

# 8 CLIVE STREET, SPRINGVALE VIC

## CAR PARKING DEMAND ASSESSMENT

**PREPARED FOR VIMI MOTORS**

*Proposed Vehicle Sales Shop*

REF: P24019 | DATE: 5 November 2024

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### Revision

Version	Date	Prepared By
F01	30/10/2024	A.H.

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## 1 INTRODUCTION

AMH Traffic was engaged by Vimi Motors, henceforth 'the client', to prepare a car parking demand assessment for a proposed vehicle sales shop at 8 Clive Street, Springvale VIC 3171.

The client is seeking a planning permit for a change in use from a hair beauty shop to a vehicle sales shop.

This report provides a detailed assessment of the parking, traffic and access considerations associated with the proposed change in use.

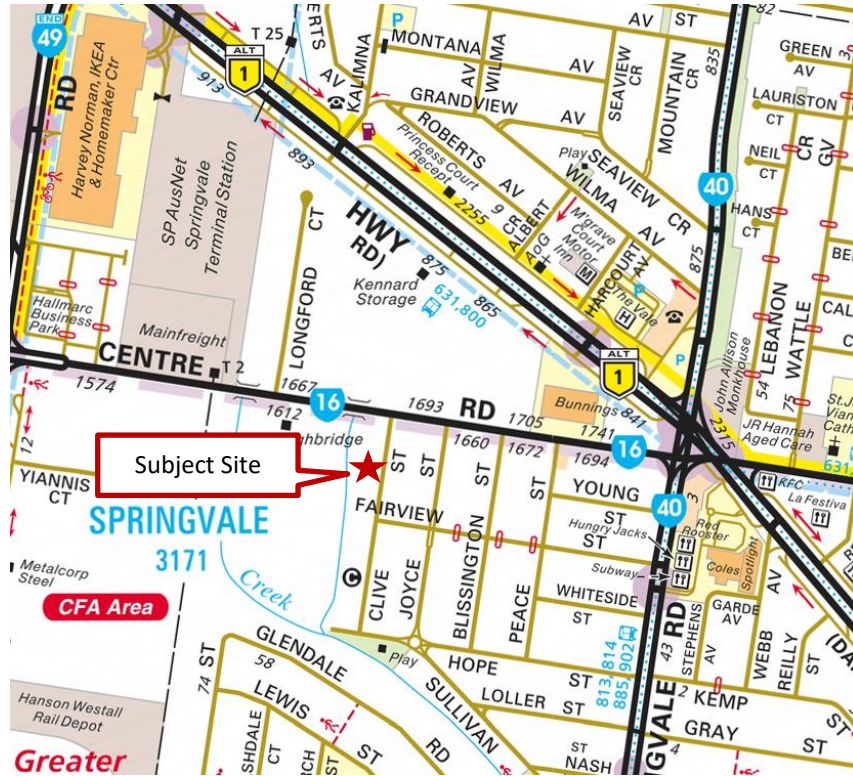
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## 2 EXISTING CONDITIONS

### 2.1 Location

The proposed vehicle sales shop is to be located on the western side of Clive Street, approximately 100 m south of the Clive Street / Centre Road intersection.

The location of the subject site and its surrounding area are depicted in **Figure 1**.



**Figure 1: Locality Map**

A recent aerial view of the site is provided in **Figure 2**.

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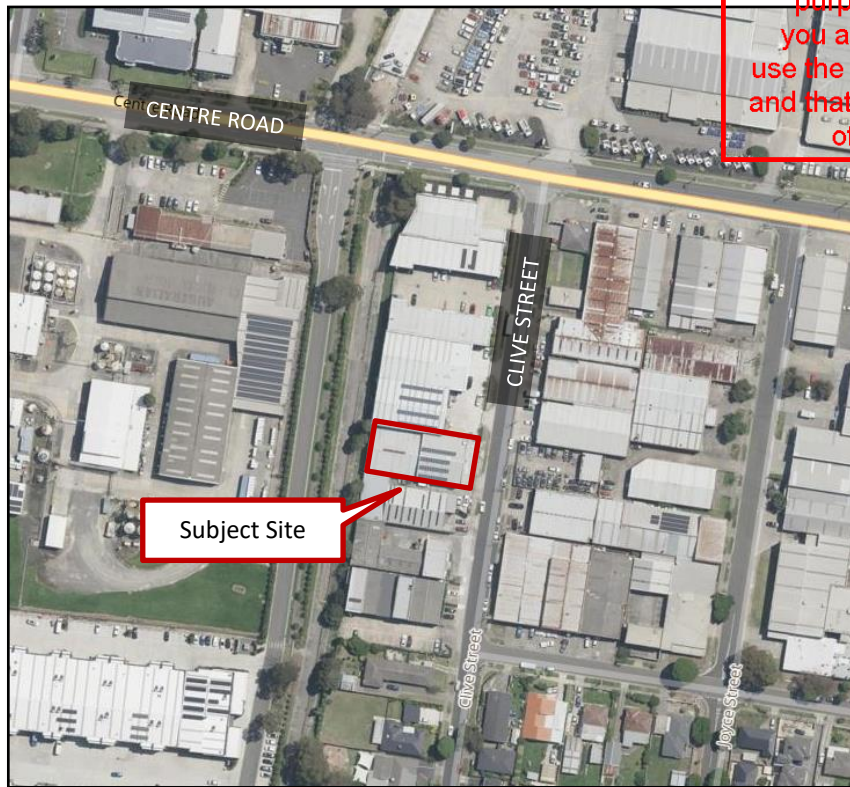


Figure 2 : Subject Site (Source: Vexcel Imaging – Map data@2024)

## 2.2 Planning Zones

The subject site is situated within IN1Z – Industrial 1 zone and is surrounded by industrial uses in all directions.

An extract of the subject site's Planning Scheme Zones is shown in **Figure 3**.

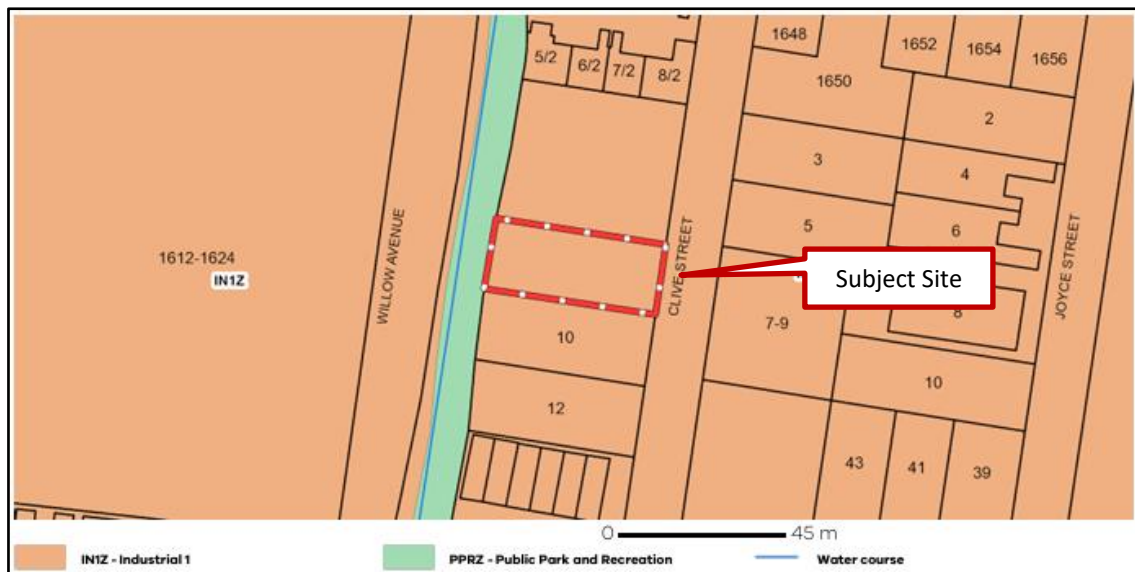


Figure 3 : Subject Site Planning Zones (Source: <https://mapshare.vic.gov.au/vicplan>)

## 2.3 Road Network

### 2.3.1 Clive Street

Clive Street is local road that is under the management of Greater Dandenong City Council and is aligned in a north-south orientation. Clive Street provides one traffic lane in each direction and is set within an approximately 8.6m wide undivided carriageway. Footpaths are available on both sides of the road.

On the eastern side of the street, parking is prohibited on some sections while unrestricted parking is provided in others. On the western side, there is a mixture of 'No Stopping', unrestricted and time-restricted (2P) parking sections.

Clive street has a default speed limit of 50 km/hr.

**Figure 4** shows Clive Street looking west.



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**Figure 4 : Clive Street Looking West (Source: Google Maps)**

## 2.4 Public Transport

The subject site is located in an area with good connection to the public transport network.

Four bus services run along Springvale Road to the east and a further two services run along Princes Highway North of the subject Site within a reasonable walking distance. These bus services are summarised in **Table 1**.

Service Number	Route	Closest Stop (m)
631	Chelsea Railway Station - Airport West Shopping Centre	650
800	Dandenong - Chadstone via Princes Highway, Oakleigh	650
813	Dandenong - Waverley Gardens SC	650

814	Springvale South - Dandenong via Waverley Gardens Shopping Centre & Springvale	650
885	Glen Waverley - Springvale via Wanda Street	650
902	Chelsea Railway Station - Airport West Shopping Centre	650

Table 1: Nearby Bus Services

Figure 5 illustrates the public transport network around the subject site.

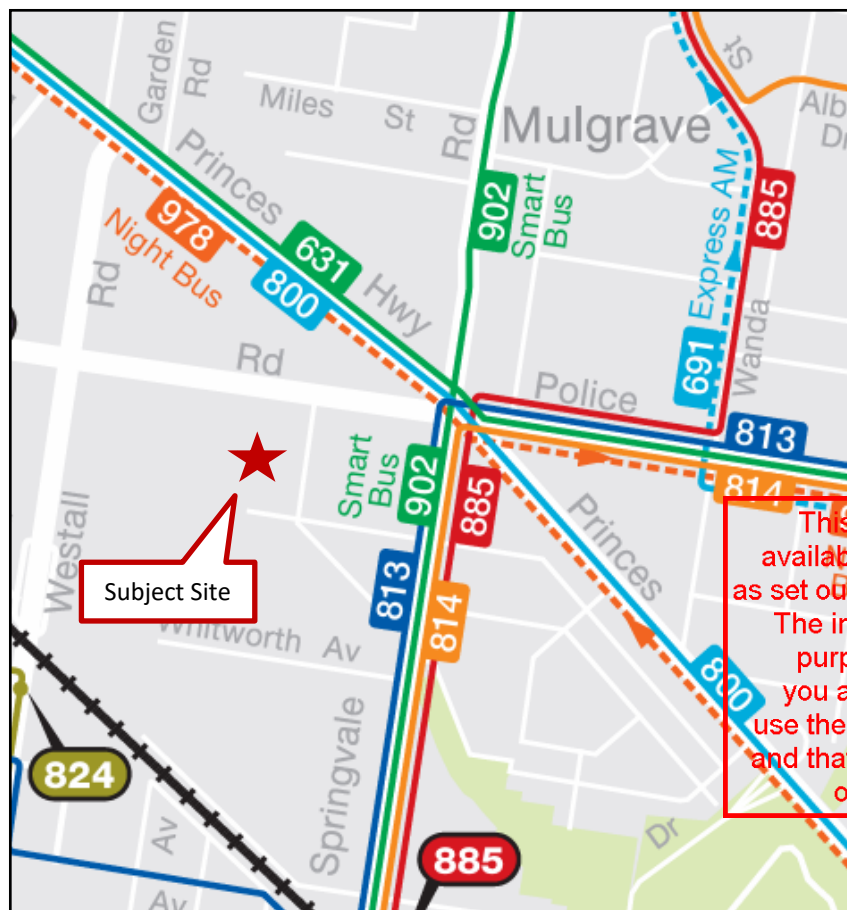


Figure 5: Public Transport Map (Source: PTV Website)

## 2.5 Parking Availability

AMH Traffic undertook an inventory and spot parking occupancy survey on Tuesday 29 October 2024 at 12:00pm. The survey included the following locations:

- The shared parking lot located within the site boundaries of 4-6 Clive Street with 19 spaces, of which 5 spaces are allocated to the proposed vehicle sales shop at 8 Clive Street.
- On-street parking spaces within a 150m walking distance of the subject site.

### 2.5.1 Shared Parking Lot

For the shared parking lot, it was observed that only 7 spaces (37%) were occupied, leaving 12 available spaces.

Historical parking utilisation was analysed using aerial imagery as shown in has **Table 2**.

Date	Occupied Spaces	Available Spaces	% Availability
Thurs 01/08/2024, 12:12 PM	5	14	74%
Mon 13/05/2024, 10:54 AM	4	15	79%
Fri 22/05/2024, 11:29 PM	6	13	68%
Thurs 15/02/2024, 11:23 AM	6	13	68%

**Table 2: Historical parking occupancy using aerial imagery (Parking Lot)**

The analysis showed that there is a minimum parking availability of 68%.

### 2.5.2 On-street Parking

The survey showed that there is a total of 29 unrestricted and 4 2P parking spaces within reasonable walking distance of the subject site. During the spot survey, all 2P spaces were occupied and 10 unrestricted spaces were available.

An analysis of historical parking usage of the same area was also undertaken using aerial imagery. The results of the analysis are shown in the **Table 3** below.

Date	Occupied Spaces		Available Spaces	
	2P	Unrestricted	2P	Unrestricted
Thurs 01/08/2024, 12:12 PM	0	15	4	14
Mon 13/05/2024, 10:54 AM	2	17	2	12
Fri 22/05/2024, 11:29 PM	0	15	4	14
Thurs 15/02/2024, 11:23 AM	1	17	3	12

**Table 3: Historical parking occupancy using aerial imagery (On-Street Parking)**

It was found that there was a minimum availability of 14 on-street parking spaces within walking distance of the subject site.

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### 3 PROPOSED DEVELOPMENT

The proposal seeks to use the property as a high-end vehicle sales shop. The building has a net floor area of 716.4sqm which includes 155sqm of ancillary office space at the front of the building.

Customer will be served by appointment only and the client has advised that a maximum of 4 - 6 customers will be served per day.

The proposal includes a total of 5 parking spaces that are located in the shared parking area in the adjacent property (4-6 Clive Street). These parking spaces are allocated to this property as can be seen in the lease agreement excerpt attached in **Appendix B**.

The shop will be open from 8:00am to 7:00pm Monday to Sunday and a maximum of 2 staff will be on-site at any one time.

The development plans are attached in **Appendix A** for reference.

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## 4 CAR PARKING

### 4.1 Statutory Car Parking Requirement

Car parking requirements for a range of uses are set out under Clause 52.06 of the Geater Dandenong Planning Scheme. The Purpose of Clause 52.06 is:

- To ensure that car parking is provided in accordance with the Municipal Planning Strategy and the Planning Policy Framework.
- To ensure the provision of an appropriate number of car parking spaces having regard to the demand likely to be generated, the activities on the land and the nature of the locality.
- To support sustainable transport alternatives to the motor car.
- To promote the efficient use of car parking spaces through the consolidation of car parking facilities.
- To ensure that car parking does not adversely affect the amenity of the locality.
- To ensure that the design and location of car parking is of a high standard, creates a safe environment for users and enables easy and efficient use.

Table 1 of the Planning Scheme provides parking rates for various land uses.

Motor vehicle sales shop is not listed in the planning scheme. For uses not listed in the table, car parking spaces must be provided to the satisfaction of the responsible authority.

### 4.2 Car Parking Demand Assessment

A car parking demand assessment has been undertaken to assess the car parking demand likely to be generated by the motor vehicle sales shop.

The car parking demand assessment must address several matters to the satisfaction of the responsible authority. These matters have been discussed in **Table 4** below.

MATTER	COMMENT
The likelihood of multi-purpose trips within the locality which are likely to be combined with a trip to the land in connection with the proposed use.	Multipurpose trips are unlikely for this development.
The variation of car parking demand likely to be generated by the proposed use over time.	Parking demand is expected to be consistent over the operating hours.
The short-stay and long-stay car parking demand likely to be generated by the proposed use.	Staff parking demand will be long-term while visitor parking will be short-term.
The availability of public transport in the locality of the land.	As discussed in <b>Section 2.4</b> , the subject site is well connected to the public transport network, with 5 bus services within a reasonable walking distance.
The convenience of pedestrian and cyclist access to the land.	N/A

The provision of bicycle parking and end of trip facilities for cyclists in the locality of the land.	Three (3) bicycle parking spaces are proposed.
The anticipated car ownership rates of likely or proposed visitors to or occupants (residents or employees) of the land.	N/A
Any empirical assessment or case study.	<p>The expected parking demand has been analysed from a first principles approach.</p> <p>There will be a maximum of 2 staff on-site at any one time. Assuming both staff drive to the site, the staff parking demand will be 2 spaces.</p> <p>The sales shop serves clients on an appointment only basis. A maximum of 4-6 customers are expected to be served per day with a maximum of 2 being served at the same time. This results in a maximum customer parking demand of 2 spaces.</p> <p>Therefore, the expected total peak parking demand is 4 spaces.</p>

Table 4: Car Parking Demand Assessment

### 4.3 Adequacy of Parking Supply

Based on the parking demand assessment, the expected total peak parking demand is 4 spaces.

As 5 spaces will be provided, there is sufficient availability of car parking to support the proposed development.

Although the expected parking demand will be accommodated on-site, as discussed in **Section 2.5**, on-street parking spaces are available within a reasonable walking distance to accommodate any unexpected demand.

### 4.4 Disabled Parking

The proposal does not seek to change the parking and access arrangement of the property. As no disabled parking was provided previously, this proposal will not be providing a disabled parking space.

However, it is noted that a disabled parking is located in the shared parking lot where the 5 parking spaces allocated to this property are located. Customers who need a disabled parking spaces can utilise this space or available on-street parking spaces.

### 4.5 Parking Access and Management

The proposed 5 parking spaces are located in the adjacent property to the north of the subject site and are accessed from a 5.5m vehicle crossing. There is a pedestrian access located along the northern boundary of the site that staff and customers will use to access the building.

Given the parking spaces are located in the adjacent property, parking management measures have been taken to ensure customers can find parking with ease.

These include the following:

- Customers will be notified of the location of parking when confirming their appointment.
- Wayfinding sign (see **Figure 6**) will be attached to the fence that points to the location of parking.



Figure 6: Wayfinding Sign

- Parking signs stating 'VIMI MOTORS CUSTOMER PARKING ONLY' to be placed in front of all parking spaces.



Figure 7: Parking Sign

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## 4.6 Bicycle Parking

Bicycle parking requirements for a range of uses are set out under Clause 52.34 of the Planning Scheme. 'Vehicle Sales Shop' is not listed in Table 1 of this clause and does not have bicycle parking requirements. Notwithstanding, 3 bicycle parking spaces are proposed for this development.

## 5 TRAFFIC GENERATION AND IMPACT

From a first principles approach, given that there can be a maximum of 2 staff and up to 6 customers are expected per day, assuming all staff and customer arrive simultaneously, the peak traffic generation of the facility is expected to be 8 trips.

Based on the above, it is ascertained that the proposed development is not expected to perceptibly impact operation and safety of Clive Street as well as the wider road network.

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## 6 CONCLUSIONS

The assessment of the parking and traffic impacts of the proposed development has concluded that:

- The proposed land use is not listed in Table 1 of the clause 52.06 of the planning scheme, meaning there is no stated parking rate.
- A first principals approach has determined that the expected peak parking demand is 4 spaces.
- The development proposes to provide 5 spaces on-site, exceeding the expected parking demand.
- Spot surveys and aerial imagery analyses have shown there is a minimum of 10 available spaces within a reasonable walking distance of the subject site.
- Parking management measures have been put in place to manage the on-site parking spaces.
- The traffic generation of the proposed development is anticipated to have minimal impact on the wider transport network.

In conclusion, this study indicates that the proposed development is not envisaged to have adverse impacts on the surrounding traffic or parking conditions. Therefore, the proposed development should be supported on traffic and parking grounds.

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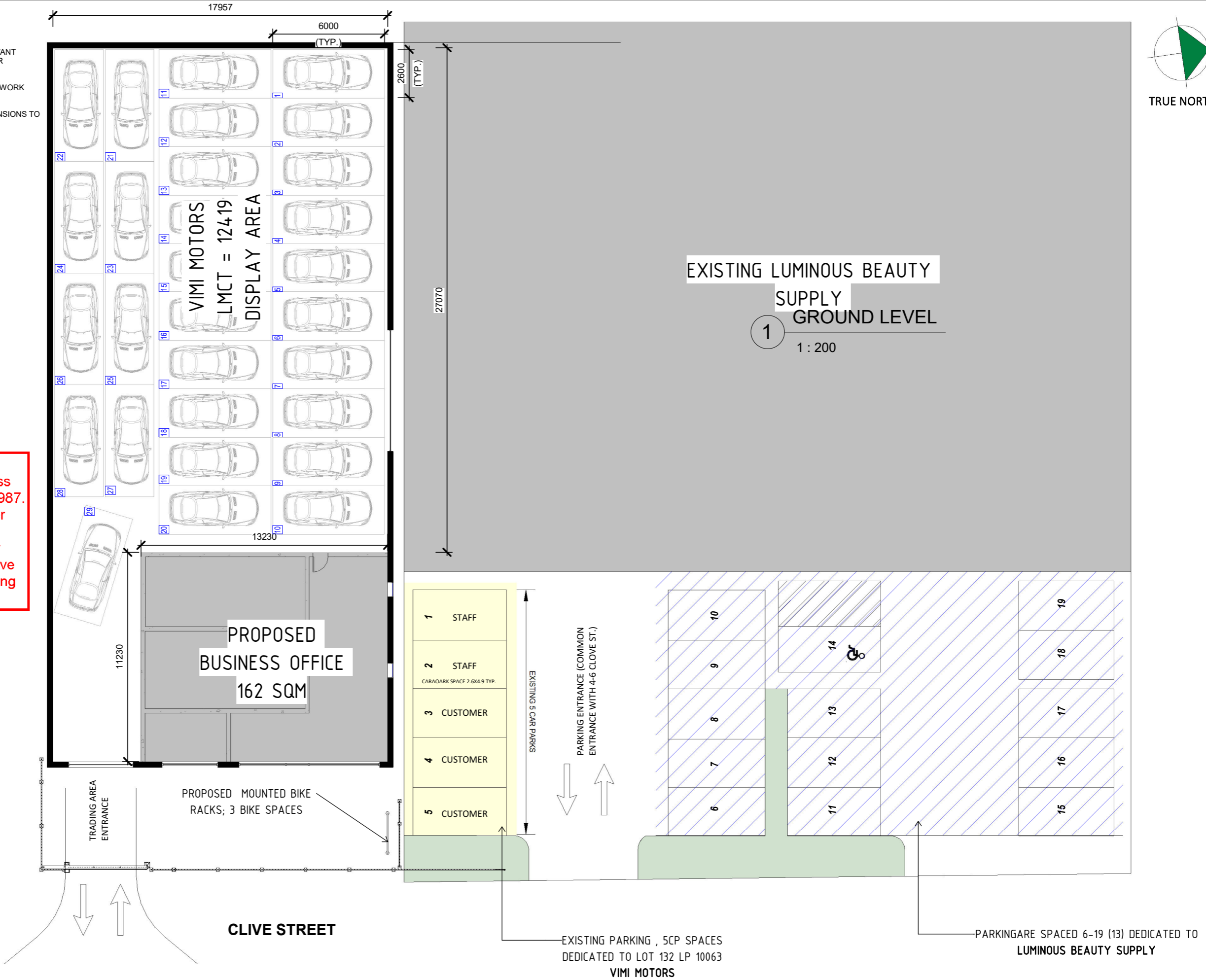
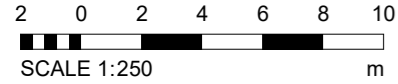
## APPENDIX A: DEVELOPMENT PLAN

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- NOTES:
- 1. PRIOR TO ANY EXCAVATION OR CONSTRUCTION ON THE SITE, THE RELEVANT AUTHORITY SHOULD BE CONTACTED FOR POSSIBLE LOCATION OF FURTHER UNDERGROUND SERVICES.
  - 2. CHECK ALL BOUNDARY LOCATIONS, DIMENSIONS & LEVELS BEFORE ANY WORK COMMENCES.
  - 3. DO NOTE SCALE DIRECTLY FROM DRAWINGS FIGURED OR ON-SITE DIMENSIONS TO ALWAYS TAKE PREFERENCE.



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	No.	Description	Date	CLIENT. VINCE JOHNSON  PROJECT. PROPOSED TRADING LAYOUT LOTS 130, 131, & 132 LP10063 8 CLIVE ST, SPRINGVALE VIC 3171	DRAWING TITLE.  GROUND FLOOR PLAN - PROPOSED TRADING AREA	PROJECT NUMBER.	TDH-175	DRAWING NUMEBR.  TH-04	REVISION.  B	
	A	Issued For DA Approval	12/02/24			DATE.	DEC. 23			
						DRAWN BY.	MS			
						CHECKED BY.	VJ	SC/As indicated	SHEET.	4 OF 4

## APPENDIX B: LEASE AGREEMENT EXCERPT

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**DATE OF EXPIRY: 31 January 2034**

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## **Lease of Real Estate**

**Demised Premises:**

**8 Clive Street, Springvale Vic 3171 including five (5) car spaces as shown on the attached plan**

("Landlord")

and

("Tenant")

and

("Guarantor")

**FRENKEL PARTNERS**  
L A W Y E R S

---

Level 11, 140 William Street, MELBOURNE VIC 3000

T: (03) 9622 0999 • F: (03) 9622 0988

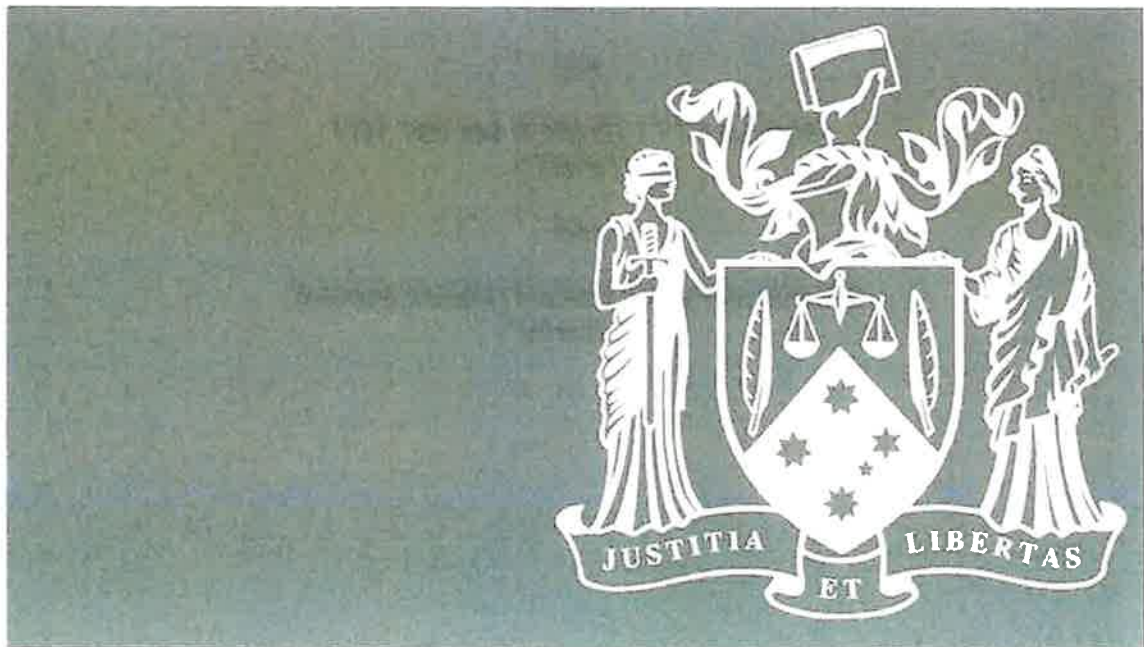
E: [jgoldsmith@frenkels.com.au](mailto:jgoldsmith@frenkels.com.au)

Ref:JKG:2335262

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



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

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The **landlord** leases the **premises** to the **tenant** for the **term** and at the **rent** and on the conditions set out in this lease together with all necessary access over any **common areas**.

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

# Lease Conditions

## 1. DEFINITIONS AND INTERPRETATION

1.1 The listed expressions in **bold print** have the meaning set out opposite them -

EXPRESSION	MEANING
<b>accounting period</b>	the period of 12 months ending 30 June or other period of 12 months adopted by the <b>landlord</b> in respect of this lease for recovery of <b>building outgoings</b> and includes any broken periods at the start and end of the <b>term</b>
<b>Act</b>	the <i>Retail Leases Act 2003</i> (Vic)
<b>Building</b>	any building comprising the <b>premises</b> or in which the <b>premises</b> are located, including the <b>landlord's installations</b>
<b>Building outgoings</b>	any of the following expenses (excluding capital expenses and expenses whose recovery from the <b>tenant</b> would be contrary to applicable legislation) incurred in respect of the <b>land</b> , the <b>building</b> , the <b>premises</b> or any <b>premises</b> in the <b>building</b> which include the <b>premises</b> - <ul style="list-style-type: none"> <li>(a) rates, levies and assessments imposed by any relevant authorities;</li> <li>(b) taxes including land tax (unless the <b>Act</b> applies), calculated on the basis that the <b>land</b> is the only land of the <b>landlord</b> liable to tax and is not subject to a trust but excluding income tax and capital gains tax;</li> <li>(c) the costs of maintaining and repairing the <b>building</b> and the <b>landlord's installations</b> and carrying out works as required by relevant authorities (but excluding any amount recovered in respect of maintenance or repair by the <b>landlord</b> from its insurer);</li> <li>(d) premiums and charges for the following insurance policies taken out by the <b>landlord</b> -               <ul style="list-style-type: none"> <li>(i) damage to and destruction of the <b>premises</b> for their replacement value for the risks listed in <b>item 11</b>,</li> <li>(ii) removal of debris,</li> <li>(iii) breakdown of <b>landlord's installations</b>,</li> <li>(iv) breakage of glass,</li> <li>(v) public risk for any single event for \$20 million or other amount reasonably specified from time to time by the <b>landlord</b>, and</li> <li>(vi) loss of rent and outgoings for 18 months, and excesses paid or payable on claims,</li> </ul> </li> <li>(e) costs incurred in providing services to the <b>land</b>, the <b>building</b> or the <b>premises</b> including -               <ul style="list-style-type: none"> <li>(i) heating,</li> <li>(ii) cooling,</li> <li>(iii) air-conditioning,</li> <li>(iv) cleaning,</li> <li>(v) pest control,</li> <li>(vi) waste collection,</li> <li>(vii) lighting,</li> <li>(viii) landscaping and garden maintenance,</li> <li>(ix) security, and</li> <li>(x) fire safety prevention, detection and control;</li> </ul> </li> <li>(f) costs of repairs or maintenance work in respect of an <b>essential safety measure</b>; and</li> <li>(g) if the <b>premises</b> comprise only a part of the lettable area of the <b>building</b>, costs of whatever description, reasonably incurred by the <b>landlord</b> in the administration, management or operation of the <b>land</b>, the <b>building</b> and the <b>premises</b> including <b>accountancy and audit fees</b>,</li> </ul>

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

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<b>building rules</b>	any rules adopted from time to time for the <b>building</b> , including the rules of an owners corporation affecting the <b>premises</b>
<b>common areas</b>	areas in the <b>building</b> or on the <b>land</b> that are under the control of the <b>landlord</b> 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 <b>premises</b> in the <b>building</b> in relation to the carrying on of businesses on those <b>premises</b> , other than areas which are let or licensed, or intended to be let or licensed, other than on a casual basis
<b>Consumer Price Index</b>	the consumer price index published by the Australian Government Statistician under the heading All Groups, Melbourne
<b>CPI review date</b>	a date specified in <b>item 13 (b)</b>
<b>electronic signature</b>	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 " <b>electronically signed</b> " has a corresponding meaning
<b>essential safety measure</b>	has the same meaning as in the <i>Building Regulations 2018</i> or any subsequent corresponding regulations
<b>fixed review date</b>	a date specified in <b>item 13 (c)</b>
<b>GST</b>	GST within the meaning of the <b>GST Act</b>
<b>GST Act</b>	<i>A New Tax System (Goods and Services Tax) Act 1999 (Cth)</i>
<b>guarantor</b>	the person named in <b>item 3</b>
<b>item</b>	an item in the schedule to this lease
<b>land</b>	the parcel of land comprising the <b>premises</b> or on which the <b>building</b> is erected and which is described in <b>item 4(b)</b>
<b>landlord</b>	the person named in <b>item 1</b> , or any other person who will be entitled to possession of the <b>premises</b> when this lease ends
<b>landlord's installations</b>	any property other than the land of the <b>landlord</b> , in the <b>premises</b> or on the <b>land</b> and includes the property listed in <b>item 5</b>
<b>lettable area</b>	unless the <b>Act</b> applies and requires otherwise - (a) in relation to the <b>premises</b> , the area let; and (b) in relation to the <b>building</b> , the total area of the <b>building</b> 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 <b>lettable area</b> of the <b>building</b> or any part of the <b>building</b> , the measurement is to be carried out using the most recent revision of the relevant Property Council of Australia method of measurement
<b>market review date</b>	a date specified in <b>item 13(a)</b>
<b>permitted use</b>	the use specified in <b>item 12</b>
<b>PPSA</b>	the <i>Personal Property Securities Act 2009 (Cth)</i>
<b>premises</b>	the <b>premises</b> described in <b>item 4(a)</b> and fixed improvements and the <b>landlord's installations</b> within the <b>premises</b> but excluding the tenant's installations
<b>rent</b>	the amount in <b>item 6</b> , as varied in accordance with this lease
<b>review date</b>	a date specified in <b>item 13</b>
<b>start of the lease</b>	the earlier of- (a) the first day of the <b>term</b> ; and (b) the date upon which the <b>tenant</b> or any previous tenant took occupation of the <b>premises</b> 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 <b>premises</b>
<b>tenant</b>	the person named in <b>item 2</b> , or any person to whom the lease has been transferred
<b>tenant's agents</b>	the <b>tenant's</b> employees, agents, contractors, customers and visitors to the <b>premises</b>
<b>tenant's installations</b>	the items of equipment and fittings listed in <b>item 7</b> and those introduced by the <b>tenant</b> after the lease starts
<b>term</b>	the period stated in <b>item 8</b>
<b>valuer</b>	a person holding the qualifications or experience specified under section 13DA(2) of the <i>Valuation of Land Act 1960 (Vic)</i> and, if the <b>Act</b> applies, a specialist retail valuer.

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- 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 sub-letting whether or not the transfer or subletting occurs,

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- (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**.

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### 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**.

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- 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.

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- 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 time s 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.

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- 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.

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- 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, 5.4.4.2, 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 of this lease, modified so as to apply to a monthly tenancy,

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- 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.

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- 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 15** 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) not 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

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- 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.

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**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**.

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- 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.

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## 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 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.

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# Schedule

## Important Notice To The Person Completing This Schedule

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

**Item 1**  
[1.1]

**Landlord:**

**Item 2**  
[1.1]

**Tenant:**

**Item 3**  
[1.1]

**Guarantor:**

**Item 4**  
[1.1]

**(a) Premises:**

8 Clive Street, Springvale Vic 3171 including five (5) car spaces as shown on the attached plan

**(b) Land:**

Being the land contained in Lot 130, Lot 131 and Lot 132 on LP10063

**Item 5**  
[1.1]

**Landlord's installations:**

As inspected including fire safety equipment, electric roller door, office fit out with mezzanine storage, lighting and air conditioning.

**Item 6**  
[1.1]

**Rent:**

\$82,000.00 net per annum plus GST

**Note:** There is no need to refer to GST if the rent is expressed as a GST exclusive sum – see clause 16; if the rent is expressed as a GST inclusive sum, an addition provision will be needed to modify the operation of clause 16.

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Item 7  
[1.1]

**Tenant's installations:**

Including all fixtures and fittings brought onto or placed on the Premises by the Tenant.

Item 8  
[1.1]

**Term of the lease:**

Ten (10) years commencing on 1 February 2024 ("the Commencement Date")

Item 9  
[2.1.1]

**How rent is to be paid:**

Calendar monthly in advance

Item 10  
[1.1, 2.1.2, 2.1.5  
& 5.4]

**Building outgoings which the tenant must pay or reimburse:**

**Tenant's proportion of building outgoings –**

- (a) in relation to **building outgoings** that benefit all of the premises in the **building**: the proportion that the **lettable area** of the **premises** bears to the total **lettable area** of the **building**;
- (b) in relation to **building outgoings** that benefit the **premises** and other premises but not all of the premises in the **building**: the proportion that the **lettable area** of the **premises** bears to the total **lettable area** of all premises (including the **premises**) that benefit from the outgoing;
- (c) in relation to **building outgoings** that benefit only the **premises**: 100%

In addition to **building outgoings** as defined under clause 1.1, building outgoings include, without limitation, all amounts expended or to be expended by the Landlord in respect of the premises and in particular owners corporation fees, rates (including Municipal, Water and Special Rates), charges, Land Tax on a single holding basis and other assessments not separately charged or assessed, insurance premiums in respect of liability for property damage, plate glass, public liability, loss of rent, repairs and maintenance (of a non-structural nature), State Government levies, Fire Service levies, congestion levies, Tenant's fittings, the expenses of the Landlord operating, equipping, policing, cleaning, lighting, caretaking and maintaining the common area of the premises and all costs associated with car parking, toilets, other facilities of the premises, garbage disposal, air conditioning and other mechanical services as well as all other essential services including essential service inspections.

Without limitation and notwithstanding any provision of this Lease the Tenant will be responsible for ~~33%~~ <sup>28%</sup> of the Council rates relating to the Land.

Item 11  
[1.1 & 6.2]

**Risks which the insurance policies must cover: \***

- Fire
- Flood
- Lightning
- Storm and tempest
- Explosion
- Riots and civil commotion
- Strikes
- Malicious damage
- Earthquake
- Impact by vehicles
- Impact by aircraft and articles dropped by them
- Internal flood water
- Plate glass

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

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- Item 12**  
[2.2.1]      **Permitted use:**  
Car sales and storage (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:*  
On each anniversary of the Commencement Date, the rental for each year shall be increased by 3% over and above the rental for each respective preceding year.
- Further term(s):**
- (a)      *Market review date(s):*  
On the commencement date of the Further Term
- (b)      *CPI review date(s):*  
Not Applicable
- (c)      *Fixed review date(s) and percentage or fixed amount increases:*  
On each anniversary of the Commencement Date during the Further Term(s), the rental for each year shall be increased by 3% over and above the rental for each respective preceding year (excluding a market review date).
- Item 14**  
[2.1.1, 11, 17]      **Who may initiate reviews:**
- Market review:*      Either Party
- CPI review:*      Not Applicable
- Fixed review:*      Review is automatic
- Item 15**  
**Further term(s):**  
Two (2) Further Terms of five (5) years each
- Item 16**  
[13]      **Security deposit:**  
A Bank Guarantee or cash deposit in an amount always equivalent to three (3) months' rent plus GST.
- Item 17**  
[20]      **Additional provisions:**  
See attached

## **ADDITIONAL PROVISIONS**

### **17.1. Acknowledgements and Warranties**

- (a) The Tenant acknowledges and warrants that the Tenant:
  - (i) has carried out its own investigations in respect to the suitability of the Premises for the Permitted Use;
  - (ii) has carried out its own investigations in respect to whether the Permitted Use is able to be carried out and is consistent with the provisions of the relevant planning scheme; and
  - (iii) will only provide the services allowed by the Permitted Use of the Premises and in accordance with clause 2.2 of this Lease and must at all times comply with the planning scheme of the responsible authority.
- (b) The Landlord does not give any representation, promise or warranty as to the suitability of the Premises for the Permitted Use or for any business to be carried out therein or the use to which the Premises may be put.
  - (i) The Tenant acknowledges that it has obtained its own independent advice in respect to any measurements or calculations contained in this Lease or any Disclosure Statement provided by the Landlord, its agent or its solicitor.
  - (ii) If the Act applies, the Tenant acknowledges and warrants that when the Tenant first entered into negotiations with the Landlord, the Tenant received from the Landlord a copy of:
    - A the proposed Lease in writing; and
    - B the Information Brochure about Retail Leases published by the Small Business Commissioner.
  - (iii) If the Act applies, the Tenant warrants that at least fourteen (14) days before the Tenant entered into this Lease, the Tenant received from the Landlord a Disclosure Statement in the form prescribed by the Act and Regulations and a copy of this Lease in writing.
- (c) The Tenant acknowledges having inspected the Premises and accepts the Premises in the condition as inspected and will not call on the Landlord to make any improvements to the Premises.
- (d) The Tenant acknowledges that the Tenant is responsible for taking out its own insurance cover for all its furniture, fixtures, fittings and stocks and public liability, and may not seek indemnity by relying on insurance by the Landlord (or owners corporation if insured by the owners corporation).

### **17.2. Notice of Faults**

- (a) The Tenant must promptly give written notice to the Landlord upon becoming aware of:
  - (i) service by any authority of a Notice or Order affecting the Premises.
  - (ii) any accident within or hazard threatening or affecting the Premises.
  - (iii) any damage to the Premises or any defect in the structure in the Premises or any of the Landlord's installations.
- (b) The Landlord shall not be liable to the Tenant for any damage, injury or loss if the Tenant fails to give notice under the above clause and the Landlord was unaware of the cause of the loss or damage.

### **17.3. Misuse Of Landlord's Installations**

- (a) The Tenant will not use the Landlord's installations for any purpose other than the use for which they were constructed. In addition, the Tenant will not deal with or obstruct the Landlord's installations or place any rubbish, or other unsuitable substances on the Landlord's installations.

- (b) The Tenant will indemnify the Landlord against the cost of repairing any damage resulting to the Landlord's installations from any misuse by the Tenant or the Tenant's agents and on demand will pay that cost to the Landlord.
- (c) The Tenant must not interfere with, impair or modify any of the Landlord's installations without the Landlord's written consent.

#### **17.4. Owners Corporation Rules**

If there are any Owners Corporation Rules in existence, the Tenant must comply with such rules to the extent to which they relate to the Premises.

#### **17.5. Fitout And Reinstatement**

- (a) The Tenant acknowledges and accepts the condition of the Premises as at the Commencement Date.
- (b) Prior to carrying out any alterations to the Premises, the Tenant must obtain the Landlord's consent to the alterations, additions, improvements, capital and fitout works to the Premises (including without limitation any signage), before such proposed changes are carried out.
- (c) In making any improvements, alterations, additions, capital and fitout works, the Tenant must do so in a workmanlike manner and engage registered tradespeople for these purposes which are approved by the Landlord in writing (noting that such approval may not be unreasonably withheld by the Landlord).
- (d) The Tenant will, at its expense, comply with all laws and building and electrical standards and obtain and comply with all necessary consents, approvals or permits of any authority which may be required for such improvements, alterations, additions, capital and fitout works or for the Tenant's business, which must be obtained prior to any such works commencing.
- (e) The Tenant indemnifies and shall keep indemnified the Landlord for any reasonable cost damage, loss or injury suffered or incurred by the Landlord in relation or incidental to any improvements, alterations, additions, capital and fitout works to the Premises carried out by the Tenant or the Tenant's agents.
- (f) At the end of this Lease the Tenant must vacate the Premises and give the Premises back to the Landlord with the Premises in a condition consistent with the condition of the Premises on the Commencement Date, unless otherwise agreed by the Landlord.
- (g) At the end of this Lease the Tenant must remove all of the Tenant's property including signs from the Premises. The Tenant must make good any damage to the Premises caused by that removal of the Tenant's property. Anything not removed by the Tenant will become the property of the Landlord.

#### **17.6. Rent Free**

Notwithstanding the rental specified in item 6 of the schedule the Tenant shall be entitled to a two (2) month rent-free period from the Commencement Date provided always such rent-free provision shall be deemed void for rent review purposes. This clause shall only apply to the first term of the lease and not any further term. For the avoidance of doubt, the Tenant shall not be entitled to an outgoings free period.

#### **17.7. Approvals from Statutory Authorities**

Prior to the Commencement Date of this Lease, the Tenant is required to seek and obtain all relevant Statutory Authority approvals for the permitted use of the Premises. The Landlord does not warrant suitability of the Premises, or make any representations about the use of the Premises. The Tenant must make its own enquiries as to these matters.

#### **17.8. Essential Terms**

The parties acknowledge and agree that the Additional Provisions contained in Item 17 are essential terms of this Lease for the purposes of General Condition 7.4.

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#### **17.9. Tenant's Works**

- (a) The Tenant is permitted to undertake works to the premises at the Tenant's sole cost and expense, including but not limited to:
- (i) Removing Internal walls;
  - (ii) Replacing windows and doors;
  - (iii) Removal of fence and replacing with gate between properties to allow car access; and
  - (iv) An internal wash bay at rear of warehouse; Install 2 car hoists within Warehouse
- (b) Notwithstanding item 17.9(a), the Tenant is not permitted to undertake or commence any of the Tenant's Works to the premises until the following conditions have been satisfied at its sole cost and expense:
- (i) the Tenant must obtain the Landlord's written consent prior to the Tenant's Works being permitted to be undertaken at the Premises;
  - (ii) the Tenant shall promptly provide plans including but not limited to proper drawings and specifications of the proposed Tenant's Works to the Landlord for its consent prior to lodgment of the plans for any necessary approvals. The Landlord shall not unreasonably withhold its consent to the plans; and
  - (iii) the Tenant shall obtain all necessary permits and approvals from the relevant government authorities in relation to the Tenant's Works and any signage prior to the commencement of any works and shall provide to the Landlord a copy of all endorsed plans and building permits and approvals and plans associated therewith.
- (c) Further to the above, if all conditions have been satisfied the Tenant agrees and acknowledges that the Tenant's Works must be undertaken in a proper and workmanlike manner by suitable qualified tradesmen and any damage to the premises caused in consequence of such of the Tenant's Works shall be made good by the Tenant at its own expense.

#### **17.10. Landlord's works**

The Landlord and Tenant acknowledge and agrees that the Landlord will re fit lights in the warehouse and repair the damage at the front of the building.

#### **17.11. Maintenance of Safety Fittings, Equipment, Safety Features and Essential Service Measures and Air Conditioning**

The Tenant must at its costs:

- (a) Maintain a comprehensive preventative maintenance contract (approved by the Landlord) with a specialist contractor for the regular service, maintenance and repair of:
- (i) Safety fittings, equipment and safety features as well as those matters listed as essential safety measures in accordance with the Building Regulations 2018 situated on the premises and;
  - (ii) Air conditioning units at the premises
  - (iii) Roller shutter door/s
- (b) Provide the Landlord or the Landlord's Agent at the commencement of the Lease

written evidence of its compliance with this additional provision 17.11 and provide the Landlord or the Landlord's Agent on demand, evidence of compliance with this Additional Provision 17.11 and copies of all reports from the contractors pursuant to those contracts.

- (c) The Landlord will have the right to refuse any contractor and nominate a preferred Contractor instead, should the Contractor selected by the Tenant not be a specialist in this field.
- (d) Should the Tenant not be able to enter into a contract, the Tenant shall notify Melbourne Commercial Group who shall enter into a contract on behalf of the Landlord and all costs shall be reimbursed by the Tenant.

#### **17.12. Debris/Rubbish**

The tenants at their expense shall be responsible for the cleanliness of the premises and undertake to remove all rubbish and materials from both inside and outside of the premises on a regular basis as well as landscaped areas along with the cleaning/clearing of all roof guttering.

#### **17.13. Garden Maintenance**

Notwithstanding and Without limitation to any provision of this Lease, the Tenant at their expense shall be responsible for the garden maintenance, pruning, lawn mowing, weed removal etc . . . in all garden beds and nature strip on a monthly basis.

Should this not take place, the Landlord or Landlord's Agent will have the right to send a contractor to attend to required work and costs will be paid or reimbursed by the Tenant.

#### **17.14. Signage**

The Tenant agrees that all signage affixed to the property is to be on a metal sheet backing, no individual lettering is to be affixed or painted direct to the building façade unless approved in writing by the Landlord.

#### **17.15. Insurance Claims**

Notwithstanding and without limitation to any provision of this Lease, where any claim is made under an insurance policy held by the Landlord that is as a result of the Tenant's misuse of the property, the Tenant shall be liable for any excess payable and shall pay the Landlord upon demand.

#### **17.16. Abandoned Goods**

Notwithstanding and without limitation to any provision of this Lease, in the event of the Lease coming to an end or the Tenant vacates the Premises, then any goods, stock equipment of any description remaining thereon for a period of fourteen (14) days shall be deemed to be abandoned and may be disposed of by the Landlord. In this regard, the Tenant appoints the Landlord or a director of the Landlord as its agent to sell, dispose or otherwise remove any of the Tenant's goods and the Landlord shall not be liable for any loss or conversion arising from the removal of such goods.

#### **17.17. Security Deposit**

The landlord and the Tenant agree that the agent "MCG" invest the security deposit into their interest-bearing Macquarie Bank Facility in trust for the term of the lease, Interest is accumulated on the individual bond invested.

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**EXECUTED AS A DEED ON**

DATE: 2 / 11 / 2020

**EXECUTED** by  
in accordance with Section 127(1)  
of the Corporations Act 2001 by being signed by  
the persons who are authorised to sign for the  
Company:

Director

Director

Print Name

Print Name

Address

Address

**EXECUTED** by  
in accordance with Section 127(1) of  
the Corporations Act 2001 by being signed by the  
person who is authorised to sign for the  
Company:

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**SIGNED SEALED and DELIVERED** by

Sole Director/Secretary

Print Name

Address

Signature of Individual

Print name of Individual

Signature of Witness

Print Name of Witness

In the presence of: