

DEED OF LEASE

FIFTH EDITION 2008

DEED made the 14 day of

NOVEMBER
October 2011

LANDLORD FRED THOMAS DRIVE INVESTMENTS LIMITED company number 3197268 at Auckland

TENANT SPENCER HENSHAW LIMITED company number 3304210 at Invercargill

GUARANTOR CORNELIUS JAMES MURPHY of 11 Calliope Road, Devonport, Auckland, Company Director
RODNEY GRAEME SPENCER of 249 Omaha Drive, RD6, Warkworth, Company Director

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.

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

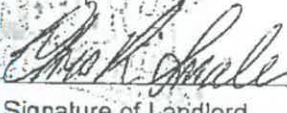
SIGNED by the Landlord *
Fred Thomas Drive Investments Ltd
in the presence of:

Witness Signature

Witness Name

Witness Occupation

Witness Address


Signature of Landlord

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


Signature of Landlord

Gregory John Smale
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 *
Spencer Henshaw Limited
 in the presence of:

 Witness Signature

 Witness Name

 Witness Occupation

 Witness Address



 Signature of Tenant
Cornelius James Murphy

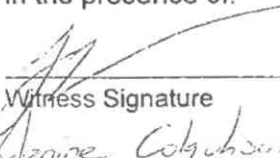
 Print Full Name
 (for a company specify position:
 Director/Attorney/Authorised Signatory)



 Signature of Tenant
Roney Clarke Spence

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

SIGNED by the Guarantor *
Cornelius James Murphy
 in the presence of:



 Witness Signature

 Witness Name

Administrator

 Witness Occupation

4-4 Free Thomas Drive

 Witness Address



 Signature of Guarantor
Cornelius James Murphy

 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"

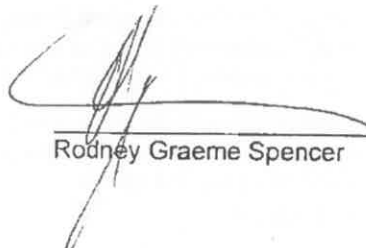
Note: Signing by a company – to ensure that this document binds the company as a deed, it must be signed in accordance with section 180 of the Companies Act 1993.

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.

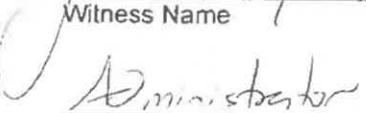
Additional Clauses

SIGNED by the Guarantor
Rodney Graeme Spencer
in the presence of:


Rodney Graeme Spencer


Witness Signature


Witness Name


Witness Occupation


Witness Address

FIRST SCHEDULE

PREMISES: All that part of the Landlord's building at 4 Fred Thomas Drive, Takapuna located on the ground floor shown as Tenancy A being approximately 507.92 m² together with approximately 99.24 m² of the warehouse shown as Cage 3 (Henshaw) both shown on the Premises Plan attached.

CAR PARKS: Twenty (20) initially as shown on the car park diagram attached but subsequently as designated by the Landlord from time to time on the Landlord's property at 2-4 Fred Thomas Drive, Takapuna.

TERM: Four (4) years

COMMENCEMENT DATE: 15 August 2010

RIGHTS OF RENEWAL: One (1) right to a renewed term of four (4) years only

RENEWAL DATES: 15 August 2014

FINAL EXPIRY DATE: 14 August 2018

ANNUAL RENT:	Premises }	\$ 100,000.00	plus GST
(Subject to review if applicable)	Car Parks }	\$	plus GST
	TOTAL	\$ 100,000.00	plus GST

MONTHLY RENT: \$ 8,333.33 plus GST

RENT PAYMENT DATES: The 1st day of each month commencing on the 1st day of September 2010

RENT REVIEW DATES:

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

(a) Each renewal date;

OR

(b) (Insert dates): 15 August 2012, 15 August 2014 and 15 August 2016

A fair and proper proportion as reasonably assessed by the Landlord.

PROPORTION OF OUTGOINGS: (clause 3.1) %

DEFAULT INTEREST RATE: (clause 5.1) 14 % per annum

IMPROVEMENTS RENT PERCENTAGE: (clause 21.2) 12.5 %

BUSINESS USE: (clause 16.1) In relation to that part of the premises on the ground floor - offices.

In relation to that part of the premises being the warehouse - storage only.

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)

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. 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 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 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 ~~2.1A See Attached~~

- 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 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.
 - (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 the Recipient proposes a new rent, then the new rent shall be determined as follows:
 - (i) 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.
 - (ii) 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.
 - (iii) 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.
 - (c) The 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 10 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 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;
 - (3) The valuers appointed before commencing 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 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.

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:
- (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 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. ~~Continued on attached page.~~
- 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 to 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. If the payment date of such reasonable amount as the Landlord shall determine calculated on an annual basis 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 outgoings for the year or period then ended. Any over payment shall be credited or refunded to the Tenant and any under payment 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.

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 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.

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. 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;

(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:**(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

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

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.

~~14.2 See Attached~~

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 repairs and to provide any services where the same are not the responsibility of the Tenant all such repairs inspections and works shall 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 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.
- 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.

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.
- 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.

- 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.

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 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.

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 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 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.
- 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.

DEFAULT**Cancellation**

- 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.

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 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 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.

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(e) 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.

UNIT TITLE COVENANTS**Body Corporate**

- 35.1 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

- 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 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.

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.

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

- 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.

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) the Lessor's fixtures and fittings include ceiling tiles, light fittings, fixed floor coverings, internal partitioning and alarm system.

46.1 Tenant's Works

The parties acknowledge that the Tenant shall undertake an internal fitout at its own costs including installing partitioning and offices and constructing a caged area of approximately 80 metres square in the warehouse along with other associated works ("building works"). The Tenant is responsible for designing, contracting and supervising such works and obtaining all relevant building consents and complying with clause 20 of the Lease in relation to those works.

47.1 Additional Car Parks

In the event that the Tenant requires additional car parks over and above the car parks provided in the first schedule of this Lease and the Landlord has additional car parks available, the Landlord agrees to lease each additional car park to the Tenant in consideration of the Tenant paying \$1,300 per annum plus GST (or such rate to which car park rentals have been increased at such date) for each additional car park that it leases from the Landlord.

THIRD SCHEDULE

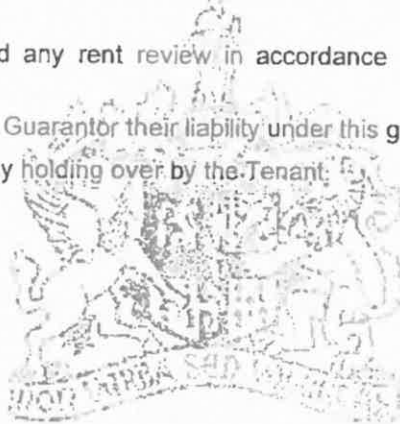
GUARANTEE

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.



Additional Clauses

PREMISES PLAN

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HAMPSON & ASSOCIATES LTD
CONSULTING SURVEYORS
PO BOX 302229 NORTH SHORE 0751
AUCKLAND, NEW ZEALAND
Ph (09) 414 0325 Fx (09) 414 0329
EMAIL: surveyors@hampson.co.nz

Project:

4 FRI

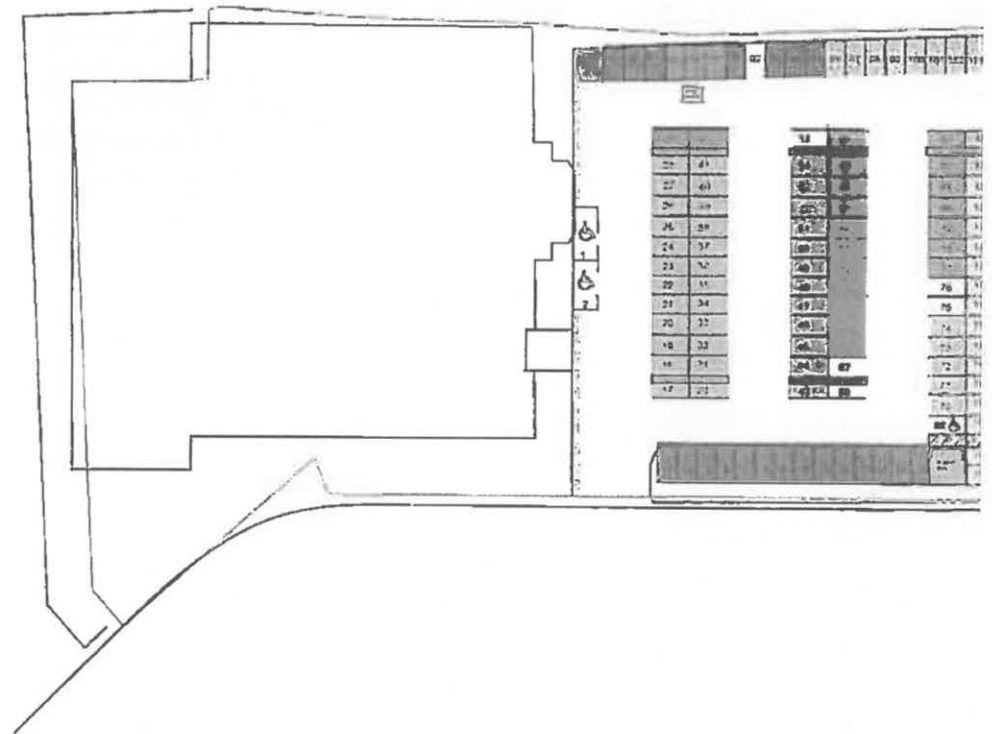
Additional Clauses

CAR PARK DIAGRAM

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2-4 Fred Thomas Drive

Updated: 02.09.2011



Dated _____

Between

Fred Thomas Drive Investments Limited

Landlord

and

Spencer Henshaw Limited

Tenant



DEED OF LEASE

Dated 11 APRIL 2017

Murray Stevenson
Spencer Henshaw Ltd
PO Box 40-204
Glenfield
Auckland 0747

Fred Thomas Drive Investments Ltd
C/- Smales Farm Corporate Services
(Management Office)
Private Bag 93-504
North Shore City, 0740
Phone: 09 488 2300
Email: service@smallesfarm.co.nz

Dear Murray,

RE: Agreement between Spencer Henshaw Limited and Fred Thomas Drive Investments Limited RE Access Way, 4 Fred Thomas Drive

We refer to the lease dated 14 November 2011 between Fred Thomas Drive Investments Limited (FTD) as landlord, Spencer Henshaw Limited (SHL) as tenant and Cornelius James Murphy and Rodney Graeme Spencer as guarantors (Guarantor) at premises at part ground floor (Tenancy A) 4 Fred Thomas Drive, (Premises) as the same are more particularly described in and demised by the lease (Lease). This letter (Agreement) confirms the agreement between us relating to an access way located between FTD's property at 4 Fred Thomas Drive, Takapuna (Property) and the adjoining land at 39 Barrys Point Road, Takapuna (Adjoining Land).

Watercare Services Limited (Watercare) recently completed works at the Property. Part of the works involved installing a temporary access way on the boundary of the Property as it abuts the Adjoining Land in the position as shown approximately on the plan attached to this Agreement at Annexure A (Access Way). As part of the arrangements with Watercare, the Access Way was required to be reinstated at the completion of these works.

SHL has requested that the Access Way be left in situ as it provides SHL with a convenient access to the fifteen car parks located on the Adjoining Land (Adjoining Carparks) which SHL leases from the owner of the Adjoining Land (Adjoining Carparks Lease). FTD has agreed to release Watercare from its obligation to reinstate the Access Way and make good any damage in order to accommodate SHL's request for retention of the Access Way for use by SHL in connection with its use of the Premises on the terms set out in this Agreement as follows:

1. FTD shall, insofar as it is lawfully able to do so, permit SHL to use the Access Way for the purpose of exercising rights on foot only for SHL's employees, visitors, clients or contractors to gain access to and from the Premises from the Adjoining Carparks and without limitation, SHL shall not allow and shall ensure that it has appropriate measures in place to prevent any other party from using the Access Way as a thoroughfare between the Property and the Adjoining Land or for any other purpose. For clarity the rights conferred under this Agreement shall not extend to vehicular rights over the Property to access the Adjoining Carparks.
2. SHL shall comply with the provisions of all statutes, regulations, and by-laws relating to the creation, retention, reinstatement and use of the Access Way and will comply with the provisions of all requisitions and notices which may be issued by any competent authority in respect of the Access Way, its use and/or retention and reinstatement.



3. SHL shall be responsible at its own cost for all maintenance, repair and replacement if necessary of the Access Way in order to keep the same in good and substantial repair and condition.
4. This Agreement shall immediately cease and determine on the first of the following dates to occur:
 - (a) the date of a lawful assignment of the Lease;
 - (b) the date of expiry or earlier termination (however determined) of the Adjoining Carpark Lease;
 - (c) the date on which the Adjoining Carpark Lease ceases be vested in SHL;
 - (d) the date of expiry or earlier termination (however determined) of the Lease;
 - (e) expiry of notice to terminate served in accordance with clause 7 below; and
 - (f) the date on which the owner of the Adjoining Land requires reinstatement of the Access Way to separate and secure the Adjoining Land from the Property.
5. To facilitate the provisions of clause 4 above SHL shall immediately notify FTD if any of the circumstances referred to in clauses 4(b), (c), and/or (f) occur and shall provide FTD with as much advance notice of the same as is reasonably possible.
6. By no later than the termination of this Agreement SHL must remove the Access Way and reinstate that part of the Property the subject of the Access Way to the condition it was in immediately prior to installation of the Access Way, including without limitation, reinstating the fence so as to secure and separate the Property from the Adjoining Land, such fencing to be of a type which matches the existing fencing then in situ, and SHL must make good all damage caused to the Property in undertaking reinstatement including to the tarmac surface of the yard all such works to be undertaken to the satisfaction of FTD acting reasonably (**Reinstatement Works**). The photographs attached to this Agreement at Annexure B shall be evidence of the condition of the relevant part of the Property prior to installation of the Access Way.
7. Notwithstanding any other provision of this Agreement FTD shall be entitled to terminate this Agreement as follows:
 - (a) by service of not less than ten (10) working days prior written notice on SHL, which notice may be served at any time by FTD in its sole discretion; and
 - (b) in the event of breach by SHL of its obligations under this Agreement, immediately by service of written notice,and on expiry of notice served under clause 7(a) or immediately upon service of notice served under clause 7(b) this Agreement shall cease and determine but in either case without prejudice to FTD's rights against SHL for any prior breach, including without limitation, SHL's obligations to undertake Reinstatement Works in accordance with clause 6.
8. If SHL breaches any of its obligations under this Agreement then without prejudice to FTD's other rights and remedies expressed or implied, FTD may undertake all such works as are required in order to remedy the breach and all monies incurred by FTD in doing so shall be payable by SHL to FTD upon

demand together with interest at the default interest rate specified in the Lease from the date of expenditure to the date of payment.

9. SHL confirms that it has obtained the consent of the owner of the Adjoining Land to retention and use of the Access Way and without limitation FTD shall have no liability or responsibility in relation to the owner of the Adjoining Land and instead SHL shall be responsible for all arrangements with the owner of the Adjoining Land as may be necessary to give effect to the agreement recorded under this Agreement.

10. The arrangements provided for under this Agreement shall not give rise to acquisition by SHL of any legal or proprietary interest in the Access Way, the Property or any part and no relationship of landlord and tenant shall be created between FTD and SHL in relation to the Access Way. SHL shall not assign, transfer or otherwise deal with the rights conferred on SHL pursuant to this Agreement.

11. Each party shall be responsible for its own legal costs incurred in preparing, negotiating and entering into this Agreement. SHL shall pay FTD's legal costs (as between lawyer and client) of and incidental to the enforcement of FTD's rights, remedies and powers under this Agreement.

12. The terms of this Agreement shall be personal to Spencer Henshaw Limited (company number 3304210) but shall be intended to bind FTD and its successors in title and assigns to the reversionary interest in the Property.

13. SHL acknowledges to FTD that SHL shall continue to hold the Premises on the terms and provisions expressed or implied in the Lease which shall continue in full force and effect and SHL shall comply with the terms and conditions set out in the Lease and in this Agreement.

The Guarantor consents to this Agreement and confirms to FTD that the guarantee set out in the Lease remains in full force and effect on the terms set out in the Lease.

Signed for and on behalf of Fred Thomas Drive Investments Limited


Signature


Print Full Name

Signed for and behalf of Spencer Henshaw Limited by way of acceptance of and agreement to be bound by the terms of this Agreement




Signature

Murray Stevenson

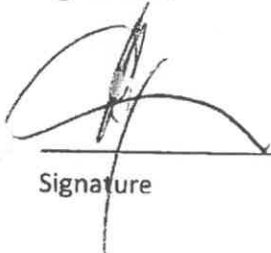
Print Full Name

Signed by Cornelius James Murphy as Guarantor under the Lease by way of consent to the terms of this Agreement



Signature

Signed by Rodney Graeme Spencer as Guarantor under the Lease by way of consent to the terms of this Agreement



Signature






Annexure A

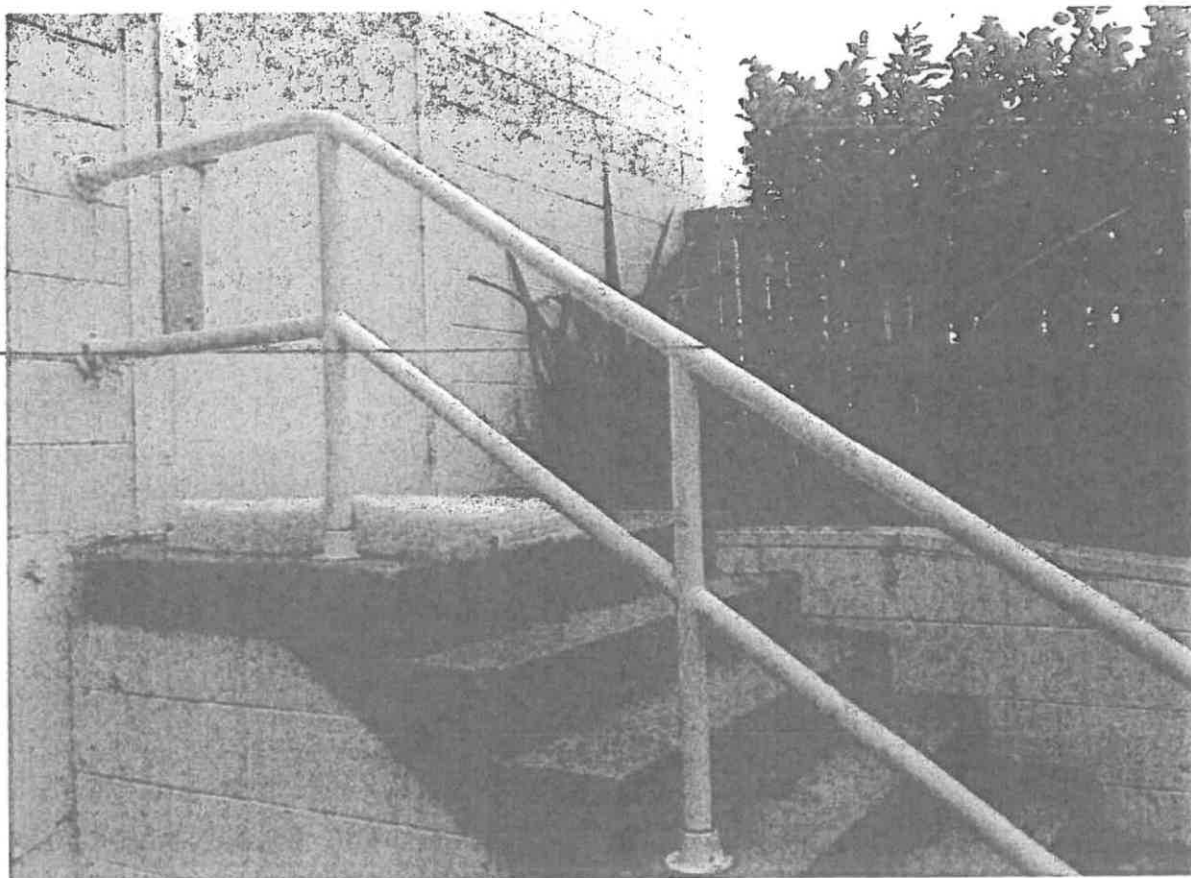
Plan showing Access Way

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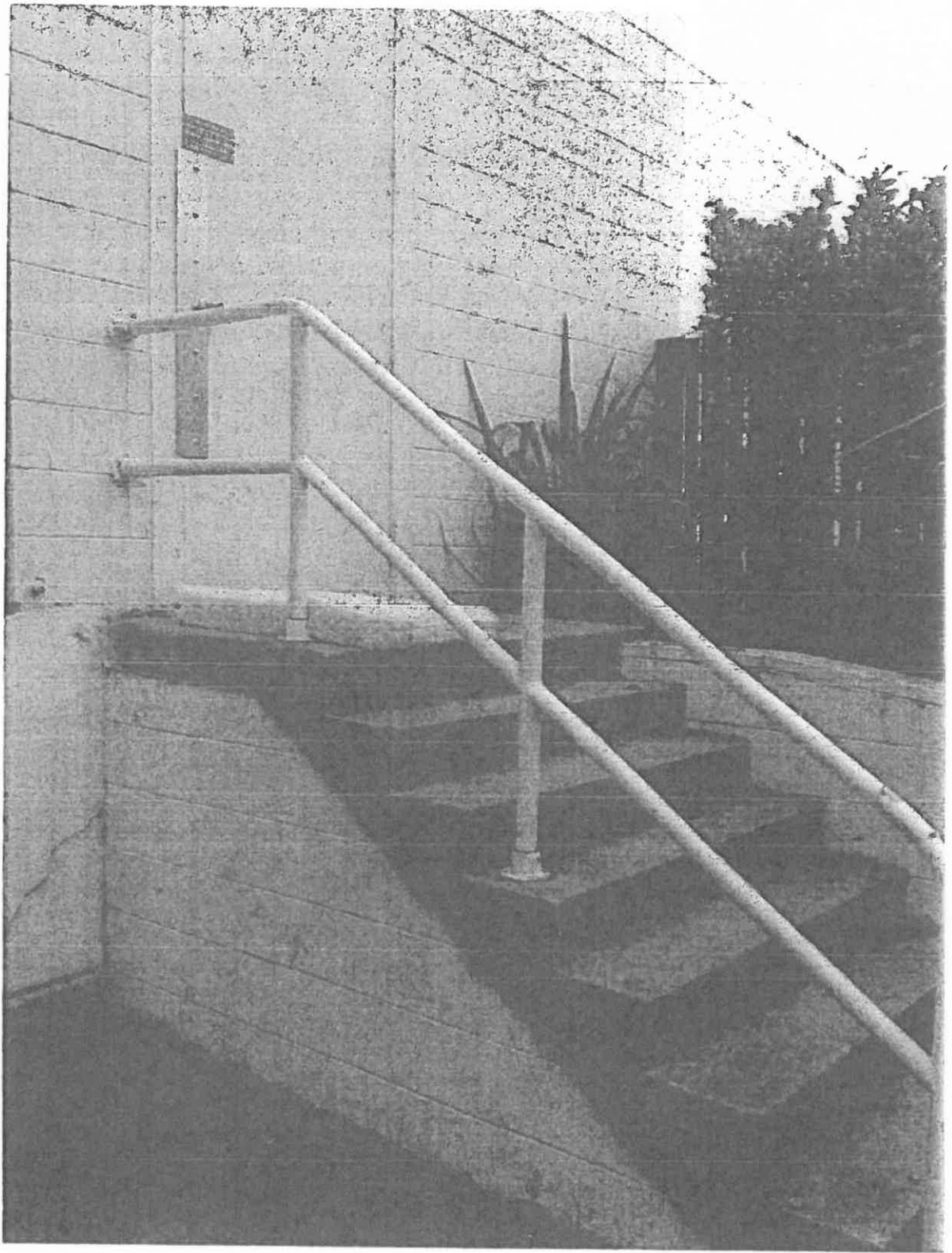
Annexure B

**Photographic Record
(as referred to at clause 6)**



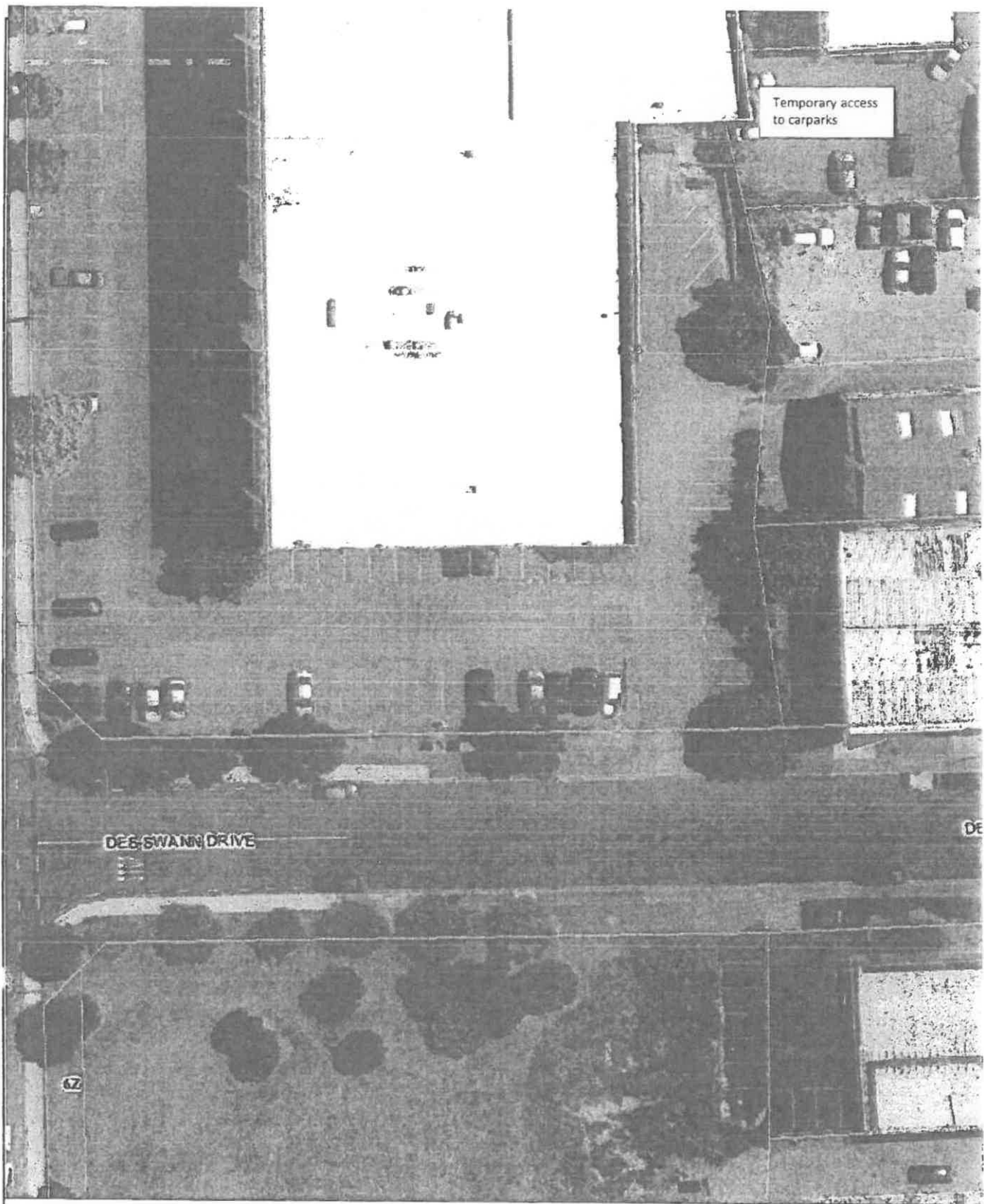


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7 F



Position of Accessway

Scale @ A4 1:500



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Dated 11 APRIL 2017

Murray Stevenson
Spencer Henshaw Ltd
PO Box 40-204
Glenfield
Auckland 0747

Fred Thomas Drive Investments
C/- Smales Farm Corporate S
(Management Office)
Private Bag 93-504
North Shore City, 0740
Phone: 09 488 2300
Email: service@smalesfarm

Dear Murray,

RE: Agreement between Spencer Henshaw Limited and Fred Thomas Drive Investments Limited RE Access Way, 4 Fred Thomas Drive

We refer to the lease dated 14 November 2011 between Fred Thomas Drive Investments Limited (the landlord, Spencer Henshaw Limited (**SHL**)) as tenant and Cornelius James Murphy and Rodney Graer Spencer as guarantors (**Guarantor**) at premises at part ground floor (Tenancy A) 4 Fred Thomas Drive (**Premises**) as the same are more particularly described in and demised by the lease (**Lease**). This letter (**Agreement**) confirms the agreement between us relating to an access way located between FTD's property at 4 Fred Thomas Drive, Takapuna (**Property**) and the adjoining land at 39 Barrys Point Road, Takapuna (**Adjoining Land**).

Watercare Services Limited (**Watercare**) recently completed works at the Property. Part of the work

involved installing a temporary access way on the boundary of the Property as it abuts the Adjoining Land in the position as shown approximately on the plan attached to this Agreement at Annexure A (**Access Way**). As part of the arrangements with Watercare, the Access Way was required to be reinstated on completion of these works.

SHL has requested that the Access Way be left in situ as it provides SHL with a convenient access to **fifteen** car parks located on the Adjoining Land (**Adjoining Carparks**) which SHL leases from the owner of the Adjoining Land (**Adjoining Carparks Lease**). FTD has agreed to release Watercare from its obligation to reinstate the Access Way and make good any damage in order to accommodate SHL's request for use of the Access Way for use by SHL in connection with its use of the Premises on the terms set out in this Agreement as follows:

1. FTD shall, insofar as it is lawfully able to do so, permit SHL to use the Access Way for the purpose of exercising rights on foot only for SHL's employees, visitors, clients or contractors to gain access from the Premises from the Adjoining Carparks and without limitation, SHL shall not allow and ensure that it has appropriate measures in place to prevent any other party from using the Access Way as a thoroughfare between the Property and the Adjoining Land or for any other purpose. For the rights conferred under this Agreement shall not extend to vehicular rights over the Property to access the Adjoining Carparks.
2. SHL shall comply with the provisions of all statutes, regulations, and by-laws relating to the creation, retention, reinstatement and use of the Access Way and will comply with the provisions of all requisitions and notices which may be issued by any competent authority in respect of the Access Way and its use and/or retention and reinstatement.

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3. SHL shall be responsible at its own cost for all maintenance, repair and replacement if necessary of the Access Way in order to keep the same in good and substantial repair and condition.
4. This Agreement shall immediately cease and determine on the first of the following dates to or from:
 - (a) the date of a lawful assignment of the Lease;
 - (b) the date of expiry or earlier termination (however determined) of the Adjoining Carpark Lease;
 - (c) the date on which the Adjoining Carpark Lease ceases to be vested in SHL;
 - (d) the date of expiry or earlier termination (however determined) of the Lease;
 - (e) expiry of notice to terminate served in accordance with clause 7 below; and
 - (f) the date on which the owner of the Adjoining Land requires reinstatement of the Access Way and shall separate and secure the Adjoining Land from the Property.
5. To facilitate the provisions of clause 4 above SHL shall immediately notify FTD if any of the circumstances referred to in clauses 4(b), (c), and/or (f) occur and shall provide FTD with as much advance notice of the same as is reasonably possible.
6. By no later than the termination of this Agreement SHL must remove the Access Way and reinstate the same to the original condition.

that part of the Property the subject of the Access Way to the condition it was in immediately installation of the Access Way, including without limitation, reinstating the fence so as to secure separate the Property from the Adjoining Land, such fencing to be of a type which matches the fencing then in situ, and SHL must make good all damage caused to the Property in undertaking reinstatement including to the tarmac surface of the yard all such works to be undertaken to the satisfaction of FTD acting reasonably (**Reinstatement Works**). The photographs attached to the Agreement at Annexure B shall be evidence of the condition of the relevant part of the Property to installation of the Access Way.

7. Notwithstanding any other provision of this Agreement FTD shall be entitled to terminate this Agreement as follows:

- (a) by service of not less than ten (10) working days prior written notice on SHL, which notice served at any time by FTD in its sole discretion; and
- (b) in the event of breach by SHL of its obligations under this Agreement, immediately by service of written notice,

and on expiry of notice served under clause 7(a) or immediately upon service of notice served under clause 7(b) this Agreement shall cease and determine but in either case without prejudice to FTD's rights against SHL for any prior breach, including without limitation, SHL's obligations to undertake Reinstatement Works in accordance with clause 6.

8. If SHL breaches any of its obligations under this Agreement then without prejudice to FTD's other rights and remedies expressed or implied, FTD may undertake all such works as are required in order to remedy the breach and all monies incurred by FTD in doing so shall be payable by SHL to FTD.

to remedy the breach and all monies incurred by the insured to shall be payable by the insurer.

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demand together with interest at the default interest rate specified in the Lease from the date of expenditure to the date of payment.

9. SHL confirms that it has obtained the consent of the owner of the Adjoining Land to retention of the Access Way and without limitation FTD shall have no liability or responsibility in relation to the owner of the Adjoining Land and instead SHL shall be responsible for all arrangements with the owner of the Adjoining Land as may be necessary to give effect to the agreement recorded under this Agreement.
10. The arrangements provided for under this Agreement shall not give rise to acquisition by SHL of a legal or proprietary interest in the Access Way, the Property or any part and no relationship of landlord and tenant shall be created between FTD and SHL in relation to the Access Way. SHL shall not acquire, transfer or otherwise deal with the rights conferred on SHL pursuant to this Agreement.
11. Each party shall be responsible for its own legal costs incurred in preparing, negotiating and entering into this Agreement. SHL shall pay FTD's legal costs (as between lawyer and client) of and in connection with the enforcement of FTD's rights, remedies and powers under this Agreement.
12. The terms of this Agreement shall be personal to Spencer Henshaw Limited (company number 3304210) but shall be intended to bind FTD and its successors in title and assigns to the reversionary interest in the Property.

13. SHL acknowledges to FTD that SHL shall continue to hold the Premises on the terms and provisions expressed or implied in the Lease which shall continue in full force and effect and SHL shall comply with the terms and conditions set out in the Lease and in this Agreement.

The Guarantor consents to this Agreement and confirms to FTD that the guarantee set out in the Lease remains in full force and effect on the terms set out in the Lease.

Signed for and on behalf of Fred Thomas Drive Investments Limited

_____

Signature

_____

Print Full Name


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RRE-184982-96-2-3

Signed for and behalf of Spencer Henshaw Limited by way of acceptance of and agreement to be b
the terms of this Agreement



Signature



Print Full Name

Signed by Cornelius James Murphy as Guarantor under the Lease by way of consent to the terms o
Agreement

Signature

Signed by Rodney Graeme Spencer as Guarantor under the Lease by way of consent to the terms o
Agreement

Signature

✓✓

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Annexure A

Plan showing Access Way

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Annexure B

**Photographic Record
(as referred to at clause 6)**

[Handwritten signature]

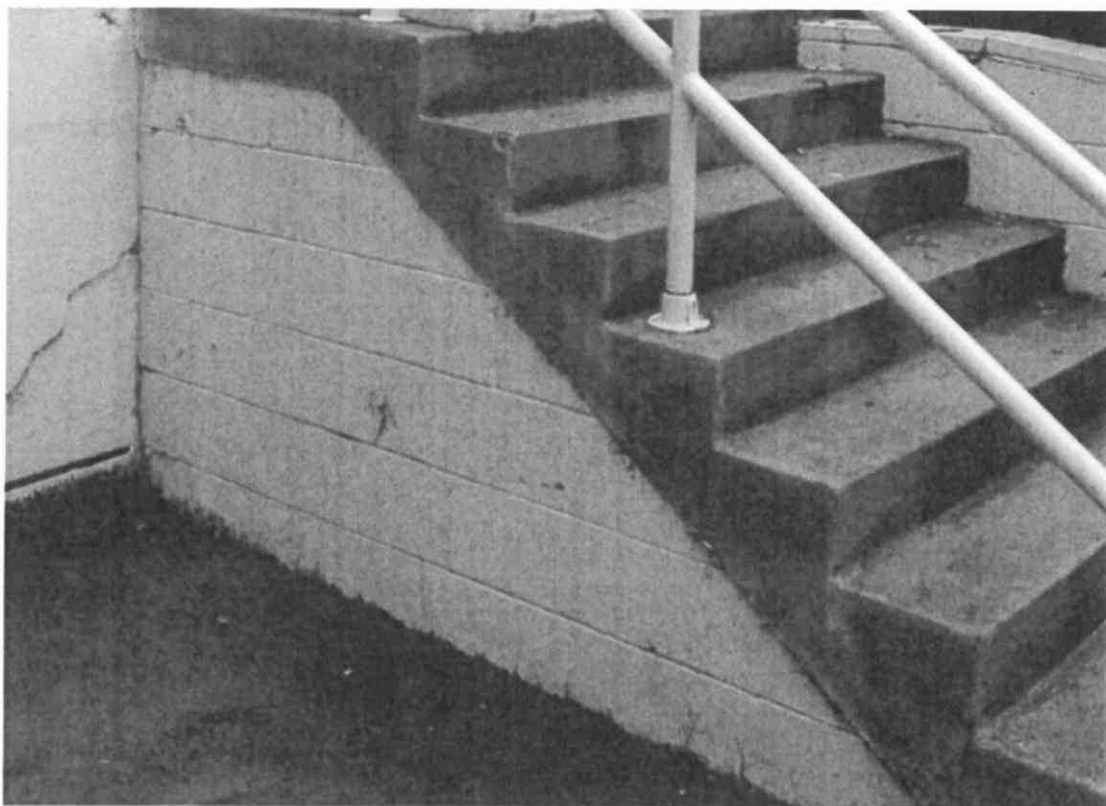
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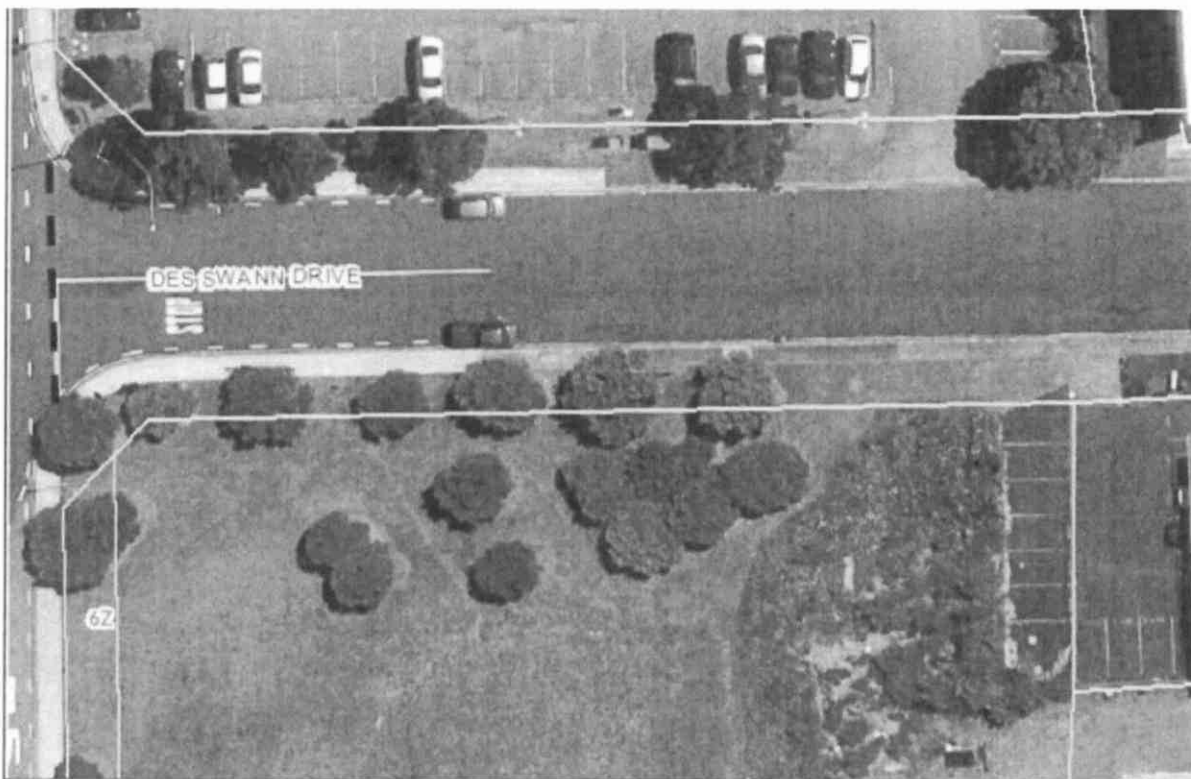


A.









Position of Accessway

Scale @ A4 1:500







DATED

19 December

2014

FRED THOMAS DRIVE INVESTMENTS LIMITED

Landlord

SPENCER HENSHAW LIMITED

Tenant

CORNELIUS JAMES MURPHY and RODNEY GRAEME SPENCER

Guarantor

DEED OF EXTENSION AND VARIATION OF LEASE

Ground Floor, Tenancy A, 4 Fred Thomas Drive, Takapuna

KEEGAN ALEXANDER
BARRISTERS & SOLICITORS
AUCKLAND

THIS DEED dated the

day of

2014

PARTIES:

1. **FRED THOMAS DRIVE INVESTMENTS LIMITED** company number 3197268 at Auckland (**Landlord**)
2. **SPENCER HENSHAW LIMITED** company number 3304210 at Invercargill (**Tenant**)
3. **CORNELIUS JAMES MURPHY** of Auckland and **RODNEY GRAEME SPENCER** of Warkworth, both company directors (**Guarantor**)

BACKGROUND

- A. By the Lease the Premises are leased by the Landlord to the Tenant at the annual rent and on the terms contained in the Lease. The Guarantor guarantees the performance by the Tenant of its obligations under the Lease.
- B. The annual rent payable under the Lease is subject to review in accordance with the Lease on 15 August 2014. At the time the Lease was renewed the Landlord and Tenant had not agreed on the current market rent to apply from 15 August 2014.
- C. The Landlord and the Tenant have now agreed:
 - (i) on the reviewed rent payable for the Premises and Carparks;
 - (ii) to extend the current term of the Lease; and
 - (iii) to certain other variations to the Lease,

all of which shall be effective from the Operative Date on the terms as set out in this Deed.

NOW THIS DEED WITNESSES AND IT IS AGREED BY AND BETWEEN THE LANDLORD AND THE TENANT AND THE GUARANTOR AS FOLLOWS:

1 Extension of Lease

From the Operative Date the Landlord grants to the Tenant and the Tenant accepts an extension of the current term of the Lease for a further year from 15 August 2018 to 14 August 2019 subject to the terms and conditions as set out in the Lease as varied by this Deed.

2 Rent, Rates and Other Outgoings

- 2.1 From the Operative Date until to the next rent review date under the Extended Lease the annual rent for the Premises and Carparks shall be as follows:

Office:	507.92 m ² @ \$225 per m ²	\$114,282.00 plus GST
Warehouse:	99.24m ² @ \$90 per m ²	\$8,931.60 plus GST
Carparks:	16 carparks @ \$35 per carpark per week	\$29,120.00 plus GST



4 carparks @ \$40 per \$ 8,320.00
carpark per week

Total annual rent **\$ 160,653.60**
plus GST

2.2 The annual rent shall be payable in advance by equal monthly instalments of \$13,387.80 plus GST payable in the manner and as provided for under the Extended Lease, the first instalment being due on the Operative Date, and subject always to review in accordance with the terms of the Extended Lease.

2.3 In addition to the annual rent provided in clauses 2.1 and 2.2 the Tenant shall continue to pay the proportion of outgoings and other amounts as provided in the Extended Lease.

3 Other Variations

From the Operative Date the Lease is further varied as follows:

3.1 First Schedule

3.1.1 **Rights of Renewal:** Delete the word "only" and insert the following "and one (1) further right to a renewed term of one (1) year".

3.1.2 **Renewal Dates:** Add "15 August 2019".

3.1.3 **Final Expiry Date:** Delete "14 August 2018" and substitute "14 August 2020 if all rights of renewal are exercised".

3.1.4 **Rent Review Dates:** Add "15 August 2018".

3.1.5 **Outgoings:** Delete the defined outgoings in their entirety and replace with the following:

- "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. 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 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 sections 108 and 110 of the Building Act 2004.

3.2 **Second Schedule – Landlord shall insure**

3.2.1 The following clause is added as clause 25.1A:

"25.1A Tenant Insurance Acknowledgment

For the purposes of section 271 of the Property Law Act 2007 the Tenant expressly acknowledges that the Landlord has not fully insured the premises or building against destruction or damage arising from one or more of the events referred to in section 268(1) of the Property Law Act 2007 as the insurance policy arranged by the Landlord includes an insurance excess which is not payable by the insurance company. The Tenant expressly agrees that the Tenant is liable for the outgoings referred to in the definition of outgoings in the Lease which include the insurance excess and thus must meet the cost of making good the destruction or damage to such extent. Clause 25.1 is modified to the extent necessary to give effect to this clause."

3.3 **Second Schedule – Renewal of Lease**

3.3.1 Insert the following after the words "the end of the term" as they appear in the first line of clause 33.1:

"(in the case of the first renewal date) and in the case of the second renewal date such written notice must be given at least six (6) calendar months before the end of the term..."

3.3.2 The following words are inserted at the end of clause 33.1(a):



"For clarity the annual rent payable from the second renewal date on 15 August 2019 shall be the same as the annual rent payable at the expiry of the preceding term".

4 Goods and Services Tax

- 4.1 The Tenant shall at the time it falls due for payment pay to the Landlord or as the Landlord directs all goods and services tax payable on the annual rent and any other amounts payable under the Extended Lease to the intent that all rent and other amounts are paid as net amounts clear of goods and services tax.

5 Confirmation of other terms

- 5.1 In all other respects the terms of the Lease as extended and varied by this Deed are confirmed to the end and intent that the term of the Extended Lease shall finally expire on 14 August 2020 if all rights of renewal are exercised. For clarity the obligations of the Tenant under the Extended Lease (including without limitation repair, maintenance and reinstatement obligations) will continue to operate as from, and be construed by reference to, the commencement date of the Lease being 15 August 2010.

6 Costs

- 6.1 The Landlord and the Tenant will each pay their own legal costs and disbursements of and incidental to the negotiation, documentation and execution of this Deed.

7 Guarantee

- 7.1 In consideration of the Landlord entering into this Deed at the Guarantor's request the Guarantor:
- 7.1.1 Guarantees payment of the rent and the performance by the Tenant of the covenants in the Extended Lease; and
 - 7.1.2 Indemnifies the Landlord against any loss the Landlord might suffer should the Extended Lease be lawfully disclaimed or abandoned by any liquidator, receiver or other person.
- 7.2 The Guarantor covenants with the Landlord that:
- 7.2.1 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.
 - 7.2.2 As between 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.
 - 7.2.3 The guarantee is for the benefit of and may be enforced by any person entitled for the time being to receive the rent.



7.2.4 An assignment of the Extended Lease and any rent review in accordance with the Extended Lease shall not release the Guarantor from liability.

7.2.5 Should there be more than one Guarantor their liability under this Guarantee shall be joint and several.

7.2.6 The Guarantee shall extend to any holding over by the Tenant.

8 Definitions and Interpretation

Definitions

8.1 In this Deed the following definitions apply:

Car Parks has the same meaning as set out in the Lease.

Deed means this deed.

Extended Lease means the Lease as extended and varied by this Deed.

Landlord, Tenant and Guarantor include their respective successors, executors and administrators and in the case of the Landlord its assigns and in the case of the Tenant is permitted assigns.

Lease means the Deed of Lease between the Landlord and the Tenant dated 14 November 2011 as renewed pursuant to a deed of renewal dated 27 August 2014 made between the same parties.

Operative Date means 15 August 2014.

Premises means Tenancy A forming part of 4 Fred Thomas Drive, Takapuna, as the same is particularly described in and demised by the Lease.

Interpretation

8.2 In this Deed, unless the context otherwise requires:

8.2.1 a reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Deed unless otherwise stated;

8.2.2 an expression importing a natural person includes any company, trust, partnership, joint venture, association, corporation, body corporate or governmental agency;

8.2.3 a reference to a business day means a day on which all banks are open for business generally in Auckland, New Zealand;

8.2.4 the day on which any act, matter or thing is to be done under this Deed is not a business day, that act, matter or thing may be done on the next business day;




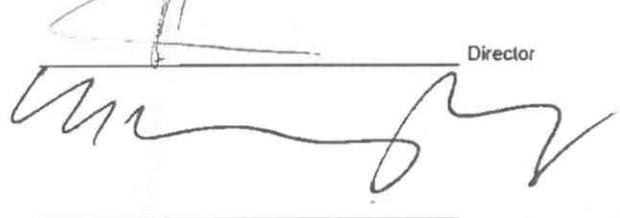
8.2.5 a covenant or agreement on the part of two or more persons binds them jointly and severally.

Executed as a Deed


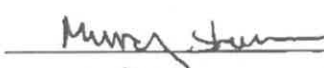
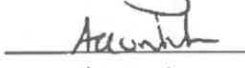
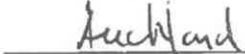
SIGNED by FRED THOMAS DRIVE)
INVESTMENTS LIMITED as Landlord)
by two directors

 Director
 Director



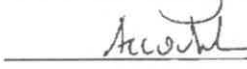
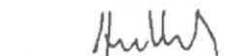
SIGNED by SPENCER HENSHAW)
LIMITED as Tenant by two directors)

 Director
 Director

SIGNED by CORNELIUS JAMES)
MURPHY as Guarantor in the)
presence of

 Witness's Signature
 Name
 Occupation
 Address

SIGNED by RODNEY GRAEME)
SPENCER as Guarantor in the)
presence of

 Witness's Signature
 Name
 Occupation
 Address