DEED OF LEASE

SIXTH EDITION 2012

DEED made the 21st day of July 2014.

LANDLORD 21 BEACH ROAD OTAHUHU LIMITED

TENANT PACIFIC STEEL (NZ) LIMITED

GUARANTOR NEW ZEALAND STEEL LIMITED

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 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

Witness Occupation

Witness Address

Signature of Landlord

Bryce Robert Bennett.

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

Signature of Landlord

MARK EDWARD FRANCIS.

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

02-360-8446

SIGNED by the Tenant *

in the presence of:

Witness Signature

PAUL PANCHIA

Witness Name

LEGAL EXECUTIVE

Witness Occupation

AUCKLAND

Witness Address

Signature of Tenant

DAVID HAZLEHURST

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

Signature of Tenant

RONALD GLEESON

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

SIGNED by the Guarantor *

in the presence of:

Witness Signature

PAUL PANCHIA

Witness Name

LEGAL EXECUTIVE

Witness Occupation

AUCKLAND

Witness Address

Signature of Guarantor

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

Signature of Guarantor

RONALD GLEESON

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

1. **PREMISES:** All of the land and buildings situated at 21 Beach Road, and comprised in certificates of title NA54A/739 and NA49D/1422, together with the Landlord's chattels, fixtures and fittings, and excludes the Tenant's fixtures and fittings as listed in the Seventh Schedule.

2. **CAR PARKS:** As included in the Premises.

3. **TERM:** Five (5) years

4. **COMMENCEMENT DATE:** 25 June 2014

5. **RIGHTS OF RENEWAL:** Two (2) rights of five (5) years each

6. **RENEWAL DATES:** 25 June 2019, 25 June 2024

7. **FINAL EXPIRY DATE:** 24 June 2029

8. **ANNUAL RENT:** (Subject to review if applicable)

Premises	$	**plus** GST
Car Parks	$	**plus** GST
TOTAL	$ 953,431.00	**plus** GST

9. **MONTHLY RENT:** $ 79,452.58

10. **RENT PAYMENT DATES:** The 1st day of each month commencing on the 1st day of July 2014

11. **RENT REVIEW DATES:** (Specify review type and insert dates for initial term, renewal dates and renewal terms. Unless dates are specified there will be no reviews. Where there is a conflict in dates, the market rent review date will apply.)

    1. Market rent review dates:
       The third annniversary of the Commencement Date and every three years thereafter.
    2. CPI rent review dates:
       Not applicable.

12. **PROPORTION OF OUTGOINGS:** (subclause 3.1) 100 %

13. **DEFAULT INTEREST RATE:** (subclause 5.1) 12 % per annum

14. **BUSINESS USE:** (subclause 16.1) Any use permitted under the District Plan or by any resource consent.

15. LANDLORD'S INSURANCE:
(subclause 23.1)
(Delete or amend extent of cover as appropriate)

(1) Cover for the building against damage and destruction by fire, flood, explosion, lightning, storm, earthquake, and volcanic activity;

on the following basis:

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

(Delete either (a) or (b): 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).

~~(2) Cover for the following additional 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 fittings and chattels.~~
~~(c) Public liability~~

16. NO ACCESS PERIOD:
(subclause 27.6)

(Delete option (1) and complete option (2) if required. If option (1) is not deleted and option (2) is completed then option (2) applies)

(1) 9 months

OR

(2)

FURTHER TERMS (if any)

See Sixth 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~~ 4 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.

(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~~ **immediately prior to the relevant market rent review date.**

(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.

(g) **See Sixth Schedule.**

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.

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 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, 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 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~~ **immediately prior to the relevant market rent review date.**

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.

~~**CPI Rent Review**~~

~~2.5 The annual rent payable from each CPI 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 CPI by giving notice to the Tenant of the increase (if any) using the formula:~~

~~A = B x (C÷D)~~

~~Where:~~

~~A = the CPI reviewed rent from the relevant CPI rent review date~~

~~B = the annual rent payable immediately before the relevant CPI rent review date~~

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

~~D = CPI 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 CPI 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 CPI is discontinued and not replaced, or if there is a material change to the basis of calculation of the CPI, or a resetting of the CPI, 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 CPI is not published at the relevant CPI rent review date, as soon as the CPI is published an appropriate adjustment will be made to the rent (if necessary) with effect from the relevant CPI rent review date.~~

~~(d) Notwithstanding any other provision of subclause 2.5, the annual rent payable as from the relevant CPI 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 CPI 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 CPI 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 CPI rent review date. On determination of the new rent, the Tenant will immediately pay any shortfall to the Landlord.~~

Outgoings

*** To the extent the Tenant is not directly liable for such costs in relation to the premises or building services elsewhere in this deed,**

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.

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** **and all building services situated in 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.

(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 **fences** and surfaced areas in a clean and tidy condition and maintain any garden or lawn areas in a ~~tidy and cared for condition~~. **good order, repair and 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.

8.6 **See Sixth Schedule.**

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

11.1 The Landlord shall keep and maintain the building, **the structural integrity and exterior of** * ~~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) 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.~~

(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.

*** the roof and all external guttering and downpipes and external cladding of the building**

~~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.~~

11.2 - 11.4 See Sixth 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.

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.

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

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.

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 See Sixth Schedule

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.

19.2 See Sixth Schedule.

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 nor be liable for any loss suffered by the Tenant.

20.5-20.7 See Sixth Schedule

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.

(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 noisome 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.

23.3 See Sixth Schedule

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.

(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.

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:

(a) The destruction or damage was intentionally caused by the Tenant or those for whom the Tenant is responsible; or

(b) 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:

(1) occurred on or about the property; and

(2) constitutes an indictable offence within the meaning of the Summary Proceedings Act 1957; or

(c) 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:

(a) As to render the premises untenantable then the term shall at once terminate from the date of destruction or damage; 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 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 untenantable 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 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) A prohibited or restricted access cordon applying to the premises.

(b) 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.

(c) 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:

(a) The Tenant is unable to gain access to the premises for the period specified in the First Schedule; or

(b) 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.

RENEWAL OF LEASE

32.1 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 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~~ **immediately prior to the relevant market rent review date.**

~~(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 paragraph~~s~~ (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~~. **immediately prior to the relevant market rent review date.**

(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 carparks (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.~~

~~Body Corporate~~

~~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.~~

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

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~~.
See Sixth Schedule.

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.

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

LANDLORD'S FIXTURES AND FITTINGS

(Subclause 45.1(f))

Reception counter and desk in the office area.

Fixed air conditioning units in the office area.

FIFTH SCHEDULE

PREMISES CONDITION REPORT

(Subclause 8.1)

SIXTH SCHEDULE – FURTHER TERMS OF LEASE

The Second Schedule of the lease is amended as set out below.

Clause 2.1(g) – Market Rent Review

1 Add a new subclause (g) to the end of clause 2.1 as follows:

> *"For the purposes of clause 2.1, and clause 2.2 if that clause is invoked, in assessing the market rent of the premises, the rental assessment must exclude the value of any additions, improvements, fixtures and fittings paid for or owned by the Tenant."*

Clause 8.6 – Tenant's Obligations

2 Add a new clause 8.6 as follows:

> *"Notwithstanding the provisions of clauses 8.1 and 8.2, and in addition to the Tenant's other maintenance obligations in clauses 8.1 – 8.5, if any deterioration or damage occurs to the building which houses the sulphuric acid plant during the term of this lease and such damage or deterioration is solely the result of that specific use and would not otherwise have occurred, then the Landlord shall not be (and the Tenant shall be) responsible to remedy such deterioration or damage to that building. In the event of such deterioration or damage occurring partly as a result of that specific use then the Landlord and the Tenant shall be jointly responsible (at a time to be agreed upon) to remedy the same and the cost of the same shall be shared proportionately between them based on the extent to which that specific use has contributed to such deterioration or damage. At the time of the expiration or early determination of the term of this lease, an inspection shall be carried out by the Landlord and the Tenant to determine the work which the Tenant (or the Landlord and the Tenant, as the case may be) have to carry out to comply with the provisions of this clause. The Tenant (or the Landlord and the Tenant, as the case may be) shall then forthwith carry out such work. Notwithstanding such expiration or earlier determination of the term of the lease the Tenant shall remain responsible (whether solely or jointly with the Landlord, as the case may be) for carrying out such remedial work and paying its share of the cost of same."*

Clause 11 – Landlord's Maintenance

3 Add a new clause 11.2 as follows:

"Notwithstanding any other provision in the lease other than clause 11.3, and for the avoidance of doubt, apart from the Landlord's obligation to maintain the structural and weatherproof integrity of the building, the roof including all external guttering and down pipes, and external cladding of the building, the Tenant is responsible for all costs, expenses and outgoings incurred in relation to the maintenance and repair of the premises."

4 Add a new clause 11.3 as follows:

> *"The Landlord shall also be responsible to replace any of the Landlord's fixtures and fittings if they have reached the end of their economic life (which shall be determined by the Landlord, acting reasonably), however the Tenant shall be responsible for the ongoing maintenance and keep such fixtures and fittings in clean order, repair and condition."*

5 Add a new clause 11.4 as follows:

"If the Landlord is in material breach of its repair obligations in relation to the roof only pursuant to this clause 11 and where repairs are reasonably required as a matter of urgency such that the want of repair to the roof affects the Tenant from being able to effectively carry out its operation and the permitted use, the Tenant may instruct the Landlord's nominated contractor to undertake the repair work at the cost of the Landlord.

6 Add a new clause 16.3 as follows:

"The Tenant shall indemnify the Landlord against all damage to the premises resulting from any negligent act or omission on the part of the Tenant or the Tenant's agents, employees, contractors or invitees. The Tenant shall recompense the Landlord for all expenses incurred by the Landlord in making good any damage to the premises resulting from any such act or omission ***BUT*** *the Tenant shall be liable to indemnify only to the extent that the Landlord is not fully indemnified under any policy of insurance.*

Clause 19.2 – Signage

7. Add a new clause 19.2 as follows:

"The Landlord acknowledges that all signage displayed at the Premises as at the Commencement Date (and comprising part of Tenant's fixtures and fittings listed in the Seventh Schedule) is deemed to have been consented to, and notwithstanding clause 19.1, the Tenant shall be permitted to substitute such signs with signs of a similar size and character from time to time, without the requirement to obtain the Landlord's consent. The Landlord further acknowledges that save as set out in clause 37.1 it shall not itself erect, or authorise any other person to erect, signage on the Building or the Premises and the Landlord shall not, without the prior written approval of the Tenant, change the colour scheme of the Building exterior."

Clause 20 – Additions, Alterations, Reinstatement and Chattels Removal

8. Add a new clause 20.5 as follows:

"For the purpose of this clause 20 references to "Tenant's chattels" shall include the Tenant's fixtures and fittings listed in the Seventh Schedule."

9. Add a new clause 20.6 as follows:

"Despite clause 20.1, the Landlord acknowledges that the Tenant may at its own cost during any term of this lease make non-structural alterations of a minor nature to the Premises and/or the Building without the need to obtain Landlord consent provided that any such alterations do not require a building consent from the relevant authority and which shall be reinstated by the Tenant as required by clause 20.1."

10. Add a new clause 20.7 as follows:

"If, during any term of this lease:

(a) the Tenant shall have requested the Landlord to consent (and the Landlord has consented) to the carrying out of structural alterations or additions to the premises and/or the building and to meet the cost of such alterations or additions; and

(b) the plans and specifications, building contract and contract price in respect thereof have been approved in writing by the Landlord (such approval not to be unreasonably withheld); and

(c) the Landlord and the Tenant shall have agreed (in their respective sole discretions) in writing upon:

(i) the amount which shall be payable by the Landlord in respect of such alterations or additions; and

(ii) the amount by which the annual rental shall be increased as a consequence of the expenditure to be incurred by the Landlord,

then the Landlord shall approve of such alterations or additions being carried out and use its best endeavours to provide or obtain such finance to meet such cost. If the Landlord is able to provide or obtain such finance it shall notify the Tenant in writing to that effect, in which case:

(d) the Landlord shall be obliged to meet such cost; and

(e) there shall be added to the annual rental payable hereunder as from the date of completion of the work such amount as shall have been agreed in writing by the Landlord and the Tenant in accordance with the provisions of this clause."

Clause 23 – Insurance

11. Add a new clause 23.3 as follows:

"The Tenant shall at its cost keep current during the terms of this lease a policy or policies of insurance in respect of the following:

(f) public risk insurance applicable to the Tenant's business carried out on the premises for an amount no less than $2,000,000.00 (being the amount which may be paid out arising out of any one single accident or event) or such higher amount as the Landlord may from time to time reasonably require; and

(g) cover to full insurable value on a replacement basis against all insurable risks for all glass (including plate glass) in or enclosing the premises,

such insurances to be effected with an insurance company reasonably acceptable to the Landlord (such approval not to be unnecessarily or arbitrarily withheld or delayed). The Tenant shall ensure that the policies note the interest of the Landlord and shall provide the Landlord with a certificate of currency of insurance when reasonably required."

Clause 33.4 – Assignment or Subletting

12. Add a new clause 33.4 as follows:

"Notwithstanding clause 33.1, any transfer or assignment of this lease to a related company of Pacific Steel (NZ) Limited (as that term is defined in the Companies Act 1993) will not be an assignment to which the Landlord's consent is required. In the event of an assignment of the premises pursuant to this clause, the assignee shall execute and deliver a deed of covenant in customary form to the Landlord."

Clause 41.1 – Land Transfer Title or Mortgagee's Consent

13. Delete clause 41.1 and replace with the following:

"If required by the Tenant, the Landlord will at the Tenant's cost upon such request:

(h) use reasonable endeavours to register this lease provided that the Tenant shall provide the Landlord with all reasonable assistance in relation to any requisitions raised by LINZ in respect thereof; and/or

(i) obtain the written consent of any mortgagee of the property to this lease and provide a copy of such consent to the Tenant."

Clause 46 – Right of First Refusal

14. Add a new clause 46 as follows:

"46.1 If at any time during the term of this lease (including any renewed term) the Landlord decides to sell the premises, then in consideration of the Tenant paying to the Landlord the sum of $10.00 (the receipt of which is acknowledged):

(a) if the Landlord's decision to sell the premises is in response to an offer received from an unrelated third party to purchase the premises before the Landlord has proceeded to market the premises, the Landlord shall:

(i) notify the Tenant in writing of the identity of the unrelated third party; and

(ii) before entering into any binding agreement to sell the property to that unrelated third party, first offer to sell the property to the Tenant or the Tenant's nominee on terms and conditions nominated in writing by the Landlord with such offer to be a bona fide offer which is no less favourable to the Tenant than the terms and conditions of sale and purchase received from or otherwise negotiated with the unrelated third party; or

(b) if the Landlord intends to sell the premises, then the Landlord must first offer to sell the premises to the Tenant or the Tenant's nominee on terms and conditions nominated in writing by the Landlord with such offer to be a bone fide offer.

46.2 The Landlord's offer made under either clause 46.1(a)(ii) or 46.1(b) shall attach a sale and purchase agreement setting out the terms of the offer.

46.3 If the Tenant wishes to accept the Landlord's offer, the Tenant shall present to the Landlord an executed sale and purchase agreement (in duplicate) in the form presented by the Landlord and the Landlord shall execute and duly return one copy of that sale and purchase agreement to the Tenant.

46.4 If the Tenant does not accept the Landlord's offer within:

(a) 10 working days, if the offer is made pursuant to clause 46.1(a)(ii), or

(b) 20 working days, if the offer is made pursuant to clause 46.1(b),

(or such later date as agreed between the parties) from the date of receipt of the Landlord's offer (time being the essence) then:

(c) in the case of an offer made to the Tenant under clause 46.1(a)(ii), the Landlord shall only be entitled to sell the premises to the unrelated third party identified by the Landlord pursuant to clause 46.1(a)(i) without any further reference to the Tenant; or

(d) in the case of an offer made to the Tenant under clause 46.1(b), the Landlord may proceed to market the premises for sale to other third parties or the general public and/or sell the premises provided the Tenant is permitted to participate in any subsequent tender or auction for the sale of the premises run by the Landlord on the same basis as the other third parties or the general public (as the case may be).

46.5 If the Tenant accepts the Landlord's offer, settlement will be 15 working days after the Landlord receives written notice from the Tenant accepting the offer.

46.6 For the avoidance of doubt:

(a) the Tenant's right of first refusal to purchase in clauses 46.1 to 46.4 (inclusive) binds the successors of the Landlord;

(b) the Landlord's obligation to first offer to sell the property to the Tenant pursuant to clause 46.1(a)(ii) shall arise each time the Landlord receives an offer to purchase the premises from a different unrelated third party;

(c) if the Landlord wishes to sell the premises to a related party of the Landlord, it may do so without having to first offer to sell the premises to the Tenant; and

(d) nothing in this clause 46 will preclude the parties from entering into good faith negotiations in an attempt to reach agreement on the sale and purchase of the premises on terms other than those offered by the Landlord during the period set out in clauses 46.4(a) or 46.4(b) above (whichever is applicable). The Landlord further acknowledges that if the Tenant does not accept the Landlord's offer or the parties fail to agree other terms of sale and purchase before the expiry of the applicable period, the Tenant may still participate in any subsequent tender or auction for the sale of the premises run by the Landlord on the same basis as other third parties or the general public (as the case may be)."

(e) the Tenant's right of first refusal to purchase in clause 46 is only to apply while Pacific Steel (NZ) Limited (or a related company) is the tenant under this lease, and will not apply to any successors in title to the Tenant.

Clause 47 – Passive Discharge Consent

15 Add a new clause 47 as follows:

"47.1 The Landlord and Tenant acknowledge that as part of the exit and surrender arrangements between the Landlord and the previous tenant (Fletcher Steel Limited ("FSL")), FSL agreed that if a Passive Discharge Consent was required by the Relevant Authority in respect of

Contamination in the premises prior to the commencement of this lease, FSL would arrange (at its cost) for such Passive Discharge Consent to be granted to the Landlord.

47.2 Notwithstanding anything set out in this lease, the Tenant will comply with the conditions of any Passive Discharge Consent obtained pursuant to clause 47.1 to the extent such conditions:

(a) apply from the commencement of this lease; and

(b) involve on-going monitoring or relate to the occupation by the Tenant of, or the operations of the Tenant on the Premises.

47.3 For the purposes of this clause 47, the following terms shall have the meanings set out opposite them:

*"**Contamination**"*	*shall have the meaning set out in clause 22.1(b).*
*"**Passive Discharge Consent**"*	*a long term passive discharge consent in accordance with the Resource Management Act 1991 to discharge any Contamination onto or into the ground under the premises and/or adjacent to the premises.*
*"**Relevant Authority**"*	*any local body, government or other authority having jurisdiction or authority in respect of the premises or the use thereof.*

SEVENTH SCHEDULE – TENANT'S FIXTURES AND FITTINGS

- Gantry cranes, gantry tracks, hoists and monorails;
- Relocatable office including timber framed lean-to, aluminium clad porch, steel framed glazed wind screen, smoking zone timber framed with polycarbonate roof, CNC station – steel framed structure/building, gas cylinder storage compound;
- Non-structural internal partitions, including glazed screens;
- Built in furniture (except the reception counter and desk in the office area of the Building) and including the Kitchenettes – cupboards, sink, taps, work-surfaces;
- Panel heaters, including gas panel heaters, stand-alone heaters and all air conditioners (except fixed air conditioning units in the office area of the Building, owned by the Landlord);
- Floor coverings – carpet and vinyl;
- Drapes, blinds and curtains;
- Shelving, including metal storage racking;
- Signs including hazard warning signs, pedestrian and all safety line markings, hazard line markings, pedestrian walkways, safety and protection posts (concrete and steel) and safety, crash and protection barriers;
- All special electrical switch gear including electrical distribution boards and non-standard or specialist light fittings, including security floodlights;
- Security devices including warning lights, gate phone, payphone, alarm sounders and sirens, security access door card readers;
- Portable fire extinguishers and other moveable fire detection or extinguishing equipment and including fire reel hoses and a type 4 fire detection system throughout the building (and a type 3 fire detection system in the electrical switch rooms HT-1 & HT-2);
- All plant and equipment installed by the Tenant or its predecessors for the purposes of its use of the Premises, including such items as – TV aerial, flues, sulphite crystal loading bay, service trenches, service pits and services trenches, timber framed fences, trade waste systems and tanks, hot-well tanks and filtration equipment, bottle manifolds, gas supply system, compressed air system, acid bath hall and steel impact barrier, pit in despatch area, water cooling tower; and
- All data and utility cables.

Dated _____

Between
21 BEACH ROAD OTAHUHU LIMITED

Landlord

and
PACIFIC STEEL (NZ) LIMITED

Tenant

and
NEW ZEALAND STEEL LIMITED

Guarantor

DEED OF LEASE

CHAPMAN TRIPP

Deed of Renewal and Variation of Lease – 21 Beach Road, Otahuhu

21 Beach Road Otahuhu Limited

Pacific Steel (NZ) Limited

New Zealand Steel Limited

DEED OF RENEWAL AND VARIATION OF LEASE – 21 BEACH ROAD, OTAHUHU

Date:

PARTIES

21 Beach Road Otahuhu Limited (the *Lessor*)

Pacific Steel (NZ) Limited (the *Lessee*)

New Zealand Steel Limited (the *Guarantor*)

BACKGROUND

A By a deed of lease dated 21 July 2014 (*the Lease*) the Lessor leased the premises at 21 Beach Road, Otahuhu, as more particularly described in the Lease, to the Lessee for a term of five (5) years from 25 June 2014 at the rent and upon the covenants, terms and conditions expressed and implied in the Lease.

B The Lessee has the right to renew the Lease for a further term. The Lessee has exercised that right of renewal and the Lessor has agreed to renew the Lease accordingly.

C The Lessor and the Lessee have agreed to vary the terms of the Lease.

D The Guarantor has agreed to continue to guarantee the Lessee's obligations under the Lease, as varied by this deed.

NOW BY THIS DEED it is agreed by the parties as follows:

1 Variation

From the Effective Date, the covenants, terms and conditions expressed and implied in the Lease are varied as follows:

(a) Item 5 of the First Schedule regarding Rights of Renewal so that the words "Two rights of five years each" are deleted and replaced with "One right of seven years and one further right of five years";

(b) Item 6 of the First Schedule regarding Renewal Dates so that the words "25 June 2019 and 25 June 2024" are deleted and replaced with "25 June 2019 and 25 June 2026";

(c) Item 7 of the First Schedule regarding Final Expiry Date so that the words "24 June 2029" are deleted and replaced with "24 June 2031";

(d) Item 11 of the First Schedule regarding Rent Review Dates so that the market rent review dates are deleted and replaced with the following:

(i) Fixed Rent Review Dates: Every anniversary of the Commencement Date from 25 June 2020 (including during all renewal terms of the Lease) except for the Renewal Dates; and

(ii) Market Rent Review Dates: 25 June 2026.

For the avoidance of any doubt, 25 June 2019 is not a Rent Review Date.

(e) Clause 32.1 (Renewal of Lease) so that the words "3 calendar months" in the first line are deleted and replaced with "9 calendar months".

(f) A new clause 48 is inserted into the Lease as follows:

48 Fixed Rent Reviews

48.1 The annual rent payable as from 25 June 2020 shall be increased to $1,190,458.00 plus GST.

48.2 The annual rent payable as from each Fixed Rent Review Date from 25 June 2021 shall be the annual rent payable as at the Fixed Rent Review Date increased by 2.5%.

2 Lease Renewal

Pursuant to the right of renewal contained in the Lease, the Landlord grants and the Tenant accepts a renewal of the term of the Lease for a further period of seven years from 25 June 2019 (*the Renewed Term*).

3 Roof Works

The parties agree that:

3.1 the Landlord will replace those parts of the roof shown on the plan attached to this deed as Areas 1, 2, 3 and 4 (**Roof Works**), such replacement to be at the Landlord's cost in all respects;

3.2 the Landlord will use reasonable endeavours to carry out and complete the Roof Works within one calendar year of the date of this deed; and

3.3 the provisions of clauses 15.1 to 15.4 regarding 'Access for Works' will apply to the roof works to be completed by the Landlord.

4 Air Conditioning Replacement

The parties agree that the Landlord will completely replace the fixed air conditioning unit in the office areas on or before 30 June 2019.

5 Confirmation of other lease covenants

Except to the extent to which they are varied by this deed the covenants, terms and conditions expressed and implied in the Lease will continue in full force.

6 Guarantee

In consideration of the Landlord agreeing to vary the Lease at the request of the Guarantor, as the Guarantor admits and acknowledges by executing this deed, the Guarantor agrees with the Landlord that its guarantee under the Lease will extend to and operate in respect of the variations to the Lease recorded by this deed.

7 Costs

The Tenant will pay the costs of and incidental to the preparation and completion of this deed.

8 Electronic Delivery Allowed

Without limiting any other mode of delivery, the parties agree to allow delivery of this deed by transmission, in electronic form by any means of electronic communication (including facsimile or email of a scanned copy) of an original of this deed executed by a party, to the other party or its solicitors.

9 Interpretation

In this deed:

9.1 references to *the Landlord* include the successors and assigns of the Landlord;

9.2 references to *the Tenant* include the successors and permitted assigns of the Lessee;

9.3 references to *the Guarantor* include the successors of the Guarantor.

New Zealand Steel Limited by:

Director / Authorised Signatory

Director / Authorised Signatory

in the presence of:

Name: YVETTE BURDEN

Occupation: EXECUTIVE ASSISTANT

Address: GLENBROOK.

EXECUTED AND DELIVERED AS A DEED

21 Beach Road Otahuhu Limited by:

_____
Director / Authorised Signatory

_____
Director / Authorised Signatory

in the presence of:

_____

Name:

Occupation:

Address:

Pacific Steel (NZ) Limited by:

_____
Director / Authorised Signatory

_____
Director / Authorised Signatory

in the presence of:

_____

Name: YVETTE BURDEN.

Occupation: EXECUTIVE ASSISTANT

Address: GLENBROOK