

PREMISES LEASE

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SUMMARY OF LEASE

This is a lease covering the Tenant's occupation of the Premises in the Building. The lease sets out the rights and obligations of both the Landlord and the Tenant concerning the Premises and the Building.

[if applicable:] The Building is managed by the managing agent.

1. LANDLORD

Name: _____

ACN: _____

Address: _____

Phone: _____

Fax: _____

Contact Person & Position: _____

2. TENANT

Name: _____

ACN: _____

Address: _____

Phone: _____

Fax: _____

Contact Person & Position: _____

3. GUARANTOR

Name: _____

ACN: _____

Address: _____

Phone: _____

Fax: _____

Contact Person & Position: _____

4. BUILDING

Name of Building: _____

Address: _____

Certificate of Title: Volume _____ Folio _____

5. PREMISES

[Suite / Unit] # _____, comprising an area of approximately _____ on the _____ floor of the Building.

6. PERMITTED USE OF PREMISES

[Describe the permitted use of the Premises.]

7. TERM

Commencing Date: _____

Rent Commencing Date: _____

Expiry Date: _____

8. OPTION TO RENEW

Tenant has the right, if not in default, to renew the lease for a further _____-year term following the expiry of the initial term, upon written notice to the Landlord which must be given no earlier than 180 days and no later than 90 days before the Expiry Date.

9. RENT

Initial Lease Term:

Year 1 (_____ to _____) \$ _____

Year 2 (_____ to _____) \$ _____

Year 3 (_____ to _____) \$ _____

[etc.]

Option Period:

Year 1 (_____ to _____) \$ _____

Year 2 (_____ to _____) \$ _____

Year 3 (_____ to _____) \$ _____

10. MARKET RENT REVIEWS

Allowed? _____

Review Date: _____

[Set out the review dates and percentage increases for each review date.]

11. PERCENTAGE INCREASE IN RENT

12. SECURITY DEPOSIT

[Three (3) months current rent / Bank Guarantee equivalent to three (3) months current rent] to be held for the duration of the lease and option period.

13. PUBLIC LIABILITY INSURANCE

Amount: \$ _____

14. BASE YEAR FOR RATES, TAXES & OUTGOINGS FOR THE BUILDING

Date: _____

PREMISES LEASE

Article I - Interpretation

1.1 Definitions

Wherever used throughout this Lease and any schedules or attachments hereto, the following terms shall have the meanings set out herein unless the context requires otherwise:

"bank guarantee" means an unconditional undertaking by an Australian bank to pay an amount of money to the Landlord upon demand.

"body corporate" means Body Corporate No. _____ and includes the secretary, agents, employees and any person authorised by this body corporate.

"body corporate charges" means any fee imposed by the body corporate for expenses that have been or will be incurred for the Building.

"Building" means the Building set out in Item 4 of the Summary of Lease, and includes the land on which the Building stands, the Premises and the Common Areas.

"Building Rules" means the rules and regulations for occupiers of the Building, presently comprising the rules in Form 2 of Schedule 1 of the Subdivision (Body Corporate) Regulations 1989, as amended by the body corporate, and the attached Rules and Regulations;

"Common Areas" means the areas of the Building which are provided for common use, for example car parking areas, footpaths, access ways, entrances, stairs, escalators, lifts, toilets and loading docks.

"GST" means any value added, consumption, turnover or similar tax, impost or duty on goods and/or services.

"Guarantor" means the party identified in Item 3 of the Summary of Lease.

"item" means an item in the Summary of Lease.

"Landlord" means the party identified in Item 1 of the Summary of Lease, and includes the Landlord's managing agent, employees, and any person authorised by the Landlord.

"law" includes any requirement of any statute, regulation, proclamation, ordinance or bylaw, present or future, and whether State, federal or otherwise.

"managing agent" means any managing agent for the Building appointed by the Landlord.

"outgoings" means all amounts reasonably paid by the Landlord in respect of the Building, including council and water rates and charges, insurance premiums, cost of repairs and maintenance (excluding structural repairs and capital costs), cost of providing and operating services (such as garbage removal, cleaning services, lighting, air conditioning, heating, parking and security), and management costs.

"person" includes an individual, corporation, body corporate, association, firm or other business entity.

"Premises" means the Premises described in Item 5 of the Summary of Lease and includes the Landlord's property within the Premises. It includes the area from the undersurface of the floor to the upper surface of the ceiling, and to the inside surface of the walls.

"rates" includes council rates, water rates, sewerage rates, State Deficit Levy and all other rates, assessments and fees.

“**taxes**” includes the Landlord’s land tax (calculated on the basis that the Building is the only property the Landlord owns) and any other property tax assessed on the Building but excludes the Landlord’s income tax and capital gains tax.

“**Tenant**” means the party identified in Item 2 of the Summary of Lease.

“**Tenant’s property**” means all the Tenant’s property inside the Premises and includes all the Tenant’s fixtures, fittings, signs, equipment and goods.

1.2 General

The following rules of interpretation apply, unless the context requires otherwise:

- (a) Headings are inserted for convenience of reference only and shall not affect the construction or interpretation of this Lease.
- (b) Words importing the singular number include the plural and vice versa, and words importing the masculine gender include the feminine and neuter genders.
- (c) A reference to any party to this Lease includes such party’s successors and assigns.
- (d) A reference to a right or obligation of any two or more persons confers such right or imposes such obligation on each of them individually and both (or all) of them jointly.
- (e) All schedules, annexures, attachments and/or exhibits relating to this Lease are incorporated by reference and are deemed to be part of this Lease.
- (f) Unless stated otherwise, one word or provision shall not limit the effect of any other.
- (g) Every obligation by the Tenant is taken to include an obligation by the Tenant to ensure that each of the Tenant’s employees and others under the Tenant’s control comply with such obligation.
- (h) Whenever a provision of this Lease requires the consent, approval or agreement of the Landlord for any action of the Tenant, such consent, approval or agreement must be obtained in writing prior to the Tenant taking such action.
- (i) When this Lease requires anything not to be done, this includes not allowing or permitting the thing to be done.
- (j) Examples are descriptive only, and not exhaustive.

Article II - Grant of Lease and Renewal

2.1 Grant of Lease

The Landlord leases the Premises to the Tenant on the terms set out in this Lease.

2.2 Term of Lease

This Lease begins on the Commencing Date set out in Item 7 of the Summary of Lease, and its provisions bind the parties on and from that date, notwithstanding the day on which the Lease is executed. The term of the Lease expires at midnight on the Expiry Date set out in Item 7.

2.3 Continuing Occupation After Expiry Date

If the Tenant has not given a notice to renew under clause 2.4 but continues the tenancy by occupying the Premises after the Expiry Date with the Landlord’s consent, the Tenant does so on the same terms and provisions as are set out in this Lease. However, either party may terminate the tenancy at any time by giving at least thirty (30) days written notice to the other party.

2.4 Renewal; New Lease

- (a) The Tenant may not renew this Lease unless the following criteria are satisfied:
- (i) the Tenant has remedied all breaches of which the Tenant has been given notice; and
 - (ii) the Tenant has not been persistently in breach of this Lease.
- (b) If the Tenant is entitled to renew this lease, and wishes to renew this Lease for the period stated in Item 8 of the Summary of Lease, the Tenant must give the Landlord a notice to this effect no earlier than 180 days and no later than 90 days prior to the Expiry Date. If the Tenant fails to give the notice within this time period, the Tenant shall lose the right to renew this Lease.
- (c) If the Tenant gives the notice within the allotted time period, and if, at the Expiry Date, the Tenant has remedied all breaches of which the Tenant has been given notice, the Landlord must grant a new lease of the Premises to the Tenant.
- (d) The commencing date of the new lease shall be the day after the Expiry Date of this Lease.
- (e) The Landlord's solicitors must prepare the new lease and the Tenant must pay the following costs:
- (i) the Landlord's costs as permitted by the *Retail Tenancies Reform Act 1998*; and
 - (ii) stamp duty on the new lease.
- (f) The provisions of the new lease must be the same as the provisions of this Lease, except that there will be no right to renew the new lease.
- (g) If the commencing date of the new lease is a rent review date, the rent payable under the new lease must be set as follows:
- (i) if the commencing date is a market rent review date, the rent payable under the new lease is set under clause 3.5;
 - (ii) if the commencing date is a market review date and the Landlord does not set the rent using the market rent review procedure, the rent payable for the first year of the new lease is the rent payable during the last year of this Lease.
- (h) If the commencing date of the new lease is not a rent review date, the rent payable for the first year of the new lease is the same as the rent payable during the last year of this Lease.

Article III – Rent and Charges Payable by Tenant

3.1 Amounts to be Paid by Tenant

The Tenant must pay:

- (i) the Rent set out in Item 9 of the Summary of Lease, and
- (ii) the charges for services to the Premises set out in clause 3.7, and
- (iii) the outgoings set out in clause 3.8, and
- (iv) any other money owed under this Lease.

3.2 Payment of Rent

The Tenant must pay the Rent in advance, by monthly instalments of \$_____ each, on or before the first (1st) day of each month, to the Landlord at its address as set out in Item 1 of the Summary to Lease, or at such other address as the Landlord notifies the Tenant in writing.

3.3 Interest on Late Payments

- (a) If the Tenant fails to pay any amount to the Landlord within seven (7) days of the day on which it is due, the Landlord may charge daily interest on that amount at a rate equal to the

rate fixed under the *Penalty Interest Rates Act 1983* plus two (2%) percent, from the day the unpaid amount became due until the day on which it is paid.

- (b) On the last day of each month, the Landlord may add the interest for that month to the unpaid amount as principal, and thereafter charge interest on the total amount.

3.4 Adjustments and Errors

- (a) If the Landlord has to calculate any amount owed by the Tenant by using a time period (such as a calendar month) and this Lease starts or ends on a date other than the beginning or end of that time period, the Landlord must make the necessary proportional adjustment to prorate such amount.
- (b) If either the Tenant or the Landlord proves an error in any calculation, the Landlord must correct it and make the necessary adjustment in the Tenant's next monthly statement (or as soon as possible if this Lease has expired).

3.5 Market Rent Review

- (a) If Item 10 of the Summary of Lease allows a market rent review, the Landlord may give the Tenant notice of the new rent based on the current market rent at the market rent review date. The Landlord must give the notice not more than 90 days before and not later than 90 days following each market rent review date.
- (b) The Tenant must pay the Landlord the new rent from the market rent review date.
- (c) Until the Landlord notifies the Tenant of the new rent, the Tenant must pay the current rent to the Landlord.
- (d) Any necessary adjustment between the rent the Tenant has paid and the rent the Tenant should have paid shall be calculated from the market rent review date.
- (e) If the Landlord is late in giving the Tenant notice, the Landlord does not lose the right to a rent review. But if the rent is increased, the adjustment is only calculated from the day the Landlord gave notice to the Tenant.

3.6 Market Rent Review Disputes

- (a) If the Tenant disputes the rent nominated by the Landlord under clause 3.5, the procedure set out in clause 3.6(b) must be followed. Each time limit set out in clause 3.6(b) is consecutive. If a time limit is not kept, the right attached to it is lost.
- (b) If the Tenant disputes the new rent, the Tenant must give the Landlord notice of the dispute within thirty (30) days of receiving the Landlord's notice of the new rent. The parties must negotiate in good faith to agree on a new rent within thirty (30) days of the date of the Tenant's notice of dispute. If the parties agree, the Tenant must pay the new agreed rent from the market rent review date. If the parties do not agree, then within seven (7) days either the Tenant or the Landlord may ask the President of the Australian Institute of Valuers and Land Economists Inc. – Victorian Division (or equivalent organization) ("AIVLE") to appoint an independent valuer to decide the new rent. The independent valuer must decide the current market rent at the market rent review date within thirty (30) days of being appointed.
- (c) Until a dispute is resolved or a right is lost, the Tenant must pay the current rent. Any adjustment must be calculated from the relevant date in clause 3.5. The Tenant must pay any adjustment (or, alternatively, the Landlord must credit the Tenant with any adjustment) when the Tenant's next monthly payment is due.
- (d) The valuation of the rent must take into account (i) the use of the Premises, and (ii) any incentive (such as allowances, payments, benefits, rent-free periods, discounted rent periods, assumption of a liability) given by the Landlord to the Tenant to induce Tenant to enter into this Lease, and (iii) the fair market rent that can be obtained for the Premises, and (iv) the provisions of this Lease, and (v) the rent payable for space comparable to the Premises, which is vacant and available for leasing by a willing landlord to a willing tenant, and (vi) the requirements specified in Section 12(5) of the *Retail Tenancies Reform Act 1998*.

THIS IS A 22-PAGE DOCUMENT.