

Contract of Sale of Land

Property **55A Roberts Avenue, Horsham**
55B Roberts Avenue, Horsham
15 Darlot Street, Horsham
17 Darlot Street, Horsham



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

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.

SIGNED BY THE PURCHASER:

_____ on ____ / ____ / ____

Print name(s) of person(s) signing: _____

State nature of authority, if applicable: _____

This offer will lapse unless accepted within [] 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*

SIGNED BY THE VENDOR:

_____ x Joseph Fon Toy x Susan Toy

_____ on ____ / ____ / ____

x Leon Toy

x May Har Toy

Print name(s) of person(s) signing: _____

State nature of authority, if applicable: _____

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

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.

Particulars of Sale

Vendor's estate agent

Name **Wes Davidson Real Estate**
Address 71 Wilson Street, Horsham VIC 3400
Email wes@wdre.com.au
Tel 03 5382 0000 Mob
Ref Wes Davidson

Vendor

Name **Joseph Fon Toy & Susan Toy**
Address 33 Major Mitchell Drive, Horsham VIC 3400
Name **Leon Toy & May Har Toy**
Address 8 Penny Avenue, Horsham VIC 3400

Vendor's legal practitioner or conveyancer

Name **POWER & BENNETT**
Address 12 Pynsent Street, Horsham VIC 3400
Email jemima@powerandbennett.com.au
Tel (03) 5382 0061
Ref JJA:JO:200227

Purchaser

Name
Address
ABN/ACN
Email

Purchaser's legal practitioner or conveyancer

Name
Address
Email
Tel Fax
Ref

Land (general conditions 7 and 13)

The land is described in the table below –

Certificate of Title reference	being lot	on plan
Volume 7116 Folio 125	1	TP679026E

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:

55A Roberts Avenue, Horsham, 55B Roberts Avenue, Horsham, 15 Darlot Street, Horsham & 17 Darlot Street, Horsham

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

Nil

Payment

Price \$

Deposit \$

Balance \$ 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)**Not applicable (Vendors' Partnership entity not registered, and not required to be registered, for GST)**

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 on**

~~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)

- ☐ **17 Darlot Street Horsham** - a lease to Victorian No-Till Farmers Association Inc. for a term ending on 31/5/2024
- ☐ **15 Darlot Street Horsham** - lease to Y. Li for a term ending on 28/02/2026
- ☐ **55A Roberts Avenue Horsham** - a lease to Jasnc Enterprises Pty Ltd for a term ending on 30/06/2025
- ☐ **55B Roberts Avenue Horsham** - a lease to P. and D. McFarlane for a term ending on 31/12/2023

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: _____ / _____ / _____

Building report

- ☐ General condition 21 applies only if the box is checked

Pest report

- ☐ General condition 22 applies only if the box is checked

Special Conditions

Instructions: *It is recommended that when adding further 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. Property Condition

The Purchaser acknowledges that they are purchasing the property:

- As a result of their own enquiries and inspection and are not relying upon any representation made by the vendor or any other person on the vendor's behalf;
- In its present condition and state of repair;
- Subject to all defects latent and patent;
- Subject to any infestations and dilapidation;
- Subject to all existing water, sewerage, drainage and plumbing services and connections in respect of the property;
- Subject to any non-compliance, that is disclosed herein, with the Local Government Act 1989 or any Ordinance under that Act in respect of any building on the land.

The purchaser agrees not to seek to terminate rescind or make any objection requisition or claim for compensation arising out of any of the matters covered by this clause.

2. Lease

- The purchaser acknowledges that the property is sold subject to the existing leases and agrees to indemnify the vendor against all obligations under the leases that are to be performed by the landlord on and from the date of this Contract.
- The Vendor agrees that it shall not without first obtaining the written consent of the purchaser:
 - negotiate a new rental amount under a market rent review with any tenant;
 - consent to any assignment or variation of any lease;
 - consent to a tenant carrying out any works on the land or within the leased premises; or
 - re-enter the leased premises.

3. Outgoings

The parties agree that contrary to general condition 23.1, where the tenant is responsible for the payment of certain outgoings under a lease:

- there will be no adjustment at settlement for any outgoings that the tenant is required to pay under the lease regardless of whether those outgoings are unpaid as at the settlement date; and
- the purchaser will indemnify the vendor against all liability for any unpaid or overdue outgoings (whether before or after the settlement date) that a tenant is responsible for under a lease.

Notice: The Vendor hereby notifies the Purchaser that the Purchaser will not be required to make a payment under Section 14-250 of the Taxation Administration Act 1953 in relation to the supply of the land made under this Contract.

GUARANTEE AND INDEMNITY

This is the Guarantee required pursuant to General Condition 3 (if applicable)

I/We the Guarantor whose name/s and address/es and description/s are set out in the Schedule hereto (hereinafter called "the Guarantor") in consideration of the within named Vendor selling to the within named Purchaser at my/our request the property described in the within Contract for the price and upon the terms and conditions therein set forth hereby for myself/ourselves my/our respective executors and administrators jointly and severally covenant with the said Vendor that if at any time default shall be made in the payment of the deposit or residue of purchase money or interest or other moneys payable by the Purchaser to the Vendor under the within Contract or in the performance or observance of any term or condition of the within Contract to be performed or observed by the Purchaser I/we will forthwith on demand by the Vendor pay to the Vendor the whole of such deposit or residue of purchase money interest charges or other moneys which shall then be due and payable to the Vendor and as a separate and independent obligation I/we further jointly and severally undertake to keep the Vendor indemnified against all loss of purchase money interest and other moneys payable under the within Contract and all losses costs charges and expenses whatsoever which the Vendor may incur by reason of any default as aforesaid or repudiation on the part of the Purchaser. This Guarantee and Indemnity shall be a continuing Guarantee and Indemnity and shall not be released by any neglect or forbearance on the part of the Vendor in enforcing payment of any of the moneys payable under the within Contract or the performance or observance of any of the agreements obligations or conditions under the within Contract or by time being given to the Purchaser for any such payment performance or observance or by any other thing which under the law relating to sureties would but for this provision have the effect of releasing me/us me/our executors or administrators.

SCHEDULE

Guarantor:

1. Full Name:
Address:
Occupation:
2. Full Name:
Address:
Occupation:

IN WITNESS whereof the said Guarantors have hereunto set their hands and seals
the day of 2020.

SIGNED SEALED AND DELIVERED by the said)
.....)
in the presence of:)

Witness:.....

SIGNED SEALED AND DELIVERED by the said)
.....)
in the presence of:)

Witness:.....

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 purchase'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 Pty 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 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 or indirectly 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 condition 11.2, the purchaser must
- (a) only use the vendor's date of birth for the purposes specified in 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 predominately 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 be described by a 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 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. BUILDING 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 is sold 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 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) payments 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 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 purposes 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 a.m. and 4.00 p.m. 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 lodgment 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 lodgment can no longer be conducted electronically. Special 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 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 lodgment 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 lodgment network operators do not provide otherwise:

- (a) the electronic lodgment network operator to conduct all the financial and lodgment 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 lodgment network operators after the workspace locks;
- (b) if two or more electronic lodgment 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 lodgment

- 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 special 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 vendors subscriber or the electronic lodgment 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 lodgment 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 sales is checked.
- 21.2 The purchaser may end this contract within 14 days from the days 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 in 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 adjustment 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 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 in special 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 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 premise 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 the 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's 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 authorised 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 that 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.

Vendor Statement

The vendor makes this statement in respect of the land in accordance with section 32 of the *Sale of Land Act 1962*.

This statement must be signed by the vendor and given to the purchaser before the purchaser signs the contract.

The vendor may sign by electronic signature.

The purchaser acknowledges being given this statement signed by the vendor with the attached documents before the purchaser signed any contract.

Land	55A Roberts Avenue, Horsham 3400, 55B Roberts Avenue, Horsham 3400, 15 Darlot Street, Horsham 3400 & 17 Darlot Street, Horsham 3400
-------------	---

Vendor's name	Joseph Fon Toy	Date / /
----------------------	----------------	--------------------

Vendor's signature		
---------------------------	--	--

Vendor's name	Susan Toy	Date / /
----------------------	-----------	--------------------

Vendor's signature		
---------------------------	--	--

Vendor's name	Leon Toy	Date / /
----------------------	----------	--------------------

Vendor's signature		
---------------------------	--	--

Vendor's name	May Har Toy	Date / /
----------------------	-------------	--------------------

Vendor's signature		
---------------------------	--	--

Purchaser's name		Date / /
-------------------------	--	--------------------

Purchaser's signature		
------------------------------	--	--

Purchaser's name		Date / /
-------------------------	--	--------------------

Purchaser's signature		
------------------------------	--	--

1 FINANCIAL MATTERS

1.1 Particulars of any Rates, Taxes, Charges or Other Similar Outgoings (and any interest on them)

- (a) Are contained in the attached certificate/s.

Particulars of any Charge (whether registered or not) imposed by or under any Act to secure an amount due under that Act, including the amount owing under the charge

	To	
Other particulars (including dates and times of payments):		

1.2 Terms Contract

This section 1.3 only applies if this vendor statement is in respect of a terms contract where the purchaser is obliged to make 2 or more payments (other than a deposit or final payment) to the vendor after the execution of the contract and before the purchaser is entitled to a conveyance or transfer of the land.

Not Applicable

1.3 Sale Subject to Mortgage

This section 1.4 only applies if this vendor statement is in respect of a contract which provides that any mortgage (whether registered or unregistered), is NOT to be discharged before the purchaser becomes entitled to possession or receipts of rents and profits.

Not Applicable

2 INSURANCE

2.1 Damage and Destruction

This section 2.1 only applies if this vendor statement is in respect of a contract which does NOT provide for the land to remain at the risk of the vendor until the purchaser becomes entitled to possession or receipt of rents and profits.

Not Applicable.

2.2 Owner Builder

This section 2.2 only applies where there is a residence on the land that was constructed by an owner-builder within the preceding 6 years and section 137B of the *Building Act 1993* applies to the residence.

Not Applicable.

3 LAND USE

3.1 Easements, Covenants or Other Similar Restrictions

- (a) A description of any easement, covenant or other similar restriction affecting the land (whether registered or unregistered): -

Is in the attached copies of title documents.

- (b) Particulars of any existing failure to comply with that easement, covenant or other similar restriction are:

To the best of the vendor's knowledge, there is no existing failure to comply with the terms of any easement, covenant or other similar restriction.
--

3.2. Road Access

There is NO access to the property by road if the square box is marked with an 'X'

☐

3.3. Designated Bushfire Prone Area

The land is in a designated bushfire prone area under section 192A of the *Building Act 1993* if the square box is marked with an 'X'

☐

3.4. Planning Scheme

Attached is a certificate with the required specified information.

4 NOTICES

4.1. Notice, Order, Declaration, Report or Recommendation

Particulars of any notice, order, declaration, report or recommendation of a public authority or government department or approved proposal directly and currently affecting the land, being a notice, order, declaration, report, recommendation or approved proposal of which the vendor might reasonably be expected to have knowledge:

Not Applicable.

4.2. Agricultural Chemicals

There are NO notices, property management plans, reports or orders in respect of the land issued by a government department or public authority in relation to livestock disease or contamination by agricultural chemicals affecting the ongoing use of the land for agricultural purposes. However, if this is not the case, the details of any such notices, property management plans, reports or orders, are as follows:

Not Applicable.

4.3. Compulsory Acquisition

The particulars of any notices of intention to acquire that have been served under section 6 of the *Land Acquisition and Compensation Act 1986* are as follows:

Not Applicable.

5 BUILDING PERMITS

Particulars of any building permit issued under the *Building Act 1993* in the preceding 7 years (required only where there is a residence on the land):

Not Applicable.

6 OWNERS CORPORATION

This section 6 only applies if the land is affected by an owners corporation within the meaning of the *Owners Corporations Act 2006*.

Not Applicable.

7 GROWTH AREAS INFRASTRUCTURE CONTRIBUTION ("GAIC")

Not Applicable.

8 SERVICES

The services which are marked with an 'X' in the accompanying square box are NOT connected to the land:

Electricity supply ☐	Gas supply ☐	Water supply ☐	Sewerage ☐	Telephone services ☐
---	-------------------------------------	---------------------------------------	-----------------------------------	---

9 TITLE

Attached are copies of the following documents:

9.1 (a) Registered Title

A Register Search Statement and the document, or part of a document, referred to as the 'diagram location' in that statement which identifies the land and its location.

10 SUBDIVISION

10.1. Unregistered Subdivision

This section 10.1 only applies if the land is subject to a subdivision which is not registered.

Not Applicable.

10.2. Staged Subdivision

This section 10.2 only applies if the land is part of a staged subdivision within the meaning of section 37 of the *Subdivision Act 1988*.

Not Applicable.

10.3. Further Plan of Subdivision

This section 10.3 only applies if the land is subject to a subdivision in respect of which a further plan within the meaning of the *Subdivision Act 1988* is proposed.

Not Applicable.

11 DISCLOSURE OF ENERGY INFORMATION

(Disclosure of this information is not required under section 32 of the Sale of Land Act 1962 but may be included in this vendor statement for convenience.)

Details of any energy efficiency information required to be disclosed regarding a disclosure affected building or disclosure area affected area of a building as defined by the *Building Energy Efficiency Disclosure Act 2010* (Cth)

- (a) to be a building or part of a building used or capable of being used as an office for administrative, clerical, professional or similar based activities including any support facilities; and
- (b) which has a net lettable area of at least 1000m²; (but does not include a building under a strata title system or if an occupancy permit was issued less than 2 years before the relevant date);

Not Applicable.

12 DUE DILIGENCE CHECKLIST

(The Sale of Land Act 1962 provides that the vendor or the vendor's licensed estate agent must make a prescribed due diligence checklist available to purchasers before offering land for sale that is vacant residential land or land on which there is a residence. The due diligence checklist is NOT required to be provided with, or attached to, this vendor statement but the checklist may be attached as a matter of convenience.)

- ☐ Vacant Residential Land or Land with a Residence
- ☒ Attach Due Diligence Checklist (this will be attached if ticked)

13 ATTACHMENTS

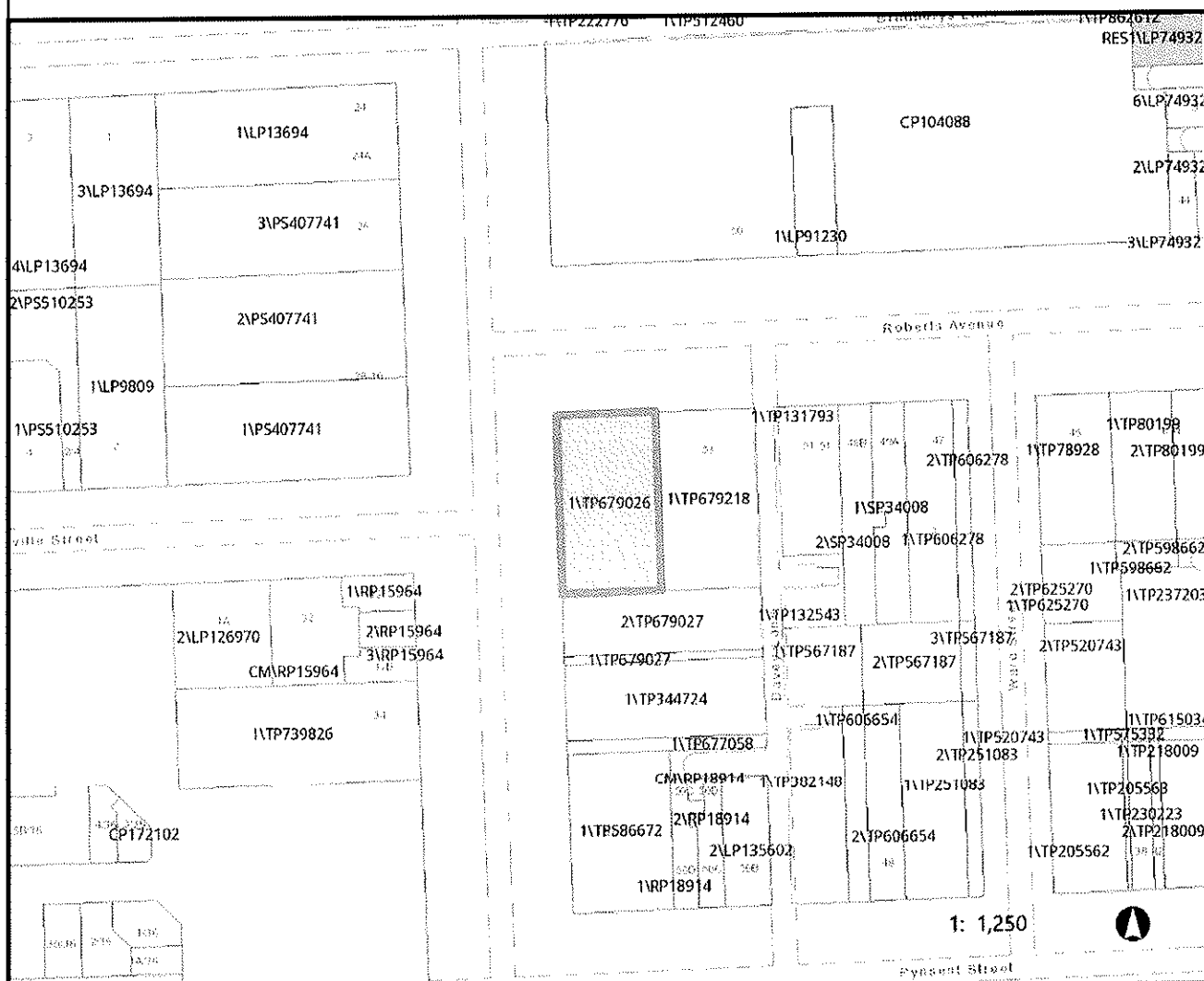
(Any certificates, documents and other attachments may be annexed to this section 13)

(Additional information may be added to this section 13 where there is insufficient space in any of the earlier sections)

(Attached is an "Additional Vendor Statement" if section 1.3 (Terms Contract) or section 1.4 (Sale Subject to Mortgage) applies)

--

15 Darlot Street Horsham



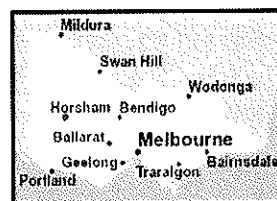
64	0	32	64 Meters
----	---	----	-----------

GDA_1994_VICGRID94

Map Created on 12-Oct-2023

Legend

- ☐ Property Proposed ☐ Property
☐ Parcel Proposed ☐ Parcel



Disclaimer: This map is a snapshot generated from Victorian Government data. This material may be of assistance to you but the State of Victoria does not guarantee that the publication is without flaw of any kind or is wholly appropriate for your particular purposes and therefore disclaims all liability for error, loss or damage which may arise from reliance upon it. All persons accessing this information should make appropriate enquiries to assess the currency of the data.

© The State of Victoria, Department of Energy, Environment and Climate Action 2023



Energy,
Environment
and Climate Action

Copyright State of Victoria. No part of this publication may be reproduced except as permitted by the Copyright Act 1968 (Cth), to comply with a statutory requirement or pursuant to a written agreement. The information is only valid at the time and in the form obtained from the LANDATA REGD TM System. None of the State of Victoria, its agents or contractors, accepts responsibility for any subsequent publication or reproduction of the information.

The Victorian Government acknowledges the Traditional Owners of Victoria and pays respects to their ongoing connection to their Country, History and Culture. The Victorian Government extends this respect to their Elders, past, present and emerging.

REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

VOLUME 07116 FOLIO 125

Security no : 124109535468M
Produced 04/10/2023 04:32 PM

LAND DESCRIPTION

Lot 1 on Title Plan 679026E (formerly known as part of Crown Allotment 2 Section 3 Township of Horsham Parish of Horsham).

PARENT TITLES :

Volume 03294 Folio 630 Volume 05881 Folio 111
Created by instrument 2133962 12/01/1948

REGISTERED PROPRIETOR

Estate Fee Simple

TENANTS IN COMMON

As to 1 of a total of 4 equal undivided shares

Sole Proprietor

JOSEPH FON TOY of 57 BAILLIE STREET HORSHAM

As to 1 of a total of 4 equal undivided shares

Sole Proprietor

SUSAN TOY of 57 BAILLIE STREET HORSHAM

As to 1 of a total of 4 equal undivided shares

Sole Proprietor

LEON TOY of 57 BAILLIE STREET HORSHAM

As to 1 of a total of 4 equal undivided shares

Sole Proprietor

MAY HAR TOY of 57 BAILLIE STREET HORSHAM

G667800 16/06/1977

ENCUMBRANCES, CAVEATS AND NOTICES

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

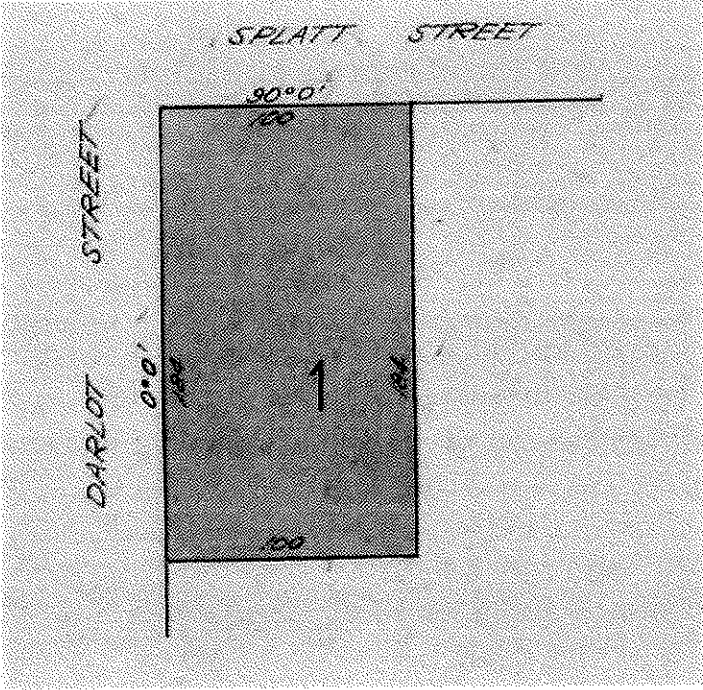
DIAGRAM LOCATION

SEE TP679026E FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

DOCUMENT END

TITLE PLAN		EDITION 1	TP 679026E						
Location of Land Parish: HORSHAM Township: HORSHAM Section: 3 Crown Allotment: 2 (PT) Crown Portion: Last Plan Reference Derived From: VOL 7116 FOL 125 Depth Limitation: NIL		Notations ANY REFERENCE TO MAP IN THE TEXT MEANS THE DIAGRAM SHOWN ON THIS TITLE PLAN							
Description of Land / Easement Information			THIS PLAN HAS BEEN PREPARED FOR THE LAND REGISTRY, LAND VICTORIA, FOR TITLE DIAGRAM PURPOSES AS PART OF THE LAND TITLES AUTOMATION PROJECT COMPILED: 05/11/2020 VERIFIED: C.L.						
									
<table border="1"> <tr> <th colspan="2">TABLE OF PARCEL IDENTIFIERS</th> </tr> <tr> <td colspan="2">WARNING: Where multiple parcels are referred to or shown on this Title Plan this does not imply separately disposable parcels under Section 8A of the Sale of Land Act 1962</td> </tr> <tr> <td colspan="2">PARCEL 1 = CA 2 (PT)</td> </tr> </table>				TABLE OF PARCEL IDENTIFIERS		WARNING: Where multiple parcels are referred to or shown on this Title Plan this does not imply separately disposable parcels under Section 8A of the Sale of Land Act 1962		PARCEL 1 = CA 2 (PT)	
TABLE OF PARCEL IDENTIFIERS									
WARNING: Where multiple parcels are referred to or shown on this Title Plan this does not imply separately disposable parcels under Section 8A of the Sale of Land Act 1962									
PARCEL 1 = CA 2 (PT)									
LENGTHS ARE IN LINKS LINKS	Metres = 0.5048 x Feet Metres = 0.201168 x Links	Sheet 1 of 1 sheets							

PROPERTY REPORT



Environment,
Land, Water
and Planning

From www.planning.vic.gov.au at 12 October 2023 12:49 PM

PROPERTY DETAILS

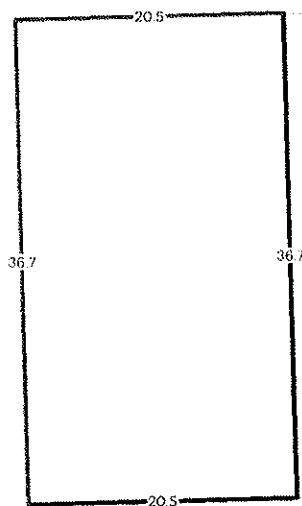
Lot and Plan Number: **Lot 1 TP679026**
Address: **15 DARLOT STREET HORSHAM 3400**
Standard Parcel Identifier (SPI): **1\TP679026**
Local Government Area (Council): **HORSHAM**
Council Property Number: **6625**
Directory Reference: **Vicroads 544 F6**

www.hrcc.vic.gov.au

Note: There are 4 properties identified for this site.
These can include units (or car spaces), shops, or part or whole floors of a building.
Dimensions for these individual properties are generally not available.

SITE DIMENSIONS

All dimensions and areas are approximate. They may not agree with those shown on a title or plan.



Area: 752 sq. m

Perimeter: 114 m

For this property:

— Site boundaries

— Road frontages

Dimensions for individual parcels require a separate search, but dimensions for individual units are generally not available.

Calculating the area from the dimensions shown may give a different value to the area shown above.

For more accurate dimensions get copy of plan at [Title and Property Certificates](#).

UTILITIES

Rural Water Corporation: **Grampians Wimmera Mallee Water**
Urban Water Corporation: **Grampians Wimmera Mallee Water**
Melbourne Water: **Outside drainage boundary**
Power Distributor: **POWERCOR**

STATE ELECTORATES

Legislative Council: **WESTERN VICTORIA**
Legislative Assembly: **LOWAN**

PLANNING INFORMATION

Property Planning details have been removed from the Property Reports to address duplication with the Planning Property Reports which are DELWP's authoritative source for all Property Planning information.

The Planning Property Report for this parcel can found here - [Planning Property Report](#).

Planning Property Reports can be found via these two links

Vicplan <https://mapshare.vic.gov.au/vicplan/>

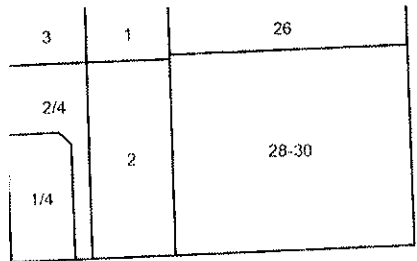
Property and parcel search <https://www.land.vic.gov.au/property-and-parcel-search>

PROPERTY REPORT

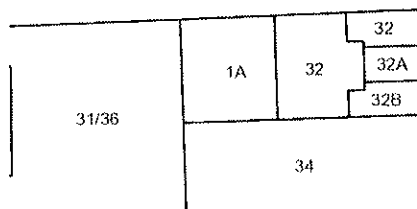


Environment,
Land, Water
and Planning

Area Map



DELVILLE STREET

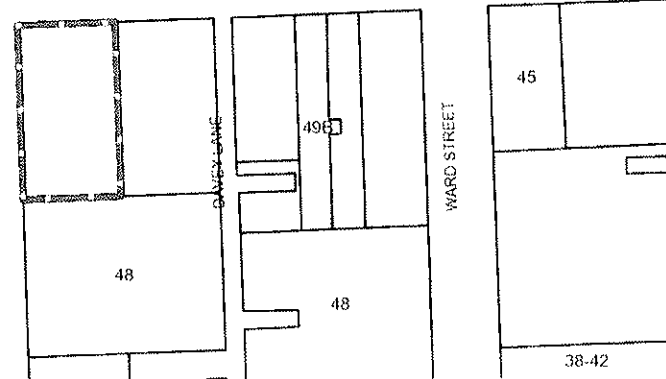


Selected Parcel



ROBERTS AVENUE

DARLOT STREET



0 40 m

PLANNING PROPERTY REPORT



From www.planning.vic.gov.au at 12 October 2023 12:48 PM

PROPERTY DETAILS

Address: **15 DARLOT STREET HORSHAM 3400**
Lot and Plan Number: **Lot 1 TP679026**
Standard Parcel Identifier (SPI): **1\TP679026**
Local Government Area (Council): **HORSHAM**
Council Property Number: **6625**
Planning Scheme: **Horsham**
Directory Reference: **Vicroads 544 F6**

www.hrec.vic.gov.au

[Planning Scheme - Horsham](#)

UTILITIES

Rural Water Corporation: **Grampians Wimmera Mallee Water**
Urban Water Corporation: **Grampians Wimmera Mallee Water**
Melbourne Water: **Outside drainage boundary**
Power Distributor: **POWERCOR**

STATE ELECTORATES

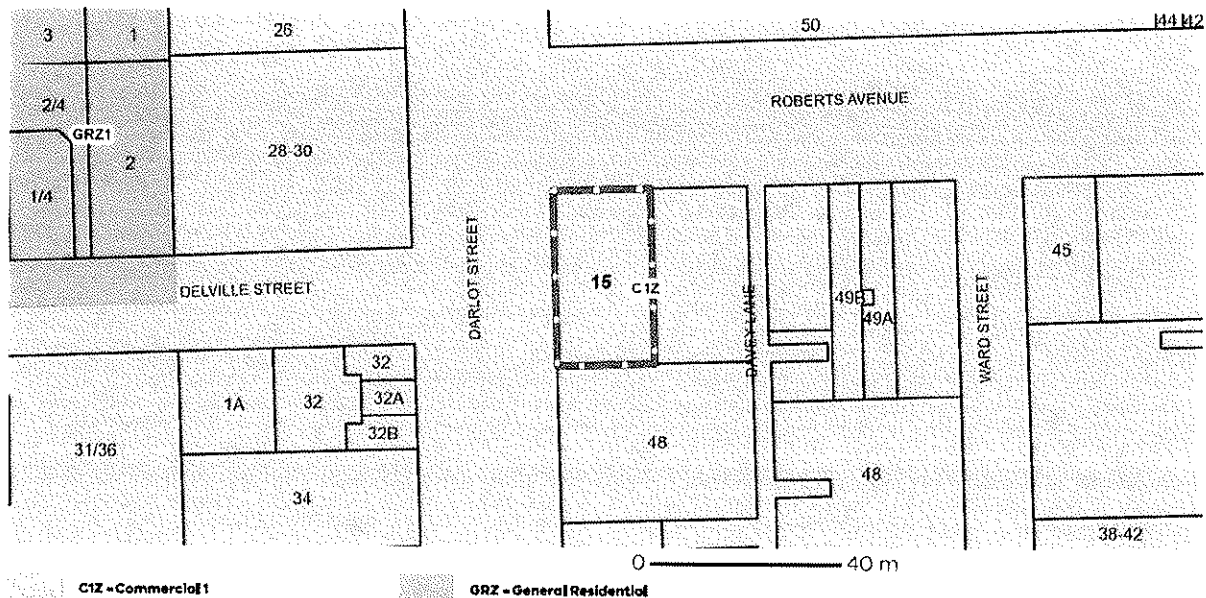
Legislative Council: **WESTERN VICTORIA**
Legislative Assembly: **LOWAN**
OTHER
Registered Aboriginal Party: **Barengi Gadjin Land Council**
Aboriginal Corporation

[View location in VicPlan](#)

Planning Zones

COMMERCIAL 1 ZONE (C1Z)

SCHEDULE TO THE COMMERCIAL 1 ZONE (C1Z)



C1Z - Commercial 1
GRZ - General Residential
Note: labels for zones may appear outside the actual zone - please compare the labels with the legend.

Copyright © - State Government of Victoria

Disclaimer: This content is provided for information purposes only. No claim is made as to the accuracy or authenticity of the content. The Victorian Government does not accept any liability to any person for the information provided. Read the full disclaimer at <https://www.deloitte.vic.gov.au/disclaimer>

Notwithstanding this disclaimer, a vendor may rely on the information in this report for the purpose of a statement that land is in a bushfire prone area as required by section 30C (b) of the Sale of Land 1962 (Vic)

PLANNING PROPERTY REPORT: 15 DARLOT STREET HORSHAM 3400

Page 1 of 3

PLANNING PROPERTY REPORT

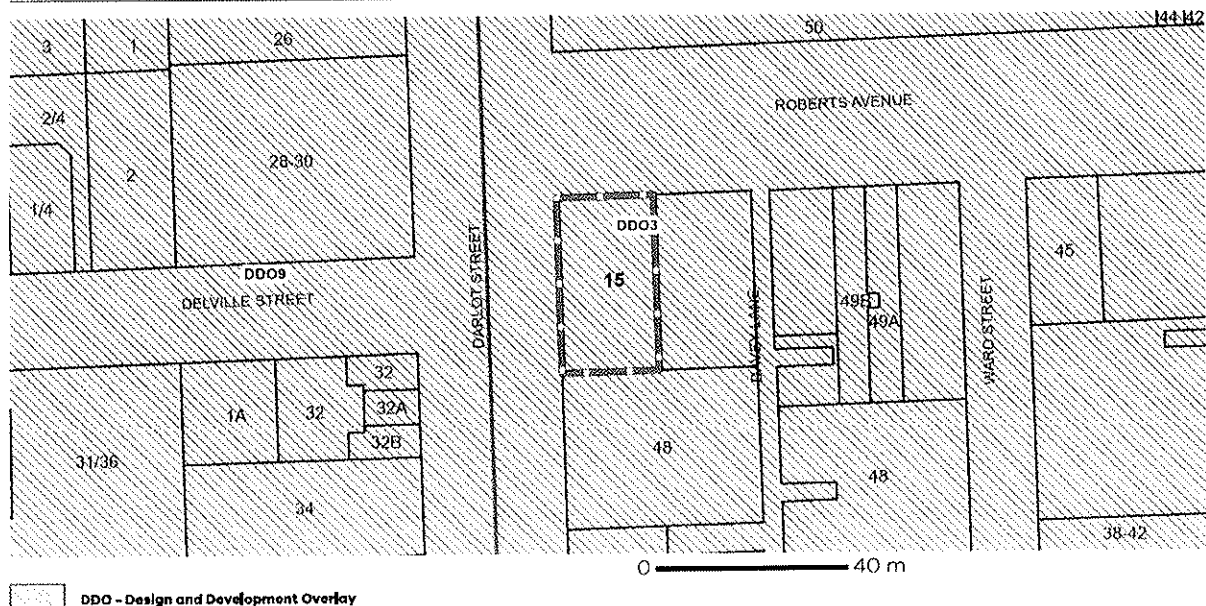


Environment,
Land, Water
and Planning

Planning Overlay

DESIGN AND DEVELOPMENT OVERLAY (DDO)

DESIGN AND DEVELOPMENT OVERLAY - SCHEDULE 3 (DDO3)



DDO - Design and Development Overlay

Note: due to overlaps, some overlays may not be visible, and some colours may not match those in the legend

Further Planning Information

Planning scheme data last updated on 4 October 2023.

A **planning scheme** sets out policies and requirements for the use, development and protection of land.

This report provides information about the zone and overlay provisions that apply to the selected land.

Information about the State and local policy, particular, general and operational provisions of the local planning scheme that may affect the use of this land can be obtained by contacting the local council or by visiting <https://www.planning.vic.gov.au>

This report is NOT a **Planning Certificate** issued pursuant to Section 199 of the **Planning and Environment Act 1987**.

It does not include information about exhibited planning scheme amendments, or zonings that may affect the land.

To obtain a Planning Certificate go to Titles and Property Certificates at Landata - <https://www.landata.vic.gov.au>

For details of surrounding properties, use this service to get the Reports for properties of interest.

To view planning zones, overlay and heritage information in an interactive format visit

<https://mapshare.maps.vic.gov.au/vicplan>

For other information about planning in Victoria visit <https://www.planning.vic.gov.au>

Copyright © - State Government of Victoria

Disclaimer: This content is provided for information purposes only. No claim is made as to the accuracy or authenticity of the content. The Victorian Government does not accept any liability to any person for the information provided. Read the full disclaimer at <https://www.delp.vic.gov.au/disclaimer>

Notwithstanding this disclaimer, a reader may rely on the information in this report for the purpose of a statement that land is in a bushfire prone area as required by section 32C (b) of the Sale of Land 1962 (Vic).

PLANNING PROPERTY REPORT: 15 DARLOT STREET HORSHAM 3400

Page 2 of 3

PLANNING PROPERTY REPORT



Environment,
Land, Water
and Planning

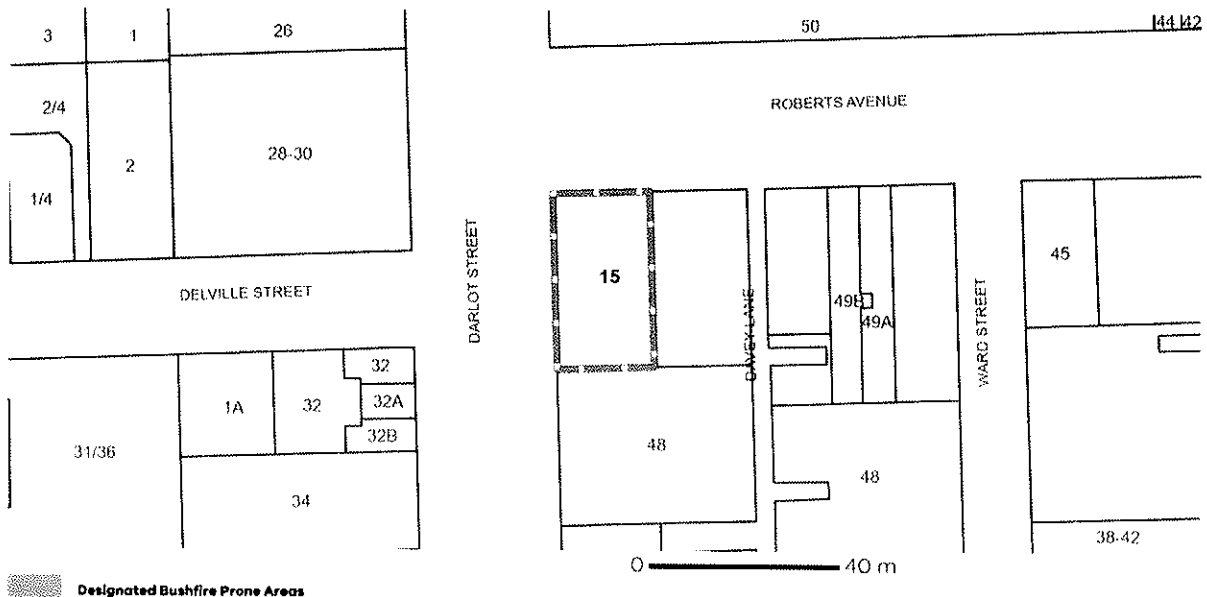
Designated Bushfire Prone Areas

This property is not in a designated bushfire prone area.

No special bushfire construction requirements apply. Planning provisions may apply.

Where part of the property is mapped as BPA, if no part of the building envelope or footprint falls within the BPA area, the BPA construction requirements do not apply.

Note: the relevant building surveyor determines the need for compliance with the bushfire construction requirements.



Designated BPA are determined by the Minister for Planning following a detailed review process. The Building Regulations 2018, through adoption of the Building Code of Australia, apply bushfire protection standards for building works in designated BPA.

Designated BPA maps can be viewed on VicPlan at <https://mapshare.vic.gov.au/vicplan/> or at the relevant local council.

Create a BPA definition plan in VicPlan to measure the BPA.

Information for lot owners building in the BPA is available at <https://www.planning.vic.gov.au>

Further information about the building control system and building in bushfire prone areas can be found on the Victorian Building Authority website <https://www.vba.vic.gov.au>. Copies of the Building Act and Building Regulations are available from <http://www.legislation.vic.gov.au>. For Planning Scheme Provisions in bushfire areas visit <https://www.planning.vic.gov.au>

Native Vegetation

Native plants that are indigenous to the region and important for biodiversity might be present on this property. This could include trees, shrubs, herbs, grasses or aquatic plants. There are a range of regulations that may apply including need to obtain a planning permit under Clause 52.17 of the local planning scheme. For more information see [Native Vegetation \(Clause 52.17\)](#) with local variations in [Native Vegetation \(Clause 52.17\) Schedule](#).

To help identify native vegetation on this property and the application of Clause 52.17 please visit the Native Vegetation Information Management system <https://nvim.delwp.vic.gov.au/> and [Native vegetation \(environment.vic.gov.au\)](#) or please contact your relevant council.

You can find out more about the natural values on your property through NatureKit [NatureKit \(environment.vic.gov.au\)](#)

Copyright © State Government of Victoria

Disclaimer: This content is provided for information purposes only. No claim is made as to the accuracy or authenticity of the content. The Victorian Government does not accept any liability to any person for the information provided. Read the full disclaimer at <https://www.delwp.vic.gov.au/disclaimer>

Notwithstanding this disclaimer, a vendor may rely on the information in this report for the purpose of a statement that land is in a bushfire prone area as required by section 32C (b) of the Sale of Land 1962 (Vic).

PLANNING PROPERTY REPORT: 15 DARLOT STREET MORSHAM 3400

Page 8 of 3



CIVIC CENTRE
18 ROBERTS AVENUE, HORSHAM 3400
Tel: 03 5382 9777 Fax: 03 5382 1111
Email: council@hrcc.vic.gov.au
Weekdays: 8.30am to 5.00pm
TTY: 133 677 ask for 03 5382 9777

VALUATION AND RATE NOTICE / TAX INVOICE FOR THE YEAR ENDING 30 JUNE 2024

ABN 37 019 724 765



J F TOY
33 MAJOR MITCHELL DRIVE
HORSHAM VIC 3400

DUPLICATE NOTICE - DO NOT PAY

Date of Notice: 09/08/2023

Date Declared: 26/06/2023

Assessment: 4373

033

R0_79670

If you are experiencing Financial Hardship please contact Council's Rates staff on 03 5382 9777
or email council@hrcc.vic.gov.au to confidentially discuss payment plan options.

DESCRIPTION AND LOCATION OF LAND

55A ROBERTS AVENUE HORSHAM
LOT 1PT TP 679026E HORSHAM TOWNSHIP/HORSHAM

SITE VALUE 86,000

CAPITAL IMPROVED VALUE 254,000

NETT ANNUAL VALUE 18,800

EFFECTIVE DATE 01/07/2023

LEVEL OF VALUE DATE 01/01/2023

AREA 0.0000 SQUARE METRES

AVPCC 210 RETAIL PREMISES (SINGLE OCCUPANCY)

RATE DETAILS

BALANCE AT 09/08/2023

COMMERCIAL RATE

MUNICIPAL CHARGE COMMERCIAL

240L RECYCLING NON RESIDENTIAL

GOVT PENSION REBATE - RATES

COUNCIL PENSION REBATE - RATES

RATE IN \$ / CHARGE

0.00385500

200.00

180.00

CIV / AMT

254,000

1

1

TOTAL

\$0.00

\$979.17

\$200.00

\$180.00

\$0.00

\$0.00

VICTORIAN STATE GOVERNMENT FIRE SERVICES PROPERTY LEVY

FSPL COMMERCIAL FIXED

FSPL COMMERCIAL VARIABLE

GOVT PENSION REBATE - FSPL

254.00

0.00056500

1

254,000

\$254.00

\$143.51

\$0.00

TOTAL \$1,756.68

Payment in
Full
Due 15 Feb 2024
\$1,756.68

Or

On Instalments
Instalment 1
Due 2 Oct 2023
\$439.17

Instalment 2
Due 30 Nov 2023
\$439.17

Instalment 3
Due 29 Feb 2024
\$439.17

Instalment 4
Due 31 May 2024
\$439.17

Note: Payments received after the due date may be charged interest at 10% pa. Any arrears shown on this notice are due immediately and may accrue interest until paid.



To have your notices emailed
Register at hrcc.enotices.com.au
Reference No: FD8297A33N



Billor Code: 87221
Ref: 0437 37

BPAY this payment via internet or phone banking
BPAY View/Registration No.: 0437 37



Billpay Code: 2315
Ref: 43737

Pay in person at any post office,
phone 13 18 16 or go to
postbillpay.com.au

POST billpay



*2315 043737

POST billpay



*2315 043737

ASSESSMENT: 4373

RATEPAYER NAME:

J F TOY



PO BOX 511
HORSHAM VIC 3402

PAYMENT OPTIONS

The rates and charges levied on this notice can be paid **IN FULL** by 15 February 2024 OR by **FOUR INSTALMENTS** as follows:

FIRST	2 October 2023
SECOND	30 November 2023
THIRD	29 February 2024
FOURTH	31 May 2024

Where the first instalment is paid by the due date – Notices for the second, third and fourth instalments will be issued at least 14 days before the due dates for payment. Please note that the first instalment includes any arrears and interest. **Where the first instalment is not paid by the due date** – The property will not be entered on the four instalment plan and rates will be payable in full by 15 February 2024.

ALLOCATION OF PAYMENTS

1. Legal Costs (if any)
2. Interest Charges (if any)
3. Overdue Rates & Charges (if any)
4. Current Year Rates & Charges

INTEREST PENALTY ON LATE PAYMENTS

Council will waive interest on overdue rates if hardship is experienced and a payment plan is put in place. All other overdue amounts may be charged interest at 10% pa as fixed under the Penalty Interest Rates Act 1983. Where applicable the interest penalty will be applied after the due date of an instalment. For lump sum payers interest penalty will be applied after the due date of the lump sum, but calculated on each of the instalment amounts that are overdue from the day after their due dates.

OTHER PENALTIES FOR FAILING TO PAY

Council may sue in the Magistrates' Court to recover any outstanding rates and/or charges. This will result in further cost for property owner/s. In accordance with Section 181 of the Local Government Act 1989, Council may exercise its right to sell property in order to recover unpaid rates and charges.

RIGHT OF OBJECTION TO DIFFERENTIAL RATING

Under Section 183 of the Local Government Act 1989, if you are aggrieved by Council's decision to classify or not classify your land as a particular type of class for differential rating purposes you may apply to VCAT within 60 days after the date of the notice. However you are invited to first discuss classification with the Valuer appointed to Council by Valuer-General Victoria.

All rating differentials adopted by Council for 2023/2024, are shown for comparative purposes only.

Capital Improved Value		\$ 254,000
Residential	0.004058 cents	\$1,030.73
Farm	0.002029 cents	\$515.37
Commercial	0.003855 cents	\$979.17
Industrial	0.004058 cents	\$1,030.73
Culture & Recreation	0.002029 cents	\$515.37

RIGHT OF APPEAL AGAINST RATES

Under Section 184 of the Local Government Act 1989 aggrieved persons have a right of appeal to the County Court within 60 days after the date of the notice in respect of rates and charges on specific grounds.

PENSIONER CONCESSION REBATE

A person holding a current Pensioner Concession Card or DVA Gold Card (TPI or War Widow only) may be entitled to a Government rebate (maximum \$253.20) and a Council rebate of \$50.00 on their Council rates, as well as a \$50.00 rebate on the Fire Services Property Levy on their principal place of residence. Those whose rebate appears on this notice need not reapply. **NOTE: A Health Care Card does not entitle the holder to a rate reduction.** Centrepay deductions are also available. Contact Council or Centrelink for more information.

MUNICIPAL REVALUATION

All properties were revalued by the Valuer General at a level of value date 1 January 2023, subject to supplementary valuations for property changes. Rates levied have been based on the Capital Improved Value shown overleaf

using the rate in the dollar shown. **NOTE: The Capital Improved Value includes the Site Value.**

RIGHT OF OBJECTION TO VALUATIONS

Ratepayers and/or owners have a right under Division 3 of the Valuation of Land Act 1960 to object to the valuations of the property described on the Valuation and Rate Notice on specific grounds set out in this Division. Objections must be lodged within **two months** of the date of issue of this notice. Forms can be downloaded from hrcc.vic.gov.au/Our-Council/Rates-Valuations/Valuations or lodged online at ratingvaluationobjections.vic.gov.au. It is suggested that you discuss your concerns with the Valuer appointed to Council by Valuer-General Victoria or Council Rates staff before lodging an objection. Contact Council on 5382 9777 or via council@hrcc.vic.gov.au **Note:** Objection to a valuation does not excuse you from paying your rates and charges by the due dates.

LAND TAX

Notice is given that Council valuations may be used by other rating authorities for the purpose of a rate or tax. The State Revenue Office uses the site value in assessing land tax. For further information refer to the State Revenue Office website www.sro.vic.gov.au.

FIRE SERVICES PROPERTY LEVY

From July 2013 the Fire Services Levy was removed from insurance premiums and replaced by a property-based levy collected with Council rates. All funds collected by Council will go to the State Government to support fire services. Refer to www.firelevy.vic.gov.au.

FINANCIAL HARDSHIP

Any ratepayer who is having difficulty paying part or all of their rates and charges should contact Council's Rates Department for a confidential discussion about assistance options such as payment plans, interest waivers, deferrals, rates waivers and financial hardship applications. Further information in relation to financial hardship support can be found at hrcc.vic.gov.au/Our-Council/Rates-Valuations/Rates-and-Charges

CHANGE OF PROPERTY OWNERSHIP/OCCUPANCY OR MAILING ADDRESS

The Council must be notified in writing of changes of occupancy, ownership or mailing address. When ownership of a property changes, liability for payment of rates remains with the owner recorded with Council until a Notice of Acquisition is received from the transferor or his/her agent. Address alterations should be in writing and lodged with the Rates Department or on Council's website at hrcc.vic.gov.au/Contact-Us/Change-Your-Details

TRANSFERRING OF RATING OBLIGATION

You must supply a copy of the original Valuation and Rate Notice to any legal identity to whom you have transferred your obligation to pay rates associated with the property for which the notice is issued to ensure the due dates and timelines associated with the notice are met.

MUNICIPAL CHARGE

A municipal charge of \$200.00 has been levied on all rateable properties not previously granted an exemption. Exemptions may be granted on eligible farming properties which form part of a single farming enterprise upon application.

FREE LOAD OF WASTE

Ratepayers with a Garbage or Recycling charge listed on the front of this notice are eligible for one free load of waste (other than e-waste, mattresses, tyres or asbestos) in a 6'x 4' trailer or a car boot delivered to the Horsham or Quantong Transfer Stations. Please present this notice to the site attendant to redeem. Valid until 30 June 2024. For more information on the free load of waste please visit hrcc.vic.gov.au/Our-Council/Rates-Valuations/Rates-and-Charges.

GARBAGE SERVICE CHARGES

For more information on the current garbage charges please visit hrcc.vic.gov.au/Our-Council/Rates-Valuations/Rates-and-Charges
For information on the new 4 bin service please visit hrcc.vic.gov.au/Residents/Waste-Service

Owner/s Toy, May Har Toy, Leon Toy, Susan Shuet Won Toy, Joseph Fon

Prescribed statement in accordance with Local Government (General) Amendment Regulations 2016.

Council has complied with the Victorian Government's rates cap of 3.5 per cent. The cap applies to the average annual increase of rates and charges.

The rates and charges for your property may have increased or decreased by a different percentage amount for the following reasons

- (i) The valuation of your property relative to the valuation of other properties in the municipal district.
- (ii) The application of any differential rate by Council.
- (iii) The inclusion of other rates and charges not covered by the Victorian Government's rates cap, ie waste charges and Fire Services Property Levy (State Government Charge)



CIVIC CENTRE
18 ROBERTS AVENUE, HORSHAM 3400
Tel: 03 5382 9777 Fax: 03 5382 1111
Email: council@hrcc.vic.gov.au
Weekdays: 8.30am to 5.00pm
TTY: 133 677 ask for 03 5382 9777

VALUATION AND RATE NOTICE / TAX INVOICE FOR THE YEAR ENDING 30 JUNE 2024

ABN 37 019 724 765



J F & S S & L & M H TOY
8 PENNY AVENUE
HORSHAM VIC 3400

Date of Notice: 09/08/2023

Date Declared: 26/06/2023

Assessment: 4375

033

R0_79430

If you are experiencing Financial Hardship please contact Council's Rates staff on 03 5382 9777
or email council@hrcc.vic.gov.au to confidentially discuss payment plan options.

DESCRIPTION AND LOCATION OF LAND

55B ROBERTS AVENUE HORSHAM
LOT 1PT TP 679026E HORSHAM TOWNSHIP/HORSHAM

SITE VALUE 95,000

CAPITAL IMPROVED VALUE 280,000

NETT ANNUAL VALUE 20,750

EFFECTIVE DATE 01/07/2023

LEVEL OF VALUE DATE 01/01/2023

AREA 0,0000 SQUARE METRES

AVPCC 210 RETAIL PREMISES (SINGLE OCCUPANCY)

RATE DETAILS

BALANCE AT 09/08/2023

COMMERCIAL RATE

MUNICIPAL CHARGE COMMERCIAL

GOVT PENSION REBATE - RATES

COUNCIL PENSION REBATE - RATES

RATE IN \$ / CHARGE

0.00385500

200.00

CIV / AMT

280,000

1

TOTAL

\$0.00

\$1079.40

\$200.00

\$0.00

\$0.00

VICTORIAN STATE GOVERNMENT FIRE SERVICES PROPERTY LEVY

FSPL COMMERCIAL FIXED

FSPL COMMERCIAL VARIABLE

GOVT PENSION REBATE - FSPL

254.00

0.00056500

1

280,000

\$254.00

\$158.20

\$0.00

TOTAL \$1,691.60

Payment In
Full
Due 15 Feb 2024
\$1,691.60

Or

On Instalments
Instalment 1
Due 2 Oct 2023
\$422.90

Instalment 2
Due 30 Nov 2023
\$422.90

Instalment 3
Due 29 Feb 2024
\$422.90

Instalment 4
Due 31 May 2024
\$422.90

Note: Payments received after the due date may be charged interest at 10% pa. Any arrears shown on this notice are due immediately and may accrue interest until paid.



To have your notices emailed
Register at hrcc.enotices.com.au
Reference No: C24DC52BAG



Billor Code: 87221
Ref: 0437 52

BPAY this payment via internet or phone banking
BPAY View Registration No.: 0437 52



Billpay Code: 2315
Ref: 43752

Pay in person at any post office,
phone 13 18 18 or go to
postbillpay.com.au

POST billpay



*2315 043752

POST billpay



*2315 043752

ASSESSMENT: 4375

RATEPAYER NAME:

J F & S S & L & M H TOY



PO BOX 511
HORSHAM VIC 3402

PAYMENT OPTIONS

The rates and charges levied on this notice can be paid **IN FULL** by 15 February 2024 OR by **FOUR INSTALMENTS** as follows:

FIRST	2 October 2023
SECOND	30 November 2023
THIRD	29 February 2024
FOURTH	31 May 2024

Where the first instalment is paid by the due date – Notices for the second, third and fourth instalments will be issued at least 14 days before the due dates for payment. Please note that the first instalment includes any arrears and interest. **Where the first instalment is not paid by the due date** – The property will not be entered on the four instalment plan and rates will be payable in full by 15 February 2024.

ALLOCATION OF PAYMENTS

1. Legal Costs (if any)
2. Interest Charges (if any)
3. Overdue Rates & Charges (if any)
4. Current Year Rates & Charges

INTEREST PENALTY ON LATE PAYMENTS

Council will waive interest on overdue rates if hardship is experienced and a payment plan is put in place. All other overdue amounts may be charged interest at 10% pa as fixed under the Penalty Interest Rates Act 1983. Where applicable the interest penalty will be applied after the due date of an instalment. For lump sum payers interest penalty will be applied after the due date of the lump sum, but calculated on each of the instalment amounts that are overdue from the day after their due dates.

OTHER PENALTIES FOR FAILING TO PAY

Council may sue in the Magistrates' Court to recover any outstanding rates and/or charges. This will result in further cost for property owner/s. In accordance with Section 181 of the Local Government Act 1989, Council may exercise its right to sell property in order to recover unpaid rates and charges.

RIGHT OF OBJECTION TO DIFFERENTIAL RATING

Under Section 183 of the Local Government Act 1989, if you are aggrieved by Council's decision to classify or not classify your land as a particular type of class for differential rating purposes you may apply to VCAT within 60 days after the date of the notice. However you are invited to first discuss classification with the Valuer appointed to Council by Valuer-General Victoria.

All rating differentials adopted by Council for 2023/2024, are shown for comparative purposes only.

Capital Improved Value		\$ 280,000
Residential	0.004058 cents	\$1,136.24
Farm	0.002029 cents	\$568.12
Commercial	0.003855 cents	\$1,079.40
Industrial	0.004058 cents	\$1,136.24
Culture & Recreation	0.002029 cents	\$568.12

RIGHT OF APPEAL AGAINST RATES

Under Section 184 of the Local Government Act 1989 aggrieved persons have a right of appeal to the County Court within 60 days after the date of the notice in respect of rates and charges on specific grounds.

PENSIONER CONCESSION REBATE

A person holding a current Pensioner Concession Card or DVA Gold Card (TPI or War Widow only) may be entitled to a Government rebate (maximum \$253.20) and a Council rebate of \$50.00 on their Council rates, as well as a \$50.00 rebate on the Fire Services Property Levy on their principal place of residence. Those whose rebate appears on this notice need not reapply. **NOTE: A Health Care Card does not entitle the holder to a rate reduction.** Centrepay deductions are also available. Contact Council or Centrelink for more information.

MUNICIPAL REVALUATION

All properties were revalued by the Valuer General at a level of value date 1 January 2023, subject to supplementary valuations for property changes. Rates levied have been based on the Capital Improved Value shown overleaf

using the rate in the dollar shown. **NOTE: The Capital Improved Value includes the Site Value.**

RIGHT OF OBJECTION TO VALUATIONS

Ratepayers and/or owners have a right under Division 3 of the Valuation of Land Act 1960 to object to the valuations of the property described on the Valuation and Rate Notice on specific grounds set out in this Division. Objections must be lodged within **two months** of the date of issue of this notice. Forms can be downloaded from hrcc.vic.gov.au/Our-Council/Rates-Valuations/Valuations or lodged online at ratingvaluationobjections.vic.gov.au. It is suggested that you discuss your concerns with the Valuer appointed to Council by Valuer-General Victoria or Council Rates staff before lodging an objection. Contact Council on 5382 9777 or via council@hrcc.vic.gov.au **Note:** Objection to a valuation does not excuse you from paying your rates and charges by the due dates.

LAND TAX

Notice is given that Council valuations may be used by other rating authorities for the purpose of a rate or tax. The State Revenue Office uses the site value in assessing land tax. For further information refer to the State Revenue Office website www.sro.vic.gov.au.

FIRE SERVICES PROPERTY LEVY

From July 2013 the Fire Services Levy was removed from insurance premiums and replaced by a property-based levy collected with Council rates. All funds collected by Council will go to the State Government to support fire services. Refer to www.firelevy.vic.gov.au.

FINANCIAL HARDSHIP

Any ratepayer who is having difficulty paying part or all of their rates and charges should contact Council's Rates Department for a confidential discussion about assistance options such as payment plans, interest waivers, deferrals, rates waivers and financial hardship applications. Further information in relation to financial hardship support can be found at hrcc.vic.gov.au/Our-Council/Rates-Valuations/Rates-and-Charges

CHANGE OF PROPERTY OWNERSHIP/OCCUPANCY OR MAILING ADDRESS

The Council must be notified in writing of changes of occupancy, ownership or mailing address. When ownership of a property changes, liability for payment of rates remains with the owner recorded with Council until a Notice of Acquisition is received from the transferor or his/her agent. Address alterations should be in writing and lodged with the Rates Department or on Council's website at hrcc.vic.gov.au/Contact-Us/Change-Your-Details

TRANSFERRING OF RATING OBLIGATION

You must supply a copy of the original Valuation and Rate Notice to any legal identity to whom you have transferred your obligation to pay rates associated with the property for which the notice is issued to ensure the due dates and timelines associated with the notice are met.

MUNICIPAL CHARGE

A municipal charge of \$200.00 has been levied on all rateable properties not previously granted an exemption. Exemptions may be granted on eligible farming properties which form part of a single farming enterprise upon application.

FREE LOAD OF WASTE

Ratepayers with a Garbage or Recycling charge listed on the front of this notice are eligible for one free load of waste (other than e-waste, mattresses, tyres or asbestos) in a 6'x 4' trailer or a car boot delivered to the Horsham or Quantong Transfer Stations. Please present this notice to the site attendant to redeem. Valid until 30 June 2024. For more information on the free load of waste please visit hrcc.vic.gov.au/Our-Council/Rates-Valuations/Rates-and-Charges.

GARBAGE SERVICE CHARGES

For more information on the current garbage charges please visit hrcc.vic.gov.au/Our-Council/Rates-Valuations/Rates-and-Charges
For information on the new 4 bin service please visit hrcc.vic.gov.au/Residents/Waste-Service

Owner/s Toy, May Har Toy, Leon Toy, Susan Shuet Won Toy, Joseph Fon

Prescribed statement in accordance with Local Government (General) Amendment Regulations 2016.

Council has complied with the Victorian Government's rates cap of 3.5 per cent. The cap applies to the average annual increase of rates and charges.

The rates and charges for your property may have increased or decreased by a different percentage amount for the following reasons:

- (i) The valuation of your property relative to the valuation of other properties in the municipal district.
- (ii) The application of any differential rate by Council.
- (iii) The inclusion of other rates and charges not covered by the Victorian Government's rates cap, ie waste charges and Fire Services Property Levy (State Government Charge)



CIVIC CENTRE
18 ROBERTS AVENUE, HORSHAM 3400
Tel: 03 5382 9777 Fax: 03 5382 1111
Email: council@hrcc.vic.gov.au
Weekdays: 8.30am to 5.00pm
TTY: 133 677 ask for 03 5382 9777

VALUATION AND RATE NOTICE / TAX INVOICE FOR THE YEAR ENDING 30 JUNE 2024

ABN 37 019 724 765

DUPLICATE NOTICE - DO NOT PAY

L TOY
8 PENNY AVENUE
HORSHAM VIC 3400

Date of Notice: 09/08/2023

Date Declared: 26/06/2023

Assessment: 6625

033

If you are experiencing Financial Hardship please contact Council's Rates staff on 03 5382 9777
or email council@hrcc.vic.gov.au to confidentially discuss payment plan options.

DESCRIPTION AND LOCATION OF LAND		SITE VALUE	76,000
15 DARLOT STREET HORSHAM		CAPITAL IMPROVED VALUE	223,000
LOT 1PT TP 679026 (CA 2PT SEC 3) HORSHAM TOWNSHIP/HORSHAM		NETT ANNUAL VALUE	16,550
		EFFECTIVE DATE	01/07/2023
		LEVEL OF VALUE DATE	01/01/2023
AREA 0,0000 SQUARE METRES			
AVPCC 210 RETAIL PREMISES (SINGLE OCCUPANCY)			
RATE DETAILS	RATE IN \$ / CHARGE	CIV / AMT	TOTAL
BALANCE AT 09/08/2023			\$0.00
COMMERCIAL RATE	0.00385500	223,000	\$859.67
MUNICIPAL CHARGE COMMERCIAL	200.00	1	\$200.00
GOVT PENSION REBATE - RATES			\$0.00
COUNCIL PENSION REBATE - RATES			\$0.00
VICTORIAN STATE GOVERNMENT FIRE SERVICES PROPERTY LEVY			
FSPL COMMERCIAL FIXED	254.00	1	\$254.00
FSPL COMMERCIAL VARIABLE	0.00056500	223,000	\$126.00
GOVT PENSION REBATE - FSPL			\$0.00
		TOTAL	\$1,439.67

Payment In
Full
Due 15 Feb 2024
\$1,439.67

Or

On Instalments
Instalment 1
Due 2 Oct 2023
\$359.91

Instalment 2
Due 30 Nov 2023
\$359.92

Instalment 3
Due 29 Feb 2024
\$359.92

Instalment 4
Due 31 May 2024
\$359.92

Note: Payments received after the due date may be charged interest at 10% pa. Any arrears shown on this notice are due immediately and may accrue interest until paid.



To have your notices emailed
Register at hrcc.enotices.com.au
Reference No: 62E0CD9CBC



Billers Code: 87221
Ref: 0662 58

BPAY this payment via internet or phone banking
BPAY View Registration No.: 0662 58



Billpay Code: 2315
Ref: 66258

Pay in person at any post office,
phone 13 18 16 or go to
postbillpay.com.au

POST billpay



*2315 066258

POST billpay



*2315 066258

ASSESSMENT: 6625

RATEPAYER NAME:

L TOY



PO BOX 511
HORSHAM VIC 3402

PAYMENT OPTIONS

The rates and charges levied on this notice can be paid IN FULL by 15 February 2024 OR by FOUR instalments as follows:

FIRST	2 October 2023
SECOND	30 November 2023
THIRD	29 February 2024
FOURTH	31 May 2024

Where the first instalment is paid by the due date – Notices for the second, third and fourth instalments will be issued at least 14 days before the due dates for payment. Please note that the first instalment includes any arrears and interest. **Where the first instalment is not paid by the due date** – The property will not be entered on the four instalment plan and rates will be payable in full by 15 February 2024.

ALLOCATION OF PAYMENTS

1. Legal Costs (if any)
2. Interest Charges (if any)
3. Overdue Rates & Charges (if any)
4. Current Year Rates & Charges

INTEREST PENALTY ON LATE PAYMENTS

Council will waive interest on overdue rates if hardship is experienced and a payment plan is put in place. All other overdue amounts may be charged interest at 10% pa as fixed under the Penalty Interest Rates Act 1983. Where applicable the interest penalty will be applied after the due date of an instalment. For lump sum payers interest penalty will be applied after the due date of the lump sum, but calculated on each of the instalment amounts that are overdue from the day after their due dates.

OTHER PENALTIES FOR FAILING TO PAY

Council may sue in the Magistrates' Court to recover any outstanding rates and/or charges. This will result in further cost for property owner/s. In accordance with Section 181 of the Local Government Act 1989, Council may exercise its right to sell property in order to recover unpaid rates and charges.

RIGHT OF OBJECTION TO DIFFERENTIAL RATING

Under Section 183 of the Local Government Act 1989, if you are aggrieved by Council's decision to classify or not classify your land as a particular type of class for differential rating purposes you may apply to VCAT within 60 days after the date of the notice. However you are invited to first discuss classification with the Valuer appointed to Council by Valuer-General Victoria.

All rating differentials adopted by Council for 2023/2024, are shown for comparative purposes only.

Capital Improved Value		\$
Residential	0.004058 cents	\$904.93
Farm	0.002029 cents	\$452.47
Commercial	0.003855 cents	\$859.67
Industrial	0.004058 cents	\$904.93
Culture & Recreation	0.002029 cents	\$452.47

RIGHT OF APPEAL AGAINST RATES

Under Section 184 of the Local Government Act 1989 aggrieved persons have a right of appeal to the County Court within 60 days after the date of the notice in respect of rates and charges on specific grounds.

PENSIONER CONCESSION REBATE

A person holding a current Pensioner Concession Card or DVA Gold Card (TP) or War Widow only) may be entitled to a Government rebate (maximum \$253.20) and a Council rebate of \$50.00 on their Council rates, as well as a \$50.00 rebate on the Fire Services Property Levy on their principal place of residence. Those whose rebate appears on this notice need not reapply. **NOTE: A Health Care Card does not entitle the holder to a rate reduction.** Centrepay deductions are also available. Contact Council or Centrelink for more information.

MUNICIPAL REVALUATION

All properties were revalued by the Valuer General at a level of value date 1 January 2023, subject to supplementary valuations for property changes. Rates levied have been based on the Capital Improved Value shown overleaf

using the rate in the dollar shown. **NOTE: The Capital Improved Value includes the Site Value.**

RIGHT OF OBJECTION TO VALUATIONS

Ratepayers and/or owners have a right under Division 3 of the Valuation of Land Act 1960 to object to the valuations of the property described on the Valuation and Rate Notice on specific grounds set out in this Division. Objections must be lodged within **two months** of the date of issue of this notice. Forms can be downloaded from hrcc.vic.gov.au/Our-Council/Rates-Valuations/Valuations or lodged online at ratingvaluationobjections.vic.gov.au. It is suggested that you discuss your concerns with the Valuer appointed to Council by Valuer-General Victoria or Council Rates staff before lodging an objection. Contact Council on 5382 9777 or via council@hrcc.vic.gov.au **Note:** Objection to a valuation does not excuse you from paying your rates and charges by the due dates.

LAND TAX

Notice is given that Council valuations may be used by other rating authorities for the purpose of a rate or tax. The State Revenue Office uses the site value in assessing land tax. For further information refer to the State Revenue Office website www.sro.vic.gov.au.

FIRE SERVICES PROPERTY LEVY

From July 2013 the Fire Services Levy was removed from insurance premiums and replaced by a property-based levy collected with Council rates. All funds collected by Council will go to the State Government to support fire services. Refer to www.firelevy.vic.gov.au.

FINANCIAL HARDSHIP

Any ratepayer who is having difficulty paying part or all of their rates and charges should contact Council's Rates Department for a confidential discussion about assistance options such as payment plans, interest waivers, deferrals, rates waivers and financial hardship applications. Further information in relation to financial hardship support can be found at hrcc.vic.gov.au/Our-Council/Rates-Valuations/Rates-and-Charges

CHANGE OF PROPERTY OWNERSHIP/OCCUPANCY OR MAILING ADDRESS

The Council must be notified in writing of changes of occupancy, ownership or mailing address. When ownership of a property changes, liability for payment of rates remains with the owner recorded with Council until a Notice of Acquisition is received from the transferor or his/her agent. Address alterations should be in writing and lodged with the Rates Department or on Council's website at hrcc.vic.gov.au/Contact-Us/Change-Your-Details

TRANSFERRING OF RATING OBLIGATION

You must supply a copy of the original Valuation and Rate Notice to any legal identity to whom you have transferred your obligation to pay rates associated with the property for which the notice is issued to ensure the due dates and timelines associated with the notice are met.

MUNICIPAL CHARGE

A municipal charge of \$200.00 has been levied on all rateable properties not previously granted an exemption. Exemptions may be granted on eligible farming properties which form part of a single farming enterprise upon application.

FREE LOAD OF WASTE

Ratepayers with a Garbage or Recycling charge listed on the front of this notice are eligible for one free load of waste (other than e-waste, mattresses, tyres or asbestos) in a 6'x 4' trailer or a car boot delivered to the Horsham or Quantong Transfer Stations. Please present this notice to the site attendant to redeem. Valid until 30 June 2024. For more information on the free load of waste please visit hrcc.vic.gov.au/Our-Council/Rates-Valuations/Rates-and-Charges.

GARBAGE SERVICE CHARGES

For more information on the current garbage charges please visit hrcc.vic.gov.au/Our-Council/Rates-Valuations/Rates-and-Charges. For information on the new 4 bin service please visit hrcc.vic.gov.au/Residents/Waste-Service

Owner/s Toy, May Har Toy, Leon Toy, Susan Shuet Won Toy, Joseph Fon

Prescribed statement in accordance with Local Government (General) Amendment Regulations 2016.

Council has complied with the Victorian Government's rates cap of 3.5 per cent. The cap applies to the average annual increase of rates and charges.

The rates and charges for your property may have increased or decreased by a different percentage amount for the following reasons:

- (i) The valuation of your property relative to the valuation of other properties in the municipal district.
- (ii) The application of any differential rate by Council.
- (iii) The inclusion of other rates and charges not covered by the Victorian Government's rates cap, ie waste charges and Fire Services Property Levy (State Government Charge)



CIVIC CENTRE
18 ROBERTS AVENUE, HORSHAM 3400
Tel: 03 5382 9777 Fax: 03 5382 1111
Email: council@hrcc.vic.gov.au
Weekdays: 8.30am to 5.00pm
TTY: 133 677 ask for 03 5382 9777

VALUATION AND RATE NOTICE / TAX INVOICE FOR THE YEAR ENDING 30 JUNE 2024

ABN 37 019 724 765



J F TOY
33 MAJOR MITCHELL DRIVE
HORSHAM VIC 3400

DUPLICATE NOTICE - DO NOT PAY

Date of Notice: 09/08/2023

Date Declared: 26/06/2023

Assessment: 6627

033

R0_79690

If you are experiencing Financial Hardship please contact Council's Rates staff on 03 5382 9777
or email council@hrcc.vic.gov.au to confidentially discuss payment plan options.

DESCRIPTION AND LOCATION OF LAND		SITE VALUE	95,000
17 DARLOT STREET HORSHAM		CAPITAL IMPROVED VALUE	280,000
LOT 1PT TP 679026 HORSHAM		NETT ANNUAL VALUE	20,750
		EFFECTIVE DATE	01/07/2023
		LEVEL OF VALUE DATE	01/01/2023
AREA 0.0000 SQUARE METRES			
AVPCC 220 OFFICE PREMISES			
RATE DETAILS		RATE IN \$ / CHARGE	CIV / AMT
BALANCE AT 09/08/2023			\$0.00
COMMERCIAL RATE		0.00385500	280,000
MUNICIPAL CHARGE COMMERCIAL		200.00	1
120L GARBAGE NON RESIDENTIAL		480.00	1
GOVT PENSION REBATE - RATES			\$0.00
COUNCIL PENSION REBATE - RATES			\$0.00
VICTORIAN STATE GOVERNMENT FIRE SERVICES PROPERTY LEVY			
FSPL COMMERCIAL FIXED		254.00	1
FSPL COMMERCIAL VARIABLE		0.00056500	280,000
GOVT PENSION REBATE - FSPL			\$0.00
		TOTAL	\$2,171.60

Payment in
Full
Due 15 Feb 2024
\$2,171.60

Or

On Instalments
Instalment 1
Due 2 Oct 2023
\$542.90

Instalment 2
Due 30 Nov 2023
\$542.90

Instalment 3
Due 29 Feb 2024
\$542.90

Instalment 4
Due 31 May 2024
\$542.90

Note: Payments received after the due date may be charged interest at 10% pa. Any arrears shown on this notice are due immediately and may accrue interest until paid.



To have your notices emailed
Register at hrcc.enotices.com.au
Reference No: 209FC0ED10



Billers Code: 87221
Ref: 0662 74

BPAY this payment via internet or phone banking
BPAY View Registration No.: 0662 74



Billpay Code: 2315
Ref: 66274

Pay in person at any post office,
phone 13 18 16 or go to
postbillpay.com.au

POST billpay



*2315 066274

POST billpay



*2315 066274

ASSESSMENT: 6627

RATEPAYER NAME:

J F TOY



PO BOX 511
HORSHAM VIC 3402

PAYMENT OPTIONS

The rates and charges levied on this notice can be paid **IN FULL** by 15 February 2024 OR by **FOUR INSTALMENTS** as follows:

FIRST	2 October 2023
SECOND	30 November 2023
THIRD	29 February 2024
FOURTH	31 May 2024

Where the first instalment is paid by the due date – Notices for the second, third and fourth instalments will be issued at least 14 days before the due dates for payment. Please note that the first instalment includes any arrears and interest. **Where the first instalment is not paid by the due date** – The property will not be entered on the four instalment plan and rates will be payable in full by 15 February 2024.

ALLOCATION OF PAYMENTS

1. Legal Costs (if any)
2. Interest Charges (if any)
3. Overdue Rates & Charges (if any)
4. Current Year Rates & Charges

INTEREST PENALTY ON LATE PAYMENTS

Council will waive interest on overdue rates if hardship is experienced and a payment plan is put in place. All other overdue amounts may be charged interest at 10% pa as fixed under the Penalty Interest Rates Act 1983. Where applicable the interest penalty will be applied after the due date of an instalment. For lump sum payers interest penalty will be applied after the due date of the lump sum, but calculated on each of the instalment amounts that are overdue from the day after their due dates.

OTHER PENALTIES FOR FAILING TO PAY

Council may sue in the Magistrates' Court to recover any outstanding rates and/or charges. This will result in further cost for property owner/s. In accordance with Section 181 of the Local Government Act 1989, Council may exercise its right to sell property in order to recover unpaid rates and charges.

RIGHT OF OBJECTION TO DIFFERENTIAL RATING

Under Section 183 of the Local Government Act 1989, if you are aggrieved by Council's decision to classify or not classify your land as a particular type of class for differential rating purposes you may apply to VCAT within 60 days after the date of the notice. However you are invited to first discuss classification with the Valuer appointed to Council by Valuer-General Victoria.

All rating differentials adopted by Council for 2023/2024, are shown for comparative purposes only.

Capital Improved Value		\$ 280,000
Residential	0.004058 cents	\$1,136.24
Farm	0.002029 cents	\$568.12
Commercial	0.003855 cents	\$1,079.40
Industrial	0.004058 cents	\$1,136.24
Culture & Recreation	0.002029 cents	\$568.12

RIGHT OF APPEAL AGAINST RATES

Under Section 184 of the Local Government Act 1989 aggrieved persons have a right of appeal to the County Court within 60 days after the date of the notice in respect of rates and charges on specific grounds.

PENSIONER CONCESSION REBATE

A person holding a current Pensioner Concession Card or DVA Gold Card (TPI or War Widow only) may be entitled to a Government rebate (maximum \$253.20) and a Council rebate of \$50.00 on their Council rates, as well as a \$50.00 rebate on the Fire Services Property Levy on their principal place of residence. Those whose rebate appears on this notice need not reapply. **NOTE: A Health Care Card does not entitle the holder to a rate reduction.** Centrepay deductions are also available. Contact Council or Centrelink for more information.

MUNICIPAL REVALUATION

All properties were revalued by the Valuer General at a level of value date 1 January 2023, subject to supplementary valuations for property changes. Rates levied have been based on the Capital Improved Value shown overleaf

using the rate in the dollar shown. **NOTE: The Capital Improved Value includes the Site Value.**

RIGHT OF OBJECTION TO VALUATIONS

Ratepayers and/or owners have a right under Division 3 of the Valuation of Land Act 1960 to object to the valuations of the property described on the Valuation and Rate Notice on specific grounds set out in this Division. Objections must be lodged within **two months** of the date of issue of this notice. Forms can be downloaded from hrcc.vic.gov.au/Our-Council/Rates-Valuations/Valuations or lodged online at ratingvaluationobjections.vic.gov.au. It is suggested that you discuss your concerns with the Valuer appointed to Council by Valuer-General Victoria or Council Rates staff before lodging an objection. Contact Council on 5382 9777 or via council@hrcc.vic.gov.au **Note:** Objection to a valuation does not excuse you from paying your rates and charges by the due dates.

LAND TAX

Notice is given that Council valuations may be used by other rating authorities for the purpose of a rate or tax. The State Revenue Office uses the site value in assessing land tax. For further information refer to the State Revenue Office website www.sro.vic.gov.au.

FIRE SERVICES PROPERTY LEVY

From July 2013 the Fire Services Levy was removed from insurance premiums and replaced by a property-based levy collected with Council rates. All funds collected by Council will go to the State Government to support fire services. Refer to www.firelevy.vic.gov.au.

FINANCIAL HARDSHIP

Any ratepayer who is having difficulty paying part or all of their rates and charges should contact Council's Rates Department for a confidential discussion about assistance options such as payment plans, interest waivers, deferrals, rates waivers and financial hardship applications. Further information in relation to financial hardship support can be found at hrcc.vic.gov.au/Our-Council/Rates-Valuations/Rates-and-Charges

CHANGE OF PROPERTY OWNERSHIP/OCCUPANCY OR MAILING ADDRESS

The Council must be notified in writing of changes of occupancy, ownership or mailing address. When ownership of a property changes, liability for payment of rates remains with the owner recorded with Council until a Notice of Acquisition is received from the transferor or his/her agent. Address alterations should be in writing and lodged with the Rates Department or on Council's website at hrcc.vic.gov.au/Contact-Us/Change-Your-Details

TRANSFERRING OF RATING OBLIGATION

You must supply a copy of the original Valuation and Rate Notice to any legal identity to whom you have transferred your obligation to pay rates associated with the property for which the notice is issued to ensure the due dates and timelines associated with the notice are met.

MUNICIPAL CHARGE

A municipal charge of \$200.00 has been levied on all rateable properties not previously granted an exemption. Exemptions may be granted on eligible farming properties which form part of a single farming enterprise upon application.

FREE LOAD OF WASTE

Ratepayers with a Garbage or Recycling charge listed on the front of this notice are eligible for one free load of waste (other than e-waste, mattresses, tyres or asbestos) in a 6'x 4' trailer or a car boot delivered to the Horsham or Quantong Transfer Stations. Please present this notice to the site attendant to redeem. Valid until 30 June 2024. For more information on the free load of waste please visit hrcc.vic.gov.au/Our-Council/Rates-Valuations/Rates-and-Charges.

GARBAGE SERVICE CHARGES

For more information on the current garbage charges please visit hrcc.vic.gov.au/Our-Council/Rates-Valuations/Rates-and-Charges
For information on the new 4 bin service please visit hrcc.vic.gov.au/Residents/Waste-Service

Owner/s Toy, Susan Shuet Won Toy, May Har Toy, Leon Toy, Joseph Fon

Prescribed statement in accordance with Local Government (General) Amendment Regulations 2016

Council has complied with the Victorian Government's rates cap of 3.5 per cent. The cap applies to the average annual increase of rates and charges.

The rates and charges for your property may have increased or decreased by a different percentage amount for the following reasons:

- (i) The valuation of your property relative to the valuation of other properties in the municipal district.
- (ii) The application of any differential rate by Council.
- (iii) The inclusion of other rates and charges not covered by the Victorian Government's rates cap, ie waste charges and Fire Services Property Levy (State Government Charge).

Urban Water Account
55A Roberts Avenue HORSHAM VIC 3400



account number

2184133

issue date

28/07/2023

Registration Code

billing and general enquiries

office hours: 1300 659 961

difficulties and faults

24 hours: 1800 188 586

GWMWater

11 McLachlan Street (PO Box 481)
Horsham Victoria 3402

info@gwmwater.org.au

www.gwmwater.org.au

ABN: 35 584 588 263

tax invoice

Next Read: 30/09/2023

L Toy & M H Toy & J F Toy
8 Penny Avenue
HORSHAM VIC 3400

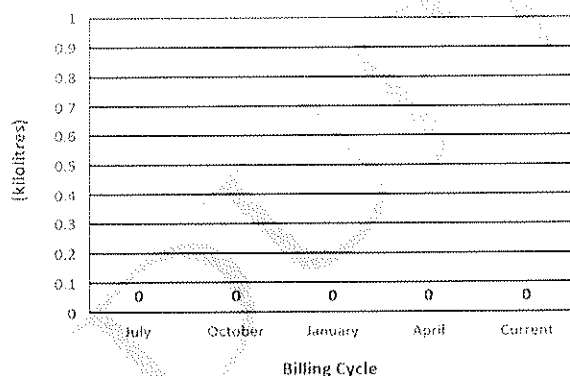
due date

31/08/2023

amount due

\$239.26

Your Usage in KiloLitres



Balance Brought Forward

Opening Balance	\$240.85
Transactions since last Account	-\$240.85

Current Charges

Sewer Service	\$134.19
Water Service Charges	\$105.07
Water Usage Charges	\$0.00
Total	\$239.26

Total Amount Due **\$239.26**

Total includes GST of \$0.00

Penalty interest of 5.3 % per annum will apply to overdue balances

**TARGET YOUR
WATER USE**



Use water wisely: www.targetyourwateruse.vic.gov.au

payment slip

L Toy & M H Toy & J F Toy



*347 0000000000002184134

account number

2184133

amount due

\$239.26

amount being paid

If eligible and your concession has not
been deducted please call 1300 659 961.
Please see reverse for details.

Please see over for payment options

SEWER SERVICE

Service No	Date From	Date To	Days	Rate	Amount
138381	01/07/2023	30/09/2023	91 ³⁶	\$1.4746 per day	\$ 134.19

WATER SERVICE

Service No	Size	Date From	Date To	Days	Rate	Amount
138381	20.00mm	01/07/2023	30/09/2023	91 ³⁶	\$1.1546 per day	\$ 105.07

WATER USAGE

Service No	Meter Number	Previous Date	Previous Reading	Current Date	Current Reading	Consumption (Kilolitres)	Amount
138381	19V40878T	01/07/2023	564	03/07/2023	565	1.00 @\$1.7482/kL	\$ 0.00
138381	19V40878T	02/04/2023	527	30/06/2023	564	37.00 @\$1.7572/kL	\$ 0.00
138381	NOMETER	01/07/2023	0	05/07/2023	0	0.00 @\$0.0000/kL	\$ 0.00
138381	NOMETER	04/04/2023	0	30/06/2023	0	0.00 @\$0.0000/kL	\$ 0.00

Transactions since last Account

DATE	DESCRIPTION	AMOUNT
3/06/2023	Receipt via BPAY	-\$240.85
		-\$240.85

PLEASE NOTE

Payments made in the last 7 days may not have been credited to your account prior to issuing this invoice.

PAYMENT PLANS

Payment plans are available should you wish to pay by instalments. Please contact us on 1300 659 961.

FINANCIAL HARDSHIP

If you are experiencing genuine financial hardship in paying your account, GWMWater may be able to assist you. Please contact us on 1300 659 961. You can be assured of sympathetic and confidential consideration of your circumstances.

LATE PAYMENT PENALTIES

Payments not received by 5 pm on the due date shown on the front of this account will incur an interest penalty calculated from the date of issue of this account.

ADDITIONAL SERVICES

To access our Translating and Interpreting Service contact 131 450 and ask to be connected to 1300 659 961.

Deaf, hearing impaired or speech/communication impaired customers may call the National Relay Service (TTY service) by dialling 133 677 and quoting 1300 659 961.

For 24 hour difficulties and faults, please contact 1800 188 586

PENSION AND CONCESSION CARD REBATE

Concession entitlements include all eligible pensioners and health care card holders. Cardholders already registered with GWMWater will automatically receive concessions on each account. By claiming a concession, you will be authorising GWMWater to confirm your eligibility with Centrelink or the Department of Veterans Affairs. This consent will be ongoing and can be revoked by Department of Human Services, Department of Veterans Affairs or by contacting GWMWater on 1300 659 961.

WATER AND SEWERAGE REBATE SCHEME

The State Government offers a rebate on fixed water and wastewater service charges for eligible not-for-profit organisations. Further details regarding eligibility may be obtained by contacting GWMWater on 1300 659 961.

RESIDENTIAL TENANTS

Tenants living in separately metered properties and who have signed a Residential Tenancy Agreement may be liable for water consumption. Tenants should notify GWMWater 48 hours prior to occupying or vacating a property so that a meter reading can be organised for you. Tenants vacating premises must provide a forwarding address.

ACCESS TO WATER METERS

If our meter readers are not able to access your meter, a card will be left at your property to advise that should you not contact us, an estimated account will be issued. This will be indicated on your account by an 'E - Estimated Account'. Estimated accounts are also issued where water meters have ceased to record consumption.

If you believe the estimate is not appropriate due to a change in circumstances, you may apply in writing to GWMWater for consideration of an amendment to your estimated account.

The next scheduled reading date is shown on your account. Please ensure that locked gates, dogs or other obstructions do not prevent access to your meter.

ENVIRONMENTAL CONTRIBUTION

Charges for water and wastewater services include a contribution toward GWMWater's environmental sustainability levy.

The environmental contribution levy will be used to improve and protect our rivers and water sources, save water in towns and farms, and support water recycling initiatives.

CHANGE OF ADDRESS

Please phone GWMWater on 1300 659 961 if your postal address has changed.

**In person**

Present this invoice intact to any post office or GWMWater, 11 McLachlan Street, Horsham



POSTbillpay Code: 0347
Ref: 0000002184134

Phone 13 18 16 or go to postbillpay.com.au

**Mail**

Tear off deposit slip and mail with cheque to GWMWater, PO Box 481, Horsham 3402

**Centrelink - Reference Number 555 062 362L**

To arrange regular deductions from your Centrelink payment please contact GWMWater on 1300 659 961 for an application.

**Direct debit**

To deduct payments directly from your bank account, contact GWMWater on 1300 659 961.



Biller Code: 79855
Ref: 2184133

Contact your participating bank, credit union or building society to pay this account from your cheque, savings or credit card account. Please quote biller code.



BPAY View®
View and pay this bill using internet banking.

Urban Water Account
55B Roberts Avenue HORSHAM VIC 3400



GWMWater

11 McLachlan Street (PO Box 481)
Horsham Victoria 3402

info@gwmwater.org.au
www.gwmwater.org.au

ABN: 35 584 588 263

tax invoice

account number

2184141

issue date

28/07/2023

Registration Code

billing and general enquiries

office hours: 1300 659 961

difficulties and faults

24 hours: 1800 188 586

Next Read: 30/09/2023

L Toy & M H Toy & J F Toy
8 Penny Avenue
HORSHAM VIC 3400

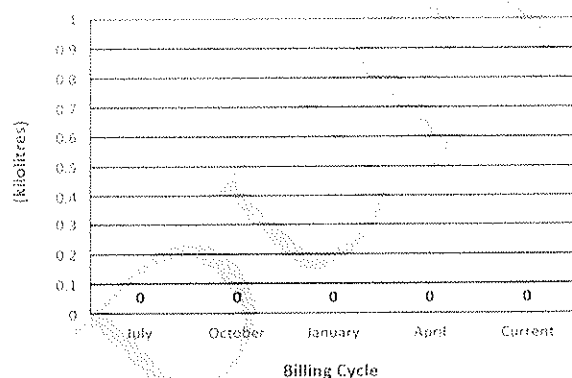
due date

31/08/2023

amount due

\$239.26

Your Usage in KiloLitres



Balance Brought Forward

Opening Balance	\$240.85
Transactions since last Account	-\$240.85

Current Charges

Sewer Service	\$134.19
Water Service Charges	\$105.07
Water Usage Charges	\$0.00
Total	\$239.26

Total Amount Due **\$239.26**

Total includes GST of \$0.00

Penalty interest of 5.3 % per annum will apply to overdue balances

**TARGET YOUR
WATER USE**



Use water wisely: www.targetyourwateruse.vic.gov.au

payment slip

L Toy & M H Toy & J F Toy



*347 0000000000002184142

account number

2184141

amount due

\$239.26

amount being paid

If eligible and your concession has not
been deducted please call 1300 659 961.
Please see reverse for details.

Please see over for payment options

SEWER SERVICE

Service No	Date From	Date To	Days	Rate	Amount
138382	01/07/2023	30/09/2023	91 @	\$1.4746 per day	\$ 134.19

WATER SERVICE

Service No	Size	Date From	Date To	Days	Rate	Amount
138382	20.00mm	01/07/2023	30/09/2023	91 @	\$1.1546 per day	\$ 105.07

WATER USAGE

Service No	Meter Number	Previous Date	Previous Reading	Current Date	Current Reading	Consumption (Kilolitres)	Amount
138382	19V40878T	01/07/2023	564	03/07/2023	565	1.00 @\$1.7482/kL	\$ 0.00
138382	19V40878T	02/04/2023	527	30/06/2023	564	37.00 @\$1.7572/kL	\$ 0.00
138382	NOMETER	01/07/2023	0	05/07/2023	0	0.00 @\$0.0000/kL	\$ 0.00
138382	NOMETER	04/04/2023	0	30/06/2023	0	0.00 @\$0.0000/kL	\$ 0.00

Transactions since last Account

DATE	DESCRIPTION	AMOUNT
29/05/2023	Receipt via BPay	-\$240.85
		-\$240.85

PLEASE NOTE

Payments made in the last 7 days may not have been credited to your account prior to issuing this invoice.

PAYMENT PLANS

Payment plans are available should you wish to pay by instalments. Please contact us on 1300 659 961.

FINANCIAL HARDSHIP

If you are experiencing genuine financial hardship in paying your account, GWMWater may be able to assist you. Please contact us on 1300 659 961. You can be assured of sympathetic and confidential consideration of your circumstances.

LATE PAYMENT PENALTIES

Payments not received by 5 pm on the due date shown on the front of this account will incur an interest penalty calculated from the date of issue of this account.

ADDITIONAL SERVICES

To access our Translating and Interpreting Service contact 131 450 and ask to be connected to 1300 659 961. Deaf, hearing-impaired or speech/communication-impaired customers may call the National Relay Service (TTY service) by dialing 133 677 and quoting 1300 659 961.

For 24 hour difficulties and faults, please contact 1800 188 586.

PENSIONER AND CONCESSION CARD REBATE

Concession entitlements include all eligible pensioners and health care card holders. Cardholders already registered with GWMWater will automatically receive concessions on each account. By claiming a concession, you will be authorising GWMWater to confirm your eligibility with Concessions or the Department of Veterans Affairs. This consent will be ongoing and can be revoked by Department of Human Services, Department of Veterans Affairs or by contacting GWMWater on 1300 659 961.

WATER AND SEWERAGE REBATE SCHEME

The State Government offers a rebate on fixed water and wastewater service charges for eligible not-for-profit organisations. Further details regarding eligibility may be obtained by contacting GWMWater on 1300 659 961.

RESIDENTIAL TENANTS

Tenants living in separately metered properties and who have signed a Residential Tenancy Agreement may be liable for water consumption. Tenants should notify GWMWater 48 hours prior to occupying or vacating a property so that a meter reading can be organised for you. Tenants vacating premises must provide a forwarding address.

ACCESS TO WATER METERS

If our meter readers are not able to access your meter, a card will be left at your property to advise that should you not contact us, an estimated account will be issued. This will be indicated on your account by an 'E' = Estimated Account. Estimated accounts are also issued where water meters have ceased to record consumption.

If you believe the estimate is not appropriate due to a change in circumstances, you may apply in writing to GWMWater for consideration of an amendment to your estimated account.

The next scheduled reading date is shown on your account. Please ensure that locked gates, dogs or other obstructions do not prevent access to your meter.

ENVIRONMENTAL CONTRIBUTION

Charges for water and wastewater services include a contribution toward GWMWater's environmental levy.

The environmental levy is a fee used to improve and protect our rivers and water courses, save water in homes and farms, and support water recycling services.

CHANGE OF ADDRESS

Please phone GWMWater on 1300 659 961 if your postal address has changed.

**In person**

Present this invoice intact to any post office or GWMWater, 11 McLachlan Street, Horsham



POSTbillpay Code: 0347
Ref: 0000002184142

Phone 13 18 16 or go to postbillpay.com.au

**Mail**

Tear off deposit slip and mail with cheque to GWMWater, PO Box 481, Horsham 3402

**Centrelink - Reference Number 555 062 362L**

To arrange regular deductions from your Centrelink payment please contact GWMWater on 1300 659 961 for an application.

**Direct debit**

To deduct payments directly from your bank account, contact GWMWater on 1300 659 961.



Bill Code: 79855
Ref: 2184141

Contact your participating bank, credit union or building society to pay this account from your cheque, savings or credit card account. Please quote biller code.



BPAY View®
View and pay this bill using internet banking.

Urban Water Account
15 Darlot Street HORSHAM VIC 3400



GWM Water

11 McLachlan Street (PO Box 481)
Horsham Victoria 3402

info@gwmwater.org.au
www.gwmwater.org.au

ABN: 35 584 588 263

tax invoice

account number

2138425

issue date

28/07/2023

Registration Code

billing and general enquiries

office hours: 1300 659 961

difficulties and faults

24 hours: 1800 188 586

Next Read: 30/09/2023

L Toy & J F Toy & M H Toy
8 Penny Avenue
HORSHAM VIC 3400

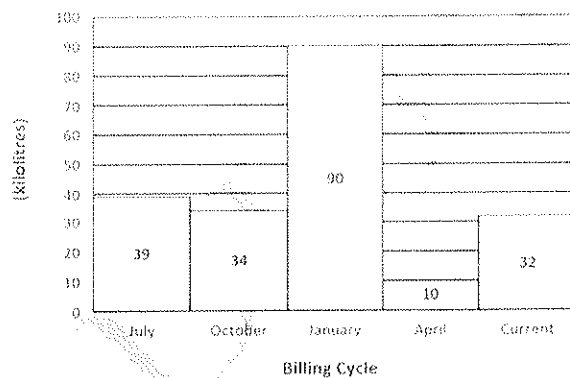
due date

31/08/2023

amount due

\$296.00

Your Usage in KiloLitres



Balance Brought Forward

Opening Balance \$258.77

Transactions since last Account -\$202.03

Current Charges

Sewer Service \$134.19

Water Service Charges \$105.07

Water Usage Charges \$0.00

Total \$239.26

Total Amount Due \$296.00

Total includes GST of \$0.00

Penalty interest of 5.3 % per annum will apply to overdue balances

**TARGET YOUR
WATER USE**



Use water wisely: www.targetyourwateruse.vic.gov.au

payment slip

L Toy & J F Toy & M H Toy



*347 0000000000002138423

account number

2138425

amount due

\$296.00

amount being paid

If eligible and your concession has not
been deducted please call 1300 659 961.
Please see reverse for details.

Please see over for payment options

SEWER SERVICE

Service No	Date From	Date To	Days	Rate	Amount
133830	01/07/2023	30/09/2023	91 @	\$1.4746 per day	\$ 134.19

WATER SERVICE

Service No	Size	Date From	Date To	Days	Rate	Amount
133830	20.00mm	01/07/2023	30/09/2023	91 @	\$1.1546 per day	\$ 105.07

WATER USAGE

Service No	Meter Number	Previous Date	Previous Reading	Current Date	Current Reading	Consumption (Kilolitres)	Amount
133830	NOMETER	01/07/2023	0	05/07/2023	0	0.00 @\$0.0000/kL	\$ 0.00
133830	NOMETER	04/04/2023	0	30/06/2023	0	0.00 @\$0.0000/kL	\$ 0.00

Transactions since last Account

DATE	DESCRIPTION	AMOUNT
13/06/2023	Receipt via BPay	-\$258.77
		-\$258.77

PLEASE NOTE

Payments made in the last 7 days may not have been credited to your account prior to issuing this invoice.

PAYMENT PLANS

Payment plans are available should you wish to pay by instalments. Please contact us on 1300 659 961.

FINANCIAL HARDSHIP

If you are experiencing genuine financial hardship in paying your account, GWMWater may be able to assist you. Please contact us on 1300 659 961. You can be assured of sympathetic and confidential consideration of your circumstances.

LATE PAYMENT PENALTIES

Payments not received by 5 pm on the due date shown on the front of this account will incur an interest penalty calculated from the date of issue of this account.

ADDITIONAL SERVICES

To access our Translating and Interpreting Service contact 131 459 and ask to be connected to 1300 659 961.

Deaf, hearing impaired or speech/communication impaired customers may call the National Relay Service (TTY service) by dialling 133 677 and quoting 1300 659 961.

For 24 hour difficulties and faults, please contact 1800 188 586

PENSIONER AND CONCESSION CARD REBATE

Concession entitlements include all eligible pensioners and health care card holders. Cardholders already registered with GWMWater will automatically receive concessions on each account.

By claiming a concession, you will be authorising GWMWater to confirm your eligibility with Centrelink or the Department of Veterans Affairs. This consent will be ongoing and can be revoked by Department of Human Services, Department of Veterans Affairs or by contacting GWMWater on 1300 659 961.

WATER AND SEWERAGE REBATE SCHEME

The State Government offers a rebate on fixed water and wastewater services charges for eligible not-for-profit organisations. Further details regarding eligibility may be obtained by contacting GWMWater on 1300 659 961.

RESIDENTIAL TENANTS

Tenants living in separately metered properties and who have signed a Residential Tenancy Agreement may be liable for water consumption. Tenants should notify GWMWater 43 years prior to occupying or vacating a property so that a meter reading can be organised for you. Tenants vacating premises must provide a forwarding address.

ACCESS TO WATER METERS

If our meter readers are not able to access your meter, a card will be left at your property to advise that should you not contact us, an estimated account will be issued. This will be indicated on your account by an 'E' - Estimated Account. Estimated accounts are also issued where water meters have ceased to record consumption.

If you believe the estimate is not appropriate due to a change in circumstances, you may apply in writing to GWMWater for consideration of an amendment to your estimated account.

The next scheduled reading date is shown on your account. Please ensure that locked gates, dogs or other obstructions do not prevent access to your meter.

ENVIRONMENTAL CONTRIBUTION

Charges for water and wastewater services include a contribution toward GWMWater's environmental contribution levy.

The environmental contribution levy will be used to improve and protect our rivers and water sources, save water in homes and farms, and support water recycling initiatives.

CHANGE OF ADDRESS

Please phone GWMWater on 1300 659 961 if your postal address has changed.



In person

Present this invoice intact to any post office or GWMWater, 11 McLachlan Street, Horsham



Mail

Tear off deposit slip and mail with cheque to GWMWater, PO Box 481, Horsham 3402



Direct debit

To deduct payments directly from your bank account, contact GWMWater on 1300 659 961.



POSTbillpay Code: 0347
Ref: 0000002138423

Phone 13 18 16 or go to postbillpay.com.au



Centrelink - Reference Number 555 062 362L

To arrange regular deductions from your Centrelink payment, please contact GWMWater on 1300 659 961 for an application.



Bill Code: 79855
Ref: 2138425

Contact your participating bank, credit union or building society to pay this account from your cheque, savings or credit card account. Please quote biller code.



BPAY View®
View and pay this bill using internet banking.

Urban Water Account
17 Darlot Street HORSHAM VIC 3400



GWM Water

11 McLachlan Street (PO Box 481)
Horsham Victoria 3402

info@gwmwater.org.au
www.gwmwater.org.au

ABN: 35 584 588 263

tax invoice

account number

2138468

issue date

28/07/2023

Registration Code

billing and general enquiries

office hours: 1300 659 961

difficulties and faults

24 hours: 1800 188 586

Next Read: 30/09/2023

L Toy
8 Penny Avenue
HORSHAM VIC 3400

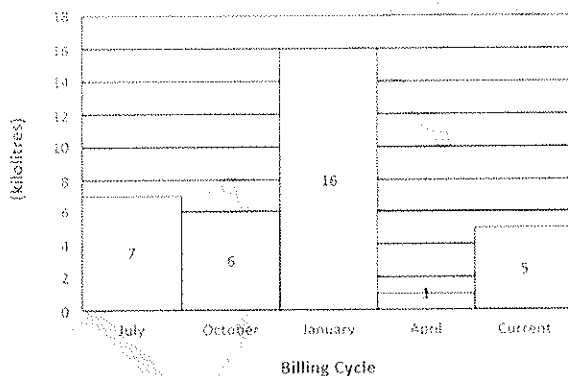
due date

31/08/2023

amount due

\$249.27

Your Usage in KiloLitres



Balance Brought Forward

Opening Balance	\$244.01
Transactions since last Account	-\$234.00

Current Charges

Sewer Service	\$134.19
Water Service Charges	\$105.07
Water Usage Charges	\$0.00
Total	\$239.26

Total Amount Due	\$249.27
-------------------------	-----------------

Total includes GST of	\$0.00
-----------------------	--------

Penalty interest of 5.3 % per annum will apply to overdue balances

**TARGET YOUR
WATER USE**



Use water wisely: www.targetyourwateruse.vic.gov.au

payment slip

L Toy



*347 0000000000002138464

account number

2138468

amount due

\$249.27

If eligible and your concession has not
been deducted please call 1300 659 961.
Please see reverse for details.

amount being paid

Please see over for payment options

SEWER SERVICE

Service No	Date From	Date To	Days	Rate	Amount
133834	01/07/2023	30/09/2023	91 @	\$1.4746 per day	\$ 134.19

WATER SERVICE

Service No	Size	Date From	Date To	Days	Rate	Amount
133834	20.00mm	01/07/2023	30/09/2023	91 @	\$1.1546 per day	\$ 105.07

WATER USAGE

Service No	Meter Number	Previous Date	Previous Reading	Current Date	Current Reading	Consumption (Kilolitres)	Amount
133834	NOMETER	01/07/2023	0	05/07/2023	0	0.00 @\$0.0000/kL	\$ 0.00
133834	NOMETER	04/04/2023	0	30/06/2023	0	0.00 @\$0.0000/kL	\$ 0.00

Transactions since last Account

DATE	DESCRIPTION	AMOUNT
19/06/2023	Receipt via BPay	-\$244.01
		-\$244.01

PLEASE NOTE

Payments made in the last 7 days may not have been credited to your account prior to issuing this invoice.

PAYMENT PLANS

Payment plans are available should you wish to pay by instalments. Please contact us on 1300 659 961.

FINANCIAL HARDSHIP

If you are experiencing genuine financial hardship in paying your account, GWMWater may be able to assist you. Please contact us on 1300 659 961. You can be assured of sympathetic and confidential consideration of your circumstances.

LATE PAYMENT PENALTIES

Payments not received by 5 pm on the due date shown on the front of this account will incur an interest penalty calculated from the date of issue of this account.

ADDITIONAL SERVICES

To access our Translating and Interpreting Service contact 131 450 and ask to be connected to 1300 659 961.

Deaf, hearing impaired or speech/communication impaired customers may call the National Relay Service (TTY service) by dialling 133 677 and quoting 1300 659 961.

For 24 hour difficulties and faults, please contact 1800 188 586

PENSION AND CONCESSION CARD REBATE

Concession entitlements include all eligible pensioners and health care card holders. Cardholders already registered with GWMWater will automatically receive concessions on each account.

By claiming a concession, you will be authorising GWMWater to confirm your eligibility with Centrelink or the Department of Veterans Affairs. This consent will be ongoing and can be revoked by Department of Human Services, Department of Veterans Affairs or by contacting GWMWater on 1300 659 961.

WATER AND SEWERAGE REBATE SCHEME

This State Government offers a rebate on fixed water and wastewater services charges for eligible not-for-profit organisations. Further details regarding eligibility may be obtained by contacting GWMWater on 1300 659 961.

RESIDENTIAL TENANTS

Tenants living in separately metered properties and who have signed a Residential Tenancy Agreement may be liable for water consumption. Tenants should notify GWMWater 48 hours prior to occupying or vacating a property so that a meter reading can be organised for you. Tenants vacating premises must provide a forwarding address.

ACCESS TO WATER METERS

If our meter readers are not able to access your meter, a card will be left at your property to advise that should you not contact us, an estimated account will be issued. This will be indicated on your account by an E = Estimated Account. Estimated accounts are also issued where water meters have ceased to record consumption.

If you believe the estimate is not appropriate due to a change in circumstances, you may apply in writing to GWMWater for consideration of an amendment to your estimated account.

The next scheduled reading date is shown on your account. Please ensure that locked gates, dogs or other obstructions do not prevent access to your meter.

ENVIRONMENTAL CONTRIBUTION

Charges for water and sewerage services include a contribution towards GWMWater's environmental contribution levy.

The environmental contribution levy will be used to improve and protect our rivers and water resources, save water in homes and firms, and support water recycling initiatives.

CHANGE OF ADDRESS

Please phone GWMWater on 1300 659 961 if your postal address has changed.

**In person**

Present this invoice intact to any post office or GWMWater, 11 McLachlan Street, Horsham



POSTbillpay Code: 0347

Ref: 0000002138464

Phone 13 18 16 or go to postbillpay.com.au

**Mail**

Tear off deposit slip and mail with cheque to GWMWater, PO Box 481, Horsham 3402



Centrelink - Reference Number 555 062 362L

To arrange regular deductions from your Centrelink payment please contact GWMWater on 1300 659 961 for an application.

**Direct debit**

To deduct payments directly from your bank account, contact GWMWater on 1300 659 961.



Billir Code: 79855

Ref: 2138468

Contact your participating bank, credit union or building society to pay this account from your cheque, savings or credit card account. Please quote biller code.



BPAY View®
View and pay this bill using internet banking.

Lease of Real Estate

with Guarantee & Indemnity

(Commercial Property)

Law Institute of Victoria
May 2021 Revision

Landlord:	JOSEPH FON TOY, SUSAN TOY, LEON TOY and MAY HAR TOY
Tenant:	YUAN LI
Premises:	15 DARLOT STREET, HORSHAM VIC 3400



POWER & BENNETT
LAWYERS

12 PYNSSENT STREET
HORSHAM VIC 3400
TEL: (03) 5382 0061

EMAIL: john@powerandbennett.com.au
REF: JJA:CR:221828

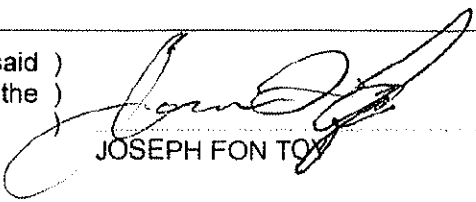
EXECUTED AS A DEED ON:

Date: 8/ 3 / 2023

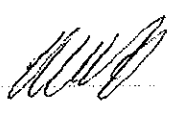
EXECUTION & ATTESTATION

LANDLORD

SIGNED SEALED AND DELIVERED by the said)
JOSEPH FON TOY and SUSAN TOY in the)
presence of:


JOSEPH FON TOY

Witness


Print Name

Print Usual Address


SUSAN TOY

SIGNED SEALED AND DELIVERED by the said)
LEON TOY and MAY HAR TOY in the presence of:)


LEON TOY

Witness


Print Name

Print Usual Address


MAY HAR TOY

TENANT

SIGNED SEALED AND DELIVERED by the said)
YUAN LI in the presence of:)


YUAN LI

Witness


Print Name

Print Usual Address

64 Mcdachlan Street, Horsham VIC 3400

Schedule

Item 1
[1.1]

Landlord:

JOSEPH FON TOY, SUSAN TOY, LEON TOY and MAY HAR TOY
of C/- 8 Penny Avenue, Horsham VIC 3400

Item 2
[1.1]

Tenant:

YUAN LI
of 14 Bodey Court, Horsham VIC 3400

Item 3
[1.1]

Guarantor:

Not Applicable

Item 4
[1.1]

(a) Premises:

15 Darlot Street, Horsham VIC 3400 (see attached plan)

together with the right to use the common areas of the building (being those parts of the **building** not leased to any tenant and intended for use by the **landlord** and tenants of the building) in common with other persons entitled to use them, reserving unto the **landlord** and persons claiming through or authorised by the **landlord**, the use of the exterior walls and roof of the **building** and the right to install, replace and maintain pipes, conduits and wires leading through the **premises** and to pass any service through them and to enter into the **premises** for any such purposes

(b) Land:

Part of Lot 1 on Title Plan 679026E being the land described in Certificate of Title Volume 7116 Folio 125

Item 5
[1.1]

Landlord's installations:

Fixtures and fittings as presently existing at the premises as installed by the **landlord**

Item 6
[1.1]

Rent:

First Year - 1 March 2023 to 29 February 2024

- 1 March 2023 to 30 April 2023
\$500.00 per calendar month excluding GST
- 1 May 2023 to 29 February 2024
\$1,000.00 per calendar month excluding GST

Second Year - 1 March 2024 to 28 February 2025

\$1,000.00 per calendar month excluding GST

Third Year - 1 March 2025 to 28 February 2026

\$1,000.00 per calendar month excluding GST

GST is payable in addition to the rent, if applicable

Item 7
[1.1]

Tenant's installations:

As installed by the **tenant**

Item 8
[1.1]

Term of the lease:

Three (3) years starting on 1 March 2023 and ending on 28 February 2026

Item 9
[2.1.1]

How rent is to be paid:

Calendar monthly in advance on the 1st day of each calendar month directly to the landlord's agent, Wes Davidson Real Estate of 71 Wilson Street, Horsham VIC 3400 (with the first rental payment being due on 1 March 2023)

Item 10
[1.1,
2.1.2,
2.1.5 &
5.4]

Building outgoings which the tenant must pay or reimburse:

Premises consist of only a part of the lettable area of the building

Tenant's proportion of building outgoings -

- (a) in relation to **building outgoings** that benefit all of the premises in the **building** 33.33%;
- (b) in relation to **building outgoings** that benefit only the **premises**: 100%

Item 11
[1.1 &
6.2]

Risks which the insurance policies must cover:

- Fire
- Storm and Tempest
- Explosion
- Malicious Damage

and such other risks as the **landlord** reasonably requires from time to time

Item 12
[2.2.1]

Permitted use:

Food Service/Restaurant

Item 13
[2.1.1,
11, 17]

Review date(s):

Term

- (a) *Market review date(s):*
Not Applicable
- (b) *CPI review date(s):*
Not Applicable
- (c) *Fixed review date(s) and percentage or fixed amount increases:*
Not Applicable

Further term(s)

- (a) *Market review date(s):*
Not Applicable
- (b) *CPI review date(s):*
At the commencement of each further term:
First Further Term 1 March 2026
Second Further Term 1 March 2029
- (c) *Fixed review date(s) and percentage or fixed amount increases:*
Not Applicable

Item 14
[2.1.1,
11, 17]

Who may initiate reviews:

<i>Market review:</i>	Not Applicable
<i>CPI review:</i>	Review is automatic
<i>Fixed review:</i>	Not Applicable

Item 15
[12]

Further term(s):

Two (2) further terms of Three (3) years each:

First Further Term	From 1 March 2026 to 28 February 2029
Second Further Term	From 1 March 2029 to 29 February 2032

Earliest and latest dates for exercising option for renewal:

First Further Term	Earliest Date:	31 August 2025
	Latest Date:	30 November 2025
Second Further Term	Earliest Date:	31 August 2028
	Latest Date:	30 November 2028

Item 16
[13]

Security deposit:

Not Applicable

Item 17
[20]

Additional provisions:

1. **Insurance**

With respect to insurance requirements of this Lease, it is acknowledged:

- (a) Clause 2.3.1 shall be read and construed to also include reference to insurance for replacement of broken/damaged glass and windows, including plate glass windows. Therefore, the **tenant** is responsible for effecting public risk insurance with cover in the amount of \$20 million and breakage of glass insurance (which must note the **landlord's** interest) (refer clause 2.3).
- (b) The **landlord** is responsible for effecting building insurance, with covers satisfactory to the **landlord** (refer clause 6.2 and Item 11).
- (c) The **tenant** is not required to reimburse to the **landlord** the expense of the **landlord's** building insurance.
- (d) The **tenant** will be responsible for payment of the **landlord's** excesses on claims.

2. **Application of the Act**

The parties consider that the **Act** does apply to this Lease.

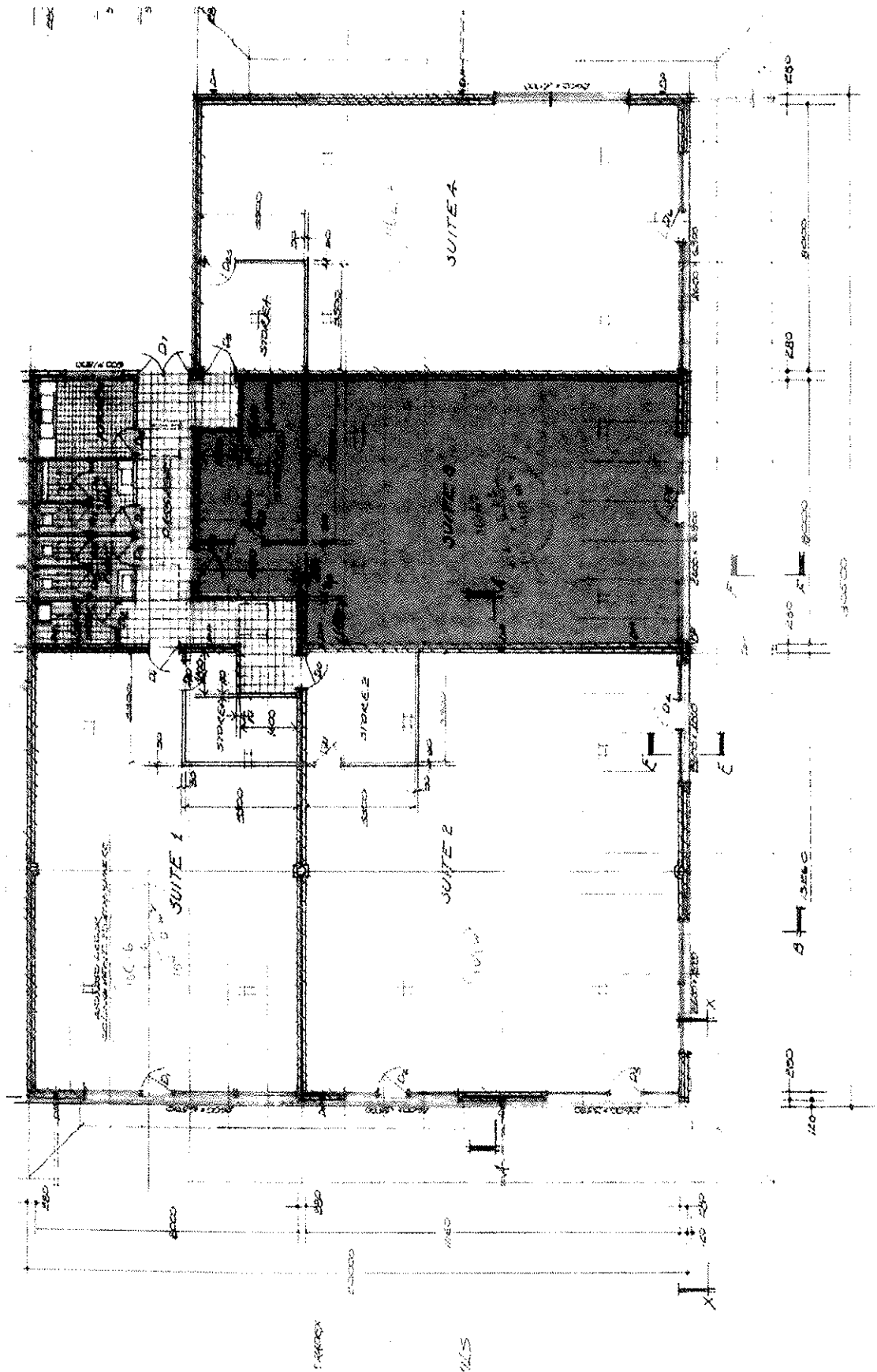
3. **Landlord Agreements**

The **landlord** agrees to install a split system air-conditioner at the **premises**, at the **landlord's** expense.

PLAN OF PREMISES

15 Darlot Street, Horsham

Common Areas



GROUND PLAN

Contents

1. DEFINITIONS AND INTERPRETATION	
2. TENANT'S PAYMENT, USE AND INSURANCE OBLIGATIONS	
2.1 Payment and use obligations	
2.2 Negative use obligations	
2.3 Tenant's insurance	
3. REPAIRS, MAINTENANCE, FIRE PREVENTION AND REQUIREMENTS OF AUTHORITIES	
3.1 Tenant's general repair obligations	
3.2 Tenant's specific repair obligations	
3.3 Exceptions to tenant's obligations	
4. LEASE TRANSFERS, SUBLETTING ETC	
4.1 No transfer or subletting	
4.2 Landlord's consent	
4.3 Request for consent	
4.4 Deemed consent	
4.5 Execution of document	
4.6 Payment of landlord's expenses	
4.7 No licence or sharing arrangements	
4.8 Obligations of transferor after transfer	
5. GENERAL AGREEMENTS BETWEEN LANDLORD AND TENANT	
5.1 Yield up when lease ends	
5.2 Abandoned Items	
5.3 Release and indemnity by tenant	
5.4 Building outgoing	
5.5 Transfer of premises by landlord	
5.6 Payment of cheque	
6. LANDLORD'S OBLIGATIONS	
6.1 Quiet possession	
6.2 Landlord's insurance	
6.3 Mortgagee's consent	
6.4 Landlord's repair obligations	
7. EVENTS OF DEFAULT AND LANDLORD'S RIGHTS	
7.1 Termination by landlord for default	
7.2 Damages	
7.3 Section 146 Property Law Act 1958	
7.4 Essential terms	
7.5 Notice before termination for repudiation or event to which section 146 does not apply	
7.6 Effect of non-enforcement	
7.7 Waiver	
8. DESTRUCTION OR DAMAGE	
8.1 Abatement in case of damage	
8.2 Reinstatement where premises not substantially destroyed	
8.3 Substantial destruction	
8.4 Insurance cover denied due to tenant act or omission	
8.5 Resolution of disputes	
9. CONSENTS AND WARRANTIES	
9.1 Consents and approvals	
9.2 Whole agreement	
10. OVERHOLDING AND ABANDONMENT OF THE PREMISES	
10.1 Holding over	
10.2 Certain conduct not waiver	
11. RENT REVIEWS TO MARKET	
11.1 Market review procedure	
11.2 Determination binding	
11.3 Valuer's fee	
11.4 Rent pending determination	
11.5 Delay in market review	
12. FURTHER TERM(S)	
12.1 Exercise of option to renew	
12.2 Terms of renewed lease	
12.3 Director's guarantees	
13. SECURITY DEPOSIT	
13.1 Payment of security deposit	
13.2 Interest on security deposit	
13.3 Use of security deposit	
13.4 Refund of unused security deposit	
13.5 Bank guarantee as security deposit	
13.6 Replacement guarantee on change of landlord	
14. NOTICES	
14.1 Service of notices	
14.2 Time notices served	
14.3 Notices by email	
15. OBLIGATIONS OF GUARANTOR(S) UNDER GUARANTEE AND INDEMNITY	
15.1 Guarantee and indemnity	
15.2 Guarantee and indemnity not affected by certain events	
15.3 Insolvency of tenant	
15.4 Unenforceability of tenant's obligations	
15.5 Multiple guarantors	
15.6 Deemed breaches of lease	
16. GST	
16.1 Terms used	
16.2 Amounts GST exclusive	
16.3 Recipient of supply to pay amount for GST	
16.4 Reimbursements	
16.5 Tax Invoice	

Contents

17. CONSUMER PRICE INDEX

- 17.1 CPI formula
- 17.2 Delay in publications of index
- 17.3 Change in CPI basis
- 17.4 CPI discontinued
- 17.5 No decrease unless Act applies

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

- 18.1 Application of clause
- 18.2 Naming rights and logos
- 18.3 External surfaces and outside areas
- 18.4 Landlord reserves certain rights
- 18.5 No obstruction of common areas
- 18.6 Building rules

19. PERSONAL PROPERTY SECURITIES ACT

- 19.1 Interpretation
- 19.2 Landlord may register financing statement
- 19.3 When lease ends
- 19.4 Tenant to co-operate
- 19.5 Tenant not to register
- 19.6 Tenant to pay landlord's expenses
- 19.7 Confidentiality
- 19.8 Service of PPSA notices

20. ADDITIONAL PROVISIONS

21. ELECTRONIC SIGNATURE

- 21.1 Consent
- 21.2 Signatory's warranty
- 21.3 Counterparts
- 21.4 Electronic exchange
- 21.5 Physical counterparts

22. LANDLORD WARRANTY

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, agrees 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 in **bold print** 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</i> (Vic)
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) incurred in respect of the land , the building , the premises or any premises in the building which include the premises (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 - (i) damage to and destruction of the premises for their replacement value for the risks listed in item 11; (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 - (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

	(g) if the premises comprise only a part of the lettable area of the building , costs of whatever description, reasonably incurred by the landlord in the administration, management or operation of the land , the building and the premises including accountancy and audit fees,
	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 an 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 13(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 13(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 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 13(a)
permitted use	the use specified in item 12
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 6 , as varied in accordance with this lease
review date	a date specified in item 13

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 7 and those introduced by the tenant after the lease starts
term	the period stated in item 8
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 9** 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 13** -
 - (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 13** 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 10** 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 that is 2% more than 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 stamp duty on this lease, on any renewal, and any additional stamp duty after a review of **rent**.
- 2.1.10 subject to clauses 3.3.2 and 3.3.3, comply with all laws 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 to be 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 an insurance cover for the **premises** in the name of the **tenant** and noting the interest of the **landlord**, for public risk for any single event \$20 million, with an extension which includes the indemnities given by the **tenant** to the **landlord** in clauses 5.3.2 and 5.3.3 of this lease to the extent that such an extension is procurable on reasonable terms in the Australian insurance market.

2.3.2 maintain the insurance cover with an 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 that applicable legislation makes the responsibility of the **landlord**.

3.2 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.

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 the 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 workmen 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.

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 3 months before the end of the **term** (unless the **tenant** has exercised an option to renew this lease)
 and to affix "for sale" or "to let" signs in a way that does not unduly interfere with the **permitted use**.
- 3.2.15 maintain any grounds and gardens of the **premises** in good condition, tidy, free from weeds and well-watered.
- 3.2.16 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** use of the **premises**, other than reasonable use for the **permitted use**, 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 that applicable legislation 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, subtenant or licensee proposes to use the **premises** in a way permitted under 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**, the **tenant**, the 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, sub-lessee or licensee (if it is a corporation) must execute a guarantee and indemnity in the terms of clause 15.
- 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 stamp 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.
- 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 and indemnifies the **landlord** against all claims resulting from incidents occurring on the **premises** (except to the extent caused or contributed to by the **landlord**, or a person for whom the **landlord** is responsible) 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**
- 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 10.
- 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 three 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 outgoing** 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 The **landlord** must take out at the start of the **term** and keep current policies of insurance for the risks listed in item 11 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 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 if the **tenant** is a public company listed on a recognised Australian public securities exchange, or a subsidiary of one, 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.
- 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.
- 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
 - 8.3.2 if the reinstatement does not start within 3 months, or is not likely to be completed within 9 months, the **landlord** or the **tenant** may end this lease by giving the other written notice.

- 8.4 The **tenant** will not be entitled to suspension of **rent** or **building outgoings** under sub-clause 8.1.1 nor to end the lease under sub-clause 8.3.2 and the **landlord** will not be obliged to reinstate the **premises** or the **building** under clause 8.2 if payment of an insurance claim is properly refused in respect of the damage or destruction because of any act or omission by the **tenant** or the **tenant's agents**.
- 8.5 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 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

- 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,
- 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, and
- 10.1.4 the **landlord** may increase the monthly **rent** by giving the **tenant** one month's written notice.
- 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 14 states otherwise but, if the **Act** applies, review is mandatory.

11.1.2 the **landlord or 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. If the **Act** does not apply and the recipient of the notice does not object in writing to the proposed rent within 14 days the proposed **rent** becomes the **rent** for the review period.

11.1.3 If -

- (a) the **Act** does not apply and the recipient of the notice serves an objection to the proposed rent within 14 days and the **landlord and tenant** do not agree on the **rent** within 14 days after the objection is served, or
- (b) the **Act** applies and 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**.

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 objection is served, 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.

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 started more than 12 months after the **market review date**, the review takes effect only from the date on which it is started.

12. FURTHER TERM(S)

12.1 The **tenant** has an option to renew this lease for the further term or terms stated in **item 18** and the **landlord** must renew this lease for the further term immediately following the **term** 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) more than 6 months nor less than 3 months before the end of the **term**.

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 13**, 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 15 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** is a corporation and was required to provide directors' guarantees for this lease, the **tenant** must provide guarantees of its obligations under the renewed lease by its directors, 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 16 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.

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 under this lease may be served or 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 fifth day after posting that is not a Saturday, Sunday or bank holiday in the 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.

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 any 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 this clause 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** 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 **landlord** may change the **building rules** from time to time and the **tenant** will be bound by a change when it receives written notice of it. The **landlord** must not adopt a **building rule** or change the **building rules** in a way that is inconsistent with this lease. To the extent that a **building rule** is inconsistent with this lease, the lease prevails.

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 evidenced 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 The **tenant** must pay the **landlord's** reasonable expenses and legal costs in respect of anything done or attempted by the **landlord** in the exercise of its rights or performance of its obligations under this clause or the **PPSA**,
except the **landlord's** costs of registering a financing statement under sub-clause 20.2 which are to be borne by the **landlord**.
- 19.7 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).
- 19.8 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 22 appearing in this lease are identical to clauses 1 to 22 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.

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

**Law Institute of Victoria
May 2021 Revision**

Landlord:	JOSEPH FON TOY, SUSAN TOY, LEON TOY and MAY HAR TOY
Tenant:	PETER IAN McFARLANE and DONNA MAREE McFARLANE
Premises:	55B ROBERTS AVENUE, HORSHAM VIC 3400


POWER & BENNETT
LAWYERS
12 PYNSENT STREET
HORSHAM VIC 3400
TEL: (03) 5382 0061
EMAIL: john@powerandbennett.com.au
REF: JJA:CR:230906

EXECUTED AS A DEED ON:

Date 30 08 / 2023

EXECUTION & ATTESTATION

LANDLORD

SIGNED SEALED AND DELIVERED by the said)
JOSEPH FON TOY and SUSAN TOY in the)
presence of:

JOSEPH FON TOY

SUSAN TOY

Witness

MELIKA TOY

Print Name

8 PENNY AVE, HORSHAM

Print Usual Address

SIGNED SEALED AND DELIVERED by the said)
LEON TOY and MAY HAR TOY in the presence of:)

LEON TOY

MAY HAR TOY

Witness

MELIKA TOY

Print Name

8 PENNY AVE, HORSHAM

Print Usual Address

TENANT

SIGNED SEALED AND DELIVERED by the said)
PETER IAN McFARLANE and DONNA MAREE)
McFARLANE in the presence of:

PETER IAN McFARLANE

DONNA MAREE McFARLANE

Witness

KYLIE HORTON

Print Name

71 WILSON ST, HORSHAM

Print Usual Address

Wes Davidson Real Estate Pty Ltd
ABN 92 677 658 175 ACN 060 631 156
71 Wilson Street Horsham 3400
P: (03) 5382 0000 F: (03) 5382 0600
E: info@wdre.com.au

Schedule

Item 1
[1.1]

Landlord:

JOSEPH FON TOY and SUSAN TOY of 33 Major Mitchell Drive, Horsham VIC 3400
and
LEON TOY and MAY HAR TOY of 8 Penny Avenue, Horsham VIC 3400
ABN 67 304 980 046

Item 2
[1.1]

Tenant:

PETER IAN McFARLANE and DONNA MAREE McFARLANE
of 4501 Plenty Highway, Haven VIC 3401
ABN 59 382 362 188

Item 3
[1.1]

Guarantor:

Not Applicable

Item 4
[1.1]

(a) Premises:

55B Roberts Avenue, Horsham VIC 3400 as detailed on the attached plan
together with the right to use the common areas of the **building** (being those parts
of the **building** not leased to any tenant and intended for use by the **landlord** and
tenants of the **building**) in common with other persons entitled to use them,
reserving unto the **landlord** and persons claiming through or authorised by the
landlord, the use of the exterior walls and roof of the **building** and the right to install,
replace and maintain pipes, conduits and wires leading through the **premises** and
to pass any service through them and to enter into the **premises** for any such
purposes

(b) Land:

Part of Lot 1 on Title Plan 679026E (formerly known as part of Crown Allotment 2
Section 3 Township and Parish of Horsham) being part of the land comprised and
described in Certificate of Title Volume 7116 Folio 125

Item 5
[1.1]

Landlord's Installations:

Fixtures and fittings as presently existing at the premises as installed by the **landlord**

Item 6
[1.1]

Rent:

\$1,000.00 per calendar month excluding GST

Note: The Landlord is not currently registered for GST and therefore GST is not applicable

Item 7
[1.1]

Tenant's installations:

As installed by the **tenant**

Item 8
[1.1]

Term of the lease:

Six (6) months starting on 1 July 2023 and ending on 31 December 2023

Item 9
[2.1.1]

How rent is to be paid:

Calendar monthly in advance on the 1st day of each calendar month directly to the
landlord's agent, Wes Davidson Real Estate of 71 Wilson Street, Horsham VIC 3400 (with
the first rental payment being due on 1 July 2023)

Item 10
[1.1,
2.1.2,
2.1.5 &
5.4]

Building outgoings which the tenant must pay or reimburse:

100% of all **building outgoings** applicable to the **premises**, including:

- Municipal rates and charges
- Water and sewerage rates and charges including consumption and disposal charges per Item 17 Additional Provision 3
- Insurances as detailed herein
- All electricity, telephone, gas and like expenses
- Repairs, maintenance and other outgoings as detailed herein

Item 11
[1.1 &
6.2]

Risks which the insurance policies must cover:

- Fire
- Storm and Tempest
- Explosion
- Malicious Damage

and such other risks as the **landlord** reasonably requires from time to time

Item 12
[2.2.1]

Permitted use:

Retail

Item 13
[2.1.1,
11, 17]

Review date(s):

Term

(a) *Market review date(s):*

Not Applicable

(b) *CPI review date(s):*

Not Applicable

(c) *Fixed review date(s) and percentage or fixed amount increases:*

Not Applicable

Further term(s)

(a) *Market review date(s):*

At the commencement of the further term:

Second Further Term 1 January 2025

(b) *CPI review date(s):*

Not Applicable

(c) *Fixed review date(s) and percentage or fixed amount increases:*

At the commencement of the further term:

First Further Term 1 January 2024 5% fixed increase

Third Further Term 1 January 2026 5% fixed increase

Item 14
[2.1.1,
11, 17]

Who may initiate reviews:

Market review: Landlord, subject to **Act**, if it applies

CPI review: Not Applicable

Fixed review: Review is automatic

Item 15
[12]

Further term(s):

Three (3) further terms of One (1) year each:

First Further Term	From 1 January 2024 to 31 December 2024
Second Further Term	From 1 January 2025 to 31 December 2025
Third Further Term	From 1 January 2026 to 31 December 2026

Earliest and latest dates for exercising option for renewal:

First Further Term	Earliest Date:	30 June 2023
	Latest Date:	30 September 2023
Second Further Term	Earliest Date:	30 June 2024
	Latest Date:	30 September 2024
Third Further Term	Earliest Date:	30 June 2025
	Latest Date:	30 September 2025

Item 16
[13]

Security deposit:

Not Applicable

Item 17
[20]

Additional provisions:

1. **Insurance**

With respect to insurance requirements of this Lease, it is acknowledged:

- (a) Clause 2.3.1 shall be read and construed to also include reference to insurance for replacement of broken/damaged glass and windows, including plate glass windows. Therefore, the **tenant** is responsible for effecting public risk insurance with cover in the amount of \$20 million and breakage of glass insurance (which must note the **landlord's** interest) (refer clause 2.3).
- (b) The **landlord** is responsible for effecting building insurance, with covers satisfactory to the **landlord** (refer clause 6.2 and Item 11).
- (c) The **tenant** is not required to reimburse to the **landlord** the expense of the **landlord's** building insurance.
- (d) The **tenant** will be responsible for payment of the **landlord's** excesses on claims.

2. **Application of the Act**

The parties consider that the **Act** does apply to this Lease.

3. **Five-Year Waiver Certificate**

- (a) The parties acknowledge that the **tenant** has statutory right to a minimum five year term (inclusive of further terms).
- (b) The **landlord** and **tenant** have agreed to enter into this lease for a total term of less than five years.
- (c) Upon execution of this **lease** by the **tenant**, the **tenant** agrees to apply to the Victorian Small Business Commission (VSBC) for a five-year waiver certificate by completing and submitting the five-year waiver certificate online application form at www.vsbcc.vic.gov.au and the **tenant** agrees to use its best endeavours to obtain such waiver certificate.
- (d) The **tenant** agrees to provide a copy of the five-year waiver certificate to the **landlord** or the **landlord's** legal representative.

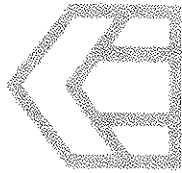
4. **Water Rates and Charges**

With respect to water rates and charges:

- (a) It is acknowledged that there is only the one water meter for water supplied to potentially four separate shops/occupancies.
- (b) The **tenant** agrees to pay, when requested:
 - (i) Any GWMWater water and sewerage service charges separately rated to 55B Roberts Avenue, Horsham;

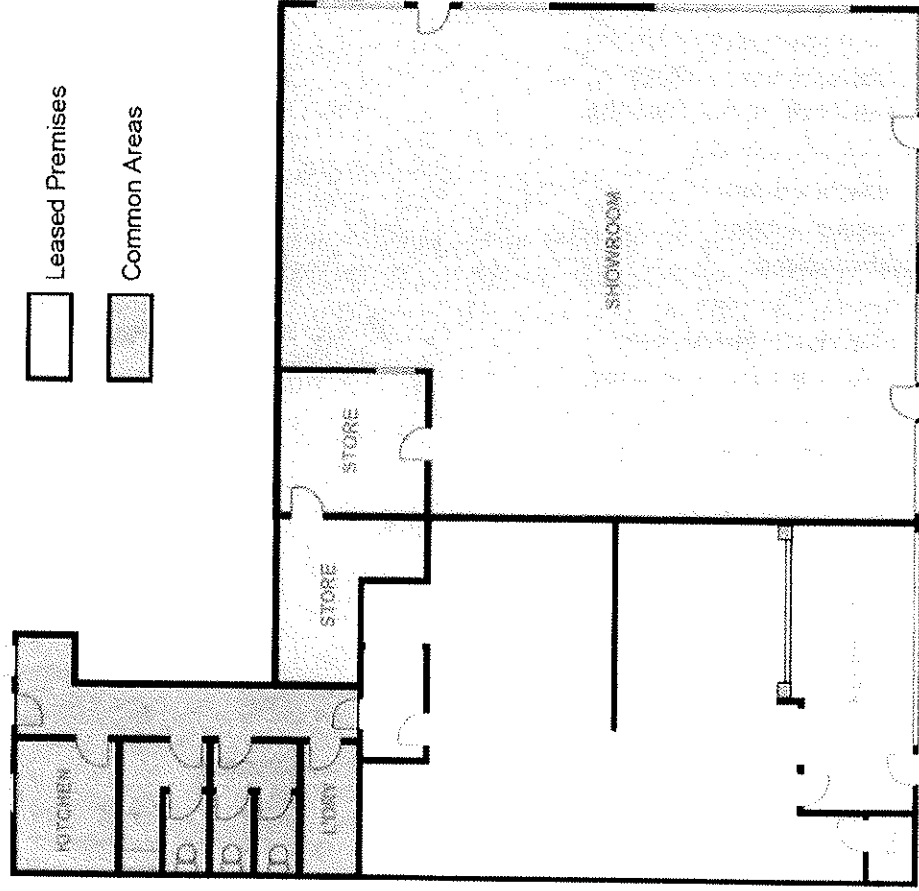
Additional provisions: *continued*

- (ii) If 55B Roberts Avenue, Horsham is not separately rated for water and sewerage service charges, then a contribution of one-quarter to quarterly water and sewerage charges;
- (iii) A contribution to the water usage charged by GWMWater to the **landlord's** shops at corner Roberts Avenue and Darlot Street, Horsham based on fair and reasonable estimate of **tenant's** own usage as agreed between the parties, or failing agreement, an amount not exceeding a one-quarter share of the said usage charges.



WES DAVIDSON
REAL ESTATE

55B ROBERTS AVENUE
HORSHAM



FLOOR PLANS/SITE PLANS ARE INTENDED AS A GENERAL GUIDE ONLY. NO REPRESENTATIONS OR WARRANTIES OF ANY NATURE WHATSOEVER ARE GIVEN OR INTENDED AND ANY PERSON USING THIS INFORMATION SHOULD ALWAYS RELY ON THEIR OWN ENQUIRIES.

Contents

1. DEFINITIONS AND INTERPRETATION	
2. TENANT'S PAYMENT, USE AND INSURANCE OBLIGATIONS	
2.1 Payment and use obligations	8.4 Insurance cover denied due to tenant act or omission
2.2 Negative use obligations	8.5 Resolution of disputes
2.3 Tenant's insurance	9. CONSENTS AND WARRANTIES
3. REPAIRS, MAINTENANCE, FIRE PREVENTION AND REQUIREMENTS OF AUTHORITIES	9.1 Consents and approvals
3.1 Tenant's general repair obligations	9.2 Whole agreement
3.2 Tenant's specific repair obligations	10. OVERHOLDING AND ABANDONMENT OF THE PREMISES
3.3 Exceptions to tenant's obligations	10.1 Holding over
4. LEASE TRANSFERS, SUBLETTING ETC	10.2 Certain conduct not waiver
4.1 No transfer or subletting	11. RENT REVIEWS TO MARKET
4.2 Landlord's consent	11.1 Market review procedure
4.3 Request for consent	11.2 Determination binding
4.4 Deemed consent	11.3 Valuer's fee
4.5 Execution of document	11.4 Rent pending determination
4.6 Payment of landlord's expenses	11.5 Delay in market review
4.7 No licence or sharing arrangements	12. FURTHER TERM(S)
4.8 Obligations of transferor after transfer	12.1 Exercise of option to renew
5. GENERAL AGREEMENTS BETWEEN LANDLORD AND TENANT	12.2 Terms of renewed lease
5.1 Yield up when lease ends	12.3 Director's guarantees
5.2 Abandoned Items	13. SECURITY DEPOSIT
5.3 Release and indemnity by tenant	13.1 Payment of security deposit
5.4 Building outgoings	13.2 Interest on security deposit
5.5 Transfer of premises by landlord	13.3 Use of security deposit
5.6 Payment of cheque	13.4 Refund of unused security deposit
6. LANDLORD'S OBLIGATIONS	13.5 Bank guarantee as security deposit
6.1 Quiet possession	13.6 Replacement guarantee on change of landlord
6.2 Landlord's insurance	14. NOTICES
6.3 Mortgagee's consent	14.1 Service of notices
6.4 Landlord's repair obligations	14.2 Time notices served
7. EVENTS OF DEFAULT AND LANDLORD'S RIGHTS	14.3 Notices by email
7.1 Termination by landlord for default	15. OBLIGATIONS OF GUARANTOR(S) UNDER GUARANTEE AND INDEMNITY
7.2 Damages	15.1 Guarantee and indemnity
7.3 Section 146 Property Law Act 1958	15.2 Guarantee and indemnity not affected by certain events
7.4 Essential terms	15.3 Insolvency of tenant
7.5 Notice before termination for repudiation or event to which section 146 does not apply	15.4 Unenforceability of tenant's obligations
7.6 Effect of non-enforcement	15.5 Multiple guarantors
7.7 Waiver	15.6 Deemed breaches of lease
8. DESTRUCTION OR DAMAGE	16. GST
8.1 Abatement in case of damage	16.1 Terms used
8.2 Reinstatement where premises not substantially destroyed	16.2 Amounts GST exclusive
8.3 Substantial destruction	16.3 Recipient of supply to pay amount for GST
	16.4 Reimbursements
	16.5 Tax Invoice

Contents

17. CONSUMER PRICE INDEX

- 17.1 CPI formula
- 17.2 Delay in publications of index
- 17.3 Change in CPI basis
- 17.4 CPI discontinued
- 17.5 No decrease unless Act applies

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

- 18.1 Application of clause
- 18.2 Naming rights and logos
- 18.3 External surfaces and outside areas
- 18.4 Landlord reserves certain rights
- 18.5 No obstruction of common areas
- 18.6 Building rules

19. PERSONAL PROPERTY SECURITIES ACT

- 19.1 Interpretation
- 19.2 Landlord may register financing statement
- 19.3 When lease ends
- 19.4 Tenant to co-operate
- 19.5 Tenant not to register
- 19.6 Tenant to pay landlord's expenses
- 19.7 Confidentiality
- 19.8 Service of PPSA notices

20. ADDITIONAL PROVISIONS

21. ELECTRONIC SIGNATURE

- 21.1 Consent
- 21.2 Signatory's warranty
- 21.3 Counterparts
- 21.4 Electronic exchange
- 21.5 Physical counterparts

22. LANDLORD WARRANTY

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, agrees 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 in **bold print** 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</i> (Vic)
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) incurred in respect of the land , the building , the premises or any premises in the building which include the premises - (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 - (i) damage to and destruction of the premises for their replacement value for the risks listed in item 1.1, (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 - (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

	(g) if the premises comprise only a part of the lettable area of the building, costs of whatever description, reasonably incurred by the landlord in the administration, management or operation of the land, the building and the premises including accountancy and audit fees, 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 an 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 13(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 13(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 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 13(a)
permitted use	the use specified in item 12
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 6, as varied in accordance with this lease
review date	a date specified in item 13

- 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 7** and those introduced by the **tenant** after the lease starts
- term** the period stated in **item 8**
- valuer** a person holding the qualifications or experience specified under section 13DA(2) of the *Valuation of Land Act 1960* (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 9** 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 13** -
 - (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 13** 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 10** 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 that is 2% more than 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 stamp duty on this lease, on any renewal, and any additional stamp duty after a review of **rent**.
- 2.1.10 subject to clauses 3.3.2 and 3.3.3, comply with all laws 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 to be 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 an insurance cover for the **premises** in the name of the **tenant** and noting the interest of the **landlord**, for public risk for any single event \$20 million, with an extension which includes the indemnities given by the **tenant** to the **landlord** in clauses 5.3.2 and 5.3.3 of this lease to the extent that such an extension is procurable on reasonable terms in the Australian insurance market.
 - 2.3.2 maintain the insurance cover with an 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 that applicable legislation makes the responsibility of the **landlord**.
- 3.2 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.
 - 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 the 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 workmen 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.
 - 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 3 months before the end of the **term** (unless the **tenant** has exercised an option to renew this lease)
 and to affix "for sale" or "to let" signs in a way that does not unduly interfere with the **permitted use**.
- 3.2.15 maintain any grounds and gardens of the **premises** in good condition, tidy, free from weeds and well-watered.
- 3.2.16 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** use of the **premises**, other than reasonable use for the **permitted use**, 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 that applicable legislation 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, subtenant or licensee proposes to use the **premises** in a way permitted under 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**, the **tenant**, the 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, sub-lessee or licensee (if it is a corporation) must execute a guarantee and indemnity in the terms of clause 15.
- 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 stamp 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.
- 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 and indemnifies the **landlord** against all claims resulting from incidents occurring on the **premises** (except to the extent caused or contributed to by the **landlord**, or a person for whom the **landlord** is responsible) 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**
- 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 10.
- 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 three 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 outgoing** 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 The **landlord** must take out at the start of the **term** and keep current policies of insurance for the risks listed in item 11 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 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 if the **tenant** is a public company listed on a recognised Australian public securities exchange, or a subsidiary of one, 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.
- 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.
- 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 143(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
 - 8.3.2 if the reinstatement does not start within 3 months, or is not likely to be completed within 9 months, the **landlord** or the **tenant** may end this lease by giving the other written notice.

- 8.4 The **tenant** will not be entitled to suspension of **rent** or **building outgoings** under sub-clause 8.1.1 nor to end the lease under sub-clause 8.3.2 and the **landlord** will not be obliged to reinstate the **premises** or the **building** under clause 8.2 if payment of an insurance claim is properly refused in respect of the damage or destruction because of any act or omission by the **tenant** or the **tenant's agents**.
- 8.5 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 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

- 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,
 - 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, and
 - 10.1.4 the **landlord** may increase the monthly **rent** by giving the **tenant** one month's written notice.
- 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 14 states otherwise but, if the **Act** applies, review is mandatory.

11.1.2 the **landlord** or **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. If the **Act** does not apply and the recipient of the notice does not object in writing to the proposed rent within 14 days the proposed **rent** becomes the **rent** for the review period.

11.1.3 If -

- (a) the **Act** does not apply and the recipient of the notice serves an objection to the proposed rent within 14 days and the **landlord** and **tenant** do not agree on the **rent** within 14 days after the objection is served, or
- (b) the **Act** applies and 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**.

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 objection is served, 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.

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 started more than 12 months after the **market review date**, the review takes effect only from the date on which it is started.

12. FURTHER TERM(S)

12.1 The **tenant** has an option to renew this lease for the further term or terms stated in **item 18** and the **landlord** must renew this lease for the further term immediately following the **term** 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) more than 6 months nor less than 3 months before the end of the **term**.

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 13**, 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 15 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** is a corporation and was required to provide directors' guarantees for this lease, the **tenant** must provide guarantees of its obligations under the renewed lease by its directors, 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 16 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.
- 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 under this lease may be served or 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 fifth day after posting that is not a Saturday, Sunday or bank holiday in the 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.
- 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 any 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 this clause 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** 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 **landlord** may change the **building rules** from time to time and the **tenant** will be bound by a change when it receives written notice of it. The **landlord** must not adopt a **building rule** or change the **building rules** in a way that is inconsistent with this lease. To the extent that a **building rule** is inconsistent with this lease, the lease prevails.

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 evidenced 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 The **tenant** must pay the **landlord's** reasonable expenses and legal costs in respect of anything done or attempted by the **landlord** in the exercise of its rights or performance of its obligations under this clause or the **PPSA**,
except the **landlord's** costs of registering a financing statement under sub-clause 20.2 which are to be borne by the **landlord**.
- 19.7 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).
- 19.8 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 22 appearing in this lease are identical to clauses 1 to 22 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.

Lease of Real Estate

with Guarantee & Indemnity

(Commercial Property)

Law Institute of Victoria
May 2021 Revision

Landlord:	JOSEPH FON TOY, SUSAN TOY, LEON TOY and MAY HAR TOY
Tenant:	JASNC ENTERPRISES PTY LTD ACN 635 566 773
Guarantor:	JOHN BERNARD CLEMENTS and ALYSON LISABETH CLEMENTS
Premises:	55A ROBERTS AVENUE, HORSHAM VIC 3400


POWER & BENNETT
LAWYERS
12 PYNSSENT STREET
HORSHAM VIC 3400
TEL: (03) 5382 0061
EMAIL: john@powerandbennett.com.au
REF: JJA:CR:201279

EXECUTED AS A DEED ON:

Date: 7 / 7 / 2023

EXECUTION & ATTESTATION

LANDLORD

SIGNED SEALED AND DELIVERED by the said)
JOSEPH FON TOY and SUSAN TOY in the)
presence of:

Witness

Print Name

Print Usual Address

JOSEPH FON TOY

SUSAN TOY

MELIKA TOY
8 PENNY AVE, HORSHAM 3400

SIGNED SEALED AND DELIVERED by the said)
LEON TOY and MAY HAR TOY in the presence of:

Witness

Print Name

Print Usual Address

LEON TOY

MAY HAR TOY

MELIKA TOY
8 PENNY AVE, HORSHAM 3400

TENANT

EXECUTED by JASNC ENTERPRISES PTY LTD)
ACN 635 566 773 in accordance with Section 127)
of the Corporations Act 2001 by being signed by)
those persons who are authorised to sign for the)
company:

Director

JOHN BERNARD CLEMENTS
56 Colonial Drive, Haven VIC 3401

Director/Secretary

ALYSON LISABETH CLEMENTS
56 Colonial Drive, Haven VIC 3401

GUARANTOR

SIGNED SEALED AND DELIVERED by the said)
JOHN BERNARD CLEMENTS and ALYSON)
LISABETH CLEMENTS in the presence of:

Witness

Print Name

Print Usual Address

JOHN BERNARD CLEMENTS

ALYSON LISABETH CLEMENTS

KYLIE HORTON
71 WILSON ST, HORSHAM

Schedule

Item 1 [1.1]	Landlord: JOSEPH FON TOY and SUSAN TOY of 33 Major Mitchell Drive, Horsham VIC 3400 and LEON TOY and MAY HAR TOY of 8 Penny Avenue, Horsham VIC 3400 ABN 67 304 980 046
Item 2 [1.1]	Tenant: JASNC ENTERPRISES PTY LTD ACN 635 566 773 (ABN 95 635 566 773) of 56 Colonial Drive, Haven VIC 3401
Item 3 [1.1]	Guarantor: JOHN BERNARD CLEMENTS and ALYSON LISABETH CLEMENTS of 56 Colonial Drive, Haven VIC 3401
Item 4 [1.1]	(a) Premises: 55A Roberts Avenue, Horsham VIC 3400 as detailed on the attached plan together with the right to use the common areas of the building (being those parts of the building not leased to any tenant and intended for use by the landlord and tenants of the building) in common with other persons entitled to use them, reserving unto the landlord and persons claiming through or authorised by the landlord, the use of the exterior walls and roof of the building and the right to install, replace and maintain pipes, conduits and wires leading through the premises and to pass any service through them and to enter into the premises for any such purposes (b) Land: Part of Lot 1 on Title Plan 679026E (formerly known as part of Crown Allotment 2 Section 3 Township and Parish of Horsham) being part of the land comprised and described in Certificate of Title Volume 7116 Folio 125
Item 5 [1.1]	Landlord's installations: Evaporative air-conditioner
Item 6 [1.1]	Rent: <u>First Year - 1 July 2023 to 30 June 2024</u> ▪ <u>1 July 2023 to 30 September 2023</u> \$1,061.00 per calendar month excluding GST ▪ <u>1 October 2023 to 30 June 2024</u> \$1,133.15 per calendar month excluding GST <u>Second Year - 1 July 2024 to 30 June 2025</u> As determined in accordance with CPI review per Item 13 GST is payable in addition to the rent, if applicable
Item 7 [1.1]	Tenant's installations: As installed by the tenant
Item 8 [1.1]	Term of the lease: Two (2) years starting on 1 July 2023 and ending on 30 June 2025

Item 9
[2.1.1]

How rent is to be paid:

Calendar monthly in advance on the 1st day of each calendar month directly to the **landlord's** agent, Wes Davidson Real Estate of 71 Wilson Street, Horsham VIC 3400 (with the first rental payment being due on 1 July 2023)

Item 10
[1.1,
2.1.2,
2.1.5 &
5.4]

Building outgoings which the tenant must pay or reimburse:

100% of all **building outgoings** applicable to the **premises**, including:

- Municipal rates and charges
- Water and sewerage rates and charges including consumption and disposal charges per Item 17 Additional Provision 3
- Insurances as detailed herein
- All electricity, telephone, gas and like expenses
- Repairs, maintenance and other outgoings as detailed herein

Item 11
[1.1 &
6.2]

Risks which the insurance policies must cover:

- Fire
- Storm and Tempest
- Explosion
- Malicious Damage

and such other risks as the **landlord** reasonably requires from time to time

Item 12
[2.2.1]

Permitted use:

Training Venue and Food Catering/Retail

Item 13
[2.1.1,
11, 17]

Review date(s):

Term

(a) *Market review date(s):*

Not Applicable

(b) *CPI review date(s):*

1 July 2024

(c) *Fixed review date(s) and percentage or fixed amount increases:*

Not Applicable

Further term(s)

(a) *Market review date(s):*

Not Applicable

(b) *CPI review date(s):*

At the commencement of each Further Term:

First Further Term	1 July 2025
Second Further Term	1 July 2026
Third Further Term	1 July 2027
Third Further Term	1 July 2028
Third Further Term	1 July 2029
Third Further Term	1 July 2030

(c) *Fixed review date(s) and percentage or fixed amount increases:*

Not Applicable

Item 14
[2.1.1,
11, 17]

Who may initiate reviews:

<i>Market review:</i>	Not Applicable
<i>CPI review:</i>	Review is automatic
<i>Fixed review:</i>	Not Applicable

Item 15
[12]

Further term(s):		
Six (6) further terms of One (1) year each:		
First Further Term	From 1 July 2025 to 30 June 2026	
Second Further Term	From 1 July 2026 to 30 June 2027	
Third Further Term	From 1 July 2027 to 30 June 2028	
Fourth Further Term	From 1 July 2028 to 30 June 2029	
Fifth Further Term	From 1 July 2029 to 30 June 2030	
Sixth Further Term	From 1 July 2030 to 30 June 2031	
Earliest and latest dates for exercising option for renewal:		
First Further Term	Earliest Date:	31 December 2024
	Latest Date:	31 March 2025
Second Further Term	Earliest Date:	31 December 2025
	Latest Date:	31 March 2026
Third Further Term	Earliest Date:	31 December 2026
	Latest Date:	31 March 2027
Fourth Further Term	Earliest Date:	31 December 2027
	Latest Date:	31 March 2028
Fifth Further Term	Earliest Date:	31 December 2028
	Latest Date:	31 March 2029
Sixth Further Term	Earliest Date:	31 December 2029
	Latest Date:	31 March 2030

Item 16
[13]

Security deposit:
Not Applicable

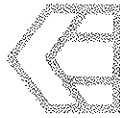
Item 17
[20]

Additional provisions:
1. Insurance
With respect to insurance requirements of this Lease, it is acknowledged:
(a) Clause 2.3.1 shall be read and construed to also include reference to insurance for replacement of broken/damaged glass and windows, including plate glass windows. Therefore, the tenant is responsible for effecting public risk insurance with cover in the amount of \$20 million and breakage of glass insurance (which must note the landlord's interest) (refer clause 2.3).
(b) The landlord is responsible for effecting building insurance, with covers satisfactory to the landlord (refer clause 6.2 and Item 11).
(c) The tenant is not required to reimburse to the landlord the expense of the landlord's building insurance.
(d) The tenant will be responsible for payment of the landlord's excesses on claims.
2. Application of the Act
The parties consider that the Act does apply to this Lease.
3. Water Rates and Charges
With respect to water rates and charges:
(a) It is acknowledged that there is only the one water meter for water supplied to potentially four separate shops/occupancies.
(b) The tenant agrees to pay, when requested:
(i) Any GWMWater water and sewerage service charges separately rated to 55A Roberts Avenue, Horsham;
(ii) If 55A Roberts Avenue, Horsham is not separately rated for water and sewerage service charges, then a contribution of one-quarter to quarterly water and sewerage charges;
(iii) A contribution to the water usage charged by GWMWater to the landlord's shops at corner Roberts Avenue and Darlot Street, Horsham based on fair and reasonable estimate of tenant's own usage as agreed between the parties, or failing agreement, an amount not exceeding a one-quarter share of the said usage charges.

Additional provisions: *continued*

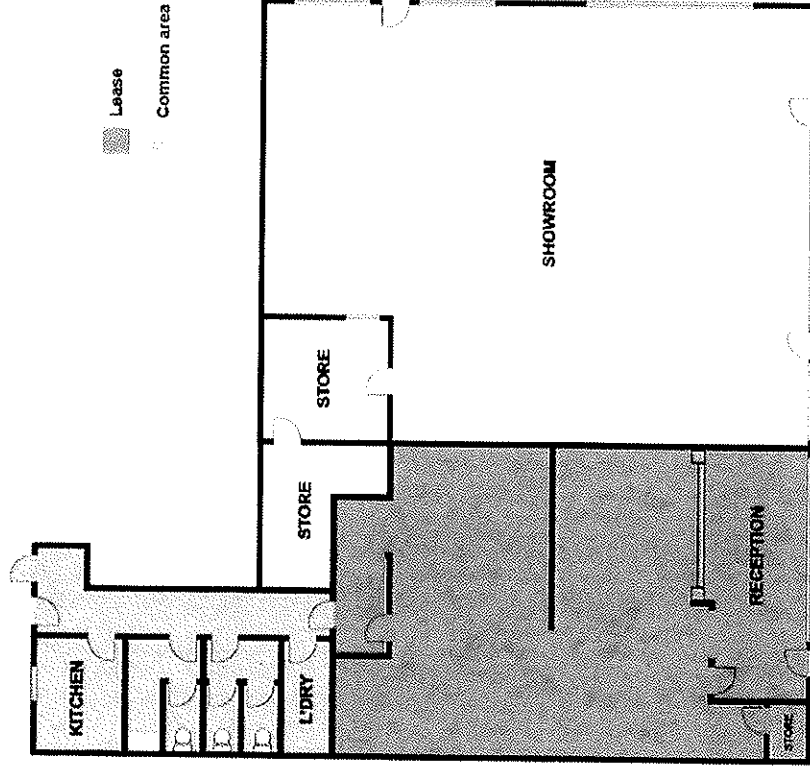
4. **Previous Lease**

The parties acknowledge that this lease cancels, replaces and supersedes the previous lease between the parties for the **premises** dated 7 October 2020.



WES DAVIDSON
REAL ESTATE

55A ROBERTS AVENUE
MORSHAM



FLOOR PLANS/SITE PLANS ARE INTENDED AS A GENERAL GUIDE ONLY. NO REPRESENTATIONS OR WARRANTIES OF ANY NATURE WHATSOEVER ARE GIVEN OR INTENDED AND ANY PERSON USING THIS INFORMATION SHOULD ALWAYS RELY ON THEIR OWN ENQUIRIES

Contents

1. DEFINITIONS AND INTERPRETATION	
2. TENANT'S PAYMENT, USE AND INSURANCE OBLIGATIONS	
2.1 Payment and use obligations	
2.2 Negative use obligations	
2.3 Tenant's insurance	
3. REPAIRS, MAINTENANCE, FIRE PREVENTION AND REQUIREMENTS OF AUTHORITIES	
3.1 Tenant's general repair obligations	
3.2 Tenant's specific repair obligations	
3.3 Exceptions to tenant's obligations	
4. LEASE TRANSFERS, SUBLETTING ETC	
4.1 No transfer or subletting	
4.2 Landlord's consent	
4.3 Request for consent	
4.4 Deemed consent	
4.5 Execution of document	
4.6 Payment of landlord's expenses	
4.7 No licence or sharing arrangements	
4.8 Obligations of transferor after transfer	
5. GENERAL AGREEMENTS BETWEEN LANDLORD AND TENANT	
5.1 Yield up when lease ends	
5.2 Abandoned items	
5.3 Release and indemnity by tenant	
5.4 Building outgoings	
5.5 Transfer of premises by landlord	
5.6 Payment of cheque	
6. LANDLORD'S OBLIGATIONS	
6.1 Quiet possession	
6.2 Landlord's insurance	
6.3 Mortgagee's consent	
6.4 Landlord's repair obligations	
7. EVENTS OF DEFAULT AND LANDLORD'S RIGHTS	
7.1 Termination by landlord for default	
7.2 Damages	
7.3 Section 146 Property Law Act 1958	
7.4 Essential terms	
7.5 Notice before termination for repudiation or event to which section 146 does not apply	
7.6 Effect of non-enforcement	
7.7 Waiver	
8. DESTRUCTION OR DAMAGE	
8.1 Abatement in case of damage	
8.2 Reinstatement where premises not substantially destroyed	
8.3 Substantial destruction	
8.4 Insurance cover denied due to tenant act or omission	
8.5 Resolution of disputes	
9. CONSENTS AND WARRANTIES	
9.1 Consents and approvals	
9.2 Whole agreement	
10. OVERHOLDING AND ABANDONMENT OF THE PREMISES	
10.1 Holding over	
10.2 Certain conduct not waiver	
11. RENT REVIEWS TO MARKET	
11.1 Market review procedure	
11.2 Determination binding	
11.3 Valuer's fee	
11.4 Rent pending determination	
11.5 Delay in market review	
12. FURTHER TERM(S)	
12.1 Exercise of option to renew	
12.2 Terms of renewed lease	
12.3 Director's guarantees	
13. SECURITY DEPOSIT	
13.1 Payment of security deposit	
13.2 Interest on security deposit	
13.3 Use of security deposit	
13.4 Refund of unused security deposit	
13.5 Bank guarantee as security deposit	
13.6 Replacement guarantee on change of landlord	
14. NOTICES	
14.1 Service of notices	
14.2 Time notices served	
14.3 Notices by email	
15. OBLIGATIONS OF GUARANTOR(S) UNDER GUARANTEE AND INDEMNITY	
15.1 Guarantee and indemnity	
15.2 Guarantee and indemnity not affected by certain events	
15.3 Insolvency of tenant	
15.4 Unenforceability of tenant's obligations	
15.5 Multiple guarantors	
15.6 Deemed breaches of lease	
16. GST	
16.1 Terms used	
16.2 Amounts GST exclusive	
16.3 Recipient of supply to pay amount for GST	
16.4 Reimbursements	
16.5 Tax Invoice	

Contents

17. CONSUMER PRICE INDEX

- 17.1 CPI formula
- 17.2 Delay in publications of index
- 17.3 Change in CPI basis
- 17.4 CPI discontinued
- 17.5 No decrease unless Act applies

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

- 18.1 Application of clause
- 18.2 Naming rights and logos
- 18.3 External surfaces and outside areas
- 18.4 Landlord reserves certain rights
- 18.5 No obstruction of common areas
- 18.6 Building rules

19. PERSONAL PROPERTY SECURITIES ACT

- 19.1 Interpretation
- 19.2 Landlord may register financing statement
- 19.3 When lease ends
- 19.4 Tenant to co-operate
- 19.5 Tenant not to register
- 19.6 Tenant to pay landlord's expenses
- 19.7 Confidentiality
- 19.8 Service of PPSA notices

20. ADDITIONAL PROVISIONS

21. ELECTRONIC SIGNATURE

- 21.1 Consent
- 21.2 Signatory's warranty
- 21.3 Counterparts
- 21.4 Electronic exchange
- 21.5 Physical counterparts

22. LANDLORD WARRANTY

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, agrees 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 in **bold print** 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</i> (Vic)
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) incurred in respect of the land , the building , the premises or any premises in the building which include the premises - (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 - (i) damage to and destruction of the premises for their replacement value for the risks listed in item 1.1, (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 - (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

	(g) if the premises comprise only a part of the lettable area of the building , costs of whatever description, reasonably incurred by the landlord in the administration, management or operation of the land , the building and the premises including accountancy and audit fees , 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 an 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 13(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 13(c)
GST	GST within the meaning of the GST Act
GST Act	<i>A New Tax System (Goods and Services Tax) Act 1999 (Cth)</i>
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 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 13(a)
permitted use	the use specified in item 12
PPSA	the <i>Personal Property Securities Act 2009 (Cth)</i>
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 6 , as varied in accordance with this lease
review date	a date specified in item 13

- 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 7** and those introduced by the **tenant** after the lease starts
- term** the period stated in **item 8**
- valuer** a person holding the qualifications or experience specified under section 13DA(2) of the *Valuation of Land Act 1960* (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 9** 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 13** -
 - (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 13** 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 10** 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 that is 2% more than 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 stamp duty on this lease, on any renewal, and any additional stamp duty after a review of **rent**.
- 2.1.10 subject to clauses 3.3.2 and 3.3.3, comply with all laws 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 to be 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 an insurance cover for the **premises** in the name of the **tenant** and noting the interest of the **landlord**, for public risk for any single event \$20 million, with an extension which includes the indemnities given by the **tenant** to the **landlord** in clauses 5.3.2 and 5.3.3 of this lease to the extent that such an extension is procurable on reasonable terms in the Australian insurance market.
 - 2.3.2 maintain the insurance cover with an 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 that applicable legislation makes the responsibility of the **landlord**.
 - 3.2 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.
 - 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 the 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 workmen 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.
 - 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 3 months before the end of the **term** (unless the **tenant** has exercised an option to renew this lease)
 and to affix "for sale" or "to let" signs in a way that does not unduly interfere with the **permitted use**.
- 3.2.15 maintain any grounds and gardens of the **premises** in good condition, tidy, free from weeds and well-watered.
- 3.2.16 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** use of the **premises**, other than reasonable use for the **permitted use**, 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 that applicable legislation 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, subtenant or licensee proposes to use the **premises** in a way permitted under 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**, the **tenant**, the 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, sub-lessee or licensee (if it is a corporation) must execute a guarantee and indemnity in the terms of clause 15.
- 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 stamp 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.
- 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 and indemnifies the **landlord** against all claims resulting from incidents occurring on the **premises** (except to the extent caused or contributed to by the **landlord**, or a person for whom the **landlord** is responsible) 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**
 - 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 10**.
- 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 three 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 outgoing** 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 The **landlord** must take out at the start of the **term** and keep current policies of insurance for the risks listed in **item 11** 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 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 if the **tenant** is a public company listed on a recognised Australian public securities exchange, or a subsidiary of one, 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.
- 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.
- 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
 - 8.3.2 if the reinstatement does not start within 3 months, or is not likely to be completed within 9 months, the **landlord** or the **tenant** may end this lease by giving the other written notice.

- 8.4 The **tenant** will not be entitled to suspension of **rent** or **building outgoings** under sub-clause 8.1.1 nor to end the lease under sub-clause 8.3.2 and the **landlord** will not be obliged to reinstate the **premises** or the **building** under clause 8.2 if payment of an insurance claim is properly refused in respect of the damage or destruction because of any act or omission by the **tenant** or the **tenant's agents**.
- 8.5 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 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

- 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,
- 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, and
- 10.1.4 the **landlord** may increase the monthly **rent** by giving the **tenant** one month's written notice.
- 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 14 states otherwise but, if the **Act** applies, review is mandatory.

11.1.2 the **landlord** or **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. If the **Act** does not apply and the recipient of the notice does not object in writing to the proposed rent within 14 days the proposed **rent** becomes the **rent** for the review period.

11.1.3 If -

- (a) the **Act** does not apply and the recipient of the notice serves an objection to the proposed rent within 14 days and the **landlord** and **tenant** do not agree on the **rent** within 14 days after the objection is served, or
- (b) the **Act** applies and 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**.

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 objection is served, 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.

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 started more than 12 months after the **market review date**, the review takes effect only from the date on which it is started.

12. FURTHER TERM(S)

12.1 The **tenant** has an option to renew this lease for the further term or terms stated in **item 18** and the **landlord** must renew this lease for the further term immediately following the **term** 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) more than 6 months nor less than 3 months before the end of the **term**.

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 13**, 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 15 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** is a corporation and was required to provide directors' guarantees for this lease, the **tenant** must provide guarantees of its obligations under the renewed lease by its directors, 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 16 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.
- 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 under this lease may be served or 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 fifth day after posting that is not a Saturday, Sunday or bank holiday in the 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.
- 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 any 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 this clause 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** 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 **landlord** may change the **building rules** from time to time and the **tenant** will be bound by a change when it receives written notice of it. The **landlord** must not adopt a **building rule** or change the **building rules** in a way that is inconsistent with this lease. To the extent that a **building rule** is inconsistent with this lease, the lease prevails.
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 evidenced 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 The **tenant** must pay the **landlord's** reasonable expenses and legal costs in respect of anything done or attempted by the **landlord** in the exercise of its rights or performance of its obligations under this clause or the **PPSA**,
except the **landlord's** costs of registering a financing statement under sub-clause 20.2 which are to be borne by the **landlord**.
- 19.7 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).
- 19.8 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 22 appearing in this lease are identical to clauses 1 to 22 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.

Warning: The Retail Leases Act 2003 may apply to this Renewal of Lease



RENEWAL OF LEASE OF REAL ESTATE

(WITH GUARANTEE & INDEMNITY)

(Commercial Property)

Landlord:	JOSEPH FON TOY, SUSAN TOY, LEON TOY and MAY HAR TOY
Tenant:	VICTORIAN NO-TILL FARMERS ASSOCIATION INC.
Premises:	17 DARLOT STREET, HORSHAM VIC 3400

Since the **Tenant** has exercised the option for renewal of the **Original Lease**, the **Landlord** leases the **Premises** to the **Tenant** for the **Term** and at the **Rent** and on the conditions set out in this document.

The **Guarantor**, if any, agrees to be bound by the **Guarantor's** obligations set out in this document.


POWER & BENNETT
LAWYERS
12 PYNSENT STREET
HORSHAM VIC 3400
DX 34004 HORSHAM
TEL: (03) 5382 0061
EMAIL: john@powerandbennett.com.au
REF: JJA:CR.90861

EXECUTED AS A DEED ON

DATE: 19 / 04 / 2021

EXECUTION & ATTESTATION:

LANDLORD

SIGNED SEALED AND DELIVERED by the said)
JOSEPH FON TOY in the presence of:)

Witness

JOSEPH FON TOY

SIGNED SEALED AND DELIVERED by the said)
SUSAN TOY in the presence of:)

Witness

SUSAN TOY

SIGNED SEALED AND DELIVERED by the said)
LEON TOY in the presence of:)

Witness

LEON TOY

SIGNED SEALED AND DELIVERED by the said)
MAY HAR TOY in the presence of:)

Witness

MAY HAR TOY

TENANT

EXECUTED on behalf of VICTORIAN NO-TILL)
FARMERS ASSOCIATION INC. NO. A0044190N)
by being signed by authorised persons:)

Signature

Signature

Full Name

Full Name

Usual Address

Usual Address

Office Held

Office Held

PENNY STEPH

17 DARLOX ST, HORSHAM

BUSINESS MANAGER.

SCHEDULE

Item 1 [Clause 1.1]	Landlord JOSEPH FON TOY and SUSAN TOY of 33 Major Mitchell Drive, Horsham VIC 3400 and LEON TOY and MAY HAR TOY of 9 Penny Avenue, Horsham VIC 3400
Item 2 [Clause 1.1]	Tenant VICTORIAN NO-TILL FARMERS ASSOCIATION INC. NO. A0044190N (ABN 71 528 292 975) of 17 Darlot Street, Horsham VIC 3400
Item 3 [Clause 1.1]	Guarantor Not Applicable
Item 4 [Clause 1.1]	Original Lease Dated: 10 July 2012 and subsequently renewed by Renewals of Lease dated 26 October 2015 and 27 November 2018 Premises: 17 Darlot Street, Horsham VIC 3400 A copy of the Original Lease (also comprising the subsequent Renewals) is included in Annexure A
Item 5 [Clause 1.1]	Term of the renewed lease Three (3) years starting on 1 June 2021 and ending on 31 May 2024
Item 6 [Clause 1.1]	Rent (i) \$1,695.95 per calendar month (\$20,351.40 per annum) inclusive of GST (ii) The rent review dates are as follows: Not Applicable
Item 7 [Clause 6]	Number and duration of further term(s) Nil Latest date for exercising option Not Applicable
Item 8 [Clause 3.1]	Variations *Insert here any new terms Nil
Item 9 [Clause 5]	Additional Provisions *Insert here any varied terms Nil

1. DEFINITIONS AND INTERPRETATION

This document is to be interpreted according to the following rules.

- 1.1 The listed expressions appearing in bold print and commencing with a capital letter have the meanings set out opposite them.

EXPRESSION	MEANING
Act	Retail Leases Act 2003.
Guarantee	the guarantee and indemnity in respect of the Tenant's obligations under the Original Lease given by the Guarantor .
Guarantor	the person named in Item 3 .
Item	an Item in the schedule to this document.
Landlord	the person named in Item 1 , or any other person who will be entitled to possession of the Premises when the Term of this lease ends.
Original Lease	the Lease a copy of which is attached or as otherwise identified in Item 4 .
Premises	the premises specified in Item 4 .
Rent	the amount in Item 6 , or as varied in accordance with this document.
Tenant	the person named in Item 2 , or any person to whom the renewed lease is subsequently transferred.
Term	the period stated in Item 5 .

- 1.2 Unless otherwise specified, the words and phrases used in this document have the same meaning as in the **Original Lease**.

- 1.3 If the tenant named in the **Original Lease** is not the **Tenant**, then the **Premises**, by virtue of a previous transfer(s), were transferred to the **Tenant** for the residue of the term of the **Original Lease**.

- 1.4 The **Landlord** (even if not named as the landlord in the **Original Lease**) is now the person entitled to take possession of the **Premises** if the tenancy ends.

- 1.5 References to laws include 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.

- 1.6 This document must be interpreted so that it complies with all laws applicable in Victoria. If any provision of this document 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 document.

- 1.7 The law of Victoria applies to this document.

- 1.8 Any change to this document must be in writing and signed by the parties.

- 1.9 An obligation imposed by this document on or in favour of more than one person binds or benefits all of them jointly and each of them individually.

- 1.10 The use of one gender includes the others and the singular includes the plural and vice versa.
- 1.11 If the **Landlord, Tenant or Guarantor** is an individual, this document binds that person's legal personal representative. If any of them is a corporation, this document binds its transferees.
- 1.12 This document is delivered and operates as a deed.

2. TENANT'S OBLIGATIONS

The **Tenant** must pay the **Rent** without any deductions to the **Landlord** on the days and in the way stated in the **Original Lease**. No demand for **Rent** is necessary and the **Landlord** may direct in writing that the **Rent** be paid to another person.

3. GENERAL AGREEMENTS

- 3.1 The lease formed by this document is granted subject to and with the benefit of the same **Tenant's** and **Landlord's** rights obligations and agreements as are contained in the **Original Lease** except:
 - 3.1.1 for the new **Term and Rent**; and,
 - 3.1.2 that its provisions are now deleted or changed in the specific manner set out in **Item 8**.
- 3.2 The **Landlord** and the **Tenant** now agree to respectively perform and observe all the rights obligations and agreements in the **Original Lease** as if they were now repeated in full and with only such changes necessary to make them applicable to this document and specifically the changes made by this document.

4. GUARANTEE

The **Guarantor** now agrees that:

- 4.1 the **Tenant's** obligations and agreements under the **Original Lease**, as renewed and varied by this document, are subject to and form part of the moneys and obligations the payment and performance of which are guaranteed to the Landlord by the **Guarantor** under the **Guarantee** and,
- 4.2 if the **Tenant** does not perform or observe any of its obligations and agreements under this document, the provisions of the **Guarantee** apply to them as if the terms of the document were incorporated in the **Original Lease** at the time it was executed.

5. ADDITIONAL PROVISIONS

Any additional provisions set out in **item 9**:

- 5.1 bind the parties; and
- 5.2 if inconsistent with any other provisions of this document, override them.

6. FURTHER RENEWAL

If the whole of the **Act** applies to this lease and if there is a further option for renewal of the **Original Lease** specified in **Item 7** then the latest date for exercising the option is the date specified in **Item 7**.

7. RETAIL PREMISES LEASE

If this lease is a retail premises lease to which the provisions of the **Act** apply then the parties agree and acknowledge that all of the provisions of this Lease are to be read subject to the provisions of the **Act** and, to the extent of any inconsistency, the provisions of the **Act** prevail.

Annexure A

Renewal of Lease dated 27 November 2018

Renewal of Lease dated 26 October 2015

Original Lease dated 10 July 2012

Warning: The Retail Leases Act 2003 may apply to this Renewal of Lease



RENEWAL OF LEASE OF REAL ESTATE

(WITH GUARANTEE & INDEMNITY)

(Commercial Property)

Landlord:	JOSEPH FON TOY, SUSAN TOY, LEON TOY and MAY HAR TOY
Tenant:	VICTORIAN NO-TILL FARMERS ASSOCIATION INC.
Premises:	17 DARLOT STREET, HORSHAM VIC 3400

Since the Tenant has exercised the option for renewal of the Original Lease, the Landlord leases the Premises to the Tenant for the Term and at the Rent and on the conditions set out in this document.

The Guarantor, if any, agrees to be bound by the Guarantor's obligations set out in this document.


POWER & BENNETT
LAWYERS
12 PYNSENT STREET
HORSHAM VIC 3400
TEL: (03) 5382 0061
FAX: (03) 5382 4232
DX 34004 HORSHAM
REF JJA CR 90361

EXECUTED AS A DEED ON

DATE: 27/11/2018

EXECUTION & ATTESTATION:

LANDLORD

SIGNED SEALED AND DELIVERED by the said)
JOSEPH FON TOY in the presence of:

JOSEPH FON TOY

Witness

SIGNED SEALED AND DELIVERED by the said)
SUSAN TOY in the presence of:

SUSAN TOY

Witness

SIGNED SEALED AND DELIVERED by the said)
LEON TOY in the presence of:

LEON TOY

Witness

SIGNED SEALED AND DELIVERED by the said)
MAY HAR TOY in the presence of:

MAY HAR TOY

Witness

TENANT

EXECUTED on behalf of VICTORIAN NO-TILL)
FARMERS ASSOCIATION INC. NO. A0044190N)
by being signed by authorised persons:

Signature

Full Name

Usual Address

Office Held

Signature

Full Name

Usual Address

Office Held

SCHEDULE

Item 1 [Clause 1.1]	Landlord JOSEPH FON TOY and SUSAN TOY of 33 Major Mitchell Drive, Horsham VIC 3400 and LEON TOY and MAY HAR TOY of 9 Penny Avenue, Horsham VIC 3400
Item 2 [Clause 1.1]	Tenant VICTORIAN NO-TILL FARMERS ASSOCIATION INC. NO. A0044190N (ABN 71 528 292 975) of 17 Darlot Street, Horsham VIC 3400
Item 3 [Clause 1.1]	Guarantor Not Applicable
Item 4 [Clause 1.1]	Original Lease Dated: 10 July 2012 and subsequently renewed by Renewal of Lease dated 26 October 2015 Premises: 17 Darlot Street, Horsham VIC 3400 A copy of the Original Lease (also comprising the subsequent Renewal) is included in Annexure A
Item 5 [Clause 1.1]	Term of the renewed lease 3 years starting on 1 June 2018 and ending on 31 May 2021
Item 6 [Clause 1.1]	Rent (i) \$1,695.95 per calendar month (\$20,351.40 per annum) inclusive of GST (ii) The rent review dates are as follows: <u>Renewed Term</u> Not Applicable <u>Further Terms</u> Market Review at the commencement of the further term on 1 June 2021
Item 7 [Clause 6]	Number and duration of further term(s) One (1) further term of Three (3) years from 1 June 2021 to 31 May 2024 Latest date for exercising option 28 February 2021
Item 8 [Clause 3.1]	Variations *Insert here any new terms Nil
Item 9 [Clause 5]	Additional Provisions *Insert here any varied terms 1. The landlord agrees to pay for new window coverings for the premises

1. DEFINITIONS AND INTERPRETATION

This document is to be interpreted according to the following rules.

- 1.1 The listed expressions appearing in bold print and commencing with a capital letter have the meanings set out opposite them

EXPRESSION	MEANING
Act	Retail Leases Act 2003.
Guarantee	the guarantee and indemnity in respect of the Tenant's obligations under the Original Lease given by the Guarantor.
Guarantor	the person named in Item 3.
Item	an Item in the schedule to this document.
Landlord	the person named in Item 1, or any other person who will be entitled to possession of the Premises when the Term of this lease ends.
Original Lease	the Lease a copy of which is attached or as otherwise identified in Item 4.
Premises	the premises specified in Item 4.
Rent	the amount in Item 6, or as varied in accordance with this document.
Tenant	the person named in Item 2, or any person to whom the renewed lease is subsequently transferred.
Term	the period stated in Item 5.

- 1.2 Unless otherwise specified, the words and phrases used in this document have the same meaning as in the Original Lease.
- 1.3 If the tenant named in the Original Lease is not the Tenant, then the Premises, by virtue of a previous transfer(s), were transferred to the Tenant for the residue of the term of the Original Lease.
- 1.4 The Landlord (even if not named as the landlord in the Original Lease) is now the person entitled to take possession of the Premises if the tenancy ends.
- 1.5 References to laws include 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.
- 1.6 This document must be interpreted so that it complies with all laws applicable in Victoria. If any provision of this document 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 document.
- 1.7 The law of Victoria applies to this document.
- 1.8 Any change to this document must be in writing and signed by the parties
- 1.9 An obligation imposed by this document on or in favour of more than one person binds or benefits all of them jointly and each of them individually.

1.10 The use of one gender includes the others and the singular includes the plural and vice versa.

1.11 If the Landlord, Tenant or Guarantor is an individual, this document binds that person's legal personal representative. If any of them is a corporation, this document binds its transferees.

1.12 This document is delivered and operates as a deed.

2. TENANT'S OBLIGATIONS

The Tenant must pay the Rent without any deductions to the Landlord on the days and in the way stated in the Original Lease. No demand for Rent is necessary and the Landlord may direct in writing that the Rent be paid to another person.

3. GENERAL AGREEMENTS

3.1 The lease formed by this document is granted subject to and with the benefit of the same Tenant's and Landlord's rights obligations and agreements as are contained in the Original Lease except:

3.1.1 for the new Term and Rent; and,

3.1.2 that its provisions are now deleted or changed in the specific manner set out in Item 8.

3.2 The Landlord and the Tenant now agree to respectively perform and observe all the rights obligations and agreements in the Original Lease as if they were now repeated in full and with only such changes necessary to make them applicable to this document and specifically the changes made by this document.

4. GUARANTEE

The Guarantor now agrees that:

4.1 the Tenant's obligations and agreements under the Original Lease, as renewed and varied by this document, are subject to and form part of the moneys and obligations the payment and performance of which are guaranteed to the Landlord by the Guarantor under the Guarantee and,

4.2 if the Tenant does not perform or observe any of its obligations and agreements under this document, the provisions of the Guarantee apply to them as if the terms of the document were incorporated in the Original Lease at the time it was executed.

5. ADDITIONAL PROVISIONS

Any additional provisions set out in item 9:

5.1 bind the parties; and

5.2 if inconsistent with any other provisions of this document, override them.

6. FURTHER RENEWAL

If the whole of the Act applies to this lease and if there is a further option for renewal of the Original Lease specified in Item 7 then the latest date for exercising the option is the date specified in Item 7

7. RETAIL PREMISES LEASE

If this lease is a retail premises lease to which the provisions of the Act apply then the parties agree and acknowledge that all of the provisions of this Lease are to be read subject to the provisions of the Act and, to the extent of any inconsistency, the provisions of the Act prevail.

8. GST (see Note below)

- 8.1 Expressions used in this clause and in the GST Act have the same meanings as when used in the GST Act.
- 8.2 Amounts payable and consideration provided under or in respect of this lease are GST exclusive.
- 8.3 The recipient of a taxable supply made under or in respect of this lease must pay to the supplier, at the time the consideration for the supply is due, the GST payable in respect of the supply. This obligation extends to supply consisting of a party's entry into this document.
- 8.4 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 8.3 on account of the Landlord's GST liability.
- 8.5 A party is not obliged, under clause 8.3, to pay the GST on a taxable supply to it until given a valid tax invoice for the supply.

Note: If the original lease contains an appropriate GST clause, this clause may be omitted. If the original lease does not contain a GST clause, this clause may only be included if the tenant agrees.

Annexure A

Renewal of Lease dated 26 October 2015
and
Original Lease dated 10 July 2012

Warning: The Retail Leases Act 2003 may apply to this Renewal of Lease



RENEWAL OF LEASE OF REAL ESTATE

(WITH GUARANTEE & INDEMNITY)

(Commercial Property)

Landlord:	JOSEPH FON TOY, SUSAN TOY, LEON TOY & MAY HAR TOY
Tenant:	VICTORIAN NO-TILL FARMERS ASSOCIATION INC.
Premises:	17 DARLOT STREET, HORSHAM

Since the Tenant has exercised the option for renewal of the Original Lease, the Landlord leases the Premises to the Tenant for the Term and at the Rent and on the conditions set out in this document.

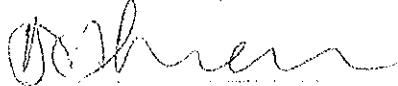
The Guarantor, if any, agrees to be bound by the Guarantor's obligations set out in this document.

EXECUTED AS A DEED ON

DATE: 26/10/2015

EXECUTION & ATTESTATION:

THE COMMON SEAL of VICTORIAN NO-)
TILL FARMERS ASSOCIATION INC. NO.)
A0044190N was hereunto affixed in the)
presence of authorized persons:



Director

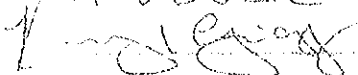
PENGLOPE SIEMP

Print Name

505 HEVY HWY

Print Usual Address

TK KENZIE CREEK



Secretary

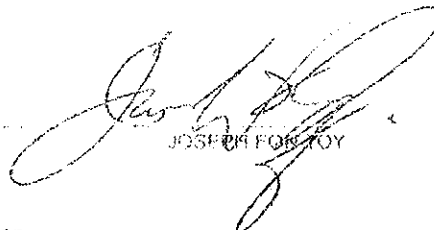
KERRY GRAGG

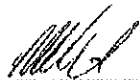
Print Name

17 Frederick Street, Harsham

Print Usual Address

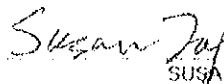
SIGNED SEALED AND DELIVERED by the)
said JOSEPH FON TOY in the presence of:)

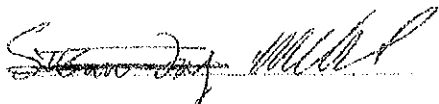

JOSEPH FON TOY



Witness

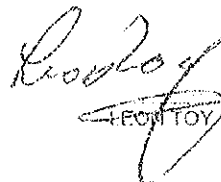
SIGNED SEALED AND DELIVERED by the)
said SUSAN TOY in the presence of:)

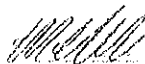

SUSAN TOY



Witness

SIGNED SEALED AND DELIVERED by the)
said LEON TOY in the presence of:)

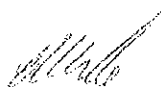

LEON TOY



Witness

SIGNED SEALED AND DELIVERED by the)
said MAY HAR TOY in the presence of:)


MAY HAR TOY



Witness

SCHEDULE

Item 1 [Clause 1.1]	Landlord JOSEPH FON TOY and SUSAN TOY of 33 Major Mitchell Drive, Horsham 3400 and LEON TOY and MAY HAR TOY of 8 Penny Avenue, Horsham 3400
Item 2 [Clause 1.1]	Tenant VICTORIAN NO-TILL FARMERS ASSOCIATION INC. NO A0044190N (ABN 71 528 292 975) of 17 Darlot Street, Horsham 3400
Item 3 [Clause 1.1]	Guarantor Not Applicable
Item 4 [Clause 1.1]	Original Lease Dated: 10 July 2012 Premises: 17 Darlot Street, Horsham 3400 A copy of the Original Lease is included in Annexure A
Item 5 [Clause 1.1]	Term of the renewed lease 3 years starting on 1 June 2015 and ending on 31 May 2018
Item 6 [Clause 1.1]	Rent (i) First year of term: \$1,568.00 per calendar month (\$18,816.00 per annum) plus GST (ii) Second year of term: \$1,630.72 per calendar month (\$19,568.64 per annum) plus GST (iii) Third year of term: \$1,695.95 per calendar month (\$20,351.40 per annum) plus GST
Item 7 [Clause 6]	Number and duration of further term(s) Nil Latest date for exercising option Not Applicable
Item 8 [Clause 3.1]	Variations *Insert here any new terms The Landlord and the Tenant agree that the Tenant shall install blinds in the premises at the Tenant's expense.
Item 9 [Clause 5]	Additional Provisions *Insert here any varied terms Nil

Handwritten signature/initials

This document is to be interpreted according to the following rules.

- 1.1 The listed expressions appearing in bold print and commencing with a capital letter have the meanings set out opposite them.

EXPRESSION	MEANING
Act	Retail Leases Act 2003.
Guarantee	the guarantee and indemnity in respect of the Tenant's obligations under the Original Lease given by the Guarantor.
Guarantor	the person named in Item 3.
Item	an Item in the schedule to this document.
Landlord	the person named in Item 1, or any other person who will be entitled to possession of the Premises when the Term of this lease ends.
Original Lease	the Lease a copy of which is attached or as otherwise identified in Item 4.
Premises	the premises specified in Item 4.
Rent	the amount in Item 6, or as varied in accordance with this document.
Tenant	the person named in item 2, or any person to whom the renewed lease is subsequently transferred.
Term	the period stated in Item 5.

- 1.2 Unless otherwise specified, the words and phrases used in this document have the same meaning as in the Original Lease.
- 1.3 If the tenant named in the Original Lease is not the Tenant, then the Premises, by virtue of a previous transfer(s), were transferred to the Tenant for the residue of the term of the Original Lease.
- 1.4 The Landlord (even if not named as the landlord in the Original Lease) is now the person entitled to take possession of the Premises if the tenancy ends.
- 1.5 References to laws include 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.
- 1.6 This document must be interpreted so that it complies with all laws applicable in Victoria. If any provision of this document 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 document.
- 1.7 The law of Victoria applies to this document.

- 1.8 Any change to this document must be in writing and signed by the parties
- 1.9 An obligation imposed by this document on or in favour of more than one person binds or benefits all of them jointly and each of them individually
- 1.10 The use of one gender includes the others and the singular includes the plural and vice versa.
- 1.11 If the Landlord, Tenant or Guarantor is an individual, this document binds that person's legal personal representative. If any of them is a corporation, this document binds its transferees.
- 1.12 This document is delivered and operates as a deed

2. TENANT'S OBLIGATIONS

The Tenant must pay the Rent without any deductions to the Landlord on the days and in the way stated in the Original Lease. No demand for Rent is necessary and the Landlord may direct in writing that the Rent be paid to another person.

3. GENERAL AGREEMENTS

- 3.1 The lease formed by this document is granted subject to and with the benefit of the same Tenant's and Landlord's rights obligations and agreements as are contained in the Original Lease except:
 - 3.1.1 for the new Term and Rent; and,
 - 3.1.2 that its provisions are now deleted or changed in the specific manner set out in Item 8.
- 3.2 The Landlord and the Tenant now agree to respectively perform and observe all the rights obligations and agreements in the Original Lease as if they were now repeated in full and with only such changes necessary to make them applicable to this document and specifically the changes made by this document.

4. GUARANTEE

The Guarantor now agrees that:

- 4.1 the Tenant's obligations and agreements under the Original Lease, as renewed and varied by this document, are subject to and form part of the moneys and obligations the payment and performance of which are guaranteed to the Landlord by the Guarantor under the Guarantee and,
- 4.2 if the Tenant does not perform or observe any of its obligations and agreements under this document, the provisions of the Guarantee apply to them as if the terms of the document were incorporated in the Original Lease at the time it was executed.

5. ADDITIONAL PROVISIONS

Any additional provisions set out in item 9

- 5.1 bind the parties; and
- 5.2 if inconsistent with any other provisions of this document, override them

6. FURTHER RENEWAL

If the whole of the Act applies to this lease and if there is a further option for renewal of the Original Lease specified in Item 7 then the latest date for exercising the option is the date specified in Item 7.

7. RETAIL PREMISES LEASE

If this lease is a retail premises lease to which the provisions of the Act apply then the parties agree and acknowledge that all of the provisions of this Lease are to be read subject to the provisions of the Act and, to the extent of any inconsistency, the provisions of the Act prevail.

8. GST (see Note below)

- 8.1 Expressions used in this clause and in the GST Act have the same meanings as when used in the GST Act.
 - 8.2 Amounts payable and consideration provided under or in respect of this lease are GST exclusive.
 - 8.3 The recipient of a taxable supply made under or in respect of this lease must pay to the supplier, at the time the consideration for the supply is due, the GST payable in respect of the supply. This obligation extends to supply consisting of a party's entry into this document.
 - 8.4 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 8.3 on account of the Landlord's GST liability.
 - 8.5 A party is not obliged, under clause 8.3, to pay the GST on a taxable supply to it until given a valid tax invoice for the supply.
- Note: If the original lease contains an appropriate GST clause, this clause may be omitted. If the original lease does not contain a GST clause, this clause may only be included if the tenant agrees.

DATED

2012

10th Jan

BETWEEN:

JOSEPH FON TOY, SUSAN TOY, LEON TOY and MAY HAR TOY

Landlord

- and -

VICTORIAN NO-TILL FARMERS ASSOCIATION INC.

Tenant

- and -

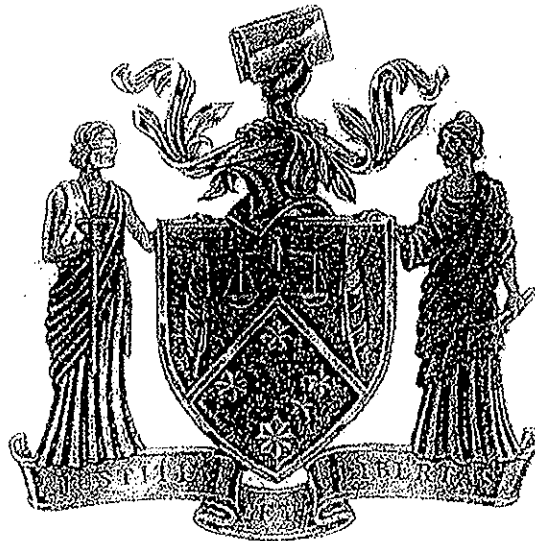
ROBERT PAUL RUWOLDT

Guarantor

PREMISES: 17 DARLOT STREET, HORSHAM 3400

LEASE OF REAL ESTATE

COPYRIGHT
Law Institute of Victoria
May 2006 Revision



POWER & BENNETT
LAWYERS
12 PYNSENT STREET
HORSHAM VIC 3400

TEL: (03) 5382 0061
FAX: (03) 5382 4232
REF: MR. J.J. ADLINGTON/JN:90861

EXECUTED AS A DEED ON

DATE: 10 JULY 2012

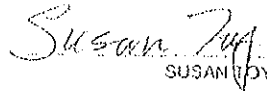
EXECUTION & ATTESTATION:

SIGNED SEALED AND DELIVERED by the)
said JOSEPH FON TOY in the presence of:)


JOSEPH FON TOY

Witness: Beverly J. Shadders

SIGNED SEALED AND DELIVERED by the)
said SUSAN TOY in the presence of:)


SUSAN TOY

Witness: Beverly J. Shadders

SIGNED SEALED AND DELIVERED by the)
said LEON TOY in the presence of:)


LEON TOY

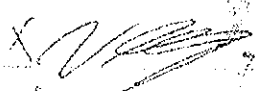
Witness: Beverly J. Shadders

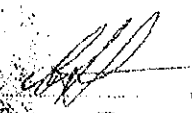
SIGNED SEALED AND DELIVERED by the)
said MAY HAR TOY in the presence of:)


MAY HAR TOY

Witness: Beverly J. Shadders

THE COMMON SEAL of VICTORIAN NO-TILL
FARMERS ASSOCIATION INC. NO.)
A0044190N. was hereunto affixed in)
accordance with the Statute in the presence of)
authorised persons:)

Signature: 
Full Name: Vanessa Lee
Usual Address: 2032 Althorpe Cres
RA, Laburnum Vic 3201
Office Held: Executive Manager

Signature: 
Full Name: Chris John Down
Usual Address: 1323 Bonjorum Ave Rd
3208
Office Held: Chairman

SIGNED SEALED AND DELIVERED by the)
said ROBERT PAUL RUWOLDT as Guarantor)
in the presence of:)

ROBERT PAUL RUWOLDT

Witness: 

SCHEDULE

- Item 1
[1.1] Landlord:
JOSEPH FON TOY and SUSAN TOY of 33 Major Mitchell Drive, Horsham 3400 and
of LEON TOY and MAY HAR TOY of 8 Penny Avenue, Horsham 3400
- Item 2
[1.1] Tenant:
VICTORIAN NO-TILL FARMERS ASSOCIATION INC. NO. A0044190N
(ABN 71 528 292 975)
of 17 Darlot Street, Horsham 3400
- Item 3
[1.1] Guarantor:
~~ROBERT PAUL RUWOLDT~~
~~of 38 McTavish Boulevard, Horsham 3400~~
- Item 4
[1.1] Premises:
17 Darlot Street, Horsham 3400

together with the right to use the common areas of the building (being those parts of
the building not leased to any tenant and intended for use by the Landlord and
tenants of the building) in common with other persons entitled to use them, reserving
unto the Landlord and persons claiming through or authorised by the Landlord, the
use of the exterior walls and roof of the building and the right to install, replace and
maintain pipes, conduits and wires leading through the premises and to pass any
service through them and to enter into the premises for any such purposes.
- Item 5
[1.1] Landlord's installations:

Fixtures and fittings as presently existing at the premises as installed by the landlord
including office partitions, ducted evaporative air conditioning unit, vertical drapes,
data cables and fire extinguishers
- Item 6
[1.1] Rent:

First Year
1/6/2012 to 31/5/2013 - \$1,450.00 per calendar month (\$17,400.00 per annum)

Second Year
1/6/2013 to 31/5/2014 - \$1,508.00 per calendar month (\$18,096.00 per annum)

Third Year
1/6/2014 to 31/5/2015 - \$1,568.00 per calendar month (\$18,816.00 per annum)

Above amounts are exclusive of GST. If GST is or becomes applicable, the GST is
payable in addition to the above amounts.
- Item 7
[1.1] Tenant's installations:

As installed by the tenant
- Item 8
[1.1] Term of the lease:

Three (3) years starting on 1 June 2012 and ending on 31 May 2015
- Item 9
[2.1.1] How rent is to be paid:

Calendar monthly in advance on the 1st day of each calendar month with the first
rental payment being due on 1 June 2012

SCHEDULE

(continued)

- Item 10
[1.1, 2.1.2,
2.1.5 & 5.4]
- Building outgoings which the tenant must pay or reimburse:
- Municipal rates and charges
 - Water and sewerage rates and charges including consumption and disposal charges
 - Public risk and glass replacement (including plate glass) insurances
- Item 11
[1.1 & 6.2]
- Risks which the insurance policies must cover:
- Fire
 - Storm and Tempest
 - Explosion
 - Malicious Damage
- and such other risks as the landlord reasonably requires from time to time.
- Item 12
[1.1 & 2.3.1]
- Amount of public risk insurance cover:
- \$10,000,000.00 or other amount reasonably specified from time to time by the landlord
- Item 13
[4.1]
- Period of loss of rent and outgoings insurance:
- Not Applicable
- Item 14
[2.1.7]
- Interest rate on overdue money:
- 2% per annum more than the rate from time to time fixed by the *Penalty Interest Rates Act 1983* (Vic).
- Item 15
[2.2.1] →
- Permitted use:
- Office
- [1.13]
- Application of Act:
- The Act does apply
- Item 16
[2.2.1, 11, 18]
- Review date(s):
- (a) Market review date(s):
 - This Lease Term - Not Applicable
 - Further Term - At the commencement of each Further Term (if applicable)
 - (b) CPI review date(s): Not Applicable
 - (c) Fixed review date(s) and percentage or fixed amount increases:
 - This Lease Term - Rental is fixed with annual increases of 4%
 - Further Term/s - Rental for the second and third years of each Further Term shall be subject to fixed annual increase of 4% (if applicable)
- Item 17
[2.1.1, 11, 18]
- Who may initiate reviews:
- Market review: The landlord
 - CPI review: Not Applicable
 - Fixed review: Review is automatic

SCHEDULE

(continued)

Item 18 [12]	Further term(s): One (1) further term of 3 years
Item 19 [12]	Latest date for exercising option for renewal: 1 March 2015
Item 20 [13]	Security deposit: Nil
Item 21 [16.1]	The mediation procedure applies to this lease
Item 22 [20]	Additional provisions: 1. Clause 2.3.1 shall be read and construed to also include reference to insurance for replacement of broken/damaged glass and windows including plate glass windows.

LEASE OF REAL ESTATE
(WITH GUARANTEE & INDEMNITY)
(Commercial Property)

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 guarantor, if any, agrees to be bound by the guarantor's obligations set out in this lease.

LEASE CONDITIONS

1. DEFINITIONS AND INTERPRETATION

1.1 The listed expressions in bold print 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</i> (Vic)
building	any building in which the premises are located, including the landlord's installations
building outgoings	any of the following expenses incurred in respect of the land, the building, the premises or any premises in the building which include the premises - • rates, levies and assessments imposed by any relevant authorities; • 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; • the costs of maintaining and repairing the building and the landlord's installations (but excluding any amount recovered in respect of that maintenance or repair by the landlord from its insurer); • premiums and charges for the following insurance policies taken out by the landlord - — damage to and destruction of the premises for their replacement value for the risks listed in item 11; — removal of debris; — breakdown of landlord's installations; - breakage of glass, - public risk for any single event for the amount stated in item 12 (if none is stated, \$10 million) or other amount reasonably specified from time to time by the landlord, and — loss of rent and outgoings for the period stated in item 13 or, if none is stated, 12 months; and excesses paid or payable on claims, and, if the premises occupy only a part of the lettable area of the building, the following further items -

	• costs incurred in providing services to the building and the land including - heating - cooling - airconditioning - cleaning - pest control - waste collection - lighting - landscaping and garden maintenance - security, and - fire prevention, detection and control; • accountancy and audit fees; and • costs of whatever description, reasonably incurred by the landlord in the administration, management or operation of the building and the land, whether incurred by the landlord directly or as body corporate 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 but, if the Act applies, only to the extent permitted by the Act and, in any event, excluding capital expenditure
building rules	any rules adopted from time to time for the building, including the rules of any body corporate affecting the premises
common areas	areas in the building or on the land that are under the control of the landlord and are used or intended for use: • by the public; or • in common by 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
QPI review date	a date specified in item 16(b)
Fixed review date	a date specified in item 16(c)
GST	GST within the meaning of the GST Act
GST Act	A New Tax System (Goods and Services Tax) Act 1999 (Cth)
guarantor	the person named in item 3
item	an item in the schedule to this lease
Land	the parcel of land 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 installations	the installations of the landlord in the premises or the building or on the land and those installed by the landlord after the lease starts and including the installations listed in item 5
lettable area	unless the Act applies and requires otherwise - • in relation to the premises, the area let; and • in relation to the building, the total area of the building that is let or licensed or intended to be 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 16(a)
premises	the premises described in item 4(a) and fixed improvements and the landlord's installations within the premises
Rent	the amount in item 6, as varied in accordance with this lease
review date	a date specified in item 16
Start of the lease	the first day of the term but, if this lease is a renewal under an option in an earlier lease (whether or not this lease is on terms that are materially different to those contemplated by the earlier lease), the starting date of the first lease to contain an option for renewal.
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 installations listed in item 7 and those installed by the tenant after the lease starts
Term	the period stated in item 8
valuer	a person holding the qualifications or experience specified under section 13DA(1A) 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 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 This lease includes the schedule.
 - 1.13 The parties consider that the application of the Act to this lease is as specified in item 15 and, if item 15 states that the Act does not apply, that the reason is as specified in item 15.
2. **TENANT'S PAYMENT, USE AND INSURANCE OBLIGATIONS**
- 2.1 The tenant must -
 - 2.1.1 pay the rent without any deductions to the landlord on the days and in the way stated in item 9 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 16 -
 - (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 18, 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 16 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 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 appropriate proportion of the building outgoings in accordance with item 10 and clause 5.4.
- 2.1.6 pay or reimburse within 7 days of a request all increases in insurance premiums paid 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 stated in item 14 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 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 sub-letting, 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 stamp duty on this lease, on any renewal, and any additional stamp duty after a review of rent.
- 2.1.10 subject to clause 3.3.2, comply with all laws relating to the use or occupation of the premises.
- 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.
- 2.1.13 subject to clause 3.3.2, comply with the laws and requirements of relevant authorities relating to essential safety measures, occupational health and safety and disability discrimination relevant to the premises or the building.
- 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 to the premises without the landlord's written consent. Consent is entirely at the landlord's discretion.
- 2.2.12 install any fixtures or fittings, except those necessary for the permitted use, without the landlord's written consent.
- 2.2.13 bring onto the premises any object which by its nature or weight might cause damage to the premises, without the landlord's written consent.
- 2.2.14 except in an emergency, interfere with any of the services or equipment in the premises or in any property of which the premises form part.
- 2.3 The tenant must -
 - 2.3.1 take out and keep current an insurance cover in the name of the tenant and noting the interest of the landlord, for public risk for any single event for the amount stated in item 12 or, if none is stated, for \$10 million, with an extension which includes the indemnities given by the tenant to the landlord in clauses 5.2 and 5.3.2 of this lease to the extent that such an extension is procurable on reasonable terms in the Australian insurance market.
 - 2.3.2 maintain the insurance cover with an insurer approved by the landlord
 - 2.3.3 ensure that each insurance policy requires the insurer to give 21 days' written notice of cancellation to the landlord before cancelling or refusing to renew the policy.
 - 2.3.4 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.
 - 3.2 In addition to its obligations under clause 3.1, the tenant must -
 - 3.2.1 refinish all 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 term.
 - 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.
 - 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 the 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 workmen 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.

- 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.
- 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 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 3 months before the end of the term
 and to affix "for sale" or "to let" signs in a way that does not unduly interfere with the permitted use.
- 3.2.15 unless the premises occupy only a part of the lettable area of the building, maintain any grounds and gardens of the premises in good condition, tidy, free from weeds and well-watered.
- 3.2.16 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 unless the landlord loses 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 use of the premises other than reasonable use for the permitted use, 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.

4. LEASE TRANSFERS AND SUBLETTING

- 4.1 The tenant must not transfer this lease or sublet 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 of the premises if the tenant has complied with the requirements of clause 4.3. 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 or sublease the tenant must -
 - 4.3.1 ask the landlord in writing to consent to the transfer or sublease,
 - 4.3.2 give the landlord -
 - (a) in relation to each proposed new tenant or sub-tenant 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 or sublease, and
 - 4.3.3 remedy any breach of the lease which has not been remedied and of which the tenant has been given 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
 - 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 or sublease, the landlord, tenant and new tenant or sub-tenant and the guarantor must execute the documents submitted under sub-clause 4.3.2(b). The directors of the new tenant (if it is a corporation) must execute a guarantee and indemnity in the terms of clause 15.
 - 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 stamp duty on the documents.
 - 4.7 Except by a transfer or sublease to which the landlord has consented, the tenant must not give up possession or share occupancy of the premises or grant a licence to 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 entirely at the landlord's discretion.
 - 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 the term 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 property from the premises and make good any damage caused in installing or removing them.
 If the tenant leaves any tenant's installations or other property on the premises after the end of the lease, unless the landlord and tenant agree otherwise, those tenant's installations and property will be considered abandoned and will become the property of the landlord, but the landlord may remove any of the tenant's installations or other property and recover the costs of removal and making good as a liquidated debt payable on demand.
 - 5.2 The tenant 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.
 - 5.3 The tenant -
 - 5.3.1 uses and occupies the premises at its own risk, and
 - 5.3.2 releases the landlord from and indemnifies the landlord against all claims resulting from accidents occurring on the premises except to the extent that the accident is caused by the landlord or a person for whom the landlord is responsible.
 - 5.4 In relation to building outgoings, the parties agree -
 - 5.4.1 the landlord must pay the building outgoings when they fall due for payment but may require the tenant to pay when due a building outgoing for which the tenant receives notice directly and to 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 10.
 - 5.4.3 at least 1 month before the start of an accounting period, the landlord may (but if the Act applies, the landlord must) give the tenant an estimate of building outgoings for the accounting period.
 - 5.4.4 despite clause 5.4.1, the tenant, if the landlord requires it, 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 three 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 certified, the statement must be certified as required by the Act)

- 5.4.7 the tenant must pay the amount short paid or the landlord must repay the amount over paid for building outgoings, as the case may be, 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 an appropriate adjustment must be made in relation to a building outgoing incurred in respect of a period beginning before the start of the term or extending beyond the end of the term.
- 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.
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 The landlord must take out at the start of the term and keep current policies of insurance for the risks listed in item 11 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 landlord's installations, and
- 6.2.4 ~~breakage of glass, for its replacement value.~~
- 6.3 The landlord must give to the tenant the written consent to this lease of all mortgagees whose interests would otherwise have priority over this lease.
- 6.4 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 the rent is unpaid for 14 days after becoming 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 effective control of the tenant as a result of changes in -
- (i) membership of the company or its holding company,
- (ii) beneficial ownership of the shares in the company or its holding company, or
- (iii) beneficial ownership of the business or assets of the company,
- but this paragraph does not apply if the tenant is a public company listed on the Australian Stock Exchange, or a subsidiary of one.
- "Effective control" means the ability to control the composition of the board of directors or having more than 50% of the shares giving the right to vote at general meetings,
- 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*,
- (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 (d) 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.

- 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.
 - 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 The landlord must give the tenant, before terminating this lease under clause 7.1 for non-payment of rent, the same notice that it would be required to give under section 146(1) of the *Property Law Act 1958* (Vic) for a breach other than the non-payment of rent.
 - 7.5 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, 2.2.1, 2.2.2, 2.2.7, 2.2.8, 2.2.9, 2.2.11, 2.2.13, 2.3, 3.2.11, 4.1, 4.7, 5.4.2, 5.4.7, 13, and 17. Other tenant obligations under this lease may also be essential.
 - 7.6 Before terminating this lease for repudiation (including repudiation consisting of the non-payment of rent), the landlord must give the tenant written notice of the breach and a period of 14 days in which to remedy it 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.
 - 7.7 Even though the landlord does not exercise its rights under this lease on one occasion, it may do so on any later occasion.
8. **DESTRUCTION OR DAMAGE**
- 8.1 If the premises or the building are damaged so that the premises cannot be used or accessed for the permitted use -
 - 8.1.1 a fair proportion of the rent and building outgoings is to be suspended until the premises are again wholly fit and accessible for the permitted use.
 - 8.1.2 the suspended portion of the rent and building outgoings must be proportionate to the nature and extent of the damage 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
 - 8.3.2 if the reinstatement does not start within 3 months, or is not likely to be completed within 9 months, the landlord or the tenant may end this lease by giving the other written notice.
 - 8.4 The tenant will not be entitled to suspension of rent or building outgoings under sub-clause 8.1.1 nor to end the lease under sub-clause 8.3.2 and the landlord will not be obliged to reinstate the premises or the building under clause 8.2 if payment of an insurance claim is properly refused in respect of the damage or destruction because of any act or omission by the tenant or the tenant's agents.
 - 8.5 If the Act does not apply and there is a dispute under this clause, either party may request the President of the Australian Property Institute, Victorian Division, to nominate a practising valuer member of that Institute to determine the dispute or the parties may refer the dispute to mediation under clause 16 unless item 21 states that the mediation procedure does not apply to this lease. 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 The landlord must not unreasonably withhold its consent to any act by the tenant which needs consent unless any other clause provides otherwise, but -
 - 9.1.1 the landlord may impose reasonable conditions before consenting, and
 - 9.1.2 the tenant must reimburse the landlord's reasonable expenses resulting from an application for its consent, including fees paid to consultants.
 - 9.2 This lease, together with the disclosure statement if there is one, contains the whole agreement of the parties. Neither party 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 either party may end the tenancy by giving one month's written notice to the other which may expire on any day of the month,

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, and

10.1.4 the landlord may increase the monthly rent by giving the tenant one month's written notice.

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 either party unless item 17 states otherwise but if the Act applies, review is compulsory.

11.1.2 a party may initiate a review by giving the other party a written notice stating the current market rent which it proposes as the rent for the review period. Unless the Act applies, if the party receiving the notice does not object in writing to the proposed rent within 14 days, it becomes the rent for the review period.

11.1.3 If -

(a) the Act does not apply and the party receiving the notice serves an objection to the proposed rent within 14 days and the parties do not agree on the rent within 14 days after the objection is served, or

(b) the Act applies and the parties do not agree on what the rent is to be for the review period,

the parties must appoint a valuer to determine the current market rent.

If the Act does not apply and if the parties do not agree within 28 days after the objection is served on the name of the valuer, the valuer must be nominated by the President of the Australian Property Institute, Victorian Division, at the request of either party. If the Act applies, the valuer is to be appointed by agreement of the parties, 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 parties 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 parties 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 parties

- (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 parties may immediately appoint a replacement valuer in accordance with sub-clause 11.1.3.

- 11.2 The valuer's determination binds both parties.
- 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, the difference may be recovered 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. 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 started more than 12 months after the market review date, the review takes effect only from the date on which it is started.

12. FURTHER TERM(S)

- 12.1 The tenant has an option to renew this lease for the further term or terms stated in item 18 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,
 - 12.1.2 the tenant has not persistently committed breaches of this lease of which the landlord has given notice during the term, and
 - 12.1.3 the tenant has requested the renewal in writing not more than 6 months nor less than 3 months before the end of the term. The latest date for exercising the option is stated in item 19.
- 12.2 The renewed lease -
 - 12.2.1 starts on the date after this lease ends,
 - 12.2.2 has a starting rent determined in accordance with clause 11, 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 18 has been exercised.
- 12.3 If the tenant is a corporation and was required to provide directors' guarantees for this lease, the tenant must provide guarantees of its obligations under the renewed lease by its directors 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 20 and must maintain the deposit at that amount.
- 13.2 Where the security deposit is invested in an interest bearing deposit, all interest accruing on it is 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.
- 13.5 The tenant may, and if the landlord requires must, provide the security deposit by means of a guarantee 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 post,
 - 14.1.2 by facsimile, or
 - 14.1.3 by delivery
 to the party's last known address, or

- 14.1.4 registered office, or
- 14.1.5 if to the tenant, at the premises.
- 14.2 Posted notices will be taken to have been received 72 hours after posting unless proved otherwise.
- 14.3 Notices delivered or sent by facsimile after 5.00p.m. will be taken to have been received at 9.00a.m. on the next business day at the place where it is received.
- 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 renewed term or terms 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 further terms 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 renewed term or terms or any period of overholding.
 - 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 or 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.
- 16. **DISPUTE RESOLUTION**
 - 16.1 Unless the Act applies, if the words "The mediation procedure applies to this lease" are included in item 21, the mediation procedure applies to this lease. In that event the parties must attempt to resolve any dispute by the mediation procedure, except disputes about —
 - 16.1.1 unpaid rent and interest charged on it;
 - 16.1.2 review of rent; and
 - 16.1.3 a dispute to be resolved in another way prescribed by any other provision of this lease.

16.2 The mediation procedure is -

16.2.1 a party may start mediation by serving a mediation notice on the other party.

16.2.2 the notice must state that a dispute has arisen and identify what the dispute is.

16.2.3 the parties must jointly request appointment of a mediator. If the parties fail to agree on the appointment within 7 days of service of the mediation notice, either party may apply to the President of the Law Institute of Victoria or the nominee of the President to appoint a mediator.

16.2.4 once the mediator has accepted the appointment the parties must comply with the mediator's instructions.

16.2.5 if the dispute is not resolved within 30 days of the appointment of the mediator, or any other period agreed by the parties in writing, the mediation ceases.

16.3 The mediator may fix the charges for the mediation which must be paid equally by the parties.

16.4 If the dispute is settled, all parties must sign the terms of agreement and these terms are binding on the parties.

16.5 The mediation is confidential and -

16.5.1 statements made by the mediator or the parties, and

16.5.2 discussions between the participants to the mediation, before after or during the mediation,

cannot be used in any legal proceedings.

16.6 It must be a term of the engagement of the mediator that the parties release the mediator from any court proceedings relating to this lease or the mediation.

16.7 The mediator is not bound by the rules of natural justice and may discuss the dispute with a party in the absence of any other party.

16.8 If the Act applies, so that a dispute must be referred to the Victorian Civil and Administrative Tribunal, the parties agree that each may be represented by a legal practitioner or legal practitioners of its choice.

17. GST

17.1 Expressions used in this clause 17 and in the GST Act have the same meanings as when used in the GST Act.

17.2 Amounts payable and consideration provided under or in respect of this lease (other than under clause 17.3) are GST exclusive.

17.3 The recipient of a taxable supply made under or in respect of this lease must pay to the supplier, at the time the consideration for the supply is due, the GST payable in respect of the supply. This obligation extends to supply consisting of a party's entry into this lease.

17.4 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 17.3 on account of the landlord's liability for GST.

17.5 A party is not obliged, under clause 17.3, to pay the GST on a taxable supply to it under this lease, until given a valid tax invoice for the supply.

18. CONSUMER PRICE INDEX

18.1 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.

18.2 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 the shortfall or the landlord must immediately repay the excess, as the case may be.

- 18.3 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
 - 18.4 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
 - 18.5 Unless the Act applies, the adjustment is not made if it would result in a decrease in the rent payable.
- 19. IF PREMISES ONLY PART OF THE LETTABLE AREA OF THE BUILDING**
- 19.1 If the premises are only a part of the lettable area of the building, the provisions of this clause apply.
 - 19.2 The landlord -
 - 19.2.1 may adopt whatever name it chooses for the building and change the name from time to time, and
 - 19.2.2 reserves all proprietary rights to the name of the building and any logo adopted for the building.
 - 19.3 The landlord reserves for itself the use of all external surfaces of the building and areas outside the building.
 - 19.4 The building, common areas and landlord's installations remain under the absolute control of the landlord which may manage them and regulate their use as it considers appropriate. In particular the landlord has the right -
 - 19.4.1 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,
 - 19.4.2 to exclude persons whose presence the landlord considers undesirable,
 - 19.4.3 to grant easements over any parts of the land which do not materially and adversely affect the tenant's use,
 - 19.4.4 to install, repair and replace, as necessary, the pipes and conduits, necessary or desirable for the provision of services to the various parts of the building, and
 - 19.4.5 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.
 - 19.5 The tenant must not obstruct the common areas or use them for any purpose other than the purposes for which they were intended.
 - 19.6 The tenant must comply with the building rules. The landlord may change the building rules from time to time and the tenant will be bound by a change when it receives written notice of it. The landlord must not adopt a building rule or change the building rules in a way that is inconsistent with this lease. To the extent that a building rule is inconsistent with this lease, the lease prevails.
- 20. ADDITIONAL PROVISIONS**
- Any additional provisions set out in Item 22 -
- 20.1 bind the parties, and
 - 20.2 if inconsistent with any other provisions of this lease, override them.

Due diligence checklist

What you need to know before buying a residential property

Before you buy a home, you should be aware of a range of issues that may affect that property and impose restrictions or obligations on you, if you buy it. This checklist aims to help you identify whether any of these issues will affect you. The questions are a starting point only and you may need to seek professional advice to answer some of them. You can find links to organisations and web pages that can help you learn more, by visiting the [Due diligence checklist page on the Consumer Affairs Victoria website](http://consumer.vic.gov.au/duediligencechecklist) (consumer.vic.gov.au/duediligencechecklist).

Urban living

Moving to the inner city?

High density areas are attractive for their entertainment and service areas, but these activities create increased traffic as well as noise and odours from businesses and people. Familiarising yourself with the character of the area will give you a balanced understanding of what to expect.

Is the property subject to an owners corporation?

If the property is part of a subdivision with common property such as driveways or grounds, it may be subject to an owners corporation. You may be required to pay fees and follow rules that restrict what you can do on your property, such as a ban on pet ownership.

Growth areas

Are you moving to a growth area?

You should investigate whether you will be required to pay a growth areas infrastructure contribution.

Flood and fire risk

Does this property experience flooding or bushfire?

Properties are sometimes subject to the risk of fire and flooding due to their location. You should properly investigate these risks and consider their implications for land management, buildings and insurance premiums.

Rural properties

Moving to the country?

If you are looking at property in a rural zone, consider:

- Is the surrounding land use compatible with your lifestyle expectations? Farming can create noise or odour that may be at odds with your expectations of a rural lifestyle.
- Are you considering removing native vegetation? There are regulations which affect your ability to remove native vegetation on private property.
- Do you understand your obligations to manage weeds and pest animals?

Can you build new dwellings?

Does the property adjoin crown land, have a water frontage, contain a disused government road, or are there any crown licences associated with the land?

Is there any earth resource activity such as mining in the area?

You may wish to find out more about exploration, mining and quarrying activity on or near the property and consider the issue of petroleum, geothermal and greenhouse gas sequestration permits, leases and licences, extractive industry authorisations and mineral licences.

Soil and groundwater contamination

Has previous land use affected the soil or groundwater?

You should consider whether past activities, including the use of adjacent land, may have caused contamination at the site and whether this may prevent you from doing certain things to or on the land in the future.

Land boundaries

Do you know the exact boundary of the property?

You should compare the measurements shown on the title document with actual fences and buildings on the property, to make sure the boundaries match. If you have concerns about this, you can speak to your lawyer or conveyancer, or commission a site survey to establish property boundaries.

Planning controls

Can you change how the property is used, or the buildings on it?

All land is subject to a planning scheme, run by the local council. How the property is zoned and any overlays that may apply, will determine how the land can be used. This may restrict such things as whether you can build on vacant land or how you can alter or develop the land and its buildings over time.

The local council can give you advice about the planning scheme, as well as details of any other restrictions that may apply, such as design guidelines or bushfire safety design. There may also be restrictions – known as encumbrances – on the property's title, which prevent you from developing the property. You can find out about encumbrances by looking at the section 32 statement.

Are there any proposed or granted planning permits?

The local council can advise you if there are any proposed or issued planning permits for any properties close by. Significant developments in your area may change the local 'character' (predominant style of the area) and may increase noise or traffic near the property.

Safety

Is the building safe to live in?

Building laws are in place to ensure building safety. Professional building inspections can help you assess the property for electrical safety, possible illegal building work, adequate pool or spa fencing and the presence of asbestos, termites, or other potential hazards.

Building permits

Have any buildings or retaining walls on the property been altered, or do you plan to alter them?

There are laws and regulations about how buildings and retaining walls are constructed, which you may wish to investigate to ensure any completed or proposed building work is approved. The local council may be able to give you information about any building permits issued for recent building works done to the property, and what you must do to plan new work. You can also commission a private building surveyor's assessment.

Are any recent building or renovation works covered by insurance?

Ask the vendor if there is any owner-builder insurance or builder's warranty to cover defects in the work done to the property.

Utilities and essential services

Does the property have working connections for water, sewerage, electricity, gas, telephone and internet?

Unconnected services may not be available, or may incur a fee to connect. You may also need to choose from a range of suppliers for these services. This may be particularly important in rural areas where some services are not available.

Buyers' rights

Do you know your rights when buying a property?

The contract of sale and section 32 statement contain important information about the property, so you should request to see these and read them thoroughly. Many people engage a lawyer or conveyancer to help them understand the contracts and ensure the sale goes through correctly. If you intend to hire a professional, you should consider speaking to them before you commit to the sale. There are also important rules about the way private sales and auctions are conducted. These may include a cooling-off period and specific rights associated with 'off the plan' sales. The important thing to remember is that, as the buyer, you have rights.

(04/10/2016)

