

DATE: 11/3/2008

(H)

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

Corporation: MOONPRINT PTY LIMITED ACN 102 632 664  
Authority: section 127 of the Corporations Act 2001

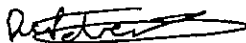
Signature of authorised person:

Name of authorised person:

Office held: Director

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

Signature of witness:

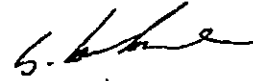


Name of witness:

Address of witness:

ROWENA C PETRENAS  
103 Orange Avenue, Mildura  
AUSTRALIAN LEGAL PRACTITIONER  
WITHIN THE MEANING OF THE  
LEGAL PROFESSIONS ACT 2004

Signature of authorised person:

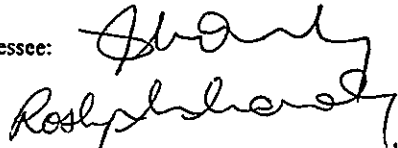


Name of authorised person:

Office held: Sole Director/Secretary

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

Signature of Lessee:



(I) STATUTORY DECLARATION

I

solemnly and sincerely declare that—

1. The time for the exercise of option to renew/option to purchase in expired lease No. \_\_\_\_\_ has ended;
2. The lessee under that lease has not exercised the option.

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

Made and subscribed at \_\_\_\_\_ in the State of New South Wales

on \_\_\_\_\_ in the presence of—

Signature of witness:

Signature of lessor:

Name of witness:

Address of witness:

Qualification of witness:

Form: 07L  
Licence: 01-05-028  
Licensee: LEAP Legal Software Pty Limited  
Firm name: Cutri & Associates

**LEASE**



**AD881446M**

New South Wales  
Real Property Act 1900

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

STAMP DUTY

Office of State Revenue use only

(A) TORRENS TITLE

Property leased: if appropriate, specify the part or premises  
**PART OF THE PREMISES CONTAINED IN FOLIO 6/11/758338 AND MORE PARTICULARLY DESCRIBED AS SHOP 1, 24-38 TAPIO STREET DARETON AND KNOW AS THE DARETON POST OFFICE**  
*Prod. 12/3/08.*

(B) LODGED BY

Delivery Box <b>39U</b>	Name, Address or DX and Telephone LLPN: <b>123840P</b> <b>ESPREON PROPERTY SERVICES</b> DX 885 SYDNEY 02 9210 0993 Reference (optional): <i>Messr- 7185326</i>	CODE <b>L</b>
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(C) LESSOR

**MOONPRINT PTY LIMITED ACN 102 632 664**

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

(D)

Encumbrances (if applicable):

(E) LESSEE

**JOHN CHRISTOPHER CROWLEY AND ROSLYN ANN CROWLEY**

(F)

**TENANCY: Tenants in Common in Equal Shares**

- (G) 1. TERM: **4 YEARS 3 MONTHS 27 DAYS**  
2. COMMENCING DATE: **4 MARCH 2008**  
3. TERMINATING DATE: **30 JUNE 2012**  
4. With an **OPTION TO RENEW** for a period of **3 YEARS AND 2 FURTHER OPTIONS TO RENEW EACH FOR A PERIOD OF 3 YEARS** set out in Item/Clause 4 of ANNEXURE B .  
5. With an **OPTION TO PURCHASE** set out in N/A  
6. Together with and reserving the **RIGHTS** set out in N/A  
7. Incorporates the provisions set out in ANNEXURE(S) A AND B hereto.  
8. Incorporates the provisions set out in memorandum recorded in the Department of Lands, Land and Property Information Division as No.N/A  
9. The **RENT** is set out in item/clause 5 of ANNEXURE B.

**ANNEXURE A**

SEE A SOLICITOR ABOUT THIS LEASE

**Lessor:** MOONPRINT PTY LTD ACN 102 632 664

**Lessee:** JOHN CHRISTOPHER CROWLEY and ROSLYN ANN CROWLEY

This annexure consists of 3 pages.

**NOTE:** Any alterations and additions to Lease Covenants in Annexure B must be made by additional clauses in Annexure A. The printed clauses in Annexure B are to remain in their copyright form without alteration.

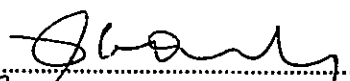
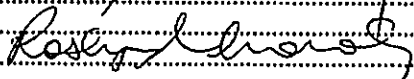
**SCHEDULE OF ITEMS (continued)**


Item 10 (cls 2.3, 13.1) (cl 13.7) **A. The guarantor:** Not applicable  
**B. Limit of guarantor's liability:**

Item 11 (cl 3) **Additional leased property:** Not applicable

Item 12 (cl 4) **Option to renew**  
A. Further period of 3 years from 01/07/2012 to 30/06/2015 .  
B. (i) Further period of 3 years from 01/07/2015 to 30/06/2018.  
(ii) Further period of 3 years from 01/07/2018 to 30/06/2021  
C. Maximum period of tenancy under this lease and permitted renewals 13.25 years  
D. First day option for renewal can be exercised: 6 months prior to terminating date.  
E. Last day option for renewal can be exercised: 3 months prior to terminating date.

Item 13 (cl 5) **A. Rent**  
For the lease period:  
From the commencement date to the first rent review date: \$5,586.00 a year by monthly instalments of \$465.50 inclusive of GST. (\$5078.18 exclusive of GST with monthly instalments of \$423.18)  
  
Afterwards: From 01/07/2008 and on Each year thereafter rent is to be adjusted on the anniversary of the rent review date by the Consumer Price Index  
  
At the new yearly rent beginning on each review date by monthly instalments of one twelfth of the new yearly rent.

  
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**ANNEXURE A**

For the further period in item 12A,12B(i) and 12B(ii):

From the commencement date  
to the first rent review date: Consumer Price Index  
(for example: Current market rent)

Afterwards: on each anniversary of the  
commencement date rent is to be adjusted  
by consumer Price Index

At the new yearly rent beginning on each  
review date by monthly instalments of one  
twelfth of the new yearly rent.

Item 13  
(cl 15)

**B. GST**

Clause 15 provides for payment by the lessee of GST unless otherwise here indicated

Item 14  
(cl 5)

**Outgoings**

- A. Share of outgoings: 100% where they are separately rated on the premises, otherwise the outgoings will be shared equally between all occupied shops
- B. Outgoings –
  - (a) local council rates and charges;
  - (b) water sewerage and drainage charges;
  - (c) land tax;
  - (d) insurance;

for the land or the building of which the property is part, fairly apportioned to the period of this lease.

Item 15  
(cl 5.1.5)

**Interest rate:** 15%

Item 16  
(cl 5.4)

**Rent review**

Rent review date	Method of rent review	If Method 1 applies, increase by (the increase should show percentage or amount)
Each Anniversary	Method 2	

Method 1 is a fixed amount or percentage.  
Method 2 is Consumer Price Index.  
Method 3 is current market rent.

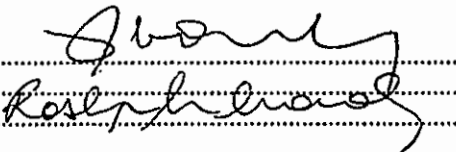
Method 2 applies unless another method is stated.

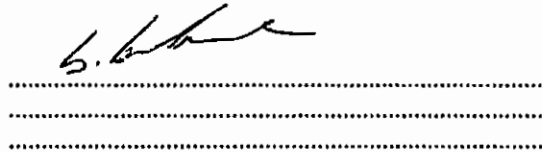
Item 17  
(cl 6.1)

**Permitted use:** Australia Post Outlet

Item 18  
(cl 8.1.1)

**Amount of required public liability insurance:** \$20,000,000.00

  
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**ANNEXURE A**

**Item 19 Bank Guarantee**

(cl 16)

Nil months base rent and the lessee's proportion of outgoings increased by the rate of GST (expressed as a percentage) applicable from time to time.

**Item 20 Security Deposit**

(cl 17)

one (1) months base rent and the lessee's proportion of outgoings increased by the rate of GST (expressed as a percentage) applicable from time to time.

**Details of strata manager/secretary of the owners corporation (if applicable)**

Not Applicable

*Shary*  
.....  
*Ralph*  
.....

*S. B. B.*  
.....  
.....

**ANNEXURE B**

SEE A SOLICITOR ABOUT THIS LEASE

**Lessor:MOONPRINT PTY LIMITED ACN 102 632 664**

**Lessee: JOHN CHRISTOPHER CROWLEY AND ROSLYN ANN CROWLEY**

This annexure consists of 13 pages.

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**NOTE:** Any alterations and additions to Lease Covenants in Annexure B must be made by additional clauses in Annexure A. The printed clauses in Annexure B are to remain in their copyright form without alteration.

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**RETAIL LEASE CERTIFICATE**

If section 16 of the *Retail Leases Act 1994* applies to this lease, and the term plus any further terms are less than 5 years (subject to section 16(4)), the term will be extended unless a section 16 certificate is given. Sections 16(1) and (2) provide –

- 16(1) The term for which a retail shop lease is entered into, together with any further term or terms provided for by any agreement or option for the acquisition by the lessee of a further term as an extension or renewal of the lease, must not be less than 5 years. An agreement or option is not taken into account if it was entered into or conferred after the lease was entered into.
- 16(2) If a lease is entered into in contravention of this section, the validity of the lease is not thereby affected but the term of the lease is extended by such period as may be necessary to prevent the lease contravening this section.

I certify that I am a solicitor not acting for the lessor and that at the request of the lessee I explained to the lessee before (or within 6 months after) the lessee entered into this lease –

- the effect of sections 16(1) and (2); and
- that the giving of this certificate would result in section 16 not applying to this lease.

.....  
Date

.....  
Signature

.....  
*S. Crowley*  
.....  
.....

.....  
NAME (BLOCK LETTERS)  
*John Crowley*  
*Roslyn Crowley*  
.....  
.....

**CLAUSE 1 FORM OF THIS LEASE**

**What are the parts to this lease?**

- 1.1 There are three parts to this lease – a lease form, Annexure A and this annexure.
- 1.2 This lease is a deed even if it is not registered.
- 1.3 A reference in this deed to the schedule is to the schedule of items commencing at item 1 on the lease form and ending with item 20 in Annexure A.

**CLAUSE 2 PARTIES**

**Who are the parties to this lease?**

- 2.1 The lessor is named on page 1 of this lease.
- 2.2 The lessee is named on page 1 of this lease.
- 2.3 The guarantor is named in item 10 in the schedule, if there is a guarantor.
- 2.4 If a party consists of two or more persons, obligations of that party can be enforced against any one or more of them.

**CLAUSE 3 THE PROPERTY**

**What property is leased?**

- 3.1 The property leased is described on page 1 of this lease.
- 3.2 The lessor's fixtures are included in the property leased.
- 3.3 If anything else is leased (such as furniture belonging to the lessor) and is described in item 11 in the schedule it is included in the property.
- 3.4 If the property has facilities and services shared in common with other persons in the same building as the property, clause 11.3.2 applies to those common facilities. The lessee shares the common facilities with the lessor, and with other lessees of the lessor. The lessor can set reasonable rules for sharing these common facilities.

**CLAUSE 4 LEASE PERIOD**

**How long is this lease for?**

- 4.1 This lease is for the period stated in item 1 in the schedule, commences on the date stated in item 2 in the schedule and ends on the date stated in item 3 in the schedule.
- 4.2 If a further period, commencing when this lease ends, is stated in item 12A in the schedule then the lessee has the option to renew this lease for that period.
- 4.3 The lessee can renew this lease more than once if that is stated in item 12B in the schedule. However the period of tenancy under this lease and under any renewal(s) is, in total, not longer than the maximum period stated in item 12C in the schedule.
- 4.4 The lessee can exercise the option only if –
  - 4.4.1 the lessee serves on the lessor a notice of exercise of option not earlier than the first day stated in item 12D in the schedule and not later than the last day stated in item 12E in the schedule;
  - 4.4.2 there is at the time of service no rent or outgoing that is overdue for payment; and
  - 4.4.3 at the time of service all the other obligations of the lessee have been complied with or fully remedied in accordance with the terms of any notice to remedy given by the lessor.If this lease is extended by legislation, items 12D and 12E in the schedule are adjusted accordingly.
- 4.5 After exercising the option the lessee must continue to pay all rents and outgoings on time and continue to comply with all of the lessee's obligations under this lease. If the lessee does not do so, the lessor may treat any breach as being a breach of the new lease as well as of this lease.

- 4.6 A new lease will be the same as this lease except for –
- 4.6.1 the new rent;
  - 4.6.2 the commencement date and the termination date;
  - 4.6.3 the omission of clauses 4.2, 4.3, 4.4, 4.5 and 4.6 and items 12A and 12B in the schedule in the last lease allowed in item 12 in the schedule;
  - 4.6.4 item 12B becoming item 12A;
  - 4.6.5 adjustment of item 12C in the schedule; and
  - 4.6.6 adjustment of items 12D and 12E in the schedule. The number of days between the dates stated in items 12D and 12E in the schedule of the new lease and the termination date of the new lease and the number of days between each date stated in items 12D and 12E in the schedule of this lease and the termination date of this lease are to correspond.

If the new rent is to be current market rent it will be decided in the same way that current market rent is to be decided under Method 3 stated in clause 5 assuming that this lease and the new lease were one continuous lease and the commencement date of the new lease was a rent review date.

## **CLAUSE 5 MONEY**

### **What money must the lessee pay?**

- 5.1 The lessee must pay to the lessor or as the lessor directs –
- 5.1.1 the rent stated in item 13A in the schedule;
  - 5.1.2 the share stated in item 14A in the schedule of those outgoings stated in item 14B in the schedule;
  - 5.1.3 the reasonable cost to the lessor of remedying a default by the lessee;
  - 5.1.4 the reasonable cost to the lessor of dealing with any application by the lessee for the lessor's consent under this lease (whether or not it is given);
  - 5.1.5 interest on these moneys at the rate stated in item 15 in the schedule when payment is more than 14 days overdue, calculated from the due date to the date of payment;
  - 5.1.6 registration fee for registration of this lease at Land and Property Information NSW (payable on delivery to the lessor's solicitor of the executed lease);
  - 5.1.7 stamp duty on this lease (payable on delivery to the lessor's solicitor of the executed lease) if not previously paid by the lessee to the Office of State Revenue;
  - 5.1.8 if the lessee defaults, the lessor's reasonable legal costs relating to the default;
  - 5.1.9 the lessor's reasonable costs and expenses in connection with the preparation of this lease but only that part of those costs and expenses which are permitted to be recovered by a lessor under section 14 and section 45 of the *Retail Leases Act, 1994*; and
  - 5.1.10 GST as provided for in clause 15.
- 5.2 The first month's instalment of rent is to be paid by the commencement date. Each later month's instalment of rent is to be paid in advance.
- 5.3 A payment under clause 5.1.2 must be paid on the next rent day after a request for payment is made by the lessor.
- A request for payment can be made -
- 5.3.1 after the lessor has paid an outgoing; or
  - 5.3.2 after the lessor has received an assessment or account for payment of an outgoing.

If item 14B in the schedule refers to land tax –

- if the property is a strata lot, the relevant land tax is land tax on that lot;
- if the property is not a strata lot but is part of a building, the relevant land tax is land tax on the land on which the building is situated, plus any land of the lessor used or available for use by or for the benefit of lessees conducting business in the building or in connection with trading in the building; and
- in either case, the land tax must be calculated as if the land was the only land owned by the lessor and there was no special trust or non-concessional company involved.



**When and how is the rent to be reviewed?**

- 5.4 The rent is to be reviewed on the rent review dates stated in item 16 in the schedule.  
If this lease is extended by legislation, the rent review dates include each anniversary of the latest rent review date stated in item 16 in the schedule (or if none is stated each anniversary of the commencement date) which falls during the extension.
- 5.5 The lessee must continue to pay rent at the old rate until the new rate is known. After that, the lessee is to pay the new rent from the next rent day. By that rent day the lessee is also to pay any shortfall between the old and new rate for the period since the rent review date. Alternatively, the lessor is to refund to the lessee any overpayment of rent.
- 5.6 There are three different methods described here for fixing the new rent on a rent review date. The method agreed by the lessor and the lessee is stated at item 16 in the schedule. The lessee is entitled to a reduction if the method produces a rent lower than the rent current just before the review date.

**Method 1. By a fixed amount or percentage.**

- 5.7 In this case the rent beginning on each review date will be increased by the percentage or amount stated in item 16 in the schedule.

**Method 2. By reference to Consumer Price Index.**

- 5.8 In this case –
- take the yearly rent as of the last review date or if none, the rent at the commencement date (\$X),
  - divide that rent by the Consumer Price Index Number for Sydney (All Groups) for the quarter ended just before that date (CPI 1),
  - multiply the result by the Consumer Price Index Number for Sydney (All Groups) for the quarter ended just before the review date (CPI 2).

The product is the new rent for the year beginning on the review date (\$Y), written as a formula –

$$\frac{\$X}{\text{CPI 1}} \times \text{CPI 2} = \$Y$$

- 5.9 The lessor must calculate the new rent after each review date and give the lessee written notice of the new rent.
- 5.10 If the Australian Bureau of Statistics makes a change in the reference base of the index and there is a published co-relation between the old and new base then the published co-relation is to be applied to convert the CPI 1 figure to the new reference base. If there is none then the lessor and the lessee agree to accept the calculations of the lessor's solicitor who must be retained to determine a fair co-relation between the old and the new series of numbers.
- 5.11 If the index used to calculate the new rent is discontinued the lessor may substitute another index that, as nearly as practicable, serves the same purpose and, if there is no such index, then the rent will be fixed by Method 3.

**Method 3. By reference to current market rent.**

- 5.12 In this case the rent is to be the current market rent. This can be higher or lower than the rent payable at the rent review date and is the rent that would reasonably be expected to be paid for the property, determined on an effective rent basis, having regard to the following matters –
- 5.12.1 the provisions of this lease;
  - 5.12.2 the rent that would reasonably be expected to be paid for the property if it were unoccupied and offered for renting for the same or a substantially similar use to which the property may be put under this lease;
  - 5.12.3 the gross rent, less the lessor's outgoings payable by the lessee;
  - 5.12.4 where the property is a retail shop, rent concessions and other benefits that are frequently or generally offered to prospective lessees of unoccupied retail shops; and
  - 5.12.5 the value of goodwill created by the lessee's occupation and the value of lessee's fixtures and fittings are to be ignored.

**ANNEXURE B**  
PAGE 5 OF 13 PAGES

- 5.13 The lessor or the lessee can inform the other in writing at least 60 days before the rent review date of the rent that the lessor or lessee thinks will be the current market rent at the review date.
- 5.14 If the lessor and the lessee agree on a new rent then that rent will be the new rent beginning on the rent review date and the lessor and the lessee must sign a statement saying so.
- 5.15 If the lessor and the lessee do not agree on the amount of the new rent 30 days before the rent review date, the current market rent will be decided by a valuer appointed under clause 5.16.
- 5.16
- 5.16.1 Unless 5.16.2 applies the lessor and the lessee can either agree upon a valuer or can ask the President of the Law Society of New South Wales to nominate a person who is a licensed valuer to decide the current market rent.
- 5.16.2 Where the property is a retail shop, the valuer appointed must be a specialist retail valuer.
- 5.17 The valuer will act as an expert not an arbitrator. The lessor and the lessee can each make submissions in writing to the valuer within 14 days after they receive notice of the valuer's appointment but not later unless the valuer agrees.
- 5.18 The valuer's decision is final and binding. The valuer must state how the decision was reached.
- 5.19 If the valuer –
- 5.19.1 does not accept the nomination to act; or
- 5.19.2 does not decide the current market rent within 1 month after accepting the nomination; or
- 5.19.3 becomes incapacitated or dies; or
- 5.19.4 resigns,
- then another valuer is to be appointed in the same way.
- 5.20 The lessor and lessee must each pay half the valuer's costs.
- 5.21 If the lessor and lessee do not agree upon a valuer and neither asks for a valuer to be nominated before –
- 5.21.1 the next rent review date passes; or
- 5.21.2 this lease ends without the lessee renewing it; or
- 5.21.3 this lease is transferred after the rent review date with the lessor's consent; or
- 5.21.4 the property is transferred after the rent review date
- then the rent will not change on that rent review date.

**CLAUSE 6 USE**

**How must the property be used?**

- 6.1 The lessee must –
- 6.1.1 use the property for the purpose stated in item 17 in the schedule and not for any other purpose;
- 6.1.2 open for business at times usual for a business of the kind conducted by the lessee;
- 6.1.3 keep the property clean and dispose of waste properly; and
- 6.1.4 comply with all laws relating to strata schemes and all other laws regulating how the property is used, obtain any consents or licences needed, comply with any conditions of consent, and keep current any licences or registrations needed for the use of the property or for the conduct of the lessee's business there.
- 6.1.7 where the property is a lot in a strata scheme:
- 6.1.7.1 use the lessor's common property only in connection with the use of the property,
- 6.1.7.2 co-operate with all other permitted users of the common property,
- 6.1.7.3 comply with so many of the provisions of the *Strata Schemes Management Act 1996* and the *Strata Schemes (Freehold Development) Act 1973* and the by-laws and all lawful orders, motions and directives under these Acts as may be applicable to the exercise of the lessee's rights and obligations under this lease.

- 6.2 The lessor can consent to a change of use and cannot withhold consent unreasonably.
- 6.3 The lessee must not –
- 6.3.1 do anything that might invalidate any insurance policy covering the property or that might increase the premium unless the lessor consents in which case the lessee must pay the increased premium; or
  - 6.3.2 use the property as a residence or for any activity that is dangerous, offensive, noxious, illegal or immoral or that is or may become a nuisance or annoyance to the lessor or to the owner or occupier of any neighbouring property; or
  - 6.3.3 hold any auction, bankrupt or fire sale in the property; or
  - 6.3.4 display signs or advertisements on the outside of the property, or that can be seen from the outside, unless the lessor consents (but the lessor cannot withhold consent unreasonably); or
  - 6.3.5 overload the floors or walls of the property; or
  - 6.3.6 without the prior written consent of the lessor and/or the owners corporation, use the common property for any purpose other than for access to and egress from the property.

## **CLAUSE 7 CONDITION AND REPAIRS**

### **Who is to repair the property?**

- 7.1 The lessor must –
- 7.1.1 maintain in a state of good condition and serviceable repair the roof, the ceiling, the external walls and external doors and associated door jambs, and the floors of the property and must fix structural defects;
  - 7.1.2 maintain the property in a structurally sound condition; and
  - 7.1.3 maintain essential services.
- 7.2 The lessee must otherwise maintain the property in its condition at the commencement date and promptly do repairs needed to keep it in that condition but the lessee does not have to –
- 7.2.1 alter or improve the property; or
  - 7.2.2 fix structural defects; or
  - 7.2.3 repair fair wear and tear.
- 7.3 The lessee must also –
- 7.3.1 reimburse the lessor for the cost of fixing structural damage caused by the lessee, apart from fair wear and tear;
  - 7.3.2 maintain and decorate the shop front if the property has one;
  - 7.3.3 decorate the inside of the property in the last 3 months of the lease period (however it ends) – ‘decorate’ here means restoring the surfaces of the property in a style and to a standard of finish originally used e.g. by repainting;
  - 7.3.4 where the property is a lot in a strata scheme:
    - 7.3.4.1 meet the cost of all damage to the common property occasioned by the lessee or any invitee or licensee of the lessee; and
    - 7.3.4.2 permit the owners corporation, temporarily, to close any part of the common property for the purpose of making and effecting repairs to it.
- 7.4 If an authority requires work to be done on the property and it is structural work or work needed to make the property safe to use then the lessor must do the work unless it is required only because of the way the lessee uses the property. But if it is any other work or is required only because of the way the lessee uses the property then the lessee must do the work.
- 7.5 If the lessee fails to do any work that the lessee must do the lessor can give the lessee a notice in writing stating what the lessee has failed to do. After the notice is given the lessee must –
- 7.5.1 do the work immediately if there is an emergency; and
  - 7.5.2 do the work promptly and diligently in any other case.
- If the lessee does not do the work, the lessor can do it and the lessee must reimburse the lessor for the cost of the work.

- 7.6 The lessee must not make any structural alterations to the property. Any other alterations require the lessor's consent in writing (but the lessor cannot withhold consent unreasonably).

**CLAUSE 8 INSURANCE AND DAMAGE**

**What insurances must the lessee take out?**

- 8.1 The lessee must keep current an insurance policy covering –
- 8.1.1 liability to the public in an amount not less than the amount stated in item 18 in the schedule (for each accident or event); and
  - 8.1.2 damage or destruction from any cause to all plate glass in the windows and other portions of the property
- and must produce to the lessor, upon request, the policy and the receipt for the last premium.

**What happens if the property is damaged?**

- 8.2 If the property or the building of which it is part is damaged (a term which includes destroyed) –
- 8.2.1 the lessee is not liable to pay rent, or any amount payable to the lessor in respect of outgoings and other charges, that is attributable to any period during which the property cannot be used under this lease or is inaccessible due to that damage;
  - 8.2.2 if the property is still useable under this lease but its useability is diminished due to the damage, the lessee's liability for rent and any amount in respect of outgoings attributable to any period during which useability is diminished is reduced in proportion to the reduction in useability caused by the damage;
  - 8.2.3 if the lessor notifies the lessee in writing that the lessor considers that the damage is such as to make its repair impracticable or undesirable, the lessor or the lessee can terminate this lease by giving not less than 7 days notice in writing of termination to the other and no compensation is payable in respect of that termination;
  - 8.2.4 if the lessor fails to repair the damage within a reasonable time after the lessee requests the lessor to do so the lessee can terminate this lease by giving not less than 7 days notice in writing of termination to the lessor; and
  - 8.2.5 nothing in clause 8.2 affects any right of the lessor to recover damages from the lessee in respect of any damage or destruction to which the clause applies.

**CLAUSE 9 ACCESS**

**What are the lessor's rights of access to the property?**

- 9.1 The lessee must give the lessor (or anyone authorised in writing by the lessor) access to the property at any reasonable time for the purpose of –
- 9.1.1 inspecting the condition of the property, or how it is being used; or
  - 9.1.2 doing anything that the lessor can or must do under this lease or must do by law; or
  - 9.1.3 viewing the property as a valuer, prospective buyer or mortgagee; or
  - 9.1.4 fixing a notice in a reasonable position on the outside of the property saying that it is for sale; or
  - 9.1.5 viewing the property as a prospective lessee not earlier than 6 months before the lease period ends; or
  - 9.1.6 fixing a notice not earlier than 6 months before the lease period ends in a reasonable position on the outside of the property saying that it is to let; or
  - 9.1.7 inspecting, cleaning or repairing another property or any services to another property.
- 9.2 The lessor must give the lessee at least 2 days written notice for access (except in an emergency). The day of the giving of the notice and any Saturday, Sunday or public holiday on which the property is not open for business are not counted.
- 9.3 The lessor must promptly make good any damage caused to the property and to any of the lessee's belongings which results from exercising these rights.
- 9.4 The lessee must give to the lessor a copy of any notice relating to the property or relating to any neighbouring property immediately after receiving the notice.

## CLAUSE 10 TRANSFER AND SUB-LEASE

### Can this lease be transferred or the property shared or sub-let?

- 10.1 The lessee must not transfer this lease without consent.
- 10.2 The lessor can withhold consent only if—
- 10.2.1 the proposed transferee proposes to change the use to which the property is put; or
  - 10.2.2 where the property is a retail shop, the proposed transferee has financial resources or retailing skills inferior to those of the proposed transferor and otherwise the proposed transferee has financial resources or business experience inferior to those of the proposed transferor; or
  - 10.2.3 the lessee has not complied with clause 10.3 and, where the property is a retail shop, clause 10.4.
- 10.3 A request for the lessor's consent to a transfer of lease must be made in writing and the lessee must provide the lessor with such information as the lessor may reasonably require concerning the financial standing and business experience of the proposed transferee.
- 10.4 Where the property is a retail shop, before requesting the consent of the lessor to a proposed transfer of this lease, the lessee must furnish the proposed transferee with a copy of any disclosure statement given to the lessee in respect of this lease, together with details of any changes that have occurred in respect of the information contained in the disclosure statement (being changes of which the lessee was aware or could reasonably be expected to be aware). For the purpose of enabling the lessee to comply with this obligation, the lessee can request the lessor to provide the lessee with a copy of the disclosure statement concerned and, if the lessor is unable or unwilling to comply with such a request within 14 days after it is made, this clause 10.4 does not apply.
- 10.5 Where the lessee has complied with clause 10.3 and where required to do so clause 10.4, and the lessor has not within 42 days or where the *Retail Leases Act 1994* applies 28 days after the request was made or the lessee has complied with paragraphs 41(a) and 41(b) of that Act, whichever is the later, given notice in writing to the lessee either consenting or withholding consent the lessor is taken to have consented.
- 10.6 The lessee has to pay in connection with any consent the lessor's reasonable legal costs, the reasonable costs of obtaining any mortgagee's consent, the stamp duty and the registration fee for the transfer.
- 10.7 Where the property is a retail shop, the lessee can sublet, grant a license or concession, share or part with the possession of the whole or any part of the property or mortgage or otherwise charge or encumber the lessee's estate or interest in this lease only with the written consent of the lessor which can be refused in the lessor's absolute discretion. Otherwise, the lessee cannot do any of these things.

## CLAUSE 11 LESSOR'S OTHER OBLIGATIONS

### What are the lessor's other obligations?

- 11.1 So long as the lessee does all the things that must be done by the lessee under this lease the lessor must allow the lessee to possess and use the property in any way permitted under this lease without interference from the lessor, or any person claiming under the lessor or having superior title to the title of the lessor.
- 11.2 The lessor must pay all outgoings for the land or the building of which the property is part when they fall due.
- 11.3 If the property is part of a building owned or controlled by the lessor—
- 11.3.1 the lessor must maintain in reasonable structural condition all parts of the building that the lessee can use under this lease; and
  - 11.3.2 if the property has facilities and service connections shared in common with other persons the lessor must—
    - 11.3.2.1 allow reasonable use of the facilities and service connections including—
      - the right for the lessee and other persons to come and go to and from the property over the areas provided for access;
      - access by the lessee to service connections; and
      - the right for the lessee's customers to park vehicles in any area set aside for customer parking, subject to any reasonable rules made by the lessor.
    - 11.3.2.2 maintain the facilities and service connections in reasonable condition.

- 11.4 Where registration is necessary for the validity of this lease, the lessor must ensure that this lease is registered.
- 11.5 If a consent is needed for this lease, from someone such as a mortgagee or head lessor of the property, then the lessor must get the consent.

## CLAUSE 12 FORFEITURE AND END OF LEASE

### When does this lease end?

- 12.1 This lease ends -
- 12.1.1 on the date stated in item 3 in the schedule; or
  - 12.1.2 if the lessor lawfully enters and takes possession of any part of the property; or
  - 12.1.3 if the lessor lawfully demands possession of the property.
- 12.2 The lessor can enter and take possession of the property or demand possession of the property if -
- 12.2.1 the lessee has repudiated this lease; or
  - 12.2.2 rent or any other money due under this lease is 14 days overdue for payment; or
  - 12.2.3 the lessee has failed to comply with a lessor's notice under section 129 of the *Conveyancing Act 1919*; or
  - 12.2.4 the lessee has not complied with any term of this lease where a lessor's notice is not required under section 129 of the *Conveyancing Act 1919* and the lessor has given at least 14 days written notice of the lessor's intention to end this lease.
- 12.3 When this lease ends, unless the lessee becomes a lessee of the property under a new lease the lessee must -
- 12.3.1 return the property to the lessor in the state and condition that this lease requires the lessee to keep it in; and
  - 12.3.2 have removed any goods and anything that the lessee fixed to the property and have made good any damage caused by the removal.
- Anything not removed becomes the property of the lessor who can keep it or remove and dispose of it and charge to the lessee the cost of removal making good and disposal.
- 12.4 If the lessor allows the lessee to continue to occupy the property after the end of the lease period (other than under a new lease) then -
- 12.4.1 the lessee becomes a monthly lessee and must go on paying the same rent and other money in the same way that the lessee had to do under this lease just before the lease period ended (apportioned and payable monthly);
  - 12.4.2 the monthly tenancy will be on the same terms as this lease, except for -
    - clause 4;
    - clauses 5.4 to 5.21 inclusive; and
    - clause 6.2 unless consent has previously been given;
  - 12.4.3 either the lessor or the lessee can end the monthly tenancy by giving, at any time, one month's written notice to the other expiring on any date; and
  - 12.4.4 anything that the lessee must do by the end of this lease must be done by the end of the monthly tenancy.
- 12.5 Essential terms of this lease include -
- 12.5.1 the obligation to pay rent not later than 14 days after the due date for payment of each periodic instalment (and this obligation stays essential even if the lessor, from time to time, accepted late payment);
  - 12.5.2 the obligations of the lessee in clause 5.1.2 (dealing with outgoings);
  - 12.5.3 the obligations of the lessee in clause 6.1 (dealing with use);
  - 12.5.4 the obligations of the lessee in clause 7 (dealing with repairs);
  - 12.5.5 the obligations of the lessee in clause 10 (dealing with transfer and sub-lease); and
  - 12.5.6 the obligations of the lessee in clause 15 (dealing with GST).

- 12.6 If there is a breach of an essential term the lessor can recover damages for losses over the entire period of this lease but must do every reasonable thing to mitigate those losses and try to lease the property to another lessee on reasonable terms.
- 12.7 The lessor can recover damages even if –
- 12.7.1 the lessor accepts the lessee's repudiation of this lease; or
  - 12.7.2 the lessor ends this lease by entering and taking possession of any part of the property or by demanding possession of the property; or
  - 12.7.3 the lessee abandons possession of the property; or
  - 12.7.4 a surrender of this lease occurs.

### **CLAUSE 13 GUARANTEE**

#### **What are the obligations of a guarantor?**

- 13.1 This clause applies if a guarantor of the lessee is named in item 10A in the schedule and has signed or executed this lease or, if this lease is a renewal of an earlier lease, the earlier lease.
- 13.2 The guarantor guarantees to the lessor the performance by the lessee of all the lessee's obligations (including any obligation to pay rent, outgoings or damages) under this lease, under every extension of it or under any renewal of it or under any tenancy and including obligations that are later changed or created.
- 13.3 If the lessee does not pay any money due under this lease, under any extension of it or under any renewal of it or under any tenancy the guarantor must pay that money to the lessor on demand even if the lessor has not tried to recover payment from the lessee.
- 13.4 If the lessee does not perform any of the lessee's obligations under this lease, under any extension of it or under any renewal of it or under any tenancy the guarantor must compensate the lessor even if the lessor has not tried to recover compensation from the lessee.
- 13.5 If the lessee is insolvent and this lease or any extension or renewal of it is disclaimed the guarantor is liable to the lessor for any damage suffered by the lessor because of the disclaimer. The lessor can recover damages for losses over the entire period of this lease or any extension or renewal but must do every reasonable thing to mitigate those losses and try to lease the property to another lessee on reasonable terms.
- 13.6 Even if the lessor gives the lessee extra time to comply with an obligation under this lease, under any extension of it or under any renewal of it or under any tenancy, or does not insist on strict compliance with the terms of this lease or any extension of it or renewal of it or of any tenancy, the guarantor's obligations are not affected.
- 13.7 If an amount is stated in item 10B in the schedule the guarantor's liability under this clause is limited to that amount.
- 13.8 The terms of this guarantee apply even if this lease is not registered, even if any obligation of the lessee is only an equitable one, and even if this lease is extended by legislation.

### **CLAUSE 14 EXCLUSIONS, NOTICES AND SPECIAL CLAUSES**

- 14.1 No covenant or power is implied in this lease by section 84 or 85 of the *Conveyancing Act 1919*.
- 14.2 A document under or relating to this lease is –
- 14.2.1 served if it is served in any manner provided in section 170 of the *Conveyancing Act 1919*; and
  - 14.2.2 served on the lessee if it is left at the property.
- 14.3 This lease is subject to any legislation that cannot be excluded.
- 14.4 In this lease, 'retail shop' means premises to which the *Retail Leases Act 1994* applies.
- 14.5 In this lease 'Director General' has the same meaning as in the *Retail Leases Act 1994*.

**CLAUSE 15 GOODS AND SERVICES TAX**

Unless item 13B in the schedule has been completed in a way that indicates that this clause is not to apply:

- 15.1 As consideration in whole or in part for a taxable supply the person receiving the supply must pay to the party making the supply an additional amount equal to the amount of GST payable on the supply.
- 15.2 To the extent that the lessee is required to reimburse the lessor in whole or in part for outgoings incurred by the lessor, for the purposes of this lease the amount of the outgoings must be reduced by the amount of any credit or refund of GST to which the lessor is entitled as a result of incurring outgoings.
- 15.3 Outgoings in item 14B in the schedule are to be calculated after deducting any input tax credit to which the lessor is entitled.
- 15.4 For the purposes of this lease GST means a tax in the nature of a supply of goods and services tax levied or imposed by the Commonwealth of Australia.

**CLAUSE 16 BANK GUARANTEE**

- 16.1 If a number of months appears in item 19 in the schedule, clauses 16.2 to 16.5 apply.
- 16.2 On or before the commencement date of this lease the lessee will deliver to the lessor a guarantee by a bank trading in the State of New South Wales in the form of an unconditional and irrevocable undertaking to pay drawn in favour of the lessor (unlimited as to time) in a form acceptable to the lessor and for an amount equivalent to the number of months referred to in item 19 in the schedule.
- 16.3 The lessor is entitled to claim under the guarantee an amount equal to any moneys due but unpaid by the lessee to the lessor under this lease.
- 16.4 The lessee agrees to vary the amount of the guarantee immediately upon each rent review so that the amount at all times represents the equivalent of the number of months referred to in the schedule.
- 16.5 The lessor will deliver the guarantee (or so much of it as is then held by the lessor) to the lessee on the last of:
  - 16.5.1 the terminating date of this lease;
  - 16.5.2 the expiry date of any holding over under this lease; and
  - 16.5.3 the date that the lessee has no further obligations under this lease or at law.

**CLAUSE 17 SECURITY DEPOSIT**

- 17.1 If an amount or a number of months appears in item 20 in the schedule, clauses 17.2 to 17.6 apply.
- 17.2 On or before the commencement date of this lease the lessee will deliver the security deposit to the lessor.
- 17.3 The lessor is entitled to deduct from the security deposit an amount equal to any monies due but unpaid by the lessee to the lessor under this lease.
- 17.4 Where the property is a retail shop, the security deposit will be held in accordance with Section 16C of the *Retail Leases Act 1994*. The lessee will not make an application to the Director General seeking the return of the security deposit (or so much of it as is then held by the Director General) until the later of:
  - 17.4.1 the terminating date of this lease;
  - 17.4.2 the expiry date of any holding over under this lease; and
  - 17.4.3 the date that the lessee has no further obligations under this lease or at law.
- 17.5 Where the property is other than a retail shop the security deposit (or so much of it as is then held by the lessor) will be returned to the lessee on the later of the dates as specified in clause 17.4.
- 17.6 The lessee agrees to vary the amount of the security deposit immediately upon each rent review so that it represents the equivalent of the number of months referred to in the schedule.

**CLAUSE 18 STRATA CONVERSION**

- 18.1 "Owners corporation", "owner", "strata scheme", "lot" and "parcel" where used in this lease have the meanings given under the *Strata Schemes Management Act 1996* and the *Strata Schemes (Freehold Development) Act 1973*.



- 18.2 "Strata Acts" means the *Strata Schemes Management Act 1996* and the *Strata Schemes (Freehold Development) Act 1973*, and includes any amending Acts, rules, regulations, ordinances, by-laws, statutory instruments, orders or notices now or hereafter made under those Acts.
- 18.3 "Strata conversion" means a subdivision of the property under the *Strata Schemes (Freehold Development) Act 1973* or the *Community Land Development Act 1989* or the *Community Land Management Act 1989* or other legislation permitting such subdivision.
- 18.4 Strata Titles
- 18.4.1 Lessee consents to registration of strata plan
- 18.4.1.1 By its entry into this lease the lessee acknowledges that the lessor can register a strata plan, a strata schemes plan, a strata plan of subdivision, a strata plan of consolidation or a building alteration plan insofar as any of these may relate to the property, the Building or the land. The lessor will provide the lessee with copies of the proposed strata plan and associated documentation for the lessee's approval, which will not be unreasonably withheld.
- 18.4.1.2 Provided the lessee consents to the strata conversion as per clause 18.4.1.1 then within 7 days of written request by the lessor the lessee will sign and return to the lessor any consents or other documents necessary to enable the lessor to carry out the strata conversion and will make no objection or claim for compensation in relation to the strata conversion.
- 18.4.2 Compliance with the Strata Acts and by-laws:
- 18.4.2.1 **(Covenant):** The lessee and any and all persons acting by, through or under it or with its authority express or implied shall comply with so many of the provisions of the Strata Acts and the by-laws and all lawful orders, motions and directives under the Strata Acts as may be applicable to the exercise of the lessee's rights and obligations under the provisions elsewhere contained in this lease.
- 18.4.2.2 **Not to prejudice interests of owners corporation.** Without the prior written consent of the owners corporation, the lessee shall not do any act, matter or thing under the exercise of its rights and obligations elsewhere contained in this lease or permit or allow any act, matter or thing to be done which shall or may:
- increase the rate of premium payable by the owners corporation under any policy of insurance taken out by the owners corporation; or
  - invalidate, avoid or suspend the operation of any such policy of insurance or otherwise prejudice the owners corporation rights under any such policy.
- 18.4.2.3 Upon the occurrence of any of the matters **previously** referred to the lessee shall:
- pay to the lessor or such other person responsible for payment any amounts payable to the owners corporation as a consequence of any such matters;
  - pay to the lessor for and on behalf of the owners corporation any amounts payable by the owners corporation as a consequence of any such matters and not the subject of clause 18.4.2.2; and
  - pay to the lessor for and on behalf of the owners corporation the amount of any and all losses and damages arising from the occurrence of any such matters.
- 18.4.2.4 **(Indemnity):** The lessee shall indemnify the lessor for any loss or damage suffered by the lessor if the lessee or the lessee's employees fail to comply with the obligations as to conduct imposed upon the lessee or the lessee's employees by this lease or by reason of the Strata Acts.
- 18.4.3 If the strata conversion occurs:
- 18.4.3.1 any reference in this lease will be deemed to be a reference to the buildings comprised in the registered plan or plans of which the property forms part;
- 18.4.3.2 any levies or other monies payable to the owners corporation will be payable by the lessee with the exception of any contribution to a sinking fund or special levy; and
- 18.4.3.3 this lease will be deemed to be amended in any respect that is necessary to ensure that this lease reflects that the strata conversion has been carried out.

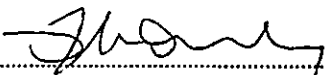
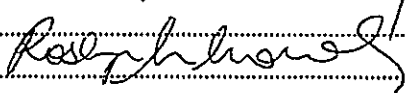
**IMPORTANT NOTES**


The following notes are for guidance and do not form part of this lease.

If you are a lessor, a solicitor will prepare this lease for you.

If you are a lessee, a solicitor can advise you about it.

1. This document creates legal rights and legal obligations.
2. Failure to register a lease can have serious consequences.
3. If an option for renewal is not exercised at the right time it will be lost.
4. The lessee can exercise an option for renewal even if there has been a breach of this lease in a case where section 133E of the *Conveyancing Act 1919* applies. The lessor must give a prescribed notice within 14 days after the option is exercised if the lessor wants to rely on the breach to prevent the exercise of the option.
5. The Law Society of New South Wales is not to be responsible for any loss resulting from the use of this lease as printed whether authorised or not.

  
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I certify that this and the preceding twelve pages are in exactly the same wording as Annexure B of the copyright Law Society Lease.

.....  
Solicitor for the lessor



## **THE LANDLORD AGREES**

### **Possession**

1. To give possession of the Premises to the Tenant on the day on which the term of the lease commences.

### **Condition of Premises**

2. To ensure that the Premises are in a reasonably fit condition for use at the commencement of the lease.

### **Security**

3. To ensure that all external doors and windows contain locks and catches in working order at the commencement of the lease.

### **Insurance**

4. To insure the Premises against damage arising from fire, lightning and explosion and other hazards (including earthquake, storm and tempest, water damage, impact, aircraft, riots/civil commotions and malicious damage).

### **Use of Premises**

5. To allow the Tenant to use and occupy the Premises without unreasonable interference by the Landlord or their Agent.

### **Rates and Taxes**

6. To pay council, water and sewerage rates, land tax and other levies promptly.

### **Lease copy**

7. To provide the Tenant within one (1) month after:
  - i notice of mortgage consent, if required;
  - ii execution of the lease; and
  - iii stamping, if applicablewith a copy of the lease.

### **Tax Invoices and Receipts**

8. To issue rent receipts and tax invoices (where applicable) showing the Tenant's name, the address of the Premises, the ABN of the parties, the amount received, the date of payment and the period for which the payment was made, and other such requirements as determined by the Australian Taxation Office.

## **THE TENANT AGREES**

### **Rent**

9. To pay the rent promptly and in advance and in the manner that the Landlord may direct from time to time.

### **Consents**

10. To obtain at their own expense all necessary consents that may be required from local government or other authorities to carry on their proposed business at the Premises (being the use and/or fit-out for which the Premises are leased).

### **Charges**

11. To pay all charges for gas, electricity and telephone and any water, garbage or sanitary rates or charges relating to the Tenant's use of the Premises.

### **Care of Premises**

12. To take care of the Premises and to keep them in a clean condition and in particular:
  - a To make no alterations or additions to the Premises, including the erection of any sign or antenna, without the prior written consent of the Landlord.
  - b To do no decorating that involves marking, defacing or painting any part of the Premises without the prior written consent of the Landlord.
  - c To put nothing down any sink, toilet or drain likely to cause obstruction or damage.
  - d To keep no animals or birds on the Premises without the prior written consent of the Landlord.
  - e To ensure that rubbish is not accumulated on the Premises and to cause all trade refuse to be removed regularly and in a manner acceptable to the Landlord.
  - f To ensure that nothing is done that might prejudice any insurance policy which the Landlord has in relation to the Premises.
  - g To notify the Landlord promptly of any loss, damage or defect in the Premises.
  - h To notify the Landlord promptly of any infectious disease or the presence of rats, cockroaches or similar pests.

### **Permitted Use and Occupation**

13. a To use the Premises for the purpose stated on the front page of this lease and not for any other purpose.
  - b Not to sleep or permit anyone to sleep on the Premises unless the Premises or a portion of the Premises is zoned for residential use.

## Rules and Regulations

14. To ensure that they, their employees, licensees and agents observe, obey and perform the rules and regulations forming part of this lease and such further rules and regulations as the Landlord may from time to time make and communicate to the Tenant (not being inconsistent with this lease) for the safety, care and cleanliness of the Premises and the building.

## Insurance

15. a To do nothing in the building or keep anything therein that would increase the insurance premium payable by the Landlord in relation to the building except with the prior written consent of the Landlord.
- b To do nothing which would make any insurance policy void.
- c To insure all external fixed glass and window frames for which the Tenant is responsible.
- d To pay any insurance premiums payable by the Landlord increased as a result of the Tenant's actions.
- e To insure for public risk covering liability in respect of bodily injury, property damage, product liability and contractual liability arising from the occupation and use of the Premises by the Tenant for the minimum amount as noted on the front page of the lease.

## Indemnity

16. a To compensate and meet all claims of:
- the Landlord for the loss of or damage to part or whole of the Premises,
  - any person for the loss of or damage to their personal property,
  - any person for personal injury or death, as a result of any accident or neglect or a deliberate or careless act on the Premises or a breach of any conditions of the lease by the Tenant, their employees or agents or any person present on the Premises with the consent of the Tenant, their employees or agents.
- b In such circumstances, the Tenant shall meet all claims whether they are made directly against them or against the Landlord. Any resultant repairs to the Premises or to any other parts of the building shall be carried out at the expense of the Tenant by a builder or tradesperson approved by the Landlord.

## Outgoings

17. a To reimburse the Landlord immediately, when requested, for the Tenant's percentage of outgoings noted on the front page of this lease for all local government rates, water, garbage and sewerage rates, land tax, insurance premiums, waste disposal costs, car park levies and such other outgoings as specified in the lessors disclosure statement. Land tax shall be calculated on the basis that the land on which the building is situated was the only land owned by the Landlord.

## OR

17. b To reimburse the Landlord immediately, when requested, for the agreed percentage of all increases in local government rates, water, garbage and sewerage rates, land tax, insurance premiums, waste disposal costs, car park levies and such other outgoings as specified in the lessors disclosure statement above the level at 30 June immediately preceding the commencement of the lease. Land tax shall be calculated on the basis that the land on which the building is situated was the only land owned by the Landlord.

## Term

18. To lease the Premises for a term of less than five years and acknowledges that they have obtained a lawyer's/conveyancer's certificate as provided for in Section 16(3) of the Retail Leases Act 1994 and contained in this lease thereby waiving their rights to a minimum five year term.

## Disclosure

19. a That they received and read and obtained their own independent legal and financial and other advice on all of the disclosure materials as required by the Retail Leases Act 1994 such as a draft lease, the lessor's disclosure statement and the retail tenancy guide before entering into the lease.
- b That they have provided a lessees disclosure statement as required by the Retail Leases Act 1994.

## BOTH PARTIES AGREE THAT

### Unforeseen event

20. If something happens to the Premises so that the whole or a substantial part can no longer be occupied and the parties are in no way responsible, then either party shall have the right to terminate the lease on the giving of seven (7) days notice in writing.

### Inspections

21. The Landlord or Agent shall inspect the Premises at the commencement of the lease and on its termination and take note of the condition of the Premises including the state of cleanliness, state of repair and working order of appliances.

### Repairs

22. a The Tenant shall have repaired in a proper manner any damage to the Premises resulting from neglect or a deliberate or careless act or a breach of any condition of the lease by the Tenant or any person on the Premises with their consent.
- b Except as in clause 22a, the Landlord shall carry out without delay all reasonable repairs necessary for the Tenant's ordinary use and occupation of the Premises, having regard to the condition of the Premises at the commencement of the lease and having regard for fair wear and tear.

### Access

23. a The Landlord shall respect the Tenant's right to privacy.
- b The Tenant shall allow access to the Landlord or Agent:
- i when it is reasonable that they or either of them should view the condition of the Premises or to carry out repairs.
  - ii to erect "to let" signs in accordance with the Retail Leases Act 1994 and to show the Premises to prospective tenants after notice terminating the lease has been given; or
  - iii to erect "for sale" signs and to show the Premises to prospective purchasers after the Landlord has given reasonable notice to the Tenant of their intention to sell.
- c The Landlord shall give the Tenant reasonable notice of the time and date for such access. As far as possible it shall be convenient for both parties.
- d The Landlord or Agent may have access to the Premises at any time on reasonable notice to the Tenant or without notice in the case of an emergency or to carry out urgent repairs.

### Costs

24. a Each party shall pay their own legal costs in relation to the preparation of this lease.
- b The Tenant shall pay all reasonable costs in connection with making an amendment to this lease that was requested by the Tenant other than:
- i an amendment to insert or vary particulars of the Tenant, the rent or the term; or
  - ii an amendment to remedy a failure by or on behalf of the Landlord to include or omit a term of this lease that was, at the time of the failure to include or omit, agreed between the Landlord and the Tenant to be included in or omitted from the lease; or
  - iii an amendment requested before the Landlord was given a lessee's disclosure statement.
- c The Tenant shall pay the stamp duty and registration fees payable (if any) in connection with this lease.
- d The Landlord shall provide the Tenant with a copy of any account presented to the Landlord in respect of any costs referred to in clause 24b.

### GST

25. Any amounts, including rent and outgoings, referred to in this lease which are payable by the Tenant to the Landlord, or on behalf of the Landlord, under this lease, are expressed inclusive of the Goods and Service Tax ("GST"), (if any), at the rate of 10% (the current rate). If the current rate is increased or decreased, the parties agree that any amounts referred to in this lease will be varied accordingly.

### Statutes

26. Each party shall observe as applicable to themselves all relevant statutes, statutory regulations and by-laws relating to health, safety, noise and other standards with respect to the Premises.

### Notices

27. Any written notice required or authorised by the lease:
- a Shall be served on the Tenant personally or by pre-paid post or by facsimile transmission to the Premises or by being left there in the post box, if any, at the address.
  - b Shall be served on the Landlord or Agent personally or by prepaid post or by facsimile transmission to their address as shown in the lease or as notified in writing or by being left in the post box, if any, at the Premises.
  - c Shall be deemed to be served on the second business day after posting where it has been sent by pre-paid post.
  - d May take effect on any day of the month if it relates to the termination of a periodic lease provided it gives the required length of notice.

### Mitigation

28. Where there has been a breach of any of the conditions of the lease by either party, the other party shall take all reasonable steps to minimise any resultant loss or damage.

### Disputes

29. In any dispute or proceeding between the parties, both shall act reasonably and without delay and make all admissions necessary to enable the real issues to be decided.

### Payment after Notice

30. a After a notice terminating the lease or demanding possession has been given, any acceptance of or demand for rent or money by the Landlord shall not of itself be evidence of a new lease with the Tenant nor alter the legal effect of the notice.
- b Where the Tenant unlawfully remains in possession after the termination of the lease, the Landlord shall be entitled, in addition to any other claim, to payment equal to the rent as compensation for the Tenant's use and occupation of the Premises.

### Renewal

31. The Tenant shall give the Landlord or the Agent not more than six (6) months and not less than (3) months prior to the expiration of the term granted in this lease notice in writing if they wish to take a renewal of the lease for the further term offered. Provided the Tenant has duly and punctually paid the rent and shall have duly performed and observed on their part all the conditions and agreements contained in this lease up to the expiration of the term granted, then the Landlord will grant to the Tenant the further term at the current market rent notified in writing by the Landlord. If the parties do not agree as to the current market rent then the rent is to be determined in accordance with clause 37 a ii.

### Expiry of Term

32. a Not less than six (6) months and not more than twelve (12) months before the expiry of the lease term the Landlord shall by written notification to the Tenant either:
- i offer the Tenant a renewal or extension of the lease on terms specified in the notification; or
  - ii inform the Tenant that the Landlord does not propose to offer a renewal or extension of the lease.
- b A notification to the Tenant in accordance with clause 32a.i. shall include terms as to rent and may specify that the Landlord intends to allow the Tenant to remain in possession as a periodic tenant under the holding over provisions of the lease.
- c In the event that the lease is for a term of twelve (12) months or less, the periods of twelve (12) and six (6) months referred to in clause 32a are shortened to six (6) and three (3) months respectively.

### Termination

33. a Upon the expiry of the lease term or where the lease has become a periodic lease from Month to Month, either party may terminate it by giving one (1) Month's written notice to the other party.
- b The Landlord shall have the right to re-enter the Premises peacefully or to continue the lease as a periodic lease from week to week;
- i where the Tenant has failed to pay rent for a period in excess of fourteen (14) days, whether formally demanded or not;
  - ii where the Tenant has seriously or persistently breached any of the conditions of the lease; or
  - iii upon the Tenant and/or Guarantor being declared bankrupt or insolvent according to law or making any assignment for the benefit of creditors or taking the benefit of any Act now or hereafter to be in force for the relief of bankrupts or insolvents.
- c Section 85(1)(d) of the Conveyancing Act 1919 as amended is hereby varied accordingly.
- d If the Landlord intends to exercise their right to continue the lease as a periodic lease from week to week, they shall serve the Tenant with a written notice stating the reason and informing the Tenant of the variation to the lease. Upon service of the notice, the lease shall continue with all its conditions, except for the term and holding over conditions, as a periodic lease from week to week which may be terminated by seven (7) days' written notice from either party.
- e The Landlord shall have the right to re-enter the Premises without giving notice if there are reasonable grounds to believe the Premises have been abandoned.
- f The Tenant shall have the right to terminate the lease if the Landlord has seriously or persistently breached any of its conditions. The Tenant shall give the Landlord written notice of a reasonable period, of no less than fourteen (14) days indicating at the same time the nature of the breach.
- g Any action by the Landlord or the Tenant in accordance with clauses 33b., d., e. or f. shall not affect any claim for damages in respect of a breach of a condition of the lease.
- h Upon the termination or expiry of the lease the Tenant must remove their own fixtures and shall remove their signs provided that any damage or defacement occasioned to any part of the Premises in the course of such removal shall be remedied by the Tenant immediately or, if they fail to do so, by the Landlord at the Tenant's expense.
- i Upon the termination or expiry of the lease for any reason the Tenant shall promptly and peacefully give the Landlord vacant possession of the Premises in the condition and state of repair required by clauses 12 and 22a of the lease and shall, at the same time, hand over all keys.

### Sub-leasing, etc

34. The Landlord may, at their absolute discretion refuse consent to:
- i the grant of any sub-lease, licence or concession;
  - ii the Tenant parting with possession; or
  - iii the Tenant mortgaging or otherwise encumbering the Tenant's estate or interest in the lease.

### Assignment

35. a The Tenant shall not assign their interest in the whole or any part of the Premises without the written consent of the Landlord.
- b The Landlord shall not withhold consent to any assignment unless:
- i the proposed assignee proposes to change the use to which the Premises are put;
  - ii the proposed assignee has financial resources or retailing skills that are inferior to those of the Tenant; or
  - iii the Tenant has not complied with Section 41 of the Retail Leases Act 1994.
- c The Tenant shall pay the Landlord all reasonable legal or other expenses incurred in connection with giving consent to the proposed assignment.

### Guarantor

36. In consideration of the Landlord leasing the premises to the Tenant in accordance with this lease, the Guarantors to themselves and each of them and each of their executors and administrators by their execution of this lease unconditionally agree that they and each of them, together with the Tenant, will be jointly and severally liable to the Landlord for the payment of rent and all other monies payable by the Tenant and also for the due performance and observance of all the terms and conditions on the part of the Tenant contained or implied in the lease. It is further expressly agreed and declared that the Landlord may grant to the Tenant any time or indulgence and may compound or compromise or release the Tenant without releasing or affecting the liability of the Guarantors.

### Rent Review (tick appropriate box – if no choice is selected, clause 37b i is deemed to be selected)

37. a i The rent payable by the Tenant shall be reviewed within sixty (60) days after the expiration of each period of twelve (12) months during the term and either party may notify the other party in writing that the rent is to be varied to an amount representing the current market rent of the Premises.
- ii If the parties do not agree as to current market rent, the rent is to be determined by valuation carried out by a specialist retail valuer appointed by agreement between the parties or, failing such agreement, by a specialist retail valuer appointed by the Administrative Decisions Tribunal pursuant to the Retail Leases Act 1994.

### OR

37. b i The rent payable by the Tenant shall be reviewed on the basis that the Landlord shall be entitled by serving on the Tenant written notice to that effect during a review period the rent to be revised. "Review period" means each twelve (12) month anniversary of the date of commencement of the term and expiring on the subject anniversary.
- ii The revised rent shall be determined in accordance with the following formula:  $A = B \times C/D$  where
- A = the revised rent;
- B = the rent payable in the twelve (12) month period immediately preceding the expiration of the relevant review period,
- C = the Consumer Price Index (Sydney All Groups) last published immediately prior to the expiration of the relevant review period; and
- D = the Consumer Price Index (Sydney All Groups) last published twelve (12) months prior to the expiration of the relevant review period.

### OR

37. c The rent payable by the Tenant shall be adjusted by the monetary or percentage amount and on the dates as specified in the Special Conditions to the lease.

### Security

38. a As security for the performance and observance by the Tenant of the terms and conditions of the lease, the Tenant shall on or before the commencement of the term obtain and maintain at their own expense and furnish to the Landlord a continuing guarantee or bond from a bank licensed to carry on banking business in Australia and approved by the Landlord whereby the Bank agrees that it will pay to the Landlord an amount not exceeding the sum noted or calculate on the front page of the lease.

### OR



38. b. As security for the performance and observance by the Tenant of the terms and conditions of the lease, the Tenant shall pay to the Landlord a security deposit in the amount noted on the front page of the lease which shall be paid to the Director-General of the Department of State and Regional Development to be held in accordance with the Retail Leases Act 1994.

#### **Relocation**

39. If the Landlord wants to refurbish, redevelop or extend the building or any part thereof and requires the leased Premise or any part thereof then the Landlord may give the Tenant a relocation notice in accordance with the Retail Leases Act 1994. The Tenant acknowledges that the Landlord has the right to relocate the Tenant at any time throughout the term provided the Landlord complies with all and any requirements of the Retail Leases Act 1994 and at law.

#### **Demolition**

40. If the Landlord wants to demolish, substantially repair, renovate, repaint or reconstruct the building or any part thereof which contains the leased Premises then the Landlord may do so provided the Landlord gives the Tenant sufficient detail and notice in accordance with the Retail Leases Act 1994 and at law. The Tenant acknowledges the Landlord has the right to terminate the lease for any or all of these events provided the Landlord complies with the requirements of the Retail Leases Act 1994 and at law.

#### **Strata Title Conversion**

41. The Landlord may register a strata plan insofar as the same relates to the building or any part of it. The Landlord will be required by law to request the consent of the Tenant to the registration of the strata plan such consent must not be unreasonably withheld by the Tenant and if requested the Tenant will provide their written consent to the strata plan to the Department of Lands or any other government authority. After registration of the strata plan the Tenant will comply with all by-laws which are not inconsistent with the terms of this lease.

#### **Interpretation**

42. a "Agent" in context with "Landlord" includes the Landlord's estate agent or managing agent and any other person authorised to act on behalf of the Landlord.  
b "Landlord" includes the heirs, executors, administrators and assigns of the Landlord, and where the context permits includes the Landlord's Agent.  
c "Tenant" includes the executors, administrators and permitted assigns of the Tenant.  
d "Fixtures" includes fittings, furnishings, furniture, appliances, plant, machinery and equipment.  
e "Month" means calendar month.  
f "Term" means the term of this lease.  
g Where the context permits, words expressed in the singular include the plural and vice versa and words referred to a person include a company.  
h Where two or more Tenants or Landlords are parties, the terms and conditions of the lease shall bind them jointly and severally.  
i When this lease is signed by both parties and witnessed, it shall operate as a deed at law from that time.  
j Headings in bold have been inserted to assist the parties but do not form a legal part of the lease.

#### **SPECIAL CONDITIONS**

Special conditions forming part of this lease are to be signed by both parties and attached.

## **Certificate Under Section 16(3) Retail Leases Act 1994**

In accordance with s.16(3) of the Retail Leases Act, I hereby certify that I have, at the request of the prospective Tenant or of the Tenant within six (6) months after the commencement of the lease explained to the prospective Tenant or Tenant the effect of ss.16(1) and (2) of the Retail Leases Act and that the giving of this certificate will result in this section not applying to this lease.

Signed

Date

#### **NOTE**

This certificate may only be signed by a person qualified to practice as a lawyer or licensed conveyancer who is not acting for the landlord

We hereby enter into this lease and agree to all its conditions.

**SIGNED BY THE LANDLORD**

in the presence of:

*Jenny Martin*  
Name of Witness

*Johanna*  
Signature of Witness



*[Signature]*  
Signature of Landlord

**SIGNED BY THE TENANT**

in the presence of:

Name of Witness

Signature of Witness



Signature of Tenant

**SIGNED BY THE GUARANTOR**

in the presence of:

Name of Witness

Signature of Witness



Signature of Guarantor

THE COMMON SEAL of

was hereunto affixed by  
the authority of the  
Board of Directors and  
in the presence of:

Secretary

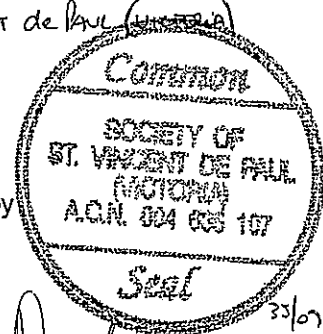
THE COMMON SEAL of

*Society of St Vincent de Paul (Australia)*

was hereunto affixed by  
the authority of the  
Board of Directors and  
in the presence of:

SECRETARY

MEMBER  
Secretary



*[Signature]*  
*[Signature]*