



Commercial Contract of Sale of Land

Vendor:

M&L Oceania Management Pty Ltd
(ACN 622 845 523)

Property:

9 Efficient Drive, Truganina VIC 3029

MILLS OAKLEY
Level 6, 530 Collins Street
MELBOURNE VIC 3000
Telephone: 61 3 9670 9111
Facsimile: 61 3 9605 0933
www.millsoakley.com.au
Ref: AJB/6328794

Contract of sale of land

IMPORTANT NOTICE TO PURCHASERS – COOLING-OFF

Cooling-off period (Section 31 of the *Sale of Land Act 1962*)

You may end this contract within 3 clear business days of the day that you sign the contract if none of the exceptions listed below applies to you.

You must either give the vendor or the vendor's agent written notice that you are ending the contract or leave the notice at the address of the vendor or the vendor's agent to end this contract within this time in accordance with this cooling-off provision.

You are entitled to a refund of all the money you paid EXCEPT for \$100 or 0.2% of the purchase price (whichever is more) if you end the contract in this way.

EXCEPTIONS: the 3-day cooling-off period does not apply if:

- you bought the property at a publicly advertised auction or on the day on which the auction was held; or
- you bought the land within 3 clear business days before a publicly advertised auction was to be held; or
- you bought the land within 3 clear business days after a publicly advertised auction was held; or
- the property is used primarily for industrial or commercial purposes; or
- the property is more than 20 hectares in size and is used primarily for farming; or
- you and the vendor previously signed a contract for the sale of the same land in substantially the same terms; or
- you are an estate agent or a corporate body.

NOTICE TO PURCHASERS OF PROPERTY OFF-THE-PLAN

Off-the-plan sales (Section 9AA(1A) of the *Sale of Land Act 1962*)

You may negotiate with the vendor about the amount of the deposit moneys payable under the contract of sale, up to 10 per cent of the purchase price.

A substantial period of time may elapse between the day on which you sign the contract of sale and the day on which you become the registered proprietor of the lot.

The value of the lot may change between the day on which you sign the contract of sale of that lot and the day on which you become the registered proprietor

Approval

This contract is approved as a standard form of contract under section 53A of the *Estate Agents Act 1980* by the Law Institute of Victoria Limited. The Law Institute of Victoria Limited is authorised to approve this form under the *Legal Profession Uniform Law Application Act 2014*.

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WARNING TO ESTATE AGENTS

DO NOT USE THIS CONTRACT FOR SALES OF 'OFF THE PLAN' PROPERTIES UNLESS IT HAS BEEN PREPARED BY A LEGAL PRACTITIONER

WARNING: YOU SHOULD CONSIDER THE EFFECT (IF ANY) THAT THE WINDFALL GAINS TAX MAY HAVE ON THE SALE OF LAND UNDER THIS CONTRACT.

Contract of sale of land

The vendor agrees to sell and the purchaser agrees to buy the property, being the land and the goods, for the price and on the terms set out in this contract.

The terms of this contract are contained in the –

- particulars of sale; and
- special conditions, if any; and
- general conditions (which are in standard form: see general condition 6.1)

in that order of priority.

SIGNING OF THIS CONTRACT

WARNING: THIS IS A LEGALLY BINDING CONTRACT. YOU SHOULD READ THIS CONTRACT BEFORE SIGNING IT.

Purchasers should ensure that they have received a section 32 statement from the vendor before signing this contract. In this contract, "section 32 statement" means the statement required to be given by a vendor under section 32 of the *Sale of Land Act 1962*.

The authority of a person signing –

- under power of attorney; or
 - as director of a corporation; or
 - as agent authorised in writing by one of the parties –
- must be noted beneath the signature.

Any person whose signature is secured by an estate agent acknowledges being given by the agent at the time of signing a copy of the terms of this contract.

22-Nov-2024

SIGNED BY THE PURCHASER: Russell Skoglund Tony Casseta on / /20

Print name(s) of person(s) signing: Russell Skoglund Tony Casseta

State nature of authority, if applicable:

This offer will lapse unless accepted within [14] clear business days (3 clear business days if none specified)
In this contract, "business day" has the same meaning as in section 30 of the *Sale of Land Act 1962*

29-Nov-2024

SIGNED BY THE VENDOR: [Signature] [Signature] on / /20

Print name(s) of person(s) signing: Lai Ming NG Lai Tong NG

State nature of authority, if applicable:

The **DAY OF SALE** is the date by which both parties have signed this contract.



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Particulars of sale

Vendor's estate agent

Name: AND Property

Address: Tenancy 3, Part Level 8, 80 Dorcas Street, South Melbourne VIC 3205

Email: rc@andproperty.com.au

Tel: Mob: 0421 837 421..... Fax:..... Ref: Ricardo Cappelletti

Vendor

Name: M&L Oceania Management Pty Ltd (ACN 622 845 523)

Address: 9 Efficient Drive, Truganina VIC 3029

ABN/ACN:

Email:

Vendor's legal practitioner or conveyancer

Name: Mills Oakley

Address: Level 6, 530 Collins Street, Melbourne VIC 3000

Email: ybai@millsoakley.com.au

Tel: 03 9670 9111 Mob:..... Fax: 03 9605 0933 Ref: AJB/6328794

Purchaser's estate agent

Name: N/A

Address:

Email:

Tel: Mob:..... Fax:

Ref:

Purchaser

Name: West Crane Properties No 2 Pty Ltd (ACN 153 681 611) as trustee for the Triholm Avenue Property Trust

Address: 41 Triholm Avenue, Laverton VIC 3028

ABN/ACN:

Email:

Purchaser's legal practitioner or conveyancer

Name: Harwood Andrews

Address: 70 Gheringhap Street, Geelong VIC

Email: vdestefano@ha.legal

Tel: 03 5226 8520 / 0407 091 301 Fax: DX: Ref: Vittoria De Stefano

Land (general conditions 7 and 13)

The land is described in the table below –

Certificate of Title reference	being lot	on plan
Volume 11974 Folio 247	1	PS745796X

If no title or plan references are recorded in the table, the land is as described in the section 32 statement or the register search statement and the document referred to as the diagram location in the register search statement attached to the section 32 statement

The land includes all improvements and fixtures.



Property address

The address of the land is: 9 Efficient Drive, Truganina VIC 3029

Goods sold with the land (general condition 6.3(f)) *(list or attach schedule)*

All fixed floor coverings, electrical light fittings and window furnishings.

2 x 12.5 Tonne Gantry Cranes, 2 x Jib and Post Cranes (see Special Condition 15), alarm and security system

Payment

Price \$6,000,000.00

Deposit \$600,000.00 on the Day of Sale (of which \$1,000.00 has been paid)

Balance \$5,400,000.00 payable at settlement.

Deposit bond

General condition 15 applies only if the box is checked

Bank guarantee

General condition 16 applies only if the box is checked

GST (general condition 19)

Subject to general condition 19.2, the price includes GST (if any), unless the next box is checked

GST (if any) must be paid in addition to the price if the box is checked

This sale is a sale of land on which a 'farming business' is carried on which the parties consider meets the requirements of section 38-480 of the GST Act if the box is checked

This sale is a sale of a 'going concern' if the box is checked

The margin scheme will be used to calculate GST if the box is checked

Settlement (general conditions 17 & 26.2)

is due 28 days after the Day of Sale subject to Special Conditions 13 and 14

unless the land is a lot on an unregistered plan of subdivision, in which case settlement is due on the later of:

- the above date; and
- the 14th day after the vendor gives notice in writing to the purchaser of registration of the plan of subdivision.

Lease (general condition 5.1)

At settlement the purchaser is entitled to vacant possession of the property unless the box is checked, in which case the property is sold subject to*:

(*only one of the boxes below should be checked after carefully reading any applicable lease or tenancy document)

a lease for a term ending on / /20..... with [.....] options to renew, each of [.....] years subject to Special Condition 12.

OR

a residential tenancy for a fixed term ending on / /20.....

OR

a periodic tenancy determinable by notice

Terms contract (general condition 30)

This contract is intended to be a terms contract within the meaning of the *Sale of Land Act 1962* if the box is checked. *(Reference should be made to general condition 30 and any further applicable provisions should be added as special conditions)*



Loan (general condition 20)

This contract is subject to a loan being approved and the following details apply if the box is checked:

Lender:

.....

.....
(or another lender chosen by the purchaser)

Loan amount: no more than \$ Approval date: / /20.....

Building report

General condition 21 applies only if the box is checked

Pest report

General condition 22 applies only if the box is checked

Schedule to the Particulars of Sale

Encumbrances -

All registered and unregistered encumbrances, easements, covenants and restrictions including:

- (a) any disclosed in the statement required to be given by the Vendor under section 32 of the *Sale of Land Act 1962* (Vic);
- (b) any apparent or implied easements;
- (c) any created by section 98 of the *Transfer of Land Act 1958* (Vic) or implied under the *Subdivision Act 1988* (Vic);
- (d) any referred to or described in the plan of subdivision;
- (e) any provided in or contemplated by the rules of any owners corporation affecting the Property;
- (f) the lot liability of the Property;
- (g) any vested in any Authority; and
- (h) any required or contemplated by this Contract.

Special Conditions

Instructions: *It is recommended that when adding special conditions:*

- *each special condition is numbered;*
- *the parties initial each page containing special conditions;*
- *a line is drawn through any blank space remaining on the last page; and*
- *attach additional pages if there is not enough space.*

1 General Conditions

1.1 Amendments to general conditions

- (a) In relation to the warranties in General Condition 6.4, the Vendor only has knowledge of decisions of public authorities and government departments affecting the Property which are communicated to the Vendor.
- (b) General conditions 13, 23.2(b), 31.4, 31.5 and 31.6 do not apply to this Contract.
- (c) General conditions 2 and 3 are deleted.
- (d) General condition 20 is deleted.
- (e) General condition 23, the expression "periodic outgoings" does not include any amounts to which section 10G of the Sale of Land Act 1962 applies.
- (f) General condition 28 does not apply to any amounts to which section 10G or 10H of the Sale of Land Act 1962 applies.
- (g) General condition 35.3, delete (a), (b) and (c) and replace with "the Purchaser must be repaid any money paid under the contract and any interest on that money and will not be able to make any other claim against the Vendor".

1.2 Special conditions take precedence

The general conditions apply as amended by Special Condition 1.1. The special conditions take precedence over the general conditions.

2 Acknowledgment

The Purchaser acknowledges receiving, before paying any money or signing any document relating to this sale:

- (a) a copy of this Contract;
- (b) a Vendor's Statement (signed by the Vendor); and
- (c) if a promise has been made with respect to obtaining a loan of money for some or all of the Price, a statement in writing containing the particulars required by section 51 of the *Estate Agent's Act 1980* (Vic).

3 Whole Contract

The Purchaser acknowledges that the Purchaser does not rely upon any warranty or representation made by the Vendor, any agent or other person on behalf of the Vendor except those set out in this Contract but has relied entirely upon the Purchaser's own enquiries and inspection of the Property.

4 Restrictions

The Purchaser buys the Property subject to any statute, order, regulation, by-law, local law, restriction and condition affecting the Property including those restrictions imposed by the relevant planning scheme, all planning permits, all other relevant planning controls or by any authority empowered by legislation to control the use of the Property.

5 Condition of Property

5.1 Reliance on own inspections and enquiries

The Purchaser warrants to the Vendor that, as a result of the Purchaser's inspections and enquiries concerning the Property, the Purchaser is satisfied with the condition, quality and state of repair of the Property (including the quantity of any Goods not otherwise specified) and accepts the Property as it is and subject to any defects, need for repair or infestation.

5.2 Compliance with laws and regulations

The Purchaser acknowledges that:

- (a) the improvements on the Property may be subject to or require compliance with current building regulations, municipal by-laws or any other statutory provisions or regulations or any repealed laws under which the improvements were constructed;
- (b) if the Vendor has not complied with the building regulations regarding the installation of self-contained smoke alarms, the Purchaser must do so at the Purchaser's cost and expense; and
- (c) if there is a swimming pool or spa on the Property which is or may be required to be fenced by the building regulations, the Purchaser must comply, at the Purchaser's cost and expense, with the building regulations.

A failure to comply with any such regulations or laws will not constitute a defect in the Vendor's title. The Purchaser indemnifies and keeps indemnified the Vendor on or after the day of sale in respect of all orders or requirements under the building regulations.

5.3 No representation or warranty as to contamination

- (a) The Purchaser acknowledges that the Vendor has not made nor shall be construed as having made any representation or warranty that the Property is free of Contamination. The Purchaser acknowledges having made its own enquiries and investigations as to the environmental state of the Property and the Purchaser relies entirely on the result of its investigations and on its own judgement in entering into this Contract.
- (b) The Purchaser assures full liability and responsibility for any Contamination and releases and discharges the Vendor from any liability for any Contamination and against any damage, loss, cost or liability incurred or suffered by the Vendor as a result of any Contamination.
- (c) For the purposes of this special condition,
 - (i) Contamination means the presence in under or upon land or groundwater of a substance, gas, odour, or heat at a concentration above the concentration at which such substance, gas, odour or heat is normally present and being a presence that:
 - (A) fails to comply with any Environmental Law;
 - (B) fails to comply with any standard prescribed for that matter; or
 - (C) presents, or may present, a risk of harm to human health or the Environment.
 - (ii) Environment has the meaning given in the Environment Protection Act 2017 (VIC);
 - (iii) Environment Law means any law regulating or otherwise relating to the Environment or any Contamination including any law relating to land use, planning, pollution of air, water, soil or ground water, chemicals, waste, asbestos, dangerous goods or to any other aspect of the Environment or person or property.

5.4 Boundaries

Further to General Condition 7, the Vendor sells the Property with all fencing as it presently exists irrespective of whether fencing is on its correct boundary or whether there may be encroachments by or upon the Property.

5.5 No claim or requisition

The Purchaser will not make a claim or requisition or delay settlement of this transaction or rescind or terminate this Contract because of:

- (a) any matter that was capable of discovery by or on behalf of the Purchaser or was or should have been within the knowledge of the Purchaser as a result of the Purchaser's inspections and enquiries;
- (b) any omission or mistake in the description, measurements or area of the Property;
- (c) any encroachment by or on the Property;
- (d) any need to erect new fencing on correct boundaries or to dismantle existing fencing;
- (e) any loss, damage, need for repair relating to the Property; or
- (f) the requirements of a statutory authority made on or after the Day of Sale.

6 Non Merger

The Contract and all warranties, obligations and indemnities given by each party to the other under this Contract:

- (a) will remain in full force and effect regardless of the completion of the sale of the Property; and
- (b) will not merge with any conveyance or transfer of the Property or with any registration of any conveyance or transfer of the Property.

7 Purchaser's Warranties

7.1 Warranties

The Purchaser agrees with and warrants to the Vendor that:

- (a) any person who executes this Contract is liable for the performance and observance of this Contract notwithstanding that person may have executed the Contract for and on behalf of the Purchaser or as an authorised person on behalf of the Purchaser;
- (b) if the Purchaser is a corporation, it is a company limited by shares incorporated and registered under the *Corporations Act 2001* (Cth) (unless it is specifically stated in the Particulars of Sale that it is incorporated outside the Commonwealth of Australia) and is not under any disability;
- (c) the consent or licence of any person or body is not required prior to the Purchaser entering into this Contract;
- (d) the Purchaser is empowered to enter into this Contract and is not prohibited from entering into it by any reason including (without limitation) any trust, charge or undertaking;
- (e) if this Contract has been signed by a person on behalf of a corporation, the person signing this Contract represents and warrants to the Vendor as an additional inducement to the Vendor to enter into this Contract, that he or she has authority pursuant to the constitution of that corporation (or charter if that corporation is a foreign corporation) to bind that corporation to all of the provisions contained in this Contract;
- (f) a person executing this Contract as attorney for the Purchaser represents and warrants to the Vendor as an additional inducement to the Vendor to enter into this Contract that he or she has been validly appointed as attorney for the Purchaser and that upon execution of the Contract, the attorney will be bound as if the attorney had executed the Contract personally; and

- (g) if the Purchaser is a Foreign Person, it has obtained FIRB Approval or is not required to obtain FIRB Approval (as the case may be).

7.2 Indemnity

The Purchaser unconditionally indemnifies the Vendor against any loss or expense (including any consequential loss) which the Vendor suffers as a result of the Purchaser's breach of any warranty given under Special Condition 7.1.

8 Capacity

If the Purchaser:

- (a) resolves to go into liquidation;
- (b) has an application for its winding up presented and not withdrawn within thirty (30) days of its presentation;
- (c) enters into any scheme of arrangement with its creditors under the relevant provisions of the Corporations Law or any similar legislation;
- (d) has a liquidator, provisional liquidator, receiver, receiver and manager or administrator appointed;
- (e) is unable to pay its debts when they fall due or commits an act of bankruptcy;
- (f) makes a statement or conducts itself in a manner from which it may be reasonably determined that the Purchaser is unable to pay its debts when they fall due; or
- (g) an event analogous to those set out in Special Conditions 8(a) to 8(f) (inclusive) occurs,

the Purchaser will be taken to have repudiated its obligations under this Contract and the Vendor may, without limiting in any way the Vendor's other rights or remedies, accept such repudiation and rescind this Contract at any time before settlement in which case the provisions of General Condition 35.4 shall apply.

9 Not used

10 Disclosure Material

10.1 Purchaser Acknowledgements

The Purchaser acknowledges that:

- (a) the Vendor has made available to the Purchaser on or before the Day of Sale the Disclosure Material;
- (b) the Vendor makes no representation or warranty:
 - (i) as to the accuracy or otherwise of the information contained in the Disclosure Material;
 - (ii) that it has complied with any of the matters contained or referred to in the Disclosure Material;
 - (iii) that it holds any title (whether encumbered or unencumbered) to, or any rights under, any of the Disclosure Material; or
 - (iv) that it has in its possession or control all originals or counterparts of the Disclosure Material;
- (c) the Vendor has not conducted its own independent enquiries and investigations into information in the Disclosure Material prepared by third parties;
- (d) some of the information contained in the Disclosure Material will be specialised information and/or prepared on the basis of specialised knowledge and that the Vendor does not hold or purport to hold the specialised knowledge required to prepare or verify such information;
- (e) the Disclosure Material:



- (i) may include statements, estimates and projections that reflect various assumptions which may or may not be correct;
- (ii) does not purport to contain all the information the Purchaser may require; and
- (iii) may not be appropriate for the Purchaser, as it is not possible for the Vendor to consider the investment objectives, financial situation, development objectives and/or particular needs of the Purchaser.

10.2 Purchaser Warranty

The Purchaser warrants that the Purchaser has examined and satisfied itself in relation to all matters contained in, arising from or relating to the Disclosure Material (including without limitation the accuracy or otherwise of the Disclosure Material) prior to entering into this Contract, and the Purchaser has not entered into this Contract in reliance upon the Disclosure Material or upon any matters or things referred to in the Disclosure Material.

10.3 No objections or requisitions

The Purchaser will not make any objection or requisition, claim any compensation, ask the Vendor to amend the title or to bear or contribute to any expense of any amendment to the title, purport to rescind or terminate this Contract, or delay Settlement because of any matter or thing referred to in or arising out of or relating to this Special Condition 10 or the Disclosure Material.

10.4 Disclosure Material

For the purposes of this Special Condition 10, Disclosure Material means all information and materials relating in any way to the Property which were at any time made available to the Purchaser, its employees, advisors, agents or solicitors including that:

- (a) set out in the Vendor's Statement; and
- (b) provided by the Vendor and/or the Vendor's employees, advisors, agents or solicitors.

11 General provisions

11.1 Waiver and variation

A provision of or a right created under this Contract cannot be:

- (a) waived except in writing signed by the party granting the waiver; or
- (b) varied except in writing signed by or on behalf of the parties.

11.2 Severability

If anything in this Contract is unenforceable, illegal or void then it is severed and the rest of this Contract remains in force.

11.3 No assignment

The Purchaser must not assign, transfer, encumber or in any other way deal with or dispose of any interest in this Contract or, prior to settlement, the Property except with the prior written consent of the Vendor. The Vendor is not required to give consent or to justify why any consent has been withheld. This special condition does not apply to any nomination.

11.4 Assurances

Each party must do all things, including executing and delivering any document, and give all contracts which may be reasonably necessary or desirable to give effect to this Contract and any part of this Contract. The terms and conditions of this Contract in favour of the Vendor do not merge at settlement.

11.5 Governing law and jurisdiction

- (a) The law of Victoria governs this Contract.
- (b) The parties submit to the non-exclusive jurisdiction of the courts of Victoria and of the Commonwealth of Australia.

11.6 Counterparts

- (a) This Contract may be executed in any number of counterparts.
- (b) Each counterpart is an original and the counterparts together are one and the same contract.

11.7 Re-calculate

The Vendor reserves the right to re-calculate the adjustments under general condition 23 if there was an error in the adjustments at settlement. Further land tax will be adjusted on a proportional basis (including any applicable trust) as assessed by the State Revenue Office if section 10G of the Sale of Land Act 1962 does not apply.

12 Lease Agreement

12.1 Definitions:

In this Special Condition 12:

- (a) **Lease Monies** means rent and all monies paid or payable to the Vendor by the Tenant;
- (b) **Tenant** means the person or persons entitled under a Lease to use or occupy the Property or part of the Property.

12.2 Sale with lease

The Vendor agrees to grant a Lease which will be signed between the Vendor (as landlord) and the Purchaser's nominated entity (as tenant) with a lease commencement date on or around the Day of Sale or any other dates as agreed between the parties ("Lease") subject to:

- (a) the receipt of the fully executed Contract of Sale for the Property between the parties; and
- (b) the receipt of the fully executed Contract of Sale for the property at 41 Triholm Avenue, Laverton VIC 3028 ("**Purchaser's Property**") between the Vendor (as purchaser) and the Purchaser (as vendor) ("**Simultaneous Contract**").

12.3 Leases and Goods

- (a) The Purchaser acknowledges that it has received, read and understood the Lease and has had sufficient opportunity to seek independent advice about it.
- (b) Any goods owned by the tenant under the Lease remain the property of the tenant and are expressly excluded from this sale.

12.4 Rent and profits

- (a) Rent and profits of the Property belong to the Vendor until settlement and the Purchaser after settlement.
- (b) Rent will be adjusted as follows:
 - (i) if rent or any other amounts due at settlement are paid for a period extending past settlement, the amount representing the period before and including settlement will be adjusted to the Vendor and the amount representing the period after settlement will be adjusted to the Purchaser; or
 - (ii) if rent or any other amounts due at settlement are not paid for the period before and including settlement, then the Purchaser shall adjust that amount in favour of the Vendor.
- (c) Any outgoing (including but not limited to any rates and taxes) which are payable by the Tenant under any of the Leases will not be adjusted at settlement.

12.5 Vendor assigns interest

After settlement the Vendor assigns to the Purchaser the benefit of all covenants, agreements and obligations under the Lease, whether or not they touch and concern the Property.

12.6 Compliance after settlement



- 12.7** The Purchaser undertakes, represents and warrants to the Vendor that the Purchaser will comply with each of its obligations as landlord under the Lease on and from settlement and indemnifies the Vendor from and against all loss for failing to comply with this special condition.
- 12.8 Termination**
Notwithstanding any other provision of this Contract, the parties acknowledge that if settlement does not proceed for any reason whatsoever, the Lease will automatically expire.
- 12.9 Access after settlement**
Notwithstanding any other provision of this Contract, the parties acknowledge that following settlement the Vendor will still have personal property at the Property. For the period of not more than 30 days following settlement, the Vendor must remove such personal property and make good any damage caused by its removal. The Vendor will be granted access during business hours provided the Vendor gives the Purchaser not less than 48 hours prior written notice. Any personal property not removed by the end of the 30 day period will become the property of the Purchaser.

13 Conditions Precedent

13.1 Conditions Precedent

The parties acknowledge and agree that the settlement of this Contract is conditional upon the following:

- (a) The Vendor obtaining the requisite approval from the shareholders of M&L Holdings Group Limited for the proposed disposal of the Property on terms of this Contract on or before 1 December 2024 ("**Condition Precedent 1**"); and
- (b) The simultaneous completion of the settlement of the Contract of Sale for the Property and the Simultaneous Contract ("**Condition Precedent 2**").

13.2 Obligations to co-operate

- (a) The Vendor shall use reasonable efforts to satisfy Condition Precedent 1 as soon as possible.
- (b) The Purchaser will provide any reasonably required information and documentation (including the signing of any approvals) as is reasonably requested by the Vendor in connection with obtaining requisite approval under Condition Precedent 1 as soon as possible.

13.3 Failure to satisfy Condition Precedent 1

- (a) If Condition Precedent 1 is not satisfied by 1 December 2024 (or as extended under Special Condition 13.3(b)), the Vendor may terminate this Contract and the Simultaneous Contract by giving writing notice to the Purchaser.
- (b) If the Vendor is unable to satisfy Condition Precedent 1 by 1 December 2024, the Vendor has the right to extend the due date by up to ninety (90) days if, in the reasonable opinion of the Vendor, Condition Precedent 1 is likely to be satisfied within the ninety (90) days period. If a further extension is required after the aforesaid extension, such further extension will apply subject to mutual agreement by both parties in writing.
- (c) If the due date for Condition Precedent 1 is extended in accordance with Special Condition **Error! Reference source not found.**, settlement will take place 14 days following written notification from the Purchaser to the Vendor that Condition Precedent 1 is satisfied.
- (d) If this Contract is terminated under Special Condition 13.3 then, in addition to any other rights, powers or remedies provided by law or in equity:
 - (i) each party is released from its obligations and liabilities under or in connection with this Contract and this Contract has no further effect; and

- (ii) each party retains any accrued rights, remedies and powers it has in connection with any breach of, or any claim arising from, this Contract that has arisen before termination; and
- (iii) the Deposit (together with all interest earned on the Deposit (if any)) will be returned to the Purchaser and the Purchaser will have no claim in respect thereof against the Vendor.

13.4 Failure to satisfy Condition Precedent 2

- (a) This Contract is interdependent with the Simultaneous Contract. If for any reason this Contract cannot proceed to completion, then neither will the Simultaneous Contract.
- (b) Any breach of either contract by either party shall constitute a breach by that party of the other contract. If either party is entitled to rescind or terminate one contract then they are entitled to rescind or terminate the other contract.
- (c) If this Contract is terminated under Special Condition 13.1(b) then, in addition to any other rights, powers or remedies provided by law or in equity:
 - (i) each party retains any accrued rights, remedies and powers it has in connection with any breach of, or any claim arising from, this Contract that has arisen before termination; and
 - (ii) the Deposit (together with all interest earned on the Deposit (if any)) will be returned to the party who is entitled to it.

14 Settlement

- (a) The parties agree that the Purchaser has the right to extend the settlement date up to 3 months from the settlement date under this Contract, to fulfil its requirements under the relevant stock exchange, by written notice to the Vendor.
- (b) Notwithstanding any other provision of this Contract, the parties acknowledge and agree that the settlement will not occur between the period of 20 December 2024 and 15 January 2025 (all inclusive).

15 Jib and Post Cranes

The parties acknowledge and agree that 2 x Jib and Post Cranes located on the Property will be removed prior to settlement and moved to the Purchaser's Property. 2 x Jib and Post Cranes will remain at this Property and included in the goods sold under this Contract.



General Conditions

Contract signing

1. ELECTRONIC SIGNATURE

- 1.1 In this general condition "electronic signature" means a digital signature or a visual representation of a person's handwritten signature or mark which is placed on a physical or electronic copy of this contract by electronic or mechanical means, and "electronically signed" has a corresponding meaning.
- 1.2 The parties consent to this contract being signed by or on behalf of a party by an electronic signature.
- 1.3 Where this contract is electronically signed by or on behalf of a party, the party warrants and agrees that the electronic signature has been used to identify the person signing and to indicate that the party intends to be bound by the electronic signature.
- 1.4 This contract may be electronically signed in any number of counterparts which together will constitute the one document.
- 1.5 Each party consents to the exchange of counterparts of this contract by delivery by email or such other electronic means as may be agreed in writing.
- 1.6 Each party must upon request promptly deliver a physical counterpart of this contract with the handwritten signature or signatures of the party and all written evidence of the authority of a person signing on their behalf, but a failure to comply with the request does not affect the validity of this contract.

2. LIABILITY OF SIGNATORY

Any signatory for a proprietary limited company purchaser is personally liable for the due performance of the purchaser's obligations as if the signatory were the purchaser in the case of a default by a proprietary limited company purchaser.

3. GUARANTEE

The vendor may require one or more directors of the purchaser to guarantee the purchaser's performance of this contract if the purchaser is a proprietary limited company.

4. NOMINEE

The purchaser may no later than 14 days before the due date for settlement nominate a substitute or additional person to take a transfer of the land, but the named purchaser remains personally liable for the due performance of all the purchaser's obligations under this contract.

Title

5. ENCUMBRANCES

- 5.1 The purchaser buys the property subject to:
 - (a) any encumbrance shown in the section 32 statement other than mortgages or caveats; and
 - (b) any reservations, exceptions and conditions in the crown grant; and
 - (c) any lease or tenancy referred to in the particulars of sale.
- 5.2 The purchaser indemnifies the vendor against all obligations under any lease or tenancy that are to be performed by the landlord after settlement.

6. VENDOR WARRANTIES

- 6.1 The vendor warrants that these general conditions 1 to 35 are identical to the general conditions 1 to 35 in the form of contract of sale of land published by the Law Institute of Victoria Limited and the Real Estate Institute of Victoria Ltd in the month and year set out at the foot of this page.
- 6.2 The warranties in general conditions 6.3 and 6.4 replace the purchaser's right to make requisitions and inquiries.
- 6.3 The vendor warrants that the vendor:
 - (a) has, or by the due date for settlement will have, the right to sell the land; and
 - (b) is under no legal disability; and
 - (c) is in possession of the land, either personally or through a tenant; and
 - (d) has not previously sold or granted any option to purchase, agreed to a lease or granted a pre-emptive right which is current over the land and which gives another party rights which have priority over the interest of the purchaser; and
 - (e) will at settlement be the holder of an unencumbered estate in fee simple in the land; and
 - (f) will at settlement be the unencumbered owner of any improvements, fixtures, fittings and goods sold with the land.



- 6.4 The vendor further warrants that the vendor has no knowledge of any of the following:
- (a) public rights of way over the land;
 - (b) easements over the land;
 - (c) lease or other possessory agreement affecting the land;
 - (d) notice or order directly and currently affecting the land which will not be dealt with at settlement, other than the usual rate notices and any land tax notices;
 - (e) legal proceedings which would render the sale of the land void or voidable or capable of being set aside.
- 6.5 The warranties in general conditions 6.3 and 6.4 are subject to any contrary provisions in this contract and disclosures in the section 32 statement.
- 6.6 If sections 137B and 137C of the *Building Act 1993* apply to this contract, the vendor warrants that:
- (a) all domestic building work carried out in relation to the construction by or on behalf of the vendor of the home was carried out in a proper and workmanlike manner; and
 - (b) all materials used in that domestic building work were good and suitable for the purpose for which they were used and that, unless otherwise stated in the contract, those materials were new; and
 - (c) domestic building work was carried out in accordance with all laws and legal requirements, including, without limiting the generality of this warranty, the *Building Act 1993* and regulations made under the *Building Act 1993*.
- 6.7 Words and phrases used in general condition 6.6 which are defined in the *Building Act 1993* have the same meaning in general condition 6.6.

7. IDENTITY OF THE LAND

- 7.1 An omission or mistake in the description of the property or any deficiency in the area, description or measurements of the land does not invalidate the sale.
- 7.2 The purchaser may not:
- (a) make any objection or claim for compensation for any alleged misdescription of the property or any deficiency in its area or measurements; or
 - (b) require the vendor to amend title or pay any cost of amending title.

8. SERVICES

- 8.1 The vendor does not represent that the services are adequate for the purchaser's proposed use of the property and the vendor advises the purchaser to make appropriate inquiries. The condition of the services may change between the day of sale and settlement and the vendor does not promise that the services will be in the same condition at settlement as they were on the day of sale.
- 8.2 The purchaser is responsible for the connection of all services to the property after settlement and the payment of any associated cost.

9. CONSENTS

The vendor must obtain any necessary consent or licence required for the vendor to sell the property. The contract will be at an end and all money paid must be refunded if any necessary consent or licence is not obtained by settlement.

10. TRANSFER & DUTY

- 10.1 The purchaser must prepare and deliver to the vendor at least 7 days before the due date for settlement any paper transfer of land document which is necessary for this transaction. The delivery of the transfer of land document is not acceptance of title.
- 10.2 The vendor must promptly initiate the Duties on Line or other form required by the State Revenue Office in respect of this transaction, and both parties must co-operate to complete it as soon as practicable.

11. RELEASE OF SECURITY INTEREST

- 11.1 This general condition applies if any part of the property is subject to a security interest to which the *Personal Property Securities Act 2009 (Cth)* applies.
- 11.2 For the purposes of enabling the purchaser to search the Personal Property Securities Register for any security interests affecting any personal property for which the purchaser may be entitled to a release, statement, approval or correction in accordance with general condition 11.4, the purchaser may request the vendor to provide the vendor's date of birth to the purchaser. The vendor must comply with a request made by the purchaser under this condition if the purchaser makes the request at least 21 days before the due date for settlement.
- 11.3 If the purchaser is given the details of the vendor's date of birth under general condition 11.2, the purchaser must
- (a) only use the vendor's date of birth for the purposes specified in general condition 11.2; and
 - (b) keep the date of birth of the vendor secure and confidential.
- 11.4 The vendor must ensure that at or before settlement, the purchaser receives—



- (a) a release from the secured party releasing the property from the security interest; or
 - (b) a statement in writing in accordance with section 275(1)(b) of the *Personal Property Securities Act 2009 (Cth)* setting out that the amount or obligation that is secured is nil at settlement; or
 - (c) a written approval or correction in accordance with section 275(1)(c) of the *Personal Property Securities Act 2009 (Cth)* indicating that, on settlement, the personal property included in the contract is not or will not be property in which the security interest is granted.
- 11.5 Subject to general condition 11.6, the vendor is not obliged to ensure that the purchaser receives a release, statement, approval or correction in respect of personal property—
- (a) that—
 - (i) the purchaser intends to use predominantly for personal, domestic or household purposes; and
 - (ii) has a market value of not more than \$5000 or, if a greater amount has been prescribed for the purposes of section 47(1) of the *Personal Property Securities Act 2009 (Cth)*, not more than that prescribed amount; or
 - (b) that is sold in the ordinary course of the vendor's business of selling personal property of that kind.
- 11.6 The vendor is obliged to ensure that the purchaser receives a release, statement, approval or correction in respect of personal property described in general condition 11.5 if—
- (a) the personal property is of a kind that may or must be described by serial number in the Personal Property Securities Register; or
 - (b) the purchaser has actual or constructive knowledge that the sale constitutes a breach of the security agreement that provides for the security interest.
- 11.7 A release for the purposes of general condition 11.4(a) must be in writing.
- 11.8 A release for the purposes of general condition 11.4(a) must be effective in releasing the goods from the security interest and be in a form which allows the purchaser to take title to the goods free of that security interest.
- 11.9 If the purchaser receives a release under general condition 11.4(a) the purchaser must provide the vendor with a copy of the release at or as soon as practicable after settlement.
- 11.10 In addition to ensuring that a release is received under general condition 11.4(a), the vendor must ensure that at or before settlement the purchaser receives a written undertaking from a secured party to register a financing change statement to reflect that release if the property being released includes goods of a kind that are described by serial number in the Personal Property Securities Register.
- 11.11 The purchaser must advise the vendor of any security interest that is registered on or before the day of sale on the Personal Property Securities Register, which the purchaser reasonably requires to be released, at least 21 days before the due date for settlement.
- 11.12 The vendor may delay settlement until 21 days after the purchaser advises the vendor of the security interests that the purchaser reasonably requires to be released if the purchaser does not provide an advice under general condition 11.11.
- 11.13 If settlement is delayed under general condition 11.12 the purchaser must pay the vendor—
- (a) interest from the due date for settlement until the date on which settlement occurs or 21 days after the vendor receives the advice, whichever is the earlier; and
 - (b) any reasonable costs incurred by the vendor as a result of the delay—
- as though the purchaser was in default.
- 11.14 The vendor is not required to ensure that the purchaser receives a release in respect of the land. This general condition 11.14 applies despite general condition 11.1.
- 11.15 Words and phrases which are defined in the *Personal Property Securities Act 2009 (Cth)* have the same meaning in general condition 11 unless the context requires otherwise.
- 12. BUILDER WARRANTY INSURANCE**
- The vendor warrants that the vendor will provide at settlement details of any current **builder warranty insurance** in the vendor's possession relating to the property if requested in writing to do so at least 21 days before settlement.
- 13. GENERAL LAW LAND**
- 13.1 The vendor must complete a conversion of title in accordance with section 14 of the *Transfer of Land Act 1958* before settlement if the land is the subject of a provisional folio under section 23 of that Act.

- 13.2 The remaining provisions of this general condition 13 only apply if any part of the land is not under the operation of the *Transfer of Land Act 1958*.
- 13.3 The vendor is taken to be the holder of an unencumbered estate in fee simple in the land if there is an unbroken chain of title starting at least 30 years before the day of sale proving on the face of the documents the ownership of the entire legal and equitable estate without the aid of other evidence.
- 13.4 The purchaser is entitled to inspect the vendor's chain of title on request at such place in Victoria as the vendor nominates.
- 13.5 The purchaser is taken to have accepted the vendor's title if:
- (a) 21 days have elapsed since the day of sale; and
 - (b) the purchaser has not reasonably objected to the title or reasonably required the vendor to remedy a defect in the title.
- 13.6 The contract will be at an end if:
- (a) the vendor gives the purchaser a notice that the vendor is unable or unwilling to satisfy the purchaser's objection or requirement and that the contract will end if the objection or requirement is not withdrawn within 14 days of the giving of the notice; and
 - (b) the objection or requirement is not withdrawn in that time.
- 13.7 If the contract ends in accordance with general condition 13.6, the deposit must be returned to the purchaser and neither party has a claim against the other in damages.
- 13.8 General condition 17.1 [settlement] should be read as if the reference to 'registered proprietor' is a reference to 'owner' in respect of that part of the land which is not under the operation of the *Transfer of Land Act 1958*.

Money

14. DEPOSIT

- 14.1 The purchaser must pay the deposit:
- (a) to the vendor's licensed estate agent; or
 - (b) if there is no estate agent, to the vendor's legal practitioner or conveyancer; or
 - (c) if the vendor directs, into a special purpose account in an authorised deposit-taking institution in Victoria specified by the vendor in the joint names of the purchaser and the vendor.
- 14.2 If the land sold is a lot on an unregistered plan of subdivision, the deposit:
- (a) must not exceed 10% of the price; and
 - (b) must be paid to the vendor's estate agent, legal practitioner or conveyancer and held by the estate agent, legal practitioner or conveyancer on trust for the purchaser until the registration of the plan of subdivision.
- 14.3 The deposit must be released to the vendor if:
- (a) the vendor provides particulars, to the satisfaction of the purchaser, that either-
 - (i) there are no debts secured against the property; or
 - (ii) if there are any debts, the total amount of those debts together with any amounts to be withheld in accordance with general conditions 24 and 25 does not exceed 80% of the sale price; and
 - (b) at least 28 days have elapsed since the particulars were given to the purchaser under paragraph (a); and
 - (c) all conditions of section 27 of the *Sale of Land Act 1962* have been satisfied.
- 14.4 The stakeholder must pay the deposit and any interest to the party entitled when the deposit is released, the contract is settled, or the contract is ended.
- 14.5 The stakeholder may pay the deposit and any interest into court if it is reasonable to do so.
- 14.6 Where the purchaser is deemed by section 27(7) of the *Sale of Land Act 1962* to have given the deposit release authorisation referred to in section 27(1), the purchaser is also deemed to have accepted title in the absence of any prior express objection to title.
- 14.7 Payment of the deposit may be made or tendered:
- (a) in cash up to \$1,000 or 0.2% of the price, whichever is greater; or

- (b) by cheque drawn on an authorised deposit-taking institution; or
- (c) by electronic funds transfer to a recipient having the appropriate facilities for receipt.

However, unless otherwise agreed:

- (d) payment may not be made by credit card, debit card or any other financial transfer system that allows for any chargeback or funds reversal other than for fraud or mistaken payment, and
- (e) any financial transfer or similar fees or deductions from the funds transferred, other than any fees charged by the recipient's authorised deposit-taking institution, must be paid by the remitter.

- 14.8 Payment by electronic funds transfer is made when cleared funds are received in the recipient's bank account.
- 14.9 Before the funds are electronically transferred the intended recipient must be notified in writing and given sufficient particulars to readily identify the relevant transaction.
- 14.10 As soon as the funds have been electronically transferred the intended recipient must be provided with the relevant transaction number or reference details.
- 14.11 For the purpose of this general condition 'authorised deposit-taking institution' means a body corporate for which an authority under section 9(3) of the *Banking Act 1959 (Cth)* is in force.

15. DEPOSIT BOND

- 15.1 This general condition only applies if the applicable box in the particulars of sale is checked.
- 15.2 In this general condition "deposit bond" means an irrevocable undertaking to pay on demand an amount equal to the deposit or any unpaid part of the deposit. The issuer and the form of the deposit bond must be satisfactory to the vendor. The deposit bond must have an expiry date at least 45 days after the due date for settlement.
- 15.3 The purchaser may deliver a deposit bond to the vendor's estate agent, legal practitioner or conveyancer within 7 days after the day of sale.
- 15.4 The purchaser may at least 45 days before a current deposit bond expires deliver a replacement deposit bond on the same terms and conditions.
- 15.5 Where a deposit bond is delivered, the purchaser must pay the deposit to the vendor's legal practitioner or conveyancer on the first to occur of:
 - (a) settlement;
 - (b) the date that is 45 days before the deposit bond or any replacement deposit bond expires;
 - (c) the date on which this contract ends in accordance with general condition 35.2 [default not remedied] following breach by the purchaser; and
 - (d) the date on which the vendor ends this contract by accepting repudiation of it by the purchaser.
- 15.6 The vendor may claim on the deposit bond without prior notice if the purchaser defaults under this contract or repudiates this contract and the contract is ended. The amount paid by the issuer satisfies the obligations of the purchaser under general condition 15.5 to the extent of the payment.
- 15.7 Nothing in this general condition limits the rights of the vendor if the purchaser defaults under this contract or repudiates this contract, except as provided in general condition 15.6.
- 15.8 This general condition is subject to general condition 14.2 [deposit].

16. BANK GUARANTEE

- 16.1 This general condition only applies if the applicable box in the particulars of sale is checked.
- 16.2 In this general condition:
 - (a) "bank guarantee" means an unconditional and irrevocable guarantee or undertaking by a bank in a form satisfactory to the vendor to pay on demand any amount under this contract agreed in writing, and
 - (b) "bank" means an authorised deposit-taking institution under the *Banking Act 1959 (Cth)*.
- 16.3 The purchaser may deliver a bank guarantee to the vendor's legal practitioner or conveyancer.
- 16.4 The purchaser must pay the amount secured by the bank guarantee to the vendor's legal practitioner or conveyancer on the first to occur of:
 - (a) settlement;
 - (b) the date that is 45 days before the bank guarantee expires;
 - (c) the date on which this contract ends in accordance with general condition 35.2 [default not remedied] following breach by the purchaser; and
 - (d) the date on which the vendor ends this contract by accepting repudiation of it by the purchaser.



- 16.5 The vendor must return the bank guarantee document to the purchaser when the purchaser pays the amount secured by the bank guarantee in accordance with general condition 16.4.
- 16.6 The vendor may claim on the bank guarantee without prior notice if the purchaser defaults under this contract or repudiates this contract and the contract is ended. The amount paid by the bank satisfies the obligations of the purchaser under general condition 16.4 to the extent of the payment.
- 16.7 Nothing in this general condition limits the rights of the vendor if the purchaser defaults under this contract or repudiates this contract except as provided in general condition 16.6.
- 16.8 This general condition is subject to general condition 14.2 [deposit].

17. SETTLEMENT

- 17.1 At settlement:
 - (a) the purchaser must pay the balance; and
 - (b) the vendor must:
 - (i) do all things necessary to enable the purchaser to become the registered proprietor of the land; and
 - (ii) give either vacant possession or receipt of rents and profits in accordance with the particulars of sale.
- 17.2 Settlement must be conducted between the hours of 10.00 am and 4.00 pm unless the parties agree otherwise.
- 17.3 The purchaser must pay all money other than the deposit in accordance with a written direction of the vendor or the vendor's legal practitioner or conveyancer.

18. ELECTRONIC SETTLEMENT

- 18.1 Settlement and lodgement of the instruments necessary to record the purchaser as registered proprietor of the land will be conducted electronically in accordance with the Electronic Conveyancing National Law. This general condition 18 has priority over any other provision of this contract to the extent of any inconsistency.
- 18.2 A party must immediately give written notice if that party reasonably believes that settlement and lodgement can no longer be conducted electronically. General condition 18 ceases to apply from when such a notice is given.
- 18.3 Each party must:
 - (a) be, or engage a representative who is, a subscriber for the purposes of the Electronic Conveyancing National Law,
 - (b) ensure that all other persons for whom that party is responsible and who are associated with this transaction are, or engage, a subscriber for the purposes of the Electronic Conveyancing National Law, and
 - (c) conduct the transaction in accordance with the Electronic Conveyancing National Law.
- 18.4 The vendor must open the electronic workspace ("workspace") as soon as reasonably practicable and nominate a date and time for settlement. The inclusion of a specific date and time for settlement in a workspace is not of itself a promise to settle on that date or at that time. The workspace is an electronic address for the service of notices and for written communications for the purposes of any electronic transactions legislation.
- 18.5 This general condition 18.5 applies if there is more than one electronic lodgement network operator in respect of the transaction. In this general condition 18.5 "the transaction" means this sale and purchase and any associated transaction involving any of the same subscribers.

To the extent that any interoperability rules governing the relationship between electronic lodgement network operators do not provide otherwise:

- (a) the electronic lodgement network operator to conduct all the financial and lodgement aspects of the transaction after the workspace locks must be one which is willing and able to conduct such aspects of the transaction in accordance with the instructions of all the subscribers in the workspaces of all the electronic lodgement network operators after the workspace locks;
 - (b) if two or more electronic lodgement network operators meet that description, one may be selected by purchaser's incoming mortgagee having the highest priority but if there is no mortgagee of the purchaser, the vendor must make the selection.
- 18.6 Settlement occurs when the workspace records that:
 - (a) there has been an exchange of funds or value between the exchange settlement account or accounts in the Reserve Bank of Australia of the relevant financial institutions or their financial settlement agents in accordance with the instructions of the parties; or
 - (b) if there is no exchange of funds or value, the documents necessary to enable the purchaser to become registered proprietor of the land have been accepted for electronic lodgement.
 - 18.7 The parties must do everything reasonably necessary to effect settlement:
 - (a) electronically on the next business day, or
 - (b) at the option of either party, otherwise than electronically as soon as possible –

if, after the locking of the workspace at the nominated settlement time, settlement in accordance with general condition 18.6 has not occurred by 4.00 pm, or 6.00 pm if the nominated time for settlement is after 4.00 pm.

- 18.8 Each party must do everything reasonably necessary to assist the other party to trace and identify the recipient of any missing or mistaken payment and to recover the missing or mistaken payment.
- 18.9 The vendor must before settlement:
- (a) deliver any keys, security devices and codes ("keys") to the estate agent named in the contract,
 - (b) direct the estate agent to give the keys to the purchaser or the purchaser's nominee on notification of settlement by the vendor, the vendor's subscriber or the electronic lodgement network operator;
 - (c) deliver all other physical documents and items (other than the goods sold by the contract) to which the purchaser is entitled at settlement, and any keys if not delivered to the estate agent, to the vendor's subscriber or, if there is no vendor's subscriber, confirm in writing to the purchaser that the vendor holds those documents, items and keys at the vendor's address set out in the contract, and
- give, or direct its subscriber to give, all those documents and items and any such keys to the purchaser or the purchaser's nominee on notification by the electronic lodgement network operator of settlement.

19. GST

- 19.1 The purchaser does not have to pay the vendor any amount in respect of GST in addition to the price if the particulars of sale specify that the price includes GST (if any).
- 19.2 The purchaser must pay to the vendor any GST payable by the vendor in respect of a taxable supply made under this contract in addition to the price if:
- (a) the particulars of sale specify that GST (if any) must be paid in addition to the price; or
 - (b) GST is payable solely as a result of any action taken or intended to be taken by the purchaser after the day of sale, including a change of use; or
 - (c) the particulars of sale specify that the supply made under this contract is of land on which a 'farming business' is carried on and the supply (or part of it) does not satisfy the requirements of section 38-480 of the GST Act; or
 - (d) the particulars of sale specify that the supply made under this contract is of a going concern and the supply (or a part of it) does not satisfy the requirements of section 38-325 of the GST Act.
- 19.3 The purchaser is not obliged to pay any GST under this contract until a tax invoice has been given to the purchaser.
- 19.4 If the particulars of sale specify that the supply made under this contract is of land on which a 'farming business' is carried on:
- (a) the vendor warrants that the property is land on which a farming business has been carried on for the period of 5 years preceding the date of supply; and
 - (b) the purchaser warrants that the purchaser intends that a farming business will be carried on after settlement on the property.
- 19.5 If the particulars of sale specify that the supply made under this contract is a 'going concern':
- (a) the parties agree that this contract is for the supply of a going concern; and
 - (b) the purchaser warrants that the purchaser is, or prior to settlement will be, registered for GST; and
 - (c) the vendor warrants that the vendor will carry on the going concern until the date of supply.
- 19.6 If the particulars of sale specify that the supply made under this contract is a 'margin scheme' supply, the parties agree that the margin scheme applies to this contract.
- 19.7 In this general condition:
- (a) 'GST Act' means *A New Tax System (Goods and Services Tax) Act 1999 (Cth)*; and
 - (b) 'GST' includes penalties and interest.

20. LOAN

- 20.1 If the particulars of sale specify that this contract is subject to a loan being approved, this contract is subject to the lender approving the loan on the security of the property by the approval date or any later date allowed by the vendor.
- 20.2 The purchaser may end the contract if the loan is not approved by the approval date, but only if the purchaser:
- (a) immediately applied for the loan; and
 - (b) did everything reasonably required to obtain approval of the loan; and
 - (c) serves written notice ending the contract, together with written evidence of rejection or non-approval of the loan, on the vendor within 2 clear business days after the approval date or any later date allowed by the vendor; and
 - (d) is not in default under any other condition of this contract when the notice is given.
- 20.3 All money must be immediately refunded to the purchaser if the contract is ended.

21. BUILDING REPORT

- 21.1 This general condition only applies if the applicable box in the particulars of sale is checked.
- 21.2 The purchaser may end this contract within 14 days from the day of sale if the purchaser:
 - (a) obtains a written report from a registered building practitioner or architect which discloses a current defect in a structure on the land and designates it as a major building defect;
 - (b) gives the vendor a copy of the report and a written notice ending this contract; and
 - (c) is not then in default.
- 21.3 All money paid must be immediately refunded to the purchaser if the contract ends in accordance with this general condition.
- 21.4 A notice under this general condition may be served on the vendor's legal practitioner, conveyancer or estate agent even if the estate agent's authority has formally expired at the time of service.
- 21.5 The registered building practitioner may inspect the property at any reasonable time for the purpose of preparing the report.

22. PEST REPORT

- 22.1 This general condition only applies if the applicable box in the particulars of sale is checked.
- 22.2 The purchaser may end this contract within 14 days from the day of sale if the purchaser:
 - (a) obtains a written report from a pest control operator licensed under Victorian law which discloses a current pest infestation on the land and designates it as a major infestation affecting the structure of a building on the land;
 - (b) gives the vendor a copy of the report and a written notice ending this contract; and
 - (c) is not then in default.
- 22.3 All money paid must be immediately refunded to the purchaser if the contract ends in accordance with this general condition.
- 22.4 A notice under this general condition may be served on the vendor's legal practitioner, conveyancer or estate agent even if the estate agent's authority has formally expired at the time of service.
- 22.5 The pest control operator may inspect the property at any reasonable time for the purpose of preparing the report.

23. ADJUSTMENTS

- 23.1 All periodic outgoings payable by the vendor, and any rent and other income received in respect of the property must be apportioned between the parties on the settlement date and any adjustments paid and received as appropriate.
- 23.2 The periodic outgoings and rent and other income must be apportioned on the following basis:
 - (a) the vendor is liable for the periodic outgoings and entitled to the rent and other income up to and including the day of settlement; and
 - (b) the land is treated as the only land of which the vendor is owner (as defined in the *Land Tax Act 2005*); and
 - (c) the vendor is taken to own the land as a resident Australian beneficial owner; and
 - (d) any personal statutory benefit available to each party is disregarded in calculating apportionment.
- 23.3 The purchaser must provide copies of all certificates and other information used to calculate the adjustments under general condition 23, if requested by the vendor.

24. FOREIGN RESIDENT CAPITAL GAINS WITHHOLDING

- 24.1 Words defined or used in Subdivision 14-D of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* have the same meaning in this general condition unless the context requires otherwise.
- 24.2 Every vendor under this contract is a foreign resident for the purposes of this general condition unless the vendor gives the purchaser a clearance certificate issued by the Commissioner under section 14-220 (1) of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*. The specified period in the clearance certificate must include the actual date of settlement.
- 24.3 The remaining provisions of this general condition 24 only apply if the purchaser is required to pay the Commissioner an amount in accordance with section 14-200(3) or section 14-235 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* ("the amount") because one or more of the vendors is a foreign resident, the property has or will have a market value not less than the amount set out in section 14-215 of the legislation just after the transaction, and the transaction is not excluded under section 14-215(1) of the legislation.
- 24.4 The amount is to be deducted from the vendor's entitlement to the contract consideration. The vendor must pay to the purchaser at settlement such part of the amount as is represented by non-monetary consideration.
- 24.5 The purchaser must:
 - (a) engage a legal practitioner or conveyancer ("representative") to conduct all the legal aspects of settlement, including the performance of the purchaser's obligations under the legislation and this general condition; and
 - (b) ensure that the representative does so.

- 24.6 The terms of the representative's engagement are taken to include instructions to have regard to the vendor's interests and instructions that the representative must:
- (a) pay, or ensure payment of, the amount to the Commissioner in the manner required by the Commissioner and as soon as reasonably and practicably possible, from moneys under the control or direction of the representative in accordance with this general condition if the sale of the property settles;
 - (b) promptly provide the vendor with proof of payment; and
 - (c) otherwise comply, or ensure compliance, with this general condition;
- despite:
- (d) any contrary instructions, other than from both the purchaser and the vendor; and
 - (e) any other provision in this contract to the contrary.
- 24.7 The representative is taken to have complied with the requirements of general condition 24.6 if:
- (a) the settlement is conducted through an electronic lodgement network; and
 - (b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.
- 24.8 Any clearance certificate or document evidencing variation of the amount in accordance with section 14-235(2) of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* must be given to the purchaser at least 5 business days before the due date for settlement.
- 24.9 The vendor must provide the purchaser with such information as the purchaser requires to comply with the purchaser's obligation to pay the amount in accordance with section 14-200 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*. The information must be provided within 5 business days of request by the purchaser. The vendor warrants that the information the vendor provides is true and correct.
- 24.10 The purchaser is responsible for any penalties or interest payable to the Commissioner on account of late payment of the amount.

25. GST WITHHOLDING

- 25.1 Words and expressions defined or used in Subdivision 14-E of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* or in *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* have the same meaning in this general condition unless the context requires otherwise. Words and expressions first used in this general condition and shown in italics and marked with an asterisk are defined or described in at least one of those Acts.
- 25.2 The purchaser must notify the vendor in writing of the name of the recipient of the *supply for the purposes of section 14-255 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* at least 21 days before the due date for settlement unless the recipient is the purchaser named in the contract.
- 25.3 The vendor must at least 14 days before the due date for settlement provide the purchaser and any person nominated by the purchaser under general condition 4 with a GST withholding notice in accordance with section 14-255 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*, and must provide all information required by the purchaser or any person so nominated to confirm the accuracy of the notice.
- 25.4 The remaining provisions of this general condition 25 apply if the purchaser is or may be required to pay the Commissioner an *amount in accordance with section 14-250 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* because the property is *new residential premises or *potential residential land in either case falling within the parameters of that section, and also if the sale attracts the operation of section 14-255 of the legislation. Nothing in this general condition 25 is to be taken as relieving the vendor from compliance with section 14-255.
- 25.5 The amount is to be deducted from the vendor's entitlement to the contract *consideration and is then taken to be paid to the vendor, whether or not the vendor provides the purchaser with a GST withholding notice in accordance with section 14-255 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*. The vendor must pay to the purchaser at settlement such part of the amount as is represented by non-monetary consideration.
- 25.6 The purchaser must:
- (a) engage a legal practitioner or conveyancer ("representative") to conduct all the legal aspects of settlement, including the performance of the purchaser's obligations under the legislation and this general condition; and
 - (b) ensure that the representative does so.
- 25.7 The terms of the representative's engagement are taken to include instructions to have regard to the vendor's interests relating to the payment of the amount to the Commissioner and instructions that the representative must:
- (a) pay, or ensure payment of, the amount to the Commissioner in the manner required by the Commissioner and as soon as reasonably and practicably possible, from moneys under the control or direction of the representative in accordance with this general condition on settlement of the sale of the property;
 - (b) promptly provide the vendor with evidence of payment, including any notification or other document provided by the purchaser to the Commissioner relating to payment; and
 - (c) otherwise comply, or ensure compliance, with this general condition;
- despite:



- (d) any contrary instructions, other than from both the purchaser and the vendor; and
 - (e) any other provision in this contract to the contrary.
- 25.8 The representative is taken to have complied with the requirements of general condition 25.7 if:
- (a) settlement is conducted through an electronic lodgement network; and
 - (b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.
- 25.9 The purchaser may at settlement give the vendor a bank cheque for the amount in accordance with section 16-30 (3) of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*, but only if:
- (a) so agreed by the vendor in writing; and
 - (b) the settlement is not conducted through an electronic lodgement network.
- However, if the purchaser gives the bank cheque in accordance with this general condition 25.9, the vendor must:
- (c) immediately after settlement provide the bank cheque to the Commissioner to pay the amount in relation to the supply; and
 - (d) give the purchaser a receipt for the bank cheque which identifies the transaction and includes particulars of the bank cheque, at the same time the purchaser gives the vendor the bank cheque.
- 25.10 A party must provide the other party with such information as the other party requires to:
- (a) decide if an amount is required to be paid or the quantum of it, or
 - (b) comply with the purchaser's obligation to pay the amount,
- in accordance with section 14-250 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*. The information must be provided within 5 business days of a written request. The party providing the information warrants that it is true and correct.
- 25.11 The vendor warrants that:
- (a) at settlement, the property is not new residential premises or potential residential land in either case falling within the parameters of section 14-250 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* if the vendor gives the purchaser a written notice under section 14-255 to the effect that the purchaser will not be required to make a payment under section 14-250 in respect of the supply, or fails to give a written notice as required by and within the time specified in section 14-255; and
 - (b) the amount described in a written notice given by the vendor to the purchaser under section 14-255 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* is the correct amount required to be paid under section 14-250 of the legislation.
- 25.12 The purchaser is responsible for any penalties or interest payable to the Commissioner on account of non-payment or late payment of the amount, except to the extent that:
- (a) the penalties or interest arise from any failure on the part of the vendor, including breach of a warranty in general condition 25.11; or
 - (b) the purchaser has a reasonable belief that the property is neither new residential premises nor potential residential land requiring the purchaser to pay an amount to the Commissioner in accordance with section 14-250 (1) of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*.
- The vendor is responsible for any penalties or interest payable to the Commissioner on account of non-payment or late payment of the amount if either exception applies.

Transactional

26. TIME & CO OPERATION

- 26.1 Time is of the essence of this contract.
- 26.2 Time is extended until the next business day if the time for performing any action falls on a day which is not a business day.
- 26.3 Each party must do all things reasonably necessary to enable this contract to proceed to settlement, and must act in a prompt and efficient manner.
- 26.4 Any unfulfilled obligation will not merge on settlement.

27. SERVICE

- 27.1 Any document required to be served by or on any party may be served by or on the legal practitioner or conveyancer for that party.
- 27.2 A cooling off notice under section 31 of the *Sale of Land Act 1962* or a notice under general condition 20 [loan approval], 21 [building report] or 22 [pest report] may be served on the vendor's legal practitioner, conveyancer or estate agent even if the estate agent's authority has formally expired at the time of service.

- 27.3 A document is sufficiently served:
- (a) personally, or
 - (b) by pre-paid post, or
 - (c) in any manner authorized by law or by the Supreme Court for service of documents, including any manner authorised for service on or by a legal practitioner, whether or not the person serving or receiving the document is a legal practitioner, or
 - (d) by email.

- 27.4 Any document properly sent by:
- (a) express post is taken to have been served on the next business day after posting, unless proved otherwise;
 - (b) priority post is taken to have been served on the fourth business day after posting, unless proved otherwise;
 - (c) regular post is taken to have been served on the sixth business day after posting, unless proved otherwise;
 - (d) email is taken to have been served at the time of receipt within the meaning of section 13A of the *Electronic Transactions (Victoria) Act 2000*.

- 27.5 In this contract 'document' includes 'demand' and 'notice', 'serve' includes 'give', and 'served' and 'service' have corresponding meanings.

28. NOTICES

- 28.1 The vendor is responsible for any notice, order, demand or levy imposing liability on the property that is issued or made before the day of sale, and does not relate to periodic outgoings.
- 28.2 The purchaser is responsible for any notice, order, demand or levy imposing liability on the property that is issued or made on or after the day of sale, and does not relate to periodic outgoings.
- 28.3 The purchaser may enter the property to comply with that responsibility where action is required before settlement.

29. INSPECTION

The purchaser and/or another person authorised by the purchaser may inspect the property at any reasonable time during the 7 days preceding and including the settlement day.

30. TERMS CONTRACT

- 30.1 If this is a 'terms contract' as defined in the *Sale of Land Act 1962*:
- (a) any mortgage affecting the land sold must be discharged as to that land before the purchaser becomes entitled to possession or to the receipt of rents and profits unless the vendor satisfies section 29M of the *Sale of Land Act 1962*; and
 - (b) the deposit and all other money payable under the contract (other than any money payable in excess of the amount required to so discharge the mortgage) must be paid to a legal practitioner or conveyancer or a licensed estate agent to be applied in or towards discharging the mortgage.
- 30.2 While any money remains owing each of the following applies:
- (a) the purchaser must maintain full damage and destruction insurance of the property and public risk insurance noting all parties having an insurable interest with an insurer approved in writing by the vendor;
 - (b) the purchaser must deliver copies of the signed insurance application forms, the policies and the insurance receipts to the vendor not less than 10 days before taking possession of the property or becoming entitled to receipt of the rents and profits;
 - (c) the purchaser must deliver copies of any amendments to the policies and the insurance receipts on each amendment or renewal as evidence of the status of the policies from time to time;
 - (d) the vendor may pay any renewal premiums or take out the insurance if the purchaser fails to meet these obligations;
 - (e) insurance costs paid by the vendor under paragraph (d) must be refunded by the purchaser on demand without affecting the vendor's other rights under this contract;
 - (f) the purchaser must maintain and operate the property in good repair (fair wear and tear excepted) and keep the property safe, lawful, structurally sound, weatherproof and free from contaminations and dangerous substances;
 - (g) the property must not be altered in any way without the written consent of the vendor which must not be unreasonably refused or delayed;
 - (h) the purchaser must observe all obligations that affect owners or occupiers of land;
 - (i) the vendor and/or other person authorised by the vendor may enter the property at any reasonable time to inspect it on giving 7 days written notice, but not more than twice in a year.

31. LOSS OR DAMAGE BEFORE SETTLEMENT

- 31.1 The vendor carries the risk of loss or damage to the property until settlement.

- 31.2 The vendor must deliver the property to the purchaser at settlement in the same condition it was in on the day of sale, except for fair wear and tear.
- 31.3 The purchaser must not delay settlement because one or more of the goods is not in the condition required by general condition 31.2, but may claim compensation from the vendor after settlement.
- 31.4 The purchaser may nominate an amount not exceeding \$5,000 to be held by a stakeholder to be appointed by the parties if the property is not in the condition required by general condition 31.2 at settlement.
- 31.5 The nominated amount may be deducted from the amount due to the vendor at settlement and paid to the stakeholder, but only if the purchaser also pays an amount equal to the nominated amount to the stakeholder.
- 31.6 The stakeholder must pay the amounts referred to in general condition 31.5 in accordance with the determination of the dispute, including any order for payment of the costs of the resolution of the dispute.

32. BREACH

A party who breaches this contract must pay to the other party on demand:

- (a) compensation for any reasonably foreseeable loss to the other party resulting from the breach; and
- (b) any interest due under this contract as a result of the breach.

Default

33. INTEREST

Interest at a rate of 2% per annum plus the rate for the time being fixed by section 2 of the *Penalty Interest Rates Act 1983* is payable at settlement on any money owing under the contract during the period of default, without affecting any other rights of the offended party.

34. DEFAULT NOTICE

- 34.1 A party is not entitled to exercise any rights arising from the other party's default, other than the right to receive interest and the right to sue for money owing, until the other party is given and fails to comply with a written default notice.
- 34.2 The default notice must:
 - (a) specify the particulars of the default; and
 - (b) state that it is the offended party's intention to exercise the rights arising from the default unless, within 14 days of the notice being given -
 - (i) the default is remedied; and
 - (ii) the reasonable costs incurred as a result of the default and any interest payable are paid.

35. DEFAULT NOT REMEDIED

- 35.1 All unpaid money under the contract becomes immediately payable to the vendor if the default has been made by the purchaser and is not remedied and the costs and interest are not paid.
- 35.2 The contract immediately ends if:
 - (a) the default notice also states that unless the default is remedied and the reasonable costs and interest are paid, the contract will be ended in accordance with this general condition; and
 - (b) the default is not remedied and the reasonable costs and interest are not paid by the end of the period of the default notice.
- 35.3 If the contract ends by a default notice given by the purchaser:
 - (a) the purchaser must be repaid any money paid under the contract and be paid any interest and reasonable costs payable under the contract; and
 - (b) all those amounts are a charge on the land until payment; and
 - (c) the purchaser may also recover any loss otherwise recoverable.
- 35.4 If the contract ends by a default notice given by the vendor:
 - (a) the deposit up to 10% of the price is forfeited to the vendor as the vendor's absolute property, whether the deposit has been paid or not; and
 - (b) the vendor is entitled to possession of the property; and



- (c) in addition to any other remedy, the vendor may within one year of the contract ending either:
 - (i) retain the property and sue for damages for breach of contract; or
 - (ii) resell the property in any manner and recover any deficiency in the price on the resale and any resulting expenses by way of liquidated damages; and
 - (d) the vendor may retain any part of the price paid until the vendor's damages have been determined and may apply that money towards those damages; and
 - (e) any determination of the vendor's damages must take into account the amount forfeited to the vendor.
- 35.5 The ending of the contract does not affect the rights of the offended party as a consequence of the default.



Annexure A Guarantee and Indemnity

Deed dated

Between

The Vendor; and

The Guarantor.

Introduction

- A. At the request of the Guarantor, the Vendor has agreed to enter into the Contract.
- B. Each Guarantor guarantees the Purchaser's obligations under the Contract and indemnifies the Vendor on the terms stated in this Deed.

It is agreed

1 Definitions

Capitalised words in this guarantee and indemnity that appear in the Schedule have the meaning given to them in the Schedule.

2 Consideration and guarantee

In consideration of the Vendor having agreed, at the request of the Guarantor, to sell the land described in the annexed contract (**Contract**) to the Purchaser, the Guarantor guarantees to the Vendor:

- (a) the due and punctual payment by the Purchaser of all moneys that are or may become payable pursuant to the Contract (**Secured Moneys**). If the Purchaser fails to pay the Vendor as and when due the Secured Moneys the Guarantor will immediately on demand pay them to the Vendor; and
- (b) the due performance and observance by the Purchaser of the covenants conditions and obligations contained or implied in the Contract and on the part of the Purchaser to be performed and observed (**Purchaser's Obligations**). If the Purchaser fails to carry out or perform any of the Purchaser's Obligations the Guarantor will immediately on demand carry out and perform them.

3 Contract

The Guarantor acknowledges and declares that the Guarantor has read and understands the Contract and has access to a copy of the Contract.

4 Joint and several liability

The Guarantor is deemed to be jointly and severally liable with the Purchaser (in lieu of being merely a surety for the Purchaser) for the payment of the Secured Moneys and the performance of the Purchaser's Obligations. It will not be necessary for the Vendor to make any claim or demand on or to take any action or proceedings against the Purchaser before calling on the Guarantor to pay the Secured Moneys or to carry out and perform the Purchaser's Obligations.

5 Continuing security

This guarantee and indemnity is a continuing security and will not be released by any neglect or forbearance on the part of the Vendor in enforcing the Contract or by any extension of time or other indulgence given to the Purchaser in respect of the Contract.



Contract of Sale

6 No merger

This guarantee and indemnity is in addition to and not in substitution for any other guarantee or other security given in favour of the Vendor and will not merge with or be affected by any other guarantee or other security now or in the future given or held in favour of the Vendor in respect of the Contract or the property sold by the Contract.

7 No obligation to provide notice

Nothing in this guarantee and indemnity imposes an obligation on the Vendor to give notice to the Guarantor of any default by the Purchaser under the Contract or to include in any demand made under the guarantee and indemnity particulars of the Vendor's default resulting in that demand.

8 Indemnity

The Guarantor indemnifies the Vendor against all loss, damage, claims, expenses and costs on a full indemnity basis howsoever arising out of the default of the Purchaser in payment of the Secured Moneys or the performance of the Purchaser's Obligations including where a liquidator or trustee in bankruptcy disclaims the Contract or this guarantee and indemnity.

9 Matters not affecting Guarantor's liability

The Guarantor liability under this guarantee and indemnity is not affected by:

- (a) the granting of time, forbearance or other concession by the Vendor to the Purchaser or any Guarantor;
- (b) any delay or failure by the Vendor to take action against the Purchaser or any Guarantor;
- (c) an absolute or partial release of the Purchaser or any Guarantor or a compromise with the Purchaser or any Guarantor;
- (d) a variation, novation, renewal or assignment of the Contract by the Vendor, whether or not this increases the liability of the Purchaser or the liability of the Guarantor under this guarantee and indemnity;
- (e) the termination of the Contract;
- (f) the fact that this guarantee and indemnity or the Contract is wholly or partially void, voidable or unenforceable;
- (g) the non-execution of this guarantee and indemnity by the Vendor or any Guarantor or the unenforceability of the guarantee or indemnity against any Guarantor;
- (h) the exercise or purported exercise by the Vendor of its rights under this guarantee and indemnity or the Contract;
- (i) a problem that means:
 - (i) the Vendor has no legal right to recover any money from the Purchaser;
 - (ii) the Purchaser does not owe any money that otherwise would be payable under Contract;
 - (iii) the Vendor knew of the problem, or should have known; or
 - (iv) the Purchaser could never have been required to pay the Vendor the Secured Moneys; or
- (j) the nomination by the Purchaser of a nominee or substitute purchaser under the Contract.

10 Assignment

If the Vendor assigns its rights under this guarantee and indemnity, the benefit of the guarantee and indemnity extends to the assignee and continues concurrently for the benefit of the Vendor regardless of the assignment unless the Vendor releases the Guarantor in writing.



Contract of Sale

11 Payment later avoided

The Guarantor's liability is not discharged by a payment to the Vendor, which is later avoided by law. If that happens, the Vendor, the Purchaser and the Guarantor will be restored to their respective rights and obligations as if the payment had not been made.

12 Guarantor not to prove in liquidation or bankruptcy

Until the Vendor has received all money payable to it by the Purchaser:

- (a) the Guarantor must not prove or claim in any liquidation, bankruptcy, composition, arrangement or assignment for the benefit of creditors of the Purchaser; and
- (b) the Guarantor must hold any claim it has and any dividend it receives on trust for the Vendor.

13 Guarantor not to claim benefits or enforce rights

Until the Guarantor's liability under this guarantee and indemnity is discharged the Guarantor may not, without the consent of the Vendor:

- (a) claim the benefit or seek the transfer (in whole or in part) of any other guarantee, indemnity or security held or taken by the Vendor;
- (b) make a claim or enforce a right against the Purchaser or any other guarantor or against the estate or any of the property of any of them (except for the benefit of the Vendor); or
- (c) raise a set-off or counterclaim available to it or the Purchaser against the Vendor in reduction of its liability under this guarantee and indemnity.

14 Costs and expenses

The Guarantor agrees to pay or reimburse the Vendor on demand for:

- (a) its costs, charges and expenses of making, enforcing and doing anything in connection with this guarantee and indemnity, including all costs actually payable by the Vendor to its legal representatives (whether under a costs agreement or otherwise); and
- (b) all taxes (except income tax) which are payable in connection with this guarantee and indemnity or any payment, receipt or other transaction contemplated by it.

15 Joint and several

When this guarantee and indemnity is executed or intended to be executed by two or more persons:

- (a) each of those persons is not released from liability if this guarantee and indemnity ceases to bind any one or more of them as a continuing security;
- (b) if one or more persons has not signed this guarantee and indemnity, the other person or persons having executed the guarantee and indemnity will not be released from liability but will be bound by it as a continuing security;
- (c) a demand or notice given under this guarantee and indemnity if given to any one or more of those persons is deemed to have been given to all of them; and
- (d) the expression "the Guarantor" includes all of those person jointly and each of them severally.



Contract of Sale

SCHEDULE

GUARANTOR (including personal representatives, successors, substitutes and assigns):

Name: _____

Address: _____

Tel (Home): _____ Tel (Mobile): _____ Email: _____

Name: _____

Address: _____

Tel (Home): _____ Tel (Mobile): _____ Email: _____

Name: _____

Address: _____

Tel (Home): _____ Tel (Mobile): _____ Email: _____

VENDOR:

Name: _____

Address: _____

PURCHASER:

Name: _____

Address: _____

Tel (Home): _____ Tel (Mobile): _____ Email: _____



Contract of Sale

EXECUTED as a DEED

Dated the _____ day of _____ 202.....

EXECUTED by the GUARANTOR:)
)

Signature of **GUARANTOR**

In the presence of:

Witness - Signature

Witness – Print name

EXECUTED by the GUARANTOR:)
)

Signature of **GUARANTOR**

In the presence of:

Witness - Signature

Witness – Print name

EXECUTED by the GUARANTOR:)
)

Signature of **GUARANTOR**

In the presence of:

Witness - Signature

Witness – Print name

EXECUTED by the GUARANTOR:)
)

Signature of **GUARANTOR**

In the presence of:

Witness - Signature

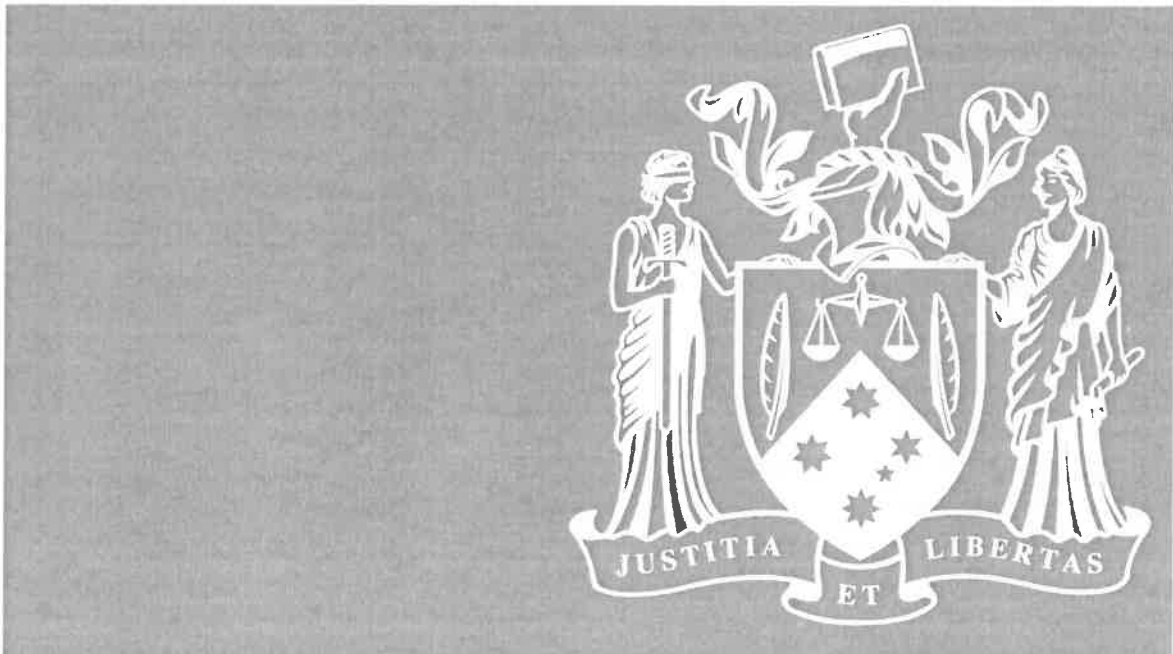
Witness – Print name



Lease of Real Estate with Guarantee & Indemnity (Commercial Property)

Property: 9 Efficient Drive, Truganina VIC 3029

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You should note the warranty in clause 22 and record any alterations to the lease conditions in schedule Item 17 and **not** in the lease conditions. If the lease is one to which the *Retail Leases Act 2003 (Vic)* applies, the parties should refer to that Act for important rights and obligations that are not set out in this lease.

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The Landlord leases the Premises to the Tenant for the Term and at the Rent and on the conditions set out in this lease together with all necessary access over any Common Areas.

The parties, including the Guarantor, if any, agree to be bound by and promptly perform their respective obligations set out in this lease.

Lease Conditions

1. DEFINITIONS AND INTERPRETATION

1.1 The listed expressions have the meaning set out opposite them –

EXPRESSION	MEANING
Accounting Period	the period of 12 months ending 30 June or other period of 12 months adopted by the Landlord in respect of this lease for recovery of Building Outgoings and includes any broken periods at the start and end of the Term
Act	the <i>Retail Leases Act 2003 (Vic)</i>
Building	any building comprising the Premises or in which the Premises are located, including the Landlord's Installations
Building Outgoings	any of the following expenses (excluding capital expenses and expenses whose recovery from the Tenant would be contrary to applicable legislation) reasonably incurred in respect of the Land, the Building, the Premises or any Premises in the Building which include the Premises – <ul style="list-style-type: none">(a) rates, levies and assessments imposed by any relevant authorities;(b) taxes including land tax (unless the Act applies), calculated on the basis that the Land is the only land of the Landlord liable to tax and is not subject to a trust but excluding income tax and capital gains tax;(c) the costs of maintaining and repairing the Building and the Landlord's Installations and carrying out works as required by relevant authorities (but excluding any amount recovered in respect of maintenance or repair by the Landlord from its insurer);(d) premiums and charges for the following insurance policies taken out by the Landlord -<ul style="list-style-type: none">(i) damage to and destruction of the Premises for their replacement value for the risks listed in Item 16,(ii) removal of debris,(iii) breakdown of Landlord's Installations,(iv) breakage of glass,(v) public risk for any single event for \$20 million or other amount reasonably specified from time to time by the Landlord, and(vi) loss of rent and outgoings for 18 months, and excesses paid or payable on claims(e) costs incurred in providing services to the land, the Building or the Premises including –<ul style="list-style-type: none">(i) heating,(ii) cooling,(iii) air-conditioning,(iv) cleaning,(v) pest control,(vi) waste collection,(vii) lighting,(viii) landscaping and garden maintenance,(ix) security, and(x) fire safety prevention, detection and control;

	(f) costs of repairs or maintenance work in respect of an Essential Safety Measure; and costs of whatever description, reasonably incurred by the Landlord in the administration, management or operation of the Land, the Building and the tenancy Premises, whether incurred by the Landlord directly or as Owners Corporation levies, at cost to the Landlord on the basis that an expense is deemed to have been paid at the time it fell due for payment
Building Rules	any rules adopted from time to time for the Building, including the rules of any Owners Corporation affecting the Premises
Common Areas	areas in the Building or on the Land that are under the control of the Landlord or an Owners Corporation and are used or intended for use - (a) by the public; or (b) in common by the Landlord or Tenants of Premises in the Building in relation to the carrying on of businesses on those Premises, other than areas which are let or licensed, or intended to be let or licensed, other than on a casual basis
Consumer Price Index	the consumer price index published by the Australian Government Statistician under the heading All Groups, Melbourne
CPI Review Date	a date specified in Item 12(b)
Electronic Signature	a visual representation of a person's handwritten signature or mark which is placed on a physical or electronic copy of this lease (or a notice given under this lease) by electronic or mechanical means, and "Electronically signed" has a corresponding meaning
Essential Safety Measure	has the same meaning as in the <i>Building Regulations 2018</i> or any subsequent corresponding regulations
Fixed Review Date	a date specified in Item 11(c)
GST	GST within the meaning of the GST Act
GST Act	<i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth)
Guarantor	the person named in Item 3
Item	an Item in the schedule to this lease
Land	the parcel of land comprising the Premises or on which the Building is erected and which is described in Item 4(b)
Landlord	the person named in Item 1, or any other person who will be entitled to possession of the Premises when this lease ends
Landlord's Agents	the Landlord's employees, agents or contractors
Landlord's Installations	any property other than the land of the Landlord, in the Premises or on the Land and includes the property listed in Item 5
Lettable Area	unless the Act applies and requires otherwise – (a) in relation to the Premises, the area let; and (b) in relation to the Building, the total area of the Building that is used by the Landlord or let or licensed or intended to be and capable of being let or licensed, other than on a casual basis. When it is necessary to measure the Lettable area of the Building or any part of the Building, the measurement is to be carried out using the most recent revision of the relevant Property Council of Australia method of measurement
Market Review Date	a date specified in Item 11(a)
Owners Corporation	a body corporate which is incorporated by registration of a plan of subdivision or a plan of strata or cluster subdivision in relation to the Land;
Permitted Use	the use specified in Item 14
PPSA	the <i>Personal Property Securities Act 2009</i> (Cth)
Premises	the Premises described in Item 4(a) and fixed improvements and the Landlord's Installations within the Premises but excluding the Tenant's Installations
Rent	the amount in Item 9, as varied in accordance with this lease
Review Date	a date specified in Item 11

Start Of The Lease	the earlier of - (a) the first day of the Term; and (b) the date upon which the Tenant or any previous Tenant took occupation of the Premises under this lease or pursuant to an earlier lease or licence (whether or not on terms that are materially different from those in this lease) which together with this lease created an unbroken right to occupation of the Premises
Tenant	the person named in Item 2, or any person to whom the lease has been transferred
Tenant's Agents	the Tenant's employees, agents, contractors, customers and visitors to the Premises
Tenant's Installations	the Items of equipment and fittings listed in Item 6 and those introduced by the Tenant after the lease starts
Term	the period stated in Item 7
Valuer	a person holding the qualifications or experience specified under section 13DA(2) of the <i>Valuation of Land Act 1960</i> (Vic) and, if the Act applies, a specialist retail valuer.

- 1.2 References to laws include statutes, regulations, instruments and by-laws and all other subordinate legislation or orders made by any authority with jurisdiction over the Premises. Illegal means contrary to a law as defined in this sub-clause.
- 1.3 This lease must be interpreted so that it complies with all laws applicable in Victoria. If any provision of this lease does not comply with any law, then the provision must be read down so as to give it as much effect as possible. If it is not possible to give the provision any effect at all, then it must be severed from the rest of the lease.
- 1.4 The law of Victoria applies to this lease.
- 1.5 Any change to this lease must be in writing and signed by the parties.
- 1.6 If a party consists of more than one person -
 - (a) the acts and omissions of any of them bind all of them; and
 - (b) an obligation imposed by this lease on or in favour of more than one person binds or benefits them separately, together and in any combination.
- 1.7 The use of one gender includes the others and the singular includes the plural and vice versa.
- 1.8 If the Landlord, Tenant or Guarantor is an individual, this lease binds that person's legal personal representative. If any of them is a corporation, this lease binds its transferees.
- 1.9 This lease, including all guarantees and indemnities, is delivered and operates as a deed.
- 1.10 The Tenant is bound by and answerable for the acts and omissions of the Tenant's Agents.
- 1.11 If there is a conflict between a provision in the schedule and one of these lease conditions then the provision in the schedule is to prevail.
- 1.12 "Include" and every form of that word is to be read as if followed by "(without limitation)".
- 1.13 This lease includes the schedule.
- 1.14 Unless the context otherwise requires, words to the effect of, a party "must" (or "must not") do a specified act or thing, create an obligation and undertaking by that party, a breach of which will constitute a default.

2. TENANT'S PAYMENT, USE AND INSURANCE OBLIGATIONS

- 2.1 The Tenant must -
 - 2.1.1 pay the Rent without any set-off (legal or equitable) or deduction whatever to the Landlord on the days and in the way stated in Item 10 without the need for a formal demand. The Landlord may direct in writing that the Rent be paid to another person. The Rent is reviewed on each Review Date specified in Item 11 -
 - (a) on a Market Review Date, the Rent is reviewed in accordance with clause 11,
 - (b) on a CPI Review Date, the Rent is reviewed in accordance with clause 17, and
 - (c) on a Fixed Review Date, the Rent is either increased by the fixed percentage or changed by or to the fixed amount, in either case as specified in Item 11 in respect of that Fixed Review Date.
 - 2.1.2 produce receipts for paid Building Outgoings within 7 days of a request.
 - 2.1.3 pay when due all charges for the provision of services to the Premises including gas, electricity, water, internet and telephone.
 - 2.1.4 remove regularly from the Premises all rubbish and waste generated by the Tenant's operations.

- 2.1.5 pay the proportion of the Building Outgoings specified in Item 13 in accordance with clause 5.4.
- 2.1.6 pay or reimburse the Landlord within 7 days of a request all increases in insurance premiums paid or payable by the Landlord as the result of the Tenant's use of the Premises.
- 2.1.7 pay within 7 days of a request interest at the rate from time to time fixed by the *Penalty Interest Rates Act 1983 (Vic)* on any Rent or other money which the Tenant has not paid within 7 days of the due date. Interest is to be calculated daily from the due date, continues until the overdue money is paid and is capitalised monthly.
- 2.1.8 pay within 7 days of a request the Landlord's reasonable expenses and legal costs in respect of -
 - (a) the negotiation, preparation, settling, execution and stamping (if applicable) of this lease,
 - (b) change to this lease requested by the Tenant whether or not the change occurs,
 - (c) the surrender or ending of this lease (other than by expiration of the Term) requested by the Tenant, whether or not the lease is surrendered or ended,
 - (d) the transfer of this lease or subletting of the Premises or proposed transfer or subletting whether or not the transfer or subletting occurs,
 - (e) a request by the Tenant for consent or approval, whether or not consent or approval is given,
 - (f) any breach of this lease by the Tenant, or
 - (g) the exercise or attempted exercise by the Landlord of any right or remedy against the Tenant, but, if the Act applies, only to the extent to which the Act permits recovery.
- 2.1.9 pay any duty on this lease, on any renewal, any additional duty after a review of Rent and any duty on any surrender of this lease.
- 2.1.10 subject to clauses 3.3.2 and 3.3.3, comply with all laws and requirements of relevant authorities relating to the use or occupation of the Premises including those relating to Essential Safety Measures, occupational health and safety and disability discrimination.
- 2.1.11 carry on the business of the Permitted Use efficiently and, subject to all applicable laws, keep the Premises open during the business hours which are normal for the Permitted Use and not suspend or discontinue the operation of the business.
- 2.1.12 comply with the Landlord's reasonable requirements in relation to the use of the Landlord's Installations and any services provided by the Landlord.
- 2.2 The Tenant must not, and must not let anyone else -
 - 2.2.1 use the Premises except for the Permitted Use, but the Tenant agrees that the Landlord has not represented that the Premises may be used for that use according to law or that the Premises are suitable for that use.
 - 2.2.2 use the Premises for any illegal purpose.
 - 2.2.3 carry on any noxious or offensive activity on the Premises.
 - 2.2.4 do anything which might cause nuisance, damage or disturbance to a Tenant, occupier or owner of any adjacent property.
 - 2.2.5 conduct an auction or public meeting on the Premises.
 - 2.2.6 use radio, television or other sound-producing equipment at a volume that can be heard outside the Premises.
 - 2.2.7 do anything which might affect any insurance policy relating to the Premises by causing -
 - (a) it to become void or voidable,
 - (b) any claim on it being rejected, or
 - (c) a premium to be increased.
 - 2.2.8 keep or use chemicals, inflammable fluids, acids, or other hazardous things on the Premises except to the extent necessary for the Permitted Use or create fire hazards.
 - 2.2.9 do anything which might prejudicially affect the Essential Safety Measures or the occupational health and safety or disability discrimination status of the Premises or the Building.
 - 2.2.10 place any sign on the exterior of the Premises without the Landlord's written consent.
 - 2.2.11 make any alteration or addition, or affix any object, to the Premises except with the Landlord's written consent; consent is at the Landlord's discretion for any alteration, addition or affixation affecting the structure of the Building or any of the infrastructure for the provision of services to the Building but, otherwise, clause 9.1 applies. In undertaking any work for which the Landlord's consent has been obtained, the Tenant must strictly conform to plans approved by the Landlord and comply with all reasonable conditions imposed on that consent by the Landlord and the requirements of each authority with jurisdiction over the Premises.
 - 2.2.12 bring onto the Premises any object which, due to its nature, weight, size or operation, might cause damage to the Premises, the Building, or the effective operation of the infrastructure for the provision of services to the Premises or the Building without the Landlord's written consent.

2.2.13 except in an emergency, interfere with any infrastructure for the provision of services in the Premises, the Building, or in any property of which the Premises are part.

2.3 The Tenant must -

2.3.1 take out and keep current insurance cover:

- (a) for public risk for the Premises in the name of the Tenant and noting the interest of the Landlord and, if required by the Landlord, the interests of any mortgagee, for any single event for a minimum of \$20 million (or such greater amount as the Landlord reasonably requires);
- (b) for the theft of, damage to and breakdown of the Tenant's Installations and other Tenant's property for their full replacement value;
- (c) breakage of glass of any thickness; and
- (d) any other insurance required by law.

2.3.2 maintain the insurance cover with a reputable Australian Prudential Regulation Authority authorised insurer approved by the Landlord.

2.3.3 produce satisfactory evidence of insurance cover on written request by the Landlord.

3. REPAIRS, MAINTENANCE, FIRE PREVENTION AND REQUIREMENTS OF AUTHORITIES

3.1 Subject to clause 3.3, the Tenant must -

3.1.1 keep the Premises in the same condition as at the Start Of The Lease, except for fair wear and tear; and

3.1.2 comply with all notices and orders affecting the Premises which are issued during the Term except any notices or orders where applicable legislation prohibits the Landlord from requiring the Tenant's compliance.

3.2 Subject to clause 3.3, in addition to its obligations under clause 3.1, the Tenant must -

3.2.1 repaint or refinish all painted or finished surfaces in a workmanlike manner with as good quality materials as previously at least once every 5 years during the Term and any further or earlier term viewed as one continuous period.

3.2.2 keep the Premises properly cleaned and free from rubbish, keep waste in proper containers and have it removed regularly.

3.2.3 immediately replace glass which becomes cracked or broken with glass of the same thickness and quality, except where the Landlord makes a claim on its insurance.

3.2.4 immediately repair defective windows, light fittings, doors, locks and fastenings, and replace missing or inoperative light-globes and fluorescent tubes, keys and keycards.

3.2.5 maintain in working order all plumbing, drainage, gas, electric, solar and sewerage installations.

3.2.6 promptly give written notice to the Landlord or Landlord's Agent of -

- (a) damage to the Premises or of any defect in the structure of, or any of infrastructure for the provision of services to, the Premises,
- (b) receipt of a notice or order affecting the Premises,
- (c) any hazards threatening or affecting the Premises, and
- (d) any hazards arising from the Premises for which the Landlord might be liable.

3.2.7 immediately make good damage caused to adjacent property by the Tenant or the Tenant's Agents.

3.2.8 permit the Landlord, its agents or tradespeople to enter the Premises during normal business hours, after giving reasonable notice (except in cases of emergency) -

- (a) to inspect the Premises,
- (b) to carry out repairs or agreed alterations, and
- (c) to do anything necessary to comply with notices or orders of any relevant authority,

bringing any necessary materials and equipment provided that the Landlord does all things reasonable to minimise any disturbance caused to the Tenant or to the business conducted by the Tenant at the Premises.

3.2.9 carry out repairs within 14 days of being served with a written notice of any defect or lack of repair which the Tenant is obliged to make good under this lease. If the Tenant does not comply with the notice, the Landlord may carry out the repairs and the Tenant must repay the cost to the Landlord within 7 days of a request.

3.2.10 only use persons approved by the Landlord to repair and maintain the Premises but, if the Act applies, only use persons who are suitably qualified.

3.2.11 comply with all reasonable directions of the Landlord or the insurer of the Premises as to the prevention, detection and control of fire including, if the Act applies, to engage at its own cost suitably qualified consultants to maintain and repair essential safety equipment and installations and if requested, to provide annual inspection reports to the Landlord.

- 3.2.12 on vacating the Premises, remove all signs and make good any damage caused by installation or removal.
- 3.2.13 take reasonable precautions to secure the Premises and their contents from theft, keep all doors and windows locked when the Premises are not in use and comply with the Landlord's reasonable directions for the use and return of keys or keycards.
- 3.2.14 permit the Landlord or its agent access to the Premises at reasonable times by appointment to show the Premises -
 - (a) to valuers and to the Landlord's consultants,
 - (b) to prospective purchasers at any time during the Term, and
 - (c) to prospective Tenants within 6 months before the end of the Term (unless the Tenant has exercised an option to renew this lease or the Landlord and the Tenant have agreed to the grant of a new lease following the expiry of the Term), and to affix "for sale" or "to let" signs in a way that does not unduly interfere with the business conducted by the Tenant at the Premises.
- 3.2.15 maintain any grounds and gardens of the Premises in good condition, tidy, free from weeds and well-watered.
- 3.2.16 subject to clause 3.3.2, maintain and keep in good repair any heating, cooling or air conditioning equipment exclusively serving the Premises.
- 3.3 The Tenant is not obliged -
 - 3.3.1 to repair damage against which the Landlord must insure under clause 6.2 or to reimburse the Landlord for items of expense or damage that would be covered under insurance of the type specified unless the Landlord loses or, where the Landlord has failed to insure as required, would have lost, the benefit of the insurance because of acts or omissions by the Tenant or the Tenant's Agents.
 - 3.3.2 to carry out structural or capital repairs or alterations or make payments of a capital nature unless the need for them results from -
 - (a) negligence by the Tenant or the Tenant's Agents,
 - (b) failure by the Tenant to perform its obligations under this lease,
 - (c) the Tenant's particular use of the Premises, or
 - (d) the nature, location or use of the Tenant's Installations,in which case the repairs, alterations or payments are the responsibility of the Tenant.
 - 3.3.3 to carry out any work -
 - (a) where applicable legislation prohibits the Landlord from requiring the Tenant to undertake such work; or
 - (b) which this lease makes the responsibility of the Landlord.

4. LEASE TRANSFERS, SUBLETTING ETC

- 4.1 The Tenant must not transfer this lease or sublet or licence the Premises without the Landlord's written consent, and section 144 of the *Property Law Act 1958 (Vic)* and clause 9.1 do not apply.
- 4.2 The Landlord -
 - 4.2.1 subject to sub-clause 4.2.2, must not unreasonably withhold consent to a transfer of this lease or a sublease or licence of the Premises if the Tenant has complied with the requirements of clause 4.3, and the proposed transferee, sub-Tenant or licensee:
 - (a) proposes to use the Premises in a way permitted under this lease, and,
 - (b) in the case of a proposed transferee, has the financial resources and business experience to comply with the Tenant's obligations in this lease.If the Act applies, the Landlord may only withhold consent to a transfer of this lease in accordance with the Act.
 - 4.2.2 may withhold consent at the Landlord's discretion if the Act does not apply, and a transfer of this lease would result in the Act applying, or applying if this lease is renewed for a further term.
- 4.3 To obtain the Landlord's consent to a transfer, sublease or licence the Tenant must -
 - 4.3.1 ask the Landlord in writing to consent to the transfer, sublease or licence,
 - 4.3.2 give the Landlord -
 - (a) in relation to each proposed new Tenant, sub-Tenant or licensee such information as the Landlord reasonably requires about its financial resources and business experience and if the Act does not apply, any additional information reasonably required by the Landlord to enable it to make a decision, and
 - (b) a copy of the proposed document of transfer, sublease or licence, and
 - 4.3.3 remedy any breach of the lease which has not been remedied and of which the Tenant has been given written notice.

- 4.4 If the Act applies and -
 - 4.4.1 the Tenant has asked the Landlord to consent to a transfer and complied with clause 4.3 and section 61 of the Act, and
 - 4.4.2 the Landlord fails to respond by giving or withholding consent to the transfer within 28 days, then the Landlord is to be taken as having consented.
- 4.5 If the Landlord consents to the transfer, sublease or licence, the Landlord, Tenant and new Tenant, sub-Tenant or licensee and the Guarantor must execute the documents submitted under sub-clause 4.3.2(b). The directors of the new Tenant, sublessee or licensee (if it is a corporation) must execute a guarantee and indemnity in the terms of clause 15 if reasonably required by the Landlord as a condition of its consent.
- 4.6 The Tenant must pay the Landlord's reasonable expenses incurred in connection with an application for consent or the granting of consent and the completion of the documents, as well as any duty on the documents.
- 4.7 Except by a transfer, sublease or licence to which the Landlord has consented, or is to be taken as having consented, the Tenant must not give up possession of or share occupancy of the Premises to or with anyone else or mortgage or charge its interest under this lease or enter into any arrangement that gives a person the right to enter into occupation of the Premises without the Landlord's written consent; consent is at the Landlord's discretion. However, the Tenant may grant security interests over its assets in the normal course of its business without the Landlord's consent provided that the Tenant's financier is not granted a power of sale over this Lease or a right of entry into possession of the Premises or any other right or power which may be contrary to the Landlord's rights under this lease.
- 4.8 Subject to the Act, if it applies, the obligations to the Landlord of every Tenant who has transferred this lease continue until this lease ends. They do not continue into any period of overholding after this lease ends, nor into any renewed term: at those times they are the responsibility only of the Tenant in possession. This clause does not prevent the Landlord from enforcing rights which arise before this lease ends.

5. GENERAL AGREEMENTS BETWEEN LANDLORD AND TENANT

- 5.1 When this lease ends, the Tenant must -
 - 5.1.1 return the Premises to the Landlord clean and in the condition required by this lease, and
 - 5.1.2 remove the Tenant's Installations and other Tenant's property from the Premises and make good any damage caused in installing or removing them.
- 5.2 After this lease ends -
 - 5.2.1 all Tenant's Installations and other Tenant's property on the Premises may be removed by the Landlord and the Landlord may recover the costs of removal and making good as a liquidated debt payable on demand.
 - 5.2.2 all Tenant's Installations and Tenant's property on the Premises will be considered abandoned and will become the property of the Landlord either at the end of the term or if this lease ends before the term expires, 14 days after this lease ends.
 - 5.2.3 The parties acknowledge that this clause 5.2 is an agreement about the disposal of uncollected goods for the purposes of section 56(6) of the *Australian Consumer Law and Fair Trading Act 2012* (Vic) and to the extent permitted by law will operate in relation to Tenant's Installations and Tenant's property in place of any legislation that might otherwise apply to goods remaining on the Premises.
- 5.3 The Tenant -
 - 5.3.1 uses and occupies the Premises at its own risk,
 - 5.3.2 releases the Landlord from all claims resulting from incidents occurring on the Premises (except to the extent caused or contributed to by the Landlord or the Landlord's Agents or to the extent that the claim is covered by the insurance policies required under clause 6.2) or resulting from damage to adjacent Premises covered by clause 3.2.7, and
 - 5.3.3 indemnifies the Landlord against any claim resulting from any act or failure to act by the Tenant or the Tenant's Agents while using the Premises 1 (except to the extent caused or contributed to by the Landlord or the Landlord's Agents) and the Landlord must use reasonable endeavours to mitigate its loss.
- 5.4 In relation to Building Outgoings -
 - 5.4.1 the Landlord must pay the Building Outgoings when they fall due for payment but, if the Landlord requires, the Tenant must pay when due a Building Outgoing for which the Tenant receives notice directly and reimburse the Landlord within 7 days of a request all Building Outgoings for which notices are received by the Landlord.
 - 5.4.2 the Tenant must pay or reimburse the Landlord the proportion specified in Item 13.
 - 5.4.3 at least 1 month before the start of an accounting period, the Landlord may, or if the Act applies must, give the Tenant an estimate of Building Outgoings for the Accounting Period.

- 5.4.4 despite clause 5.4.1, if the Landlord requires, the Tenant, must pay its share of the estimated Building Outgoings by equal monthly instalments during the Accounting Period on the days on which Rent is payable (after allowing for Building Outgoings paid directly or separately reimbursed by the Tenant).
- 5.4.5 if the Act applies, the Landlord must make a statement of Building Outgoings available during each Accounting Period as required by the Act.
- 5.4.6 within 3 months after the end of an Accounting Period, the Landlord must give the Tenant a statement of the actual Building Outgoings for the Accounting Period (if the Act applies and requires that the statement be accompanied by a report by a registered company auditor, the statement must be accompanied by a report complying with section 47(5); if the Act applies but does not require that the statement be accompanied by a report by a registered company auditor, the statement must be accompanied by the Items specified in section 47(6)(b)).
- 5.4.7 the Tenant must pay any deficiency or the Landlord must credit or repay any excess, within 1 month after a statement is provided under clause 5.4.6 or within 4 months after the end of the Accounting Period, whichever is earlier.
- 5.4.8 the parties must make an appropriate adjustment for any Building Outgoings incurred in respect of a period beginning before the start of the Term or continuing after this lease ends.
- 5.5 If the freehold of the Premises (or the Building) is transferred, the transferor Landlord is released from all lease obligations falling due for performance on or after the date of the instrument of transfer.
- 5.6 Payment or tender by cheque is not effective until clearance of funds.

6. LANDLORD'S OBLIGATIONS

- 6.1 The Landlord must give the Tenant quiet possession of the Premises without any interruption by the Landlord or anyone connected with the Landlord as long as the Tenant does what it must under this lease.
- 6.2 Unless it is the obligation of the Owners Corporation or the Tenant under the terms of this lease to do so, the Landlord must take out at the start of the Term and keep current policies of insurance for the risks listed in Item 16 against –
 - 6.2.1 damage to and destruction of the Building, for its replacement value,
 - 6.2.2 removal of debris,
 - 6.2.3 breakdown of plant and equipment at the Premises, and
 - 6.2.4 breakage of glass, for its replacement value.
- 6.3 The Landlord must if requested, give to the Tenant the written consent to this lease of each mortgagee whose interest would otherwise have priority over this lease.
- 6.4 Subject to clause 18.7, the Landlord must keep the structure (including the external faces and roof) of the Building and the Landlord's Installations in a condition consistent with their condition at the Start Of The Lease, but is not responsible for repairs which are the responsibility of the Tenant under clauses 3.1, 3.2 and 3.3.2.

7. EVENTS OF DEFAULT AND LANDLORD'S RIGHTS

- 7.1 The Landlord may terminate this lease, by re-entry or notice of termination, if –
 - 7.1.1 subject to clause 7.5, the Rent is unpaid after the day on which it falls due for payment,
 - 7.1.2 the Tenant does not meet its obligations under this lease,
 - 7.1.3 the Tenant is a corporation and –
 - (a) an order is made or a resolution is passed to wind it up except for reconstruction or amalgamation,
 - (b) goes into liquidation,
 - (c) is placed under official management,
 - (d) has a receiver, including a provisional receiver, or receiver and manager of any of its assets or an administrator appointed,
 - (e) without the Landlord's written consent, there is a different person in control of the Tenant as a result of changes in –
 - (i) the directors of the company
 - (ii) membership of the company or its holding company,
 - (iii) beneficial ownership of the shares in the company or its holding company, or
 - (iv) beneficial ownership of the business or assets of the company,

but this paragraph does not apply to a change in control of a Tenant that is a listed corporation as defined in section 9 of the Corporations Act; nor does it apply if the change results from the death or incapacity of an individual director or shareholder.

"control" has the meaning set out at s.50AA of the *Corporations Act* 2001,

- 7.1.4 a warrant issued by a court to satisfy a judgement against the Tenant or a Guarantor is not satisfied within 30 days of being issued,
- 7.1.5 a Guarantor is a natural person and -
 - (a) becomes bankrupt,
 - (b) takes or tries to take advantage of Part X of the *Bankruptcy Act* 1966 (Cth),
 - (c) makes an assignment for the benefit of their creditors, or
 - (d) enters into a composition or arrangement with their creditors.
- 7.1.6 a Guarantor is a corporation and one of the events specified in (a) to (e) of clause 7.1.3 occurs in relation to it, or
- 7.1.7 the Tenant, without the Landlord's written consent -
 - (a) discontinues its business on the Premises, or
 - (b) leaves the Premises unoccupied for 14 days, unless required by law.
- 7.2 Termination by the Landlord ends this lease, but the Landlord retains the right to sue the Tenant for unpaid money or for damages (including damages for the loss of the benefits that the Landlord would have received if the lease had continued for the full term) for breaches of its obligations under this lease and the Landlord must use reasonable endeavours to mitigate its losses.
- 7.3 For the purpose of section 146(1) of the *Property Law Act* 1958 (Vic), 14 days is fixed as the period within which the Tenant must remedy a breach capable of remedy and pay reasonable compensation for the breach.
- 7.4 Breach by the Tenant of any of the following clauses of this lease is a breach of an essential term and constitutes repudiation: 2.1.1, 2.1.5, 2.1.6, 2.1.10, 2.1.11, 2.2.1, 2.2.2, 2.2.7, 2.2.8, 2.2.9, 2.2.11, 2.2.12, 2.3, 3.2.11, 4.1, 4.7, 5.4.2, 5.4.7, 13 and 16. Other Tenant obligations under this lease may also be essential.
- 7.5 Before terminating this lease for repudiation (including repudiation consisting of the non-payment of rent), or for an event to which section 146(1) of the *Property Law Act* 1958 (Vic) does not extend, the Landlord must give the Tenant written notice of the breach and a period of 14 days in which to remedy it (if it is capable of remedy) and to pay reasonable compensation for it. A notice given in respect of a breach amounting to repudiation is not an affirmation of the lease.
- 7.6 Even though the Landlord does not exercise its rights under this lease on one occasion, it may do so on any later occasion.
- 7.7 The Landlord may only waive any -
 - 7.7.1 breach of this lease by the Tenant that is the subject of; or
 - 7.7.2 rights or entitlements pursuant to;a notice under clause 7.5 or section 146(1) of the *Property Law Act* 1958 (Vic) by giving clear written notice of that waiver to the Tenant.

8. DESTRUCTION OR DAMAGE

- 8.1 If the Premises or the Building are damaged so that the Premises are unfit for use for the Permitted Use or inaccessible -
 - 8.1.1 a fair proportion of the Rent and Building Outgoings is to be suspended until the Premises are again wholly fit for the Permitted Use, and accessible, and
 - 8.1.2 the suspended proportion of the Rent and Building Outgoings must be proportionate to the nature and extent of the unfitness for use or inaccessibility.
- 8.2 If the Premises or the Building are partly destroyed, but not substantially destroyed, the Landlord must reinstate the Premises or the Building as soon as reasonably practicable.
- 8.3 If the Premises or the Building are wholly or substantially destroyed -
 - 8.3.1 the Landlord is not obliged to reinstate the Premises or the Building and may end this lease by giving the Tenant written notice at any time prior to either notifying the Tenant that it intends to reinstate or starting the reinstatement.
 - 8.3.2 if the Landlord does not notify the Tenant within 2 months of the damage or destruction that it intends to reinstate the Premises or the Building, the Tenant may end this lease by giving the Landlord written notice at any time prior to the Landlord commencing the reinstatement.
 - 8.3.3 if the Landlord gives the Tenant notice that it intends to reinstate the Premises or the Building the Landlord must at the same time notify the Tenant of the date by which it reasonably estimates the reinstatement will be complete and must proceed to reinstate the Premises or the Building as soon as reasonably practicable.
 - 8.3.4 if the reinstatement is not reasonably estimated to be completed within 9 months of the damage or destruction, the Tenant may end this lease by giving the Landlord written notice at any time prior to the later of 14 days after the Landlord notifies the Tenant of the estimated completion date in accordance with clause 8.3.3 and the date that the Landlord starts reinstatement.

- 8.3.5 if the reinstatement does not start within 3 months of the damage and destruction the Tenant may end this lease by giving the Landlord written notice at any time prior to the Landlord starting the reinstatement.
- 8.4 The Tenant will not be entitled to suspension of Rent or Building Outgoings under sub-clause 8.1.1 if payment of an insurance claim to cover such loss of Rent or Building Outgoings is refused in respect of the damage or destruction because of any act or omission by the Tenant or the Tenant's Agents.
- 8.5 The Landlord will not be obliged to reinstate the Premises or the building under clause 8.2 and the Tenant will not be entitled to end this lease under clause 8.3.2 or 8.3.4 if payment of an insurance claim to cover the cost of reinstatement is refused in respect of the damage or destruction because of any negligent or unlawful act or omission by the Tenant or the Tenant's Agents or the Tenant's breach of this lease provided that the Landlord must, at the Tenant's request, proceed with the reinstatement at the Tenant's cost, and subject to the Tenant providing reasonable security for those costs, failing which the Tenant may terminate this lease by written notice to the Landlord but without prejudice to the Landlord's right to claim damages for the loss suffered by the Landlord due to the negligent or unlawful act or omission by the Tenant or the Tenant's Agents or the Tenant's breach of this lease.
- 8.6 If the Act does not apply and there is a dispute under this clause, the Landlord or the Tenant may request the President of the Australian Property Institute, Victorian Division, to nominate a practising valuer member of that Institute to determine the dispute where the dispute relates to the proportion of Rent and Building Outgoings that must be suspended or the Landlord and Tenant may refer the dispute to mediation. The valuer acts as an expert and not as an arbitrator and the determination is binding.

9. CONSENTS AND WARRANTIES BY THE PARTIES

- 9.1 Subject to the Act (if it applies), the Landlord must not unreasonably withhold its consent or approval to any act by the Tenant or matter which needs consent or approval unless any other clause provides otherwise, but
- 9.1.1 the Landlord may impose reasonable conditions on any consent or approval, and
- 9.1.2 the Tenant must reimburse the Landlord's reasonable expenses resulting from an application for its consent or approval, including fees paid to consultants.
- 9.2 This lease, together with (if the Act applies) any disclosure statement, contains the whole agreement of the parties. Neither the Landlord nor the Tenant is entitled to rely on any warranty or statement in relation to -
- 9.2.1 the conditions on which this lease has been agreed,
- 9.2.2 the provisions of this lease, or
- 9.2.3 the Premises
- which is not contained in those documents.

10. OVERHOLDING AND ABANDONMENT OF THE PREMISES

- 10.1 If the Tenant remains in possession of the Premises without objection by the Landlord after the end of the Term -
- 10.1.1 the Tenant, without any need for written notice of any kind, is a monthly Tenant on the conditions in this lease, modified so as to apply to a monthly tenancy,
- 10.1.2 the Landlord or the Tenant may end the tenancy by giving one month's written notice to the other which may expire on any day of the month, and
- 10.1.3 the monthly rent starts at one-twelfth of the annual Rent which the Tenant was paying immediately before the Term ended unless a different rent has been agreed.
- 10.2 If the Tenant vacates the Premises during the Term, whether or not it ceases to pay Rent -
- 10.2.1 the Landlord may -
- (a) accept the keys,
- (b) enter the Premises to inspect, maintain or repair them, or
- (c) show the Premises to prospective Tenants or purchasers,
- without this being re-entry or an acceptance of repudiation or a waiver of the Landlord's rights to recover Rent or other money under this lease.
- 10.2.2 this lease continues until a new Tenant takes possession of the Premises, unless the Landlord -
- (a) accepts a surrender of the lease, or
- (b) notifies the Tenant in writing that the Landlord accepts the Tenant's repudiation of the lease, or
- (c) ends the lease in accordance with clause 7.1.

11. RENT REVIEWS TO MARKET

11.1 In this clause "review period" means the period following each Market Review Date until the next Review Date or the end of this lease.

The review procedure on each Market Review Date is -

11.1.1 each review of Rent may be initiated by the Landlord or the Tenant unless Item 13 states otherwise but, if the Act applies, review is mandatory.

11.1.2 the Landlord or the Tenant entitled to initiate a review does so by giving the other a written notice stating the current market rent which it proposes as the Rent for the review period.

11.1.3 If -

(a) the Landlord and Tenant do not agree on what the Rent is to be for the review period, the Landlord and Tenant must appoint a Valuer to determine the current market Rent.

(b) If the Act does not apply and if the Landlord and Tenant do not agree on the name of the Valuer within 28 days after the review is initiated, either may apply to the President of the Australian Property Institute, Victorian Division to nominate the Valuer. If the Act applies, the Valuer is to be appointed by agreement of the Landlord and Tenant, or failing agreement, by the Small Business Commissioner.

11.1.4 In determining the current market Rent for the Premises the Valuer must -

(a) consider any written submissions made by the Landlord and Tenant within 21 days of their being informed of the Valuer's appointment, and

(b) determine the current market rent as an expert

and, whether or not the Act applies, must make the determination in accordance with the criteria set out in section 37(2) of the Act.

11.1.5 The Valuer must make the determination of the current market rent and inform the Landlord and Tenant in writing of the amount of the determination and the reasons for it as soon as possible after the end of the 21 days allowed for submissions by the parties.

11.1.6 If -

(a) no determination has been made within 45 days (or such longer period as is agreed by the Landlord and the Tenant or, if the Act applies, as is determined in writing by the Small Business Commissioner) of the Landlord and Tenant

(i) appointing the Valuer, or

(ii) being informed of the Valuer's appointment, or

(b) the Valuer resigns, dies, or becomes unable to complete the valuation,

then the Landlord and Tenant may immediately appoint a replacement Valuer in accordance with sub-clause 11.1.3.

11.2 The Valuer's determination is binding.

11.3 The Landlord and Tenant must bear equally the Valuer's fee for making the determination and if either pays more than half the fee, may recover the difference from the other.

11.4 Until the determination is made by the Valuer, the Tenant must continue to pay the same Rent as before the Market Review Date and within 7 days of being informed of the valuer's determination, the parties must make any necessary adjustments.

11.5 If the Act does not apply, a delay in starting a market review does not prevent the review from taking place and being effective from the Market Review Date but if the market review is initiated more than 12 months after the Market Review Date, the adjustment contemplated by clause 11.4 takes effect only from the date on which it is initiated.

12. FURTHER TERM(S)

12.1 The Tenant has an option to renew this lease for the further term or terms stated in Item 8 and the Landlord must renew this lease for that further term or those further terms if -

12.1.1 there is no unremedied breach of this lease by the Tenant of which the Landlord has given the Tenant written notice at the time the Tenant requests renewal as required by clause 12.1.3,

12.1.2 the Tenant has not persistently committed breaches of this lease of which the Landlord has given written notice during the Term, and

12.1.3 the Tenant has exercised the option for renewal in writing (unless the Act otherwise permits) not earlier than the earliest date stated, and not later than the latest date stated, in Item 8.

12.2 The lease for the further term -

12.2.1 starts on the day after the Term ends,

12.2.2 has a starting Rent determined in accordance with Item 12, and

12.2.3 must contain the same terms as this lease (but with no option for renewal after the last option for a further term stated in Item 8 has been exercised) including any provisions appearing in this document that may have been read down or severed to comply with any applicable law that has ceased to be applicable, as if they had not been read down or severed.

12.3 If the Tenant was required to provide guarantees for this lease, the Tenant must provide guarantees of its obligations under the renewed lease by its directors (if a corporation), and by each person who has provided a guarantee for the expired Term, in the terms of clause 15.

13. SECURITY DEPOSIT

13.1 The Tenant must pay a security deposit to the Landlord of the amount stated in Item 15 and must maintain the deposit at that amount.

13.2 Any security deposit not in the form of a guarantee may be invested in an interest-bearing deposit and any interest accruing on it is to be treated as a supplementary payment of security deposit. When the Term starts, the Tenant must provide the Landlord with the Tenant's tax file number.

13.3 The Landlord may use the deposit to make good the cost of remedying breaches of the Tenant's obligations under this lease (or any of the events specified in clause 7.1) and the Tenant must pay whatever further amount is required to bring the deposit back to the required level.

13.4 As soon as practicable after this lease has ended and the Tenant has vacated the Premises and performed all of its obligations under the lease, the Landlord must refund the unused part of the deposit. The Landlord must give the Tenant prompt notice of any outstanding obligations and must either give the Tenant access to remedy the default or (acting promptly) use the deposit to remedy any failure to comply with the Tenant's obligations and refund any unused part of the deposit.

13.5 The Tenant may, and if the Landlord requires must, provide the security deposit by means of a guarantee in a form approved by the Landlord by an ADI within the meaning of the *Banking Act 1959* (Cth).

13.6 If the freehold of the Premises is transferred:

13.6.1 the Tenant must provide a replacement guarantee in exchange for the existing guarantee if requested by the Landlord in writing to do so, but the Landlord must pay the reasonable fees charged by the ADI for the issue of the replacement guarantee, and

13.6.2 the Landlord must transfer any security deposit held under this lease to the transferee.

14. NOTICES

14.1 A notice given under this lease may be given -

14.1.1 by pre-paid post,

14.1.2 by delivery

14.1.3 by email, or

14.1.4 in any manner authorised by law or the Supreme Court for service of documents, including any manner authorised for service on or by a legal practitioner, to the party's last known address, registered office, or (if to the Tenant) at the Premises.

14.2 Posted notices will be taken to have been received on the seventh day after posting that is not a Saturday, Sunday or bank holiday in place of intended receipt, unless proved otherwise.

14.3 Notices delivered or sent by email are taken to have been served or given at the time of receipt as specified in section 13A of the *Electronic Transactions (Victoria) Act 2000*.

15. OBLIGATIONS OF GUARANTOR(S) UNDER GUARANTEE AND INDEMNITY

15.1 The Guarantor in consideration of the Landlord having entered into this lease at the Guarantor's request-

15.1.1 guarantees that the Tenant will perform all its obligations under this lease for the Term and any further term and during any period of overholding after the end of the Term,

15.1.2 must pay on demand any amount which the Landlord is entitled to recover from the Tenant under this lease whether in respect of the Term, any further term or any period of overholding, and

15.1.3 indemnifies the Landlord against all loss resulting from the Landlord's having entered into this lease whether from the Tenant's failure to perform its obligations under it or from this lease being or becoming unenforceable against the Tenant and whether in respect of the Term, any further term or any period of overholding (except to the extent caused or contributed to by the Landlord or the Landlord's Agents) and the Landlord must use reasonable endeavours to mitigate its loss.

15.2 The liability of the Guarantor will not be affected by -

15.2.1 the Landlord granting the Tenant or a Guarantor time or any other indulgence, or agreeing not to sue the Tenant or another Guarantor,

15.2.2 failure by any Guarantor to sign this document,

- 15.2.3 transfer (except in accordance with the Act, if the Act applies) or variation of this lease, but if this lease is transferred the Guarantor's obligations, other than those which have already arisen, end when the Term ends and do not continue into a term renewed by a new Tenant nor a period of overholding by a new Tenant,
- 15.2.4 the fact that this lease is subsequently registered at the Land Registry or not registered, or, for any reason, is incapable of registration, or
- 15.2.5 transfer of the freehold of the Premises.
- 15.3 The Guarantor agrees that -
- 15.3.1 the Landlord may retain all money received including dividends from the Tenant's bankrupt estate, and need allow the Guarantor a reduction in its liability under this guarantee only to the extent of the amount received,
- 15.3.2 the Guarantor must not seek to recover money from the Tenant to reimburse the Guarantor for payments made to the Landlord until the Landlord has been paid in full,
- 15.3.3 the Guarantor must not prove in the bankruptcy or winding up of the Tenant for any amount which the Landlord has demanded from the Guarantor, and
- 15.3.4 the Guarantor must pay the Landlord all money which the Landlord refunds to the Tenant's liquidator or trustee in bankruptcy as preferential payments received from the Tenant.
- 15.4 If any of the Tenant's obligations are unenforceable against the Tenant, then this clause is to operate as a separate indemnity and the Guarantor indemnifies the Landlord against all loss resulting from the Landlord's inability to enforce performance of those obligations. The Guarantor must pay the Landlord the amount of the loss resulting from the unenforceability.
- 15.5 If there is more than one Guarantor, this guarantee binds them separately, together and in any combination.
- 15.6 Each of the events referred to in clauses 7.1.5 and 7.1.6 is deemed to be a breach of an essential term of this lease.
- 16. GST**
- 16.1 Expressions used in this clause 16 and in the GST Act have the same meanings as when used in the GST Act unless the context requires otherwise.
- 16.2 Amounts specified as payable under or in respect of this lease are expressed exclusive of GST.
- 16.3 The recipient of a taxable supply made under or in respect of this lease must pay to the supplier, at the time payment for the supply is due, the GST payable in respect of the supply. This obligation extends to supply consisting of entry into this lease.
- 16.4 An amount payable by the Tenant in respect of a creditable acquisition by the Landlord from a third party must not exceed the sum of the value of the Landlord's acquisition and the additional amount payable by the Tenant under clause 16.3 on account of the Landlord's liability for GST.
- 16.5 A recipient of supply is not obliged, under clause 16.3, to pay the GST on a taxable supply to it under this lease, until given a valid tax invoice for it.
- 17. CONSUMER PRICE INDEX**
- 17.1 On a CPI Review Date, the Rent is adjusted by reference to the Consumer Price Index using the following formula –
- $$AR = R \times \frac{CPIB}{CPIA}$$
- Where: "AR" means adjusted Rent,
"R" means Rent before adjustment,
"CPIB" means the Consumer Price Index number for the quarter immediately preceding the CPI Review Date, and
"CPIA" means the Consumer Price Index number for the quarter immediately preceding the most recent earlier Review Date or, where there is no earlier Review Date, the quarter immediately preceding the start of the Term.
- 17.2 If CPIB is not published until after the CPI Review Date, the adjustment is made when it is published but the adjustment takes effect from the relevant CPI Review Date. In the meantime, the Tenant must continue to pay the Rent at the old rate and, when the adjustment is made, the Tenant must immediately pay any deficiency or the Landlord must immediately repay the excess.
- 17.3 If the base of the Consumer Price Index is changed between the two comparison dates an appropriate compensating adjustment must be made so that a common base is used.

- 17.4 Unless the Act applies and requires otherwise, if the Consumer Price Index is discontinued or suspended, then the calculation is to be made using whatever index is substituted for it. If no other index is substituted for it, the calculation is to be made using the index or calculation which the President of the Australian Property Institute, Victorian Division (acting as an expert and not as an arbitrator), determines is appropriate in the circumstances. This determination is binding.
- 17.5 Unless the Act applies, the adjustment is not made if it would result in a decrease in the Rent payable.

18. IF PREMISES ONLY PART OF THE LETTABLE AREA OF THE BUILDING

- 18.1 If the Premises are only a part of the Lettable area of the Building, the provisions of clause 18.2-18.6 apply.
- 18.2 The Landlord -
- 18.2.1 may adopt whatever name it chooses for the Building and change the name from time to time, and
- 18.2.2 reserves all proprietary rights to the name of the Building and any logo adopted for the Building.
- 18.3 The Landlord reserves for itself the use of all external surfaces of the Building and areas outside the Building.
- 18.4 The Landlord's Installations remain under the absolute control of the Landlord whilst the Building and Common Areas remain under the absolute control of either the Landlord or the Owners Corporation. In each case the controller may manage them and regulate their use as it considers appropriate. If the Landlord is the controller, in particular the Landlord has the right -
- 18.4.1 to close off the Common Areas as often as the Landlord reasonably considers appropriate to prevent rights of way or user arising in favour of the public or third parties,
- 18.4.2 to exclude persons whose presence the Landlord reasonably considers undesirable,
- 18.4.3 to grant easements over any parts of the Land which do not materially and adversely affect the Tenant's use,
- 18.4.4 to install, repair and replace, as necessary, the infrastructure necessary or desirable for the provision of services to the various parts of the Building, and
- 18.4.5 to repair, renovate, alter or extend the Building but, in doing so, the Landlord must not cause more inconvenience to the Tenant than is reasonable in the circumstances.
- If the Act applies, these rights may only be exercised in a manner consistent with the Act.
- 18.5 The Tenant must not obstruct the Common Areas or use them for any purpose other than the purposes for which they were intended.
- 18.6 The Tenant must comply with the Building Rules. The Tenant is bound by a change to the Building Rules when it receives written notice of it. The Landlord must not adopt a Building Rule, change the Building Rules or vote in favour of any Building Rules in a way that is unreasonable or inconsistent with this lease. To the extent that a Building rule is inconsistent with this lease, the lease prevails.
- 18.7 Where the land is subject to an Owners Corporation, to the extent the Landlord has the power to so do, the Landlord must use reasonable endeavours to ensure that the Owners Corporation conducts itself consistently with the Tenant's rights under this lease.
- 18.8 Notwithstanding clause 18.6, to the extent that any rule of the Owners Corporation is inconsistent with this lease, the Owners Corporation rule will prevail.

19. PERSONAL PROPERTY SECURITIES ACT

- 19.1 Expressions used in this clause that are defined in the PPSA have the meanings given to them in the PPSA.
- 19.2 The Landlord may, at any time, register a financing statement for any security interest arising out of or evidence by this lease over any or all of -
- 19.2.1 the Landlord's Installations,
- 19.2.2 any security deposit provided by the Tenant, and
- 19.2.3 Tenant's Installations and other Tenant's property left on the Premises after the end of the lease, that are personal property, and must identify the property affected by the financing statement in the free text field of the statement. The Tenant waives the right to receive notice under section 157(1) of the PPSA.
- 19.3 When this lease -
- 19.3.1 ends and the Tenant has vacated the Premises and performed all of its obligations under it, or
- 19.3.2 is transferred,
- the Landlord must register a financing change statement with respect to any security interest for which the Landlord has registered a financing statement other than those to which sub-clause 19.2.3 relates.

- 19.4 The Tenant must sign any documents and do anything necessary to enable the Landlord to register the statements referred to in the preceding sub-clause and to enforce its rights and perform its obligations under this clause and the PPSA. In particular, if the Tenant is a natural person, the Tenant must provide the Landlord with the Tenant's date of birth and a certified copy of a Victorian driver's licence (or other evidence acceptable to the Landlord) to confirm the Tenant's date of birth. The Landlord must keep the Tenant's date of birth and any evidence provided to confirm it secure and confidential.
- 19.5 The Tenant must not register, or permit to be registered, a financing statement in favour of any person other than the Landlord, for any security deposit provided by the Tenant or any of the Landlord's Installations.
- 19.6 In accordance with section 275(6)(a) of the PPSA, the parties agree that neither of them will disclose information of the kind mentioned in subsection 275(1).
- 19.7 Subject to any requirement to the contrary in the PPSA, notices under this clause or the PPSA may be served in accordance with clause 14 of this lease.

20. ADDITIONAL PROVISIONS

Any additional provisions set out in Item 17 -

- 20.1 bind the parties, and
- 20.2 if inconsistent with any other provisions of this lease, override them.

21. ELECTRONIC SIGNATURE

- 21.1 The parties consent to execution of this lease (and any notice given under this lease) by any signatory by an Electronic Signature.
- 21.2 Where this lease (or a notice given under this lease) is electronically signed by a signatory, the signatory warrants and agrees that the Electronic Signature has been used to identify the person signing and to indicate that the signatory or the relevant party (as the case may be) intends to be bound by the Electronic Signature.
- 21.3 This lease may be electronically signed in any number of counterparts which together will constitute the one document.
- 21.4 Each party consents to the exchange of counterparts of this lease by delivery by email or such other electronic means as may be agreed in writing.
- 21.5 Each party must upon request promptly deliver a physical counterpart of this lease with the handwritten signature or signatures of the party and all written evidence of the authority of a person signing on their behalf, but a failure to comply with the request does not affect the validity of this lease.

22. LANDLORD WARRANTY

The Landlord warrants that clauses 1 to 21 appearing in this lease are identical to clauses 1 to 21 of the copyright Law Institute of Victoria Lease of Real Estate published in the month and year set out at the foot of this page and that any modifications to them are set out as additional provisions in Item 17.

Schedule

Important Notice To The Person Completing This Schedule

This lease is in a standard form. You may need to make changes to record the agreement of the Landlord, Tenant and any Guarantor. You should carefully check the whole document and make appropriate deletions, alterations and/or additions so it agrees with the instructions you have received. You should note the warranty in clause 22 and record any deletions, alterations and/or additions to the standard lease conditions as additional provisions in item 17 and not in the lease conditions.

Item 1
[1.1]

Landlord:

M&L Oceania Management Pty Ltd (ACN 622 845 523)
of 9 Efficient Drive, Truganina VIC 3029

Item 2
[1.1]

Tenant:

West Crane Services Pty Ltd (ACN 101 759 399) of 41 Triholm Avenue, Laverton VIC 3028

Item 3
[1.1]

Guarantor:

Not applicable

Item 4
[1.1]

(a) Premises:

9 Efficient Drive, Truganina VIC 3029 as shown on the plan annexed to this lease at **Annexure A** (approximately 450sqm).

On the date that is 11.59pm the day immediately prior to settlement of the contract between the Landlord and West Crane Properties No 2 Pty Ltd (ACN 153 681 611) as trustee for the Triholm Avenue Property Trust (**Purchaser**) dated on or around the date of this lease (**Contract**), the Premises will be the whole of the Premises

(b) Land:

Part of the land in Volume 11974 Folio 247 being Lot 1 on plan of subdivision PS745796X

Item 5
[1.1]

Landlord's installations:

Any fixtures, fittings, plant and equipment belong to the Landlord as at the Commencement Date of this lease.

Item 6
[1.1]

Tenant's Installations:

As installed by the Tenant during the term or any further term or period of overholding in accordance with the terms of this lease.

Item 7 [1.1]	Term of the lease: The lease shall commence on the day of sale under the contract of sale of real estate for the land for a period of 6 months subject to Additional Provision 17(a)(“Commencement Date”)
Item 8 [12]	Further term(s): Not applicable
Item 9 [1.1]	Rent: \$62,100.00 per annum plus GST subject to Additional Provision 17(f)0.
Item 10 [2.1.1]	How rent is to be paid: By equal monthly instalments, payable in advance and without deduction on the first day of each month payable to the Landlord by way of direct debit or as the Landlord otherwise directs in writing.
Item 11 [2.1.1, 11, 17]	Review date(s): Term (a) <i>Market review date(s):</i> Not applicable (b) <i>CPI review date(s):</i> Not applicable (c) <i>Fixed review date(s) and percentage or fixed amount increases:</i> Not applicable Further term(s) (a) <i>Market review date(s):</i> Not applicable (b) <i>CPI review date(s):</i> Not applicable (c) <i>Fixed review date(s) and percentage or fixed amount increases:</i> Not applicable
Item 12 [2.1.1, 11, 17]	Who may initiate reviews: <i>Market review:</i> Not applicable <i>CPI review:</i> Not Applicable <i>Fixed review:</i> Not applicable

Item 13
1.1,
2.1.2,
2.1.5 &
5.4]

Building Outgoings which the Tenant must pay or reimburse:
Nil. For the avoidance of doubt, the Tenant is responsible for the Tenant's own transportation, loading and unloading costs strictly in accordance with the Permitted Use only.

Item 14
[2.1.1]

Permitted Use:
Storage of the Tenant's property and for no other purpose whatsoever

Item 15
[13]

Security deposit:
Not applicable

Item 16
[1.1 &
6.2]

Risks which the insurance policies must cover:

- Fire
- Flood
- Lightning
- Storm and tempest
- Explosion
- Riots and civil commotion
- Strikes
- Malicious damage
- Earthquake
- Impact by vehicles
- Impact by aircraft and articles dropped by them
- Internal flood water and such other risks as the Landlord reasonably requires from time to time.

Item 17
[20]

Additional provisions:

The additional provisions set out in Item 17 are essential terms under clause 7.4 of the general conditions.

(a) Termination of Lease

The parties acknowledge and agree;

(i) Subject to Additional Provision 17(b) and Additional Provision 17(e), this lease will automatically terminate if the contract of sale between the Landlord and West Crane Properties No 2 Pty Ltd (ACN 153 681 611) as trustee for the Triholm Avenue Property Trust and/or nominees ("the Purchaser") in respect of the sale of the property at 9 Efficient Drive, Truganina VIC ("the Contract") is terminated for any reason.

(ii) Save for the terms as set out in this lease, the Tenant will hold the Landlord harmless from any and all claims, damages or losses arising out of or resulting from the termination of the lease in the event that the parties are unable to conclude the Contract for any reason. This provision shall be deleted from the lease once the Purchaser has completed the settlement of the Contract.

(b) Goods

The parties acknowledge and agrees that:

(i) All materials and equipment materials brought onto the Property by the Tenant pursuant to this Lease remain the absolute property of the Tenant (**Tenant's Property**).

(ii) The Tenant may, within 60 days following termination of this Lease, enter the Property for the purposes of removing the Tenant's Property and make good any damage caused by its removal, with access in accordance with Additional Provision 17(e);

(iii) The Tenant's Property shall remain at the risk of the Tenant, and the Tenant shall be responsible for insuring its property;

(iv) The Landlord shall not be responsible for any loss or damage suffered by the Tenant, including any damage to the Tenant's Property;

(v) Any property not removed within 60 days will become the property of the Landlord; and

- (vi) The Landlord reserves the right to charge a licence fee equivalent to a commercial rental for any goods remaining on the Property following the termination of this Lease and after the 60 day period.

(c) Insurances

In addition to any other provision of this lease concerning insurance, the Tenant must take out and maintain throughout the Term policies of insurance for:

- (i) the Tenant's Installations and stock (including any Tenant's plant and equipment at the Premises) for their full insurable value; and
- (ii) damage to the Premises through unlawful entry.

Notwithstanding any other provision of the lease, the Tenant must provide evidence of insurance cover to the Landlord on or before the Commencement Date.

(d) Permitted Use

The Tenant must not do anything which may cause the Act (or any equivalent successive legislation) to apply to the lease.

(e) Access

The Tenant must only access the Premises during business hours and further the Tenant must provide the Landlord with not less than 48 hours prior notice of any access. The Premises must only be used for storage of the Tenant's equipment and for no other purpose.

(f) Rent free period

- (i) Provided that during the Term the Tenant complies with its obligations pursuant to the lease the Landlord grants the Tenant a rent-free period from the Commencement Date until settlement takes place under the Contract.
- (ii) Rent for any year of the Term or any further term will be calculated as if there was no rent-free period under this lease.

EXECUTED AS A DEED ON:

29-Nov-2024 Date: / /

**EXECUTION & ATTESTATION
LANDLORD/S**

Executed by M&L Oceania Management Pty Ltd (ACN 622 845 523) in accordance with section 127 of the <i>Corporations Act 2001(Cth)</i>		
Director Print Name	Lai Ming NG	
Print usual address		
*Director/*Secretary [*Delete one]		
Print Name	Lai Tong NG	
Print usual address		

EXECUTION & ATTESTATION

TENANT/S

Executed by West Crane Services Pty Ltd (ACN 101 759 399) in accordance with section 127 of the <i>Corporations Act 2001</i> (Cth) <i>Russell Skoglund</i>	
Director Print Name	Russell Skoglund
Print usual address	
*Director/*Secretary [*Delete one]	<i>Tony Casseta</i>
Print Name	Tony Casseta
Print usual address	

Annexure A Plan

