

# DEED OF LEASE

SIXTH EDITION 2012

DEED made the 18 day of FEBRUARY 2015

**LANDLORD** DNZ Property Fund Limited

**TENANT** The Sovereign in Right of New Zealand acting by and through the Director-General of the Ministry of Health

**GUARANTOR** Not applicable while The Sovereign in Right of New Zealand acting by and through the Director-General of the Ministry of Health is the tenant and occupying the Premises


THE LANDLORD leases to the Tenant and the Tenant takes on lease the premises and the car parks (if any) described in the First Schedule together with the right to use the common areas of the property for the term from the commencement date and at the annual rent (subject to review if applicable) as set out in the First Schedule.

THE LANDLORD AND THE TENANT covenant as set out in the First, <sup>Third, Fourth, Fifth and Sixth</sup> and Second Schedules.

THE GUARANTOR covenants with the Landlord as set out in the Third Schedule.


**SIGNED** by the Landlord \*

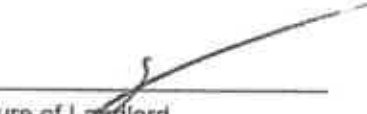
in the presence of:

Witness Signature   
Witness Name Eve Denny  
Witness Occupation Lease Administrator  
Address Auckland

Witness Occupation

Witness Address

Signature of Landlord   
Peter John Alexander  
CEO / AUTHORISED SIGNATORY  
Print Full Name  
(for a company specify position:  
Director/Attorney/Authorised Signatory)

Signature of Landlord   
Andrew Thomas Hay  
AUTHORISED SIGNATORY  
Print Full Name  
(for a company specify position:  
Director/Attorney/Authorised Signatory)

\* If appropriate, add:

"by its director(s)" OR "by its duly appointed attorney"

**Note:** Signing by a company - please refer to the note on page 2

**SIGNED by the Tenant \***

in the presence of:

  
 Witness Signature

JO WANGH

Witness Name

SENIOR EXECUTIVE ASST

Witness Occupation

WELLINGTON

Witness Address

  
 Signature of Tenant

CHAI CHUAN

Print Full Name

(for a company specify position:

Director/Attorney/Authorised Signatory)

ACTING DIRECTOR - GENERAL  
OF HEALTH
  
 Signature of Tenant

MUNIR MCMAHON

Print Full Name

(for a company specify position:

Director/Attorney/Authorised Signatory)

(CPO)

**SIGNED by the Guarantor \***

in the presence of:

 \_\_\_\_\_  
 Witness Signature

 \_\_\_\_\_  
 Witness Name

 \_\_\_\_\_  
 Witness Occupation

 \_\_\_\_\_  
 Witness Address

 \_\_\_\_\_  
 Signature of Guarantor

 \_\_\_\_\_  
 Print Full Name

(for a company specify position:

Director/Attorney/Authorised Signatory)

 \_\_\_\_\_  
 Signature of Guarantor

 \_\_\_\_\_  
 Print Full Name

(for a company specify position:

Director/Attorney/Authorised Signatory)

 \* If appropriate, add:
   
 \_\_\_\_\_

"by its director(s)" OR "by its duly appointed attorney"

**Note:** Signing by a company – to ensure that this document binds the company as a deed, it must be signed in accordance with section 180 of the Companies Act 1993.

If two directors sign, no witnessing is necessary.

If only one director or a director and authorised signatory(ies) or attorney(ies) sign, signatures must be witnessed.

## FIRST SCHEDULE

- |  |   |
|--|---|
| <b>1. PREMISES:</b>                      | That part of the Landlord's land and buildings at 650 Great South Road, Greenlane, Auckland, comprised in Certificate of Title NA108C/559, comprising part of the Third floor of the building as outlined in red on the attached plan marked "A", with a final measurement of 1,306.85 square metres. |
| <b>2. CARPARKS:</b>                      | Eight (8) undercover secure single carparks as outlined in grey on the attached plan marked "B" and Five (5) exterior single carparks outlined in grey on the attached plan marked "C".   |
| <b>3. TERM:</b>                          | Six (6) years   |
| <b>4. COMMENCEMENT DATE:</b>             | 15 December 2013  |
| <b>5. FURTHER TERM:</b>                  | One (1) further term of six (6) years   |
| <b>6. RENEWAL DATES:</b>                 | 15 December 2019  |
| <b>7. FINAL EXPIRY DATE:</b>             | 14 December 2025  |
| <b>8. ANNUAL RENT:</b>                   | \$328,395.00 plus GST per annum.<br>See attached Rent Schedule per the attached Further Terms   |
| <b>9. MONTHLY PAYMENTS OF RENT:</b>      | \$27,366.29 plus GST  |
| <b>10. RENT PAYMENT DATES:</b>           | The 1 <sup>st</sup> day of each month commencing on the 1 <sup>st</sup> day of January 2014.  |
| <b>11. RENT REVIEW DATES:</b>            | <ol style="list-style-type: none"> <li>1. Market rent review dates:<br/>Every third anniversary of the Commencement Date.</li> <li>2. CPI rent review dates: Not applicable</li> </ol>  |
| <b>12. PROPORTION OF OUTGOINGS:</b>      | The proportion that the rentable area of the Premises bears to the total rentable area of the building  |
| <b>13. DEFAULT INTEREST RATE:</b>        | 2 per cent per annum above the Landlord's principal bank's base lending rate  |
| <b>14. BUSINESS USE:</b>                 | Office use.   |
| <b>15. IMPROVEMENTS RENT PERCENTAGE:</b> | 12%   |

**16. LANDLORD'S INSURANCE**  
**(clause 23.1):**

- (1) Cover for building against damage and destruction by fire, flood, explosion, lightning, storm, earthquake and volcanic activity on a full replacement and reinstatement basis (including loss, damage or destruction of windows and other glass); plus
- (2) Cover for the following risks;
  - (a) 12 month indemnity in respect of consequential loss of rent and outgoings;
  - (b) Loss, damage or destruction of any of the Landlord's fixtures and/or chattels;
  - (c) Public Liability

**17. NO ACCESS PERIOD:**

Six (6) months

**FURTHER TERMS**

See attached "Further Terms: Amendments to the First and Second Schedule"

**OUTGOINGS**

(clause 3)

1. Rates or levies payable to any local or territorial authority.
2. Charges for water gas electricity telecommunications and other utilities or services, including line charges.
3. Rubbish collection and recycling charges.
4. New Zealand Fire Service charges and the maintenance charges in respect of all fire detection and fire fighting equipment.
5. Any insurance excess (but not exceeding \$2,000) in respect of a claim and insurance premiums and related valuation fees (subject to subclause 23.2).
6. Service contract charges for air conditioning, lifts, other building services and security services.
7. Cleaning maintenance and repair charges including charges for repainting, decorative repairs and the maintenance and repair of building services to the extent that such charges do not comprise part of the cost of a service maintenance contract, but excluding charges for structural repairs to the building (minor repairs to the roof of the building shall not be a structural repair), repairs due to defects in design or construction, inherent defects in the building and renewal or replacement of building services.
8. The provisioning of toilets and other shared facilities.
9. The cost of maintenance of lawns, gardens and planted areas including plant hire and replacement, and the cost of repair of fences.
10. Yard and car parking area maintenance and repair charges but excluding charges for repaving or resealing.
11. Body Corporate charges for any insurance premiums under any insurance policy effected by the Body Corporate and related valuation fees and reasonable management administration expenses.
12. Management expenses (subject to subclause 3.7).
13. The costs incurred and payable by the Landlord in supplying to the territorial authority a building warrant of fitness and obtaining reports as required by sections 108 and 110 of the Building Act 2004 but excluding the costs of upgrading or other work to make the building comply with the Building Act 2004.

## SECOND SCHEDULE

### TENANT'S PAYMENTS

#### Rent

- 1.1 The Tenant shall pay the annual rent by equal monthly payments in advance (or as varied pursuant to any rent review) on the rent payment dates. The first monthly payment (together with rent calculated on a daily basis for any period from the commencement date of the term to the first rent payment date) shall be payable on the first rent payment date. All rent shall be paid without any deductions or set-off by direct payment to the Landlord or as the Landlord may direct.

#### Market Rent Review

- 2.1 The annual rent payable as from each market rent review date (except for a market rent review date that is a renewal date) shall be determined as follows:
- (a) Either party may not earlier than 3 months prior to a market rent review date and not later than the next rent review date (regardless of whether the next rent review date is a market or CPI rent review date) give written notice to the other party specifying the annual rent proposed as the current market rent as at the relevant market rent review date, together with a registered valuer's report supporting the assessed current market rent.
  - (b) If the party receiving the notice ("the Recipient") gives written notice to the party giving the notice ("the Initiator") within 20 working days after service of the Initiator's notice disputing the annual rent proposed and specifying the annual rent proposed by the Recipient as the current market rent, then the new rent shall be determined in accordance with subclause 2.2.
  - (c) If the Recipient fails to give such notice (time being of the essence) the Recipient shall be deemed to have accepted the annual rent specified in the Initiator's notice and the extension of time for commencing arbitration proceedings contained in the Arbitration Act 1996 shall not apply.
  - (d) Notwithstanding any other provision of this clause, the annual rent payable as from the relevant market rent review date shall not be less than the annual rent payable as at the commencement date of the then current lease term, this lease.
  - (e) The annual rent agreed, determined or imposed pursuant to subclause 2.1 shall be the annual rent payable as from the relevant market rent review date, or the date of service of the Initiator's notice if such notice is served later than 3 months after the relevant market rent review date but subject to subclause 2.3 and 2.4.
  - (f) The market rent review at the option of either party may be recorded in a deed.

#### Rent Determinations

- 2.2 Immediately following service of the Recipient's notice on the Initiator, the parties shall endeavour to agree upon the current market rent, but if agreement is not reached within 10 working days then the new rent may be determined either:
- (a) By one party giving written notice to the other requiring the new rent to be determined by arbitration; or
  - (b) If the parties so agree by registered valuers acting as experts and not as arbitrators as follows:
    - (1) Each party shall appoint a valuer and give written notice of the appointment to the other party within 20 working days of the parties agreeing to so determine the new rent.
    - (2) If the party receiving a notice fails to appoint a valuer within the 20 working day period then the valuer appointed by the other party shall determine the new rent and such determination shall be binding on both parties.
    - (3) The valuers appointed before commencing their determination shall appoint a third expert who need not be a registered valuer. If the parties cannot agree on the third expert, the appointment shall be made on the application of either party by the president or vice president for the time being of The New Zealand Institute of Valuers.
    - (4) The valuers appointed by the parties shall determine the current market rent of the premises but if they fail to agree then the rent shall be determined by the third expert.
    - (5) Each party shall be given the opportunity to make written or oral representations subject to such reasonable time and other limits as the valuers or the third expert may prescribe and they shall have regard to any of the representations but not be bound by them.
    - (6) The parties shall jointly and severally indemnify the third expert for their costs. As between the parties, they will share the costs equally. A party may pay the other party's share of the costs and recover the payment on demand from the other party.
    - (7) If the parties agree, they may release the third expert from liability for negligence in acting as third expert in accordance with this subclause 2.2.

When the new rent has been determined the person or persons determining it shall give written notice of it to the parties. The notice shall provide as to how the costs of the determination shall be borne and it shall be binding on the parties.

#### 2.2(c) See attached Further Terms. Interim Market Rent

- 2.3 Pending determination of the new rent, the Tenant shall from the relevant market rent review date, or the date of service of the Initiator's notice if the notice is served later than 3 months after the relevant market rent review date, until the determination of the new rent pay an interim rent as follows:

- (a) If both parties supply a registered valuer's ~~certificate~~ <sup>report</sup> substantiating the new rents proposed, the interim rent payable shall be half way between the new rents proposed by the parties; or
- (b) If only one party supplies a registered valuer's ~~certificate~~ <sup>report</sup>, the interim rent payable shall be the rent substantiated by the ~~certificate~~ <sup>report</sup>; or
- (c) If no registered valuer's ~~certificates~~ <sup>report is</sup> are supplied, the interim rent payable shall be the rent payable immediately prior to the relevant market rent review date.

but in no circumstances shall the interim rent be less than the rent payable as at the commencement date of the then current lease term.

The interim rent shall be payable with effect from the relevant market rent review date, or the date of service of the Initiator's notice if the notice is served later than 3 months after the relevant market rent review date and, subject to subclause 2.4, shall not be subject to adjustment.

- 2.4 Upon determination of the new rent, any overpayment shall be applied in payment of the next month's rent and any amount then remaining shall immediately be refunded to the Tenant. Any shortfall in payment shall immediately be payable by the Tenant.
- 2.5 and 2.6 See attached Further Terms.

### **GPI Rent Review**

- 2.5 The annual rent payable from each GPI rent review date shall be determined as follows:

(a) The Landlord shall adjust the annual rent on the basis of increases (and not decreases) in the GPI by giving notice to the Tenant of the increase (if any) using the formula:

$$A = B \times (C + D)$$

Where:

A = the GPI reviewed rent from the relevant GPI rent review date

B = the annual rent payable immediately before the relevant GPI rent review date

C = GPI for the quarter year ending immediately before the relevant GPI rent review date

D = GPI for the quarter year ending immediately before the last rent review date or if there is no previous rent review date, the commencement date of the then current term of the lease (and in the case where A is the GPI reviewed rent for a renewal date then the last rent review date of the immediate preceding lease term or if there is no rent review date the commencement date of the preceding term)

where (C+D) shall not be less than 1.

(b) If the GPI is discontinued and not replaced, or if there is a material change to the basis of calculation of the GPI, or a resetting of the GPI, an appropriate index which reflects the change in the cost of living in New Zealand as agreed by the parties and failing agreement to be determined by an expert appointed by the president or vice president of the New Zealand Law Society will be used.

(c) If the relevant GPI is not published at the relevant GPI rent review date, as soon as the GPI is published an appropriate adjustment will be made to the rent (if necessary) with effect from the relevant GPI rent review date.

(d) Notwithstanding any other provision of subclause 2.5, the annual rent payable as from the relevant GPI rent review date shall not be less than the annual rent payable as at the commencement of the then current lease term (and in the case where the relevant GPI rent review date is a renewal date, the commencement date of the preceding term).

- 2.6 The new rent determined pursuant to subclause 2.5 shall be payable from the relevant GPI rent review date once it is determined by the Landlord giving notice under that subclause. Pending determination of the new rent, the Tenant will pay the rent that applies prior to the GPI rent review date. On determination of the new rent, the Tenant will immediately pay any shortfall to the Landlord.

### **Outgoings**

- 3.1 The Tenant shall pay the outgoings properly and reasonably incurred in respect of the property which are specified in the First Schedule. Where any outgoing is not separately assessed or levied in respect of the premises then the Tenant shall pay such proportion of it as is specified in the First Schedule or if no proportion is specified then such fair proportion as shall be agreed or failing agreement determined by arbitration.
- 3.2 The Landlord shall vary the proportion of any outgoing payable to ensure that the Tenant pays a fair proportion of the outgoing.
- 3.3 If any outgoing is rendered necessary by another tenant of the property or that tenant's employees, contractors or invitees causing damage to the property or by another tenant failing to comply with that tenant's leasing obligations, then that outgoing shall not be payable by the Tenant.
- 3.4 The outgoings shall be apportioned between the Landlord and the Tenant in respect of periods current at the commencement and termination of the term.
- 3.5 The outgoings shall be payable on demand or if required by the Landlord by monthly instalments on each rent payment date of a reasonable amount as the Landlord shall determine calculated on an annual basis. Where any outgoing has not been taken into account in determining the monthly instalments it shall be payable on demand. See attached Further Terms.
- 3.6 After the 31st March in each year of the term or other date in each year as the Landlord may specify, and after the end of the term, the Landlord shall supply to the Tenant reasonable details of the actual outgoings for the year or period then ended. Any over payment shall be credited or refunded to the Tenant and any deficiency shall be payable to the Landlord on demand.
- 3.7 Any profit derived by the Landlord and if a company by its shareholders either directly or indirectly from the management of the property shall not comprise part of the management expenses payable as an outgoing.

### **Goods and Services Tax**

- 4.1 The Tenant shall pay to the Landlord or as the Landlord shall direct the GST payable by the Landlord in respect of the rental and other payments payable by the Tenant under this lease. The GST in respect of the rental shall be payable on each occasion when any rental payment falls due for payment and in respect of any other payment shall be payable upon demand.
- 4.2 If the Tenant shall make default in payment of the rental or other moneys payable under this lease and the Landlord becomes liable to pay Default GST then the Tenant shall on demand pay to the Landlord the Default GST in addition to interest payable on the unpaid GST under subclause 5.1.

### **Interest on Unpaid Money**

- 5.1 If the Tenant defaults in payment of the rent or other moneys payable under this lease for 10 working days then the Tenant shall pay on demand interest at the default interest rate on the moneys unpaid from the due date for payment to the date of payment.
- 5.2 Unless a contrary intention appears on the front page or elsewhere in this lease the default interest rate is equivalent to the interest rate charged by the Inland Revenue Department on unpaid tax under the Tax Administration Act 1994 during the period for which the default interest is payable, plus 5 per cent per annum.

### **Costs**

- 6.1 Each party will pay their own costs of the negotiation and preparation of this lease and any variation, or deed recording a rent review or renewal. The Tenant shall pay the Landlord's reasonable costs incurred in considering any request by the Tenant for the Landlord's consent to any matter contemplated by this lease, and the Landlord's legal costs (as between lawyer and client) of and incidental to the enforcement of the Landlord's rights remedies and powers under this lease.



## LANDLORD'S PAYMENTS

### Outgoings

- 7.1 Subject to the Tenant's compliance with the provisions of clause 3 the Landlord shall pay all outgoings in respect of the property not payable by the Tenant direct. The Landlord shall be under no obligation to minimise any liability by paying any outgoing or tax prior to receiving payment from the Tenant.

## MAINTENANCE AND CARE OF PREMISES

### Tenant's Obligations

- 8.1 The Tenant shall be responsible to:

(a) **Maintain the premises**

In a proper and workmanlike manner and to the reasonable requirements of the Landlord keep and maintain the interior of the premises in the same clean order repair and condition as they were in at the commencement date of this lease (or where the lease is renewed, the commencement date of the initial term of this lease) and will at the end or earlier determination of the term quietly yield up the same in the like clean order repair and condition. The premises condition report (if completed) shall be evidence of the condition of the premises at the commencement date of this lease. In each case the Tenant shall not be liable for fair wear and tear arising from reasonable use, nor from inherent defects, faulty design or construction workmanship.

(b) **Breakages and minor replacements**

Repair or replace glass breakages with glass of the same or better weight and quality, repair breakage or damage to all doors windows light fittings and power points of the premises and replace light bulbs, tubes and power points that wear out with items of the same or better quality and specification.

(c) **Painting**

Paint and decorate those parts of the interior of the premises which have previously been painted and decorated as at the commencement date of this lease (or where the lease is renewed the commencement date of the initial term of this lease) when they reasonably require repainting and redecoration to a specification as approved by the Landlord such approval not to be unreasonably withheld.

(d) **Floor coverings**

Keep all floor coverings in the premises clean and replace all floor coverings worn or damaged other than by fair wear and tear with floor coverings of the same or better quality, specification and appearance when reasonably required by the Landlord.

(e) **Damage or loss**

Make good any damage to the property or loss caused by improper careless or abnormal use by the Tenant or those for whom the Tenant is responsible, to the Landlord's reasonable requirements.

- 8.2 Where the Tenant is leasing all of the property, the Tenant shall:

(a) **Care of grounds**

Keep any grounds yards and surfaced areas in a clean and tidy condition and maintain any garden or lawn areas in a tidy and cared for condition.

(b) **Water and drainage**

Keep and maintain the storm or waste water drainage system including downpipes and guttering clear and unobstructed.

(c) **Other works**

Carry out those works maintenance and repairs to the property as the Landlord may require in respect of which outgoings are payable by the Tenant.

- 8.3 Notwithstanding subclause 8.1(a) the Tenant shall not be liable for the maintenance or repair of any building services but this subclause shall not release the Tenant from any obligation to pay for the cost of any service maintenance contract or charges in respect of the maintenance or repair of the building services if it is an outgoing specified in the First Schedule but only to the extent specified in the First Schedule.

- 8.4 Notwithstanding any other provision of this lease, the Tenant shall not be liable to repair any inherent defect in the premises nor to pay any outgoings incurred by the Landlord in remedying any inherent defect.

- 8.5 If the Landlord shall give the Tenant written notice of any failure on the part of the Tenant to comply with any of the requirements of subclauses 8.1 or 8.2 the Tenant shall with all reasonable speed so comply.

### Toilets

- 9.1 The toilets sinks and drains shall be used for their designed purposes only and no substance or matter shall be deposited in them which could damage or block them.

### Rubbish Removal

- 10.1 The Tenant shall regularly cause all of the Tenant's rubbish and recycling to be removed from the premises and will keep the Tenant's rubbish bins or containers in a tidy condition. The Tenant will also at the Tenant's own expense cause to be removed all trade waste boxes and other goods or rubbish not removable in the ordinary course by the local authority.

### Landlord's Maintenance- See attached Further Terms.

- ~~11.1 The Landlord shall keep and maintain the building, all building services and the car parks in good order and repair and weatherproof but the Landlord shall not be liable for any:~~

~~(a) Repair or maintenance which the Tenant is responsible to undertake;~~

~~(b) Repair or defect in respect of building services, so long as the Landlord is maintaining a service maintenance contract covering the work to be done, or where the building services have not been supplied by the Landlord;~~

~~(c) Repair or maintenance which is not reasonably necessary for the Tenant's use and enjoyment of the premises and the car parks;~~

~~(d) Loss suffered by the Tenant arising from any want of repair or defect unless the Landlord shall have received notice in writing of that from the Tenant and has not within a reasonable time after that have taken appropriate steps to remedy the same.~~



- ~~11.2 The Landlord shall keep and maintain service maintenance contracts for lifts, air-conditioning and at the Landlord's option any other building services supplied by the Landlord. Whenever building services cannot be maintained in good order and repair through regular maintenance, the Landlord will if reasonably required replace the services with services of a similar type and quality.~~
- ~~11.3 The Tenant shall be liable to reimburse the Landlord for the cost of any such repair, maintenance or service contract pursuant to subclauses 11.1 and 11.2 if it is an outgoing specified in the First Schedule but only to the extent specified in the First Schedule.~~

#### Notification of Defects

- 12.1 The Tenant shall give to the Landlord prompt written notice of any accident to or defect in the premises of which the Tenant may be aware and in particular in relation to any pipes or fittings used in connection with the water electrical gas or drainage services.

#### Landlord's Right of Inspection

- 13.1 The Landlord and the Landlord's employees contractors and invitees may at all reasonable times and after having given prior written notice to the Tenant (except in the case of emergencies) enter upon the premises to view their condition, ~~provided the Landlord first gives the Tenant written notice providing a reasonable time prior to such entry, and the Tenant may~~ require that such persons are accompanied by a representative of the Tenant.

#### Landlord may Repair

- 14.1 If default shall be made by the Tenant in the due and punctual compliance with any repair notice given by the Landlord pursuant to this lease, or if any repairs for which the Tenant is responsible require to be undertaken as a matter of urgency then without prejudice to the Landlord's other rights and remedies expressed or implied the Landlord may by the Landlord's employees and contractors with all necessary equipment and material at all reasonable times and on reasonable notice (except in the case of emergencies) enter the premises to execute the works. Any moneys expended by the Landlord in executing the works shall be payable by the Tenant to the Landlord upon demand together with interest on the moneys expended at the default interest rate from the date of expenditure to the date of payment.

#### Access for Works

- 15.1 The Tenant shall permit the Landlord and the Landlord's employees and contractors at all reasonable times and on reasonable written notice (except in the case of emergencies) to enter the premises for a reasonable period to inspect and carry out works to the premises or adjacent premises and to install inspect repair renew or replace any services where they are not the responsibility of the Tenant or are required to comply with the requirements of any statutes, regulations, by-law or requirement of any competent authority. All repairs inspections and works shall be carried out with the least possible inconvenience to the Tenant subject to subclauses 15.3 and 15.4 provided that written notice giving a reasonable period prior to the exercise of this power is \*\*
- 15.2 If the Tenant's business use of the premises is materially disrupted because of the Landlord's works provided for in subclause 15.1, then during the period the works are being carried out a fair proportion of the rent and outgoings shall cease to be payable but without prejudice to the Tenant's rights if the disruption is due to a breach by the Landlord of the Landlord's obligation, under subclause 15.1, to cause the least possible inconvenience to the Tenant.
- 15.3 If in the Landlord's reasonable opinion, the Landlord requires the Tenant to vacate the whole or part of the premises to enable the works referred to in subclause 15.1 to be carried out, the Landlord may give the Tenant reasonable written notice requiring the Tenant to vacate the whole or part of the premises and specifying a reasonable period for which the Landlord requires possession. On the expiry of the notice the Landlord may take possession of the premises or the part specified in the notice. A fair proportion of the rent and outgoings shall cease to be payable during the period the Tenant vacates the premises as required by the Landlord.
- 15.4 The Landlord shall act in good faith and have regard to the nature, extent and urgency of the works when exercising the Landlord's right of access or possession in accordance with subclauses 15.1 and 15.3.

#### USE OF PREMISES

\*\* given to the Tenant and the Tenant is entitled to be present during the period any repairs are undertaken, but provided further that no such notice is required in the case of an emergency.

#### Business Use

- 16.1 The Tenant shall not without the prior written consent of the Landlord use or permit the whole or any part of the premises to be used for any use other than the business use. The Landlord's consent shall not be unreasonably or arbitrarily withheld or delayed in respect of any proposed use which is:
- (a) not in substantial competition with the business of any other occupant of the property which might be affected by the use; and
  - (b) reasonably suitable for the premises; and
  - (c) compliant with the requirements of the Resource Management Act 1991 or any other statutory provisions relating to resource management requested by the Tenant
- If any change in use renders any increased or extra premium payable in respect of any policy or policies of insurance on the premises the Landlord as a condition of granting consent may require the Tenant to pay the increased or extra premium.
- 16.2 If any change in use requires compliance with sections 114 and 115 of the Building Act 2004 the Landlord, as a condition of granting consent, may require the Tenant to comply with sections 114 and 115 of the Act and to pay all compliance costs.
- ~~16.3 If the premises are a retail shop the Tenant shall keep the premises open for business during usual trading hours and fully stocked with appropriate merchandise for the efficient conduct of the Tenant's business.~~

#### 16.3 - 16.6 See attached Further Terms.

#### Lease of Premises and Car Parks Only

- 17.1 The tenancy shall relate only to the premises and the car parks (if any) and the Landlord shall at all times be entitled to use occupy and deal with the remainder of the property without reference to the Tenant and the Tenant shall have no rights in relation to it other than the rights of use under this lease.

#### Neglect of Other Tenant

- 18.1 The Landlord shall not be responsible to the Tenant for any act or default or neglect of any other tenant of the property.

#### Signage

- 19.1 The Tenant shall not affix paint or exhibit or permit to be affixed painted or exhibited any name sign name-plate signboard or advertisement of any description on or to the exterior of the building without the prior approval in writing of the Landlord but approval shall not be unreasonably or arbitrarily withheld or delayed in respect of signage describing the Tenant's business. If approved the signage shall be secured in a substantial and proper manner so as not to cause any damage to the building or any person and the Tenant shall at the end or sooner determination of the term remove the signage and make good any damage occasioned in connection with the signage.

**Additions, Alterations, Reinstatement and Chattels Removal**

- 20.1 The Tenant shall neither make nor allow to be made any alterations or additions to any part of the premises or alter the external appearance of the building without first producing to the Landlord on every occasion plans and specifications and obtaining the written consent of the Landlord (not to be unreasonably or arbitrarily withheld or delayed) for that purpose. If the Landlord authorises any alterations or additions which are made before the commencement date or during the term of this lease the Tenant will at the Tenant's own expense if required by the Landlord no later than the end or earlier termination of the term reinstate the premises. Ownership of the alterations or additions that are not removed by the end or earlier termination of the lease may at the Landlord's election pass to the Landlord without compensation payable to the Tenant. If the Tenant fails to reinstate then any costs incurred by the Landlord in reinstating the premises whether in whole or in part, within 6 months of the end or earlier termination of the term shall be recoverable from the Tenant.
- 20.2 The Tenant, when undertaking any "building work" to the premises (as that term is defined in the Building Act 2004), shall comply with all statutory requirements including the obtaining of building consents and code compliance certificates pursuant to that Act and shall provide copies of the building consents and code compliance certificates to the Landlord.
- 20.3 ~~The Tenant may at any time before and will if required by the Landlord no later than the end or earlier termination of the term remove all the Tenant's chattels. In addition to the Tenant's obligations to reinstate the premises pursuant to subclause 20.1 the Tenant will make good at the Tenant's own expense all resulting damage and if the chattels are not removed by the end or earlier termination of the term ownership of the chattels may at the Landlord's election pass to the Landlord or the Landlord may remove them from the premises and forward them to a refuse collection centre.~~
- 20.4 ~~The cost of making good resulting damage and the cost of removal of the Tenant's chattels shall be recoverable from the Tenant and the Landlord shall not be liable to pay any compensation not be liable for any loss suffered by the Tenant.~~
- 20.3 - 20.5 See attached Further Terms.

**Compliance with Statutes and Regulations**

- 21.1 The Tenant shall comply with the provisions of all statutes, ordinances, regulations and by-laws relating to the use of the premises by the Tenant or other occupant and will also comply with the provisions of all licences, requisitions and notices issued by any competent authority in respect of the premises or their use by the Tenant or other occupant provided that: ~~if permitted within the any special use of Business Use~~ any special
- (a) The Tenant shall not be required to make any structural repairs alterations or additions nor to replace or install any plant or equipment except where required by reason of the particular nature of the business carried on by the Tenant or other occupant of the premises or the number or sex of persons employed on the premises.
- (b) The Tenant shall not be liable to discharge the Landlord's obligations as owner under the Building Act 2004 unless any particular obligation is the responsibility of the Tenant as an occupier of the premises.
- (c) The Tenant will promptly provide the Landlord with a copy of all requisitions and notices received from a competent authority under this subclause.
- 21.2 ~~If the Landlord is obliged by any legislation or requirement of any competent authority to expend moneys during the term of this lease or any renewed term on any improvement addition or alteration to the property which is not the Tenant's responsibility under subclause 21.1 and the expenditure would be an unreasonable amount then the Landlord may determine this lease. Any dispute as to whether or not the amount to be expended by the Landlord is unreasonable shall be determined by arbitration.~~
- 21.3 The Landlord warrants that allowing the premises to be open to members of the public and allowing the use of the premises by members of the public at the commencement date will not be a breach of section 363 of the Building Act 2004. This clause does not apply to any "building work" (as defined in the Building Act 2004) relating to the fit-out of the premises by the Tenant.
- 21.4 The Tenant, when undertaking any building work to the premises, shall comply with all statutory requirements including the obtaining of building consents and code compliance certificates and shall not allow the premises to be open to members of the public or allow use of the premises by members of the public if that would be in breach of section 363 of the Building Act 2004.
- 21.5 During the term and any renewal, the Landlord shall not give consent to or carry out any building work in any part of the Landlord's property which may cause the Tenant to be in breach of section 363 of the Building Act 2004 by allowing the premises to be open to members of the public and allowing the use of the premises by members of the public.

**No Noxious Use**

- 22.1 The Tenant shall not:
- (a) Bring upon or store within the premises nor allow to be brought upon or stored within the premises any machinery goods or things of an offensive noxious illegal or dangerous nature, or of a weight size or shape as is likely to cause damage to the building or any surfaced area.
- (b) Contaminate the property and shall undertake all works necessary to remove any contamination of the property other than contamination not caused by the Tenant or which took place prior to the commencement date of the lease term. Contamination means any change to the physical chemical or biological condition of the property by a "contaminant" as that word is defined in the Resource Management Act 1991.
- (c) Use the premises or allow them to be used for any noxious illegal or offensive trade or business.
- (d) Allow any act or thing to be done which may be or grow to be a nuisance disturbance or annoyance to the Landlord, other tenants of the property, or any other person, and generally the Tenant shall conduct the Tenant's business upon the premises in a clean quiet and orderly manner free from damage nuisance disturbance or annoyance to any such persons but the carrying on by the Tenant in a reasonable manner of the business use or any use to which the Landlord has consented shall be deemed not to be a breach of this clause.

**INSURANCE****Landlord shall insure**

- 23.1 The Landlord shall at all times during the term keep and maintain insurance of the type shown and for the risks specified in the First Schedule.
- 23.2 The parties acknowledge and agree pursuant to section 271 of the Property Law Act 2007 that to the extent of any excess payable regarding any insurance policy held by the Landlord, the excess will represent an amount for which the Landlord has not insured, or has not fully insured the premises or the property against destruction or damage arising from the events that the section applies to. If the Landlord makes any claim against its insurance for any destruction or damage because of any act or omission of the Tenant, the Tenant will pay the Landlord the amount of the excess not exceeding the sum specified in the list of outgoings in the First Schedule. maximum sum of \$2,000.00.
- 23.3 See attached Further Terms.

**Tenant not to void insurance**

- 24.1 The Tenant shall not carry on or allow upon the premises any trade or occupation or allow to be done any act or thing which:
- Shall make void or voidable any policy of insurance on the property.
  - May render any increased or extra premium payable for any policy of insurance except where in circumstances in which any increased premium is payable the Tenant shall have first obtained the consent of the insurer of the premises and the Landlord and made payment to the insurer of the amount of any such increased or extra premium as may be payable but the carrying on by the Tenant in a reasonable manner of the business use or of any use to which the Landlord has consented shall be deemed not to be a breach of this clause.
- 24.2 In any case where in breach of subclause 24.1 the Tenant has rendered any insurance void or voidable and the Landlord has suffered loss or damage by that the Tenant shall at once compensate the Landlord in full for such loss or damage.

**When Tenant to have benefit of Landlord's insurance**

- 25.1 Where the property is destroyed or damaged by fire, flood, explosion, lightning, storm, earthquake, volcanic activity or any risk against which the Landlord is (or has covenanted with the Tenant to be) insured the Landlord will not require the Tenant to meet the cost of making good the destruction or damage to the property and will indemnify the Tenant against such cost where the Tenant is obligated to pay for making good such damage or destruction. The Landlord does not have to indemnify the Tenant and the Tenant will not be excused from liability under this subclause if and to the extent that:
- The destruction or damage was intentionally caused by the Tenant or those for whom the Tenant is responsible; or
  - The destruction or damage was the result of an act or omission by the Tenant or those for whom the Tenant is responsible and that act or omission:
    - occurred on or about the property; and
    - constitutes an indictable offence within the meaning of the Summary Proceedings Act 1957; or
  - Any insurance moneys that would otherwise have been payable to the Landlord for the damage or destruction are rendered irrecoverable in consequence of any act or omission of the Tenant or those for whom the Tenant is responsible.

**DAMAGE TO OR DESTRUCTION OF PREMISES****Total Destruction**

- 26.1 If the premises or any portion of the building of which the premises may form part shall be destroyed or so damaged:
- As to render the premises untenable then the term shall at once terminate from the date of destruction or damage; or
  - In the reasonable opinion of the Landlord as to require demolition or reconstruction, then the Landlord may within 3 months of the date of damage give the Tenant 20 working days notice to terminate and a fair proportion of the rent and outgoings shall cease to be payable as from the date of damage.
- Any termination pursuant to this subclause shall be without prejudice to the rights of either party against the other.

**Partial Destruction**

- 27.1 If the premises or any portion of the building of which the premises may form part shall be damaged but not so as to render the premises untenable and:
- The Landlord's policy or policies of insurance shall not have been invalidated or payment of the policy moneys refused in consequence of some act or default of the Tenant, and
  - All the necessary permits and consents are obtainable
- the Landlord shall with all reasonable speed expend all the insurance moneys received by the Landlord in respect of such damage towards repairing such damage or reinstating the premises or the building but the Landlord shall not be liable to expend any sum of money greater than the amount of the insurance money received.
- 27.2 Any repair or reinstatement may be carried out by the Landlord using such materials and form of construction and according to such plan as the Landlord thinks fit and shall be sufficient so long as it is reasonably adequate for the Tenant's occupation and use of the premises.
- 27.3 Until the completion of the repairs or reinstatement a fair proportion of the rent and outgoings shall cease to be payable as from the date of damage.
- 27.4 If any necessary permit or consent shall not be obtainable or the insurance moneys received by the Landlord shall be inadequate for the repair or reinstatement then the term shall at once terminate but without prejudice to the rights of either party against the other.

**No Access in Emergency**

- 27.5 If there is an emergency and the Tenant is unable to gain access to the premises to fully conduct the Tenant's business from the premises because of reasons of safety of the public or property or the need to prevent reduce or overcome any hazard, harm or loss that may be associated with the emergency including:
- A prohibited or restricted access cordon applying to the premises.
  - Prohibition on the use of the premises pending the completion of structural engineering or other reports and appropriate certifications required by any competent authority that the premises are fit for use.
  - Restriction on occupation of the premises by any competent authority.
- Then a fair proportion of the rent and outgoings shall cease to be payable for the period commencing on the date when the Tenant became unable to gain access to the premises to fully conduct the Tenant's business from the premises until the inability ceases.
- 27.6 This subclause 27.6 applies where subclause 27.5 applies and the premises or building of which the premises form part are not totally or partially destroyed or damaged as provided for in subclauses 26.1 or 27.1. Either party may terminate this lease by giving 10 working days written notice to the other if:
- The Tenant is unable to gain access to the premises for the period specified in the First Schedule; or
  - The party that terminates this lease can at any time prior to termination establish with reasonable certainty that the Tenant is unable to gain access to the premises for that period.

Any termination shall be without prejudice to the rights of either party against the other.



**DEFAULT****Cancellation**

- 28.1 The Landlord may (in addition to the Landlord's right to apply to the Court for an order for possession) and subject to section 245(2) of the Property Law Act 2007 cancel this lease by re-entering the premises at the time or at any time after that:
- (a) If the rent shall be in arrears 10 working days after any rent payment date and the Tenant has failed to remedy that breach within 10 working days after service on the Tenant of a notice in accordance with section 245 of the Property Law Act 2007.
  - (b) In case of breach by the Tenant of any covenant or agreement on the Tenant's part expressed or implied in this lease (other than the covenant to pay rent) after the Tenant has failed to remedy that breach within the period specified in a notice served on the Tenant in accordance with section 246 of the Property Law Act 2007.
  - (c) If the Tenant shall make or enter into or endeavour to make or enter into any composition assignment or other arrangement with or for the benefit of the Tenant's creditors.
  - (d) In the event of the insolvency, bankruptcy, statutory management, voluntary administration, receivership or liquidation of the Tenant.
  - ~~(e) If the Tenant shall suffer execution to issue against the Tenant's property goods or effects under any judgment against the Tenant in any Court for a sum in excess of five thousand dollars (\$5,000).~~

The term shall terminate on the cancellation but without prejudice to the rights of either party against the other.

**Essentiality of Payments**

- 29.1 Failure to pay rent or other moneys payable under this lease on the due date shall be a breach going to the essence of the Tenant's obligations under the lease. The Tenant shall compensate the Landlord and the Landlord shall be entitled to recover damages from the Tenant for such breach. This entitlement shall subsist notwithstanding any determination of the lease and shall be in addition to any other right or remedy which the Landlord may have.
- 29.2 The acceptance by the Landlord of arrears of rent or other moneys shall not constitute a waiver of the essentiality of the Tenant's continuing obligation to pay rent and other moneys.

**Repudiation**

- 30.1 The Tenant shall compensate the Landlord and the Landlord shall be entitled to recover damages for any loss or damage suffered by reason of any acts or omissions of the Tenant constituting a repudiation of the lease or the Tenant's obligations under the lease. Such entitlement shall subsist notwithstanding any determination of the lease and shall be in addition to any other right or remedy which the Landlord may have.

**QUIET ENJOYMENT**

- 31.1 The Tenant paying the rent and performing and observing all the covenants and agreements expressed and implied in this lease shall quietly hold and enjoy the premises throughout the term without any interruption by the Landlord or any person claiming under the Landlord.
- 31.2 and 31.3 See attached Further Terms.

**RENEWAL OF LEASE**

- 32.1 If the Tenant has given to the Landlord written notice to renew the lease at least <sup>6</sup>~~6~~ calendar months before the end of the term and is not at the date of the giving of the notice in breach of this lease then the Landlord will grant a new lease for a further term from the renewal date as follows:
- (a) If the renewal date is a market rent review date the annual rent shall be the current market rent which if not agreed on shall be determined in accordance with subclause 2.2 but the annual rent shall not be less than the rent payable as at the commencement date of the ~~immediately preceding lease term~~ <sup>initial term of this lease</sup>.
  - (b) If the renewal date is a CPI rent review date, the annual rent shall be determined in accordance with subclause 2.5.
  - (c) Subject to the provisions of paragraphs (a) and (b) the new lease shall be upon and subject to the covenants and agreements expressed and implied in this lease except that the term of this lease plus all further terms shall expire on or before the final expiry date.
  - (d) The annual rent shall be subject to review during the term of the new lease on the rent review dates specified in the First Schedule.
  - (e) The Landlord as a condition of granting a new lease shall be entitled to have the new lease guaranteed by any guarantor who has guaranteed this lease on behalf of the Tenant who has given notice or the security of a bank guarantee that has been given.
  - (f) If the renewal date is a market rent review date, pending the determination of the rent, the Tenant shall pay an interim rent in accordance with subclauses 2.3 and 2.4.
  - (g) Notwithstanding anything contained in subclause 32.1(f) the interim rent referred to in that clause shall not be less than the annual rent payable as at the commencement date of the ~~immediately preceding lease term~~ <sup>initial term of this lease</sup>.
  - (h) The parties will not be released by the renewal of the lease from any liability for any breach under this lease.

**ASSIGNMENT OR SUBLETTING**

- 33.1 The Tenant shall not assign sublet or otherwise part with the possession of the premises, the car parks (if any) or any part of them without first obtaining the written consent of the Landlord which the Landlord shall not unreasonably withhold or delay if the following conditions are fulfilled:
- (a) The Tenant proves to the reasonable satisfaction of the Landlord that the proposed assignee or subtenant is (and in the case of a company that the shareholders of the proposed assignee or subtenant are) respectable responsible and has the financial resources to meet the Tenant's commitments under this lease and in the case of the subtenant the subtenant's commitments under the sublease. The Tenant shall give the Landlord any additional information reasonably required by the Landlord.
  - (b) All rent and other moneys payable have been paid and there is not any subsisting breach of any of the Tenant's covenants.
  - (c) In the case of an assignment a deed of covenant in customary form approved or prepared by the Landlord is duly executed and delivered to the Landlord.
  - (d) In the case of an assignment to a company (other than a company listed on the main board of a public stock exchange in New Zealand or Australia) either a deed of guarantee in customary form approved or prepared by the Landlord is duly executed by the principal shareholders of that company and delivered to the Landlord or a bank guarantee from a registered trading bank in New Zealand on reasonable terms approved by the Landlord as security for the performance by the company of its obligations under this lease is provided to the Landlord.
  - (e) The Tenant pays the Landlord's reasonable costs and disbursements in respect of the approval and the preparation of any deed of covenant or guarantee and (if appropriate) all fees and charges payable in respect of any reasonable inquiries made by or on behalf of the Landlord concerning any proposed assignee subtenant or guarantor. All such costs shall be payable whether or not the assignment or subletting proceeds.
- 33.2 Where the Landlord consents to a subletting the consent shall extend only to the subletting and notwithstanding anything contained or implied in the sublease the consent shall not permit any subtenant to deal with the sublease in any way in which the Tenant is restrained from dealing without consent.
- 33.3 Where any Tenant is a company which is not listed on the main board of a public stock exchange in New Zealand or Australia, then any change in the legal or beneficial ownership of its shares or the shares of its shareholder or issue of new capital in the company or its shareholder where in any case there is a change in the effective management or control of the company will require the written consent of the Landlord which will not be unreasonably withheld or delayed.

**UNIT TITLE PROVISIONS**

- 34.1 ~~Clause 34 applies where the property is part of a unit title development. The Landlord shall not and will not permit any unit title or stratum estate to be created in respect of any part of the part of the property during the term of this lease or any renewed period of this lease.~~

- 34.2 ~~The expression "Body Corporate" means the Body Corporate under the Unit Titles Act 2010 (in subclauses 34.2 to 34.7 "the Act") in respect of the property.~~

**Act and Rules Paramount**

- 34.3 ~~This lease shall be subject to the provisions of the rules of the Body Corporate and the provisions of the Act.~~

**Insurance**

- 34.4 ~~Unless the Body Corporate has resolved that the Landlord is to insure the building the Landlord's obligation to insure the building shall be satisfied by the Body Corporate maintaining the same insurance cover in accordance with the Act.~~

**Landlord's Obligations**

- 34.5 ~~The Landlord shall observe and perform all of the Landlord's obligations as a member of the Body Corporate and shall use the Landlord's best endeavours to ensure that the Body Corporate complies with its rules and the provisions of the Act.~~

**Tenant's Obligations**

- 34.6 ~~The Tenant shall comply with the rules of the Body Corporate and the provisions of the Act to the extent that they apply to the Tenant's use of the property.~~

**Consents**

- 34.7 ~~Where in this lease the consent of the Landlord is required in respect of any matter then the like consent of the Body Corporate shall also be required if the consent of the Body Corporate to the matter would be necessary under its rules or the Act.~~

**CARPARKS**

- 35.1 ~~The Tenant shall have the right to exclusive possession of the leased car parks, but when any car park is not being used by the Tenant other persons shall be entitled to pass over the same.~~
- 35.2 ~~The Landlord may carry out repairs to the car parks and no abatement of rent or other compensation shall be claimed by the Tenant except pursuant to subclauses 26.1 or 27.3.~~
- 35.3 ~~The Tenant shall comply with the Landlord's reasonable requirements relating to the use of the car parks and access to them and in particular shall only use the car parks for the parking of one motor vehicle per parking space.~~
- 35.4 ~~The provisions of the Second Schedule shall apply to the car parks as appropriate.~~

See attached Further Terms.

**GENERAL****Holding Over**

- 36.1 If the Landlord permits the Tenant to remain in occupation of the premises after the expiration or sooner determination of the term, the occupation shall be a periodic tenancy only terminable by at least 20 working days notice given at any time with the tenancy terminating on the expiry of the notice at the rent then payable and otherwise on the same covenants and agreements (so far as applicable to a periodic tenancy) as expressed or implied under this lease.

**Access for Re-Letting or Sale**

- 37.1 The Tenant will during the term permit the Landlord, the Landlord's representatives and prospective tenants or purchasers to have access to inspect the premises provided that:
- (a) Any such inspection is at a time which is reasonably convenient to the Tenant and after reasonable written notice.
  - (b) The inspection is conducted in a manner which does not cause disruption to the Tenant.
  - (c) If the Landlord or the Landlord's representatives are not present the persons inspecting have written authority from the Landlord to do so.

**Suitability Other than is provided in this lease**

- 38.1 ~~No~~ warranty or representation expressed or implied has been or is made by the Landlord that the premises are now suitable or will remain suitable or adequate for use by the Tenant or that any use of the premises by the Tenant will comply with the by-laws or ordinances or other requirements of any authority having jurisdiction.

**Affirmation**

- 39.1 A party to this lease shall not be entitled to cancel this lease if, with full knowledge of any repudiation or misrepresentation or breach of covenant, that party affirmed this lease.

**Waiver**

- 40.1 No waiver or failure to act by either party in respect of any breach by the other shall operate as a waiver of another breach.

**Land Transfer Title or Mortgagee's consent**

- 41.1 The Landlord shall not be required to do any act or thing to enable this lease to be registered or be required to obtain the consent of any mortgagee of the property and the Tenant will not register a caveat in respect of the Tenant's interest under this lease.

**Notices**

- 42.1 All notices must be in writing and must be served by one of the following means:
- (a) In the case of a notice under sections 245 or 246 of the Property Law Act 2007 in the manner prescribed by section 353 of that Act; and
  - (b) In all other cases, unless otherwise required by sections 352 to 361 of the Property Law Act 2007:
    - (1) In the manner authorised by sections 354 to 361 of the Property Law Act 2007, or
    - (2) by personal delivery, or by posting by registered or ordinary mail, or by facsimile, or by email.
- 42.2 In respect of the means of service specified in subclause 42.1(b)(2), a notice is deemed to have been served:
- (a) In the case of personal delivery, when received by the addressee.
  - (b) In the case of posting by mail, on the second working day following the date of posting to the addressee's last known address in New Zealand.
  - (c) In the case of facsimile transmission, when sent to the addressee's facsimile number.
  - (d) In the case of email, when acknowledged by the addressee orally or by return email or otherwise in writing except that return emails generated automatically shall not constitute an acknowledgement.
- 42.3 In the case of a notice to be served on the Tenant, if the Landlord is unaware of the Tenant's last known address in New Zealand or the Tenant's facsimile number, any notice placed conspicuously on any part of the premises shall be deemed to have been served on the Tenant on the day on which it is affixed.
- 42.4 A notice shall be valid if given by any director, general manager, lawyer or other authorised representative of the party giving the notice.
- 42.5 Where two or more notices are deemed to have been served at the same time, they shall take effect in the order in which they would have been served but for subclause 45.1(o).
- 42.6 Any period of notice required to be given under this agreement shall be computed by excluding the date of service.

**Arbitration**

- 43.1 The parties shall first endeavour to resolve any dispute or difference by agreement and if they agree by mediation.
- 43.2 Unless any dispute or difference is resolved by mediation or other agreement within 30 days of the dispute or difference arising, the same shall be submitted to the arbitration of one arbitrator who shall conduct the arbitral proceedings in accordance with the Arbitration Act 1996 or any other statutory provision then relating to arbitration.
- 43.3 If the parties are unable to agree on the arbitrator, an arbitrator shall be appointed, upon request of any party, by the president or vice president of the New Zealand Law Society. That appointment shall be binding on all parties to the arbitration and shall be subject to no appeal. The provisions of Article 11 of the First Schedule of the Arbitration Act 1996 are to be read subject to this and varied accordingly.
- 43.4 The procedures prescribed in this clause shall not prevent the Landlord from taking proceedings for the recovery of any rent or other monies payable under this lease which remain unpaid or from exercising the rights and remedies in the event of the default prescribed in subclause 28.1.

**No Implied Terms**

- 44.1 The covenants, conditions and powers implied in leases pursuant to the Property Law Act 2007 and sections 224 and 266(1)(b) of that Act shall not apply to and are excluded from this lease where allowed.



## DEFINITIONS AND INTERPRETATION

## 45.1 In this lease:

- (a) "building services" means all services provided by the Landlord as an integral part of the building for the general use and enjoyment of the building by its tenants or occupants including water, gas, electricity, lighting, air conditioning, heating and ventilation, telecommunications, lifts and escalators whether or not they are located within the premises.
- (b) "CPI" means the Consumer Price Index (All Groups) published by Statistics New Zealand or other government agency and any revised, replacement or substituted index.
- (c) "Default GST" means any additional GST, penalty (civil or otherwise), interest, or other sum imposed on the Landlord (or where the Landlord is or was a member of a GST group its representative member) under the GST Act or the Tax Administration Act 1994 by reason of non-payment of any GST payable in respect of the supply made under this lease but does not include any sum levied against the Landlord (or where the Landlord is or was a member of a GST group its representative member) by reason of a default or delay by the Landlord after payment of the GST to the Landlord by the Tenant.
- (d) "emergency" for the purposes of subclause 27.5 means a situation that:
  - (1) Is a result of any event, whether natural or otherwise, including an explosion, earthquake, eruption, tsunami, land movement, flood, storm, tornado, cyclone, serious fire, leakage or spillage of any dangerous gas or substance, infestation, plague, epidemic, failure of or disruption to an emergency service; and
  - (2) Causes or may cause loss of life or serious injury, illness or in any way seriously endangers the safety of the public or property; and
  - (3) The event is not caused by any act or omission of the Landlord or Tenant.
- (e) "GST" means the Goods and Services Tax arising pursuant to the Goods and Services Tax Act 1985 and "GST Act" means the Goods and Services Tax Act 1985.
- (f) "premises" includes all the Landlord's fixtures and fittings provided by the Landlord and those set out in the Fourth Schedule.
- (g) "premises condition report" means the report as set out in the Fifth Schedule.
- (h) "renewal" means the granting of a new lease as provided for in subclause 32.1.
- (i) "rules" in clause 34 means the Body Corporate operational rules under the Unit Titles Act 2010 and any amendments to those rules or replacement rules.
- (j) "structural repair" means a repair, alteration or addition to the structure or fabric of the building but excluding building services.
- (k) "the common areas" means those parts of the property the use of which is necessary for the enjoyment of the premises and which is shared with other tenants and occupiers.
- (l) "the Landlord" and "the Tenant" means where appropriate the executors, administrators, successors and permitted assigns of the Landlord and the Tenant.
- (m) "the property" and "the building" mean the land, building(s) or improvements of the Landlord which comprise or contain the premises. Where the premises are part of a unit title development the words "the property" mean the land and building(s) comprised in the development.
- (n) "those for whom the Tenant is responsible" includes the Tenant's agents, employees, contractors or invitees.
- (o) "working day" has the meaning given to it in the Property Law Act 2007. Notices served after 5pm on a working day, or on a day which is not a working day, shall be deemed to have been served on the next succeeding working day.
- (p) A reference in this lease to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
- (q) A reference to the words "include" or "including" are to be interpreted without limitation.
- (r) If any inserted term (including any Further Term) conflicts with the covenants in the First Second and Third Schedules, the inserted term will prevail.
- (s) Whenever words appear in this lease that also appear in the First Schedule then those words shall mean and include the details supplied after them in the First Schedule.
- (t) Where the context requires or admits, words importing the singular shall import the plural and vice versa.
- (u) Where the Landlord's consent or approval to any matter is required under this lease then, unless expressly stated to the contrary in this lease, in each case the Landlord:
  - (1) must not unreasonably withhold consent or approval, and
  - (2) must, within a reasonable time of the Landlord's consent or approval being requested:
    - (i) grant that consent or approval; or
    - (ii) notify the Tenant in writing that the consent or approval is withheld.

See attached Further Terms.

## FURTHER TERMS

### AMENDMENTS TO THE FIRST SCHEDULE

#### Item 8 Annual Rent

The Annual Rent shall comprise the following:

#### Rent Schedule

Description	Rent per m <sup>2</sup>	Rent per annum	Rent per week
Premises	\$230	\$300,575.50	-
8 Car Parks – covered	-	\$18,720.00	\$45.00
5 Car Parks – uncovered	-	\$9,100.00	\$35.00
Total		<u>\$328,395.50</u>	

### AMENDMENTS TO THE SECOND SCHEDULE

#### RENT REVIEW

A new Clause 2.2(c) is inserted as follows:

*"2.2(c) For the purpose of clause 2.2(b)(i) "Valuer" shall mean a valuer who is registered under the Valuers Act 1948 and who has:*

- (i) At least five (5) years valuation experience in the area in which the Premises is located; and*
- (ii) Adequate professional indemnity insurance providing cover (in respect of each claim) of at least one million dollars (\$1,000,000)."*

Clause 2.5 is deleted and replaced with the following

*"2.5 In determining the current market rent the Landlord, the Tenant, the Valuers, the third expert or the arbitrator (as applicable) will have regard to;*

- (a) the actual Business use as recorded in the First Schedule;*
- (b) the provisions of this lease;*
- (c) the condition of the premises as set out in the Premises Condition Report (if any) and any subsequent deterioration in, or degradation of, or adverse, harmful or deleterious condition of, the premises or the building or the land, including any failure to meet the Building Performance Specifications or the functioning of the Building Services;*
- (d) any failure of the Landlord to perform any of the Landlord's maintenance, repair, replacement, structural repair or structural replacement obligations and any other of the Landlord's obligations under this lease in accordance with industry and best practice;*
- (e) any inherent defect in the premises, the building or the land;*

- (f) any breach by the Landlord of clause 11;
- (g) any flooding or land subsidence as it may affect the Tenant's use and enjoyment of the premises;
- (h) any faulty design, construction, workmanship or repair in the premises or the building;
- (i) any fault or failure in the building or the premises which results in the building or the premises (including the Building Services) failing to operate and perform in good operational repair (unless caused by the Tenant);
- (j) the effective rent payable in respect of any recent leasing in the immediate location; and
- (k) any inducements (including incentives and key money) offered to tenants of comparable premises used or quoted to determine the effective market rent of those comparable premises (but shall not include specific reference to any incentive provided to the Tenant to enter this lease)."

Clause 2.6 is deleted and replaced with the following:

#### "DISREGARDS

2.6 In determining the current market rent, the Landlord, the Tenant, the Valuers, the third expert or the arbitrator (as applicable) will completely disregard and not treat as an enhancement in any way or attribute a rent premium to:

- (a) the value of any goodwill attributable to the Tenant's business and the value of the Tenant's fixtures and fittings in the premises;
- (b) the value of any fitout, partitions or other building works in the premises which were either completed by the Landlord or where the Landlord contributed to the cost of those building works;
- (c) the Tenant's improvements to the premises or the building; and
- (d) the Tenant's signage rights or naming rights."

#### OUTGOINGS

Clause 3.5 is deleted and replaced with the following:

"3.5 The Tenant's contribution to the outgoings of the building shall be payable in the following manner;

- (i) Prior to or as soon as is reasonably practicable after the commencement date the Landlord will notify the tenant, in writing, of the Landlord's estimate of the outgoings for the broken period to the last day of the lease year immediately following the commencement date; and
- (ii) Prior to or as soon as practicable after the last day of each lease year during the term the Landlord will advise the Tenant, in writing of the Landlord's estimate of the outgoings for the following lease year, provided that the Landlord will be entitled to notify the Tenant of a revised estimate of the outgoings where some unforeseen matter outside the control of the Landlord arises which is likely to have a significant effect on the outgoings and which was not taken into account by the Landlord in the earlier estimate and such revised estimate will apply in lieu of the earlier estimate.

- (iii) *From the date of the commencement of each lease year the Tenant will pay in advance on the first day of every month 1/12<sup>m</sup> of the tenant's proportion of outgoings of the Landlord's estimate of the outgoings for that lease year.*
- (iv) *As soon as practicable after the last day of each lease year (or initial broken period) the Landlord will provide a statement of actual outgoings for such period and whatever adjustment as is necessary between the Landlord and the Tenant will be made after taking into account the total of the payments previously made by the Tenant in respect of that period,*
- (v) *Upon the expiry, determination or assignment of this Lease the Landlord will forthwith advise the Tenant of:*
  - (a) *the total of monthly payments made by the Tenant during the then current lease year or broken period; and*
  - (b) *the liability of the Tenant for outgoings in terms of the Landlord's estimate; and*
  - (c) *the Landlord's assessment of any shortfall in the Tenant's contribution to the date of expiry, determination or assignment.*
- (vi) *Following such assessment the Landlord may retain or collect from the Tenant any shortfall (including at the Landlord's discretion a reasonable contingency amount against any unbudgeted expenses).*
- (vii) *Following the availability of a statement any shortfall not held by the Landlord will be paid by the Tenant to the Landlord within 14 days. Any excess monies held by the Landlord will be paid to the Tenant subject always to the right of the Landlord to apply the same in satisfaction or on account of any moneys owing and unpaid by the Tenant as at the date of expiry, determination or assignment;*
- (viii) *Nothing shall prevent the Landlord from recovering outgoings merely because the Landlord has failed to notify the Tenant promptly of an estimate or of an actual amount."*

## **BUILDING SERVICES**

Clause 11 is deleted and replaced with the following:

### **"11.1 Building Services Definition**

*For the purposes of this Clause 11, the term "Building Services" means any plant, machinery, wires, cables, pipes, conduits, improvements, fittings, fixtures, chattels, appurtenances, conveniences or other equipment or material of any kind owned or controlled by the Landlord and used or intended to be used for or ancillary to the provision or use of any building service, utility or amenity now or in the future supplied to the building, the common areas and/or the premises and (without limitation the generality of the foregoing) includes lifts, air-conditioning, escalators, electrical systems and equipment, heating or cooling plant and equipment, fresh air ventilation and reticulation, fire protection detection and prevention systems, fire hose reels, fire extinguishers, building hydraulic systems, emergency evacuation and alarm systems, building access control systems and security alarms, guttering drainage and plumbing systems, wastewater and sewerage systems, water reticulation systems, telephony data and communication systems and any other equipment, fittings, fixtures, chattels or materials used, intended to be used or relating to or ancillary to such building services and systems, and includes any part of any of the Building Services from time to time, excluding those items owned by the Tenant.*

#### **11.2 Landlord to maintain Building Services**

*Notwithstanding any other provision of this lease (but subject to Clause 11.6) the Landlord shall at all times keep and maintain all Building Services in good working operational order, repair and condition, and in particular in accordance with the performance criteria detailed in Appendix A.*

#### **11.3 Maintenance of Roof and Exterior**

*The Landlord shall at all times keep clean and maintain the roof and the exterior of the building (including exterior glass windows) in good and substantial repair, order and condition and in a structurally sound and weatherproof and watertight condition. The Landlord shall clean and maintain the exterior of the building to a good order and condition and shall immediately remove and/or repair any graffiti or defacement on the building from time to time.*

#### **11.4 Repair of Common Areas**

*The Landlord shall at all times keep and maintain the common areas and all carpark areas in a good and substantial state of repair, and in a clean and tidy condition and shall keep and maintain lighting and other common facilities and services in the common areas and the carpark areas to such standard and condition.*

#### **11.5 Keep and Maintain Building Warrant of Fitness**

*Other than as expressly provided for in this lease, the Landlord shall at all times ensure that the building and/or the premises complies with the provisions of all statutes, ordinances, regulations and by-laws affecting or relating to the building and/or the premises. Without limitation the generality of the previous sentence, the Landlord shall ensure that:*

- (a) the Landlord complies with all of its obligations as a building owner under the Building Act 2004 including but not in limitation, supplying to the relevant authority a building warrant of fitness and obtaining all reports as required by that Act;*
- (b) the Landlord keeps and maintains an appropriate health and safety management scheme for the building, including a fire evacuation plan which conforms with all requirements of the appropriate authority having jurisdiction over such matters;*
- (c) the Landlord complies with all of its obligations under the Resource Management Act 1991.*

#### **11.6 Tenant's Default**

*The Landlord shall not be liable for any failure to strictly comply with the Landlord's obligations under Clauses 11.2, 11.3, 11.4 or 11.5 if that failure is caused by the Tenant's negligent act, error or default or resulting from any cause beyond the reasonable control of the Landlord and the Landlord has used its best endeavors and continually uses its best endeavours on an ongoing basis to rectify that failure and ameliorate the effects to the Tenant of such causative event or events.*

#### **11.7 Right to enforce Landlord's Maintenance Covenants**

*Where the Landlord is obliged under the covenants of this Lease to pay expenses or to maintain or repair any portion of the premises, the building or the Building Services*



and, in particular, without limitation, with respect to the covenants under Clauses 11.2 to 11.5 (inclusive), and the Landlord has failed to undertake all reasonable actions required of it under those covenants within a reasonable time (having regard to the payment or the nature and urgency of the maintenance or repair required in any particular case) after first receiving written advice from the Tenant of the need for such maintenance and repair, then in the absence of a dispute between the parties as to the need to maintain or repair the Tenant may take the necessary steps to effect the said maintenance or repair which the Landlord has neglected, refused or delayed to execute. The Tenant shall be entitled to recover from the Landlord all actual costs incurred by the Tenant in respect of any such remedial work provided that such work is carried out at a reasonable cost and shall not render void any warranties or guarantees obtained by the Landlord in respect of the Building at the Commencement Date of this Lease for the duration of such warranties or guarantees."

## **USE OF PREMISES**

New Clauses 16.3 to 16.6 are inserted as follows:

### **"16.3 Loads on floors and services**

*The Tenant is not to overload the floors of the premises or building or any services and, in particular but not in limitation, is not to bring into, move about, or remove from the premises or the building any safe or heavy article of greater weight or pressure than the Landlord permits in writing. Any damage caused to the premises or building arising from breach of this clause is to be made good at the cost of the Tenant.*

### **16.4 Use of Common Areas**

*Except pursuant to any licence in respect of common area that may be given under this lease, the Tenant is not to use the common areas for any business purpose or for display, advertising or storage. Any licence given by the Landlord may be revoked or modified by the Landlord at any time in its absolute discretion and following any failure of the Tenant so to do the Landlord is to be entitled to remove and store the Tenant's fittings or merchandise which remains in the common areas and recover from the Tenant the costs of so doing. In no event is the landlord to be liable to compensate the Tenant.*

### **16.5 Tenant to comply with rules**

*The Tenant and persons under control of the Tenant are at all times to observe the Rules contained in the Sixth Schedule and the Tenant acknowledges the rights of the Landlord contained in those Rules.*

### **16.6 Right for Landlord to vary rules**

*The Landlord has the right to make reasonable variations and additions to the Rules provided that no such variation or addition is to derogate from the rights of the Tenant under this lease and in the event of any inconsistency between the terms of this lease and the Rules, the terms of this lease are to prevail."*

## **ADDITIONS, ALTERATIONS, REINSTATEMENT AND CHATTELS REMOVAL**

Clause 20.3 is deleted and replaced with the following:

### **"REMOVAL OF TENANT'S FIXTURES**

*20.3 Notwithstanding anything to the contrary in this lease, at the expiration or earlier determination of this lease, the Tenant may at its sole option in all things:*



- (a) Leave all or part of the Tenant's partitions, fittings, fixtures and improvements on the premises or elsewhere in the building; or
- (b) Remove all or part of the Tenant's partitions, alterations, fittings, fixtures and improvements on the premises or elsewhere in the building and reinstate those parts of the premises or the building affected by such removal.

*Any property of the Tenant left on the premises or elsewhere in the building pursuant to clause 20.3(a) for more than fourteen (14) days after the expiration or earlier determination of this lease shall be deemed to have become the property of the Landlord. Subject to the Tenant observing and performing the terms of clause 20.3(a) or 20.3(b), the Landlord shall have no further claim whether at law or in equity against the Tenant for any matter arising from the removal or abandonment of the Tenant's partitions, alterations, fittings, fixtures and improvements. Notwithstanding the foregoing provisions the Tenant shall leave the premises in a clean and tidy condition."*

A new Clause 20.4 and 20.5 is inserted as follows:

#### **"TENANT ALTERATIONS**

*20.4 The Tenant shall carry out all alterations and additions (being both its initial fitout and any subsequent additions or alterations) in accordance with the Landlord's fitout guide for the premises, a copy of which will be supplied to the Tenant on request.*

#### **CODE COMPLIANCE CERTIFICATE**

*20.5 If the Tenant fails to obtain a code compliance certificate in accordance with clause 20.2 that is a legal requirement, then the Landlord may (after giving notice in writing to the Tenant of the Landlord's intention) do everything to obtain that code compliance certificate (including carrying out any works required) at the Tenant's expense and the Tenant will repay on demand any money spent by the Landlord."*

#### **INSURANCE**

A new Clause 23.3 is inserted as follows:

*"23.3 (a) Notwithstanding the provisions of Clause 23.1;*

- (i) where, after having made all best endeavours, the Landlord is unable to obtain insurance cover for the building on a replacement basis at a cost that Landlord reasonably considers to be economic, the Landlord's obligation pursuant to clause 23.1 will be satisfied by the Landlord holding cover on an indemnity basis; and/or*
- (ii) if no cover is available for a particular risk (at a cost that the Landlord reasonably considers to be economic) and after the Landlord having made all best endeavours to obtain lesser or comparable other cover for the particular risk, then the Landlord shall not be in breach of its obligation pursuant to clause 23.1 by not insuring against such risk during the period that no cover is available.*
- (b) The Landlord will notify the Tenant in writing, within a reasonable time, of any material changes to the Landlord's insurance policy.*
- (c) The Tenant acknowledges and agrees that, to the extent specified in clause 23.2, the Landlord;*

- (i) *may not have fully insured the building; and/or*
- (ii) *may not have insured the building in respect of all risks specified in this lease or otherwise.*
- (d) *Any dispute under this clause 23.3 shall be referred for resolution pursuant to the disputes resolution process set out in this lease."*

## **QUIET ENJOYMENT**

New Clauses 31.2 and 31.3 are inserted as follows:

31.2 *Without limiting the provisions of clause 31.1 of this lease, the Landlord agrees that the use of any part of the property or building for any of the following activities would be a potential breach of the covenant for quiet enjoyment:*

- (a) *Adult entertainment venue*
- (b) *Video parlour*
- (c) *Gambling or betting*
- (d) *Use associated with the sex industry*
- (e) *Medical facility*
- (f) *Educational facility involving student schooling or tutoring*

31.3 *The Landlord further acknowledges that excessive noise, smell and light levels may amount to a material breach of the covenant for quiet enjoyment. The Landlord will procure and ensure that noise, smell and light levels emanating or originating on or from the property or the building are kept at levels as to not cause a nuisance or disturbance to the Tenant."*

## **ASSIGNMENT OR SUBLETTING**

Clauses 33.1 to 33.3 are amended as follows:

33.1 (a) *Add to the end of this clause: "...including a recent statement of the proposed assignee's and guarantors' assets and liabilities or subtenant's assets and liabilities. The statement shall be certified by a chartered accountant in private practice."*

(b) *Add to the end of this clause: "...In the case of a subletting the Tenant must not sublet part of the premises in a configuration that will or is likely to adversely affect the rental payable for the balance of the premises not comprised in the sublease."*

33.2 *Add to the end of this clause: "...Where the Tenant or subtenant is a partnership, the retirement or other departure of a partner and/or the admission of a new partner is deemed to be an assignment or, where appropriate, a subletting of this lease."*

33.3 *Add the following subparagraphs at the end of this clause:*

*"Notwithstanding any other term of the lease;*

- (a) *no subtenant shall be entitled to grant any sub-sublease of any part of the premises; and*

- (b) *both the Landlord and the Tenant acknowledge that rental payable under any sublease shall not be used as market evidence for assessing the current market rent for the premises."*

## **CARPARKS**

Clause 35 is deleted and replaced with the following:

*"35.1 Where the Tenant leases carparks under this lease as detailed in the First Schedule:*

- (a) the Tenant has the right to use the carparks during the term of this lease;*
- (b) references in this clause to the Tenant shall, for the purposes of using the carparks, include the Tenant's employees and customers and any other person in or about the premises at the request or invitation of the Tenant;*
- (c) notwithstanding the Tenant shall have the right to exclusive possession of the carparks, other tenants of the Landlord shall be entitled to pass over the carparks when the carparks are not being used by the Tenant.*

*35.2 The Tenant shall not:*

- (a) be entitled to use any car park for any purpose other than for parking a single motor vehicle;*
- (b) do anything which may obstruct the access to or egress from the carparking area by any other user of the carparking area;*
- (c) spill or permit to be spilt oil or other deleterious substances upon either the carparks or the carparking area and will upon demand reimburse the Landlord for the cost of making good any damage caused by the Tenant to the surface of the carparks or to any part of the carparking area;*
- (d) deposit or leave rubbish in the carparking area.*

*35.3 The Landlord shall not be responsible to the Tenant or to any other person for any loss or damage sustained by the Tenant in respect of any vehicle parked in the carparking area or any vehicle entering or leaving the carparking area or in respect of any act, omission or negligence on the part of the Landlord. The Landlord shall not be responsible to the Tenant or to any other person for the theft or loss of any article from any vehicle and the Tenant hereby acknowledges that the Tenant uses the carparking area and the carparks at the Tenant's own risk in all respects.*

*35.4 The Tenant shall at all times comply with such rules, directions and procedures which the Landlord may reasonably make, issue or institute as to:*

- (a) The type of size of vehicles which may use the carparking area;*
- (b) The security of the carparking area;*
- (c) The procedures to be followed when parking vehicles;*
- (d) The hours during which the carparks and the carparking area may be used by the Tenant"*

## **ENTRY BY THE LANDLORD**

A new Clause 46 is inserted as follows:

*"46.1 In the circumstances where the Landlord is entitled to enter the Premises pursuant to the provisions of this Lease and the Landlord (including any of its agents, invitees, contractors or guests) so chooses to enter the Premises during the term of this Lease (including any renewed term or period of holding over) the Landlord:*

*46.1.1 Acknowledges and agrees that such persons enter the Premises at their own risk in all respects; and*

*46.1.2 Shall indemnify the Tenant from and against any action, claim, cost, demand, loss, expense, payment, suit or damage made, brought or claimed against the Tenant resulting from any such entry."*

## **HEALTH AND SAFETY**

A new Clause 47 is inserted as follows:

*"47.1 The Tenant will comply with the Health and Safety in Employment Act 1992 (the HSEA) in respect of the premises and its fit-out, fixtures and fittings, equipment and any alterations made by the Tenant in or to the premises and their use in the premises as part of a place of work including without limitation:*

- (a) Ensuring that all significant hazards in respect of the same are identified and eliminated where practical, or isolated where elimination is impractical, or minimized where elimination or isolation is impractical.*
- (b) Having in place written rules and procedures relating to health and safety which the Tenant shall follow and keep under review to ensure the safety of its employees and persons attending the premises.*
- (c) Identifying hazards for its employees or other persons attending or in the vicinity of the premises.*
- (d) Taking all practicable steps to eliminate, isolate or minimize hazards and ensure that people working in the vicinity of the premises are not harmed.*
- (e) Maintaining a register of accidents and conforming with any code of practice and regulations promulgated in respect of the particular work being done."*

## THIRD SCHEDULE

# GUARANTEE

IN CONSIDERATION of the Landlord entering into the lease at the Guarantor's request the Guarantor:

- (a) Guarantees payment of the rent and the performance by the Tenant of the covenants in the lease.
- (b) Indemnifies the Landlord against any loss the Landlord might suffer should the lease be lawfully disclaimed or abandoned by any liquidator, receiver or other person.

THE GUARANTOR covenants with the Landlord that:

- 1. No release delay or other indulgence given by the Landlord to the Tenant or to the Tenant's successors or assigns or any other thing by which the Guarantor would have been released had the Guarantor been merely a surety shall release prejudice or affect the liability of the Guarantor as a guarantor or as indemnifier.
- 2. As between the Guarantor and the Landlord the Guarantor may for all purposes be treated as the Tenant and the Landlord shall be under no obligation to take proceedings against the Tenant before taking proceedings against the Guarantor.
- 3. The guarantee and indemnity is for the benefit of and may be enforced by any person entitled for the time being to receive the rent.
- 4. An assignment of the lease and any rent review in accordance with the lease shall not release the Guarantor from liability.
- 5. Should there be more than one Guarantor their liability under this guarantee and indemnity shall be joint and several.
- 6. The Guarantee and indemnity shall extend to any holding over by the Tenant.

#### FOURTH SCHEDULE

#### INVENTORY OF LANDLORD'S FIXTURES AND FITTINGS

Item	Condition
Carpet tiles	New
Ceiling grid and tiles	New
Standard lighting – LED	New
Fire system	Good
HVAC	Good



## FIFTH SCHEDULE

### PREMISES CONDITION REPORT

Not applicable while the Sovereign in Right of New Zealand acting by and through the Director-General of the Ministry of Health is the Tenant and occupying the Premises.

**SIXTH SCHEDULE**  
**RULES OF THE BUILDING**

**Preamble**

The Rules set out in this Schedule are made for the safety, care, operation, security and cleanliness of the building and for the preservation of good order, safety and comfort of tenants and occupiers in and visitors to the building.

**1. Building directory**

The Landlord must maintain a directory of tenants in the main entrance lobby of the building. Name plates on the directory will be fixed for the Tenant by the Landlord at the cost of the Tenant and the form of each will be solely determined by the Landlord.

**2. Ejection of rubbish or other articles**

The Tenant must not drop or throw or permit to be dropped or to be thrown or to fall any article from or out of the premises, the common areas or the roof of the building or into the lift wells or any public areas and must not place any article upon any sill ledge or other like part.

**3. Eviction**

The Landlord reserves the right to exclude or evict from the building any person who in the opinion of the Landlord is under the influence of intoxicating liquor or drugs or who in any manner wilfully does any act in violation of these Rules.

**4. Name of building**

If the name of the building is used by the Tenant on letterheads or other business forms or advertising material then the name so used must be the full and proper name of the building. It is acknowledged by the parties that the Landlord is the owner of all naming and advertising rights of the building.

**5. Goods delivery**

The Tenant will use for all movement of goods or articles of bulk or quantity only parts of the premises and common areas at the times that the Landlord directs and must comply with all directions of any duly authorised officer of the Landlord concerning the operation of any loading or unloading area in or about the building.

**6. Interference with machinery**

The Tenant will not interfere with or attempt to control any part of any of the Landlord's machinery installed or to be installed in any part of the building or in the premises.

**7. Forbidden activities**

The Tenant will not allow members of any charitable or other organisation to hold functions or solicit donations within the premises without the prior written consent of the Landlord.

**8. Statements**

The Tenant will not issue statements, verbal or written to the media in respect of the building. Requests for statements or interviews shall be referred to the Landlord or its representatives.

**9. Emergency contact**

The Tenant will advise the Landlord of the private address and telephone number of the Tenant or if the Tenant is a corporation of some responsible person employed by the Tenant and shall keep the Landlord promptly informed of any change of such address or telephone number.

**10. External window cleaning**

If the Tenant requires cleaning of external window surfaces more frequently than the Landlord considers appropriate, the costs of such additional cleaning will be paid for by the Tenant requesting such additional cleaning, or if more than one Tenant is involved then proportionately by each Tenant calculated on the area of floor space occupied.

**11. Dangerous goods**

The Tenant will not except for customary office applications use or allow to be used any chemicals or inflammable gases fluids or substances in or on the premises and will not use or allow to be used any method of heating or lighting the premises other than by electric current or gas supplied through the meters.

**12. Not to erect window coverings without consent**

- (a) The Tenant will not erect internal or external window coverings, blinds, drapes, curtains, screens or awnings without the consent in writing of the Landlord and in any event any such items installed in the premises shall be of non-flammable material and will comply with all relevant standards approved by the Landlord and in compliance with the provisions and requirements of all relevant authorities.
- (b) The Tenant will maintain in a neat, clean and proper state of repair all window curtains or coverings whether supplied by the Landlord or otherwise and will as often as the need (in the opinion of the Landlord) arises replace at the Tenant's own cost any curtain or coverings of a material or type nominated by the Landlord. Where such window curtains or coverings are supplied by the Landlord then despite anything contained in this clause, the Landlord may at its discretion if in its opinion such window curtains or coverings require replacement, replace at its cost.
- (c) Other than as provided in sub-clause (a) of this Rule 12, the Tenant will not in any way without the express written authority of the Landlord cover or obstruct the windows.

**13. Tenant to participate in fire drill**

The Landlord will have the right to require the Tenant to perform fire drills from time to time and observe all necessary and proper emergency evacuation procedures including the appointment and participation of appropriate fire wardens and the Tenant and the Tenant's visitors will co-operate with the Landlord in performing such drills and

procedures. In no case will there be any compensation payable by the Landlord on account of any loss or damage caused to or sustained by the Tenant and the Tenant's visitors.

**14. After hours opening and access to the premises**

- (a) The Tenant will be entitled to use the premises throughout the 24 hours of each day in the year. Access to the premises for the Tenant's nominated staff outside normal business hours (being 8am to 6pm on any working day) or otherwise stipulated by the Landlord on weekdays and on Saturdays, Sundays and gazetted public holidays will be regulated by the security procedures provided by the Landlord or otherwise as previously agreed in writing by the Landlord but the Landlord will not be liable for any reason should the Tenant be unable to gain entry to the building.
- (b) The Landlord reserves the right to close the building or any part of the building as may be required to be closed by operation of law or in the case of an emergency or if the Landlord deems such action reasonably necessary for the safety of any person or property within or on the building. The Landlord may close lock off or otherwise control the common areas or any part of it from time to time to protect the Landlord's or any tenant's interest or any public interest as the Landlord may deem necessary or desirable and any such action or actions on the part of the Landlord will not entitle the Tenant to determine the lease or claim an abatement of rental or claim damages or compensation from the Landlord.
- (c) In the event that the Landlord shall at the request of the Tenant open or operate or both plant for any part of the building or premises during any hours of restricted access or at times otherwise than as specified by the Landlord in relation to the operation of the air-conditioning plant or lifts then all costs and expenses of so doing including without affecting to the generality of the foregoing labour, energy, security and air-conditioning (all such costs and expenses to be as assessed by the Landlord from time to time) will be borne by the Tenant and paid to the Landlord immediately upon demand and in the event of default in such payment by the Tenant such costs and expenses shall be deemed to be rent in arrears and recoverable accordingly.

**15. Keys, access and security**

- (a) The Tenant acknowledges that all keys or access cards relating to the building or to the premises held by the Tenant during its occupancy (whether they have been provided by the Landlord or made or procured by the Tenant for the Tenant's own use) shall be surrendered to the Landlord at the end of this lease and the Tenant shall not cause or suffer to be made any duplicates nor make any changes to it without the prior consent of the Landlord.
- (b) The Tenant will provide keys or access cards only to employees of the Tenant and shall keep a list of the recipients of keys and access cards and their status and shall immediately upon request from the Landlord provide the Landlord with an updated copy of the list. In the interests of effective security the Landlord has the right (at its sole discretion) to restrict the number of keys and cards issued.
- (c) If any key or access card is lost stolen destroyed or mutilated the Tenant will pay all costs and expenses (including the cost of replacement of changing locks as considered necessary by the Landlord) arising therefrom immediately upon demand by the Landlord when demanded by the Landlord regardless of how the cost arises.

- (d) All keys and/or access cards will be provided in the first instance by the Landlord on such conditions as it shall impose including the liability of the Tenant to immediately notify the Landlord of and return obsolete cards and keys if the holder is no longer a Tenant or employee of the Tenant and the Tenant will be responsible for the care and retention of all cards and access keys.

**16. Obstruction**

The Tenant or the Tenant's visitors will not obstruct or use footpath entrances, lobbies, passages, halls, lifts and staircases (except as may be entirely within the premises) for any purposes other than for entry or exit from the premises and in this respect the Tenant will observe all rules and regulations from time to time imposed by any authority relating to fire and other matters of public safety.

**17. Sound reproduction apparatus**

The Tenant is not to erect or affix any radio or television mast or antenna to the building. In the event that the Landlord considers that the rights or interests of other Tenants are being adversely affected any consent previously given may be modified or withdrawn on the giving of 14 days notice except with the express prior written consent of the Landlord (and then only in compliance with the terms of such consent).

**18. Animals birds or pets**

The Tenant will not keep any animals birds or pets in or about the building or the premises.

**19. Foodstuffs**

The Tenant may prepare or cook food only with the consent of the Landlord (at its sole discretion) and in those areas which are provided and approved by the Landlord for that purpose. The customary serving of morning and afternoon teas at any place within the premises is not affected by this clause.

**20. Protection of services**

The Tenant will not use or permit to be used in the toilets and other water supply apparatus for any purpose other than that for which they were constructed and will not place or permit to be placed any tea leaves, sweepings, rubbish, rags, ashes or other foreign or corrosive substances in the apparatus. The cost of repairing any damage resulting to the apparatus arising as a result of such misuse by Tenants or by the employees of Tenants shall be borne by all Tenants in proportion to the area occupied by each of them on the floor level at which the damage has occurred. If the person or Tenant responsible for such damage can be ascertained then the Tenant who employs or whose client it is or that Tenant shall bear the whole of the cost involved.

**21. Air-conditioning, lifts and other services**

- (a) Where any plant machinery or equipment for heating cooling or circulating air (all of which are herein included in the expression air-conditioning plant) is provided or installed in the building or the premises by the Landlord:
  - (i) The air-conditioning plant will not be operated on Saturdays, Sundays or gazetted public holidays or on such other days as the building is not open to

the public except where the Tenant has independent control of the system affecting the premises.

- (ii) The Tenant will at all times comply with and observe the reasonable requirements of the Landlord in relation to the air-conditioning plant and will not do or permit or suffer to be done anything to the use or ventilation of the premises which might interfere with or impair the efficient operation of the air-conditioning plant in the premises or the building.
  - (iii) The Tenant will be required to keep the sun protection devices (if any) installed for the purpose of reflecting solar heat, in the proper operational position (as determined by the Landlord) to ensure the efficient performance of the air-conditioning equipment. While the air-conditioning equipment is operating the windows in the premises will not be opened or permitted to remain open by the Tenant and the Tenant's visitors.
- (b) Where a passenger lift or lifts are provided or installed in the building by the Landlord the Tenant will use those lifts only for passengers and will not except with the express consent of the Landlord or its building supervisor use them for the carriage of goods. When goods are being carried in those lifts it will be the responsibility of the Tenant to ensure that the protective equipment supplied by the Landlord is used as designed and the cost of repairing the damage occasioned through use of the lifts for purposes other than passenger carriage may be charged to the Tenant concerned and where consent is given for the carriage of goods the Tenant shall comply with all reasonable requirements of the Landlord relating to the use time protection making good and any other reasonable costs of and incidental to the consent and to the use.

## **22. Cleaning of premises by Tenant**

- (a) The Landlord will use its best endeavours to provide a cleaning service from one contractor who will in a proper and workmanlike manner clean all parts of the building including the exterior and interior of all windows, grease traps and all carparking areas and the premises and the Tenant will use exclusively the cleaning services to the same or better standard and permit access to the premises during or outside normal office hours for the purpose of other cleaning but the Landlord shall not be responsible for any damage suffered by the Tenant and the Tenant's visitors arising out of such cleaning.
- (b) The Landlord will cause the cleaning contractor providing the cleaning service to render separate accounts direct to the Tenant for the cost of cleaning the premises including the cleaning of the internal surfaces of all outside windows the cleaning of all other windows and glass within the premises and the cleaning of the portion of any service area within the premises and the Tenant will pay such accounts within 14 days of receipt of same. All other cleaning costs will form part of the outgoings of the building.

## **23. Notice to Landlord of damage, accident etc.**

The Tenant will give notice to the Landlord immediately when it becomes aware of:

- (a) any damage or defects in the premises or the building or in any of the services or facilities provided by the Landlord in the premises or the building; or
- (b) any circumstances likely to cause any damage or injury within the premises or the building or any accident or injury to any person; or
- (c) any damage or defects in the building's security or surveillance system; or



- (d) any infectious illness occurring in the premises or the building and the Tenant shall also give notice of the same to the proper authorities and at the expense of the Tenant shall thoroughly fumigate and disinfect the premises to the satisfaction of such authorities and otherwise comply with their lawful requirements.

#### **24. Recycling**

The Tenant shall participate in any recycling programme put in place by the Landlord in relation to the building. The Tenant shall ensure that all recyclable waste is separated from other waste and placed in the receptacles provided for separate collection.

#### **25. Smoking**

- (a) The Tenant shall comply at all times with the provisions of the Smoke-free Environments Act 1990.
- (b) The Tenant shall not and shall not permit any of its employees to smoke in front of the building, in any dockways or in any public areas other than the designated smoking area of the building (if any).

## APPENDIX A

### BUILDING SERVICES PERFORMANCE CRITERIA

#### 1 HVAC

- (a) The Landlord shall install and maintain an air-conditioning system in the Building that meets the following performance specifications within the premises to an open plan layout;

People open plan :	1 person per 10 m <sup>2</sup>
People training rooms :	1 person per 2-3 m <sup>2</sup>
People meeting rooms :	1 person per 2-6 m <sup>2</sup>
Equipment :	25 watts per m <sup>2</sup>
Lighting :	12 watts per m <sup>2</sup> or as prescribed in NZS 4243
Fresh air quantities :	12 litres per second per person

All readings taken between 0 and 1.5 metres above floor level and no less than 0.5 metres from the wall.

- (i) The indoor air temperature range will be maintained at 22 degrees C plus or minus 1.5 degrees C based on average ambient Summer and Winter wet and dry bulb temperatures as defined by the local Meteorological Office in which the Building is located.

- (ii) The fresh air quantities to be maintained at:

Office: 1 litre per second per square metre or a minimum of 12 litres per second per person (average 1 person per 10m<sup>2</sup> of net usable office space). Fresh air shall be evenly distributed over the open floor plan. Use of the ceiling space as a fresh air supply plenum is not allowable.

- (iii) Continuous noise levels (HVAC equipment only):

Office:	noise levels not to exceed NC40
Large meeting rooms:	noise levels not to exceed NC35
Toilet:	noise levels not to exceed NC45 and spaces adjacent to plant rooms.

These levels are to be measured when the office areas are occupied and in use during normal business hours.

#### 2 Lighting

350 lux for general office areas at working plane. Lighting design level shall be 350 lux average with a minimum level at any point not less than 320 lux. Uniformity of minimum/average shall not be less than 0.8. The emergency lighting system for the Building shall comply with AS/NZ2293 : 1995.

#### 3 Vertical Transport

Average wait period : < 30 seconds for morning peak access. Records of all lift stoppages are to be maintained by the Landlord and available for inspection by the Tenant on request. Performance criteria of lift stoppages not to exceed 1.0 faults per lift per month although the Landlord will use its best endeavours to limit this to 0.5 faults per lift per month. Lighting in each lift car to have minimum illuminance of 200 lux.

#### **4 Power Supply**

The electrical mains "Non Essential" reticulation system shall be maintained and operated in accordance with the New Zealand Wiring Regulations. Separate metering shall be provided to each floor so that separate accounts may be held for central services and tenanted areas. Electrical supply cables to the Building must be capable of achieving a minimum 30% more than the total estimated load for the Building when fully tenanted. Power cables from the main distribution transformer are to be terminated on the main switchboard.

#### **5 Emergency Response Services**

The Landlord's contractors or their subcontractors shall promptly attend all faults within the building, and this will be covered by comprehensive service contracts. Urgent faults relating to the lift service (eg, lift entrapment) will be responded to within 30 minutes of the service provider being notified.

#### **6 Fire Protection Systems**

The Building shall comply with the New Zealand Building Fire Code current at the Commencement Date, in particular clauses C1, C2, C3 and C4, June 2001. The fire protection systems shall be operated and maintained in accordance with the applicable New Zealand standards and regulations. The following Technical and Service quality key performance indicator criteria apply:

##### **6.1 *Charged Riser Leakage***

Any riser leaks and/or pressure drop alarms (not caused by the Tenant or persons under its control or a genuine emergency and resulting in service attendance and/or call out) will be a Landlord cost;

##### **6.2 *Alarm System – False Alarm***

Any fire system (thermal/smoke/sprinkler) that faults or alarms (not caused by the Tenant or persons under its control or a genuine emergency and resulting in service attendance and/or call out) will be a Landlord Cost.

#### **7 Drainage**

All rain water collection and disposal, and plumbing and drainage shall at all times comply with the prevailing NZ Building Code standard. The plumbing and drainage system in the Building shall include:

7.1 Protection against contamination (backflow);

7.2 Access for servicing;

7.3 Adequate water pressure on each floor.

The Landlord shall maintain an overflow protection tray and drain facilities for any Landlord hot water cylinders and in good operational order and condition.

#### **8 Hot and Cold Water**

The hot water system to the Building shall supply all intended and existing plumbing fixtures in the Building and shall be maintained and operated by the Landlord in good working order and condition.

#### **9 Security**

The Landlord will maintain and operate at the cost of the Landlord an electronic security access control system to the Building. Card readers shall be installed and maintained by

the Landlord on all ingress and egress points in the Building, in all lift cars to all floors in the Building, and to all egress and ingress points on the stair landing to each floor. The Tenant shall be allocated and provided 60 access control cards at any one time without cost to the Tenant.

## Premises Plan





TEHANCY A	773.87 m <sup>2</sup>	8329.9 m <sup>2</sup>
LOBBY A	17.91 m <sup>2</sup>	192.8 m <sup>2</sup>
PRO-RATA SHARE OF SERVICES	32.21 m <sup>2</sup>	352.1 m <sup>2</sup>
<b>TOTAL</b>	<b>824.49 m<sup>2</sup></b>	<b>8874.7 m<sup>2</sup></b>
TEHANCY B	2753.84 m <sup>2</sup>	13496.2 m <sup>2</sup>
LOBBY B	53.01 m <sup>2</sup>	570.6 m <sup>2</sup>
PRO-RATA SHARE OF SERVICES	1305.85 m <sup>2</sup>	14065.8 m <sup>2</sup>
<b>TOTAL</b>	<b>2131.34 m<sup>2</sup></b>	<b>22941.6 m<sup>2</sup></b>

## COMMON SERVICES

LOBBY B	23.00 m <sup>2</sup>
TOILETS	46.16 m <sup>2</sup>
TOILET AND CLEANER	6.54 m <sup>2</sup>
<b>TOTAL</b>	<b>85.72 m<sup>2</sup></b>

STUDY CONDUCTED BUT IN ACCORDANCE WITH THE POLYMERIZATION (UNIVERSITY BOARD) AGREEMENTS OUTLINED FOR RESEARCHER OF OFFICE TYPE RESEARCH (METHODS 1 AND 2 OF THE 2013 RESEARCH).

FOR THE MEASURABLE AREAS MEASUREMENTS HAVE BEEN TAKEN TO THE INTERNAL FACE OF EXTERNAL GLASS AND WALLS, TO THE CONTRIBUTE TO PARTITION WALLS WHERE THEY MEET OTHER MEASURABLE AREAS AND TO THE MEASURABLE FACE OF WALLS ADJOINING AREAS TO BE EVALUATED, E.G. STAIRWELL, DOCKERS, LIFTS AND TO THE MEASURABLE FACE OF DOORS LEADING ACCESS TO LIFTS.

L. HARRIS, SAHARIL, BOSTON, SUBMITTER  
I WOULD CERTAINLY WANT A SURVEY TO DETERMINE THE ACTUALLY  
AHEAD WAS THEN CAUSED OUT UNDER MY SURVECTION AND  
THAT THE AREAS AND MEASUREMENTS ARE CORRECT

Call 877-999-9999

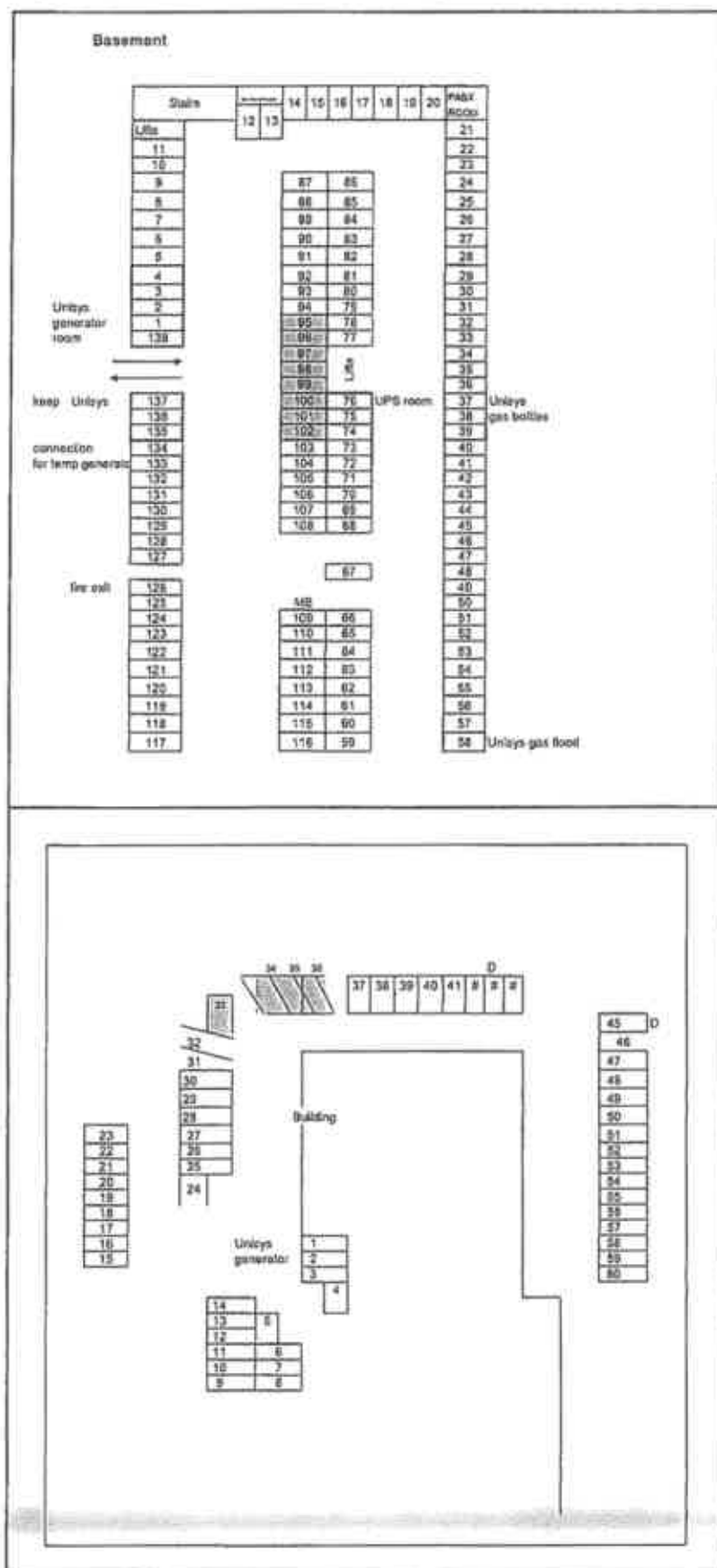
### PLAN SHOWING RENTABLE AREAS AT LEVEL 3

[illegible]



## Carpark Plan





**Dated**

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**Between**

DNZ Property Fund Limited

**Landlord**

**and**

The Sovereign in Right of New Zealand acting by and through the Director-General of the Ministry of Health

**Tenant**

**and**

Not applicable while The Sovereign in Right of New Zealand acting by and through the Director-General of the Ministry of Health is the tenant and occupying the Premises

**Guarantor**

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# DEED OF LEASE

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# STRIDE.

## Deed of Lease

relating to

Part of the Ground Floor, 650 Great South Road, Penrose, Auckland

**Stride Property Limited**

Landlord

and

**Unisys New Zealand Limited**

Tenant

Date 1 March 2016

### BELL GULLY

AUCKLAND VERO CENTRE, 48 SHORTLAND STREET  
PO BOX 4199, AUCKLAND 1140, DX CP29509, NEW ZEALAND  
TEL 64 9 916 8800 FAX 64 9 916 8801



## Contents

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This Deed of Lease is made on

1 MARCH 2016 2015

between (1) Stride Property Limited (Landlord)

and (2) Unisys New Zealand Limited (Tenant)

## Introduction

- A. The Landlord is the registered proprietor of the Building.
- B. The Landlord and the Tenant are the parties to the Previous Lease.
- C. The Landlord and the Tenant have agreed to undertake the works in accordance with the Agreement and to enter into this Lease on the same terms and conditions as set out in the Previous Lease.

## It is agreed

### 1. Interpretation

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#### 1.1 Definitions

In this lease, unless inconsistent with the context, the following definitions apply:

**Building and Land** means the Landlord's building and land at 650 Great South Road, Penrose, Auckland;

**Carpark Plan** means the plan attached to hereto as Schedule 2;

**GST** means goods and services tax charged under the Goods & Services Tax Act 1985 and any tax imposed in substitution for that tax;

**Landlord** includes the Landlord's successors, executors, administrators and assigns;

**Outgoings** means the outgoings or operating expenses from time to time payable under the Lease;

**Premises** means part of the Ground Floor of the Building, as further described in the Schedule;

**Premises Plan** means the plan attached hereto as Schedule 1;

**Previous Lease** means the Deed of Lease dated 23 December 2004 attached hereto as Appendix 1, as between the Landlord's predecessor in title and the Tenant and include any variations thereto;

**Reinstatement Plan** means the plan attached hereto as Schedule 3;

**Tenant** includes the Tenant's successors, executors, administrators and permitted assigns.

## 1.2 Construction of certain references

In this lease, unless inconsistent with the context:

the singular includes the plural and vice versa;

- (a) a gender includes each other gender;
- (b) a covenant given by more than one person binds each person jointly and severally; and
- (c) paragraph headings and the table of contents cannot be used to interpret this lease.

## 2. New Lease

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The Landlord hereby leases to the Tenant and the Tenant takes on lease from the Landlord the Premises, to be held by the Tenant for the term and the renewed term (if any), commencing on the date and at the annual rent as set out in the Schedule and on and subject to the following covenants and agreements and the terms of the Previous Lease.

## 3. Payment of rent

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- 3.1 The Tenant shall pay the Annual Rent by equal calendar monthly payments in advance of the amount specified in the Schedule on the rent payment dates specified in the Schedule.
- 3.2 The first monthly payment shall be due and payable on the date specified in the Schedule and otherwise in accordance with the terms of the Previous Lease.

## 4. Goods and Services Tax

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The Tenant shall pay all goods and services tax payable by the Landlord in respect of any taxable supply made pursuant to this lease and on any of the payments for which the Landlord is liable under this lease.

## 5. Other terms

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### 5.1 Rent Review

- (a) Notwithstanding any other provision to the contrary contained in the Previous Lease, the Annual Rent shall be increased on each anniversary of the Commencement Date during the term and the renewed term (if any) by 2% from the rent paid in the 12 month period paid immediately prior to such Rent Adjustment Date.
- (b) For the avoidance of doubt, the Annual Rent shall also be adjusted in accordance with clause (a) above on the Renewal Date (if any).

### 5.2 Naming Rights

For the avoidance of doubt, the Tenant's Naming Rights pursuant to clause 48 of the Previous Lease shall continue to apply during the term and the renewed term (if any).

### 5.3 Tenant's Make good obligations

Notwithstanding the provisions of clause 49 in the Previous Lease, the provisions of this clause 5.3 shall apply regarding the Tenant's make good obligations in relation to the Premises.

- (a) The Tenant must at the end or earlier determination of this lease, in relation to the data centre area shown (for indicative purposes only) on the Reinstatement Plan, make good such area in accordance with the Seventh Schedule of the Previous Lease to the Landlord's complete satisfaction. For the avoidance of doubt, the Tenant shall make good the data centre area in accordance with clauses 32.3 and 49.2 of the Previous Lease. In relation to the office area as shown (for indicative purposes only) on Reinstatement Plan, the Tenant shall only be obliged to remove its fixtures and fittings, make good any resulting damage from such removal and otherwise leave the office area in a clean and tidy condition.
- (b) The Tenant shall at the end or earlier determination of the term promptly cancel the easements registered in its favour over the Land, remove at its sole cost all structures, opening and cables and make good all damage resulting from such removal to the Landlord's complete satisfaction.

### 5.4 Right of Renewal

If the Tenant has given to the Landlord written notice to renew the lease at least 18 calendar months before the end of the term and is not at the date of the giving of such notice in breach of this lease (including any maintenance obligations) then the Landlord will grant a new lease for a further term from the renewal date as follows:

- (a) The Annual Rent shall be adjusted in accordance with the above clause 5.1;
- (b) Subject to the provisions of paragraph (a) the new lease shall be upon and subject to the covenants and agreements herein expressed and implied except that the term of this lease plus all further terms shall expire on or before the final expiry date;
- (c) The annual rent shall be subject to review during the term of the new lease in accordance with the above clause 5.1;
- (d) The Landlord as a condition of granting a new lease shall be entitled to have the new lease guaranteed by any guarantor who has guaranteed this lease (if any) on behalf of the Tenant who has given notice.

### 5.5 Right of First Refusal

The words "24.1(b)" in the first line of clause 34.1(c) of the Previous Lease shall be replaced with "34.1(b)".

### 5.6 Tenant's Insurance

Clause 25.2 in the Previous Lease is deleted and replaced with the following:

"The Tenant shall keep current at all times a policy or policies for:

- (a) the replacement of all additions to the Premises owned by the Tenant and the Tenant's fixtures and fittings;
- (b) Public Liability insurance to a level reasonably required by the Landlord (not less than \$5 million for any one event); and
- (c) Business interruption for such period as reasonably required by the Landlord.

Such policies shall be effected with an insurance company and on terms acceptable to the Landlord (acting reasonably) and the Tenant will if requested provide the Landlord from time to time with copies and certificates of currency."

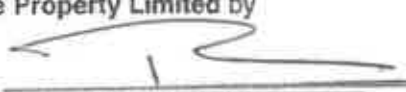
## 6. Costs

Each party shall pay its own legal costs and disbursements for the negotiation, preparation and execution of this lease.


## Execution

Executed as a deed

Stride Property Limited by

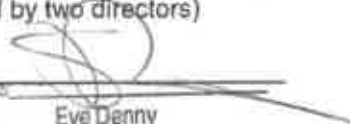
  
Director Peter John Alexander  
CEO / AUTHORISED SIGNATORY

Print Name

  
Director/Authorised Signatory  
Andrew Thomas Hay  
AUTHORISED SIGNATORY


Print Name


Witness to both signatures  
(if not signed by two directors)

  
Print Name Eve Denny  
Occupation Lease Administrator  
Address Auckland

Address

Unisys New Zealand Limited by

  
Director Rafe Kruger  
Print Name

  
Director/Authorised Signatory  
NON CRESPO  
Print Name

Witness to both signatures  
(if not signed by two directors)

Print Name

Occupation

Address



## Schedule

**Premises** That part of the Landlord's land and buildings at 650 Great South Road, Penrose, Auckland, comprised in Certificate of Title NA108C/559, comprising part of the Ground floor of the building shown as "Tenancy B" on the attached Premises Plan, with a final measurement of 1,483.70 square metres

**Carparks** 54 carparks as shown (for indicative purposes only) on the attached Carpark Plan, in places designed by the Landlord from time to time, comprising;

- (i) 34 Basement carparks; and
- (ii) 20 Open carparks.

**Term** Five (5) years

**Commencement Date** 19 December 2014

**Expiry Date** 18 December 2019

**Rights of Renewal** One (1) term of three (3) years, provided the Tenant gives 18 months written notice (time being of the essence)

**Renewal Date** 19 December 2019

**Final Expiry Date:** 18 December 2022

**Annual Rent** \$498,088.00plus GST per annum, more particularly comprising the following:

		Area / Car park #	Rate / sqm Car park rate	Total
(a)	Offices	1483.70m <sup>2</sup>	\$240.00	\$356,088.00
(b)	Car parks (Basement)	34	\$45.00	\$79,560.00
(c)	Car parks (Open)	20	\$36	\$37,440.00
(d)	Naming Rights	-	-	\$25,000.00
<b>Annual Rent</b>				<u>\$498,088.00</u>

**Monthly Payments of Rent** \$41,507.33plus GST

**Monthly Rental Payment Dates** The first day of each month commencing on 1 January 2015.

<b>Percentage of Operating Expenses:</b>	100% of the operating expenses applicable to the Premises, and that proportion that the rentable area of the Premises bears to the total rentable area of the Building for all other operating expenses.
<b>Rent Adjustment</b>	The Annual Rent shall be increased by 2% from the rent paid in the 12 month period immediately preceding the Rent Adjustment Date.
<b>Rent Adjustment Dates</b>	Each anniversary of the Commencement Date during the term and the renewed term (if any).
<b>Permitted Use</b>	Commercial Office and Administration Data Centre.

## Schedule 1: Premises Plan

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STUDY CONDUCTED BUT IN ACCORDANCE WITH THE NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY (NIST) RECOMMENDED GUIDELINES FOR MEASURING DEPTH OF FIELD OF VISION (FOV) MEASUREMENTS (METHODS 1 AND 2 OF THE NIST APPROACH).

TEHANY A			
PRO RATA SHARE OF AMENITIES			
	468.22 m <sup>2</sup>		
	17.92 m <sup>2</sup>		
	486.14 m <sup>2</sup>		5232.8 R <sup>2</sup>
TEHANY B			
PRO RATA SHARE OF AMENITIES			
	1429.00 m <sup>2</sup>		
	54.70 m <sup>2</sup>		
	1483.70 m <sup>2</sup>		15970.4 R <sup>2</sup>
TOTAL	1969.84 m <sup>2</sup>		1203.2 R <sup>2</sup>

**PLAN SHOWING RENTABLE AREAS AT GROUND FLOOR LEVEL**

[illegible]

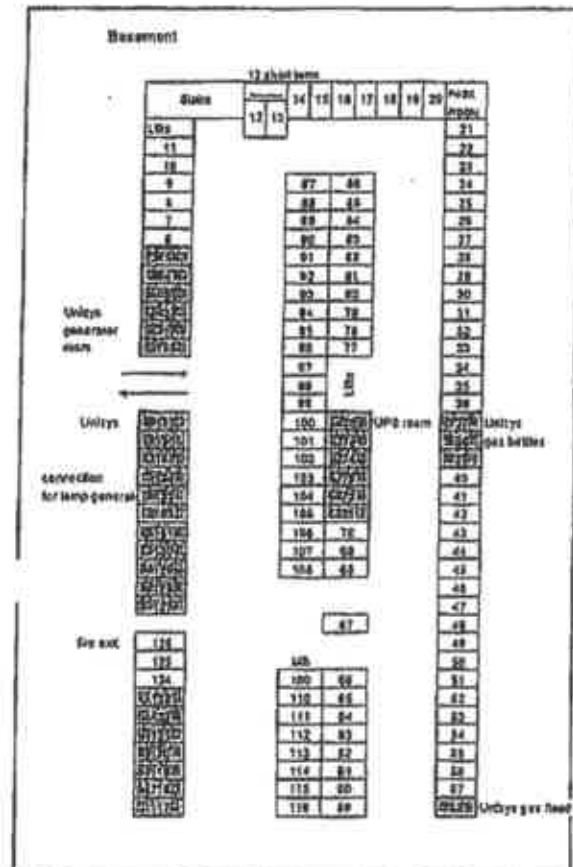
## Schedule 2: Carpark Plan

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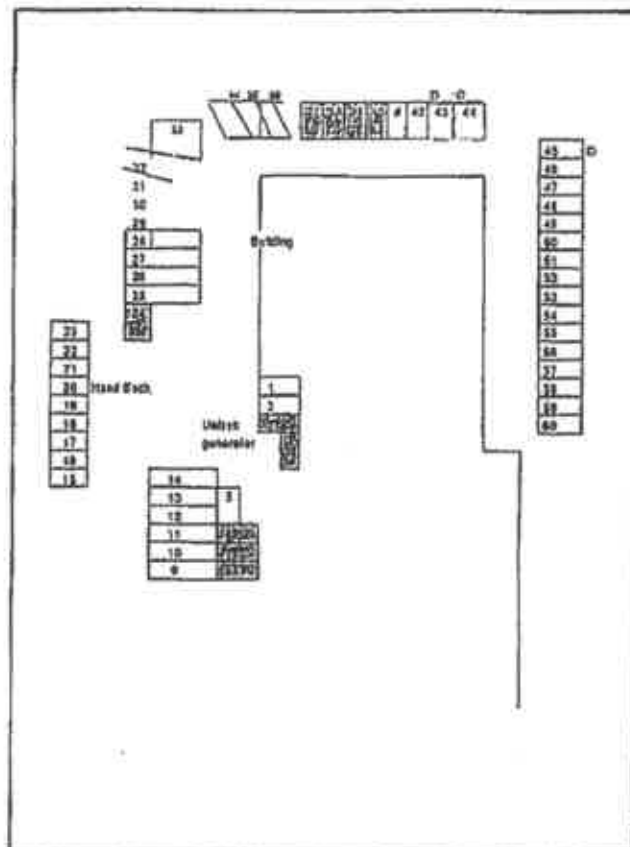
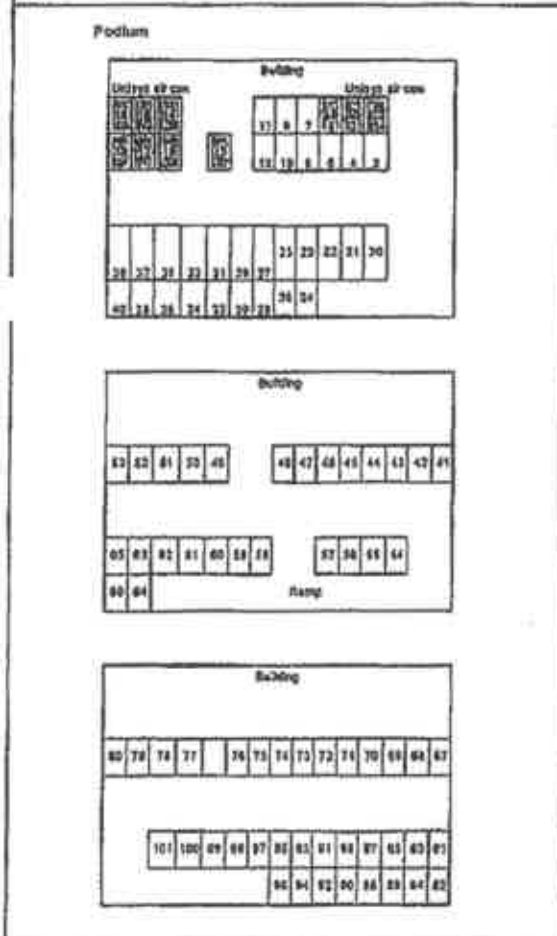


# 550 Great South Road

Updated: 26/02/2018



Units car park  
Basement: 34  
External: 20  
54



### Schedule 3: Reinstatement Plan

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<p> TENANCY A  PRO RATA SHARE OF AMENITIES </p>	<p> 466.22 m<sup>2</sup>  17.52 m<sup>2</sup>  486.14 m<sup>2</sup>  1429.60 m<sup>2</sup>  54.70 m<sup>2</sup> </p>	<p> 5232.8 R<sup>2</sup> </p>
<p> TENANCY B  PRO RATA SHARE OF AMENITIES </p>	<p> 1483.70 m<sup>2</sup>  1969.84 m<sup>2</sup> </p>	<p> 15970.4 R<sup>2</sup>  21203.2 R<sup>2</sup> </p>
<p>TOTAL</p>		

MARKET COUNCIL BUT IN ACCORDANCE WITH THE FOREGOING, THE FOLLOWING RECOMMENDED GUIDELINES FOR THE PREPARATION OF CONCEPTUAL DESIGN REQUIREMENTS 1 AND 2 OF THE DESIGN BRIEFING:

PLAN SHOWING RENTABLE AREAS AT GROUND FLOOR LEVEL

[illegible]

## Appendix 1: Previous Lease

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# DEED OF LEASE

FOURTH EDITION 2002 (2)

DEED made the 23 day of December 2004

LANDLORD Dominion Income Property Fund Limited

TENANT Unisys New Zealand Limited

GUARANTOR Nil

THE LANDLORD leases to the Tenant and the Tenant takes on lease the premises and the carypark (if any) described in the First Schedule together with the right to use:

- a) The Landlord's fixtures and fittings contained in the premises and specified in the Fifth Schedule.
- b) The common areas of the property.

FOR the term from the commencement date and at the annual rent (subject to review if applicable) as set out in the First Schedule.

THE LANDLORD AND THE TENANT covenant as set out in the Second Schedule as amended by the Fourth Schedule.

THE GUARANTOR covenants with the Landlord as set out in the Third Schedule.

SIGNED by the Landlord \*

In the presence of:

Paul John Duffy  
DIRECTOR

Signature of Landlord

Witness Signature

Witness Name

Witness Occupation

Witness Address

Print Full Name

(For a Company Specify Description  
Director/Attorney/Authorised Signatory)

Stephen James Douglas  
DIRECTOR

Signature of Landlord

Print Full Name

(For a Company Specify Description  
Director/Attorney/Authorised Signatory)

\* If appropriate, add:

"by its director(s)" OR "by its duly appointed attorney"

Note: This document must be executed by a company according to its Constitution. If two directors sign, no witnessing is necessary. If only one director or a director and secretary or authorised signatory(ies) or attorney sign, signatures must be witnessed.

SIGNED by the Tenant \*

in the presence of:

Witness Signature

Witness Name

Witness Occupation

Witness Address

Signature of Tenant

Print Full Name

(For a Company Specify Description  
Director/Attorney/Authorised Signatory)

Signature of Tenant

Print Full Name

(For a Company Specify Description  
Director/Attorney/Authorised Signatory)

SIGNED by the Guarantor \*

in the presence of:

Witness Signature

Witness Name

Witness Occupation

Witness Address

Signature of Guarantor

Print Full Name

(For a Company Specify Description  
Director/Attorney/Authorised Signatory)

Signature of Guarantor

Print Full Name

(For a Company Specify Description  
Director/Attorney/Authorised Signatory)

\* If appropriate, add:

"by its director(s)" OR "by its duly appointed attorney"

Note: This document must be executed by a company according to its Constitution. If two directors sign, no witnessing is necessary. If only one director or a director and secretary or authorised signatory(ies) or attorney sign, signatures must be witnessed.

**FIRST SCHEDULE**

**PREMISES:** That part of the Landlord's building at 650 Great South Road, Greenlane, Auckland, being 1989m<sup>2</sup> on the Ground Floor as shown outlined in red on the attached plan (for identification purposes only) including a share of the common areas.

**CARPARKS:** 33 covered carparks and 22 uncovered carparks in places designated by the landlord from time to time.

**TERM:** 10 years

**COMMENCEMENT DATE:** 1 December 2004

**RIGHTS OF RENEWAL:**

**RENEWAL DATES:**

**FINAL EXPIRY DATE:** 30 November 2014

**ANNUAL RENT:** Premises See attached schedule plus GST  
(Subject to review if applicable) Carparks 5 plus GST

**TOTAL:** \$501,401.00 plus GST

**MONTHLY RENT:** \$41,783.42 plus GST

**RENT PAYMENT DATES:** The 1st day of each month commencing on the 1st day of December 2004

**CPI ADJUSTMENT DATES** 1 December 2005, 1 December 2006, 1 December 2007,  
**RENT REVIEW DATES:** (a) Each renewal date, 1 December 2008, 1 December 2009,  
(Delete where appropriate; if neither option is deleted, then option (a) applies) 1 December 2010, 1 December 2011,  
OR 1 December 2012, 1 December 2013  
(b) (Insert dates):

**PROPORTION OF OUTGOINGS:** (clause 3.1) 100 % of all outgoings directly relating to the tenancy 31.14% of outgoings relating to the Common Areas.

**DEFAULT INTEREST RATE:** (clause 5.1) 12 % per annum

**IMPROVEMENTS RENT PERCENTAGE:** (clause 21.2) 12 %

**BUSINESS USE:** (clause 16.1) Commercial offices and Administration Data Centre and clean maintenance.

**LANDLORD'S INSURANCE:** (clause 23.1)

(a) Full replacement and reinstatement (including loss damage or destruction of windows and other glass);

(Delete where appropriate; if neither option is deleted, then option (a) applies)

OR

(b) Indemnity to full insurable value (including loss damage or destruction of windows and other glass);



# RENT SCHEDULE

Premises 1989m2 @ \$208.96 per m2  
Covered carpark 33 @ \$25.00 pcpw  
Uncovered carpark 22 @ \$20.00 pcpw  
Naming Rights

\$416,821.00 plus GST.  
\$42,900.00 plus GST.  
\$22,880.00 plus GST.  
\$20,000.00 plus GST



# OUTGOINGS

(clause 3)

1. Rates or levies payable to any local or territorial authority.
2. Charges for water gas electricity telephones and other utilities or services, including line charges.
3. Rubbish collection charges.
4. New Zealand Fire Service charges and the maintenance charges in respect of all fire detection and fire fighting equipment.
5. Insurance premiums and related valuation fees and any insurance excess in respect of a claim but not exceeding \$500 (clause 23).
6. Service contract charges for air conditioning, lifts/other building services and security services.
7. Cleaning maintenance and repair charges including charges for repainting, decorative repairs and the maintenance and repair of building services to the extent that such charges do not comprise part of the cost of a service maintenance contract, but excluding charges for structural repairs to the building (minor repairs to the roof of the building shall not be a structural repair).
8. The provisioning of toilets and other shared facilities.
9. The cost of ground maintenance i.e. lawns, gardens and planted areas including plant hire and replacement, and the cost of repair of fences.
10. Yard and car parking area maintenance and repair charges but excluding charges for structural repairs to any car parking area of the building.
11. Body Corporate charges for insurance premiums and related valuation fees and management administration expenses.
12. Management expenses.
13. The costs incurred and payable by the Landlord in supplying to the territorial authority a building warrant of fitness and obtaining reports as required by Section 45 of the Building Act 1991.
14. Costs of security services to the building, grounds and carparking areas.
15. Costs of external cleaning of the building including external window services.

For the avoidance of doubt, the tenant will not be required to pay any charges for the repair of the exterior of the building unless such repair is to damage caused by the tenant.

## SECOND SCHEDULE

## TENANT'S PAYMENTS

## Rent

- 1.1 THE Tenant shall pay the annual rent by equal monthly payments in advance (or as varied pursuant to any rent review) on the rent payment dates. The first monthly payment (together with rent calculated on a daily basis for any period from the commencement date of the term to the first rent payment date) shall be payable on the first rent payment date. All rent shall be paid without any deductions or set-off by direct payment to the Landlord or to the Landlord's agent.

## Rent Review

- 2.1 THE annual rent payable as from each rent review date shall be determined as follows:

- (a) ~~Either party may not earlier than 3 months prior to a rent review date and not later than 1 month after the rent review date give written notice to the other party specifying the annual rent proposed as the current market rent as at the relevant rent review date.~~
- (b) ~~If the party receiving the notice (the "Recipient") gives written notice to the party giving the notice (the "Initiator") within 1 month after service of the Initiator's notice disputing the annual rent proposed and specifying the annual rent proposed by the Recipient as the current market rent, then the new rent shall be determined in accordance with clause 2.2.~~
- (c) ~~If the Recipient fails to give such notice (in which case the Recipient shall be deemed to have accepted the annual rent specified in the Initiator's notice and the extension of time for commencing arbitration proceedings required in the Arbitration Act 1996 shall not apply).~~
- (d) ~~Notwithstanding any other provision of this clause, the annual rent payable as from the relevant rent review date shall not be less than the annual rent payable as at the commencement date of the then current lease term immediately prior to the relevant review date.~~
- (e) ~~The annual rent agreed, determined or imposed pursuant to this clause shall be the annual rent payable as from the relevant rent review date, or the date of service of the Initiator's notice if such notice is served later than 3 months after the relevant rent review date but subject to clause 2.3 and 2.4.~~
- (f) The rent review at the option of either party may be recorded in a Deed at the Landlord's option.

## Rent Determinations

- 2.2 ~~IMMEDIATELY~~ following service of the Recipient's notice on the Initiator, the parties shall endeavor to agree upon the current market rent, but if agreement is not reached within 14 days then the new rent may be determined either:

- (a) By one party giving written notice to the other requiring the new rent to be determined by arbitration; or
- (b) If the parties agree by registered valuers acting as experts and not as arbitrators as follows:
  - (1) Each party shall appoint a valuer and give written notice of the appointment to the other party within 14 days of the parties agreeing to so determine the new rent;
  - (2) If the party receiving a notice fails to appoint a valuer within the 14 day period then the valuer appointed by the other party shall determine the new rent and such determination shall be binding on both parties;
  - (3) The valuers appointed before announcing their determination shall appoint a third expert who need not be a registered valuer;
  - (4) The valuers appointed by the parties shall determine the current market rent of the premises but if they fail to agree then the rent shall be determined by the third expert;
  - (5) Each party shall be given the opportunity to make written or oral representations subject to such reasonable time and other limits as the valuers or the third expert may prescribe and they shall have regard to any such representations but not be bound thereby.

When the new rent has been determined the person or persons determining the same shall give notice thereof to the parties. The notice shall provide as to how the costs of the determination shall be borne and such provision shall be binding on the parties.

## Interim Rent

~~2.3~~ ~~PENDING~~ determination of the new rent, the Tenant shall from the relevant rent review date, the date of service of the Initiator's notice if such notice is served later than 3 months after the relevant rent review date, until the determination of the new rent pay an interim rent as follows:

- (a) If both parties supply a registered valuer's certificate substantiating the new rent proposed, the interim rent payable shall be half way between the new rents proposed by the parties; or
- (b) If only one party supplies a registered valuer's certificate, the interim rent payable shall be the rent substantiated by the certificate; or
- (c) If no registered valuer's certificates are supplied, the interim rent payable shall be the rent payable immediately prior to the relevant rent review date.

~~In no circumstances shall the interim rent be less than the rent payable at the commencement date of the then current lease term.~~

~~The interim rent payable shall be determined as at the relevant rent review date, or the date of service of the Initiator's notice if such notice is served later than 3 months after the relevant rent review date and, subject to clause 2.4, shall not be subject to adjustment.~~

~~2.4~~ ~~UPON~~ determination of the new rent, any overpayment shall be applied in payment of the next month's rent and any amount then remaining shall immediately be refunded to the Tenant. Any shortfall in payment shall immediately be payable by the Tenant.

## Outgoings

- 3.1 THE Tenant shall pay the outgoings properly and reasonably incurred in respect of the property which are specified in the First Schedule. Where any outgoing is not separately assessed or levied in respect of the premises then the Tenant shall pay such proportion thereof as is specified in the First Schedule or if no proportion is specified then such fair proportion as shall be agreed or failing agreement determined by arbitration.
- 3.2 THE Landlord may vary the proportion of any outgoing payable to ensure that the tenant pays a fair proportion of the outgoing.
- 3.3 If any outgoing is rendered necessary by another tenant of the property or that tenant's employees, contractors or invitees causing damage to the property or by another tenant failing to comply with that tenant's leasing obligations, then such outgoing shall not be payable by the Tenant.
- 3.4 THE outgoings shall be apportioned between the Landlord and the Tenant in respect of periods current at the commencement and termination of the term.
- 3.5 ~~THE outgoings shall be payable on demand or if required by the Landlord by monthly instalments on each rent payment date of such reasonable amount as the Landlord shall determine calculated on an annual basis. Where any outgoing has not been taken into account in determining the monthly instalments it shall be payable on demand.~~
- 3.6 ~~AFTER the 31st March in each year of the term or such other date in each year as the Landlord may specify, and after the end of the term, the Landlord shall supply to the Tenant reasonable details of the actual outgoings for the year or period then ended. Any over payment shall be credited or refunded to the Tenant and any deficiency shall be payable to the Landlord on demand. See Fourth Schedule.~~
- 3.7.5 THE Tenant's liability to pay outgoings during the term shall subsist notwithstanding the end or earlier termination of the term.
- 3.8.6 SUBJECT to clauses 3.1, 16.2 and 21.1 the Tenant shall be liable to pay only those outgoings specified in the First Schedule.
- 3.9.7 ANY profit derived by the Landlord and if a company by its shareholders either directly or indirectly from the management of the property shall not comprise part of the management expenses payable as an outgoing.

\*\* If required by the Landlord or any authority, the Tenant will install and maintain at the Tenant's cost, any meter necessary for the proper charging of any outgoings supplied to or used by the Tenant in the Premises.

**Goods and Services Tax**

- 4.1 THE Tenant shall pay to the Landlord or as the Landlord shall direct the Goods and Services Tax payable by the Landlord in respect of the rental and other payments payable by the Tenant hereunder. The tax in respect of the rental shall be payable on each occasion when any rental payment falls due for payment and in respect of any other payment shall be payable upon demand.
- 4.2 IF the Tenant shall make default in payment of the rental or other moneys payable hereunder and the Landlord becomes liable to pay additional Goods and Services Tax then the Tenant shall on demand pay to the Landlord the additional tax.

**Interest on Unpaid Money**

- 5.1 IF the Tenant defaults in payment of the rent or other moneys payable hereunder for 14 days then the Tenant shall pay on demand interest at the default interest rate on the moneys unpaid from the due date for payment to the date of payment.

**Costs** Each party shall pay their own costs of and incidental to the preparation of this lease.

- 6.1 THE Tenant shall pay the Landlord's solicitors reasonable costs of and incidental to the preparation of this lease and any variation or renewal or any Deed recording a rent review, and the Landlord's legal costs (as between solicitor and client) of and incidental to the enforcement or attempted enforcement of the Landlord's rights remedies and powers under this lease.

**LANDLORD'S PAYMENTS****Outgoings**

- 7.1 SUBJECT to the Tenant's compliance with the provisions of clause 3 the Landlord shall pay all outgoings in respect of the property not payable by the Tenant direct. The Landlord shall be under no obligation to minimise any liability by paying any outgoing or tax prior to receiving payment from the Tenant.

**MAINTENANCE AND CARE OF PREMISES****Tenant's Obligations**

- 8.1 THE Tenant shall (subject to any maintenance covenant by the Landlord) be responsible to:
- (a) **Maintain the premises**  
In a proper and workmanlike manner and to the reasonable requirements of the Landlord keep and maintain the interior of the premises including the Landlord's fixtures and fittings in the same clean order repair and condition as they were in at the commencement of this lease and will at the end or earlier determination of the term quietly yield up the same in the like clean order repair and condition. In each case the Tenant shall not be liable for fair wear and tear arising from reasonable use or damage by fire earthquakes flood storm act of God inevitable accident or any risk against which the Landlord is insured unless the insurance moneys are rendered irrecoverable in consequence of any act or default of the Tenant or those for whom the Tenant is responsible;
  - (b) **Breakages and Damage** \* Interior and exterior of the  
Pay for the repair of all glass breakages and breakage or damage to all doors windows light fittings and power points of the premises and shall keep that portion of the electrical system of the premises from the switchboard to all power outlets in good operating condition;
  - (c) **Painting**  
Paint and decorate those parts of the interior of the premises which have previously been painted and decorated when the same reasonably require repainting and redecoration to a specification as approved by the Landlord; (and in any event during the last six (6) months of the term.) Such work shall be carried out using good quality materials in accordance with good trade practice
  - (d) **Floor coverings** and of colours approved by the Landlord.  
Keep all floor coverings in the premises clean and replace all floor coverings worn or damaged other than by fair wear and tear with floor coverings of a similar quality when reasonably required by the Landlord; and
  - (e) **Damage or Loss**  
Make good any damage to the property or loss caused by improper careless or abnormal use by the Tenant or those for whom the Tenant is responsible, to the Landlord's reasonable requirements.

8.2 WHERE the Tenant is leasing all of the property, the Tenant shall:

- (a) **Maintain yards and fences**  
Keep and maintain any surfaced areas and all fences in good order and repair;
- (b) **Care of grounds**  
Keep any grounds yards and surfaced areas in a tidy condition and maintain any garden or lawn areas to a tidy and cared for condition;
- (c) **Water and drainage**  
Keep and maintain the storm or waste water drainage system including downpipes and guttering clear and unobstructed; and
- (d) **Other works**  
Carry out such works to the property as the Landlord may require in respect of which outgoings are payable by the Tenant.

8.3 THE Tenant shall not be liable for the maintenance or repair of any building service the subject of a service maintenance contract but this clause shall not release the Tenant from any obligation to pay for the cost of any such contract or charges in respect of any such maintenance or repair.

8.4 ~~NOTWITHSTANDING any other provision of this lease, the Tenant shall not be liable to pay any~~  
inherent defect in the premises or the Landlord's fixtures and fittings nor to pay any outgoings incurred by the Tenant in connection with any inherent defect.

8.5 IF the Landlord shall give the Tenant written notice of any failure on the part of the Tenant to comply with any of the requirements of clause 8.1 or 8.2 the Tenant shall with all reasonable speed so comply.

#### Toilets

9.1 THE toilets sinks and drains shall be used for their designed purposes only and no substance or matter shall be deposited in them which could damage or block them:

#### Rubbish Removal

10.1 THE Tenant shall regularly cause all of the Tenant's rubbish and garbage to be removed from the premises and will keep the Tenant's rubbish bins or containers in a tidy condition. The Tenant will also at the Tenant's own expense cause to be removed all trade waste boxes and other goods or rubbish not removable in the ordinary course by the local authority.

and from the property

#### Landlord's Maintenance

11.1 THE Landlord shall keep and maintain the building, all building services, the Landlord's fixtures and fittings, and the car parks in good order and repair but the Landlord shall not be liable for any:

- (a) Repair or maintenance which the Tenant is responsible to undertake; or
- (b) Want of repair or defect in respect of building services, so long as the Landlord is maintaining a service maintenance contract covering the work to be done, or where the building services have not been supplied by the Landlord; or
- (c) Repair or maintenance which is not reasonably necessary for the Tenant's use and enjoyment of the premises and the car parks; or
- (d) Loss suffered by the Tenant arising from any want of repair or defect unless the Landlord shall have received notice in writing thereof from the Tenant and shall not within a reasonable time thereafter have taken appropriate steps to remedy the same.

11.2 THE Landlord shall keep and maintain service maintenance contracts for lifts, air-conditioning and at the Landlord's option any other building services supplied by the Landlord unless it is the obligation of the Tenant to maintain such contracts.

11.3 THE Tenant shall be liable to reimburse the Landlord for the cost of any such repair, maintenance or service contract if it is an outgoing specified in the First Schedule.



## Notification of Defects

in writing

- 12.1 THE Tenant shall give to the Landlord prompt notice of any accident to or defect in the premises of which the Tenant may be aware and in particular in relation to any pipes or fittings used in connection with the water electrical gas or drainage services.

## Landlord's Right of Inspection

- 13.1 THE Landlord and the Landlord's employees contractors and invitees may at all reasonable times enter upon the premises to view their condition.

## Landlord may Repair

- 14.1 IF default shall be made by the Tenant in the due and punctual compliance with any repair notice given by the Landlord pursuant to this lease, or if any repairs for which the Tenant is responsible require to be undertaken as a matter of urgency then without prejudice to the Landlord's other rights and remedies expressed or implied the Landlord may by the Landlord's employees and contractors with all necessary equipment and material at all reasonable times enter upon the premises to execute such works. Any moneys expended by the Landlord in executing such works shall be payable by the Tenant to the Landlord upon demand together with interest thereon at the default interest rate from the date of expenditure to the date of payment.

## Access for Repairs

- 15.1 THE Tenant shall permit the Landlord and the Landlord's employees and contractors at all reasonable times to enter the premises to carry out repairs to the premises or adjacent premises and to install inspect repair renew or replace any services where the same are not the responsibility of the Tenant all such repairs inspections and work to be carried out with the least possible inconvenience to the Tenant.

## USE OF PREMISES

## Business Use

- 16.1 THE Tenant shall not without the prior written consent of the Landlord use or permit the whole or any part of the premises to be used for any use other than the business use. The Landlord's consent shall not be unreasonably or arbitrarily withheld in respect of any proposed use:
- (a) not in substantial competition with the business of any other occupant of the property which might be affected by the use;
  - (b) reasonably suitable for the premises; and
  - (c) complying with the requirements of the Resource Management Act 1991, or any other statutory provisions relating to resource management.

If any change in use renders any increased or extra premium payable in respect of any policy or policies of insurance on the premises the Landlord as a condition of granting consent may require the Tenant to pay the increased or extra premium.

- 16.2 IF any change in use requires compliance with Section 46 of the Building Act 1991 the Landlord, as a condition of granting consent, may require the Tenant to comply with Section 46 of the Act and to pay all compliance costs.
- 16.3 IF the premises are a retail shop the Tenant shall keep the premises open for business during usual trading hours and fully stocked with appropriate merchandise for the efficient conduct of the Tenant's business.

## 16.4-16.7 See Fourth Schedule

## Lease of Premises and Carports Only

- 17.1 THE tenancy shall relate only to the premises and the car parks (if any) and the Landlord shall at all times be entitled to use occupy and deal with the remainder of the property without reference to the Tenant and the Tenant shall have no rights in relation thereto other than the rights of use herein provided.

## Neglect of Other Tenant

occupier or user

- 18.1 THE Landlord shall not be responsible to the Tenant for any act or default or neglect of any other tenant of the property.



**Signage**

- 19.1 THE Tenant shall not affix, point or exhibit or permit to be affixed, pointed or exhibited any name sign, name-plate, signboard or advertisement of any description on or to the exterior of the building or the appurtenances thereof without the prior approval in writing of the Landlord but such approval shall not be unreasonably or arbitrarily withheld in respect of signage describing the Tenant's business. If approved the signage shall be secured in a substantial and proper manner so as not to cause any damage to the building or any person and the Tenant shall at the end or sooner determination of the term remove the signage and make good any damage occasioned thereby.

**Additions and Alterations**

- 20.1 THE Tenant shall neither make nor allow to be made any alterations or additions to any part of the premises or alter the external appearance of the building without first producing to the Landlord on every occasion plans and specifications and obtaining the written consent of the Landlord (not to be unreasonably or arbitrarily withheld) for that purpose. If the Landlord shall authorise any alterations or additions the Tenant will at the Tenant's own expense if required by the Landlord at the end or earlier termination of the term reinstate the premises. If the Tenant fails to reinstate then any costs incurred by the Landlord in reinstating the premises whether in whole or in part, within 6 months of the end or earlier termination of the term shall be recoverable from the Tenant. The Tenant will pay all reasonable professional fees incurred by the Landlord in assessing the proposed alterations or additions and perusing the plans and specifications.
- 20.2 THE Tenant, when undertaking any "building work" to the premises (as that term is defined in the Building Act 1991), shall comply with all statutory requirements including the obtaining of building consents and code compliance certificates pursuant to that Act, copies of which shall be given to the Landlord. The Tenant will carry out and complete all works in a proper and tradesmanlike manner and in accordance with the provisions of the applicable Building Code.

**Compliance with Statutes and Regulations**

- 21.1 THE Tenant shall comply with the provisions of all statutes, ordinances, regulations and by-laws relating to the use of the premises by the Tenant or other occupant and will also comply with the provisions of all licences, requisitions and notices issued by any competent authority in respect of the premises or their use by the Tenant or other occupant **PROVIDED THAT:**
- (a) The Tenant shall not be required to make any structural repairs, alterations or additions nor to replace or install any plant or equipment except where required by reason of the particular nature of the business carried on by the Tenant or other occupant of the premises or the number or sex of persons employed on the premises; and
  - (b) The Tenant shall not be liable to discharge the Landlord's obligations as owner under the Building Act 1991 unless any particular obligation is the responsibility of the Tenant as an occupier of the premises.
- 21.2 If the Landlord is obliged by any such legislation or requirement to expend moneys on any improvement, addition or alteration to the property then the Landlord shall be entitled to charge up to the next rent review date in addition to the rent an annual sum equal to the Improvements Rent Percentage of the amount so expended by the Landlord and the monthly payments of rent shall increase accordingly from the first day of the month in which such improvement, addition or alteration is completed. If the Landlord would be obliged to expend an unreasonable amount then the Landlord may determine this lease and any dispute as to whether or not the amount is unreasonable shall be determined by arbitration. In the case of a multi tenancy building, the annual sum payable shall be assessed in respect of a fair proportion of the amount so expended.

**No Noxious Use**

- 22.1 THE Tenant shall not:
- (a) bring upon or store within the premises nor allow to be brought upon or stored within the premises any machinery, goods or things of an offensive, noxious, illegal or dangerous nature, or of such weight, size or shape as is likely to cause damage to the building or any surfaced area;
  - (b) contaminate the property and shall undertake all works necessary to remove any contamination of the property other than contamination not caused by the Tenant or which took place prior to the commencement date of the lease term. Contamination means any change to the physical, chemical or biological condition of the property by a "contaminant" as that word is defined in the Resource Management Act 1991;
  - (c) use the premises or allow them to be used for any noisome, noxious, illegal or offensive trade or business; or

- (d) allow any act or thing to be done which may be or grow to be a nuisance disturbance or annoyance to the Landlord, other tenants of the property, or any other person, and generally the Tenant shall conduct the Tenant's business upon the premises in a clean quiet and orderly manner free from damage nuisance disturbance or annoyance to any such persons but the carrying on by the Tenant in a reasonable manner of the business use or any use to which the Landlord has consented shall be deemed not to be a breach of this clause.

## INSURANCE

### Landlord shall insure

- 23.1 THE Landlord shall at all times during the term keep and maintain any buildings on the property insured under a policy of the type shown in the First Schedule against loss damage or destruction by fire and such other risks as the Landlord may reasonably determine and such cover may extend to:
- (a) a 12 month indemnity in respect of consequential loss of rent and outgoings;
  - (b) loss damage or destruction of any of the Landlord's fixtures fittings and chattels; or
  - (c) <sup>adequate</sup> public liability; and
  - (d) earthquake cover for full replacement.

### Tenant not to Void Insurance

- 24.1 THE Tenant shall not carry on or allow upon the premises any trade or occupation or allow to be done any act or thing which:
- (a) shall make void or voidable any policy of insurance on the property; or
  - (b) may render any increased or extra premium payable for any policy of insurance except where in circumstances in which any increased premium is payable the Tenant shall have first obtained the consent of the insurer of the premises and the Landlord and made payment to the insurer of the amount of any such increased or extra premium as may be payable but the carrying on by the Tenant in a reasonable manner of the business use or of any use to which the Landlord has consented shall be deemed not to be a breach of this clause.

In any case where in breach of this clause the Tenant has rendered any insurance less effective or void and the Landlord has suffered loss or damage thereby the Tenant shall forthwith compensate the Landlord in full for such loss or damage.

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### When Tenant to have benefit of Landlord's insurance

- 25.1 The Landlord will indemnify the Tenant for the cost of making good damage to the property or loss to the Landlord where the Tenant is obligated to pay for making good such damage or loss, to the extent that the Landlord is insured and the insurance monies are not rendered irrecoverable in consequence of any act or default of the Tenant or those for whom the Tenant is responsible.
- 25.2 See Fourth Schedule

## DAMAGE TO OR DESTRUCTION OF PREMISES

### Total Destruction

- 26.1 IF the premises or any portion of the building of which the premises may form part shall be destroyed or so damaged
- (a) as to render the premises untenable then the term shall at once terminate; or
  - (b) in the reasonable opinion of the Landlord as to require demolition or reconstruction, then the Landlord may within 3 months of the date of damage give the Tenant 1 month written notice to terminate and a fair proportion of the rent and outgoings shall cease to be payable as from the date of damage, according to the nature and extent of the damage.
- Any termination pursuant to this clause shall be without prejudice to the rights of either party against the other.

**Partial Destruction**

- 27.1 IF the premises or any portion of the building of which the premises may form part shall be damaged but not so as to render the premises untenable and:
- (a) the Landlord's policy or policies of insurance shall not have been invalidated or payment of the policy moneys refused in consequence of some act or default of the Tenant; and
  - (b) all the necessary permits and consents shall be obtainable:
- THEN the Landlord shall with all reasonable speed expend all the insurance moneys received by the Landlord in respect of such damage towards repairing such damage or reinstating the premises and/or the building but the Landlord shall not be liable to expend any sum of money greater than the amount of the insurance money received.
- 27.2 Any repair or reinstatement may be carried out by the Landlord using such materials and form of construction and according to such plan as the Landlord thinks fit and shall be sufficient so long as it is reasonably adequate for the Tenant's occupation and use of the premises.
- 27.3 Until the completion of the repairs or reinstatement a fair proportion of the rent and outgoings shall cease to be payable as from the date of damage, according to the nature and extent of the damage.
- 27.4 If any necessary permit or consent shall not be obtainable or the insurance moneys received by the Landlord shall be inadequate for the repair or reinstatement then the term shall at once terminate but without prejudice to the rights of either party against the other.

**DEFAULT****Distress**

- 28.1 THE Landlord may distress for rent or other moneys payable under this lease remaining unpaid 14 days after due date.

**Re-entry**

- 29.1 THE Landlord may re-enter the premises at the time or at any time thereafter:
- (a) if the rent shall be in arrear 14 days after any of the rent payment dates;
  - (b) in case of breach by the Tenant of any covenant or agreement on the Tenant's part herein expressed or implied;
  - (c) if the Tenant shall make or enter into or endeavour to make or enter into any composition assignment or other arrangement with or for the benefit of the Tenant's creditors;
  - (d) in the event of the insolvency bankruptcy or liquidation of the Tenant; or
  - (e) if the Tenant shall suffer distress or execution to issue against the Tenant's property goods or effects under any judgment against the Tenant in any Court for a sum in excess of five thousand dollars (\$5,000);

and the term shall terminate on such re-entry but without prejudice to the rights of either party against the other.

**Essentiality of Payments**

- 30.1 FAILURE to pay rent or other moneys payable hereunder on the due date shall be a breach going to the essence of the Tenant's obligations under the Lease. The Tenant shall compensate the Landlord and the Landlord shall be entitled to recover damages from the Tenant for such breach. Such entitlement shall subsist notwithstanding any determination of the lease and shall be in addition to any other right or remedy which the Landlord may have.
- 30.2 THE acceptance by the Landlord of arrears of rent or other moneys shall not constitute a waiver of the essentiality of the Tenant's continuing obligation to pay rent and other moneys.

**Repudiation**

- 31.1 THE Tenant shall compensate the Landlord and the Landlord shall be entitled to recover damages for any loss or damage suffered by reason of any acts or omissions of the Tenant constituting a repudiation of the lease or the Tenant's obligations under the lease. Such entitlement shall subsist notwithstanding any determination of the lease and shall be in addition to any other right or remedy which the Landlord may have.

## REMOVAL OF TENANT'S FIXTURES, FITTINGS AND CHATTELS

- 32.1 THE Tenant may at any time before and will if required by the Landlord at the end or earlier termination of the term remove all the Tenant's fixtures fittings and chattels and make good at the Tenant's own expense all resulting damage and if not removed within 7 days after the date of termination ownership of the fixtures fittings and chattels may at the Landlord's election pass to the Landlord or the Landlord may in a proper and workmanlike manner remove the same from the premises and forward them to a refuse collection centre and shall also carry out and complete, at its own cost and in a proper and tradesmanlike manner, the works specified in the Seventh Schedule
- 32.2 The cost of making good resulting damage and the cost of removal shall be recoverable from the Tenant and the Landlord shall not be liable to pay any compensation nor be liable for any loss suffered by the Tenant. In addition, pending such removal, the Tenant will continue to pay to the Landlord as an occupation licence fee, the rent and outgoings payable immediately prior to the end of the term calculated on a daily basis.

## QUIET ENJOYMENT

- 33.1 THE Tenant paying the rent and performing and observing all the covenants and agreements herein expressed and implied shall quietly hold and enjoy the premises throughout the term without any interruption by the Landlord or any person claiming under the Landlord.

## RENEWAL OF LEASE RIGHT OF FIRST REFUSAL TO NEW LEASE - See Fourth Schedule amendments

- 34.1 If the Tenant has given to the Landlord written notice to renew the lease at least 3 calendar months before the end of the term and is not at the date of the giving of such notice in breach of this lease (including any maintenance obligations) then the Landlord will grant a new lease for a further term from the renewal date as follows:
- (a) If the renewal date is a rent review date the renewal rent shall be agreed upon or failing agreement shall be determined in accordance with clauses 2.1 and 2.2 but such renewal rent shall not be less than the rent payable at the commencement date of the immediately preceding lease term;
  - (b) Subject to the provisions of paragraph (a) the new lease shall be upon and subject to the covenants and agreements herein expressed and implied except that the term of this lease plus all further terms shall expire on or before the first expiry date;
  - (c) The annual rent shall be subject to review during the term of the new lease on the rent review dates or if no dates are specified then after the lapse of the equivalent periods of time as are provided herein for rent reviews;
  - (d) The Landlord as a condition of granting a new lease shall be entitled to have the new lease guaranteed by any guarantor who has guaranteed this lease on behalf of the Tenant who has given notice;
  - (e) Pending the determination of the rent, the Tenant shall pay an interim rent in accordance with clauses 2.3 and 2.4; and
  - (f) Notwithstanding anything contained in clause 34.1 (e) the interim rent referred to in that clause shall not be less than the annual rent payable at the commencement date of the immediately preceding lease term.

## ASSIGNMENT OR SUBLETTING

- 35.1 THE Tenant shall not assign sublet or otherwise part with the possession of the premises or any part thereof without first obtaining the written consent of the Landlord which the Landlord shall give if the following conditions are fulfilled:
- (a) The Tenant proves to the satisfaction of the Landlord that the proposed assignee or subtenant is (and in the case of a company that the shareholders of the proposed assignee or subtenant are) respectable responsible and has the financial resources to meet the Tenant's commitments under this lease;
  - (b) All rent and other moneys payable have been paid and there is not any subsisting breach of any of the Tenant's covenants;
  - (c) In the case of an assignment a deed of covenant in customary form approved or prepared by the Landlord is duly executed and delivered to the Landlord;
  - (d) In the case of an assignment to a company (other than a company listed on the main board of a public stock exchange) a deed of guarantee in customary form approved or prepared by the Landlord is duly executed by the principal shareholders of that company and delivered to the Landlord; and

- (e) The Tenant pays the Landlord's proper costs and disbursements in respect of the approval and the preparation of any deed of covenant or guarantee and (if appropriate) all fees and charges payable in respect of any reasonable inquiries made by or on behalf of the Landlord concerning any proposed assignee subtenant or guarantor. All such costs shall be payable whether or not the assignment or subletting proceeds.

- 35.2 WHERE the Landlord consents to a subletting the consent shall extend only to the subletting and notwithstanding anything contained or implied in the sublease the consent shall not permit any subtenant to deal with the sublease in any way in which the Tenant is restrained from dealing without consent.
- 35.3 ANY assignment or subletting of the type or in the manner referred to in Section 109 (2) of the Property Law Act 1952 shall be a breach of the provisions of this lease.
- 35.4 WHERE any Tenant is a company which is not listed on the main board of a public stock exchange then any change in the legal or beneficial ownership of its shares or issue of new capital whereby in either case there is a change in the effective management or control of the company is deemed to be an assignment of this lease.
- 35.4 WHERE the Tenant or sub-tenant is a partnership, the retirement or other departure of a partner and/or the admission of a new partner is deemed to be an assignment or, where appropriate, a subletting of this lease.

#### UNIT TITLE COVENANTS

##### Body Corporate

- 36.1 THE expression "Body Corporate" means the Body Corporate incorporated under the Unit Titles Act 1972 ("the Act") in respect of the property.

##### Act and Rules Paramount

- 36.2 THIS lease shall be subject to the provisions of the rules of the Body Corporate and the provisions of the Act.

##### Insurance

- 36.3 THE Landlord's obligation to insure the building shall be satisfied by the Body Corporate maintaining the same insurance covers in accordance with the Act.

##### Indemnity

- 36.4 THE Tenant's obligation to indemnify the Landlord as herein expressed is extended to include the Body Corporate but only to the extent that the Body Corporate is not fully indemnified under any policy of insurance.

##### Landlord's Obligations

- 36.5 THE Landlord shall observe and perform all of the Landlord's obligations as a member of the Body Corporate and shall use the Landlord's best endeavours to ensure that the Body Corporate complies with its rules and the provisions of the Act.

##### Consents

- 36.6 WHERE in this lease the consent of the Landlord is required in respect of any matter then the like consent of the Body Corporate shall also be required if the consent of the Body Corporate to any such matter would be necessary under its rules or the Act.

##### Carparks

- 37.1 THE Tenant shall have the right to exclusive possession of the leased carparks, but when any carpark is not being used by the Tenant other persons shall be entitled to pass over the same.
- 37.2 THE Landlord may carry out repairs to the carparks and no abatement of rent or other compensation shall be claimed by the Tenant except pursuant to clauses 26.1 or 27.
- 37.3 THE Tenant shall comply with the Landlord's reasonable requirements relating to the use of the carparks and access thereto and in particular shall only use the car parks for the parking of one car per parking space.
- 37.4 THE provisions of the Second Schedule shall apply to the car parks as appropriate.



## GENERAL

## Holding Over

38.1 IF the Landlord permits the Tenant to remain in occupation of the premises after the expiration or sooner determination of the term, such occupation shall be a monthly tenancy only terminable by one month's written notice at the rent then payable and otherwise on the same covenants and agreements (so far as applicable to a monthly tenancy) as herein expressed or implied.

Access for Re-Letting or Sale at all times during the period of 6 months immediately preceding the expiration of  
39.1 THE Tenant will during the term permit the Landlord, the Landlord's representatives and prospective tenants or purchasers to have access to inspect the premises provided that:

- (a) any such inspection is at a time which is reasonably convenient to the Tenant;
- (b) is conducted in a manner which does not cause disruption to the Tenant; and
- (c) if the Landlord or the Landlord's representatives are not present the persons inspecting have written authority from the Landlord to do so.

## Suitability

40.1 NO warranty or representation expressed or implied has been or is made by the Landlord that the premises are now suitable or will remain suitable or adequate for use by the Tenant or that any use of the premises by the Tenant will comply with the by-laws or ordinances or other requirements of any authority having jurisdiction.

## Affirmation

41.1 A party to this lease shall not be entitled to cancel this lease if, with full knowledge of any repudiation or misrepresentation or breach of covenant, that party affirmed this lease.

## Waiver

42.1 NO waiver or failure to act by either party in respect of any breach by the other shall operate as a waiver of another breach.

## Land Transfer Title or Mortgagee's consent

43.1 THE Landlord shall not be required to do any act or thing to enable this lease to be registered or be required to obtain the consent of any mortgagee of the property and the Tenant will not register a caveat in respect of the Tenant's interest hereunder.

## Notices

44.1 ALL notices must be in writing and must be served by one of the following means:

- (a) In the case of a notice given under Section 118 of the Property Law Act 1952 in the manner prescribed by Section 152 of that Act; and
- (b) In all other cases by personal delivery, or by posting by registered or ordinary mail, or by facsimile, or by ~~email~~;

44.2 In respect of the means of service specified in clause 44.1(b), a notice is deemed to have been served:

- (a) in the case of personal delivery, when received by the addressee;
- (b) in the case of posting by mail, on the second working day following the date of posting to the addressee's last known address in New Zealand;
- (c) in the case of facsimile transmission, when sent to the addressee's facsimile number; or
- (d) ~~in the case of e-mail, when acknowledged by the addressee by return e-mail or otherwise in writing.~~

44.3 In the case of a notice to be served on the Tenant, if the Landlord is unaware of the Tenant's last known address in New Zealand or the Tenant's facsimile number, any notice placed conspicuously on any part of the premises shall be deemed to have been served on the Tenant on the day on which it is affixed.

44.4 A notice shall be valid if given by any director, general manager, solicitor or other authorised representative of the party giving the notice.

44.5 For the purposes of this clause a working day means any day on which registered banks are open in the province where the property is situated, other than a Saturday or Sunday. Notices served after 5pm on a working day, or on a day which is not a working day, shall be deemed to have been served on the next succeeding working day.

## Arbitration

- 45.1 UNLESS any dispute or difference is resolved by mediation or other agreement, the same shall be submitted to the arbitration of one arbitrator who shall conduct the arbitral proceedings in accordance with the Arbitration Act 1996 and any amendment thereof or any other statutory provision then relating to arbitration.
- 45.2 IF the parties are unable to agree on the arbitrator, an arbitrator shall be appointed, upon request of any party, by the President or Vice President for the time being of the District Law Society of the district within which the premises are situated. That appointment shall be binding on all parties to the arbitration and shall be subject to no appeal. The provisions of Article 11 of the First Schedule of the Arbitration Act 1996 are to be read subject hereto and varied accordingly.
- 45.3 THE procedures prescribed in this clause shall not prevent the Landlord from taking proceedings for the recovery of any rent or other monies payable hereunder which remain unpaid or from exercising the rights and remedies in the event of such default prescribed in clauses 28.1 and 29.1 hereof.

## Interpretation

## 46.1 IN this lease:

- (a) "the Landlord" and "the Tenant" means where appropriate the executor, administrators, successors and permitted assigns of the Landlord and the Tenant;
- (b) "the property" and "the building" mean the land and building(s) of the Landlord which comprise or contain the premises. Where the premises are part of a unit title development the words "the property" mean the land and building(s) comprised in the development;
- (c) "the common areas" means those parts of the property the use of which is necessary for the enjoyment of the premises and which is shared with other tenants and occupiers;
- (d) "GST" means the Goods and Services Tax;
- (e) "structural repair, alteration or addition" means a repair, alteration or addition to the structure or fabric of the building but excluding building services;
- (f) "renewal" means the granting of a new lease as provided for in clause 34.1;
- (g) Whenever words appear in this lease that also appear in the First Schedule then those words shall mean and include the details supplied after them in the First Schedule;
- (h) Where the context requires or admits, words importing the singular shall import the plural and vice versa;
- (i) "those for whom the Tenant is responsible" includes the Tenant's agents employees contractors or invitees.
- (j) "Lease Year" means 1 April to 31 March.

Health and Safety in Employment Act 1992

## 47. See Fourth Schedule.



### THIRD SCHEDULE GUARANTEE

IN CONSIDERATION of the Landlord entering into the lease at the Guarantor's request (the Guarantor:

- (a) guarantees payment of the rent and the performance by the Tenant of the covenants in the lease, and
- (b) indemnifies the Landlord against any loss the Landlord might suffer should the lease be lawfully disclaimed or abandoned by any liquidator, receiver or other person.

THE GUARANTOR covenants with the Landlord that:

1. NO release delay or other indulgence given by the Landlord to the Tenant or to the Tenant's successors or assigns or any other thing whereby the Guarantor would have been released had the Guarantor been merely a surety shall release prejudice or affect the liability of the Guarantor as a guarantor or as indemnifier.
2. AS between the Guarantor and the Landlord the Guarantor may for all purposes be treated as the Tenant and the Landlord shall be under no obligation to take proceedings against the Tenant before taking proceedings against the Guarantor.
3. THE guarantee is for the benefit of and may be enforced by any person entitled for the time being to receive the rent.
4. AN assignment of the lease and any rent review in accordance with the lease shall not release the Guarantor from liability.
5. SHOULD there be more than one Guarantor their liability under this guarantee shall be joint and several.
6. THE Guarantee shall extend to any holding over by the Tenant.



## FOURTH SCHEDULE

### Amendments to the First and Second Schedule

If there is any conflict between the amendments contained in this Fourth Schedule and the clauses in the First and Second Schedules, this Fourth Schedule shall apply.

#### 2.1 CPI Rent Adjustment

Clause 2.1(a) to (e) is deleted and replaced with the following clause:

- (a) On each date specified as a CPI Adjustment Date in the First Schedule, the Annual Rental will be adjusted to the amount calculated using the following formula:

$$R = Ax \frac{(B)}{(C)}$$

Where

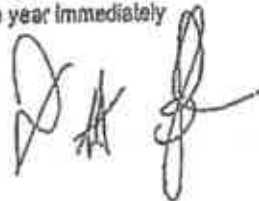
- A = Annual Rental payable immediately preceding the relevant Rental Review Date (disregarding any period of concessionary rent);
- R = Annual Rental payable immediately following the relevant Rental Review Date;
- B = Means the CPI number for the quarter ending immediately before the relevant Rental Review Date;
- C = Means the CPI number for the quarter ending before the later of:
- (i) the Commencement Date; or
  - (ii) the last Annual Rental Review Date.

Where CPI means the Consumer Price Index (All Groups) for New Zealand as calculated by the Department of Statistics and published quarterly or such replacement index as is reasonably nominated by the Lessor if the Consumer Price Index (All Groups) ceases to exist.

- (b) The Lessee must pay the new rent from the CPI Rent Adjustment Date.
- (c) Despite clause 3.27(a) the Annual Rental will not be adjusted if the adjustment would result in the new rent being less than the rent payable during the immediately preceding lease year.

#### 3.5 Manner of payment of operating expenses

- (a) The Tenant's contribution to the Outgoings of the building shall be payable in the following manner:
- (i) Prior to or as soon as is reasonably practicable after the commencement date the Landlord will notify the Tenant, in writing, of the Landlord's estimate of the Outgoings for the broken period to the last day of the lease year immediately following the commencement date; and



- (ii) Prior to or as soon as practicable after the last day of each Lease Year during the Term the Landlord will advise the Tenant, in writing, of the Landlord's estimate of the Operating Expenses for the following Lease Year,

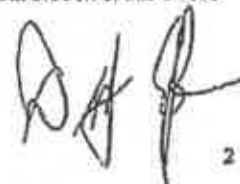
provided that the Landlord will be entitled to notify the Tenant of a revised estimate of the Outgoings where some unforeseen matter outside the control of the Landlord arises which is likely to have a significant effect on the Outgoings and which was not taken into account by the Landlord in the earlier estimate and such revised estimate will apply in lieu of the earlier estimate.

- (iii) From the date of commencement of each Lease Year the Tenant will pay in advance on the first day of every month  $1/12^{\text{th}}$  of the Tenant's Proportion of Outgoings of the Landlord's estimate of the Outgoings for that Lease Year.
- (iv) As soon as practicable after the last day of each Lease Year (or initial broken period) the Landlord will provide a statement of actual Outgoings for such period and whatever adjustment as is necessary between the Landlord and the Tenant will be made after taking into account the total of the payments previously made by the Tenant in respect of that period.
- (v) Upon the expiry, determination or assignment of this Lease the Landlord will forthwith advise the Tenant of:
- (A) the total of monthly payments made by the Tenant during the then current lease year or broken period; and
  - (B) the liability of the Tenant for Outgoings in terms of the Landlord's estimate; and
  - (C) the Landlord's assessment of any shortfall in the Tenant's contribution to the date of expiry, determination or assignment.
- (vi) Following such assessment the Landlord may retain or collect from the Tenant any shortfall (including at the Landlord's discretion a reasonable contingency amount against any unbudgeted expenses).
- (vii) Following the availability of a statement any shortfall not held by the Landlord will be paid by the Tenant to the Landlord within 14 days. Any excess monies held by the Landlord will be paid to the Tenant subject always to the right of the Landlord to apply the same in satisfaction or on account of any moneys owing and unpaid by the Tenant as at the date of expiry, determination or assignment.
- (viii) Nothing shall prevent the Landlord from recovering Outgoings merely because the Landlord has failed to notify the Tenant promptly of an estimate or of an actual amount.

## 16. Use of Premises

### 16.4 Loads on floors and services

The Tenant is not to overload the floors of the Premises or Building or any Services and, in particular but not in limitation, is not to bring into move about or remove from the Premises or the Building any safe or heavy article of greater weight or pressure than the Landlord permits in writing. Any damage caused to the Premises or Building arising from breach of this clause is to be made good at the cost of the Tenant.



#### 16.5 Use of common areas

Except pursuant to any licence in respect of common area that may be given under this Lease, the Tenant is not to use the Common Areas for any business purpose or for display, advertising or storage. Any licence given by the Landlord may be revoked or modified by the Landlord at any time in its absolute discretion and following any failure of the Tenant so to do the Landlord is to be entitled to remove and store the Tenant's fittings or merchandise which remains in the Common Areas and recover from the Tenant the costs of so doing. In no event is the Landlord to be liable to compensate the Tenant.

#### 16.6 Tenant to comply with rules

The Tenant and persons under control of the Tenant are at all times to observe the Rules contained in the Sixth Schedule and the Tenant acknowledges the rights of the Landlord contained in them.

#### 16.7 Right for Landlord to vary rules

The Landlord has the right to make reasonable variations and additions to the Rules provided that no such variation or addition is to derogate from the rights of the Tenant under this Lease and in the event of any inconsistency between the terms of this Lease and the Rules, the terms of this Lease are to prevail.

#### 16.8 Tenant to occupy at own risk

The tenant agrees to occupy and use the premises at the tenant's risk and releases to the full extent permitted by law the landlord and the landlord's employees and agents from all liabilities, claims and demands of any kind which may arise in respect of any accident, damage or injury occurring to any person or property in or about the premises or the building of which the premises form part.

#### 16.9 Change of permitted use by territorial authority

In the event of the business use of the premises by the Tenant being or becoming a non-conforming use under any scheme by the territorial authority, then (notwithstanding the other provisions of this clause) the Tenant must carry on the business use so that the right to carry on a non-conforming use on the premises does not lapse.

### 25. Insurance

#### 25.2 Insurance

The Tenant shall keep current at all times a policy or policies:

- (a) for the replacement of all glass (including plate) in or enclosing the Premises; and
- (b) for the replacement of all additions to the Premises owned by the Lessee and all the Lessee's fixtures, fittings and stock.

Such policies shall be effected with an insurance company and on terms acceptable to the Lessor (acting reasonably) and the Lessee will if requested provide the Lessor from time to time with copies of policies and certificates of currency.

## 32. Removal of tenant's fixtures, fittings and chattels

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### 32.3 Reinstatement to previous commencement date

The reinstatement obligations under the terms of this lease shall apply to the premises in the condition they were at the commencement date of the previous Lease for this Premises being 12 October 1998.

## 34. Right of first refusal to new lease

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### 34.1 Right of first refusal to a renewal of this Lease

If at the expiration of the Term the Landlord decides to continue leasing the Premises for the purposes permitted in terms of this Lease and if the Tenant has duly and punctually observed the terms of this Lease then the Landlord will first offer any new lease to the Tenant on the following terms and conditions:

- (a) The Landlord must give notice in writing to the Tenant specifying the rent terms and conditions on which the Landlord desires to lease the Premises (the Landlord's Notice).
- (b) The Tenant may within twenty-one (21) days after the receipt of the Landlord's Notice (time being of the essence) give notice in writing to the Landlord of the Tenant's intention to lease the Premises upon the terms and conditions specified in the Landlord's Notice. The giving of the Landlord's Notice and the giving of the second notice by the Tenant shall constitute an agreement to lease the Premises upon the terms and conditions specified in the Landlord's Notice.
- (c) If the Tenant does not within the period specified in clause 24.1(b) signify its intention to lease the Premises in the preceding manner or if the Tenant at any time within such period signifies its intention not to lease the Premises on the terms and conditions then the Landlord is at liberty to lease the premises to any other person on the same terms and conditions set out in the Landlord's Notice and on terms consistent with clause (d).
- (d) The provisions of this right of first refusal to lease will continue to apply on each occasion at the expiration of this Lease that the Landlord decides to lease the Premises on more favourable terms than those offered to the Tenant to the intent that (in the event of the Tenant not accepting the terms of lease offered by the Landlord) on each occasion that the Landlord decides to offer the Premises for lease on more favourable terms than those offered to the Tenant then the Landlord shall first re-offer the Premises to the Tenant on the new terms on the basis fixed above before the Landlord shall be free to offer the Premises to any other person.
- (e) Where the Landlord has offered the Premises to the Tenant once and subsequently re-offers the Premises to the Tenant on more favourable terms the Tenant shall only have a period of five (5) business days from receipt of each subsequent offer to accept or reject the terms and conditions offered by the Landlord on each subsequent occasion.

## 47. Health and Safety in Employment Act 1992

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- 47.1 The Tenant will comply with the Health and Safety in Employment Act 1992 (the HSEA) in respect of the premises and its fit-out, fixtures and fittings, equipment and any alterations made by the Tenant in or to the premises and their use in the premises as part of a place of work including without limitation:



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- (a) Ensuring that all significant hazards in respect of the same are identified and eliminated where practical, or isolated where elimination is impractical, or minimised where elimination or isolation is impractical.
- (b) Having in place written rules and procedures relating to health and safety which the Tenant shall follow and keep under review to ensure the safety of its employees and persons attending the Premises.
- (c) Identifying possible hazards for its employees or other persons attending or in the vicinity of the Premises.
- (d) Taking all practicable steps to eliminate, isolate or minimise hazards and ensure that people working in the vicinity of the Premises are not harmed.
- (e) Maintaining a register of accidents and conforming with any code of practice and regulations promulgated in respect of the particular work being done.

#### 48. Tenant's Naming Rights

48.1 In consideration of the Annual Rent for the Naming Rights set out in the First Schedule, the Landlord grants to the Tenant UNISYS NEW ZEALAND LIMITED while it remains the Lessee hereunder the exclusive naming rights to the Building upon and subject to the following conditions:

- (a) The Building shall be known by such name as the Tenant shall specify provided that before the Tenant shall use any such name the Tenant shall obtain the consent of the Landlord which consent shall not be unreasonably or arbitrarily withheld.
- (b) The Landlord undertakes that during the continuance of the Lease it will use that name to describe the Building and will use its reasonable endeavours to ensure that such name is used by all persons referred to or describing the Building, but the Landlord shall not be obliged to incur any cost or expenses in so doing.
- (c) The Tenant shall be entitled to affix one or more signs to the interior and exterior of the Building, to be of a material design and size approved by the Landlord and to be affixed in a manner and in positions approved by the Landlord (and if necessary any local or territorial authority having jurisdiction) which approvals (in respect of the Landlord) shall not be unreasonably or arbitrarily withheld.
- (d) All costs in respect of the manufacture of and erection of such signs and the cost of their maintenance, operating and power consumption shall be borne by the Tenant.
- (e) The Tenant shall at all times keep signs free from all obstruction and clearly visible (except insofar as it may be necessary to cover or obstruct the same in order that maintenance or repair work to the Building can be carried out) and shall at all such times and at the Tenant's expense maintain and keep such signs to a standard of repair and appearance as near as practicable to the condition of the signs at the commencement of this Lease.
- (f) At the end or sooner determination of the Lease the Tenant shall remove such signs and make good at the Tenant's expense any damage to the exterior of the building caused by such removal.
- (g) In the event that UNISYS NEW ZEALAND LIMITED ceases to be the Tenant hereunder the Landlord may then name the Building or grant naming rights in respect of the Building to a third person for such period and on such terms as it shall think fit. If the name of the Building is used by the Tenant on letterheads, business forms or in advertising the name



so used shall be the full and proper name of the Building as notified by the Landlord from time to time.

- 48.2 The annual naming rights rental will be reviewed concurrently with the rental for the premises in accordance with the provisions of clause 2 of this Lease.

#### 49. Previous Lease

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- 49.1 The Parties acknowledge and agree that the lease dated 8 February 1999 between E.C. Investments Limited and Unisys New Zealand Limited is surrendered as from the Commencement Date of this Lease.
- 49.2 For the avoidance of doubt the parties agree that the reinstatement provisions set out in clauses 8.1 and 32 will apply such that the tenant is required to reinstate the Premises to the condition at the Commencement Date of the previous lease being 12 October 1998.

A handwritten signature in dark ink, consisting of stylized initials and a surname, located in the bottom right corner of the page.



FIFTH SCHEDULE  
Landlord's fixtures and fittings

Ceilings  
Lighting  
Air conditioning  
Carpets

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## SIXTH SCHEDULE Rules of the Building

### Preamble

The Rules set out in this Schedule are made for the safety, care, operation, security and cleanliness of the Building and for the preservation of good order, safety and comfort of tenants and occupiers in and visitors to the Building.

#### 1. Building directory

The Landlord must maintain a directory of tenants in the main entrance lobby of the Building. Name plates on the directory will be fixed for the Tenant by the Landlord at the cost of the Tenant and the form of each will be solely determined by the Landlord.

#### 2. Ejection of rubbish or other articles

The Tenant must not drop or throw or permit to be dropped or to be thrown or to fall any article from or out of the Premises, the Common Areas or the roof of the Building or into the lift wells or any public areas and must not place any article upon any sill ledge or other like part.

#### 3. Ejection

The Landlord reserves the right to exclude or evict from the Building any person who in the opinion of the Landlord is under the influence of intoxicating liquor or drugs or who in any manner wilfully does any act in violation of these Rules.

#### 4. Name of building

If the name of the Building is used by the Tenant on letterheads or other business forms or advertising material then the name so used must be the full and proper name of the Building. It is acknowledged by the parties that the Landlord is the owner of all naming and advertising rights of the Building.

#### 5. Goods delivery

The Tenant will use for all movement of goods or articles of bulk or quantity only parts of the Premises and Common Areas at the times that the Landlord directs and must comply with all directions of any duly authorised officer of the Landlord concerning the operation of any loading or unloading area in or about the Building.

#### 6. Interference with machinery

The Tenant will not interfere with or attempt to control any part of any of the Landlord's machinery installed or to be installed in any part of the Building or in the Premises.



## 7. Forbidden activities

The Tenant will not allow members of any charitable or other organisation to hold functions or solicit donations within the Premises without the prior written consent of the Landlord.

## 8. Statements

The Tenant will not issue statements, verbal or written to the media in respect of the Building. Requests for statements or interviews shall be referred to the Landlord or its representatives.

## 9. Emergency contact

The Tenant will advise the Landlord of the private address and telephone number of the Tenant or if the Tenant is a corporation of some responsible person employed by the Tenant and shall keep the Landlord promptly informed of any change of such address or telephone number.

## 10. External window cleaning

If the Tenant requires cleaning of external window surfaces more frequently than the Landlord considers appropriate, the costs of such additional cleaning will be paid for by the Tenant requesting such additional cleaning, or if more than one Tenant is involved then proportionately by each Tenant calculated on the area of floor space occupied.

## 11. Dangerous goods

The Tenant will not except for customary office applications use or allow to be used any chemicals or inflammable gases fluids or substances in or on the Premises and will not use or allow to be used any method of heating or lighting the Premises other than by electric current or gas supplied through the meters.

## 12. Not to erect window coverings without consent

- (a) The Tenant will not erect window blinds, drapes, curtains, screens or awnings without the consent in writing of the Landlord and in any event any such items installed in the Premises shall be of non-flammable material and will comply with all relevant standards approved by the Landlord and in compliance with the provisions and requirements of all relevant Authorities.
- (b) The Tenant will maintain in a neat, clean and proper state of repair all window curtains or coverings whether supplied by the Landlord or otherwise and will as often as the need (in the opinion of the Landlord) arises replace at the Tenant's own cost any curtain or coverings of a material or type nominated by the Landlord. Where such window curtains or coverings are supplied by the Landlord then despite anything contained in this clause, the Landlord may at its discretion if in its opinion such window curtains or coverings require replacement, replace at its cost.
- (c) Other than as provided in sub-clause (a) of this Rule 12, the Tenant will not in any way without the express written authority of the Landlord cover or obstruct the windows.

### 13. Tenant to participate in fire drill

The Landlord will have the right to require the Tenant to perform fire drills from time to time and observe all necessary and proper emergency evacuation procedures including the appointment and participation of appropriate fire wardens and the Tenant and the Tenant's visitors will co-operate with the Landlord in performing such drills and procedures. In no case will there be any compensation payable by the Landlord on account of any loss or damage caused to or sustained by the Tenant and the Tenant's visitors.

### 14. After hours opening and access to the premises

- (a) The Tenant will be entitled to use the Premises throughout the 24 hours of each day in the year. Access to the Premises for the Tenant's nominated staff outside normal business hours or otherwise stipulated by the Landlord on weekdays and on Saturdays, Sundays and gazetted public holidays will be regulated by the security procedures provided by the Landlord or otherwise as previously agreed in writing by the Landlord but the Landlord will not be liable for any reason should the Tenant be unable to gain entry to the Building.
- (b) The Landlord reserves the right to close the Building or any part of the Building as may be required to be closed by operation of law or in the case of an emergency or if the Landlord deems such action reasonably necessary for the safety of any person or property within or on the Building. The Landlord may close lock off or otherwise control the Common Areas or any part of it from time to time to protect the Landlord's or any tenant's interest or any public interest as the Landlord may deem necessary or desirable and any such action or actions on the part of the Landlord will not entitle the Tenant to determine the Lease or claim an abatement of rental or claim damages or compensation from the Landlord.
- (c) In the event that the Landlord shall at the request of the Tenant open or operate or both plant for any part of the Building or Premises during any hours of restricted access or at times otherwise than as specified by the Landlord in relation to the operation of the air-conditioning plant or lifts then all costs and expenses of so doing including without affecting to the generality of the foregoing labour, energy, security and air-conditioning (all such costs and expenses to be as assessed by the Landlord from time to time) will be borne by the Tenant and paid to the Landlord immediately upon demand and in the event of default in such payment by the Tenant such costs and expenses shall be deemed to be rent in arrears and recoverable accordingly.

### 15. Keys, access and security

- (a) The Tenant acknowledges that all keys or access cards relating to the Building or to the Premises held by the Tenant during its occupancy (whether they have been provided by the Landlord or made or procured by the Tenant for the Tenant's own use) shall be surrendered to the Landlord at the end of this Lease and the Tenant shall not cause or suffer to be made any duplicates nor make any changes to it without the prior consent of the Landlord.
- (b) The Tenant will provide keys or access cards only to employees of the Tenant and shall keep a list of the recipients of keys and access cards and their status and shall immediately upon request from the Landlord provide the Landlord with an updated copy of the list. In the interests of effective security the Landlord has the right (at its sole discretion) to restrict the number of keys and cards issued.
- (c) If any key or access card is lost stolen destroyed or mutilated the Tenant will pay all costs and expenses (including the cost of replacement of changing locks as considered

necessary by the Landlord) arising therefrom immediately upon demand by the Landlord when demanded by the Landlord regardless of how the cost arises.

- (d) All keys and/or access cards will be provided in the first instance by the Landlord on such conditions as it shall impose including the liability of the Tenant to immediately notify the Landlord of and return obsolete cards and keys if the holder is no longer a Tenant or employee of the Tenant and the Tenant will be responsible for the care and retention of all cards and access keys.

#### 16. Obstruction

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The Tenant or the Tenant's visitors will not obstruct or use footpath entrances, lobbies, passages, halls, lifts and staircases (except as may be entirely within the Premises) for any purposes other than for entry or exit from the Premises and in this respect the Tenant will observe all rules and regulations from time to time imposed by any Authority relating to fire and other matters of public safety.

#### 17. Sound reproduction apparatus

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The Tenant is not to erect or affix any radio or television mast or antenna to the Building. In the event that the Landlord considers that the rights or interests of other Tenants are being adversely affected any consent previously given may be modified or withdrawn on the giving of 14 days notice except with the express prior written consent of the Landlord (and then only in compliance with the terms of such consent).

#### 18. Animals birds or pets

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The Tenant will not keep any animals birds or pets in or about the Building or the Premises.

#### 19. Foodstuffs

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The Tenant may prepare or cook food only with the consent of the Landlord (at its sole discretion) and in those areas which are provided and approved by the Landlord for that purpose. The customary serving of morning and afternoon teas at any place within the Premises is not affected by this clause.

#### 20. Protection of services

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The Tenant will not use or permit to be used in the toilets and other water supply apparatus for any purpose other than that for which they were constructed and will not place or permit to be placed any tea leaves, sweepings, rubbish, rags, ashes or other foreign or corrosive substances in the apparatus. The cost of repairing any damage resulting to the apparatus arising as a result of such misuse by Tenants or by the employees of Tenants shall be borne by all Tenants in proportion to the area occupied by each of them on the floor level at which the damage has occurred. If the person or Tenant responsible for such damage can be ascertained then the Tenant who employs or whose client it is or that Tenant shall bear the whole of the cost involved.

#### 21. Air-conditioning, lifts and other services

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- (a) Where any plant machinery or equipment for heating cooling or circulating air (all of which are herein included in the expression air-conditioning plant) is provided or installed in the Building or the Premises by the Landlord:

- (i) The air-conditioning plant will not be operated on Saturdays Sundays or gazetted public holidays or on such other days as the Building is not open to the public except where the Tenant has independent control of the system affecting the Premises.
- (ii) The Tenant will at all times comply with and observe the reasonable requirements of the Landlord in relation to the air-conditioning plant and will not do or permit or suffer to be done anything to the use or ventilation of the Premises which might interfere with or impair the efficient operation of the air-conditioning plant in the Premises or the Building.
- (iii) The Tenant will be required to keep the sun protection devices (if any) installed for the purpose of reflecting solar heat, in the proper operational position (as determined by the Landlord) to ensure the efficient performance of the air-conditioning equipment. While the air-conditioning equipment is operating the windows in the Premises will not be opened or permitted to remain open by the Tenant and the Tenant's visitors.
- (b) Where a passenger lift or lifts are provided or installed in the Building by the Landlord the Tenant will use those lifts only for passengers and will not except with the express consent of the Landlord or its Building supervisor use them for the carriage of goods. When goods are being carried in those lifts it will be the responsibility of the Tenant to ensure that the protective equipment supplied by the Landlord is used as designed and the cost of repairing the damage occasioned through use of the lifts for purposes other than passenger carriage may be charged to the Tenant concerned and where consent is given for the carriage of goods the Tenant shall comply with all reasonable requirements of the Landlord relating to the use time protection making good and any other reasonable costs of and incidental to the consent and to the use.

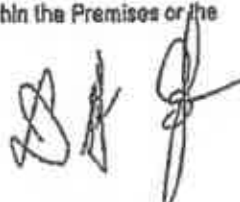
## 22. Cleaning of premises by tenant

- (a) The Landlord will use its best endeavours to provide a cleaning service from one contractor who will in a proper and workmanlike manner clean all parts of the Building including the exterior and interior of all windows, grease traps and all carparking areas and the Premises and the Tenant will use exclusively the cleaning services to the same or better standard and permit access to the Premises during or outside normal office hours for the purpose of other cleaning but the Landlord shall not be responsible for any damage suffered by the Tenant and the Tenant's visitors arising out of such cleaning.
- (b) The Landlord will cause the cleaning contractor providing the cleaning service to render separate accounts direct to the Tenant for the cost of cleaning the Premises including the cleaning of the internal surfaces of all outside windows the cleaning of all other windows and glass within the Premises and the cleaning of the portion of any service area within the Premises and the Tenant will pay such accounts within 14 days of receipt of same. All other cleaning costs will form part of the Operating Expenses of the Building.

## 23. Notice to landlord of damage, accident etc.

The Tenant will give notice to the Landlord immediately when it becomes aware of:

- (c) any damage or defects in the Premises or the Building or in any of the services or facilities provided by the Landlord in the Premises or the Building; or
- (d) any circumstances likely to cause any damage or injury within the Premises or the Building or any accident or injury to any person; or



- (e) any damage or defects in the Building's security or surveillance system; or
- (f) any infectious illness occurring in the Premises or the Building and the Tenant shall also give notice of the same to the proper authorities and at the expense of the Tenant shall thoroughly fumigate and disinfect the Premises to the satisfaction of such authorities and otherwise comply with their lawful requirements.





**SEVENTH SCHEDULE  
(Clause 32)**

**Specific "Making Good" Requirements**

1. Make good all ceiling penetrations and (where applicable) restore the ceiling grid.
2. Remove all non-standard light fittings and wiring associated with such light fittings and make good all damage and imperfections associated with that removal.
3. Remove all the Lessee's communications and data cables and all associated wiring.
4. Clean all ceilings.
5. Remove all the Lessee's partitions and make good all damage and imperfections associated with that removal, including by way of example (but not in limitation) replacing carpet, if the floor coverage is incomplete or inconsistent as a result of that removal.
6. Clean the Lessor's partitions, carpets, curtains and blinds.
7. Remove all the Lessee's fixtures and fittings and make good all damage and imperfections associated with that removal of those fixtures and fittings.
8. Restore all lights to a single circuit (with the switch located in the relevant floor lift lobby) and remove all wiring made redundant by that restoration of lights to a single circuit.
9. Restore all lighting, sprinkler and air-conditioning systems to an open-plan configuration (being the original base Building design).
10. Remove all non-standard floor coverings and make good all damage and imperfections associated with that removal, including by way of example (but not in limitation) replacing carpet, if the floor coverage is incomplete or inconsistent as a result of that removal.
11. Remove all lettering, signs, notices, name-plates, advertising devices or any other distinctive marks put by or for the benefit of the Lessee on any part of the Building or the Premises, including doors and partitions, and make good any consequential damage or disfigurement.





Oakley Alderton & Associates  
Structural Engineers  
100-102, 104-106, 108-110, 112-114, 116-118, 120-122, 124-126, 128-130, 132-134, 136-138, 140-142, 144-146, 148-150, 152-154, 156-158, 160-162, 164-166, 168-170, 172-174, 176-178, 180-182, 184-186, 188-190, 192-194, 196-198, 200-202, 204-206, 208-210, 212-214, 216-218, 220-222, 224-226, 228-230, 232-234, 236-238, 240-242, 244-246, 248-250, 252-254, 256-258, 260-262, 264-266, 268-270, 272-274, 276-278, 280-282, 284-286, 288-290, 292-294, 296-298, 300-302, 304-306, 308-310, 312-314, 316-318, 320-322, 324-326, 328-330, 332-334, 336-338, 340-342, 344-346, 348-350, 352-354, 356-358, 360-362, 364-366, 368-370, 372-374, 376-378, 380-382, 384-386, 388-390, 392-394, 396-398, 400-402, 404-406, 408-410, 412-414, 416-418, 420-422, 424-426, 428-430, 432-434, 436-438, 440-442, 444-446, 448-450, 452-454, 456-458, 460-462, 464-466, 468-470, 472-474, 476-478, 480-482, 484-486, 488-490, 492-494, 496-498, 500-502, 504-506, 508-510, 512-514, 516-518, 520-522, 524-526, 528-530, 532-534, 536-538, 540-542, 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**DRAFT**

Dated \_\_\_\_\_

Between

Dominion Income Property Fund Limited

Landlord

and

Unisys New Zealand Limited

Tenant

## **DEED OF LEASE**

Landlord's solicitor:

Bell Gully  
PO Box 4199  
Auckland

# DEED OF LEASE

FIFTH EDITION 2008 (2)

DEED made the 7 day of November 2012

**LANDLORD** DNZ Property Fund Limited

**TENANT** Her Majesty the Queen acting by and through the Commissioner of Inland Revenue

**GUARANTOR**

THE LANDLORD leases to the Tenant and the Tenant takes on lease the premises and the car parks (if any) described in the First Schedule together with the right to use:

- a) The Landlord's fixtures and fittings contained in the premises.
- b) The common areas of the property.

FOR the term from the commencement date and at the annual rent (subject to review if applicable) as set out in the First Schedule.

THE LANDLORD AND THE TENANT covenant as set out in the Second Schedule and Fourth Schedule.

~~THE GUARANTOR~~ covenants with the Landlord as set out in the Third Schedule.

SIGNED by the Landlord \*

in the presence of:

Witness Signature

Name Eve Denny

Occupation Lease Administrator

Witness Name

Address Auckland

Witness Occupation

Witness Address

Signature of Landlord  
TIMOTHY IAN MACKENZIE STOREY  
DIRECTOR

Print Full Name  
(for a company specify position:  
Director/Attorney/Authorised Signatory)

Signature of Landlord  
Patrick Gerard O'Reilly  
AUTHORISED SIGNATORY

Print Full Name  
(for a company specify position:  
Director/Attorney/Authorised Signatory)

\* If appropriate, add:

"by its director(s)" OR "by its duly appointed attorney"

Note: Signing by a company - please refer to the note on page 2

**SIGNED** by the Tenant <sup>\*</sup> Her Majesty the Queen Acting by  
and through the Commissioner of Inland Revenue  
in the presence of:

Spyros Vatselias  
Witness Signature [Signature]  
Facilities Management Advisor  
Witness Name  
55 Featherston Street, Wellington  
Witness Occupation

\_\_\_\_\_  
Witness Address

P. Taggart  
Signature of Tenant  
Paul Taggart  
Print Full Name  
(for a company specify position:  
Director/Attorney/Authorised Signatory) 1/11/12

\_\_\_\_\_  
Signature of Tenant

\_\_\_\_\_  
Print Full Name  
(for a company specify position:  
Director/Attorney/Authorised Signatory)

**SIGNED** by the Guarantor <sup>\*</sup>

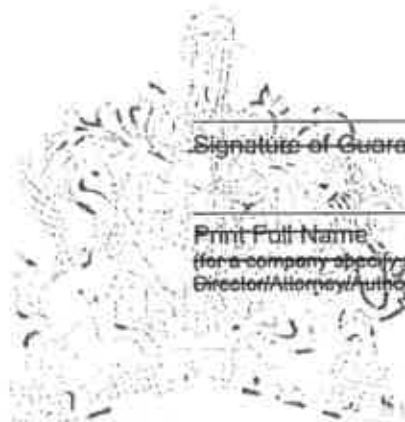
in the presence of:

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Witness Name

\_\_\_\_\_  
Witness Occupation

\_\_\_\_\_  
Witness Address



\_\_\_\_\_  
Signature of Guarantor

\_\_\_\_\_  
Print Full Name  
(for a company specify position:  
Director/Attorney/Authorised Signatory)

\_\_\_\_\_  
Signature of Guarantor

\_\_\_\_\_  
Print Full Name  
(for a company specify position:  
Director/Attorney/Authorised Signatory)

\* If appropriate, add:

"by its director(s)" OR "by its duly appointed attorney"

**Note:** Signing by a company – to ensure that this document binds the company as a deed, it must be signed in accordance with section 180 of the Companies Act 1993.  
If two directors sign, no witnessing is necessary.  
If only one director or a director and authorised signatory(ies) or attorney(ies) sign, signatures must be witnessed.

## FIRST SCHEDULE

<b>PREMISES:</b>	Part level one, 650 Great South Road, Penrose, Auckland being approximately 1,491.91 m <sup>2</sup> as the same is shown (for identification purposes only) outlined or hatched on the plan.
<b>CARPARKS:</b>	Five (5)
<b>TERM:</b>	Six (6) years
<b>COMMENCEMENT DATE:</b>	19 March 2012
<b>RIGHTS OF RENEWAL</b>	Two (2) further terms of three (3) years each
<b>RENEWAL DATES:</b>	19 March 2018, 19 March 2021
<b>FINAL EXPIRY DATE:</b>	18 March 2024
<b>ANNUAL RENT:</b> (Subject to review if applicable)	See Fourth Schedule
	TOTAL      \$430,822.28      plus GST
<b>MONTHLY RENT:</b>	\$35,901.86 plus GST
<b>RENT PAYMENT DATES:</b>	The 1 <sup>st</sup> day of each month commencing on the 1 <sup>st</sup> day of April 2012.
<b>RENT REVIEW DATES:</b> (Delete where appropriate: if neither option is deleted, then option (a) applies)	19 March 2015, (and if renewed) 19 March 2018, 19 March 2021.
<b>PROPORTION OF OUTGOINGS:</b> (clause 3.1)	100% of those outgoings directly attributable to the Premises; for all other outgoings payable under this lease the proportion that the rentable area of the Premises bears to the rentable area of the building.
<b>DEFAULT INTEREST RATE:</b> (clause 5.1)	5% per annum over the Landlords main trading bank's base lending rate at the time of default.
<b>IMPROVEMENTS RENT PERCENTAGE:</b> (clause 21.2)	Nil%
<b>BUSINESS USE:</b> (clause 16.1)	Commercial offices, call centre with associated training room.
<b>LANDLORD'S INSURANCE:</b> (clause 23.1)	(1) Cover for fire, flood, explosion, lightning, storm, earthquake and volcanic activity; and
(Delete where appropriate: if neither option is deleted, then option (a) applies)	(2) Cover for the following additional risks:  (a) full replacement and reinstatement (including loss damage or destruction of windows and other glass);



**OUTGOINGS:**

(Clause 3)

1. Rates or levies payable to any local or territorial authority.
2. Charges for water gas electricity telephones and other utilities or services, including line charges, where separately metered for the premises.
3. Any insurance excess in respect of a claim and insurance premiums and related valuation fees (clause 23).
4. The provisioning of toilets and other shared facilities.
- 5.



**FIRST SCHEDULE****PREMISES:****CAR PARKS:****TERM:****COMMENCEMENT DATE:****RIGHTS OF RENEWAL:****RENEWAL DATES:****FINAL EXPIRY DATE:****ANNUAL RENT:**

(Subject to review if applicable)

Premises \$

plus GST

Car Parks \$

plus GST

TOTAL \$

plus GST

**MONTHLY RENT:**

\$

plus GST

**RENT PAYMENT DATES:**

The day of each month commencing on the day  
of 20

**RENT REVIEW DATES:**

(Delete where appropriate: if neither  
option is deleted, then option (a)  
applies)

(a) Each renewal date;

**OR**

(b) (Insert dates):

**PROPORTION OF OUTGOINGS:** (clause 3.1)

Nil %

**DEFAULT INTEREST RATE:** (clause 5.1)

5 % per annum

**IMPROVEMENTS RENT PERCENTAGE:** (clause 21.2)

Nil %

**BUSINESS USE:** (clause 16.1)**LANDLORD'S INSURANCE:** (clause 23.1)

(Delete or amend extent of cover as appropriate)

(1) Cover for fire, flood, explosion, lightning, storm, earthquake, and volcanic activity; and

(2) Cover for the following additional risks:

on the following basis:

(a) Full replacement and reinstatement (including loss damage or destruction of windows and other glass);

**OR**

(b) Indemnity to full insurable value (including loss damage or destruction of windows and other glass).

(Delete either (a) or (b); if neither option is deleted,  
then option (a) applies)

8

~~OUTGOINGS~~  
~~(clause 3)~~

- ~~1. Rates or levies payable to any local or territorial authority.~~
- ~~2. Charges for water gas electricity telephones and other utilities or services, including line charges, where separately metered for the premises.~~
- ~~3. Rubbish collection charges.~~
- ~~4. New Zealand Fire Service charges and the maintenance charges in respect of all fire detection and fire fighting equipment.~~
- ~~5. Any insurance excess (but not exceeding \$500) in respect of a claim and insurance premiums and related valuation fees (clause 23).~~
- ~~6. Service contract charges for air conditioning, lifts, other building services and security services.~~
- ~~7. Cleaning maintenance and repair charges including charges for repainting, decorative repairs and the maintenance and repair of building services to the extent that such charges do not comprise part of the cost of a service maintenance contract, but excluding charges for structural repairs to the building (minor repairs to the roof of the building shall not be a structural repair).~~
- ~~8. The provisioning of toilets and other shared facilities.~~
- ~~9. The cost of ground maintenance i.e. lawns, gardens and planted areas including plant hire and replacement, and the cost of repair of fences.~~
- ~~10. Yard and car parking area maintenance and repair charges but excluding charges for structural repairs to any car parking area of the building.~~
- ~~11. Body Corporate charges for any insurance premiums under any insurance policy effected by the Body Corporate and related valuation fees and reasonable management administration expenses.~~
- ~~12. Management expenses.~~
- ~~13. The costs incurred and payable by the Landlord in supplying to the territorial authority a building warrant of fitness and obtaining reports as required by sections 108 and 110 of the Building Act 2004.~~

## SECOND SCHEDULE

### TENANT'S PAYMENTS

#### Rent

- 1.1 THE Tenant shall pay the annual rent by equal monthly payments in advance (or as varied pursuant to any rent review) on the rent payment dates. The first monthly payment (together with rent calculated on a daily basis for any period from the commencement date of the term to the first rent payment date) shall be payable on the first rent payment date. All rent shall be paid without any deductions or set-off by direct payment to the Landlord or as the Landlord may direct.

#### Rent Review

- 2.1 THE annual rent payable as from each rent review date shall be determined as follows: 3 months after a rent review date (time being of the essence)
- Either party may not earlier than 3 months prior to a rent review date and not later than ~~the next rent review date~~ give written notice to the other party specifying the annual rent proposed as the current market rent as at the relevant rent review date.
  - If the party receiving the notice ("the Recipient") gives written notice to the party giving the notice ("the Initiator") within 20 working days after service of the Initiator's notice disputing the annual rent proposed and specifying the annual rent proposed by the Recipient as the current market rent, then the new rent shall be determined in accordance with clause 2.2.
  - If the Recipient fails to give such notice (time being of the essence) the Recipient shall be deemed to have accepted the annual rent specified in the Initiator's notice and the extension of time for commencing arbitration proceedings contained in the Arbitration Act 1996 shall not apply.
  - Notwithstanding any other provision of this clause, the annual rent payable as from the relevant rent review date shall not be less than the annual rent payable as at the commencement date of the ~~then current lease term~~.
  - The annual rent agreed, determined or imposed pursuant to this clause shall be the annual rent payable as from the relevant rent review date, ~~or the date of service of the Initiator's notice if such notice is served later than 3 months after the relevant rent review date but subject to clause 2.3 and 2.4.~~
  - The rent review at the option of either party may be recorded in a Deed, ~~prepared by the Tenant's solicitor. Each party will pay its own legal costs for the preparation and execution of the Deed.~~

#### Rent Determinations

- 2.2 IMMEDIATELY following service of the Recipient's notice on the Initiator, the parties shall endeavour to agree upon the current market rent, but if agreement is not reached within 10 working days then the new rent may be determined either:
- By one party giving written notice to the other requiring the new rent to be determined by arbitration; or
  - If the parties so agree by registered valuers acting as experts and not as arbitrators as follows:
    - Each party shall appoint a valuer and give written notice of the appointment to the other party within 10 working days of the parties agreeing to so determine the new rent;
    - If the party receiving a notice fails to appoint a valuer within the 10 working day period then the valuer appointed by the other party shall determine the new rent and such determination shall be binding on both parties;
    - The valuers appointed before commencing their determination shall appoint a third expert who need not be a registered valuer;
    - The valuers appointed by the parties shall determine the current market rent of the premises but if they fail to agree then the rent shall be determined by the third expert;
    - Each party shall be given the opportunity to make written or oral representations subject to such reasonable time and other limits as the valuers or the third expert may prescribe and they shall have regard to any such representations but not be bound thereby.
- 2.2(c) and 2.2(d)  
See additional clauses in the Fourth Schedule
- When the new rent has been determined the person or persons determining the same shall give written notice thereof to the parties. The notice shall provide as to how the costs of the determination shall be borne and such provision shall be binding on the parties. Each party will pay its own costs of determination and 50% of the costs of any third expert who is appointed.

#### Interim Rent

- 2.3 PENDING determination of the new rent, the Tenant shall from the relevant rent review date, ~~or the date of service of the Initiator's notice if such notice is served later than 3 months after the relevant rent review date, until the determination of the new rent pay an interim rent as follows: pay rent at the rate payable immediately prior to the relevant rent review date.~~
- ~~If both parties supply a registered valuer's certificate substantiating the new rents proposed, the interim rent payable shall be half way between the new rents proposed by the parties; or~~
  - ~~If only one party supplies a registered valuer's certificate, the interim rent payable shall be the rent substantiated by the certificate; or~~
  - ~~If no registered valuer's certificates are supplied, the interim rent payable shall be the rent payable immediately prior to the relevant rent review date.~~
- but in no circumstances shall the interim rent be less than the rent payable as at the commencement date of the then current lease term.
- ~~The interim rent payable shall be determined as at the relevant rent review date, or the date of service of the Initiator's notice if such notice is served later than 3 months after the relevant rent review date and, subject to clause 2.4, shall not be subject to adjustment.~~
- 2.4 UPON determination of the new rent, any overpayment shall be applied in payment of the next month's rent and any amount then remaining shall immediately be refunded to the Tenant. Any shortfall in payment shall immediately be payable by the Tenant.

**Outgoings**

- 3.1 THE Tenant shall pay the outgoings properly and reasonably incurred in respect of the property which are specified in the First Schedule. Where any outgoing is not separately assessed or levied in respect of the premises then the Tenant shall pay such proportion thereof as is specified in the First Schedule or if no proportion is specified then such fair proportion as shall be agreed or failing agreement determined by arbitration.
- ~~3.2 THE Landlord may vary the proportion of any outgoing payable to ensure that the tenant pays a fair proportion of the outgoing.~~
- 3.3 IF any outgoing is rendered necessary by another tenant of the property or that tenant's employees, contractors or invitees causing damage to the property or by another tenant failing to comply with that tenant's leasing obligations, then such outgoing shall not be payable by the Tenant.
- 3.4 THE outgoings shall be apportioned between the Landlord and the Tenant in respect of periods current at the commencement and termination of the term.
- 3.5 THE outgoings shall be payable on demand or if required by the Landlord by monthly instalments on each rent payment date of such reasonable amount as the Landlord shall determine calculated on an annual basis. Where any outgoing has not been taken into account in determining the monthly instalments it shall be payable on demand.
- 3.6 AFTER the 31st March in each year of the term or such other date in each year as the Landlord may specify, and after the end of the term, the Landlord shall supply to the Tenant reasonable details of the actual outgoings for the year or period then ended. Any over payment shall be credited or refunded to the Tenant and any deficiency shall be payable to the Landlord on demand.
- 3.7 THE Tenant's liability to pay outgoings during the term shall subsist notwithstanding the end or earlier termination of the term.
- 3.8 SUBJECT to clauses 8.1, 16.2 and 21.1 the Tenant shall be liable to pay only those outgoings specified in the First Schedule.
- 3.9 ANY profit derived by the Landlord and if a company by its shareholders either directly or indirectly from the management of the property shall not comprise part of the management expenses payable as an outgoing.
- 3.10 The Tenant may (at its sole option) choose and use the supplier of any services paid for by the Landlord under clause 3 Goods and Services Tax (including electricity) and the Landlord will not object or obstruct the Tenant's choice of supplier.
- 4.1 THE Tenant shall pay to the Landlord or as the Landlord shall direct the Goods and Services Tax payable by the Landlord in respect of the rental and other payments payable by the Tenant hereunder. The tax in respect of the rental shall be payable on each occasion when any rental payment falls due for payment and in respect of any other payment shall be payable upon demand.
- 4.2 IF the Tenant shall make default in payment of the rental or other moneys payable hereunder and the Landlord becomes liable to pay additional Goods and Services Tax then the Tenant shall on demand pay to the Landlord the additional tax.

**Interest on Unpaid Money**

- 5.1 IF the Tenant defaults in payment of the rent or other moneys payable hereunder for 10 working days then the Tenant shall pay on demand interest at the default interest rate on the moneys unpaid from the due date for payment to the date of payment.

**Costs**

- ~~6.1 THE Tenant shall pay the Landlord's solicitors reasonable costs of and incidental to the preparation of this lease and any variation or renewal or any Deed recording a rent review, the Landlord's reasonable costs incurred in considering any request by the Tenant for the Landlord's consent to any matter contemplated by this lease, and the Landlord's legal costs (as between solicitor and client) of and incidental to the enforcement or attempted enforcement of the Landlord's rights remedies and powers under this lease. See additional clause in the Fourth Schedule.~~

**LANDLORD'S PAYMENTS****Outgoings**

- 7.1 ~~SUBJECT to the Tenant's compliance with the provisions of clause 6~~ the Landlord shall pay all outgoings in respect of the property not payable by the Tenant direct. The Landlord shall be under no obligation to minimise any liability by paying any outgoing or tax prior to receiving payment from the Tenant. \*including the costs of obtaining and maintaining a building warrant of fitness.

**MAINTENANCE AND CARE OF PREMISES****Tenant's Obligations**

- 8.1 THE Tenant shall (subject to any maintenance covenant by the Landlord) be responsible to:
- (a) **Maintain the premises**
- In a proper and workmanlike manner and to the reasonable requirements of the Landlord keep and maintain the interior of the premises including the Landlord's fixtures and fittings in the same clean order repair and condition as they were in at the commencement of this lease and will at the end or earlier determination of the term quietly yield up the same in the like clean order repair and condition. In each case the Tenant shall not be liable for fair wear and tear arising from reasonable use. Where the premises are damaged by fire flood explosion lightning storm earthquake volcanic activity or any risk against which the Landlord is (or has covenanted with the Tenant to be) insured, then the Tenant is liable for the cost of making good that damage to the extent that:
- (1) the damage was intentionally caused by the Tenant or those for whom the Tenant is responsible;
  - (2) the damage was the result of an act or omission by the Tenant or those for whom the Tenant is responsible and that act or omission:
    - (i) occurred on or about the property; and
    - (ii) constitutes an indictable offence within the meaning of the Summary Proceedings Act 1957; or
  - (3) any insurance moneys otherwise payable are rendered irrecoverable because of an act or omission of the Tenant or those for whom the Tenant is responsible.

## (b) Breakages and Damage

Pay for the repair of all glass breakages and breakage or damage to all doors windows light fittings and power points of the premises ~~and shall keep that portion of the electrical system of the premises from the switchboard to all power outlets in good operating condition~~; caused by the Tenant or those for whom the Tenant is responsible.

## (c) Painting

Paint and decorate those parts of the interior of the premises which have previously been painted and decorated when the same reasonably require repainting and redecoration ~~to a specification as approved by the Landlord~~;

## (d) Floor coverings

Keep all floor coverings in the premises clean ~~and replace all floor coverings worn or damaged other than by fair wear and tear with floor coverings of a similar quality when reasonably required by the Landlord~~; and

## (e) Damage or Loss

Make good any damage to the property or loss caused by improper careless or abnormal use by the Tenant or those for whom the Tenant is responsible, to the Landlord's reasonable requirements.

8.2 ~~WHERE the Tenant is leasing all of the property, the Tenant shall:~~ The Landlord shall:

## (a) Maintain yards and fences

Keep and maintain any surfaced areas and all fences in good order and repair;

## (b) Care of grounds

Keep any grounds yards and surfaced areas in a tidy condition and maintain any garden or lawn areas in a tidy and cared for condition;

## (c) Water and drainage

Keep and maintain the storm or waste water drainage system including downpipes and guttering clear and unobstructed; and

~~(d) Other works~~

~~Carry out such works to the property as the Landlord may require in respect of which outgoings are payable by the Tenant~~

8.3 THE Tenant shall not be liable for the maintenance or repair of any building service ~~the subject of a service maintenance contract but this clause shall not release the Tenant from any obligation to pay for the cost of any such contract or charges in respect of any such maintenance or repair.~~

## 8.4 NOTWITHSTANDING any other provision of this lease, the Tenant shall not be liable to repair any inherent defect in the premises or the Landlord's fixtures and fittings nor to pay any outgoings incurred by the Landlord in remedying any inherent defect.

8.5 IF the Landlord shall give the Tenant written notice of any failure on the part of the Tenant to comply with any of the requirements of clause 8.1 ~~or 8.2~~, the Tenant shall with all reasonable speed so comply.

## Toilets

## 9.1 THE toilets sinks and drains shall be used for their designed purposes only and no substance or matter shall be deposited in them which could damage or block them.

## Rubbish Removal

## 10.1 THE Tenant shall regularly cause all of the Tenant's rubbish and garbage to be removed from the premises and will keep the Tenant's rubbish bins or containers in a tidy condition. The Tenant will also at the Tenant's own expense cause to be removed all trade waste boxes and other goods or rubbish not removable in the ordinary course by the local authority.

## Landlord's Maintenance

in good, tenantable, and watertight condition and

## 11.1 THE Landlord shall keep and maintain the building, all building services, the Landlord's fixtures and fittings, and the car parks in good order and repair but the Landlord shall not be liable for any:

- (a) Repair or maintenance which the Tenant is responsible to undertake; or
- (b) Want of repair or defect in respect of building services, so long as the Landlord is maintaining a service maintenance contract covering the work to be done, or where the building services have not been supplied by the Landlord; or
- (c) ~~Repair or maintenance which is not reasonably necessary for the Tenant's use and enjoyment of the premises and the car parks; or~~
- (d) Loss suffered by the Tenant arising from any want of repair or defect unless the Landlord shall have received notice in writing thereof from the Tenant and shall not within a reasonable time thereafter have taken appropriate steps to remedy the same.

~~11.2 THE Landlord shall keep and maintain service maintenance contracts for lifts, air conditioning and at the Landlord's option any other building services supplied by the Landlord unless it is the obligation of the Tenant to maintain such contracts.~~~~11.3 THE Tenant shall be liable to reimburse the Landlord for the cost of any such repair, maintenance or service contract if it is an outgoing specified in the First Schedule.~~

## 11.2 to 11.9 See additional clauses in the Fourth Schedule.

## Notification of Defects

## 12.1 THE Tenant shall give to the Landlord prompt notice of any accident to or defect in the premises of which the Tenant may be aware and in particular in relation to any pipes or fittings used in connection with the water electrical gas or drainage services.

## 12.2 See additional clause in the Fourth Schedule.

## Landlord's Right of Inspection

~~13.1 THE Landlord and the Landlord's employees contractors and invitees may at all reasonable times enter upon the premises to view their condition.~~ See additional clause in the Fourth Schedule.



**Landlord may Repair**

~~14.1 IF default shall be made by the Tenant in the due and punctual compliance with any repair notice given by the Landlord pursuant to this lease, or if any repairs for which the Tenant is responsible require to be undertaken as a matter of urgency then without prejudice to the Landlord's other rights and remedies expressed or implied the Landlord may by the Landlord's employees and contractors with all necessary equipment and material at all reasonable times enter upon the premises to execute such works. Any moneys expended by the Landlord in executing such works shall be payable by the Tenant to the Landlord upon demand together with interest thereon at the default interest rate from the date of expenditure to the date of payment.~~

14.1 and 14.2 See additional clauses in the Fourth Schedule.

**Access for Repairs**

~~14.1 THE Tenant shall permit the Landlord and the Landlord's employees and contractors at all reasonable times to enter the premises to carry out repairs to the premises or adjacent premises and to install inspect repair renew or replace any services where the same are not the responsibility of the Tenant all such repairs inspections and work to be carried out with the least possible inconvenience to the Tenant.~~

15.1 and 15.2 See additional clauses in the Fourth Schedule.

**USE OF PREMISES****Business Use**

16.1 THE Tenant shall not without the prior written consent of the Landlord use or permit the whole or any part of the premises to be used for any use other than the business use. The Landlord's consent shall not be unreasonably or arbitrarily withheld or delayed in respect of any proposed use:

- (a) not in substantial competition with the business of any other occupant of the property which might be affected by the use;
- (b) reasonably suitable for the premises; and
- (c) complying with the requirements of the Resource Management Act 1991, or any other statutory provisions relating to resource management requested by the Tenant

If any change in use renders any increased or extra premium payable in respect of any policy or policies of insurance on the premises the Landlord as a condition of granting consent may require the Tenant to pay the increased or extra premium.

16.2 IF any change in use requires compliance with sections 114 and 115 of the Building Act 2004 the Landlord, as a condition of granting consent, may require the Tenant to comply with sections 114 and 115 of the Act and to pay all compliance costs but only as they relate to the premises.

~~16.3 IF the premises are a retail shop the Tenant shall keep the premises open for business during usual trading hours and fully stocked with appropriate merchandise for the efficient conduct of the Tenant's business.~~

**Lease of Premises and Car Parks Only**

17.1 THE tenancy shall relate only to the premises and the car parks (if any) and the Landlord shall at all times be entitled to use occupy and deal with the remainder of the property without reference to the Tenant and the Tenant shall have no rights in relation thereto other than the rights of use herein provided.

**Neglect of Other Tenant**

18.1 THE Landlord shall not be responsible to the Tenant for any act or default or neglect of any other tenant of the property.

**Signage**

19.1 THE Tenant shall not affix paint or exhibit or permit to be affixed painted or exhibited any name sign name-plate signboard or advertisement of any description on or to the exterior of the building or the appurtenances thereof without the prior approval in writing of the Landlord but such approval shall not be unreasonably or arbitrarily withheld or delayed in respect of signage describing the Tenant's business. If approved the signage shall be secured in a substantial and proper manner so as not to cause any damage to the building or any person and the Tenant shall at the end or sooner determination of the term remove the signage and make good any damage occasioned thereby.

**Additions and Alterations**

20.1 THE Tenant shall neither make nor allow to be made any alterations or additions to any part of the premises or alter the external appearance of the building without first producing to the Landlord on every occasion plans and specifications and obtaining the written consent of the Landlord (not to be unreasonably or arbitrarily withheld or delayed) for that purpose. If the Landlord shall authorise any alterations or additions the Tenant ~~will at the Tenant's own expense if required by the Landlord at the end or earlier termination of the term reinstate the premises. If the Tenant fails to reinstate then any costs incurred by the Landlord in reinstating the premises whether in whole or in part, within 6 months of the end or earlier termination of the term shall be recoverable from the Tenant.~~ \* may elect, but will not be required, to reinstate the premises.

20.2 THE Tenant, when undertaking any "building work" to the premises (as that term is defined in the Building Act 2004), shall comply with all statutory requirements including the obtaining of building consents and code compliance certificates pursuant to that Act.

**Compliance with Statutes and Regulations**

21.1 THE Tenant shall comply with the provisions of all statutes, ordinances, regulations and by-laws relating to the use of the premises by the Tenant or other occupant and will also comply with the provisions of all licences, requisitions and notices issued by any competent authority in respect of the premises or their use by the Tenant or other occupant PROVIDED THAT:

- (a) The Tenant shall not be required to make any structural repairs alterations or additions nor to replace or install any plant or equipment except where required by reason of the particular nature of the business carried on by the Tenant or other occupant of the premises or the number or sex of persons employed on the premises; and
- (b) The Tenant shall not be liable to discharge the Landlord's obligations as owner under the Building Act 2004 unless any particular obligation is the responsibility of the Tenant as an occupier of the premises.

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- ~~21.2 If the Landlord is obliged by any such legislation or requirement to expend moneys on any improvement addition or alteration to the property then the Landlord shall be entitled to charge up to the next rent review date in addition to the rent an annual sum equal to the Improvements Rent Percentage of the amount so expended by the Landlord and the monthly payments of rent shall increase accordingly from the first day of the month in which such improvement addition or alteration is completed. If the Landlord would be obliged to expend an unreasonable amount then the Landlord may determine this lease and any dispute as to whether or not the amount is unreasonable shall be determined by arbitration. In the case of a multi-tenancy building, the annual sum payable shall be assessed in respect of a fair proportion of the amount so expended.~~
- 21.3 The Landlord warrants that allowing the Premises to be open to members of the public and allowing the use of the Premises by members of the public at the Commencement Date will not be a breach of section 363 of the Building Act 2004. This clause does not apply to any "building work" (as defined in the Building Act 2004) relating to the fit-out of the Premises by the Tenant.
- 21.4 The Tenant, when undertaking any building work to the Premises, shall comply with all statutory requirements including the obtaining of building consents and code compliance certificates and shall not allow the Premises to be open to members of the public or allow use of the Premises by members of the public if that would be in breach of section 363 of the Building Act 2004.
- 21.5 During the Term and any renewal, the Landlord shall not give consent to or carry out any building work in any part of the Landlord's property which may cause the Tenant to be in breach of section 363 of the Building Act 2004 by allowing the Premises to be open to members of the public and allowing the use of the Premises by members of the public.
- 21.6 to 21.9 See additional clauses in the Fourth Schedule.

#### No Noxious Use

- 22.1 THE Tenant shall not:
- (a) bring upon or store within the premises nor allow to be brought upon or stored within the premises any machinery goods or things of an offensive noxious illegal or dangerous nature, or of such weight size or shape as is likely to cause damage to the building or any surfaced area;
  - (b) contaminate the property and shall undertake all works necessary to remove any contamination of the property other than contamination not caused by the Tenant or which took place prior to the commencement date of the lease term. Contamination means any change to the physical chemical or biological condition of the property by a "contaminant" as that word is defined in the Resource Management Act 1991;
  - (c) use the premises or allow them to be used for any noxious illegal or offensive trade or business; or
  - (d) allow any act or thing to be done which may be or grow to be a nuisance disturbance or annoyance to the Landlord, other tenants of the property, or any other person, and generally the Tenant shall conduct the Tenant's business upon the premises in a clean quiet and orderly manner free from damage nuisance disturbance or annoyance to any such persons but the carrying on by the Tenant in a reasonable manner of the business use or any use to which the Landlord has consented shall be deemed not to be a breach of this clause.

#### INSURANCE

##### Landlord shall insure

- 23.1 THE Landlord shall at all times during the term keep and maintain any buildings on the property insured under a policy of the type shown in the First Schedule and such cover may extend to:
- (a) a 12 month indemnity in respect of consequential loss of rent and outgoings;
  - (b) loss damage or destruction of any of the Landlord's fixtures fittings and chattels; or
  - (c) public liability.

23.2 See additional clause in the Fourth Schedule.

##### Tenant not to Void Insurances

- 24.1 THE Tenant shall not carry on or allow upon the premises any trade or occupation or allow to be done any act or thing which:
- (a) shall make void or voidable any policy of insurance on the property; or
  - (b) may render any increased or extra premium payable for any policy of insurance except where in circumstances in which any increased premium is payable the Tenant shall have first obtained the consent of the insurer of the premises and the Landlord and made payment to the insurer of the amount of any such increased or extra premium as may be payable but the carrying on by the Tenant in a reasonable manner of the business use or of any use to which the Landlord has consented shall be deemed not to be a breach of this clause.

In any case where in breach of this clause the Tenant has rendered any insurance less effective or void and the Landlord has suffered loss or damage thereby the Tenant shall forthwith compensate the Landlord in full for such loss or damage.

##### When Tenant to have benefit of Landlord's insurance

- 25.1 The Landlord will indemnify the Tenant for the cost of making good damage to the property or loss to the Landlord where the Tenant is obligated to pay for making good such damage or loss, to the extent that:
- (a) the damage was not intentionally caused by the Tenant or those for whom the Tenant is responsible;
  - (b) the damage was not the result of an act or omission by the Tenant or those for whom the Tenant is responsible and that act or omission:
    - (1) occurred on or about the property; and
    - (2) constitutes an indictable offence within the meaning of the Summary Proceedings Act 1957; or
  - (c) the Landlord is (or covenanted with the Tenant to be) insured and the insurance moneys are not rendered irrecoverable in consequence of any act or default of the Tenant or those for whom the Tenant is responsible.



**DAMAGE TO OR DESTRUCTION OF PREMISES****Total Destruction**

- 26.1 IF the premises or any portion of the building of which the premises may form part shall be destroyed or so damaged
- (a) as to render the premises ~~untenable~~ <sup>either party</sup> then the term shall at once terminate; or <sup>either party</sup>
- (b) in the reasonable opinion of the ~~Landlord~~ <sup>either party</sup> as to require demolition or reconstruction, then the ~~Landlord~~ <sup>either party</sup> may within 3 months of the date of damage give the ~~Tenant~~ <sup>either party</sup> 20 working days notice to terminate and a fair proportion of the rent and outgoings shall cease to be payable as from the date of damage.

Any termination pursuant to this clause shall be without prejudice to the rights of either party against the other.

**Partial Destruction**

- 27.1 IF the premises or any portion of the building of which the premises may form part shall be damaged but not so as to render the premises untenable and:
- (a) the Landlord's policy or policies of insurance shall not have been invalidated or payment of the policy moneys refused in consequence of some act or default of the Tenant; and
- (b) all the necessary permits and consents shall be obtainable;
- THEN the Landlord shall with all reasonable speed expend all the insurance moneys received by the Landlord in respect of such damage towards repairing such damage or reinstating the premises and/or the building but the Landlord shall not be liable to expend any sum of money greater than the amount of the insurance money received.
- 27.2 Any repair or reinstatement may be carried out by the Landlord using such materials and form of construction and according to such plan as the Landlord thinks fit and shall be sufficient so long as it is reasonably adequate for the Tenant's occupation and use of the premises. are reinstated as closely as possible to the condition before the damage occurred.
- 27.3 Until the completion of the repairs or reinstatement a fair proportion of the rent and outgoings shall cease to be payable as from the date of damage.
- 27.4 If any necessary permit or consent shall not be obtainable or the insurance moneys received by the Landlord shall be inadequate for the repair or reinstatement then ~~the term shall at once terminate~~ but without prejudice to the rights of either party against the other. <sup>either party may terminate the lease upon giving 20 working days written notice to the other party.</sup>
- 27.5 See additional clause in Fourth Schedule.

**DEFAULT****Cancellation** Subject to clause 28.2,

- 28.1 THE Landlord may (in addition to the Landlord's right to apply to the Court for an order for possession) cancel this lease by re-entering the premises at the time or at any time thereafter:
- (a) If the rent shall be in arrear 10 working days after any of the rent payment dates and the Tenant has failed to remedy that breach within 10 working days after service on the Tenant of a notice in accordance with section 245 of the Property Law Act 2007;
- (b) in case of breach by the Tenant of any covenant or agreement on the Tenant's part herein expressed or implied (other than the covenant to pay rent) after the Tenant has failed to remedy that breach within the period specified in a notice served on the Tenant in accordance with section 246 of the Property Law Act 2007;
- (c) If the Tenant shall make or enter into or endeavour to make or enter into any composition assignment or other arrangement with or for the benefit of the Tenant's creditors;
- (d) in the event of the insolvency bankruptcy or liquidation of the Tenant; or
- (e) If the Tenant shall suffer distress or execution to issue against the Tenant's property goods or effects under any judgment against the Tenant in any Court for a sum in excess of five thousand dollars (\$5,000);
- and the term shall terminate on such cancellation but without prejudice to the rights of either party against the other.

28.2 and 28.3 See additional clauses in the Fourth Schedule.

**Essentiality of Payments**

- 29.1 FAILURE to pay rent or other moneys payable hereunder on the due date shall be a breach going to the essence of the Tenant's obligations under the Lease. The Tenant shall compensate the Landlord and the Landlord shall be entitled to recover damages from the Tenant for such breach. Such entitlement shall subsist notwithstanding any determination of the lease and shall be in addition to any other right or remedy which the Landlord may have.
- 29.2 THE acceptance by the Landlord of arrears of rent or other moneys shall not constitute a waiver of the essentiality of the Tenant's continuing obligation to pay rent and other moneys.

**Repudiation**

- 30.1 THE Tenant shall compensate the Landlord and the Landlord shall be entitled to recover damages for any loss or damage suffered by reason of any acts or omissions of the Tenant constituting a repudiation of the lease or the Tenant's obligations under the lease. Such entitlement shall subsist notwithstanding any determination of the lease and shall be in addition to any other right or remedy which the Landlord may have.

**REMOVAL OF TENANT'S FIXTURES, FITTINGS AND CHATTELS**

- 31.1 THE Tenant may at any time before ~~and will if required by the Landlord~~ <sup>or</sup> at the end or earlier termination of the term remove all the Tenant's fixtures fittings and chattels and make good at the Tenant's own expense all resulting damage and if not removed within 5 working days after the date of termination ownership of the fixtures fittings and chattels ~~may at the Landlord's election~~ <sup>will</sup> pass to the Landlord ~~or the Landlord may in a proper and workmanlike manner remove the same from the premises and forward them to a refuse collection centre.~~
- 31.2 ~~The cost of making good resulting damage and the cost of removal shall be recoverable from the Tenant and the Landlord shall not be liable to pay any compensation nor be liable for any loss suffered by the Tenant.~~

**QUIET ENJOYMENT**

- 32.1 THE Tenant paying the rent and performing and observing all the covenants and agreements herein expressed and implied shall quietly hold and enjoy the premises throughout the term without any interruption by the Landlord or any person claiming under the Landlord.
- 32.2 to 32.6 See additional clauses in the Fourth Schedule.

**RENEWAL OF LEASE**

- 33.1 IF the Tenant has given to the Landlord written notice to renew the lease at least 3 calendar months before the end of the term and is not at the date of the giving of such notice in breach of this lease (including any maintenance obligations) then the Landlord will grant a new lease for a further term from the renewal date as follows:
- (a) If the renewal date is a rent review date the annual rent shall be agreed upon or failing agreement shall be determined in accordance with clauses 2.1 and 2.2 ~~but such annual rent shall not be less than the rent payable as at the commencement date of the immediately preceding lease term;~~
  - (b) Subject to the provisions of paragraph (a) the new lease shall be upon and subject to the covenants and agreements herein expressed and implied except that the term of this lease plus all further terms shall expire on or before the final expiry date;
  - (c) The annual rent shall be subject to review during the term of the new lease on the rent review dates or if no dates are specified then after the lapse of the equivalent periods of time as are provided herein for rent reviews;
  - (d) The Landlord as a condition of granting a new lease shall be entitled to have the new lease guaranteed by any guarantor who has guaranteed this lease on behalf of the Tenant who has given notice;
  - (e) Pending the determination of the rent, the Tenant shall pay an interim rent in accordance with clauses 2.3 and 2.4; and
  - ~~(f) Notwithstanding anything contained in clause 33.1(c) the interim rent referred to in that clause shall not be less than the annual rent payable as at the commencement date of the immediately preceding lease term.~~

**ASSIGNMENT OR SUBLETTING**

- 34.1 THE Tenant shall not assign sublet or otherwise part with the possession of the premises or any part thereof without first obtaining the written consent of the Landlord which the Landlord shall give if the following conditions are fulfilled:
- (a) The Tenant proves to the satisfaction of the Landlord that the proposed assignee or subtenant is (and in the case of a company that the shareholders of the proposed assignee or subtenant are) respectable responsible and has the financial resources to meet the Tenant's commitments under this lease;
  - (b) All rent and other moneys payable have been paid and there is not any subsisting breach of any of the Tenant's covenants;
  - (c) In the case of an assignment a deed of covenant in customary form approved or prepared by the Landlord is duly executed and delivered to the Landlord;
  - (d) In the case of an assignment to a company (other than a company listed on the main board of a public stock exchange) a deed of guarantee in customary form approved or prepared by the Landlord is duly executed by the principal shareholders of that company and delivered to the Landlord; and
  - (e) The Tenant pays the Landlord's reasonable costs and disbursements in respect of the approval and the preparation of any deed of covenant or guarantee and (if appropriate) all fees and charges payable in respect of any reasonable inquiries made by or on behalf of the Landlord concerning any proposed assignee subtenant or guarantor. All such costs shall be payable whether or not the assignment or subletting proceeds.
- 34.2 WHERE the Landlord consents to a subletting the consent shall extend only to the subletting and notwithstanding anything contained or implied in the sublease the consent shall not permit any subtenant to deal with the sublease in any way in which the Tenant is restrained from dealing without consent.
- ~~34.3 WHERE any Tenant is a company which is not listed on the main board of a public stock exchange then any change in the legal or beneficial ownership of its shares or issue of new capital whereby in either case there is a change in the effective management or control of the company is deemed to be an assignment of this lease.~~
- 34.3 and 34.4 See additional clauses in the Fourth Schedule.

**UNIT TITLE COVENANTS****Body Corporate**

- ~~35.1 THE expression "Body Corporate" means the Body Corporate under the Unit Titles Act 2010 ("the Act") in respect of the property. The Landlord will not carry out a unit title development of the building during the term of the Lease or any renewals.~~

**Act and Rules Paramount**

- ~~35.2 THIS lease shall be subject to the provisions of the rules of the Body Corporate and the provisions of the Act.~~

**Insurance**

- ~~35.3 UNLESS the rules require the Landlord to insure the building the Landlord's obligation to insure the building shall be satisfied by the Body Corporate maintaining the same insurance covers in accordance with the Act.~~

**Indemnity**

- ~~35.4 THE Tenant's obligation to indemnify the Landlord as herein expressed is extended to include the Body Corporate but only to the extent that the Body Corporate is not fully indemnified under any policy of insurance.~~

**Landlord's Obligations**

- ~~35.5 THE Landlord shall observe and perform all of the Landlord's obligations as a member of the Body Corporate and shall use the Landlord's best endeavours to ensure that the Body Corporate complies with its rules and the provisions of the Act.~~

**Consents**

- ~~35.6 WHERE in this lease the consent of the Landlord is required in respect of any matter then the like consent of the Body Corporate shall also be required if the consent of the Body Corporate to any such matter would be necessary under its rules or the Act.~~

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**Car Parks**

- 36.1 THE Tenant shall have the right to exclusive possession of the leased car parks, but when any car park is not being used by the Tenant other persons shall be entitled to pass over the same.
- 36.2 THE Landlord may carry out repairs to the car parks and no abatement of rent or other compensation shall be claimed by the Tenant except pursuant to clauses 26.1 or 27.
- 36.3 THE Tenant shall comply with the Landlord's reasonable requirements relating to the use of the car parks and access thereto and in particular shall only use the car parks for the parking of one car per parking space.
- 36.4 THE provisions of the Second Schedule shall apply to the car parks as appropriate.
- 36.5 See additional clause in the Fourth Schedule.

**GENERAL****Holding Over**

- 37.1 IF the Landlord permits the Tenant to remain in occupation of the premises after the expiration or sooner determination of the term, such occupation shall be a periodic tenancy only terminable by 20 working days notice at the rent then payable and otherwise on the same covenants and agreements (so far as applicable to a periodic tenancy) as herein expressed or implied.

**Access for Re-Letting or Sale** <sup>last 3 months of the lease</sup>

- 38.1 THE Tenant will during the term permit the Landlord, the Landlord's representatives and prospective tenants or purchasers to have access to inspect the premises provided that:
- (a) any such inspection is at a time which is reasonably convenient to the Tenant;
  - (b) is conducted in a manner which does not cause disruption to the Tenant; and
  - (c) if the Landlord or the Landlord's representatives are not present the persons inspecting have written authority from the Landlord to do so.

**Suitability**

- 39.1 NO warranty or representation expressed or implied has been or is made by the Landlord that the premises are now suitable or will remain suitable or adequate for use by the Tenant or that any use of the premises by the Tenant will comply with the by-laws or ordinances or other requirements of any authority having jurisdiction.

**Affirmation**

- 40.1 A party to this lease shall not be entitled to cancel this lease if, with full knowledge of any repudiation or misrepresentation or breach of covenant, that party affirmed this lease.

**Waiver**

- 41.1 NO waiver or failure to act by either party in respect of any breach by the other shall operate as a waiver of another breach.

**Land Transfer Title or Mortgagee's consent**

- 42.1 THE Landlord shall not be required to do any act or thing to enable this lease to be registered or be required to obtain the consent of any mortgagee of the property and the Tenant will not register a caveat in respect of the Tenant's interest hereunder.

**Notices**

- 43.1 ALL notices must be in writing and must be served by one of the following means:
- (a) In the case of a notice under sections 245 or 246 of the Property Law Act 2007 in the manner prescribed by section 353 of that Act; and
  - (b) In all other cases, unless otherwise required by sections 352 to 361 of the Property Law Act 2007:
    - (1) in the manner authorised by sections 354 to 361 of the Property Law Act 2007, or
    - (2) by personal delivery, or by posting by registered or ordinary mail, or by facsimile, or by email.
- 43.2 IN respect of the means of service specified in clause 43.1(b)(ii), a notice is deemed to have been served:
- (a) in the case of personal delivery, when received by the addressee;
  - (b) in the case of posting by mail, on the second working day following the date of posting to the addressee's last known address in New Zealand;
  - (c) in the case of facsimile transmission, when sent to the addressee's facsimile number; or
  - (d) in the case of email, when acknowledged by the addressee by return email or otherwise in writing.
- 43.3 IN the case of a notice to be served on the Tenant, if the Landlord is unaware of the Tenant's last known address in New Zealand or the Tenant's facsimile number, any notice placed conspicuously on any part of the premises shall be deemed to have been served on the Tenant on the day on which it is affixed.
- 43.4 A notice shall be valid if given by any director, general manager, solicitor or other authorised representative of the party giving the notice.
- 43.5 See additional clause in the Fourth Schedule.

**Arbitration**

- 44.1 UNLESS any dispute or difference is resolved by mediation or other agreement, the same shall be submitted to the arbitration of one arbitrator who shall conduct the arbitral proceedings in accordance with the Arbitration Act 1996 and any amendment thereof or any other statutory provision then relating to arbitration.
- 44.2 IF the parties are unable to agree on the arbitrator, an arbitrator shall be appointed, upon request of any party, by the President or Vice President for the time being of the District Law Society of the district within which the premises are situated. That appointment shall be binding on all parties to the arbitration and shall be subject to no appeal. The provisions of Article 11 of the First Schedule of the Arbitration Act 1996 are to be read subject hereto and varied accordingly.
- 44.3 THE procedures prescribed in this clause shall not prevent the Landlord from taking proceedings for the recovery of any rent or other monies payable hereunder which remain unpaid or from exercising the rights and remedies in the event of such default prescribed in clause 28.1 hereof.

## Interpretation

## 45.1 IN this lease:

- (a) "the Landlord" and "the Tenant" means where appropriate the executors, administrators, successors and permitted assigns of the Landlord and the Tenant;
- (b) "the property" and "the building" mean the land and building(s) of the Landlord which comprise or contain the premises. Where the premises are part of a unit title development the words "the property" mean the land and building(s) comprised in the development;
- (c) "the common areas" means those parts of the property the use of which is necessary for the enjoyment of the premises and which is shared with other tenants and occupiers;
- (d) "GST" means the Goods and Services Tax;
- (e) "structural repair, alteration or addition" means a repair, alteration or addition to the structure or fabric of the building but excluding building services;
- (f) "renewal" means the granting of a new lease as provided for in clause 33.1;
- (g) Whenever words appear in this lease that also appear in the First Schedule then those words shall mean and include the details supplied after them in the First Schedule;
- (h) Where the context requires or admits, words importing the singular shall import the plural and vice versa;
- (i) "those for whom the Tenant is responsible" includes the Tenant's agents employees contractors or invitees;
- (j) "working day" has the meaning given to it in the Property Law Act 2007. Notices served after 5pm on a working day, or on a day which is not a working day, shall be deemed to have been served on the next succeeding working day;
- (k) Where the Landlord's consent to any matter is required under this lease then, unless expressly stated to the contrary in this lease, in each case the Landlord:
  - (1) must not unreasonably withhold consent, and
  - (2) must, within a reasonable time of the Landlord's consent being requested:
    - (i) grant that consent; or
    - (ii) notify the Tenant in writing that the consent is withheld;
- ~~(l) "rules" in clause 35 means both body corporate rules under the Unit Titles Act 1972 and body corporate operational rules under the Unit Titles Act 2010;~~
- (l), (m) and (n) See additional clauses in the Fourth Schedule.

46 to 51 see additional clauses in the Fourth Schedule.



## THIRD SCHEDULE

### GUARANTEE

~~IN CONSIDERATION~~ of the Landlord entering into the lease at the Guarantor's request the Guarantor:

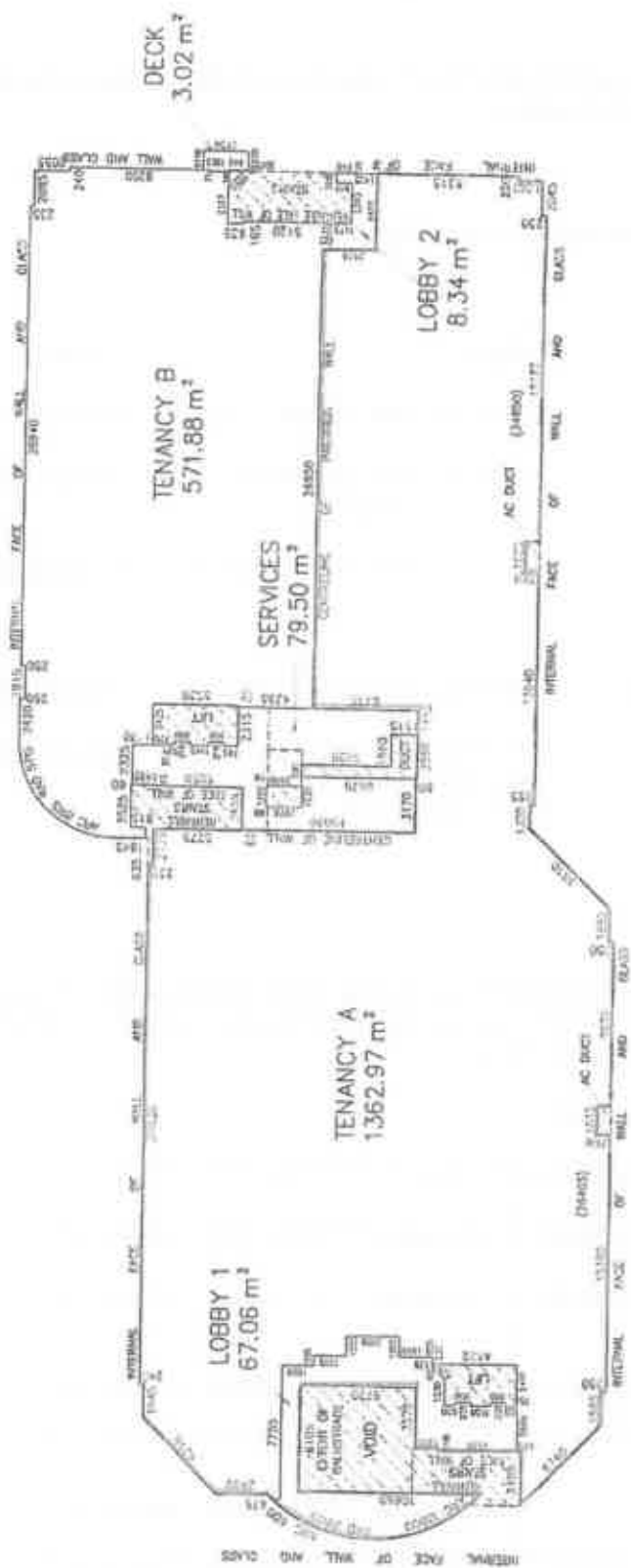
- ~~(a) guarantees payment of the rent and the performance by the Tenant of the covenants in the lease; and~~
- ~~(b) indemnifies the Landlord against any loss the Landlord might suffer should the lease be lawfully disclaimed or abandoned by any liquidator, receiver or other person.~~

~~THE GUARANTOR~~ covenants with the Landlord that:

- ~~1. NO release delay or other indulgence given by the Landlord to the Tenant or to the Tenant's successors or assigns or any other thing whereby the Guarantor would have been released had the Guarantor been merely a surety shall release prejudice or effect the liability of the Guarantor as a guarantor or as indemnifier.~~
- ~~2. AS between the Guarantor and the Landlord the Guarantor may for all purposes be treated as the Tenant and the Landlord shall be under no obligation to take proceedings against the Tenant before taking proceedings against the Guarantor.~~
- ~~3. THE guarantee is for the benefit of and may be enforced by any person entitled for the time being to receive the rent.~~
- ~~4. AN assignment of the lease and any rent review in accordance with the lease shall not release the Guarantor from liability.~~
- ~~5. SHOULD there be more than one Guarantor their liability under this guarantee shall be joint and several.~~
- ~~6. THE Guarantee shall extend to any holding over by the Tenant.~~







## AREA SCHEDULE

<p> TENANCY A  LOBBY 1  PRO RATA SHARE OF SERVICES  PRO RATA SHARE OF LOBBY 2 </p>	<p> 1,362.97 m<sup>3</sup>  67.06 m<sup>3</sup>  56.00 m<sup>3</sup>  5.88 m<sup>3</sup> </p>	<p> 146,70.9 ft<sup>3</sup>  721.8 ft<sup>3</sup>  602.8 ft<sup>3</sup>  63.3 ft<sup>3</sup> </p>
<p> TENANCY B  PRO RATA SHARE OF SERVICES  PRO RATA SHARE OF LOBBY 2  DECK </p>	<p> 1,491.31 m<sup>3</sup>  571.88 m<sup>3</sup>  23.50 m<sup>3</sup>  2.46 m<sup>3</sup>  3.02 m<sup>3</sup>  600.86 m<sup>3</sup> </p>	<p> 160,58.8 ft<sup>3</sup>  6155.7 ft<sup>3</sup>  26.9 ft<sup>3</sup>  28.5 ft<sup>3</sup>  32.5 ft<sup>3</sup>  6,467.8 ft<sup>3</sup> </p>
<p>TOTAL</p>	<p>2,084.27 m<sup>3</sup></p>	<p>22,526.4 ft<sup>3</sup></p>

SURVEY (CARRER 1971) IN ACCORDANCE WITH THE 1972/1976 (FORMERLY 1970A) RECOMMENDED GUIDELINES FOR MEASUREMENT OF OFFICE BUILDINGS (METHOD 2 OF THE 2006 STANDARD).

FOR THE MAJOR RETAILABLE AREAS MEASUREMENTS WERE TAKEN TO THE INTERNAL FACE OF WALL AND SLAB AND TO THE CENTRINE OF PARTITION WALLS WHERE THEY ADJACENT OTHER RETAILABLE AREAS. WHILE RETAILABLE AREAS ABOUT AREAS IS ESTIMATED FROM THE RETAILABLE AREAS, SUCH AS LEFT SHAPES AND STAIRS, MEASUREMENTS HAVE BEEN TAKEN TO THE MAINLINE FACE OF ENCLOSING WALLS AND DOOR FRAMES, ACCESS TO LIFTS.

J. MARK GAMMEL, BOWDOEN, SURREY, BRITAIN, REQUESTS THAT A SURVEY TO DETERMINE THE REMAINING AREAS HAS BEEN CARRIED OUT UNDER MY OVECTION AND THAT THE AREAS AND MEASUREMENTS ARE CORRECT.

and 24 years

### PLAN SHOWING RENTABLE AREAS AT LEVEL 1

[illegible]

ONLY PROPERTY GROUP LTD  
650 GREAT SOUTH ROAD  
#B3-105E

TENANCY LEASE HAN

121211-BMD1	AT	5
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#### FOURTH SCHEDULE – ADDITIONAL CLAUSES

If there is any conflict between the amendments in this Fourth Schedule and the clauses in the First and Second Schedules, this Fourth Schedule shall apply.

##### First Schedule Annual Rent

\$430,822.28 per annum plus GST more particularly comprising the following:

	Area	Rate	Total
(a) Offices	1,491.91 m <sup>2</sup> @	\$240.00 Per square metre	\$358,058.40
(b) Carparks	5	\$45.00 Per carpark per week	<u>\$11,700.00</u>
Total Net Annual Rent		Per annum plus GST	<u>\$369,758.40</u>
(c) Outgoings	1491.91 m <sup>2</sup> @	\$40.93 Per square metre	<u>61,063.88</u>
Total Gross Annual Rent		(including those items under outgoings (clause 3) that have been crossed out)	<u>\$430,822.28</u>

##### Rent Abatement

- 1.1 IN consideration of the Tenant entering into the Lease, the Tenant will be entitled to a rent abatement of 12 months net rent free to be spread over the first three years of the initial lease term as an effective rental, calculated as follows:

Annual Rent for the first three years of the lease

	Area	Rate	Annual Rental	Year 1	Year 2	Year 3
Office	1,491.91	240.00/m <sup>2</sup>	\$358,058.40	\$358,048.40	\$358,048.40	\$358,048.40
Carparks	5	45	\$ 11,700.00	\$ 11,700.00	\$ 11,700.00	\$ 11,700.00
Total Net Annual Rental			\$369,758.40	\$369,758.40	\$369,758.40	\$369,758.40
Incentive		4 months net rental per year		\$123,252.80	\$123,252.80	\$123,252.80
Outgoings	1,491.91	\$40.93/m <sup>2</sup>	\$61,063.88	\$ 61,063.88	\$ 61,063.88	\$ 61,063.88
Effective Total Gross Annual Rent			\$430,822.28	\$307,569.48	\$307,569.48	\$307,569.48



**PROVIDED HOWEVER** that the Tenant shall have the benefit of a 10% reduction in the Annual Rent set out in this clause 1.1 from the Commencement Date until Practical Completion of the Airconditioning Works (as that term is defined in the Agreement to Lease dated 22 December 2011) is certified by the Landlord's airconditioning engineer. Once Practical Completion of the Airconditioning Works has been certified, the Tenant is liable to pay the Annual Rent as set out in the table above in this clause 1.1.

- 1.2 **FOR** clarity, the Rent Abatement does not affect the Tenant obligations to pay all other moneys due by the Tenant and to comply with all other obligations imposed on the Tenant under this lease.
- 1.3 **THE** Landlord may at anytime during the period of the Rent Abatement pay out the Rent Abatement (or the balance then remaining) to the Tenant in full and final settlement of its obligation under clause 1.2.
- 1.4 **THE** Rent Abatement will only apply as long as Her Majesty the Queen acting by and through the Commissioner of Inland Revenue:
- (a) is the Tenant and occupying the Premises; and
  - (b) is not in breach of any of the terms and conditions of this Lease.

#### **Rent**

- 1.1 **THE** words, "without any deduction or set-off" in clause 1.1 of the Second Schedule are reinstated.

#### **Rent Review**

- 2.1(d) **CLAUSE** 2.1(d) is deleted and replaced with, "Notwithstanding any other provision of this clause, the annual rent payable as from the relevant rent review dates shall not be less than the annual rent (that is, the full contract annual rent shown on the face of the lease excluding any incentive or rent abatement) payable as at the commencement date of the initial term of the lease".

#### **Rent Determinations**

- 2.2 (c) **PRIOR** to determination of the rent by the third expert pursuant to clause 2.2(b)(4), the parties shall be entitled to confer with each other to endeavour to agree upon the current market rent provided both parties agree to that course of action, and for such period as they both agree.
- 2.2 (d) **IN** determining the current market rent the valuers or third expert shall have regard to such matters as are relevant and without limitation.
- (i) any faulty design, construction, workmanship, repair, or fault in the premises, building, or building services that results in the failure of the premises, building, or building services to operate and perform in good operational repair (unless caused by the Tenant);
  - (ii) exclude the value of any goodwill attributable to the Tenant's business and exclude any deleterious condition of the premises if such condition results from any breach of any terms of this lease by the Tenant but if any breach of the lease by the Landlord has a deleterious effect on the premises then regard shall be given to that deleterious effect;
  - (iii) disregard the Tenant's fixtures, fittings and chattels in the premises (including but not limited to the Tenant's fixtures and fittings described in the Sixth

Schedule of this lease) so that the Tenant shall not be required to pay rental on such fixtures, fittings and chattels;

- (iv) exclude the value of the naming rights to the building (if any);
- (v) have regard to the terms and conditions of this lease;
- (vi) have regard to the per square metre outgoing charge (excluding rates, insurance and utilities) that would have been charged to the Tenant under this lease had it been a fully net lease and increase that per square metre charge by 5% (for clarity, the per square metre outgoing charge will be assessed on the basis of the outgoing that would have been payable by the Tenant to 31 March of the year that the relevant rent review falls due);
- (vii) exclude any alterations, additions, or improvements to the premises made by or on behalf of the Tenant;
- (viii) exclude the value of all air-conditioning plant and systems, fire detection and fire prevention plant and systems and lighting installed to suit the Tenant's fitout layout to the extent such items differ from a standard open plan layout; and
- (ix) disregard any incentive (whether by way of contribution or rent holiday or otherwise) from the Landlord applicable for the first three (3) years of the term.

#### **Outgoings**

- 3.5 (a) **THE** Tenant's contribution to the outgoing of the building shall be payable by the Tenant on demand following receipt of a tax invoice from the Landlord addressed to the Tenant in respect of the outgoing payable by the Tenant in accordance with this lease.
- (b) **NOTHING** shall prevent the Landlord from recovering outgoing merely because the Landlord has failed to notify the Tenant promptly of an estimate or of an actual amount.

#### **Costs**

- 6.1 **EACH** party shall pay its own costs for the preparation, negotiation, and execution of this lease and any variation, surrender, renewal, or deed recording a rent review. The Tenant will pay the Landlord's legal costs (as between solicitor and client) of and incidental to the enforcement or attempted enforcement of the Landlord's rights, remedies and powers under this lease. The Landlord will pay the Tenant's reasonable legal costs (as between solicitor and client) of and incidental to the enforcement of the Tenant's rights, remedies and powers under this lease.

#### **Landlord's Maintenance**

- 11.2 **THE** Landlord will (at its cost):
- (a) enter into and keep current at the Landlord's expense (and to the Tenant's reasonable satisfaction if DNZ Property Fund Limited is not the Landlord) maintenance, service, repair and replacement contracts for lifts, air-conditioning and any other building services supplied by the Landlord (**Maintenance Contracts**).
  - (b) within a reasonable time of receipt, supply the Tenant with copies of the Maintenance Contracts when signed.
  - (c) promptly supply the Tenant on request and no more than once a year with copies of all reports and any other relevant information relating to:
    - (i) the condition, testing, maintenance and repair of fire protection, emergency lighting, air conditioning (including legionella to the latest testing standards), heating, ventilation plant, the lifts, energy supply systems and emergency systems (including the Landlord's security system)

and without limiting the provisions of this clause 11.2(c), the Landlord shall ensure that the results of all tests are supplied to the Tenant within two (2) months' of the date of testing.

- 11.3 **THE** Landlord shall be liable to the Tenant for all water damage (through inflow or leakage of water) to the Tenant's property in the premises or the property, except where the Tenant caused the defect or leak or was aware or reasonably should have been aware of any defect or leak from within the building or from the exterior of the building (as applicable) liable to cause such water damage and did not give written notice (where practicable) to the Landlord of such defect.
- 11.4 **THE** Landlord will ensure that the building remains compliant with all relevant legislation, and will keep the common areas and the exterior of the building clean and maintain them to a standard of repair and appearance as near as practicable to the condition of the building at the commencement of the term of this lease.
- 11.5 **IN** complying with its obligations under clause 11.4, the Landlord will (at its cost) in accordance with its ongoing maintenance procedures and contracts:
- (a) promptly remove graffiti from the exterior of the building on notification from the Tenant;
  - (b) clean the exterior of the building, (including the roof, any exterior spandrels, solar shading and the exterior doors) as and when reasonably necessary not less than once a year;
  - (c) keep the exterior of the building free from pigeons and/or other bird, animal, rodent, pest and any other effluent and detritus;
  - (d) clean the exterior windows of the building as and when reasonably necessary but not less than twice a year and the exterior of the building not less than once a year;
  - (e) clean the gutters and down pipes of the building as and when reasonably necessary but not less than once a year;
  - (f) clean and maintain on a regular basis the common areas of the building (if any) and any canopies, verandas, atriums or skylights which are fixed to, or which are part of, the building as and when reasonably necessary provided that the Landlord shall clean the common areas (if any) on a daily basis ; and
  - (g) keep the land, including fences, internal and external landscaping and paved areas (if any), which are part of the property and the building, clean, tidy, free from rubbish and weeds and in good order, repair and decorative condition.

- 11.6 **THE** Landlord will replace floor coverings which are damaged, unsafe or worn with new floor coverings of equivalent quality and cover, unless the floor coverings have been damaged as the result of the negligent acts or omissions of the Tenant.

On the first renewal date (being 19 March 2018), the Tenant may request that the Landlord replaces the carpet tiles which have been installed at the Premises by the Landlord. If the Tenant does so request but then does not exercise its second right of renewal on 19 March 2021 then the Tenant shall reimburse the Landlord for 50% of the cost of the uplift, supply and installation of the carpet tiles that the Landlord provided in accordance with this clause.

- 11.7 (a) **THE** Landlord shall meet with the Tenant once a year on each annual anniversary of the lease commencement date so as to discuss and agree the Landlord's annual maintenance programme for the property, the building, including its common areas, plant, services, systems and the premises and the Landlord shall promptly thereafter provide to the Tenant a written copy of the agreed annual maintenance programme.
- (b) **THE** parties agree that the purpose of this maintenance programme is to ensure that the property, the building, including its common areas, plant, services, systems, fixtures

and fittings and the premises are actively maintained in accordance with this lease on a continuous basis by the Landlord for the lease term and to an appropriate, high quality standard for the benefit of both of the parties.

- (c) **REGARDLESS** of the provisions of clause 11.7(a), the Landlord shall meet with the Tenant as and when reasonably required so as to ensure that the property the building, including its plant, services, systems, the common areas, and the premises are actively maintained to a continuous and appropriate high quality standard.
- (d) **THE** Tenant may at its option engage its own facilities manager for the premises. The Landlord shall at all times liaise, consult and cooperate with such manager, in accordance with this lease, as if that manager were the Tenant, if the Tenant so requests in writing.
- (e) **IN** conjunction with, and at the meeting under, clause 11.7(a) the Landlord and Tenant will assess and meet to discuss any improvements, enhancements, alterations and developments including any new initiatives for environmentally sustainable developments (**Improvements**) which might improve any component service system or aspect of the Building and after having investigated, discussed and considered any Improvements in good faith the parties shall, in a timely manner meet to discuss and, if possible, agree:
  - (i) the likely cost to the Landlord of implementing any such Improvements in respect of such component service system or aspect of the building; and
  - (ii) the likely benefit(s) (by way of reduction in energy consumption, maintenance costs, and any similar savings) and who would, as a direct result of the completion of such Improvements, automatically receive them if such Improvements were implemented then the party or parties, proportionately as appropriate, receiving the benefit shall pay for the cost of such Improvements.

- 11.8 (a) **THE** parties acknowledge that, without limitation to the parties' respective obligations under this lease, in order to protect both the Landlord's and the Tenant's interests under this lease the Tenant may, at its sole option and at the Tenant's sole cost, and with the full co-operation of the Landlord, undertake a full technical audit (Audit) of the Premises against the Outline Base Building Specification standards set out in the Eighth Schedule (Tenancy Performance Specifications), including its plant, services, systems and the premises within a mutually agreed timeframe.
- (i) The parties shall, in good faith, discuss any possible improvements to the Premises.
  - (ii) The Landlord shall, at its cost, promptly agree in consultation with the Tenant a remedial works programme to remedy any defects or shortcomings (in the property, the building or the premises) identified by the Audit which are the Landlord's responsibility under this lease and put that remedial works programme into effect as promptly as is practicable.
- (b) **REGARDLESS** of anything to the contrary in this lease, the parties acknowledge that except where caused by something entirely outside the Landlord's control:
- (i) If the building, including its plant, services, systems, the common areas or the premises fails to continuously operate or perform in good operational repair, or to otherwise perform satisfactorily; or
  - (ii) If any aspect of the Tenancy Performance Specifications fails to be met,
- this will be deemed a default under clause 11.9 and the Tenant may follow the default procedures in clause 11.9.

- 11.9 (a) **REGARDLESS** of anything to the contrary in this lease, if the Landlord defaults in any of its obligations (including prompt payment or reimbursement of any costs and expenses to the Tenant) whether expressed or implied under this lease for ten (10) working days after having received written notice from the Tenant of such default (Default Notice), then upon the Tenant giving a further seven (7) working days written notice to the Landlord the Tenant may do any of the following, without prejudice to any other rights which it may have under the lease or at law, at its sole option:
- (i) By its agents and contractors and with all necessary equipment and materials, enter into such parts of the building and premises as are necessary to rectify any or all of the Landlord's defaults specified in the Default Notice on behalf of the Landlord. Any costs and expenses incurred by the Tenant in rectifying such defaults will be payable by the Landlord to the Tenant within fourteen (14) working days of receipt of a valid tax invoice from the Tenant,
- (b) **IN** the case of an emergency, then the Tenant shall not be required to give the Landlord a Default Notice or the period(s) of notice as set out in clause 11.9(a) prior to undertaking the Landlord's obligations in accordance with the provisions of this clause, but the Tenant must immediately notify the Landlord of the nature of the emergency prior to undertaking the works.
- (c) **WHEN** rectifying the Landlord's defaults specified in the Default Notice pursuant to clause 11.9(a) the Tenant, when the Tenant considers it reasonable in the circumstances, shall use such contractors or other agents as may be necessary to preserve any guarantees of workmanship or materials (of which the Tenant is aware) which are repaired or replaced.
- (d) **THE** provisions of clause 11.9 shall only apply while the Tenant under the lease is Her Majesty the Queen.

#### Notification of Defects

- 12.2 **ANY** notice given by the Tenant to the Landlord under clause 12.1 not remedied by the Landlord within a reasonable time will be deemed a default under clause 11.9 and the Tenant may follow the default procedures in clause 11.9.

#### Landlord's Right of Inspection

- 13.1 (a) **SUBJECT** to this lease, including clauses 32.4, 32.5, and 49.2, the Landlord and its authorised employees, contractors and agents may at all reasonable times, and upon reasonable valid written notice, being at least 48 hours (except for emergencies in which case immediate access will be provided) enter upon the premises to view their condition. To be valid, the written notice required under this clause 13.1(a) must include the details referred to in clause 49.2 and as otherwise specified in this lease.
- (b) **ANY** such inspection shall be carried out only after prior consultation, and by prior arrangement, with the Tenant.
- (c) **THE** Landlord and its authorised employees, contractors and agents (as applicable) who require entry to the premises and who shall hold (if so required by the Tenant) written authorisation from the Landlord or is listed as a contractor on the annual maintenance plan provided for under clause 11.7 (the Written Authority) for such purposes, shall be accompanied by a representative of the Tenant at the Tenant's discretion. Such persons shall strictly comply with the Tenant's security, confidentiality of information, statutory and other operational requirements and duties including but not limited to signing and providing to the Tenant a Certificate of Secrecy as required by the Tax Administration Act 1994 and the additional matters contained in clause 49.2.
- (d) **THE** Tenant shall be entitled to inspect the Written Authority and signed Certificate of Secrecy and to refuse entry to the premises to any person in the absence of the Written Authority and signed Certificate of Secrecy.



- (e) **SUCH** authorised person(s) shall undertake any inspection with the least possible inconvenience to the Tenant, including the Landlord's performance of any works pursuant to clauses 14 or 15, during the exercise of any of the Landlord's clause 38.1 rights of access and entry to the premises for the purposes of reletting or sale (as the context requires or admits).
- (f) **IF** the Tenant so requires, the Landlord shall immediately replace any person(s) undertaking any matters requiring access to the premises for or on behalf of the Landlord with person(s) acceptable to the Tenant.

#### **Landlord may Repair**

- 14.1 **IF** the Tenant defaults in the compliance with any repair notice given by the Landlord or, in the event that any repairs which are the Tenant's responsibility require to be undertaken as a matter of urgency, then without prejudice to the Landlord's other rights and remedies, the Landlord, its authorised employees, contractors and agents may, upon reasonable valid written notice, being at least 48 hours (except for emergencies in which case immediate access will be provided), subject to clauses 13.1(a) to (f) (inclusive), with all necessary equipment and materials, enter upon the premises to execute such works. To be valid, the written notice required under this clause 14.1 must include the details referred to in clause 49.2 and as otherwise specified in the lease.
- 14.2 **THE** provisions of clause 14.1 shall be read strictly in accordance with the requirement of, and subject to, clauses 13.1(a) to (f) (inclusive).

#### **Access for Repairs**

- 15.1 **THE** Tenant shall permit the Landlord, its employees, any building certifier, independent person or any contractor engaged by the Landlord, at all reasonable times, and upon reasonable valid written notice, being at least 48 hours (except for emergencies in which case immediate access will be provided), to enter the premises to carry out inspections and repairs to the premises or to the building, install, inspect, repair, renew or replace any part of the building, including its plant, services, systems, where the same are not the responsibility of the Tenant. To be valid, the written notice required under this clause 15.1 must include the details referred to in clause 49.2 and as otherwise specified in this lease.
- 15.2 **THE** provisions of clause 15.1 shall be read strictly in accordance with the requirement of, and subject to, clauses 13.1(a) to (f) (inclusive).

#### **Rules**

- 16.3 **THE** Tenant and persons under control of the Tenant are at all times to observe the Rules contained in the Seventh Schedule and the Tenant acknowledges the rights of the Landlord contained in them.
- 16.4 **THE** Landlord has the right to make reasonable variations and additions to the Rules provided that no such variation or addition is to derogate from the rights of the Tenant under this lease and in the event of any inconsistency between the terms of this lease and the Rules, the terms of this lease are to prevail.

#### **Compliance with Statutes and Regulations**

- 21.6 **FOR** the purposes of clauses 21.3 to 21.5, possession of a current Certificate for Public Use issued under section 363A of the Building Act 2004 shall be sufficient evidence of compliance with section 363 of the Building Act 2004.
- 21.7 **THE** Landlord shall at all times comply with the Health and Safety in Employment Act 1992 ("HSEA"), and put in place a Health and Safety Management scheme in respect of its employees and all other persons in the premises or on the property who are the responsibility of the Landlord. The Landlord shall comply with any notice issued pursuant to section 39 of

the HSEA where any work is required by the provisions of this lease to be undertaken by the Landlord.

21.8 **THE** Landlord shall at all times ensure that there is full and unimpeded access for disabled persons to the premises, and at least one disabled person's toilet within the building.

21.9 **THE** Tenant will comply with the Health and Safety in Employment Act 1992 (the **HSEA**) in respect of the premises and its fit-out, fixtures and fittings, equipment and any alterations made by the Tenant in or to the premises and their use in the premises as part of a place of work including without limitation:

- (a) Ensuring that all significant hazards in respect of the same are identified and eliminated where practical, or isolated where elimination is impractical, or minimised where elimination or isolation is impractical.
- (b) Having in place written rules and procedures relating to health and safety which the Tenant shall follow and keep under review to ensure the safety of its employees and persons attending the premises.
- (c) Identifying possible hazards for its employees or other persons attending or in the vicinity of the premises.
- (d) Taking all practicable steps to eliminate, isolate or minimise hazards and ensure that people working in the vicinity of the premises are not harmed.
- (e) Maintaining a register of accidents and conforming with any code of practice and regulations promulgated in respect of the particular work being done.

#### **Insurance**

23.2 **THE** Landlord will supply the Tenant with copies of certificates of currency on request and no more than once a year.

#### **Partial Destruction**

27.5 **WHERE** the Tenant is unable as a result of a natural disaster or civil emergency to gain access to the premises or to carry on its business from the premises including but not limited to:

- (a) where the premises are situated within a restricted access cordon; or
- (b) where the premises are unable to be used pending the completion of structural engineering or other reports and appropriate certifications that the premises are fit for use; or
- (c) where access is prohibited or restricted by civil defence, national, territorial, defence, police or other emergency authorities; or
- (d) where access or occupation is not feasible as a result of the suspension or dislocation or unavailability of essential services such as energy, water, sewage or air conditioning; or

no rental or outgoings shall be payable from the date of such natural disaster or civil emergency until the premises are able to be accessed again by the Tenant and used to enable it to carry on its business on an unrestricted basis and the Tenant's obligations under the lease shall be suspended until the Tenant is again able to fully access the premises and carry on its business use and the provision shall apply regardless of whether or not the premises or the building are damaged.



## Cancellation

28.2 **FOR** so long as the Tenant under this lease is Her Majesty the Queen, the Landlord shall not at any time:

- (i) cancel the lease;
- (ii) apply for an order for possession;
- (iii) re-enter the premises;
- (iv) lock the Tenant out of the premises; or
- (v) in any way prevent the Tenant from having access to the premises.

28.3 **IN** the event that at any time during the lease term the Tenant can demonstrate to the Landlord that the Tenant:

- (a) by reason of any natural event or Act of God or the provisions of any statute, regulation, bylaw or order of any central or local government authority, the Lessee is prohibited or otherwise prevented from enjoying full and unimpeded access to and use of the premises;

and the events in subclause (a) enure for a continuous period of three months from the occurrence of the particular event, then the Tenant may give to the Landlord one (1) month's written notice to terminate and the lease term shall terminate upon the expiry of such notice.

## Quiet Enjoyment

32.2 **THE** Landlord shall not throughout the term or any renewals of it enter into any lease or other tenancy arrangement, or consent to a sub-letting or assignment of lease or tenancy arrangement, to any tenant which may reasonably be assumed to be likely to use the premises for any noisome, noxious, illegal or offensive trade or business, or to be a nuisance, disturbance or annoyance to the Tenant. The Landlord agrees that the Tenant is entitled to the benefit of any restraint against any such use, and that accordingly the Tenant may enforce the same under the provisions of the Contracts (Privity) Act 1982, or any legislation passed in substitution for that Act.

32.3 **THE** Landlord shall not during the lease term, lease or otherwise permit occupation of any part of the property by a tenant whose business is a Prohibited Use.

For the purposes of this clause, Prohibited Use means the use of the premises for:

- (a) educational or medical facilities;
- (b) the supply of sexual services or adult entertainment;
- (c) the preparation or sale of party pills;
- (d) the preparation and sale of smelly or malodorous food or beverage including licensed premises;
- (e) gambling operations and/or nightclubs;
- (f) video and parlour games;
- (g) pet stores and pet supplies;
- (h) funeral and undertaking services;

- (i) the storage and manufacture of dangerous goods;

and excluding existing permitted uses as at the commencement date of the lease.

32.4 **REGARDLESS** of anything to the contrary in this lease, but subject to clauses 13.1(a) to (f) (inclusive) (as applicable) while the Tenant is in occupation of the premises the Landlord shall use its best endeavours to ensure that when the Landlord, its authorised contractors and agents or any other tenant of the property, is undertaking any fitout maintenance, repairs, replacements, refurbishments, upgrades or any other works to the property, including the common areas, its plant, services, systems or the premises, or to any adjacent land or building owned or controlled by the Landlord, or in which the Landlord or any related company (as that term is defined in the Companies Act 1993) of the Landlord or any shareholder in, or director of, such a company holds any type of financial or other substantial beneficial interest, that

- (a) all noisy and disruptive works are undertaken outside of the hours of 8am to 8pm on Monday to Friday and 9am to 1pm on Saturdays or any other hours mutually agreed by the parties (the Tenant however acknowledging that works may be carried out by the Landlord immediately in the case of emergencies); and
- (b) the Tenant's operations in the premises, and the Tenant's use and enjoyment of the building, the common areas and the premises are not materially disturbed.

32.5 **THE** Landlord shall use reasonable endeavours to procure that all other tenants of the property do not make noise or undertake disruptive activities between the hours of 8am and 8pm, including tenants who are operating within their permitted use.

#### **Renewal of lease**

33.1 **THE** first line of Clause 33.1 is amended by deleting "3" and replacing with "12".

33.1 (a) Clause 33.1(a) is amended by adding the following words at the end of the clause, "but such annual rent shall not be less than the rent payable as at the commencement date of the initial term of the lease".

#### **Assignment or Subletting**

34.3 **IF** the Tenant allows any other part of the Crown (as defined in the Public Finance Act 1989) to occupy any part of the premises for any period of time, such occupation will not be deemed an assignment or sublease and the Landlord's written consent will not be required for such occupation.

34.4 **WHERE** this lease has been assigned to a non Crown entity then the following provision will apply:

- (a) if the assignee exercises any right of renewal, or the Landlord agrees to any variation of this lease, the Tenant will be released unconditionally from this lease from the date of such assignment or variation;
- (b) it will be a condition of the landlord's consent that the assignee:
  - (i) provides a personal guarantee and/or a bank guarantee for a sum equal to six months' annual rent and outgoings; and
  - (ii) enters into a new lease on the current DNZ Property Fund (or successor's) standard deed of lease.

#### **Car Parks**

36.5 **THE** car parks will be clearly identified with signage provided by the Landlord.

## Notices

- 43.1 **IN** clause 43.1(b)(2) delete "or by email".
- 43.2 **DELETE** clause 43.2(d).
- 43.5 **THE** address for service for the Landlord and Tenant are:

Landlord:

DNZ Property Fund  
Level 2, 80 Greys Avenue  
Auckland  
Attention: General Manager - Property

Ph: (09) 912 2690  
Fax: (09) 912 2693

Tenant:

Business Services

Facilities Management  
Inland Revenue  
Asteron Centre  
55 Featherston Street  
PO Box 2198  
Wellington

Attention: Business Services Manager

Ph: (04) 890 6380  
Fax: (04) 890 0064

or as otherwise notified in writing by either party to the other.

## Interpretation

- 45.1 (l) "inherent defect" includes faulty design, construction, or workmanship;
- (m) "building structure" means and includes the foundations, supporting floors, concrete block infill panels, columns, beams, air-conditioning units, ceilings, light fittings, toilets and other service and amenity areas, floor coverings, lifts, trusses and supporting components and walls (including exterior walls and cladding) and all other load bearing elements of the building impacting on the strength and stability of the building and includes all roof cladding, exterior windows and doors (and associated components if any) and all sprinkler and fire systems (and associated components if any);
- (n) "the common areas" include rights of access to the premises and carparks described in the First Schedule as are necessary for the Tenant's enjoyment of those areas.

## Air-conditioning Refrigerant

- 46.1 **SHOULD** any air-conditioning system installed on the premises by the Landlord use HCFC as its refrigerant and should either HCFC become impossible to procure or its use become illegal, then the Landlord will as soon as reasonably practicable, at the Landlord's cost, modify the air-conditioning system to use refrigerants other than HCFC.

## Asbestos

- 47.1 **THE** Landlord warrants as a condition of this lease that the premises have no asbestos content in any component part, or alternatively, that should the premises have any asbestos content, then the Landlord will, at the Landlord's expense in all things, remove and replace asbestos components within a reasonable time of being requested to do so in writing by the Tenant or by such later date as may be agreed between the parties (time being of the essence in all things).

## Use of Common Areas

- 48.1 **THE** Landlord shall ensure that the common areas are used by all tenants in a quiet manner which causes no disruption to any other tenants and will not allow activities in the common areas which create unreasonable levels of noise.

## Confidentiality and Personnel

- 49.1 (a) **SUBJECT** to Clause 49.1(b), each party will maintain as confidential at all times, and will not at any time directly or indirectly:
- (i) disclose or permit to be disclosed to any person;
  - (ii) use for itself; or
  - (iii) use to the detriment of the other party,
- any Confidential Information of the other party except:
- (aa) as required by law or any Crown procurement rules or any requirements of the NZX, ASX or other public stock exchange;
  - (bb) as is already or becomes public knowledge and is obtained from that public source otherwise than as a result of a breach by the party disclosing or using that Confidential Information of any provision of this lease;
  - (cc) for the purpose(s) of complying with its obligations under this lease;
  - (dd) disclosures made to professional advisors for the purposes of advising on the lease with directions to such professional advisors to keep the Confidential Information confidential;
  - (ee) disclosures required for the purpose(s) of any authorised entry to the building or the premises by the Landlord, its agents, and contractors or which are otherwise required in accordance with this lease;
  - (ff) as authorised in writing by the other party; or
  - (gg) as expressly permitted under clause 49.1(b).
- (b) **THE** Tenant may with the prior written consent of the Landlord (at its sole discretion), during and after the lease term, use itself and/or disclose to, and allow use by, any of its Related Parties, any Confidential Information of the Landlord for any business or operational purposes or proposed business or operational purposes of the Tenant or the Crown (or any part of it).
- 49.2 **WHILE** the Crown is the Tenant in possession of the premises:
- (a) Prior to any access to or inspections of the premises being undertaken by or on behalf of the Landlord whether pursuant to any right or power of the Landlord under this lease or at law or otherwise and except in an emergency as otherwise provided for under this lease whether by any employee, invitee, service contractor or other representative of the

Landlord (Landlord's Representative) the Landlord shall provide to the Tenant on each such occasion the following details in writing as part of the Landlord's written notice requesting access;

- (i) the name, occupation and employer for each of the Landlord's Representatives;
  - (ii) the areas of the premises to which access is required;
  - (iii) the time such access is proposed to be undertaken and the duration for which access is required;
  - (iv) the purpose for which access is required;
  - (v) confirmation as to whether any photographs of areas of the premises are required in which event the Tenant must take the photographs and provide them to the Landlord (the landlord in its notice explaining the necessity for photographs);
  - (vi) acceptance of the requirement for any staff of the Tenant accompany the Landlord's Representative; and
  - (vii) acceptance that the Tenant can verify with the Landlord the request for the Landlord's Representative to have access to the premises and any other details.
- (b) The Landlord must ensure all of its Landlord's Representatives who access the premises, and all other people that the Landlord allows or authorises to access the premises at any time:
- (i) comply with all protocols, policies, codes of conduct and/or procedures (including any changes or updates to such protocols, policies, codes of conduct and/or procedures) specified by the Tenant from time to time; and
  - (ii) do not access or remain on the premises without being accompanied by an authorised employee or agent of the Tenant, unless otherwise agreed by the Tenant.
- (c) The Landlord acknowledges and agrees that the Tenant may at any time during the term of the lease conduct tax compliance checks and/or criminal checks in relation to the Landlord. Such tax compliance and/or criminal checks will be conducted in the manner determined by the Tenant. The Landlord shall obtain all necessary consents for such purposes (time being of the essence) **PROVIDED THAT** if the building in which the Premises are situated is sold to a company (other than a company listed on the main board of a public stock exchange) then this clause 49.2(c) will apply in relation to the Landlord and/or any director or shareholder of the Landlord.
- (d) If the Tenant:
- (i) considers (in its sole discretion) that any person described in the first paragraph of clause 49.2(b) does not meet or has not complied with any requirement set out in clause 49.2(b)
  - (ii) is not satisfied with the results of any tax or criminal check performed on any person described in clause 49.2(c);

then, without limiting any of the Tenant's other rights or remedies, the Tenant may refuse that person entry to, and/or require that person be removed from, the premises and the Landlord will ensure that person does not enter, and/or is promptly removed from, the Premises.

49.3 IN this clause 49 the following definitions apply:

- (a) Confidential Information means, in relation to a party, any information (in any form whether written, electronic or otherwise):
  - (i) confidential to that party and relating to the provisions of this lease or the details of the structure, layout, access and security of the building and the premises;
  - (ii) relating to the business or operations of that party;
  - (iii) disclosed by that party to the other party on the express basis that such information is confidential;
  - (iv) which might reasonably be expected by that party to be confidential in nature; and
  - (v) in relation to the Tenant, includes the Tenant Data.
- (b) Tenant Data means all data and information in any form (whether written, electronic or otherwise) relating to the Tenant and/or its operations, facilities, customers, taxpayers, suppliers and/or Related Parties.
- (c) Related Parties means the personnel (including representatives, employees and agents), contractors, subcontractors and service providers (including potential service providers) of the Tenant or the Crown (or any part of it), all other persons acting on behalf of or at the direction of the Tenant or the Crown (or any part of it) (excluding the Landlord) and the Crown (and any part of it).

#### **Liquor Licence**

- 50.1 **THE** parties acknowledge that the Tenant may from time to time hold social functions in the premises at which alcohol may be supplied, served or sold. The Landlord acknowledges that it shall in no way hinder, obstruct, prevent or in any other manner stand in the way of the Tenant obtaining any necessary permits, licences or permissions which are necessary to hold such functions. The Landlord irrevocably consents to such permits, licences and permissions. The Landlord shall promptly give any necessary further consents or approvals and shall do anything necessary, as the Landlord of the Building, in support of any such applications by the Tenant to enable the Tenant to obtain any such permit, licence or permission as may be necessary to legally sell, serve or supply alcohol in the premises.

#### **Right of first refusal**

- 51.1 **SO** long as Her Majesty the Queen is the Tenant under the lease and the occupier of the Premises, and provided the Tenant has duly and punctually observed the terms of the lease the following further provisions will apply, and prevail over any other provision in the lease in the event of conflict.
- 51.2 **IF** at any time during the lease term part of the premises on the Ground Floor of the building or the adjacent premises on Level One in the building (or both) become available for lease (**Unlet Space**) and the Landlord wishes to lease the Unlet Space, then provided that the Unlet Space is not subject to any prior right or claim by an existing tenant, the Landlord will first offer any new lease of the Unlet Space to the Tenant on the following terms and conditions:
- (a) The Landlord will give notice in writing to the Tenant specifying the terms and conditions including the form of lease that the Landlord requires the Tenant to enter into, term, rent and outgoings on which the Landlord would be prepared to lease the Unlet Space (the **Landlord's Notice**) to the Tenant.
  - (b) The Tenant may within 10 days after the receipt of the Landlord's Notice (time being of the essence) (**Notice Period**) give notice in writing to the Landlord of the Tenant's intention to lease the Unlet Space upon the terms and conditions specified in the Landlord's Notice.



51.3 THE giving of the Landlord's Notice and the giving of the second notice by the Tenant constitutes an agreement to lease the Unlet Space upon the terms and conditions specified in the Landlord's Notice, and otherwise on the terms and conditions of this lease. The parties will then take all necessary steps to complete a formal deed of lease promptly.

51.4 IF the Tenant:

- (a) does not within the Notice Period signify its intention to lease the Unlet Space in the preceding manner; or
- (b) at any time within the Notice Period signifies its intention not to lease the Unlet Space on the terms and conditions specified.

then the Landlord will be at liberty to lease the Unlet Space to any other person.





FIFTH SCHEDULE — LANDLORD'S FIXTURES AND FITTINGS

Item	Condition
Ceiling	New
Carpet and floor coverings	New
Air conditioning	New
Electrical distribution board	Good
Toilets	Good
Lighting	New

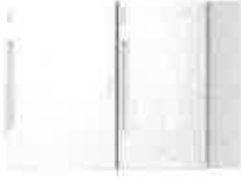
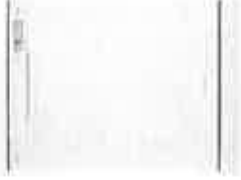

SIXTH SCHEDULE — TENANT'S FIXTURES AND FITTINGS




See attached 11081 8002 Fittings Schedule





**Project:** INLAND REVENUE CONTACT CENTRE  
**Address:** LEVEL 01, 650 GT SOUTH ROAD  
**Amendment:** 0 16.03.2012  
**Job No.:** 11081  
**Date:** 13.01.2012  
**Reason:** FOR CONSTRUCTION

Amt	Item	Description	Supplier	Qty	Image
<b>CAFÉ KITCHEN BENCH</b>					
0	Zenith Hydrotap	Instant Boiling & Chilled filter water With tap font & oversized levers 500w x 465d x 365h BC150/175 <b>PLEASE NO EXTRA VENTILATION GRILLE</b> (Door will have grille & will be undercut at bottom)	<a href="http://www.zenithheaters.co.nz">www.zenithheaters.co.nz</a>	1	
A	Stainless Steel Sink Insert	Model: Euroline ME S950-2 1 & 1/4 bowl and drainer Dimensions: 950 length x 508 width Finish: Stainless	Mercer	1	

2

Amdt	Item	Description	Supplier	QTY	Image
A	Double Dishdrawer	Model: DD60DCW6 One Touch 2 x 6 place setting dishwasher Dimensions: H 819.5 (min) 879.5 (max) x W 599 x D 570 Finish: White	Fisher & Paykel <a href="http://www.fisherpaykel.co.nz">www.fisherpaykel.co.nz</a>	1	
A	Dishwasher	Model: DD60CCW1 FP AA One Touch 2 x 6 place setting dishwasher Dimensions: H 870 (max) x W 595 x D 600 Finish: White	Fisher & Paykel <a href="http://www.fisherpaykel.co.nz">www.fisherpaykel.co.nz</a>	1	
A	Rubbish & Recycling Bins	Kitchen King KC50D drawer pull 50 l single bucket W 340 x H 590 x D 410mm	Kitchen King <a href="http://www.hideawaybins.co.nz">www.hideawaybins.co.nz</a>	3	

Amdt	Item	Description	Supplier	QTY	Image
<b>CAFÉ TEA / COFFEE BENCH</b>					
A	Zenith Hydro tap	Instant Boiling & Chilled filter water With tap font & oversized levers 500w x 465d x 365h BC150/175 <b>PLEASE NO EXTRA VENTILATION GRILLE</b> (Door will have grille & will be undercut at bottom)	<a href="http://www.zenithheaters.co.nz">www.zenithheaters.co.nz</a>	1	
A	Round SS Sink	Mercer Verona Round sink bowl in Laminale top	Mercer	1	
A	Tap	Methven Minimalist Mixer		1	

Amdt:	Item	Description	Supplier:	QTY	Image
A	Rubbish & Recycling Bins	Kitchen King KC50D drawer pull 50 l single bucket W 340 x H 590 x D 410mm	Kitchen King <a href="http://www.hideawaybins.co.nz">www.hideawaybins.co.nz</a>	2	
<b>SICK BAY</b>					
A	Vanity	Sapphire Durastone Vanity 600	Englefield	1	
A	WHB Tap	Methven Minimalist Basin Mixer		1	
A	Paper Towel Dispenser	Hale HL725-P Paper Towel Dispenser Cold rolled steel with white powder coating. Dimensions: W 280 x H 369 x D 102mm		1	

Amdt	Item	Description	Supplier	QTY	Image
<b>MISCELLANEOUS</b>					
A	Door handle Kitchen Cabinetry Handles	4332 200 long	Elite Hardware		 

*[Handwritten signature]*



## **SEVENTH SCHEDULE – RULES OF THE BUILDING**

### **Rules of the Building**

#### **Preamble**

The Rules set out in this Schedule are made for the safety, care, operation, security and cleanliness of the building and for the preservation of good order, safety and comfort of tenants and occupiers in and visitors to the building.

#### **1. Building directory**

---

The Landlord must maintain a directory of tenants in the main entrance lobby of the building. Name plates on the directory will be fixed for the Tenant by the Landlord at the cost of the Tenant and the form of each will be solely determined by the Landlord.

#### **2. Ejection of rubbish or other articles**

---

The Tenant must not drop or throw or permit to be dropped or to be thrown or to fall any article from or out of the premises, the common areas or the roof of the building or into the lift wells or any public areas and must not place any article upon any sill ledge or other like part.

#### **3. Eviction**

---

The Landlord reserves the right to exclude or evict from the building any person who in the opinion of the Landlord is under the influence of intoxicating liquor or drugs or who in any manner wilfully does any act in violation of these Rules.

#### **4. Name of building**

---

If the name of the building is used by the Tenant on letterheads or other business forms or advertising material then the name so used must be the full and proper name of the building. It is acknowledged by the parties that the Landlord is the owner of all naming and advertising rights of the building.

#### **5. Goods delivery**

---

The Tenant will use for all movement of goods or articles of bulk or quantity only parts of the premises and common areas at the times that the Landlord directs and must comply with all directions of any duly authorised officer of the Landlord concerning the operation of any loading or unloading area in or about the building.

#### **6. Interference with machinery**

---

The Tenant will not interfere with or attempt to control any part of any of the Landlord's machinery installed or to be installed in any part of the building or in the premises.

#### **7. Forbidden activities**

---

The Tenant will not allow members of any charitable or other organisation to hold functions or solicit donations within the premises without the prior written consent of the Landlord.

## **8. Statements**

---

The Tenant will not issue statements, verbal or written to the media in respect of the building. Requests for statements or interviews shall be referred to the Landlord or its representatives.

## **9. Emergency contact**

---

The Tenant will advise the Landlord of the private address and telephone number of the Tenant or if the Tenant is a corporation or government department or part of the Crown of some responsible person employed by the Tenant and shall keep the Landlord promptly informed of any change of such address or telephone number.

## **10. External window cleaning**

---

If the Tenant requires cleaning of external window surfaces more frequently than the Landlord considers appropriate, the costs of such additional cleaning will be paid for by the Tenant requesting such additional cleaning, or if more than one Tenant is involved then proportionately by each Tenant calculated on the area of floor space occupied.

## **11. Dangerous goods**

---

The Tenant will not except for customary office applications use or allow to be used any chemicals or inflammable gases fluids or substances in or on the premises and will not use or allow to be used any method of heating or lighting the premises other than by electric current or gas supplied through the meters.

## **12. Not to erect window coverings without consent**

---

- (a) The Tenant will not erect internal or external window coverings, blinds, drapes, curtains, screens or awnings without the consent in writing of the Landlord and in any event any such items installed in the premises shall be of non-flammable material and will comply with all relevant standards approved by the Landlord and in compliance with the provisions and requirements of all relevant authorities.
- (b) The Tenant will maintain in a neat, clean and proper state of repair all window curtains or coverings whether supplied by the Landlord or otherwise and will as often as the need (in the opinion of the Landlord) arises replace at the Tenant's own cost any curtain or coverings of a material or type nominated by the Landlord. Where such window curtains or coverings are supplied by the Landlord then despite anything contained in this clause, the Landlord may at its discretion if in its opinion such window curtains or coverings require replacement, replace at its cost.
- (c) Other than as provided in **sub-clause (a)** of this **Rule 12**, the Tenant will not in any way without the express written authority of the Landlord cover or obstruct the windows.

## **13. Tenant to participate in fire drill**

---

The Landlord will have the right to require the Tenant to perform fire drills from time to time and observe all necessary and proper emergency evacuation procedures including the appointment and participation of appropriate fire wardens and the Tenant and the Tenant's visitors will co-operate with the Landlord in performing such drills and procedures. In no case will there be any compensation payable by the Landlord on account of any loss or damage caused to or sustained by the Tenant and the Tenant's visitors.

#### **14. After hours opening and access to the premises**

---

- (a) The Tenant will be entitled to use the premises throughout the 24 hours of each day in the year. Access to the premises for the Tenant's nominated staff outside normal business hours (being 8am to 6pm on any working day) or otherwise stipulated by the Landlord on weekdays and on Saturdays, Sundays and gazetted public holidays will be regulated by the security procedures provided by the Landlord or otherwise as previously agreed in writing by the Landlord but the Landlord will not be liable for any reason should the Tenant be unable to gain entry to the building.
- (b) The Landlord reserves the right to close the building or any part of the building as may be required to be closed by operation of law or in the case of an emergency or if the Landlord deems such action reasonably necessary for the safety of any person or property within or on the building. The Landlord may close lock off or otherwise control the common areas or any part of it from time to time to protect the Landlord's or any tenant's interest or any public interest as the Landlord may deem necessary or desirable and any such action or actions on the part of the Landlord will not entitle the Tenant to determine the lease or claim an abatement of rental or claim damages or compensation from the Landlord.
- (c) In the event that the Landlord shall at the request of the Tenant open or operate or both plant for any part of the building or premises during any hours of restricted access or at times otherwise than as specified by the Landlord in relation to the operation of the air-conditioning plant or lifts then all costs and expenses of so doing including without affecting to the generality of the foregoing labour, energy, security and air-conditioning (all such costs and expenses to be as assessed by the Landlord from time to time) will be borne by the Tenant and paid to the Landlord immediately upon demand and in the event of default in such payment by the Tenant such costs and expenses shall be deemed to be rent in arrears and recoverable accordingly.

#### **15. Keys, access and security**

---

- (a) The Tenant acknowledges that all keys or access cards relating to the building or to the premises held by the Tenant during its occupancy (whether they have been provided by the Landlord or made or procured by the Tenant for the Tenant's own use) shall be surrendered to the Landlord at the end of this lease and the Tenant shall not cause or suffer to be made any duplicates nor make any changes to it without the prior consent of the Landlord.
- (b) The Tenant will provide keys or access cards only to employees of the Tenant and shall keep a list of the recipients of keys and access cards and their status and shall immediately upon request from the Landlord provide the Landlord with an updated copy of the list. In the interests of effective security the Landlord has the right (at its sole discretion) to restrict the number of keys and cards issued.
- (c) If any key or access card is lost stolen destroyed or mutilated the Tenant will pay all costs and expenses (including the cost of replacement of changing locks as considered necessary by the Landlord) arising therefrom immediately upon demand by the Landlord when demanded by the Landlord regardless of how the cost arises.
- (d) All keys and/or access cards will be provided in the first instance by the Landlord on such conditions as it shall impose including the liability of the Tenant to immediately notify the Landlord of and return obsolete cards and keys if the holder is no longer a Tenant or employee of the Tenant and the Tenant will be responsible for the care and retention of all cards and access keys.

## 16. Obstruction

---

The Tenant or the Tenant's visitors will not obstruct or use footpath entrances, lobbies, passages, halls, lifts and staircases (except as may be entirely within the premises) for any purposes other than for entry or exit from the premises and in this respect the Tenant will observe all rules and regulations from time to time imposed by any authority relating to fire and other matters of public safety.

## 17. Sound reproduction apparatus

---

The Tenant is not to erect or affix any radio or television mast or antenna to the building without the Landlord's prior written consent. In the event that the Landlord considers that the rights or interests of other Tenants are being adversely affected any consent previously given may be modified or withdrawn on the giving of 14 days notice except with the express prior written consent of the Landlord (and then only in compliance with the terms of such consent).

## 18. Animals birds or pets

---

The Tenant will not keep any animals birds or pets in or about the building or the premises.

## 19. Foodstuffs

---

The Tenant may prepare or cook food only with the consent of the Landlord (at its sole discretion) and in those areas which are provided and approved by the Landlord for that purpose. The customary serving of morning and afternoon teas at any place within the premises is not prevented by this clause.

## 20. Protection of services

---

The Tenant will not use or permit to be used in the toilets and other water supply apparatus for any purpose other than that for which they were constructed and will not place or permit to be placed any tea leaves, sweepings, rubbish, rags, ashes or other foreign or corrosive substances in the apparatus. The cost of repairing any damage resulting to the apparatus arising as a result of such misuse by Tenants or by the employees of Tenants shall be borne by all Tenants in proportion to the area occupied by each of them on the floor level at which the damage has occurred. If the person or Tenant responsible for such damage can be ascertained then the Tenant who employs or whose client it is or that Tenant shall bear the whole of the cost involved.

## 21. Air-conditioning, lifts and other services

---

- (a) Where any plant machinery or equipment for heating cooling or circulating air (all of which are herein included in the expression **air-conditioning plant**) is provided or installed in the building or the premises by the Landlord:
  - (i) The air-conditioning plant will not be operated on Saturdays, Sundays or gazetted public holidays or on such other days as the building is not open to the public except where the Tenant has independent control of the system affecting the premises.
  - (ii) The Tenant will at all times comply with and observe the reasonable requirements of the Landlord in relation to the air-conditioning plant and will not do or permit or suffer to be done anything to the use or ventilation of the premises which might interfere with or impair the efficient operation of the air-conditioning plant in the premises or the building.

- (iii) The Tenant will be required to keep the sun protection devices (if any) installed for the purpose of reflecting solar heat, in the proper operational position (as determined by the Landlord) to ensure the efficient performance of the air-conditioning equipment. While the air-conditioning equipment is operating the windows in the premises will not be opened or permitted to remain open by the Tenant and the Tenant's visitors.
- (b) Where a passenger lift or lifts are provided or installed in the building by the Landlord the Tenant will use those lifts only for passengers and will not except with the express consent of the Landlord or its building supervisor use them for the carriage of goods. When goods are being carried in those lifts it will be the responsibility of the Tenant to ensure that the protective equipment supplied by the Landlord is used as designed and the cost of repairing the damage occasioned through use of the lifts for purposes other than passenger carriage may be charged to the Tenant concerned and where consent is given for the carriage of goods the Tenant shall comply with all reasonable requirements of the Landlord relating to the use time protection making good and any other reasonable costs of and incidental to the consent and to the use.

## **22. Cleaning of premises by Tenant**

---

The Landlord will use its best endeavours to provide a cleaning service from one contractor who will in a proper and workmanlike manner clean all parts of the building including the exterior and interior of all windows, grease traps and all carparking areas and the premises. The Tenant will engage its own cleaning contractor for the premises.

## **23. Notice to Landlord of damage, accident etc.**

---

The Tenant will give notice to the Landlord immediately when it becomes aware of:

- (a) any damage or defects in the premises or the building or in any of the services or facilities provided by the Landlord in the premises or the building; or
- (b) any circumstances likely to cause any damage or injury within the premises or the building or any accident or injury to any person; or
- (c) any damage or defects in the building's security or surveillance system; or
- (d) any infectious illness occurring in the premises or the building and the Tenant shall also give notice of the same to the proper authorities and at the expense of the Tenant shall thoroughly fumigate and disinfect the premises to the satisfaction of such authorities and otherwise comply with their lawful requirements.

## **24. Recycling**

---

The Tenant shall participate in any recycling programme put in place by the Landlord in relation to the building. The Tenant shall ensure that all recyclable waste is separated from other waste and placed in the receptacles provided for separate collection.

## **25. Smoking**

---

- (a) The Tenant shall comply at all times with the provisions of the Smoke-free Environments Act 1990.
- (b) The Tenant shall not and shall not permit any of its employees to smoke in front of the building, in any dockways or in any public areas other than the designated smoking area of the building (if any).

## EIGHTH SCHEDULE – TENANCY PERFORMANCE SPECIFICATIONS



**Inland Revenue**  
*Te Tari Taake*

# **Inland Revenue Department**

## **Tenancy Base Building Specification**

**December 2011**

sd



<b>1.0</b>	<b>Introduction</b>
	<p>This Outline Scope of Lessors Works has been prepared to establish a preferred level of performance and specification to make the buildingsuitable for Inland Revenue requirements.</p> <p>This specification is based upon the standard IRD requirements so as to set a consistent standard of quality accommodation for the Inland Revenue Department (IRD) offices throughout New Zealand and modified to accommodate the existing B+ grade building.</p> <p>The scope is based on all Lessors works being designed and constructed to suit IR layout and occupancy arrangements. This includes in ceiling services works such as lighting, mechanical and fire services and associated second fix works such as thermostats etc.</p>
<b>2.0</b>	<b>Structural Stability</b>
<b>2.1</b>	<p>The building structures shall comply with NZS 4203:1982 Code of Practice (and all subsequent amendments) for general structural design and design loadings for buildings. Where structural work is required the building shall meet the seismic requirements of AS/NZS 1170.6:2004 (and all subsequent amendments). Lessor to certify works undertaken for the Lessee shall meet Code.</p> <p>A full seismic review is currently being under taken by the Lessor. This report will be made available to IRD once it is completed. The Lessors target level of seismic resistance for the office is greater than 67% of the new building standard (NBS). The building currently complies with IRD's requirements of 67% NBS.</p>
<b>2.2</b>	Seismic restraints are to be installed to mechanical services installations and fire system installation. NZS4219:1983 For clarity: Seismic restraints should include all building services.
<b>2.3</b>	The integrity of the suspended ceiling and the ceiling systems must comply with NZS 4203:1982.
<b>2.4</b>	The building must comply with the Auckland Council's Earthquake-prone, Dangerous and Insanitary Buildings Policy.
<b>3.0</b>	<b>Interior Finishes</b>
<b>3.1</b>	<p><b>General</b></p> <p>All finishes shall be of a good quality and to a standard appropriate for grade B+ office space. Finishes are to be robust and durable.</p>
<b>3.2</b>	<b>Ceilings</b>
<b>3.2.1</b>	Provide two way exposed suspended grid and acoustic tiles at a minimum height of 2700mm above finished floor level where allowable within the existing building structure. The above ceiling space height should be a minimum of 300 mm clear space under any structural beams, where practical.
<b>3.2.2</b>	<p>Provide suspended ceiling grid system with mineral fibre 1200x600 tiles including all necessary support structure. Layout of grid to be proposed by the Lessor for client review and comment.</p> <ul style="list-style-type: none"> <li>• Ceiling height, minimum of 2700mm to be achieved where feasible.</li> <li>• Ceilings tiles to be supplied and installed as per the attached specification</li> <li>• Grid powdercoat finish to metal</li> </ul>
<b>3.3</b>	<b>Flooring</b>
<b>3.3.1</b>	<p>Existing carpet tiles provided by the Lessor.</p> <p>IRD may install a network floor box in the seminar room with the prior approval of the Lessor.</p>

<b>3.4</b>	<b>Columns, Spandrels, Core Walls, Lift Lobby walls and Windows</b>
3.4.1	Existing skirting trunking provided by the Lessor.
3.4.3	Interior columns to be strapped and lined. IRD may install cavities on the columns for data and power cabling.
3.4.4	All internal walls, columns, spandrels and bulkheads, flush ceilings etc may be painted by IRD at IRD's cost.
<b>3.5</b>	<b>Doors</b>
3.5.1	Doors have health and safety signage for compliance with relevant health and safety legislation and the Building Act.
3.5.2	Lessor will ensure that all locking systems are in good working order.
<b>3.6</b>	<b>Toilets, Showers, Lockers, Cleaners Cupboard and Kitchenette</b>
3.6.1	Toilet are as existing.
3.6.2	Showers are as existing.
3.6.3	IRD to provide for a cleaners cupboard as part of the tenant fitout. IRD's cleaners may utilise the sink in the common area cleaners cupboard (conditional on IRD's cleaners not disrupting the Lessors cleaners use of the cupboard).
<b>3.7</b>	<b>Stairs</b>
3.7.1	Egress stairs are as existing.
3.7.2	Finishes are as existing.
3.7.3	Security required to all doors.
3.7.4	All surfaces to be easy clean.
<b>4.0</b>	<b>Fire Safety</b>
4.1	The Building has a current warrant of fitness and complies with the relevant fire safety provision under the Building compliance schedule.
4.2	The Lessor shall provide a certified smoke detection and alarm system to the common areas to meet Building Code, and within the tenancy for an open plan layout, IRD to provide additional smoke detection as required by their layout.
4.3	Include and confirm Certified connection to the NZ Fire Service.
4.4	Provide a New Zealand Fire Service approved evacuation plan.
4.5	Provide all statutory exit signage to suit IR layouts for each floor and confirm compliance with Building Code. IRD is to alter the existing compliant signage to suit their layout requirements.
<b>5.0</b>	<b>Plumbing and Drainage Services</b>
5.1	Provide water to sanitary fixtures and sanitary appliances at flow rates which are sufficient for the correct functioning of those fixtures and appliances under normal use.
5.2	Waterless urinals are provided as existing.
5.3	Provision to be allowed for water and drainage services including a floor waste to a kitchenette at the location of the previously installed kitchen. Lessor to provide demarcation for water – valve at high level within the tenancy.

	Demarcation for drain – capped waste under floor in close proximity to floor penetration.
5.4	Install floor by floor water isolating valves.
6.0	<b>Mechanical Services</b>
6.1	<b>Mechanical Systems</b>
6.1.1	As per the attached specifications provided by Jackson Engineering and peer reviewed by Telco Asset Management.
6.1.2	IR shall supply the Lessor with a set of IR frozen layout plans. The Lessor shall design and construct to suit IR layouts and occupancy arrangements. This includes in ceiling services works such as mechanical. The works shall comprise two after hours control zones for HVAC (one for the main space and one for the rear sub-space).
6.2	<b>Design Conditions</b>
	The following design conditions shall be met:
6.2.1	Outdoor design conditions shall be based on the 2.5% design outside air temperatures produced by National Institute of Water and Atmosphere (NIWA).
6.2.2	Indoor design conditions shall be: <ul style="list-style-type: none"> <li>• Winter (Heating) 21°C - 1.5°C</li> <li>• Summer (Cooling) 22°C +1.5 °C</li> <li>• 1 °C dead band</li> </ul>
6.2.3	Noise levels generated by the air conditioning system shall not exceed NC35 in boardrooms and conference rooms, NC37 in small offices and NC40 in large open plan offices, public spaces and toilet areas. Sound level measurements to confirm compliance with these levels shall be undertaken by the building owner and supplied to the IR.
6.2.4	The following minimum heat gains shall be allowed when calculating the air conditioning loads. Current design occupancy is based on standard office density of 10m <sup>2</sup> /person: <ul style="list-style-type: none"> <li>• Lighting 12 W/m<sup>2</sup></li> <li>• Office equipment 20 W/m<sup>2</sup></li> <li>• Occupancy 1 person per 10m<sup>2</sup> average with up to 1 person per 6m<sup>2</sup> in open plan areas.</li> <li>• People meeting Rooms Occupancy as per IR layouts (SK-004 Rev D)</li> </ul>
6.3	<b>Fresh Air Supply</b>
6.3.1	Fresh air capacity shall be provided in accordance with NZ Building Code requirements based on the IR provided occupancy levels (SK-004 Rev D) rather than on a straight area calculation.
6.3.2	Fresh air supply duct work should be brought to within 0.6m of FCU intakes.
6.4	<b>Fan Coil Units and Terminal Units</b>
6.4.1	Shall be suitably zoned to serve areas of similar load. Perimeter and central areas shall not be served by the same unit. The perimeter zone shall be defined as any area within 3.5 metres of an external wall
6.4.2	Shall serve no more than three separate spaces.
6.5	<b>BMS</b>
6.5.1	The existing BMS system shall be suitably adapted to optimise plant / equipment operation and minimise energy use.
6.6	<b>Construction Standards</b>

6.6.1	All mechanical systems shall be supported for both normal service and earthquake loadings.				
6.7	<b>Maintenance</b>				
6.7.1	The designers of the HVAC system shall specify a maintenance plan that ensures the plant is maintained in good working order. Include in As Built documentation.				
6.7.2	The plan shall be part of a maintenance manual that contains details of the HVAC plant. Include in As Built documentation.				
6.7.3	<p>The maintenance contract shall include:</p> <ul style="list-style-type: none"> <li>• Routine inspections of all plant and equipment.</li> <li>• Supply of all parts and labour necessary to effect repairs.</li> <li>• Provision of a call out service to attend to faults.</li> <li>• Submit regular reports detailing the work carried out during each inspection including details of all faults found and repairs carried out. A copy of the reports shall be submitted to IR for works pertaining to their tenancy.</li> <li>• Update of lockdown dates for statutory holidays. Parties to work together to schedule lockdown dates where applicable.</li> </ul>				
7.0	<b>Electrical Services</b>				
7.1	<b>Artificial Lighting</b>				
7.1.1	Light fittings to be supplied and installed are Phillips recessed troffer 2 x 28 w lamps 4,000k with needed diffuser to a maximum of 153 units. The Lessor to supply IRD with a reflected ceiling plan and IRD will then supply a lighting layout plan.				
7.1.2	The lighting design shall be in accordance with the building code requirements for a commercial building. The design will incorporate the New Zealand Standard AS/NZS 1680.2:2008 and Appendix E of the Code of Practice except for the Emin/Eavg and Emin/Emax ratios which will be a minimum of 0.7 by calculation.				
7.1.3	<p>Light levels required are as follows:</p> <table border="1"> <thead> <tr> <th>Area</th><th>Proposed Maintained Average Illuminance (lux)</th></tr> </thead> <tbody> <tr> <td>Open Plan Offices</td><td>320</td></tr> </tbody> </table> <p>Subject to tenant layout and an average reading being taken.</p>	Area	Proposed Maintained Average Illuminance (lux)	Open Plan Offices	320
Area	Proposed Maintained Average Illuminance (lux)				
Open Plan Offices	320				
7.1.4	Lighting design will have particular regard to energy efficiency and the interior building to have a lighting power usage of no more than 12 watts per square metre. With the 153 units being supplied by the Lessor a power usage of 9 watts per square metre will be achieved.				
7.1.9	All enclosed spaces to be lit as per existing.				
7.1.10	Bulk area light sensor and DALI control system to be supplied and installed by IRD at their discretion.				
7.2	<b>Emergency Lighting</b>				
7.2.1	All emergency and EXIT fittings are to be a self-contained type provided with integral high quality battery systems.				
7.2.2	Emergency lighting exit signs to be provided over every exit door into exit pathway. Lessor to supply, any additional exit signs to be supplied and installed by IRD.				
7.3	<b>Power Points and Wiring</b>				
7.3.1	Power points and wiring are as existing. Any additional requirements for power points and wiring are at IRD's cost to supply and install.				

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<b>7.4</b>	<b>Main Electrical Supply</b>
7.4.1	Electrical supply cables must be capable of achieving a minimum of 30% more than the total estimated building load.
7.4.2	Confirm the neutral conductors have the same cross sectional area size as each phase cable cross section area (no half size neutrals).
<b>7.5</b>	<b>Floor and Area Switchboards</b>
7.5.1	Switchboards are as existing. Any additional requirements for switchboards or switchboard components are at IRD's cost to supply and install.
7.5.2	Provide a dedicated switchboard for Mechanical Services. Any controllers or contactors are to be mounted separately from the Mechanical Services switchboard.
<b>7.6</b>	<b>Earthing</b>
7.6.1	Earthing is as existing. Any additional requirements for earthing are at IRD's cost to supply and install.
<b>7.7</b>	<b>Security and MATV</b>
7.7.1	The Lessor will seek the permission of the other buildings tenants for IRD to take a feed from an existing satellite dish.
7.7.2	Tecom system installed by the Lessor on all external and common area doors to the building and the lifts. IRD to control their own doors. The Lessor to assist IRD with any integration of the Lessor and IRD systems.
<b>8.0</b>	<b>General</b>
<b>8.1</b>	<b>Disabled Requirements</b>
8.1.1	The Building must comply with the NZ Building Code and the Disabled Code NZS 4121:2001 in all respects for access routes, toilets, showers, fittings and hardware, signage and parking.
<b>8.2</b>	<b>Health and Safety in Employment Act 1992</b>
8.2.1	The Building (as provided by the Lessor) must comply in all respects with the requirements of the Health & Safety in Employment Act 1992.
<b>8.3</b>	<b>Hazardous Substances — Indoor Pollutants</b>
8.3.1	All electrical equipment in new installations shall be Polychlorinated Biphenyls (PCBs) free.
8.3.2	Exclude Chlorofluorocarbons (CFCs) or ozone depleting substances. This encompasses refrigerators, air conditioners, furnishing foams and halons in fire extinguishers. Tenant fitout works to also comply with this requirement.
8.3.3	Exclude the use of all materials with formaldehyde content, where practical.
8.3.4	Avoid the use of all other materials with high VOC (Volatile Organic Compounds) emissions, including benzene.
8.3.5	The building is to have an effective non-smoking policy in place during construction and operation for all areas other than the designated smoking area at the rear car park of the building.
<b>8.4</b>	<b>Healthy and Sustainable Materials</b>

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8.4.1	Durable and quality materials to be used with the overall objective to reduce waste and maintenance.
8.4.2	Certified materials and materials with recycled content are to be used wherever possible.
8.5	<b>Car parking</b>
8.5.1	Car parking areas to be designed to meet guidelines under AS/NZ 2890:1993
9.0	<b>Compliance and Warranties</b>
9.1	The entire building to comply with NZ Building Code and Territorial Authority requirements in respect to works that are undertaken for the Lessee.
9.2	On completion provide a specification and up to date As Built documentation for mechanical, lighting, fire services, ceilings.
9.3	On completion provide IR with a copy of the Code Compliance Certificate issued in accordance with the NZ Building Code by the Territory Authority for the HVAC works only.
9.4	Provide certified schedules of commissioning of the HVAC systems to verify compliance with design and best industry standard practice.
10.0	<b>Call Centre Performance</b>
	The following building specification sets out specific standard for an IRD Call centre Building requirement. Standards identified in previous sections are applicable to the Call Centre building except for specific items identified in this section which take precedence.
10.1	<b>Space Planning and Building Services Design:</b> a) Ideal ratios of 8-10/m <sup>2</sup> per person across Call Centre (including support/facilities). Operation workstation area should achieve 6m <sup>2</sup> per workstation (including circulation). b) Open floor plates are desirable with minimal column intrusion to allow flexibility in layouts.
10.2	<b>Environmental Standards:</b>
10.2.1	<b>Lighting:</b> a) 320 lux in accordance with section 7.0.
10.2.2	<b>Noise Control:</b> a) Background noise may be desirable to provide speech masking. This "white" noise may be provided by air-conditioning plant but must be assessed by specific acoustic engineering evaluation to ensure correct frequency range. Background noise attenuation to be at IRD cost, if required.
10.2.3	<b>Staff Amenities:</b> a) Provide accessible toilet facilities for staff usage.
10.2.4	<b>Emergency Temporary Power Support:</b> a) Existing generator is located on site. This also supplies emergency power to other tenants within the building. The Lessor will arrange for a full live load tenant in January 2012. IRD to advise the tenancy power requirement and confirm the essential power load.



## OUTLINE SPECIFICATION

Air Conditioning	System Type	Two-pipe chilled water fan coil unit installation c/w electric heating elements
	Design Conditions	Summer: 22 °C $\pm$ 1 °C Winter: 21 °C $\pm$ 1 °C  Design outdoor temperature conditions (which are standard 1% design conditions for Auckland, as sourced from NIWA):  Summer design conditions 26°C DB, 22.5°C WB, Winter conditions at 4.5°C DB.
	Centralised Control	Integrate additional chiller plant and associated services into existing Siemens System 800 communication control system. The main building controller is located on the top floor in the corridor near the exit to the roof.
	Outdoor Plant	Air-cooled Chiller (located between NE elevation & podium car park @ ground level), Chilled water buffer tank, chilled water circulation pumps (duty/standby)
	Product Range	Carrier (France)
	Indoor Systems	Mixture of existing & new in-ceiling ducted fan coil units, ceiling mounted supply and return grilles
	Product Range	Temperzone
	Fresh Air Supply	All spaces will receive constant volume fresh air supply, at a rate of 10 litres per second per person (minimum). This will be supplied from 2No. in-ceiling ventilation units to the air inlet on each fan coil unit.
	Fresh Air Temperature	The fresh air temperature will generally be ambient conditions. However, electrical heating element will be capable of raising air temperature from 4.5°C to 15°C during winter months.
	Filtration	F5 grade on outdoor air supplies, G3 grade for all recirculated air.
	Temperature Control	Setpoint adjustable within each zone between 20 degrees and 23 degrees. Actual temperature will be maintained within 1.0 degrees of setpoint.
	Indoor Noise Levels	PNO42 maximum in all open plan occupied spaces, core spaces will be retained at current levels.
	Control Zones	Each zone will be provided with individual temperature control. Perimeter zone maximum size 60 sqm, Internal zone maximum size 80 sqm.
	Zone Control	Wall mounted (where possible, alternatively return air temperature will be used) temperature sensors will be in each zone
	Pipework reticulation	Level 1 pipework reticulation will utilise existing chilled water reverse return system wherever possible, with new pipework connecting L1 to the new external chiller plant.
	Condensate Drainage	Existing condensate system will be re-used wherever possible and extended to serve new FCU locations. Additional supports will be added to existing system, where required to prevent sagging.
	Supply Ductwork	Plenums: 25 mm internal lining, 300 mm minimum length. Supply ductwork: Holyoke Spiroloc, 25 mm full-faced external insulation. Diffuser connections: Insulated Spiroflex, 3m max length.
	Fresh Air Exhaust Ductwork	Uninsulated 1.2mm galvanised sheetmetal, flanged connections, or Holyoke Spiroloc.
	Night Purge	Night purge can be programmed on the ventilation units as requested.

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**Dated** \_\_\_\_\_

**Between**

**Landlord**

**and**

**Tenant**

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## **DEED OF LEASE**

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## Deed of further demise

relating to

Unisys House, 650 Great South Road, Penrose, Auckland

DNZ Property Fund Limited

Landlord

and

Her Majesty the Queen in Right of New Zealand acting by and  
through the Commissioner of Inland Revenue

Tenant

Date 31 MARCH 2013

**BELL GULLY**

AUCKLAND VERO CENTRE, 49 SHORTLAND STREET  
PO BOX 4199, AUCKLAND 1140, DX CP20109, NEW ZEALAND  
TEL 04 376 8810 FAX 04 376 8811



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*Phil*  
*h*

This Deed of further demise is made on 31 MARCH 2013

between (1) DNZ Property Fund Limited (Landlord)

and (2) Her Majesty the Queen in Right of New Zealand acting by and through the Commissioner of Inland Revenue (Tenant)

## Introduction

- A. The Landlord and the Tenant are the current parties to the Lease.
- B. The term of the Lease is six (6) years.
- C. The Landlord and Tenant have agreed to the demise of the Additional Premises from the Variation Date.

## It is agreed

### 1. Interpretation

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#### 1.1 Definitions

In this deed, unless inconsistent with the context, the following definitions apply:

**Additional Premises** means part level one, 650 Great South Road, Penrose, Auckland being approximately 600.86m<sup>2</sup> as shown (for identification purposes only) in red on the plan attached to this deed and adjoining the Existing Premises;

**Annual Rent** means the rent payable from time to time pursuant to the Lease;

**Existing Premises** means part level one, 650 Great South Road, Penrose, Auckland being approximately 1,491.91m<sup>2</sup>, as further described in the Lease;

**GST** means goods and services tax charged under the Goods & Services Tax Act 1985 and any tax imposed in substitution for that tax;

**Landlord** includes the Landlord's successors, executors, administrators and assigns;

**Lease** means the lease of the Existing Premises dated 7 November 2012 between the Landlord and the Tenant;

**Tenant** includes the Tenant's successors, executors, administrators and permitted assigns; and

**Variation Date** means the variation date set out in the letter from the Landlord to the Tenant dated 27 March 2013.

## 2. Further Demise

- 2.1 From the Variation Date, the Landlord grants to the Tenant and the Tenant takes on lease the Additional Premises so that the premises under the Lease shall comprise:

- (a) the Existing Premises; and
- (b) the Additional Premises,

to be held by the Tenant on the same terms, covenants and conditions as contained in the Lease, except as varied by this deed.

For the avoidance of doubt, the parties acknowledge and agree that notwithstanding that this deed may operate at law as a surrender of the Lease of Existing Premises and re-grant of a lease of Existing Premises and Additional Premises combined, for the purposes of determining each parties' rights under the Lease the commencement date in respect of the Existing Premises is deemed to be 19 March 2012.

## 3. Rent

- 3.1 The Annual Rent payable by the Tenant to the Landlord for the Additional Premises from the Variation Date shall be \$144,206.40 per annum plus GST, payable in advance by equal monthly payments of \$12,017.20 plus GST and subject to review in the manner specified in the Lease plus outgoings payable in accordance with the Lease in respect of the Additional Premises.

## 4. Rent Abatement

- 4.1 Notwithstanding the Annual Rent set out above, in consideration of the Tenant taking on the Additional Premises, for so long as Her Majesty the Queen acting by and through the Commissioner of Inland Revenue is Tenant and occupying the Premises then:

- (a) the Tenant shall be entitled to a rent abatement in respect of the Additional Premises of \$117,329.22 plus GST in total (the **Rent Abatement**);
- (b) The Rent Abatement shall be applied to the Annual Rent for the Additional Premises payable for the period from the Variation Date to 18 March 2015 (**Rent Abatement Period**) only as a monthly reduction in Annual Rent.

- 4.2 For clarity:

- (a) the Rent Abatement will not be taken into account for the purposes of rent review at any time during the term of the Lease; and
- (b) the Rent Abatement does not affect the Tenant's obligation to pay outgoings and all other moneys due to be paid by the Tenant, and to comply with all other obligations imposed on the Tenant under the Lease.

## 5. Landlord's and Tenant's fixtures and fittings

- 5.1 The parties acknowledge the condition of the Landlord's Fixtures and Fittings in relation to the Additional Premises are as follows:

Item	Condition
Kitchenette	Good
Carpet	New
Lights	New
Ceiling Tiles	New

## 6. Tenancy Performance Specifications

- 6.1 In relation to the Additional Premises only, the parties acknowledge that tenancy performance specifications (Eight Schedule of the Lease) 6.1.2, 6.2.3, 6.2.4, and 6.3.1 are deleted and replaced as follows:
- 6.1.2 IR shall supply the Lessor with an IR frozen layout plan. The Lessor shall design and construct to suit IR layouts and occupancy arrangements. This includes in ceiling services works such as mechanical. The works shall comprise one after hours control zone for HVAC.
- 6.2.3 Noise levels generated by the air conditioning system shall not exceed NC37 in small offices and NC40 in large open plan office areas. Sound level measurements to confirm compliance with these levels shall be undertaken by the building owner and supplied to the IR.
- 6.2.4 The following minimum heat gains shall be allowed when calculating the air conditioning loads. Current design occupancy is based on standard office density of 10m<sup>2</sup> per person:
- |                       |  |
|-----------------------|--|
| (i) Lighting          | As the current installation              |
| (ii) Office Equipment | 20W/m <sup>2</sup>                       |
| (iii) Occupancy       | As per the IR frozen layout (P2000 revC) |
- 6.3.1 Fresh air capacity shall be provided in accordance with NZ Building Code requirements and based on the IR frozen layout providing occupancy level (P2000 revC) rather than a straight area calculation."
- 6.2 In relation to the Additional Premises only, the parties acknowledge that the outline specification in relation to the air-conditioning (Eight Schedule of the Lease) is deleted and replaced with the outline specification annexed to this deed at Annexure 2.

## 7. Confirmation of terms

Except as expressly varied by this deed, all the terms of the Lease are confirmed and remain in full force and effect.

## 8. Costs

Each party shall pay its own costs and disbursements in relation to the negotiation, preparation, and execution of this deed.

# Execution

Executed as a deed.

DNZ Property Fund Limited by

Director

Paul John Duffy  
DIRECTOR

Print Name

Director/Authorised Signatory

Patrick Gerard O'Reilly

AUTHORISED SIGNATORY

Print Name

Witness to both signatures  
(if not signed by two directors)

Print Name

Name

Eve Denny

Occupation

Lease Administrator

Address

Auckland

Address

Her Majesty the Queen in Right  
of New Zealand acting by and  
through the Commissioner of  
Inland Revenue by

Authorised Signatory

Print Name

Authorised Signatory

Print Name

Witness to both signatures  
(if not signed by two directors)

Print Name

Occupation

Address

Property Manager

18 Queen St, 11th Flr

Wellington

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**Annexure 1: Plan of Additional Premises**

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## Annexure 2: Outline Specification for HVAC

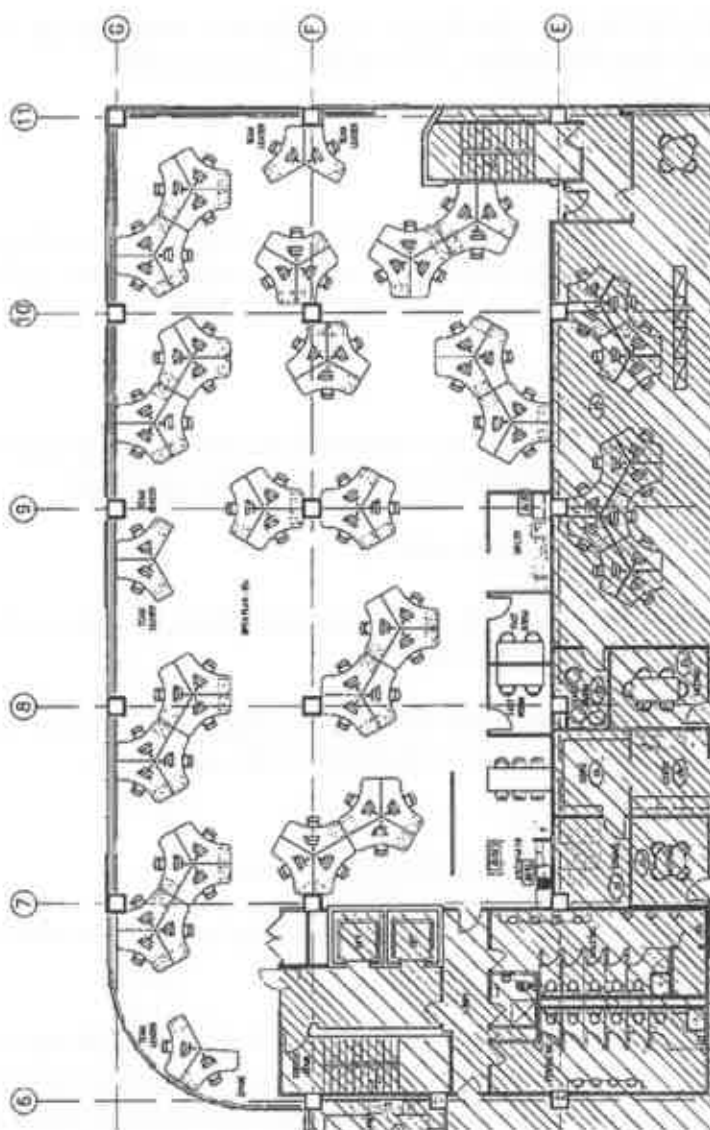
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## OUTLINE SPECIFICATION

ITEM	SPECIFICATION
Air Conditioning	
System Type	Two-pipe chilled water fan coil unit installation c/w electric heating elements
Design Conditions	<p>Summer (Cooling): 22 °C +/- 1 °C  Winter (Heating): 21 °C +/- 1 °C</p> <p>Design outdoor temperature conditions (which are standard 2.5% design conditions for Auckland, as sourced from NIWA)</p> <p>Summer design conditions 25°C DB, 22°C WB.  Winter conditions at 7°C DB.</p>
Centralised Control	Integrate the additional FCU's and associated controls into the existing Siemens System 600 communication control system. The main building controller is located on the top floor in the corridor near the exit to the roof.
Outdoor Plant Product Range	Utilise the existing air-cooled chiller located at roof level. Carrier
Indoor Systems Product Range	Mixture of existing & new in-ceiling ducted fan coil units, ceiling mounted supply and return grilles. Temperzone
Fresh Air Supply	All spaces will receive constant volume fresh air supply, at a rate of 10 litres per second per person (minimum) in accordance with NZ Building Code and based on IFA frozen layout P2000 rev B. This will be supplied from this in-ceiling ventilation units to the air inlet on each fan coil unit.
Fresh Air Temperature	The fresh air temperature will generally be ambient conditions. However, electrical heating element will be capable of raising air temperature from 4.5°C to 15°C during winter months.
Filtration	F5 grade on outdoor air supplies, G3 grade for all recirculated air.
Temperature Control	Setpoint adjustable within each zone between 20 degrees and 23 degrees. Actual temperature will be maintained within 1.0 degrees of setpoint.
Indoor Noise Levels	NC 37 in small office areas and NC 40 in the open plan office.
Control Zones	Each zone will be provided with individual temperature control. Perimeter zone maximum size 50 sqm and up to 3.5 m from an external wall, internal zone maximum size 80 sqm.
Zone Control	Wall mounted (where possible, alternatively return air temperature will be used) temperature sensors will in each zone.
Pipework reticulation	A new tenancy B chilled water reverse return loop will be extended from the existing capped off chilled water service in this area connecting tenancy B to the existing rooftop chiller.
Condensate Drainage	Existing condensate system will be re-used wherever possible and extended to serve new FCU locations. Additional supports will be added to existing system, where required to prevent sagging.
Supply Ductwork	Plenums: 25 mm internal lining, 300 mm minimum length. Supply ductwork: Holiyake Spiroloc, 25 mm foil-faced external insulation. Diffuser connections: Insulated Spiroflex, 3m max length.
Fresh Air Exhaust Ductwork	Uninsulated 1.2mm galvanised sheetmetal, flanged connections, or Holiyake Spiroloc.
Night Purge	Night purge can be programmed on the ventilation units as requested.

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83 GENERAL FLOOR PLAN  
Scale: 1/8" = 1'-0"

# STACK

[illegible]

Inland Revenue  
Dr Tari Toke

1

INLAND REVENUE DEBT &  
RETURN COLLECTIONS BU  
L.T. 650 GREAT SOUTH ROAD  
ELLERSIE

1998

## GENERAL FLOOD PLAN

DATE	NAME	SCORE
12-03-2023	AN	86
TOTAL: 9 / 107-100		
<b>A1</b>		
2023		

27 March 2013

Paul Taggart  
Business Services Manager  
Business Services Facilities Management  
Inland Revenue  
Asteron House  
55 Featherston Street  
Wellington

DNZ PROPERTY FUND LIMITED  
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**DNZ PROPERTY FUND LIMITED – LEASE OF ADDITIONAL PREMISES, PART  
LEVEL ONE, 650 GREAT SOUTH ROAD, PENROSE, AUCKLAND**

Dear Paul

As per our recent discussions, DNZ Property Fund Limited (Landlord) has agreed to lease the remaining tenancy on level one of the above building to Inland Revenue Department (Tenant).

Landlord's Works:

DNZ have agreed to undertake the following Landlord's Works at the cost of the DNZ prior to the Commencement Date of the lease of the additional premises.

Ceiling: AMF Thermatex Thermofon, NCR 0.85

Lighting: 60 x Thorn Quattro 2 x 28w HFD c/w Y5 reeded diffuser + colour 84 tubes, plus relocating the spotlights as indicated on plan

Air Conditioning: Two-pipe chilled water fan coil unit installation c/w electric heating elements and fresh air to comply with current Building Code standards.

The Variation Date (as defined in the Deed of Further Demise):

The Variation Date is the later of Practical Completion of the Landlord's Works (set out above) and 13 May 2013.

For the purposes of this definition, Practical Completion means the date on which the Landlord confirms to the Tenant that the Landlord's Works are substantially complete (except for any works that cannot be completed until any Tenant fitout works are completed) so that the Additional Premises can be reasonably used by the Tenant without material inconvenience.




The Tenant can have early access to the premises from 25 March 2013 to enable it to carry out fitout works in conjunction with the Landlord's Works. The Tenant is to co-operate with the Landlord's contractors and shall co-ordinate with the Landlord to maximise integration of the Landlord's Works and the Tenant's fitout works so that any works are completed in accordance with any indicative timeframes. The Tenant is subject to the overall control and direction of the Landlord and/or its contractor.

Any damage to the premises caused by the Tenant during its fitout works shall be made good by the Tenant to the satisfaction of the Landlord.

Can you please arrange for the attached copy letter to be signed and returned to me as soon as possible.

Yours sincerely

**DNZ PROPERTY FUND LIMITED**




Penelope Baber  
Senior Asset Manager

**DNZ Property Fund Limited  
(Landlord)**



Patrick O'Reilly  
Authorise Signatory

For and on behalf of Her Majesty the  
Queen in Right of New Zealand acting  
by and through the Commissioner of  
Inland Revenue (Tenant)



Name: Paul Taggart  
Position: Business Services Manager