Landlord nominates (acting reasonably).

7.6 Air Conditioning Plant

(a) **Exclusive Air Conditioning Plant**

(i) This clause 7.6(a) applies in respect of any Air Conditioning Plant that exclusively services the Premises.

(ii) The Tenant must keep the Air Conditioning Plant in a well maintained and hygienic condition and pay the costs of maintaining, repairing and operating it.

(iii) The Tenant must enter into a preventative maintenance contract with a suitably qualified and experienced air conditioning maintenance contractor approved by the Landlord and must:

(A) pay all fees and charges under that contract in respect of routine preventative maintenance and servicing when due; and

(B) produce to the Landlord a copy of the preventative maintenance contract.

(iv) Despite clause 7.6(a)(iii), the Landlord may elect to enter into service and maintenance contracts regarding the installation, removal, maintenance, repair, operation and testing of the Air Conditioning Plant at the Tenant's cost, and if the Landlord makes this election, the Tenant must pay to the Landlord on demand any amounts payable under the service and maintenance contracts.

(v) If the Tenant owns or has installed the Air Conditioning Plant, then the Tenant is responsible for any costs of a capital nature and for the replacement of any parts of that Air Conditioning Plant which has come to the end of its serviceable life.

(b) **Common Air Conditioning Plant**

(i) This clause 7.6(b) applies in respect of any Air Conditioning Plant that services the Premises as well as other premises on the Land.

(ii) The operation of the Air Conditioning Plant remains in the control of the Landlord and the Landlord will operate it to ensure a reasonably uniform standard of air conditioning throughout those parts of the Building that are serviced by the Air Conditioning Plant.

(iii) The Landlord must arrange and keep in force a maintenance contract with a third-party contractor for the regular servicing and maintenance of the Air Conditioning Plant, the costs of which will be paid by or recouped from the Tenant as part of the Outgoings.

(iv) The Tenant must not in any way adjust, or interfere or tamper with, the Air Conditioning Plant unless expressly authorised by the Landlord.

Draft

7.7 Drains, Pipes and Waste

The Tenant must:

(a) not do anything to cause any Pipes to become blocked, cracked or compromised;

(b) immediately notify the Landlord of any cracked or leaking Pipes and use all reasonable endeavours to promptly stop any leakage; and

(c) employ licensed tradespersons to clear any blockages which may occur within Pipes.

7.8 Service Facilities

(a) The Tenant must not use the Service Facilities for purposes other than those for which they were designed.

(b) If the Landlord upgrades any Service Facility at the request of the Tenant or to accommodate any equipment which the Tenant wishes to install, the Tenant must pay to the Landlord, within 7 days of demand, the costs of the alterations or upgrade.

(c) The Tenant will have no claim against the Landlord or be entitled to terminate this lease solely because:

(i) a Service Facility fails to operate properly; or

(ii) the Landlord shuts down or removes any Service Facility so as to repair, maintain or replace it or because of the provisions of any Law or the requirement of any Authority.

(d) The Tenant must not install in the Premises anything which will or may (in the reasonable opinion of the Landlord) interfere with the performance of any Service Facility. The Tenant must immediately remove any such equipment upon request by the Landlord.

(e) If the Tenant installs anything that covers or obstructs any Service Facility, then the Landlord may remove that cover or obstruction (including for the purposes of accessing that Service Facility under clause 12.1) and the Landlord is not responsible for making good or reinstating that cover or obstruction.

7.9 Safety and Security of the Premises

(a) The Tenant must:

(i) keep the Premises (including all doors and windows) secure when the Premises is not occupied;

(ii) not change any of the locks without the Landlord's written consent; and

(iii) use its best efforts to protect the Premises from unlawful entry, theft and vandalism.

(b) The Tenant:

(i) must not make any duplicate Keys unless it has obtained the Landlord's prior written approval;

(ii) indemnifies the Landlord against all Loss for which the Landlord is, or may become, liable arising from any Key becoming lost, stolen, destroyed or damaged; and

Draft

(iii) must return to the Landlord all Keys on the expiration or earlier determination of this lease.

7.10 Pest control

The Tenant must take reasonable precautions to keep the Premises free of rodents, vermin, animals, birds and insects (including termites and borers) and, if required by the Landlord, employ from time to time pest controllers and exterminators approved by the Landlord.

7.11 Garden maintenance

The Tenant must keep and maintain all garden and landscaping areas of the Premises (if any) in a tidy and good condition including, providing proper and regular watering and care for any grass, trees or plants on the Premises to the reasonable satisfaction of the Landlord.

7.12 Tenant to report damage and defects

The Tenant must promptly notify the Landlord of any damage to the Premises or of any defective operation of any of the Landlord's Property or the Service Facilities.

8 Alterations and Tenant's Works

8.1 Alterations to Premises

(a) The Tenant must not:

(i) add to, remove from or alter any part of the Premises or the Building (including any Floor Coverings, the Service Facilities or the Landlord's Property); or

(ii) install any item, fixture, fitting, equipment or Floor Covering,

unless the Tenant has obtained the prior written consent of the Landlord.

(b) As a pre-condition to any consent, the Landlord may require the Tenant to:

(i) prepare and provide plans and specifications for the works for the Landlord's approval and not commence any works until the Landlord has approved those plans and specifications;

(ii) pay for the reasonable costs and expenses of the Landlord in supervising or inspecting the work; and

(iii) carry out any consequential work that may be reasonably required having regard to the work proposed by the Tenant.

(c) If any work does not comply with the Work Standards, the Tenant must immediately carry out all required alterations, repairs or replacements so that it becomes compliant.

(d) If required by the Landlord, the Tenant must (at the Landlord's election):

(i) supply and erect hoardings of a type and in the location approved by the Landlord before commencing any works and remove those hoardings once those works are complete; or

(ii) pay the cost to the Landlord of supplying, erecting and removing those hoardings.

(e) If:

Draft

(i) any work carried out by the Tenant (including any initial fitout works) requires, or results in the need for, any repair, alteration or addition to any Service Facility or any part of the Building or the Premises (as reasonably determined by the Landlord or as required by any Authority or Law); or

(ii) the Landlord's insurer requires any repair, alteration or addition to any Service Facility or any part of the Building or the Premises because of the Tenant's use of the Premises or the Building,

then:

(iii) the Landlord may carry out those works at the Tenant's cost and the Landlord may require the Tenant to make payment of the Landlord's reasonable estimate of the cost of those works prior to the Landlord commencing the works; or

(iv) the Landlord may require the Tenant to carry out those works at the Tenant's cost.

(f) The Tenant must pay for the Landlord's costs in connection with:

(i) engaging any architect, engineer or suitably qualified consultant to review the Tenant's plans and specifications;

(ii) any work carried out by the Landlord at the request of the Tenant or which is required because of any work carried out by the Tenant;

(iii) any work that the Tenant has not done properly; and

(iv) any work that is required to make the Premises or Building compliant with all relevant Laws and the requirements of each relevant Authority to the extent that any work done by the Tenant has caused the Premises or Building to not be compliant.

8.2 Work Standards

The Tenant must comply with the Work Standards when carrying out any work on the Premises or on any part of the Land (including any repair, maintenance, replacement or alteration work).

9 Signage

(a) The Tenant must not display, place or install any Tenant's Signage on any part of the Premises, the Building or the Land unless it has first:

(i) obtained all necessary approvals from each relevant Authority and provided a copy of those approvals to the Landlord; and

(ii) obtained the Landlord's written approval (including to the design, location and content of any Tenant's Signage), which approval must not be unreasonably withheld or delayed.

(b) The Tenant must:

(i) install the permitted Tenant's Signage in accordance with the Work Standards;

(ii) maintain its Tenant's Signage in good and clean condition and repair; and

Draft

(iii) comply with all Laws and the requirements of each relevant Authority in respect of its Tenant's Signage.

(c) If any Tenant's Signage erected on the exterior of the Premises with the Landlord's consent is powered or illuminated, the Tenant must:

(i) ensure that any light illuminating the sign remains on during such times set by the Landlord from time to time; and

(ii) if required by the Landlord, install and connect a separate electricity meter to measure the electricity consumed by the sign.

(d) Despite anything else in this lease to the contrary, the Landlord may grant a licence to another person to erect, install and maintain signage on any part of the Land or the Building provided that the Premises is not a standalone premises and the signage does not unreasonably interfere with the quiet enjoyment of the Premises by the Tenant.

10 Management and Control of the Land

10.1 Use of Common Areas

The Tenant may use the Common Areas but only for the purpose for which they were designed and subject to the terms of this lease.

10.2 Positive Obligations

The Tenant must:

(a) comply with all reasonable directions from or rules made by the Landlord in relation to the use of the Common Areas; and

(b) pay the costs of repairing and making good any damage to the Common Areas or to any other parts of the Building that is caused by or contributed to by the act or omission of the Tenant or the Tenant's Associates and must indemnify the Landlord against all Loss for which the Landlord is, or may become, liable in respect of the damage.

10.3 Negative Obligations

The Tenant must not:

(a) do, or allow anything to be done, on the Common Areas or any other area that is unlawful;

(b) do anything which might cause or allow the Common Areas or any other area to:

(i) deteriorate or become impaired except for fair wear and tear;

(ii) be in a condition other than a good and clean condition; or

(iii) be obstructed;

(c) solicit business, or distribute or display advertising material of any nature, in the Common Areas without the Landlord's prior approval; or

(d) leave or store anything in or on the Common Areas without the prior written consent of the Landlord.

Draft

10.4 Control

(a) The Common Areas and all other parts of the Land (other than leased or licensed areas) are subject to the Landlord's control at all times.

(b) The Landlord may at any time during the Term:

(i) construct, maintain and operate lighting, features and other facilities on the Land (including any artwork);

(ii) police the Common Areas;

(iii) exclude and restrain any person from entering upon or from using or occupying any part of the Land (other than leased or licensed areas) if in the opinion of the Landlord or the Managing Agent, their presence or behaviour:

(A) threatens the safety or comfort of or causes a nuisance to tenants or other visitors to the Land;

(B) is unlawful; or

(C) is likely to damage property or cause injury;

(iv) change the arrangement of any part of the Land (other than leased or licensed areas) and any facilities on them;

(v) to the extent required by the Landlord (acting reasonably), close all or any portion of the Land (other than leased or licensed areas) or facilities in them for the purpose of:

(A) building, reconstruction, repair or any similar purpose; or

(B) preventing a dedication of the area in question, or the accrual of any rights in that area, to any person or the public.

11 Car Parking

11.1 Car Parking and Access Areas

(a) The Landlord may at any time:

(i) designate any part of the Car Parking and Access Areas for tenant and employee parking only and reserve any part of the Car Parking and Access Areas for customer parking only. The Tenant must comply with those designations or reservations;

(ii) exclude any person (including the Tenant) from using any part of the Car Parking and Access Areas;

(iii) enter into any arrangement or agreement with any person in connection with the supervision, management or control of parking in the Car Parking and Access Areas; and

(iv) impose or allow to be imposed charges for parking, including for any breach of any parking restrictions.

(b) If any part of the Car Parking and Access Areas comprise part of the Common Area, the Tenant acknowledges and agrees that the car bays in those areas are not for

Draft

the exclusive use of the Tenant and may be used by other tenants or occupiers of the Land and their invitees, visitors, customers and clients.

11.2 Tenant's obligations

The Tenant must:

(a) only use the Car Parking and Access Areas for the purpose for which they were designed;

(b) ensure that the Tenant's and the Tenant's Associates' vehicles are parked within the car bays and do not obstruct any of the access ways or areas;

(c) except in the case of emergency repairs, not use the Car Parking and Access Areas for cleaning or repairing vehicles; and

(d) not allow any vehicle, so far as it is within the Tenant's reasonable control, to drip oil or any other harmful substance on any part of the Land.

11.3 Risk and liability

(a) The parking of motor vehicles on any part of the Land will at all times be at the risk of the Tenant.

(b) The Landlord is not liable for any loss or damage to any personal property suffered by the Tenant or the Tenant's Associates arising out of:

(i) the Tenant's or the Tenant's Associates' use of the Car Parking and Access Areas; or

(ii) any act or omission by the Tenant or the Tenant's Associates or any act or omission by any other person, whether or not they are authorised to use the Car Parking and Access Areas.

(c) The Tenant indemnifies the Landlord from and against all Loss (including injury to any person) to the extent that it is caused by the Tenant or the Tenant's Associates whilst using the Car Parking and Access Areas or operating any vehicle on the Land.

12 Access by the Landlord

12.1 Access

(a) At any time during the Term, the Landlord and its contractors, employees and agents may enter the Premises to:

(i) view the state of repair of, and maintain or repair, the Premises or any Service Facility;

(ii) take photos or videos for any property condition report or any sale or leasing campaign;

(iii) carry out any repairs, alterations, renovations, extensions or works;

(iv) abate any actual or potential hazard or safety issue;

(v) comply with any Law;

(vi) remedy any breach by the Tenant of this lease; or

(vii) do anything else which the Landlord is required by or is permitted to do under this lease.

Draft

(b) The Landlord will give the Tenant at least 24 hours' notice before entering the Premises under this clause 12.1 (except in the case of an emergency when no notice is required).

12.2 Inspection by prospective tenants or purchasers

(a) At all times during the Term, the Tenant must permit the Landlord and its contractors, employees and agents to:

(i) enter the Premises to show it to prospective purchasers; and

(ii) affix and exhibit any signs indicating that the Premises or the Land is available for purchase.

(b) Within 6 months before the end of the Term, the Tenant must permit the Landlord and its employees and agents to:

(i) enter the Premises to show it to prospective tenants; and

(ii) affix and exhibit any signs indicating that the Premises is available for lease.

(c) The Landlord will give the Tenant at least 24 hours' notice before entering the Premises under this clause 12.2.

12.3 General

(a) The Landlord must use reasonable endeavours not to unreasonably and materially interfere with the Tenant's use or occupation of the Premises when accessing the Premises under this clause.

(b) If the Landlord is permitted to access the Premises under this lease and the Tenant does not allow it within the required time, then the Landlord may enter the Premises by any means for the purposes of exercising its rights under this lease.

13 Risk and Insurance

13.1 Landlord's insurance

(a) At all times during the Term, the Landlord must take out and maintain an insurance policy covering loss and damage to the Building and the Premises, resulting from fire, rain, storm and all other normal and usual risks, to their full insurable value.

(b) The Landlord may, from time to time during the Term, take out and maintain any other policy of insurance which the Landlord reasonably considers to be necessary or desirable, including:

(i) a public liability insurance policy in connection with the Premises or the Land; and

(ii) a policy for loss of rentals and other money that is payable under this lease for any reason (including as a result of default by the Tenant).

(c) If a claim is the result of any breach, act or omission of the Tenant or the Tenant's Associates, the Tenant is liable for and must pay for all excesses on each insurance claim made by the Landlord.

Draft

13.2 Tenant's insurance

(a) The Tenant must at all times during the Term, take out and maintain the following policies of insurance:

(i) a policy of public liability (and, if the Tenant manufactures or distributes products other than by retail, then also products liability) for at least $20 million for any one occurrence and not less than $20 million in the annual aggregate for personal injury and/or property damage arising from the acts and omissions of and the use and occupation of the Premises or the Land by the Tenant and Tenant's Associates;

(ii) a policy insuring the Tenant's Property and any other property for which the Tenant has responsibility under this lease against loss or damage from any insurable cause whatsoever for the full replacement value;

(iii) an insurance policy in respect of plate glass (including all external and internal glass fixed to and forming part of the Premises and window frames) for the market value replacement cost;

(iv) a policy of employer's indemnity insurance including workers' compensation insurance for all of the Tenant's employees employed in, about or from the Premises;

(v) whenever there are works being effected on or to the Premises, a contractor's all risk policy to the full value of the works being conducted which policy may be maintained by the Tenant's contractor on behalf of the Tenant; and

(vi) any other insurance reasonably required by the Landlord.

(b) The Tenant must:

(i) pay all premiums and other money payable in respect of each insurance policy when they are due and payable;

(ii) provide to the Landlord a copy of each insurance policy or Certificate of Currency for each insurance policy under this clause 13.2:

(A) no later than 7 days before the Commencement Date;

(B) within 7 days after each policy is renewed; and

(C) on written request by the Landlord; and

(iii) not cancel or reduce the amount of cover of any insurance policy under this clause 13.2 without the Landlord's prior written approval (which approval the Landlord shall not unreasonably withhold).

(c) The Tenant must ensure that each policy of insurance it must take out under this lease:

(i) is with an independent and reputable insurer;

(ii) is for an amount and covers risks and contains conditions, which are reasonably acceptable to the Landlord and its insurer;

(iii) has no unusual exclusions unless first approved by the Landlord (acting reasonably); and

Draft

(iv) is taken out in the name of the Tenant and noting the rights and interests of the Landlord (and those of the Landlord's mortgagee (if any)).

(d) If any loss or damage occurs to any of the Landlord's Property or the Tenant's Property which is covered by insurance effected by the Tenant, the Tenant must promptly replace, repair or reinstate the damaged or destroyed property, utilising the proceeds from the insurance.

13.3 Tenant's conduct affecting insurance

(a) The Tenant must notify the Landlord immediately if an insurance policy required by this lease is cancelled or an event occurs which may allow a claim or affect rights under any of those policies.

(b) The Tenant must not and must not permit anything to be done or omitted to be done which may or does:

(i) make any insurance required under this lease to become void or voidable; or

(ii) increase any premium payable.

(c) Without limiting any other provision of this lease or any other rights of the Landlord, if the Tenant does or omits to do an act which results in the increase of any insurance premiums payable by the Landlord, the Tenant must immediately on demand pay those increased premiums.

(d) If, at any time, the Landlord (acting reasonably) is not able to take out or maintain any insurance under clause 13.1(a) (as certified by the Landlord) due to:

(i) the use of the Premises by the Tenant; or

(ii) any act or breach of this lease by the Tenant or the Tenant's Associates,

then:

(iii) the Landlord will promptly notify the Tenant of that issue;

(iv) the parties must promptly confer in good faith to seek to resolve that issue (provided that nothing in this clause requires the Landlord to pay any money or carry out any works that would not otherwise be required under this lease);

(v) if required by the Landlord, the Tenant must cease that part of its business operations which are causing the issue; and

(vi) if the parties are not able to agree on a resolution to the issue within 20 Business Days after the Landlord has notified the Tenant under clause 13.3(d)(iii), the Landlord may terminate this lease by written notice to the Tenant, in which case the Tenant must vacate the Premises and comply with all of the Make Good Obligations.

13.4 Indemnity by Tenant

(a) The Tenant is liable for (and indemnifies the Landlord against) all Loss for which the Landlord is, or may become, liable in connection with:

(i) the Tenant's use and occupation of the Premises or the Land;

(ii) any breach of this lease by, or act or omission of, the Tenant or the Tenant's Associates;

Draft

(iii) any injury to, or death of, any person on the Premises;

(iv) any works performed by the Tenant under this lease; or

(v) anything entering, leaving or affecting the Premises within the control of the Tenant.

(b) The Tenant's liability and indemnity under clause 13.4(a) does not apply to the extent that any Loss arises out of the Landlord's negligence or breach of this lease.

14 Assignment and Sub-letting

14.1 No dealings without consent

The Tenant must not assign, transfer, grant a licence, sub-lease, part with possession of or allow anyone to use or occupy any part of the Premises or the benefit of this lease without the prior written consent of the Landlord on each occasion.

14.2 Assignment

(a) The Landlord will not unreasonably withhold its consent to an assignment by the Tenant of the whole of the Premises and the benefit of this lease, if:

(i) the Tenant proves to the Landlord's reasonable satisfaction that the proposed assignee:

(A) is respectable, solvent and of at least the same financial standing in Australia as the Tenant;

(B) can meet the obligations of the Tenant under this lease; and

(C) has business experience and skills equal to or greater than the Tenant;

(ii) the assignment will not result in any Law applying to this lease, which does not otherwise apply and which limits the Tenant's obligations or the Landlord's rights under this lease;

(iii) the proposed assignment does not result in a change in the Permitted Use;

(iv) the Tenant withdraws any caveat lodged by it against the Land;

(v) the Tenant executes and procures the assignee to execute a deed of assignment of this lease in the form required and prepared by the Landlord;

(vi) the Rent and other payments then due or payable by the Tenant under this lease have been paid and there is no existing unremedied breach by the Tenant of the terms of this lease unless they have been waived by the Landlord; and

(vii) if requested by the Landlord, the assignee provides or procures the provision of:

(A) a bank guarantee or security bond for an amount and otherwise on terms acceptable to the Landlord; and

(B) in the case of a corporate or trust assignee, director, shareholder or beneficiary guarantees and indemnities which are acceptable to the Landlord,

Draft

as security for the performance of the obligations to be assumed by the assignee under this lease.

(b) If this lease is assigned with effect after a Rent Review Date and the Rent payable from that Rent Review Date has not yet been agreed or determined under this lease, then as a condition of obtaining the Landlord's consent to the assignment the Tenant must, if required by the Landlord, deposit in a trust account held by the Managing Agent as stakeholder an amount determined by the Landlord in order to provide security for any additional liability for Rent during that period.

14.3 Sub-Letting

(a) The Landlord will not unreasonably withhold its consent to a sub-lease of part or the whole of the Premises, if:

(i) the Tenant proves to the reasonable satisfaction of the Landlord that the proposed sub-tenant is solvent, responsible, respectable and of sound financial standing;

(ii) the proposed sub-tenant will not use the Premises (or that part of the Premises to be sublet) for any use which is not a Permitted Use;

(iii) the sub-tenant executes a sub-lease to which the Landlord is a party in a form prepared or approved by the Landlord and its solicitors, which approval will not be unreasonably withheld or delayed;

(iv) the sub-lease will not result in any Law applying to this lease, which does not otherwise apply and which limits the Tenant's obligations or the Landlord's rights under this lease; and

(v) the terms of the sub-lease include the terms of this lease as applicable and are not inconsistent with this lease.

(b) Any rent payable under the sub-lease must not be used as evidence of market rent under this lease or otherwise, in respect of the Premises.

(c) The Tenant indemnifies the Landlord for any Loss for which the Landlord is, or may become, liable as a result of or in connection with a sub-lease or a sub-tenant's use or occupation of the Premises.

14.4 Change in Control

(a) In this clause 14.4, **Change in Control** means anything which results in:

(i) more than 50% of the shares which have a right to vote at general meetings changing; or

(ii) more than 50% of the officeholders of the Tenant changing.

(b) If the Tenant is a corporation the Tenant must:

(i) provide reasonable prior notice (being not less than 20 Business Days') before any proposed Change in Control; and

(ii) not allow or give effect to any Change in Control before obtaining the Landlord's prior written consent.

(c) The Landlord will not unreasonably withhold its consent to a Change in Control if:

(i) the Tenant is not in default under this lease;

Draft

(ii) the Tenant proves to the Landlord's reasonable satisfaction that the Change in Control will not:

(A) detrimentally affect the financial position of the Tenant;

(B) detrimentally affect the relevant business experience and skill of the Tenant and its officers; or

(C) result in any diminution of the Tenant's ability to comply with the terms and conditions of this lease.

(d) This clause 14.4 does not apply:

(i) to any change in control of a holding company or subsidiary (as defined in the *Corporations Act 2001* (Cth)) of the Tenant; or

(ii) if the Tenant is a company which is listed or is wholly owned by a company which is listed on the Australian Securities Exchange.

14.5 Costs and Liability

(a) Whether or not an assignment or sub-lease proceeds, the Tenant must pay to the Landlord, within 7 days of demand, all reasonable costs incurred by the Landlord in connection with:

(i) arranging the assignment or sub-lease (including, if relevant, marketing and leasing fees in connection with finding any assignee or sub-tenant);

(ii) any enquiries made by or on its behalf as to the responsibility, solvency, fitness and suitability of any proposed assignee or sub-tenant;

(iii) preparing, negotiating, executing and registering any assignment deed or sub-lease deed; and

(iv) obtaining any necessary consents to the assignment or sub-lease.

(b) The covenants and agreements on the part of any assignee or sub-tenant will be supplementary to this lease and will not in any way relieve or be treated as relieving the Tenant from its liability under this lease.

14.6 Property Law Act exclusions

Sections 80 and 82 of the *Property Law Act 1969* (WA) are expressly excluded from applying to this lease.

15 Environmental Protection

15.1 Definitions

In this clause 15 and this lease:

(a) **Contamination** includes any of the following conditions:

(i) having a substance present in, on, under or over the Premises at above background concentrations that presents, or has the potential to present, a risk of harm (whether directly or indirectly) to human health, the environment or any environmental value;

(ii) Pollution of the Premises;

(iii) environmental harm to the Premises; or

Draft

(iv) any condition applying to the Premises which is now or in the future defined by any statute or other law as constituting contamination, pollution, environmental harm or any similar concept;

(b) **Contaminated Sites Database** means the database maintained by the DER which records information on sites classified as:

(i) 'contaminated - remediation required';

(ii) 'contaminated - restricted use'; or

(iii) 'remediated for restricted use';

(c) **CSA** means the *Contaminated Sites Act 2003* (WA);

(d) **Dangerous Goods** means:

(i) substances or articles contained in the Australian Dangerous Goods Code, as updated, amended or modified; and

(ii) any other substances or articles that are a risk to public safety;

(e) **DER** means the Department of Water and Environmental Regulation or any other successor regulatory agency (if applicable) which is responsible for administering Environmental Laws;

(f) **EPA** means the *Environmental Protection Act 1986* (WA);

(g) **Environment** means all components of the earth, including:

(i) land, air, water, sound, odour, taste and climate;

(ii) any layer of the atmosphere;

(iii) any organic or inorganic matter;

(iv) any living organism; and

(v) natural or human made or modified features or structures,

and includes ecosystems and all elements of the biosphere;

(h) **Environmental Authorisation** includes a consent, authorisation, registration, agreement, certificate, permission, licence, approval, authority or exemption from, by or with a Authority;

(i) **Environmental Consultant** means:

(i) an independent and suitably qualified environmental consultant who is accredited in accordance with the CSA and/or the EPA or the equivalent legislation from time to time; and

(ii) who has at least 5 years' experience in Western Australia;

(j) **Environmental Exit Report** means the report described in clause 15.7(a);

(k) **Environmental Law** means any Law:

(i) relating to the storage, handling or transportation of rubbish, refuse or waste, Dangerous Goods or Hazardous Material; or

(ii) which has as one of its purposes or effects the protection of the Environment;

Draft

(l) **Environmental Notice** means any direction, order, demand or other requirement to take any action or refrain from taking any action in respect of the Premises or its use from any Authority in connection with any Environmental Law;

(m) **Hazardous Material** means material which, because it is toxic, corrosive, flammable, explosive or infectious or possesses some other dangerous characteristic, is potentially dangerous to the Environment when stored or handled; or when any part of the environment is exposed to it;

(n) **Pre-existing Contamination** means any Contamination of the Land which existed:

(i) immediately prior to the Commencement Date; or

(ii) if the Tenant (or a Related Party to the Tenant) occupied all or any part of the Premises under any prior lease, licence or arrangement, then in respect of the relevant part of the Premises, immediately before the commencement of that lease, licence or arrangement;

(o) **Pollution** has the same meaning as defined in the EPA;

(p) **Pollution Event** means an incident originating on the Premises, involving:

(i) any Contamination of the Premises or any land, air or waters in the vicinity of the Premises; or

(ii) the unlawful disposal of Hazardous Material, Dangerous Goods, rubbish, refuse or waste in a manner which harms or is likely to harm the Environment;

(q) **Remediation** and **Remediate** has the same meaning as defined in the CSA and includes:

(i) all required clean up, removal and disposal of Contamination; and

(ii) the management of any Contamination; and

(r) if a word or phrase is defined in the CSA or EPA, that word or phrase has the same meaning when used in this clause 15 unless that word or phrase is otherwise defined in this lease.

15.2 Pre-existing Contamination

Notwithstanding anything in this lease to the contrary, the Tenant is not liable or responsible for the Remediation of any Pre-existing Contamination.

15.3 Hazardous Materials and Dangerous Goods

The Tenant must:

(a) keep or store any Hazardous Material and Dangerous Goods in the Premises:

(i) only to the extent that it is reasonably necessary for the Permitted Use; and

(ii) in accordance with the requirements of each relevant Environmental Authorisation, Law and Authority;

(b) take all practicable precautions to ensure that no Hazardous Material or Dangerous Goods are spilled on the Premises or on any land in the vicinity of the Premises; and

Draft

(c) not discharge any trade effluent, refuse or waste, Hazardous Material or Dangerous Goods into any drain, Pipe or other part of the Premises except in accordance with the requirements of each relevant Environmental Authorisation, Law and Authority.

15.4 Comply with relevant Laws and requirements

Subject to clause 15.2, the Tenant must:

(a) comply with all Environmental Laws including obtaining all necessary Environmental Authorisations which are required for the Tenant to carry out the Permitted Use at the Premises;

(b) not do or omit to do any act which might directly or indirectly result in the revocation, suspension or modification of any Environmental Authorisations in relation to the Premises;

(c) comply with every Environmental Notice issued in respect of, or arising from, the Tenant's occupation or use of the Premises or the Tenant's or Tenant's Associates' act or omission, whether the notice is served on the Landlord or the Tenant; and

(d) comply with the requirements and directions of the Landlord regarding the Tenant managing its environmental impacts of this lease and the development, implementation and use of an environmental management plan.

15.5 Notification of Pollution Event

The Tenant must:

(a) immediately notify the Landlord if:

(i) a Pollution Event occurs; or

(ii) an Environmental Notice is served on the Tenant;

(b) allow the Landlord and its employees and contractors access to the Premises to conduct an inspection following a Pollution Event; and

(c) after receiving reasonable notice from the Landlord, allow the Landlord and its employees and contractors access to the Premises to conduct an environmental audit or inspection.

15.6 Prevention and Remediation of Contamination

(a) The Tenant must not:

(i) cause any Contamination to the Premises or any adjoining land; or

(ii) do anything which would cause the Premises or Land to be classified on the Contaminated Sites Database.

(b) The Tenant must:

(i) immediately Remediate all Contamination that is caused by the Tenant or the Tenant's Associates in accordance with all relevant Environmental Laws and the requirements of each relevant Authority and as otherwise may be reasonably required by the Landlord; and

(ii) make good any damage which it causes in so doing.

(c) The Tenant is responsible for all investigations and costs in connection with the Remediation of any Contamination that is caused by the Tenant or the Tenant's Associates.

Draft

15.7 Environmental Exit Report

(a) By no later than 3 months before the end of the Term or immediately on any sooner determination of it, the Tenant must cause an Environmental Consultant (who is approved by the Landlord, acting reasonably) to investigate the Premises for Contamination and prepare a report which:

(i) is in a form approved by the Landlord (acting reasonably) and is for the use and benefit of both the Tenant and the Landlord;

(ii) describes the presence of any Contamination at the Premises; and

(iii) describes the works necessary to Remediate any Contamination at the Premises that is over and above any Pre-existing Contamination.

(b) If the Environmental Exit Report identifies any Contamination (that is over and above any Pre-existing Contamination), then the Tenant must as soon as is possible:

(i) Remediate the Premises in accordance with the requirements of clause 15.6; and

(ii) provide a further report to the Landlord from the Environmental Consultant as to the final status of the Premises following its Remediation.

(c) If the Tenant fails to provide an Environmental Exit Report in accordance with clause 15.7(a), then the Landlord may do so at the Tenant's cost.

(d) If Tenant has not complied with any Remediation obligations under this clause 15 by the expiry or sooner determination of this lease, then the Landlord may (by notice to the Tenant) elect to:

(i) deem this lease to be a Holding Over Lease in accordance with clause 17 until the Tenant has completed all outstanding Remediation obligations, in which case the Tenant must not use the Premises for any purpose other than Remediation; or

(ii) carry out the outstanding Remediation obligations itself and recover the cost of cost in doing so as a liquidated debt payable by the Tenant to the Landlord on demand.

15.8 Indemnity and Release

The Tenant:

(a) releases and discharges the Landlord from all claims whatsoever in relation to any Contamination on the Premises (including any Pre-existing Contamination); and

(b) indemnifies the Landlord against all Loss for which the Landlord is, or may become, liable in connection with any Contamination which is caused by the Tenant or the Tenant's Associates.

15.9 Survival

This clause 15 survives the expiry of the Term or the termination of this lease and continues until complied with.

Draft

16 Option to Renew Lease

16.1 Grant of Option

The Landlord grants to the Tenant an option (or options, as the case may be) to renew this lease for each Option Term (**Option**).

16.2 Exercise of Option

(a) The Tenant may exercise the Option to renew this lease for the next Option Term by giving a written notice to the Landlord between 6 and 3 months before the expiry date of the then current Term.

(b) Time is of the essence in this clause.

16.3 When Option does not apply

Notwithstanding anything else in this clause 16 to the contrary, the Tenant cannot exercise an Option if:

(a) the Tenant does not give the Landlord notice of its exercise of that Option in the manner and during the period specified in clause 16.2;

(b) the Tenant is in breach of any of the terms or conditions of this lease at the time of giving the Option exercise notice and the Landlord has given written notice of that breach to the Tenant; or

(c) the Tenant has committed 3 or more breaches of this lease during the then current Term and the Landlord gave written notice of those breaches to the Tenant.

16.4 New Lease after exercise of Option

If the Tenant validly exercises an Option, then:

(a) the Landlord will grant to the Tenant a new lease for the relevant Option Term on the following terms and conditions:

(i) the new lease will commence and end on the commencement date and expiry date respectively of that Option Term, as specified in Item 5 (if any);

(ii) the commencing Rent will be determined in accordance with clause 3;

(iii) the Option for that Option Term will no longer apply; and

(iv) the terms and conditions of this lease will otherwise apply to the new lease;

(b) the Tenant must accept that new lease;

(c) the Tenant and each Guarantor (if any) must sign a deed prepared by the Landlord's solicitors recording the terms of the new lease, within 7 days after the Landlord has given that deed to the Tenant; and

(d) the parties are, in any event, bound by the new lease even if that deed is not executed correctly or at all.

17 Holding Over

(a) If the Tenant continues to occupy the Premises after the expiry of the Term (disregarding any holding over period) with the Landlord's approval, it does so as a holding over tenant in accordance with this clause 17 (**Holding Over Lease**).

Draft

(b) The Holding Over Lease is on the same terms as this lease except that:

(i) the Holding Over Lease will continue until it is terminated under clause 17(c) or otherwise under this lease;

(ii) the Holding Over Lease is subject to any changes which the Landlord requires as a condition of giving its approval to the Holding Over Lease (if any); and

(iii) the Tenant does not have any option to extend or renew the Holding Over Lease.

(c) Either the Landlord or the Tenant may terminate the Holding Over Lease by giving 1 month notice to the other.

(d) The Rent payable during the Holding Over Lease will be as follows:

(i) the commencing Rent will be the same as the Rent payable immediately before the commencement of the Holding Over Lease increased by ##%; and

(ii) if the Holding Over Lease continues for more than one year, the Rent will be increased by ##% on each 12 month anniversary of the commencement date of the Holding Over Lease.

(e) At the end of the Holding Over Lease, the Tenant must comply with all of the Tenant's obligations which are due to be performed on or before the expiry or sooner determination of this lease (including all of the Make Good Obligations).

18 Tenant's Obligations when Lease Ends

18.1 Vacate Premises

At the end of this lease, the Tenant must vacate the Premises and surrender all Keys to the Landlord.

18.2 Make Good Obligations

During the last 3 months of the Term or within 7 days after the sooner determination of this lease, the Tenant must:

(a) remove all Tenant's Property;

(b) remove all Tenant's Signage;

(c) at the election of the Landlord, return the Premises and Service Facilities to the condition and configuration they were in (subject to fair wear and tear):

(i) immediately prior to the Commencement Date; or

(ii) if the Tenant (or a Related Party to the Tenant) occupied all or any part of the Premises under any prior lease, licence or arrangement, then in respect of the relevant part of the Premises, immediately before the commencement of that lease, licence or arrangement;

(d) in respect of any alterations or additions made by or at the request of the Tenant to the Premises, Building, Land or Service Facilities:

Draft

(i) reinstate the Premises, Building, Land and Service Facilities (as the case may be) to the condition they were in before those alterations were made; and

(ii) make good any damage caused by the alterations or additions and their removal;

(e) if anything has been removed from the Premises, the Building or the Land by or at the request of the Tenant (including any Floor Coverings), install new items of the same type, pattern, specification, quality and colour as the original (or such other type, pattern, specification, quality and colour as may be approved by the Landlord in its discretion);

(f) Repaint all Painted Surfaces;

(g) professionally and thoroughly clean the Premises, including by:

(i) hot water extraction, steam cleaning or high pressure water cleaning as may be required by the Landlord; and

(ii) remove all rubbish, debris and waste created or caused by the Tenant or the Tenant's Associates;

(h) comply with all of the Tenant's obligations under clause 15;

(i) ensure that all Service Facilities on or within the Premises (including the Air Conditioning Plant and all power points, light switches and light fittings) are in good working order and condition (subject to fair wear and tear) and provide a report from a suitably qualified and licensed contractor to certify that they are in that condition;

(j) replace any lights (including bulbs, LEDs and fluorescent tubes) which are not working properly, with the same specification, luminosity and colour as the original;

(k) repair any damage to the Premises, Building or Service Facilities caused by the Tenant or the Tenant's Associates at any time, including in carrying out any Make Good Obligations; and

(l) leave the Premises and the Service Facilities in a condition that is consistent with the proper compliance with the Tenant's obligations under this lease.

18.3 Extent and Standard of Work

(a) The Tenant must carry out and complete the Make Good Obligations in accordance with the Work Standards.

(b) Without being under any obligation to do so, the Landlord may direct the Tenant:

(i) not to perform any one or more of the Make Good Obligations; and/or

(ii) to leave in the Premises any item which the Landlord considers to be a fixture or is integral or important to the Premises or its ongoing use (including any fitout or equipment).

(c) If the Landlord requires the Tenant to leave any item in the Premises under clause 18.3(b)(ii), then:

(i) the Tenant must leave that item in the Premises;

(ii) the Tenant must ensure that the item is free from all Encumbrances; and

(iii) that item will become the Landlord's property without the need for payment by the Landlord.

Draft

(d) An obligation to 'remove' something under clause 18.2 means an obligation to remove that thing from the Premises and the Land.

18.4 Abandonment of Tenant's Property

(a) If the Tenant does not remove any of the Tenant's Property from the Land within 7 days after the end of this lease (**Abandoned Property**), then:

(i) the Abandoned Property is deemed to be abandoned by the Tenant;

(ii) the Landlord may remove, retain, store and/or sell the Abandoned Property on such terms as the Landlord thinks fit and at the Tenant's cost and risk;

(iii) the Landlord may apply the sale proceeds towards any unpaid money that is owing by the Tenant under this lease; and

(iv) the Tenant must do all things necessary to ensure that the Landlord can exercise its rights under this clause 18.4.

(b) The Landlord is not liable in conversion or for any loss or damage in exercising its rights under this clause 18.4.

(c) The Landlord's rights under this clause 18.4 constitute a security interest in the Abandoned Property as the collateral under the PPSA.

18.5 Failure to comply with Make Good Obligations

(a) The Make Good Obligations survive the expiration or sooner termination of this lease.

(b) Without limiting any other right or remedy available to the Landlord, if the Tenant fails to comply with the Make Good Obligations by the end of this lease, then:

(i) the Tenant must pay to the Landlord (on demand) a daily fee equal to 1/365th of the Rent and all other money payable by the Tenant under this lease during the 12 months immediately before the date that this lease came to an end until those Make Good Obligations have been performed; and

(ii) the Landlord may perform all or any of those Make Good Obligations at the Tenant's expense.

19 Essential Terms

Each of the following obligations is an essential term of this lease:

(a) the Tenant's obligation to pay Rent and all other money under this lease at the time and in the manner specified in this lease; and

(b) the Tenant's obligation to provide a Security Bond or Bank Guarantee (clause 5); and

(c) the Tenant's obligations in clauses 6, 7, 8, 9, 13.2, 13.3, 14, 15 and 18.

This clause does not prevent any other obligation under this lease being an essential term.

Draft

20 Default and Termination

20.1 Interest on overdue money

If the Tenant does not pay any money payable to the Landlord under this lease or under a judgment obtained by the Landlord against the Tenant within 7 days of the due date for payment, the Tenant must pay interest to the Landlord on the outstanding amount:

(a) from the date the payment becomes due until the date the payment is made; and

(b) at a rate equal to 15.00% per annum,

which interest accrues daily and is payable on written demand by the Landlord.

20.2 Landlord's right to remedy

The Landlord may remedy any default or breach by the Tenant under this lease or failure to comply with any of the Tenant's covenants or obligations.

20.3 Payment of Landlord's Costs

The Tenant must immediately pay on demand all costs and expenses incurred by the Landlord (including solicitors' costs on a full indemnity basis):

(a) in remedying any default or breach of the Tenant;

(b) arising from any breach of this lease by the Tenant; and

(c) for the preparation and service of any notice required to be served under the provisions of the *Property Law Act 1969 (WA)*.

20.4 Termination

Without prejudice to any other rights the Landlord may have, the Landlord may immediately terminate this lease by:

(a) re-entering or retaking possession of the Premises (with or without notice to the Tenant); or

(b) giving written notice to the Tenant (with or without re-entering or re-taking possession of the Premises),

if:

(c) the Tenant does not pay any amount of Rent or any other money under this lease within 7 days of the due date, whether or not any formal or legal demand for payment has been made;

(d) the Tenant does not comply with any of its other obligations under this lease and that breach or non-compliance continues for 14 days after written notice is given to the Tenant by the Landlord requiring the Tenant to remedy the breach or non-compliance;

(e) the Tenant abandons, vacates or otherwise surrenders the Premises during the Term except as required by this lease;

(f) the Tenant repudiates this lease;

(g) subject to any Law to the contrary (including Chapter 5 of the *Corporations Act 2001* (Cth)), the Tenant or any Guarantor (if that Guarantor is a director or shareholder of the Tenant) is a corporation and:

Draft

(i) is deregistered or an order is made or a resolution passed that the corporation be wound up (except for the purpose of reconstruction or amalgamation with the written consent of the Landlord); or

(ii) an administrator, a liquidator, a receiver, a manager or an inspector is appointed in respect of the Tenant or any Guarantor or any of the assets of the Tenant or any Guarantor or an order is made or a meeting is called for the appointment of such a practitioner; or

(h) the Tenant is an individual and becomes bankrupt or takes or tries to take advantage of Part X of the *Bankruptcy Act 1966* (Cth).

20.5 Re-Entry

For the purposes of re-entry, the Landlord or its appointed agent or servant may enter the Premises by any means to resume possession of the Premises and may expel and remove all persons, furniture and other property from the Premises without being liable for any action for trespass, assault or other proceedings for doing so.

20.6 Prior breaches

The termination of this lease does not prejudice or affect any rights or remedies of the Landlord against the Tenant or any other party for any prior breach by the Tenant or that party of any obligation under this lease.

20.7 No waiver

The acceptance by the Landlord of any late payment or part payment or arrears is not a waiver of the Tenant's obligation to pay the full Rent and other money in accordance with this lease.

20.8 Landlord may re-lease

If the Tenant abandons or vacates the Premises prior to the expiration of the Term without the Landlord's consent and without lawful excuse, the Landlord may (before terminating this lease):

(a) seek and find an alternative tenant for the Premises and permit prospective tenants to inspect the Premises;

(b) renovate, restore and clean the Premises;

(c) change the locks and secure the Premises; or

(d) accept the Keys to the Premises,

without terminating or being deemed to have terminated this lease by re-entry or otherwise or accepted a surrender of this lease and such action will not constitute forfeiture or a waiver of any of the Landlord's rights under this lease or at common law.

20.9 Entitlement to Damages

(a) The Landlord may recover damages against the Tenant and the Tenant must compensate the Landlord for the Loss suffered by the Landlord as a result of any repudiation or breach of this lease (whether or not this lease is terminated for that breach).

(b) The Landlord's entitlement under this clause is in addition to any other remedy or right to which the Landlord is entitled (including termination of this lease).

(c) The Landlord's entitlement to recover damages is not affected or limited even if:

Draft

(i) the Tenant abandons or vacates the Premises;

(ii) the Landlord elects to re-enter or terminate this lease;

(iii) the Landlord accepts the Tenant's repudiation; or

(iv) the party's or parties' conduct constitutes a surrender by operation of law.

20.10 Mitigation of Damages

If the Landlord terminates this lease, the Landlord must take reasonable steps to mitigate its damages. The Landlord's conduct to mitigate damages will not by itself constitute acceptance of the Tenant's breach or repudiation or a surrender by operation of law.

21 Damage to the Premises or Building

21.1 Termination or reinstatement

If the Premises or the Building is damaged or destroyed after the Commencement Date so that the whole or a substantial part of the Premises is unfit for use by the Tenant, then:

(a) the Landlord may (in its absolute discretion) give the Tenant a notice which states that the Landlord intends to make the Premises fit for use by the Tenant (**Reinstatement Notice**); and

(b) if the Landlord does not give a Reinstatement Notice within 3 months after the damage or destruction first occurred, then either the Landlord or the Tenant may terminate this lease before a Reinstatement Notice is given.

21.2 Failure to Reinstate

If:

(a) the Landlord gives a Reinstatement Notice; and

(b) does not make the Premises fit for use by the Tenant within 9 months after giving that Reinstatement Notice (or such longer period that is reasonable having regard to the extent of the damage and the time required to obtain all necessary approvals and to carry out the necessary works),

then:

(c) the Tenant may give the Landlord a notice of intention to terminate this lease; and

(d) if the Landlord does not make the Premises fit for use by the Tenant within 30 days after the Landlord receives that notice, the Tenant may terminate this lease by a further notice to the Landlord given at any time before the Premises is made fit for use by the Tenant.

21.3 Reduction of Rent and other money

(a) If the Premises or the Building is damaged or destroyed after the Commencement Date so that the whole or a substantial part of the Premises is unfit for use by the Tenant, then the Landlord will reduce the Rent and Outgoings by a reasonable amount having regard to the extent of the damage or destruction.

(b) If the Tenant disputes the amount of the reduction under clause 21.3(a) by giving notice to the Landlord within 14 days after the reduction is applied, then:

(i) the reduction will be determined under clause 21.4; and

Draft

(ii) the Tenant must continue paying Rent and Outgoings under this lease until the amount of the reduction is determined under clause 21.4. Once the reduction is determined, an adjustment will be made for any amount overpaid.

21.4 Dispute resolution

A dispute arising:

(a) under clause 21.2 as to the time that is reasonable for the Landlord to make the Premises fit for use by the Tenant; or

(b) under clause 21.3 as to the reduction in payments,

is to be determined at the joint expense of the Landlord and the Tenant by a suitably qualified person nominated by the Chair of the API. Either the Landlord or the Tenant may ask the Chair to nominate that person. That person will act as an expert and not an arbitrator.

21.5 No Other Liability

(a) The Landlord is not liable for any Loss suffered by the Tenant as a result of this lease being terminated under this clause 21.

(b) Nothing in this clause 21 imposes an obligation on the Landlord to make good, repair or reinstate the Premises or the Building.

21.6 Tenant's Fault

The Tenant is not entitled to terminate this lease and is not entitled to a reduction in Rent or Outgoings under this clause 21 if:

(a) the Landlord has not received any insurance proceeds because of any act, default or negligence of the Tenant or the Tenant's Associates; or

(b) the damage or destruction was caused by, or substantially contributed to by, any act, default or negligence of the Tenant or the Tenant's Associates.

22 Strata Lot

22.1 Application of Strata Lot Provisions

This clause 22 applies if at any time the Premises comprise the whole or part of the land contained in a Strata Plan.

22.2 Definitions

In this lease:

(a) **By-Laws** means the by-laws as adopted by the Strata Company or by virtue of the Strata Titles Act and includes any amendments to them;

(b) **Strata Common Property** means the common property comprised in the Strata Plan;

(c) **Strata Company** means the body corporate created on the registration of the Strata Plan;

(d) **Strata Plan** means (as the context requires):

(i) the registered strata plan, which the Premises forms part of; or

Draft

(ii) any strata plan which is registered in respect of the Land under the Strata Titles Act;

(e) **Strata Titles Act** means the *Strata Titles Act 1985* (WA); and

(f) unless otherwise defined in this lease, words and expressions defined in the Strata Titles Act have the same meaning when used in this lease.

22.3 Strata Company and Strata Titles Act

The parties acknowledge and agree that:

(a) this lease and the Tenant's interest in the Premises is subject to all easements, rights, reservations and powers mentioned in the Strata Titles Act and shown on the Strata Plan;

(b) if the Tenant requires the Landlord's consent or approval before doing any act or thing, the Tenant must also obtain the consent and approval of the Strata Company before doing that act or thing to the extent that it is required under the By-Laws or otherwise by the Strata Company or the Landlord;

(c) the purpose of any reserve fund or sinking fund established by the Strata Company is the purpose described in the By-Laws or, if there is no purpose described therein, then the purpose described in section 100(2) of the Strata Titles Act;

(d) this lease is not affected by any order made by the District Court under Part III of the Strata Titles Act varying the Strata Plan or substituting a new strata scheme for or terminating the Strata Plan; and

(e) despite anything in this lease to the contrary:

(i) the Tenant has no rights or claim against the Landlord in relation to the exercise by the Strata Company of any of its rights, duties or powers under the Strata Titles Act and the By-Laws of the Strata Company; and

(ii) the Landlord shall be relieved of any obligation imposed by this lease to the extent that the obligation must be performed either by the Strata Company or with the approval of the Strata Company and the Strata Company fails to perform that obligation or fails to give its approval.

22.4 Tenant's right to use Strata Common Property

The Tenant and the Tenant's Associates may use the Strata Common Property in common with the Landlord and the registered proprietors of all of the other strata lots comprised in the Strata Plan and their respective assigns, servants, employees, tenants, occupiers and invitees, subject to the By-Laws and to all rules and regulations made by the Strata Company.

22.5 By-Laws and regulations

(a) The Tenant acknowledges and agrees that it has received, read and understood the By-Laws prior to execution of this lease.

(b) The Tenant must comply with all By-Laws and with all rules and regulations made by the Strata Company under its by-laws and the provisions of the Strata Titles Act.

(c) The Tenant acknowledges that the Strata Company may at any time make, amend, cancel, add to or suspend or substitute any By-Laws.

(d) A failure of the Tenant to perform and observe the By-Laws, constitutes a breach of the terms of this lease.

Draft

22.6 Interpretation

Where the context permits or requires, references to the Landlord under this lease will include the Strata Company.

22.7 Insurance policies

If the Strata Company has taken out and is maintaining any policy of insurance specified in this lease, then the Landlord may elect not to take out and maintain that policy of insurance. Nothing in this clause relieves the Tenant from its obligation to pay all costs and expenses incurred in taking out and maintaining the policies of insurance referred to in this lease.

23 Dealing with the Land

23.1 Change of Ownership

If any person who is the Landlord under this lease ceases to be the registered proprietor of the Premises, then from the date that occurs:

(a) that person is released from its obligations under this lease; and

(b) the registered proprietor(s) of the Premises following the relevant transfer, becomes the Landlord under this lease instead.

23.2 Future Dealings

(a) The Landlord may at any time during the Term:

(i) amalgamate any lots comprising the Land or amalgamate all or part of the Land with any other land;

(ii) subdivide all or any part of the Land; or

(iii) dedicate any part of the Land or grant or create or take the benefit of any Encumbrance in respect of any part of the Land, including for the purposes of:

(A) allowing any public or private access to, on or from any part of the Land or Building;

(B) rectifying any encroachment; or

(C) the support of any structures or Service Facilities (whether present or future).

(b) If the Landlord wishes to do anything under clause 23.2(a):

(i) the Tenant must, if requested by the Landlord and at the Landlord's cost:

(A) sign all documents that are necessary to enable the Landlord to carry out the relevant dealing;

(B) withdraw any Encumbrance it has lodged (if any) to enable the Landlord to carry out the relevant dealing; and

(ii) the Landlord may amend this lease to ensure that, to the extent that it is possible, the rights and obligations of the parties under this lease are maintained.

(c) The Landlord must not do anything under clause 23.2(a) which:

Draft

(i) materially and permanently derogates from any rights granted to the Tenant under this lease; or

(ii) materially adversely affects the Tenant's access to or use of the Premises for the Permitted Use.

23.3 Alterations and Additions

(a) The Landlord may at any time:

(i) renovate, construct, add to, re-model, resume, relocate, reduce, vary, extend, modify or redesign any part of the Building (other than the internal parts of the Premises);

(ii) build additional storeys on any Building;

(iii) alter, modify, resume, relocate, add to, increase or decrease the size of, or alter the configuration of the Land or any Common Areas;

(iv) construct additional buildings or improvements on the Land; and

(v) change the area, level, location, entries, exits and arrangements of the Car Parking and Access Areas including constructing multi deck parking facilities.

(b) In exercising the Landlord's rights under this clause 23.3, the Landlord will:

(i) comply with all relevant Laws; and

(ii) use reasonable endeavours to minimise disruption to the Tenant as far as is reasonably practical in the circumstances.

24 PPSA

24.1 PPSA definitions

Unless otherwise defined in this lease, words and expressions defined in the PPSA have the same meaning when used in this clause 24.

24.2 Application of clause to security interests

In relation to each security interest under the PPSA created by this lease:

(a) this clause 24 applies to that security interest;

(b) the security interest extends to any accessions to the relevant collateral and the proceeds, if any, of that collateral (including any account); and

(c) this lease is a security agreement under the PPSA in relation to that security interest.

24.3 Acknowledgements

(a) In relation to each security interest created by this lease:

(i) the security interest attaches to the relevant collateral from the date of this lease and there is no agreement to defer attachment to a later time than as specified above;

(ii) the Landlord may register any financing statement, financing change statement or other documents and do all other things which are necessary or desirable to perfect and maintain the Landlord's security interest under

Draft

this lease, to preserve its interest in the relevant collateral and to realise the Landlord's security interest with the agreed priority;

(iii) the Tenant must pay all fees and expenses (including legal fees) incurred by the Landlord in doing any of the things referred to in clause 24.3(a)(ii) on demand; and

(iv) nothing in this clause 24 or this lease obliges the Landlord to register, perfect or maintain any security interest created by this lease and any failure or delay by the Landlord to do so does not in any way affect or limit the obligations of any other party under this lease.

(b) The parties agree that the Tenant's Property and any partitions, equipment, facilities, fixtures, fittings brought onto the Premises by any predecessor of the Tenant which are not required by the Landlord to be removed by the Tenant before vacating the Premises in accordance with this lease are deemed to be fixtures for the purposes of the PPSA.

24.4 PPSA obligations and third party information

(a) The Tenant must execute any documents and provide all relevant information and full cooperation to the Landlord to ensure the Landlord has a perfected security interest in the relevant collateral under the PPSA.

(b) The Tenant must not sell, transfer, lease, encumber, part with possession of or otherwise deal with any of its rights and interest in the relevant collateral or any part of it without the prior written consent of the Landlord.

(c) The Tenant must (within two Business Days) notify the Landlord in writing of any change to:

(i) the Tenant's name;

(ii) the Tenant's Trading Name;

(iii) the Tenant's contact details (including its address); or

(iv) where the Tenant has entered into this lease as trustee of any Trust, the ABN of that Trust (including any new ABN allocated to the Trust where the Trust was not allocated an ABN as at the date of this lease).

(d) The Tenant appoints the Landlord (and if the Landlord is a corporation, each officer of the Landlord for the time being) as its agent and authorised representative for the purpose of requesting information from other secured parties under section 275 of the PPSA.

24.5 Waivers and PPSA provisions not applicable

(a) The Tenant waives its rights to receive any notice under the PPSA (including a copy of any verification statement) unless the notice is required by the PPSA and that requirement cannot be excluded.

(b) Where the Landlord has rights in addition to those in Chapter 4 of the PPSA, those rights continue to apply.

(c) Sections 95, 121(4), 125, 130, 132(3)(d), 132(4) and 135 of the PPSA are excluded to the fullest extent permitted by section 115 of the PPSA.

Draft

25 Guarantee and Indemnity

25.1 Guarantee and Indemnity

In consideration of the Landlord agreeing to grant this lease to the Tenant at the request of the Guarantor, the Guarantor (and if there is more than one Guarantor, then each of them jointly and severally) irrevocably and unconditionally:

(a) guarantees payment to the Landlord on demand of all money that the Tenant is or may at any time be liable (actually, prospectively or contingently) to pay to the Landlord under or in connection with this lease and includes any money which the Tenant would be liable to pay but for any insolvency, bankruptcy, liquidation or winding up of the Tenant (**Guaranteed Money**);

(b) guarantees the performance and observance by the Tenant of all of the Tenant's covenants and obligations under this lease (**Secured Obligations**); and

(c) indemnifies the Landlord against all Loss incurred or suffered directly or indirectly in connection with:

(i) the Tenant failing to pay any Guaranteed Money;

(ii) the Tenant failing to comply with any of the Secured Obligations;

(iii) a representation or warranty by the Tenant in this lease being incorrect or misleading when made or taken to be made;

(iv) a liquidator disclaiming this lease; and

(v) the Landlord not being able to recover all of the Guaranteed Money from the Tenant.

25.2 Continuing obligation

The guarantee and indemnity in clause 25.1 will continue (despite termination or assignment of this lease) until the Landlord unconditionally releases the Guarantor in writing or until all of the Guarantor's obligations under clause 25.1 are satisfied.

25.3 Suspension of Guarantor's Rights

The Guarantor must not (without the Landlord's prior written consent):

(a) make any claim or enforce any right against the Tenant or any other Guarantor or, where the Tenant or any other Guarantor dies, against that person's estate;

(b) prove in competition with the Landlord if the Tenant or any Guarantor becomes insolvent, whether in respect of any amount paid by the Guarantor under this guarantee and indemnity, any other amount (including the proceeds of any security) applied by the Landlord in reduction of the Guarantor's liability under this guarantee and indemnity, or otherwise; or

(c) be entitled to the benefit of the whole or any part of any security or guarantee now or subsequently held by the Landlord in respect of the Guaranteed Money or the Secured Obligations or any of them.

25.4 Persons benefited by guarantee and indemnity

(a) The following persons are also entitled to the benefit of the Landlord's rights under this guarantee and indemnity:

(i) the owner at the relevant time of the Premises;

Draft

(ii) a person entitled at the relevant time to Rent or other money payable by the Tenant under this lease.

(b) An assignment of the benefits of the Landlord's rights under this guarantee and indemnity is not necessary. The Landlord does not have to give the Guarantor notice, unless that is required by law.

(c) The Landlord may assign its rights under this clause 25 to any person to whom the Landlord transfers the Land or assigns its interest in this lease. The Tenant and the Guarantor will do all things reasonably required by the Landlord to give effect to the assignment.

25.5 Charge

As further security for payment of the Guaranteed Money and the performance of the Secured Obligations, all title and interest which the Guarantor has (at any time) in any freehold or leasehold property wherever located (including in the State of Western Australia) stands charged by the Guarantor, as and from the Commencement Date, with the payment of the Guaranteed Money and the performance of the Secured Obligations. The Guarantor acknowledges that the Landlord may lodge a caveat over any freehold property held in the Guarantor's name under this clause.

25.6 Guarantee not affected

The Guarantor's liability and the Landlord's rights under this clause 25 or otherwise are not affected, prejudiced or discharged by:

(a) the Landlord not enforcing this lease against the Tenant or any delay by the Landlord in enforcing this lease;

(b) the granting of any time, forbearance or other concession by the Landlord to the Tenant or any Guarantor;

(c) any absolute or partial release of the Tenant or any Guarantor or any compromise with the Tenant or any Guarantor;

(d) any sub-lease, extension or variation of this lease;

(e) any holding over or continued occupation of the Premises by the Tenant;

(f) the termination or disclaimer of this lease;

(g) the fact that this lease is wholly or partially void, voidable or unenforceable;

(h) the exercise or purported exercise by the Landlord of its rights under this lease;

(i) the Landlord failing to give any notice to the Tenant or any Guarantor;

(j) the death, insolvency, bankruptcy, liquidation or mental incapacity of the Tenant or any Guarantor;

(k) the failure of any Guarantor to properly execute this lease;

(l) any failure or delay by the Landlord in registering this lease or registering, perfecting or maintaining any security interest created by this lease; or

(m) the discharge of any person under any Law who is a co-surety or co-indemnifier for payment of the Guaranteed Money or any part of it.

Draft

25.7 End of Lease

Despite any other provision in this lease, if the rights provided for by this lease and the obligations of the Tenant arising from this lease are terminated or become or are rendered void or unenforceable or in any way inoperative in whole or in part due to the occurrence of any of the events in clauses 20.4(g) or 20.4(h), the liability of the Guarantor will remain as if the rights and obligations remained in force.

25.8 Time for payment

The Guarantor must pay any money the Landlord is entitled to under this guarantee and indemnity within 14 days after the Landlord makes a written demand. The Guarantor must pay interest, calculated daily and compounded monthly, on any money that the Guarantor does not pay on time. The interest is payable on the amount outstanding from the day the money becomes due until it is paid. The rate of interest is the rate specified in this lease.

25.9 General

Each Guarantor jointly and severally acknowledges and agrees that:

(a) each Guarantor's liability under this clause 25 is unlimited;

(b) there is no condition affecting the operation of this guarantee and indemnity that is not contained in it;

(c) no person has any authority to vary the terms of this guarantee and indemnity or to waive any of the Landlord's rights, except by an instrument in writing executed by the Landlord;

(d) any securities now or subsequently held by the Landlord from the Guarantor will extend to secure the Guarantor's liability under this guarantee and indemnity;

(e) the Guarantor's liability under this guarantee and indemnity will survive the expiry of the Term or sooner determination of this lease;

(f) if the Landlord ceases to be the registered proprietor of the Land, the guarantee and indemnity given by the Guarantor under this clause 25 will be for the benefit of, and enforceable by, the new registered proprietor;

(g) if this lease contains any Option Term and the Tenant exercises an option to renew this lease for that Option Term or this lease is otherwise extended or renewed, the Guarantor guarantees the performance of the Tenant's obligations and indemnifies the Landlord under the new lease for the Option Term or such other extension or renewal term (as the case may be) on the same or similar terms to those set out in this clause 25;

(h) if a payment to the Landlord in connection with this lease is void or voidable under Laws relating to insolvency or protection of creditors, the Landlord remains entitled to the rights against the Guarantor which the Landlord had under this clause 25 before that payment was made; and

(i) in this clause 25, a reference to 'this lease' includes any tenancy or other right of any kind by which the Tenant occupies or is entitled to occupy the Premises.

Draft

26 Notices

26.1 Requirement for writing

A notice, demand, consent or other communication (a **Notice**) given or made under this lease must be:

(a) in writing; and

(b) signed by the sender or a person duly authorised by the sender (or in the case of email, set out the full name and position or title of the sender or person duly authorised by the sender).

26.2 Serving notices

A Notice given or made under this lease must be delivered to the intended recipient by:

(a) hand (including by courier) to the address specified in Item 11 or the address last notified by the intended recipient to the sender;

(b) post to the address specified in Item 11 or the address last notified by the intended recipient to the sender; or

(c) email to the email address (if any) specified in Item 11 or the email address last notified by the intended recipient to the sender.

26.3 When effective

(a) Subject to clause 26.3(b), a Notice will be taken to be duly given or made:

(i) in the case of delivery by hand (including by courier), when given to the intended recipient or left at the address specified in Item 11 or the address last notified by the intended recipient to the sender;

(ii) in the case of delivery by post, two Business Days after the date of posting; and

(iii) in the case of email, at the earliest of:

(A) the time that the sender receives an automated message from the intended recipient's information system confirming delivery of the email;

(B) the time that the intended recipient confirms receipt of the email by reply email; and

(C) the time the email is sent (as recorded on the device from which the sender sent the email) unless the sender receives, within the next 3 hour period, an automated message that the email has not been delivered.

(b) If, under clause 26.3(a), a Notice would be taken to be given or made on a day that is not a business day in the place to which a Notice is sent or at later than 5.00pm (in the place that a Notice is sent to), it will be taken to have been duly given or made at the start of business on the next business day in that place.

Draft

27 Trustee Covenants

If a party (other than the Landlord) enters into this lease as a trustee of a trust (**Trustee**) whether or not the trust is disclosed in this lease (**Trust**), that party covenants with and warrants to the Landlord that:

(a) the Trustee has full power and authority to enter into this lease;

(b) the Trustee has obtained all consents and approvals necessary to execute this lease so as to bind the property of the Trust;

(c) the Trustee enters into this lease and is bound by the terms and conditions in this lease both in its own right personally and in its capacity as trustee;

(d) the assets of the Trust and the personal assets of the party will, at all times, be available to satisfy the obligations of the Tenant under this lease;

(e) the Trustee is the sole trustee of the Trust;

(f) the Trustee will not cease to be the trustee of the Trust unless it complies with clause 14 and the new trustee enters into a deed referred to in clause 14.2(a)(v);

(g) the Trust will remain in force and will not be varied or vested during the Term; and

(h) the Trustee will not do any act or thing or omit to do any act or thing so as to harm or impair or be likely to harm this lease or the covenants, terms and conditions of it.

28 Limitation on Landlord's Liability

28.1 General Limitation

(a) The Landlord is not liable for any:

(i) loss or damage suffered by any person;

(ii) injury to, or death of, any person; or

(iii) loss or damage of any property, including the Tenant's Property,

however occurring unless caused by the wilful act, negligence or default of the Landlord.

(b) The Landlord is not liable for any Loss suffered by the Tenant from any malfunction, failure to function or interruption of or to any of the Service Facilities or equipment contained in or provided to the Premises however occurring unless caused by the wilful act, negligence or default of the Landlord.

28.2 Landlord as trustee

If the Landlord has entered into this lease as trustee of a trust, then:

(a) the Landlord has done so in no other capacity;

(b) the Landlord is not liable personally to the Tenant for any breach of the Landlord's obligations under or implied by this lease;

(c) no officer of the Landlord is liable personally to the Tenant;

(d) in respect of any breach by, or liability of, the Landlord under this deed or lease, the Tenant is only able to claim any Loss from the Landlord to the extent that the Landlord is able to be (and is) reimbursed from the net assets of that trust; and

Draft

(e) the Tenant must not seek the appointment of an administrator, liquidator, receiver or similar person to the Landlord personally or prove in any administration, liquidation or other arrangement of or affecting the Landlord personally.

29 Non-Retail Use

(a) The parties agree that the Retail Shops Act does not apply to this lease as at the Commencement Date.

(b) The Tenant acknowledges, covenants and warrants to the Landlord (at all times during the Term) that:

(i) its business conducted from the Premises is not a 'retail business' as defined in the Retail Shops Act;

(ii) it will not, at any time during the Term, conduct a business from the Premises that wholly or predominantly involves the sale of goods by retail; and

(iii) if the Tenant is permitted to sell any goods as part of the Permitted Use, the sale of those goods will, at all times, be ancillary to the services provided by the Tenant.

(c) If:

(i) notwithstanding clause 29(a), the Retail Shops Act does apply to this lease at any time during the Term; and

(ii) any item of Outgoings is not recoverable by the Landlord as a result of that application,

then from the date that the Outgoings item is not recoverable until such time that it becomes recoverable, the Rent will be increased by an amount equal to the amount of that Outgoings item.

30 Encumbrances

30.1 Encumbrances

(a) This lease is subject to any Encumbrances affecting the Land or Premises, including any Encumbrance created under clause 23.2(a).

(b) The Tenant must not do anything which would cause the Landlord to be in breach of any Encumbrance affecting the Land.

30.2 Tenant Not to Encumber Leasehold Interest

Except with the Landlord's prior written consent, the Tenant must not mortgage, charge or otherwise encumber the Tenant's interest under this lease or any part of it.

30.3 No Absolute Caveat to be Lodged

(a) Neither the Tenant nor any agent or other person on behalf of the Tenant may lodge a caveat against the Land other than a subject to claim caveat to protect the Tenant's interests under this lease.

(b) The Tenant must withdraw any caveat it has lodged against the Land immediately upon this lease ending.

Draft

30.4 Removal by Power of Attorney

(a) The Tenant for valuable consideration irrevocably appoints the Landlord and (if the Landlord is a company) every director and secretary of the Landlord (jointly and severally) to be the Tenant's attorney to:

(i) withdraw any caveat which the Tenant is required to withdraw but fails to do so; and

(ii) complete, execute and register a surrender of this lease at Landgate after this lease ends.

(b) The Tenant hereby irrevocably ratifies all that the attorney does or causes to be done under this clause.

31 GST

(a) In this clause:

(i) **GST** has the same meaning as in the GST Act and includes any replacement or subsequent similar tax;

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

(iii) all terms which are defined in the GST Act have the same meaning as they are given by the GST Act when they are used in this clause.

(b) Unless otherwise expressly provided in this lease, the Rent and any other consideration or money payable by the Tenant under this lease is expressed as a GST exclusive amount.

(c) If the Landlord pays or is liable to pay any GST on the Rent or any other taxable supply made in respect of or in connection with this lease, then the Tenant must pay to the Landlord the amount of that GST at the same time the payment for the taxable supply is due under this lease.

(d) The Tenant indemnifies the Landlord for the amount of any GST the Landlord pays or is liable to pay on a taxable supply made in respect of or in connection with this lease.

(e) The Landlord must issue a tax invoice to the Tenant in respect of a taxable supply as and when required by the GST Act.

(f) The amount for GST payable by the Tenant under this clause will be reduced by the amount of any input tax credit in relation to that amount which the Landlord has received or claims and is entitled to receive.

32 Foreign Investment Approval

The Tenant (and each Guarantor, if any) each continually warrant and represent that:

(a) the Tenant is not a 'foreign person' for the purposes of the *Foreign Acquisitions and Takeovers Act 1975* (Cth) (**FAT Act**); and

(b) the Tenant does not require the Treasurer's approval to enter into this lease under the FAT Act.

Draft

33 Costs

(a) The Tenant must pay to the Landlord on demand the Landlord's reasonable costs and disbursements (including legal costs) in connection with:

(i) the negotiation, preparation and completion of this lease;

(ii) any mortgagee consent;

(iii) any extension or renewal of this lease, including the costs of the deed referred to in clause 16.4;

(iv) any assignment or subletting; and

(v) any consent sought from the Landlord under this lease.

(b) The Tenant must pay for any duty assessed on this lease.

(c) Anything the Tenant must do under this lease must be done at the Tenant's cost, unless this lease expressly provides otherwise.

34 Special Conditions

The terms and conditions set out in Item 12 (if any) (**Special Conditions**) are incorporated into this lease and if there is any inconsistency between the Special Conditions and the other terms and condition of this lease, then the Special Conditions prevail to the extent of that inconsistency.

35 General

35.1 Registration

(a) If the Landlord wishes to register this lease at Landgate, then:

(i) the Tenant must sign such documents as may be necessary to enable this lease to be registered at Landgate (including any Landgate L1 Form); and

(ii) the Landlord may amend, replace or supplement the Premises Plan in this lease to comply with the requirements of Landgate.

(b) The Tenant must pay for the Landlord's reasonable costs in connection with registration of this lease (including Landgate's registration and production fees and any survey costs).

(c) If this lease is registered at Landgate, the Tenant must also execute and lodge a surrender of the registered lease with Landgate within 14 days after this lease ends.

35.2 Confidential Information

(a) For the purposes of this clause 35.2 **Confidential Information** means:

(i) the terms of this lease;

(ii) the amount of money payable by the Tenant;

(iii) any incentives granted by the Landlord to the Tenant at any time; and

(iv) information designated by the Landlord as being confidential.

Draft

(b) The Tenant must not disclose any Confidential Information, directly or indirectly to any person except:

(i) to the extent that the Confidential Information is in the public domain, including if this lease is registered at Landgate;

(ii) in connection with an exercise of rights or a dealing with rights or obligations under this lease;

(iii) to its legal and other advisers and auditors; or

(iv) as required by any Law or any stock exchange.

35.3 Landlord's consents and approvals

(a) Except as otherwise provided in this lease, any consent or approval which may be granted by the Landlord under this lease may be granted, refused or given subject to conditions, in the absolute discretion of the Landlord.

(b) If the Tenant requests the consent of the Landlord, the Tenant must pay to the Landlord all costs and expenses reasonably incurred by the Landlord (including legal costs) in considering that request, whether or not the consent is granted.

35.4 Landlord may act by agent

All acts and things which the Landlord is required or able to do under this lease may be done by the Landlord or any solicitor, agent, contractor or employee of the Landlord, including the Managing Agent.

35.5 Statutory powers add to express powers

Unless inconsistent with the provisions of this lease, the powers conferred on the Landlord under any statute are in addition to the powers conferred on the Landlord by this lease.

35.6 Execution by Attorney

Each person who executes this deed on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstances that might affect his or her authority to do so.

35.7 No waiver

(a) A failure to exercise or a delay in exercising any right, power or remedy under this lease does not operate as a waiver.

(b) No consent or waiver expressed or implied by the Landlord to or in respect of any breach of the Tenant's obligations under this lease is to be construed as a consent to or waiver of any other breach of that obligation or any other term contained or implied in this lease.

(c) A waiver is not valid or binding on the Landlord unless it is made in writing.

35.8 No merger

The terms and conditions of this lease or anything done under or in connection with this lease or any other agreement between the Landlord and Tenant will not operate as a merger of any of the rights and remedies of the parties in or under this lease, or in or under any other agreement, all of which will continue in full force and effect.

Draft

35.9 Severance

If any provision of this lease or its application to any person or circumstance is or becomes invalid or unenforceable, that provision will be taken to be omitted without invalidating or modifying the remaining provisions of this lease, which will continue in full force and effect as if the invalid or unenforceable provision had not been included in it.

35.10 Survival of covenants

The Tenant's obligation to observe and perform the Tenant's covenants and obligations under this lease will survive the expiry or earlier termination of this lease.

35.11 No Moratorium

Unless application is compulsory by Law, no statute, ordinance, proclamation, order, regulation or moratorium present or future applies to this lease so as to prejudicially affect any rights, powers, remedies or discretions given to the Landlord.

35.12 Indemnities

Each indemnity in this lease is independent from the Tenant's other obligations and continues during this lease and after this lease ends. The Landlord may enforce an indemnity before incurring expense.

35.13 Entire agreement

This lease covers the whole of the agreement between the parties and no further or other covenants or provisions, whether in respect of the Premises or otherwise, will be considered to be implied or to arise between the parties by way of any collateral or other agreement.

35.14 Digital Signature

(a) In this clause:

(i) **Digital Signature** means a digital signature (including using 'Docusign' or similar) or a visual representation of a person's handwritten signature or mark which is placed on a physical or electronic copy of this lease by electronic or mechanical means; and

(ii) **Digital Signature Laws** means section 10 of the *Electronic Transactions Act 2011* (WA) and the *Electronic Transactions Act 1999* (Cth).

(b) Subject to clause 35.14(c), each party agrees (including for the purposes of the Digital Signature Laws):

(i) to each party signing this lease using a Digital Signature; and

(ii) that the application of the Digital Signature to this lease by a party:

(A) is a method which identifies that party; and

(B) is a reliable method as is appropriate for the purpose of signing this lease.

(c) The parties acknowledge and agree that:

(i) unless permitted by Law, a party who is an individual (as distinct from a company) cannot and will not sign this lease using a Digital Signature and must sign this lease by the application of a wet ink signature and in the presence of an independent adult witness; and

Draft

(ii) if this lease is to be registered at Landgate and if it is required for registration purposes, the parties must sign (or re-sign, as the case may be) this lease by the application of a wet ink signature.

35.15 Execution by counterparts

(a) This lease may consist of a number of counterparts and, if so, the counterparts taken together constitute one document.

(b) A party may execute this lease or any counterpart and exchange it by fax or as an electronic copy by email.

35.16 Governing law

This lease will be construed in accordance with and governed by the Law of Western Australia. Each party submits to the non-exclusive jurisdiction of its courts.

Draft

Schedule – Lease Details

1 Premises *(clause 1.1(ll))*

That part of the Land and the Building located at and known as [IRDI Legal Pro forma - Industrial] WA {[####]} comprising an area of approximately {[#]}m² and being the premises shaded yellow on the Premises Plan.

2 Land *(clause 1.1(u))*

Lot [##] on Plan [##] being the whole of the land in Certificate of Title Volume [##] Folio [##].

3 Landlord's Property *(clause 1.1(x))*

Any floor or window coverings, partitions, light fittings and other fixtures or fittings installed by the Landlord in the Premises and any replacement of those items.

4 Term *(clause 1.1(ddd))*

(a)	Period:	## years
(b)	Commencement Date:	……
(c)	Expiry date:	……

5 Options *(clause 16)*

(a) **The first Option Term**

Period:	## years
Commencement date:	……
Expiry date:	……

(b) **The second Option Term**

Not applicable

6 Rent *(clause 3.1)*

(a)	Annual rent:	{[##]} plus GST
(b)	Instalments payable:	{[##]} plus GST
(c)	Rent Commencement Date:	the Commencement Date
(d)	Payment dates:	Instalments are payable monthly in advance on the first day of each calendar month. The first instalment must be paid on the Rent Commencement Date. If the Rent Commencement Date is not the first day of a month, the first and last Rent instalments during the Term will be proportionate.

Draft

7 Rent Review Dates *(clause 3.2)*

(a) **CPI Rent Review Dates**

[##]

(b) **Fixed ##% Rent Increase Dates**

[##]

(c) **Market Rent Review Dates**

{[to be inserted]}

8 Permitted Use of the Premises *(clause 1.1(ii))*

[##].

9 Trading Name *(clause 1.1(eee))*

'[##]'.

10 Security *(clause 5)*

(a) **Type of security to be provided**

Bank Guarantee or Security Bond

(b) **Security Amount** *(clause 1.1(vv))*

An amount equal to the sum of {[##]} {[##]} of Rent and Outgoings (plus the GST on those amounts) from time to time (and where necessary, as reasonably estimated by the Landlord), ignoring any rent-free periods, rent reductions, concessions and incentives under this lease.

11 Contact Details *(clause 26.2)*

(a) **Landlord**

Address: [##]

Email: None specified

(b) **Tenant**

Address: [##]

Email: None specified

(c) **Guarantor**

Name: **[##]**

Address: [##]

Email: None specified

12 Special Conditions *(clause 34)*

Draft

Executed by the parties as a deed.

The Landlord:

Executed by **[##]** ACN 000 000 000 in accordance with section 127 of the *Corporations Act 2001* (Cth):

Director's signature	Director/Secretary's signature
Director's full name (please print)	Director/Secretary's full name (please print)
Date	Date

The Tenant:

Executed by **[##]** ACN 000 000 000 in accordance with section 127 of the *Corporations Act 2001* (Cth):

Director's signature	Director/Secretary's signature
Director's full name (please print)	Director/Secretary's full name (please print)
Date	Date

Draft

The Guarantor:

Signed by **[##]**

Signature

Date

In the presence of:

Witness signature

Witness full name (please print)

Witness address (please print)

Witness occupation (please print)

Draft

Annexure A – Premises Plan

[plan to be inserted]

Draft