Lease

Dated 23 May 2012

Nekon Pty Ltd
(Landlord)

and

The Crown in Right of Tasmania
(Tenant)

The Crown Solicitor of Tasmania

Executive Building
15 Murray Street Hobart Tasmania 7000
GPO Box 825 Hobart Tasmania 7001
Telephone: (03) 6233 3922
Facsimile: (03) 6233 2874
File Ref: 38819
Doc Ref: Lease - Nekon - 27.3.12 Final.DOC

Lease

Contents

Details

Parties	Landlord, Tenant	
Landlord	Name	**Nekon Pty Ltd**
	Short Form Name	**Landlord**
	ABN	64 676 235 168
	Address	Ground Level, 25 Argyle Street, Hobart in Tasmania
	Telephone	(03) 6224 6511
	Fax	(03) 6224 6522
	Attention	Robert Rockerfeller
Tenant	Name	**The Crown in Right of Tasmania** represented by the Department of Premier and Cabinet
	Short Form Name	**Tenant**
	Address	Level 6, 15 Murray Street, Hobart in Tasmania
	Telephone	(03) 6233 7448
	Fax	(03) 6233 2769
	Attention	Tony Prenter
Date of agreement	See Signing page	

Items

Item 1 **Premises**

The whole of Level 9, 22 Elizabeth Street, Hobart comprising an area of 803.5 square metres Net Lettable Area.

Item 2	**Commencement Date** 1 June 2012.
Item 3	**Expiry Date** 31 May 2022.
Item 4	**Term** 10 years.
Item 5	**Annual Rent at Commencement Date** $224,980.00 per annum (excluding GST).
Item 6	**Market Review Date** If the option to renew under **clause 4** is exercised, the commencement date of the further term.
Item 7	**Permitted Use of the Premises** Office accommodation, computer and training rooms and other related purposes.
Item 8	**Further terms** Two periods of five years each.
Item 9	**Landlord's address for payment of Annual Rent** Ground Level, 25 Argyle Street, Hobart 7000.
Item 10	**Public risk insurance** $20 million.

General terms

1 Defined terms and interpretation

1.1 Defined terms

In this lease, unless the context otherwise requires:

Access Devices means all keys or magnetic cards or other devices in the Tenant's possession that allow entry into the Building and Premises and the use of lifts outside of Normal Operating Hours.

After Hours Entrant means a person authorised by the Tenant who enters the Building at a time when the doors of the Building are locked or at a time other than during Normal Operating Hours.

Annual Rent means the amount set out in Item 5 as varied in accordance with the provisions of this lease.

Australian Standards means any standard published by Standards Australia Limited (and known as 'Standards Australia') current as at the Commencement Date and includes any further standards introduced by Standards Australia Limited, compliance with which is mandatory in respect of the Building.

Authorised Representative means:

(a) for the Tenant, the Secretary of the Department or his/her nominee appointed for the purposes of this lease; and

(b) for the Landlord, its Chief Executive Officer or other equivalent person authorised by the Board of the Landlord,

or any other person nominated by or on behalf of a party as an Authorised Representative by notice to the other party.

Building means the office building known as 22 Elizabeth Street, Hobart which is constructed on the Land and the Landlord's Fixtures and Fittings but excludes the Tenant's Fixtures and Fittings.

Building Legislation means any applicable Law relating to the design, construction, use or occupation of a building and for the time being includes:

(a) the *Building Act 2000* (Tas);

(b) the *Building Regulations 2004* (Tas); and

(c) the *Building Code of Australia.*

Building Manager means a building manager referred to in clause 19.11(a).

Building Operating Expenses means:

(a) all proper and reasonable insurance premiums payable for or in relation to any insurances the Landlord is required to effect and maintain under this lease in respect of the Building (including the Landlord's Fixtures and Fittings and the Land;

(b) all proper and reasonable costs and expenses incurred by the Landlord in:

(i) cleaning the Common Areas;

(ii) supplying the Essential Services to the Building;

(iii) maintaining and repairing the Building (including the Landlord's Fixtures and Fittings), the Premises and the Essential Services;

(iv) the provision of security, access control and management of emergencies in relation to the Building;

(a) proper and reasonable management fees directly incurred by the Landlord in relation to the on-site management of the Building,

but specifically does not include the Excluded Outgoings.

Business Day means any day on which the banks are open for business in Hobart, but does not include a Saturday, a Sunday or a public holiday generally observed in Hobart.

Certificate means a certificate of current annual maintenance required under the Building Legislation.

Claim means any allegation, debt, cause of action, liability, claim, proceeding, suit or demand of any nature however arising and whether present or future, fixed or unascertained, actual or contingent, and whether at law, in equity, under statute or otherwise.

Commencement Date means the date set out in Item 2.

Common Areas means to the extent not located within the Premises, the entrances, exits, fire escapes, foyers, corridors, toilets (including disabled toilets), showers, tea rooms, lifts and stairways and bike racks of the Building and any other areas set aside by the Landlord for general use of the Tenant and other occupiers or users of the Building.

Confidential Information means, in relation to a party, all information and/or data relating to the operations, business, property or affairs of that party which is of a confidential nature, including without limitation:

(a) information which that party designates in writing as 'confidential' before disclosing it to the other party;

(b) financial information and data;

(c) product information;

(d) research information and data;

(e) information relating to processes, techniques and/or equipment;

(f) customer data (including customer names and details);

(g) drawings, designs, secret information, trade secrets, formulae and technical data;

(h) licences, negotiations and/or agreements with third parties; and

(i) other business information,

but does not include any of the following:

(j) this lease;

(k) information that the parties agree in writing is no longer to be Confidential Information for the purposes of this lease; and

(l) information that is available to any person on a non-confidential basis from a source other than a party to this lease or any employee, agent or contractor of any party to this lease.

Control in relation to an entity (including the Landlord) includes:

(a) if the entity is a corporation:

(i) the direct or indirect holding of more than 50% of the issued shares of the corporation;

(ii) the possession directly or indirectly of the power (whether or not having statutory, legal or equitable force, and whether or not based on statutory, legal or equitable rights) directly or indirectly:

(A) to control the membership of the board of directors of the corporation; or

(B) to cast, or control the casting of, more than 50% of the of the maximum number of votes that may be cast at any general meeting of the entity,

whether by means of trusts, agreements, arrangements, understandings, practices or otherwise;

(b) if the entity is a unit trust:

(i) the direct or indirect holding of more than 50% of the issued units of the entity; or

(ii) the possession directly or indirectly of the power (whether or not having statutory, legal or equitable force, and whether or not based on statutory, legal or equitable rights) directly or indirectly:

(A) to control, appoint or change the trustee of the unit trust;

(B) to cast, or control the casting of, more than 50% of the of the maximum number of votes that may be cast at any general meeting of the unit-holders of the entity;

(C) to remove or appoint a trustee of the unit trust;

(D) to give directions to the trustee of the unit trust;

(E) to vary the constituent documents for the unit trust; or

(C) to wind up the unit trust,

whether by means of trusts, agreements, arrangements, understandings, practices or otherwise;

(c) if the entity is a trust (other than a unit trust):

(i) any present or future entitlement to more than 50% of the capital or income of the trust; or

(ii) the possession directly or indirectly of the power (whether or not having statutory, legal or equitable force, and whether or not based on statutory, legal or equitable rights) directly or indirectly:

(A) to control, appoint or change the trustee of the trust;

(B) to give directions to the trustee of the trust;

(C) to vary the constituent documents for the trust;

(D) to wind up the trust;

(E) to appoint or remove beneficiaries of the trust;

(F) to distribute or decide the distribution of any capital or income of the trust,

whether by means of trusts, agreements, arrangements, understandings, practices or otherwise; and

(d) in respect of any entity however constituted or established, the possession directly or indirectly of the power (whether or not having statutory, legal or equitable force, and whether or not based on statutory, legal or equitable rights) to directly or indirectly direct or cause the direction of the management and policies of the entity and without limitation, in the case of the Landlord includes the manner in which the Landlord performs its obligations and exercises its rights under this Lease, whether in each case by means of trusts, agreements, arrangements, understandings, practices, greater industry experience, the ownership of any equity in that entity or otherwise.

Crown means The Crown in Right of Tasmania.

Crown Agency means a statutory agency (as defined in Section 1A of the *Public Accounts Committee Act 1970* (Tas)) or a Government Business Enterprise (for the purposes of the *Government Business Enterprises Act 1995* (Tas)).

Department means the Department of Premier and Cabinet (Tasmania) or any other department which substantially succeeds to its functions.

Dispute has the meaning given to it in clause 31.1.

Dispute Notice has the meaning given to it in clause 31.1.

Entity has the meaning given to it in section 64A of the *Corporations Act 2001* (Cwlth).

Essential Safety and Health Feature means any feature within the Building and/or the Premises prescribed as an essential safety and health feature by any Building Legislation applicable to the Building and/or the Premises.

Essential Safety and Health Measure means any measure relevant to the Building and/or Premises prescribed as an essential safety and health measure by any Building Legislation applicable to the Building and/or the Premises.

Essential Service means each of the following:

(a) a supply of water, hot water and electricity to those parts of the Premises and the Common Areas as are supplied with water, hot water and electricity;

(b) heating, air conditioning and ventilation to those parts of the Premises and the Common Areas which are serviced by the air conditioning plant;

(c) a lift service to all levels of the Building;

(d) drainage;

(e) the emergency power supply system, emergency warning system and evacuation system for the Building;

(f) fire detection and fire protection services for the Building; and

(g) security alarms for the Building.

Event of Default means an event of default listed in clause 28.3(a).

Excluded Outgoings means:

(a) any amount:

(i) that the Tenant is expressly responsible for under another provision of this lease;

(ii) payable for or in relation to any insurance premiums the Landlord may effect and maintain for loss of rent, business interruption or structural defects in respect of the Building (including the Landlord's Fixtures and Fittings), the Common Areas and the Premises;

(iii) of GST payable in respect of the Outgoings to the extent that the Landlord is entitled to a credit for that GST under the GST law;

(iv) incurred in relation to the Landlord complying with its repair and maintenance obligations under clause 10 of a capital or structural nature;

(v) incurred in the replacement of major component parts, including compressors, lift motors and cables, escalators and ventilation filters;

(vi) incurred by the Landlord in the recarpeting or repainting of the Building, the Common Areas or the Premises;

(vii) incurred in relation to repairs and maintenance to the Building, the Premises or the Common Areas to the extent attributable to the defective design of the Building, the Premises or the Common Areas;

(viii) incurred by the Landlord in the rectification of any latent or patent defects in the Building, the Common Area or the Premises during the Term;

(ix) incurred by the Landlord in the initial balancing of the air-conditioning system servicing the Building, the Common Areas and the Premises;

(x) whether or not of a capital or structural nature:

(A) incurred by the Landlord in respect of its repair and maintenance obligations under clause 10 which are recoverable under a manufacturer's or supplier's warranty or guarantee; or

(B) incurred in the cleaning or repair of the Building, the Premises or the Common Areas or the rectification of damage or replacement of any part of the Building, the Premises or the Common Area required by or brought about due to the conduct of any demolition, construction or other works on the Land during the Term;

(b) any interest, fees, charges, costs or penalties incurred as a result of late payment of Outgoings by the Landlord;

(c) any premium or additional premium payable by the Landlord payable as a result of construction and demolition works continuing on, in, under or adjacent to the Building;

(d) any liability or expenditure:

(i) recoverable by the Landlord through insurance; or

(ii) payable by or recoverable from some other tenant or tenants of the Building or the Land or from any other person;

(e) capital expenditure by the Landlord on plant, machinery, equipment or structural repairs to the Building, the Common Areas or the Premises;

(f) costs or expenses of a capital nature including costs in respect of which depreciation may be claimed under any Law relating to tax and costs which are not generally treated as an outgoing or an operating expense pursuant to accounting standards, policies or practices;

(g) expenses incurred in the repair or replacement of Building fabric or façade;

(h) any costs, fines, penalties or interest charges incurred by the Landlord due to any act, omission or negligence on the part of the Landlord or the Landlord's Associates; and

(i) costs, expenses and interest in connection with money borrowed by the Landlord.

Nothing in paragraphs (a) to (i) of this definition limits the generality of any of those paragraphs.

Expiry Date means the date set out in Item 3.

Government Agency means any government or any public, statutory, governmental, semi governmental, local governmental or judicial body, entity or authority and includes a Minister of the Crown (in any right), the Crown, and any person, body, entity or authority exercising a power under an Act of Parliament.

Institute means the Tasmanian Division of the Australian Property Institute Inc.

Interest Rate means the rate charged from time to time by the Westpac Banking Corporation on overdraft facilities in excess of $100,000.00.

Item means an item in the Information table.

Land means part of the land comprised in folio of the Register Volume 50547 Folio 1 and includes all improvements on the Land (including the Landlord's Fixtures and Fittings) but excludes the Tenant's Fixtures and Fittings.

Landlord includes the person entitled to possession of the Premises when this lease ends.

Landlord's Associates includes:

(a) each employee, contractor and agent of the Landlord;

(b) each employee, sub-contractor and agent of any of the above; and

(c) the employees and agents of any such subcontractor,

who are involved in any activity related to this lease or the Landlord's obligations under this lease, and Landlord's Associate means any of them. The Tenant is not, and nor is any Tenant's Associate, a Landlord's Associate.

Landlord's Fixtures and Fittings includes all plant and equipment, fixtures, furniture, furnishings of whatever nature including window coverings, blinds and light fittings in the Premises at the Commencement Date or from time to time supplied by the Landlord but excluding the Tenant's Fixtures and Fittings.

Law means:

(a) principles of law or equity of general application in Australia established by decisions of courts;

(b) any Statute, award, proclamations and local laws of the Commonwealth, State, any local government or a Government Agency;

(c) the Constitution of the Commonwealth of Australia;

(d) binding requirements and mandatory approvals (including conditions) of the Commonwealth of Australia, the State or a Government Agency which have the force of law; and

(e) guidelines of the Commonwealth of Australia, the State or a Government Agency which have the force of law.

Loss means any loss, cost, expense, damage, liability, damages or exposure of any type and however arising incurred by a party including legal costs and expenses on a full indemnity basis, direct, indirect or consequential loss, liability to third parties, loss of revenue and loss of profit.

Maintenance means all those obligations of the Landlord in relation to repair and maintenance as set out in this lease, including under clause 10 and Schedule 2.

Market Review Dates means each of the dates set out as such in Item 6.

month means a calendar month.

Net Lettable Area means the net lettable area of the Premises or Building (as the context requires) calculated in accordance with the Australian Property Council 'Method of Measurement' effective March 1997.

Normal Operating Hours means a reference to the ordinary operating hours and ordinary business hours of occupation, use and comfort condition are between the hours of 7:30 a.m to 6:30 p.m on each Business Day. The operation of the air conditioning is between 8.00 a.m to 6.00 p.m on each Business Day.

Occupancy Approval means, in relation to the Building, the Premises and the Common Area, any written permit, permission, certificate or consent of a Government Agency

necessary to enable the lawful occupation of the Building, the Premises and the Common Area for its intended purpose.

Outgoings means:

(a) the Rates and Taxes; and

(b) the Building Operating Expenses,

but specifically does not include the Excluded Outgoings.

Outgoings Year means each of the following periods:

(a) the period from and including the Commencement Date and ending on 30 June next occurring after the Commencement Date;

(b) during the Term, each period of 12 months ending on 30 June; and

(c) if the Term ends on a date which is not 30 June, the period from 1 July preceding the end of the Term and ending on the date on which the Term ends.

Payment means each of the Annual Rent, the Tenant's Share of Outgoings, along with any other consideration and, in the case of non-monetary consideration, the market value of the consideration (taking no account in either case of any GST payable in connection with that consideration), payable or provided by the Tenant or the Landlord for any supply made under or in connection with this lease (other than an amount payable under clause 32).

Permitted Use means the use as described in Item 7.

Premises means those parts of the Building and the Land shown on the Plan referred to in Item 1 extending from the interior face of all walls, doors and windows and extending from the surface of the floor to the underside of the ceiling. The Premises include the decorative finishes applied to the walls and ceilings (for example, painted surfaces) and carpets and other floor coverings fixed to the floor but does not include the Tenant's Fixtures or Fittings.

Rates and Taxes means all rates, taxes (including land tax calculated as if the Land was the only property owned by the Landlord in Tasmania, but excluding income tax, GST and other taxes of like nature), charges, levies, assessments and fees at any time payable to any Government Agency in respect of the Building (or any part of the Building).

Requirement means any requirement, notice, order or direction received from or given by any Government Agency.

Service Agents has the meaning given to it in clause 10.6(a).

Service Contract means each contract entered into by the Landlord for the provision of:

(a) services in connection with servicing, repair and/or maintenance of the lifts, air conditioning, security, electrical equipment and fire services; and

(b) cleaning services in respect of the Building, the Premises or the Common Areas.

Services Meeting has the meaning given to it in clause 12(a).

Services Specifications means those specifications which relate to the operation of all services (including the Essential Services) to the Building and the Premises as set out in Schedule 2.

State means the State of Tasmania.

Statute means any legislation in force of the Parliament of the Commonwealth of Australia or the State and any rule, regulation, ordinance, by-law, statutory instrument, order or notice made at any time under any legislation during the Term of this lease.

Tenant's Associates means the Tenant's officers, employees, agents and contractors in or on the Premises and specifically excludes the Landlord and the Landlord's Associates.

Tenant's Fixtures and Fittings includes all fixtures, fittings, plant, equipment and other articles in the Premises in the nature of trade or tenant's fixtures and chattels which are not Landlord's Fixtures and Fittings.

Tenant's Share of Outgoings has the meaning given to it in clause 7.1(a).

Term means the term of this lease as set out in Item 4 commencing on the Commencement Date and expiring on the Expiry Date.

Valuer means a registered valuer who is a member of the Institute and having a minimum of ten years experience in the rental valuation of premises of a similar nature, size and complexity as the Premises in Tasmania.

1.2 Interpretation

In this lease, unless the context otherwise requires:

(a) a reference to this lease or any other document referred to in this lease or another instrument includes any variation, or replacement or novation of any of them;

(b) a reference to a statute, ordinance, code or other Law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;

(c) the singular includes the plural and vice versa;

(d) person includes a firm, a body corporate, an unincorporated association, a responsible authority or Government Agency, as constituted from time to time;

(e) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes and permitted assigns;

(f) other parts of speech and grammatical forms of a word or phrase defined in this lease have a corresponding meaning;

(g) mentioning any thing after the words include, included, or including does not limit the meaning of any thing mentioned before those words;

(h) a reference to a body other than a party to this lease whether or not it is a statutory body:

(i) which ceases to exist; or

(ii) whose powers or functions are transferred to any other body,

refers to the body which replaces it or which substantially succeeds to its powers or functions;

(i) a reference to an officer of an organisation or other entity includes any person acting in that office;

(j) a reference to writing includes a reference to printing, typing and each other method of producing words, figures or symbols in visible form;

(k) an agreement, representation or warranty on the part of or in favour of two or more persons binds or is for the benefit of them jointly and severally;

(l) a reference to a document includes any agreement in writing or any certificate, notice, instrument or other document of any kind;

(m) words importing any gender include all other genders, as applicable;

(n) a reference to any thing (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a group of persons is a reference to any one or more of them;

(o) a covenant prohibiting a person from doing anything also prohibits that person from authorising or allowing it to be done by another person;

(p) a reference to a section, clause, recital, schedule, annexure or appendix is to a section, clause, recital, schedule, annexure or appendix in or to this lease;

(q) a reference to a day must be interpreted as the period of time commencing at midnight and ending 24 hours later;

(r) a reference to the payment of money within a specified time is a reference to the full clearance of any personal cheque into the account of the payee within that time;

(s) words or phrases derived from a defined word have a corresponding meaning to the defined word;

(t) references to '$' and 'dollars' are to Australian dollars; and

(u) a reference to the Landlord includes, where context permits, a reference to the Landlord's Associates.

1.3 Business Day

If the day on which any act, matter or thing is to be done under this lease is not a Business Day, that act, matter or thing must be done no later than the next Business Day.

1.4 No contra proferentum

In the interpretation of this lease, no rule of construction will apply to disadvantage a party because that party proposed a provision of this lease or the lease itself.

1.5 Warranty and indemnity

Where any warranty is given by the Landlord under this lease, the Landlord indemnifies the Tenant in respect of any Loss which arises out of or is in any way connected with a breach of that warranty.

1.6 Extent of indemnity

Any indemnity given by the Landlord under this lease:

(a) is a continuing obligation, separate and independent from the other obligations of the Landlord;

(b) survives termination of this lease; and

(c) extends to any Loss including (without limitation) Loss arising from or in any way connected with an act, default or omission or other event in respect of which the indemnity is given provided that the Tenant remains obliged to discharge the common law obligation in relation to mitigation of loss and any loss resulting from a failure to discharge such obligation is not included in an such indemnity.

1.7 Headings

Headings are included for convenience only and do not affect the construction or interpretation of this lease.

1.8 Capacity of the Tenant

(a) Unless otherwise stated in this lease, a reference to the Tenant means the Tenant as a contracting party under this lease.

(b) The Tenant's rights under this lease are in addition to its prerogatives and rights under legislation or at common law. Nothing in this lease limits or prevents the Tenant or the Crown from exercising such prerogative or any right or otherwise requires the Tenant or the Crown to exercise, refrain from the exercise or to procure the exercise or the refraining from the exercise of any such prerogative or right in a particular way or at all.

1.9 Approvals to be copied to the Tenant

If the Landlord makes an application in relation to the Land to any Government Agency (including any application for an approval) the Landlord must simultaneously provide an identical copy of that application to the Tenant.

1.10 Capacity of the Landlord

The Landlord must, where the context requires:

(a) procure that the Landlord's Associates comply with relevant provisions of this lease in the same manner as the Landlord is required to do; and

(b) not act in a way which would result in the Landlord being in breach of this lease or which, if the action was undertaken by the Landlord, would result in the Landlord being in breach of this lease.

1.11 Non derogation

Nothing in this lease derogates from any obligation on the Landlord (as owner of the Land), or any right of the Tenant, under any covenant registered on the title to the Land.

2 Grant of lease

2.1 Term

The Landlord leases to the Tenant, and the Tenant takes on lease from the Landlord, the Premises for the Term subject to the provisions of this lease.

2.2 Monthly tenancy

If the Landlord allows the Tenant to continue to occupy the Premises after the Expiry Date without a further lease being entered into, the Tenant will be a monthly tenant at the same Annual Rent applicable to the preceding year of the lease Term and subject to the provisions of this lease insofar as they are applicable to a monthly tenancy. The period of notice required to terminate the monthly tenancy will be three months' notice despite any rule of Law.

3 Grant of ancillary rights

3.1 Common Areas

(a) The Landlord grants to the Tenant at all times during the Term and any renewal or holding over the right for the Tenant, the Tenant's Associates and persons authorised by the Tenant to use the Common Areas subject to the other provisions of this lease.

(b) Subject to clause 3.1(c), the right to use Common Areas granted by clause 3.1(a) is non-exclusive.

(c) The Tenant, and persons authorised by the Tenant, will have the exclusive right to the use of all Common Areas located on a floor the Building in respect of which the Tenant leases all of the Net Lettable Area on that floor.

(d) No rent, fee or other moneys are required to be paid by the Tenant with respect to the rights contained in this clause 3.1 for the Term and any renewal or holding over.

3.2 Ceiling cavity, cable ducts and risers

(a) The Tenant may use the ceiling cavity above the Premises, cable ducts and the risers in the Building to install communication cables and conduits for utilities and services to the Premises.

(b) The Tenant will be entitled to reasonable use of the riser space servicing each of the floors comprising the Premises with connection to the ground and roof levels of the Building.

4 Option to renew for further term

4.1 Further term

(a) If a further term is specified in Item 8, the Tenant holds an option to take a new lease of the Premises, in accordance with this lease, for the further term specified in Item 9 to commence on the day following the Expiry Date.

(b) The Landlord must grant the Tenant a new lease of the Premises for a further term in Item 8, if, subject to clause 4.2(a), the Tenant gives the Landlord a notice not less than 9 months before the Expiry Date that the Tenant is exercising the option to take the new lease for the further term.

(c) The new lease for the further term commences on the day following the Expiry Date and will contain the same provisions as this lease except that:

(i) this clause 4 must be deleted;

(ii) the Annual Rent for the first year of the further term will be the New Rent determined in accordance with clause 6;

(iii) the dates set out in Item 2 and Item 3 will be replaced with the commencement date and expiry date of the renewed lease;

(iv) the Term in Item 4 will be replaced by the further term set out in Item 8 and if there is more than one further term in Item 8, Item 8 will be amended to reduce the further terms by one;

(v) if this lease only contains one further term in Item 8, Item 8 and this clause 4 must be deleted;

4.2 Failure to give notice of exercise by Tenant not fatal

(a) Subject to clause 4.2(b), if the Tenant does not give a notice of exercise of option to the Landlord on or before the date required under clause 4.1(b):

(i) the Landlord must notify the Tenant in writing that the last date for the exercise of the option has lapsed; and

(ii) the Tenant may exercise the option for the further term in Item 8:

(A) during the period of 30 Business Days from the date of service of the Landlord's notice; or

(B) at any time before the Landlord gives that notice.

(b) If the Term expires prior to the Landlord giving the notice referred to in clause 4.2(a)(i), or if the Term expires within the period of 30 Business Days after the Landlord gives of the notice referred to in clause 4.2(a)(i), and in either case the Tenant does not voluntarily vacate the Premises on or before the Expiry Date, then:

(i) the Tenant, at its election, may continue in occupation of the Premises as a monthly tenant of the Landlord in accordance with clause 2.2;

(ii) the Landlord cannot give a notice, in accordance with clause 2.2, terminating the monthly tenancy unless:

(A) the Landlord has given the Landlord's notice to the Tenant referred to in clause 4.2(a);

(B) 30 Business Days have elapsed from the giving of that notice; and

(C) the Tenant has failed to give notice exercising the option during that period of 30 Business Days; and

(iii) the Tenant may exercise the option for the further term in Item 8:

(A) during the period of 30 Business Days from the date of service of the Landlord's notice referred to in clause 4.1(a); and

(B) at any time before the Landlord gives that notice,

but in either case, not more than one year following the Expiry Date.

(c) If, in accordance with this clause 4.2, the Tenant notifies the Landlord in writing that the Tenant is exercising the option to take a new lease of the Premises for the further term set out in Item 8, the remaining provisions of this clause 4 will apply.

5 Annual Rent

5.1 Tenant's covenant

The Tenant must pay the Annual Rent to the Landlord during the Term.

5.2 Payment of Annual Rent

The Annual Rent must be paid:

(a) by consecutive monthly instalments in advance;

(b) on the Commencement Date and then on the first day of each calendar month during the Term;

(c) with each payment equal to one twelfth of the Annual Rent (excluding the first and last payment which must be proportionate if necessary); and

(d) to the Landlord either:

(i) at the address set out in Item 9 (or such other address as notified in writing); or

(ii) by electronic funds transfer to an account nominated in writing by the Landlord.

5.3 Annual Rent review

The Annual Rent will be varied annually on the anniversary of the Commencement Date by the same proportion as any change in the CPI for the preceding twelve month period. The proportionate variation will be calculated by reference to the Index published for the last quarter ending immediately before the relevant review date.

"CPI" means the Consumer Price Index for Hobart (all groups) published by the Australian Bureau of Statistics but should the publication of that Index be discontinued or suspended, the Index published by the Australian Bureau of Statistics which is officially substituted for that Index or should there be no substituted Index, then an Index which most nearly reflects changes in the cost of living for Hobart selected by an independent expert in economics appointed by the President for the time being of the Institute.

6 Market review of Rent

6.1 Landlord's notice

If the Tenant provides a notice of exercise of option to the Landlord in accordance with clause 4.1 or clause 4.2 the Landlord must, within 30 Business Days of receiving the notice of exercise of option from the Tenant, give the Tenant a notice stating the Landlord's assessment of the market rental value of the Premises at the relevant Market Review Date (New Rent).

6.2 Tenant's notice

If within 30 Business Days of receiving the Landlord's notice, the Tenant agrees in writing to the Landlords assessment, the New Rent stated in the Landlord's notice becomes the Annual Rent on and from the relevant Market Review Date.

6.3 Valuer determination

(a) If the Landlord and Tenant have not agreed the New Rent within 30 Business Days after the Landlord gives its notice under clause 6.1, the New Rent is to be determined by arbitration in accordance with this clause 6.3.

(b) A Valuer will be appointed by the President of the Institute at the request of either the Landlord or the Tenant to undertake the determination by arbitration. If the Valuer dies, becomes incapable of acting, refuses to act or unreasonably delays deciding the New Rent, either the Landlord or the Tenant may request the President of the Institute to appoint another Valuer to determine the New Rent.

(c) The Valuer will determine the New Rent at the relevant Market Review Date. The determination will be final and binding on the parties.

(d) Each party will be entitled to legal representation.

(e) The Valuer must determine the open market rental value of the Premises at the relevant Market Review Date assuming that:

(i) the Landlord is a willing but not anxious landlord and the Tenant is a willing but not anxious tenant; and

(ii) the Premises are available with vacant possession;

and taking into account:

(iii) the Net Lettable Area of the Premises;

(iv) the length of the further term;

(v) the relative size and quality of the Premises in the Hobart commercial office market;

(vi) the Permitted Use of the Premises as set out in Item 7;

(vii) the open market rental value (other than rental values which have been escalated to a predetermined amount or in accordance with movements in the consumer price index or any other index) at the Market Review Date of comparable premises, in Hobart whether that value is determined in respect of new lettings with vacant possession or in respect of occupied premises;

(viii) the terms and conditions generally of this lease;

(ix) any rent-free period, financial contribution (including any contribution towards the cost of fitout) or other concession customarily or likely to be offered to new tenants of comparable vacant premises on lease terms and conditions comparable to those contained in this lease; and

(x) the locality of the Premises within the Hobart central business district;

but not taking into account:

(xi) the value of any goodwill attributable to the business or the Tenant's use of and operations from the Premises;

(xii) the value of the Tenant's Fixtures and Fittings or any other improvements voluntarily made by or for the Tenant, its sub-tenants or their respective predecessors in title during the Term or any period of prior occupation to the intent that the Premises for the purpose of determining the open market rental value will be regarded as cleared space but otherwise serviced and habitable;

(xiii) the Tenant being in possession of the Premises;

(xiv) any failure by the Tenant to comply with the provisions contained in this lease;

(xv) the deleterious condition of the Premises if such condition is a result of any breach of any provision of this lease by the Tenant;

(xvi) the adverse effect on the condition or rental value of the Premises of any breach of this lease by the Tenant;

(xvii) any increase in value in the Premises as a result of any structural alterations or other voluntary improvements made to the Premises or the Building (including installation of equipment) by the Landlord at its discretion for any reason (except any carried out at the prior request of the Tenant to which the Tenant has not contributed either by way of service charge or otherwise);

(xviii) any special interest of the Tenant, its sub-tenants or their respective predecessors in title including the fact that the Tenant is a sitting tenant;

(xix) goodwill occasioned by the Tenant, its sub-tenants or their respective predecessors in title;

(xx) areas other than the Net Lettable Area of the Premises; or

(xxi) any naming rights the Tenant may have in respect of the Building.

(f) In determining the New Rent, the Valuer must:

(i) act as an arbitrator and not as an expert;

(ii) give a written decision showing the New Rent at the relevant Market Review Date for the Premises and what evidence was taken into account, what evidence was disregarded, their respective weightings and any adjustments and written reasons for the Valuer's decision;

(iii) decide who must pay the costs of the arbitration, and in what proportion, if those costs are to be shared;

(iv) subject to this clause 6.3, conduct the arbitration in accordance with the *Commercial Arbitration Act 1986* (Tas); and

(v) determine the New Rent on a GST exclusive basis.

(g) Before the resolution and determination of the New Rent the Tenant must continue to pay the Annual Rent payable immediately before the relevant Market Review Date. Within 20 Business Days of the determination of the New Rent any adjustment must be made between the parties.

6.4 Rent on a GST exclusive basis

Despite anything else in this lease, the New Rent to which a rent review under this clause 6 applies will exclude any part of that amount required to be paid because of the application of clause 32.

6.5 Time

Time is not of the essence in the giving of any notice relating to the market review of the Annual Rent. However, if a notice is given after the Market Review Date, any reviewed market rent will only apply on and from the date the notice was given. Nothing in this clause is to be construed as implying that time is of the essence in relation to any other provision of this lease.

7 Outgoings

7.1 Contributions to Outgoings

(a) In addition to the Annual Rent, the Tenant must for each Outgoings Year pay to the Landlord the Tenant's share of the Outgoings calculated in accordance with the formula:

$$TS = \frac{A}{B} \times C$$

where:

TS = the Tenant's Share of Outgoings for that Outgoings Year.

A = the Net Lettable Area of the Premises.

B = the Net Lettable Area of the Building.

C = the Outgoings for that Outgoings Year.

(b) Outgoings are deemed to accrue on a daily basis irrespective of when an amount included in the Outgoings is levied, assessed, charged, paid or payable.

(c) Outgoings that relate partly to an Outgoings Year and partly to another will be apportioned on a pro rata daily basis.

(d) If the Premises includes substantially all of the Net Lettable Area of the Building and there are no other parts of the Building intended to be leased or licensed to any person other than the Tenant, the Net Lettable Area of the Building and the Net Lettable Area of the Premises will be taken to be the same.

7.2 Landlord's estimate

(a) At least two months before the start of each Outgoings Year, the Landlord must provide to the Tenant for the Tenant's approval the Landlord's estimates of all the Outgoings (together with the methodologies used to calculate and apportion the Landlord's estimates) and the estimated amount of the Tenant's Share of Outgoings for that Outgoings Year.

(b) The Tenant may object to the Landlord's estimates of the Outgoings and the Tenant's Share of Outgoings within 20 Business Days of receipt by the Tenant if the Tenant believes (acting reasonably) that:

(i) the Landlord's estimates of all or any part of the Outgoings do not represent a reasonable and proper commercial cost for the Outgoings to be incurred;

(ii) all or any part of the Landlord's estimates of the Outgoings are Excluded Outgoings;

(iii) the Landlord's estimates of the Outgoings and the Tenant's Share of Outgoings have been miscalculated; or

(iv) the Landlord's estimates of the Outgoings are excessive based on the Tenant's anticipated consumption of services provided to the Building or the Tenant's anticipated use of the Premises.

(c) If the Tenant fails to either approve or reject the Landlord's estimates within 20 Business Days of receipt by the Tenant, the Tenant will be deemed to have rejected the Landlord's estimates.

(d) If the Tenant rejects or is deemed to have rejected the Landlord's estimates by the date set in clause 7.2(b), the dispute is to be resolved by dispute resolution under clause 31 of this lease.

7.3 Landlord's obligations

(a) The Landlord must ensure that the Outgoings are proper, reasonable and incurred at no higher than current market rates.

(b) The Landlord must promptly pay or cause to be paid all Outgoings and all other costs and expenses associated with the Land, the Building, the Premises and the Common Areas as and when they fall due for payment. The Landlord must take advantage of any rebate, credit or discount (where a discount is available) and the rebate, credit or discount must be brought to account in the calculation of the Outgoings.

(c) The Landlord must notify the Tenant of all valuations, revaluations or supplementary valuations of the Land, the Building and the Premises made by any Government Agency to enable the Tenant to object if it wishes. Notice of the valuation, revaluation or supplementary valuation must be given by the Landlord to the Tenant within 10 Business Days following receipt of the valuation notice by the Landlord (provided that in the case of any valuations, revaluations or supplementary valuations which must be objected to within 20 Business Days, notice of the valuation, revaluation or supplementary valuation must be given by the Landlord to the Tenant within five Business Days following receipt of the notice by the Landlord). The Landlord must at the same time advise the Tenant if the Landlord is objecting to the valuation.

(d) The Tenant may object in its own name, the name of the Landlord or in both names, to any Rates and Taxes assessment or any valuation, revaluation or supplementary valuation notice in respect of the Land, the Building and the Premises. The Tenant will keep the Landlord informed in relation to any objection and the Landlord must provide reasonable assistance if requested. All reasonable costs incurred by the Tenant under this clause 7.3(d) are to be borne by the Tenant.

(e) The Landlord must at its cost do everything necessary (in the Tenant's opinion acting reasonably) to assist the Tenant in any objection of any Rates and Taxes assessment or any valuation, revaluation or supplementary valuation notice in respect of the Land, the Building or the Premises in accordance with this clause 7.3(e), which may include providing the Tenant and all relevant Authorities with all relevant information and responding to all queries and requests for information from all relevant Authorities and the Tenant.

(f) The Tenant must not reach any compromise agreement with the valuing Government Agency without the prior consent in writing of the Landlord (not to be unreasonably withheld or delayed).

7.4 Landlord to provide information

(a) At all reasonable times after receipt of reasonable notice the Landlord must permit the Tenant to inspect the following to the extent that they relate to the Outgoings:

(i) a schedule of all amounts included as part of the Outgoings;

(ii) all invoices, accounts and receipts;

(iii) a breakdown of all management, administration and other fees included as part of the Outgoings; and

(iv) all utility and Service Contracts.

(b) The Tenant may rely upon any information contained in the documents referred to in clause 7.4(a) in the event of a dispute relating to the calculation or payment of Outgoings and the Tenant's Share of Outgoings.

(c) The Tenant must keep confidential any information obtained by it from inspecting the above documents and must not disclose such information to any person other than its officers, employees and consultants engaged to review the Outgoings and the Tenant's Share of Outgoings.

7.5 Payment by instalments

Subject to clause 7.6, the Tenant must pay instalments in advance in the same manner as Annual Rent as set out in clause 5.2 (Payment Date) on account of the Tenant's Share of Outgoings. Each instalment is to be one-twelfth of the Landlord's estimate of the Tenant's Share of Outgoings for the relevant Outgoings Year (as determined under clause 7.1) but, if the instalment period is less than one month, the instalment for that period is apportioned on a daily rate of the relevant Outgoings Year.

7.6 Payments until estimate given

(a) In each Outgoings Year:

(i) the Tenant is not required to pay any instalment payable on account of the Tenant's Share of Outgoings until such time as the Landlord gives the Tenant a notice complying with clause 7.2; and

(ii) if the Landlord has given the Tenant a notice under clause 7.2 and the Tenant has objected to it, the Tenant must pay the Tenant's Share of Outgoings based on the Landlord's initial notice but subject to readjustment under clause 7.6(b).

(b) On the first Payment Date after the resolution of any dispute pursuant to clause 31 regarding the Landlord's estimate of Outgoings under clause 7.2, the Tenant must pay or the Landlord must refund (as appropriate) the difference between what the Tenant has paid on account of the Tenant's Share of Outgoings (if anything) for the current Outgoings Year and what the Tenant should have paid if the Landlord had given that notice before the first Payment Date of that Outgoings Year.

7.7 Statement of actual Outgoings for the year to date

During each Outgoings Year, the Landlord must, at the Tenant's request, make available to the Tenant, not more than twice during each Outgoings Year, a statement of the actual Outgoings for the Outgoings Year to date.

7.8 Statement of actual Outgoings for an Outgoings Year

Within 60 Business Days after the end of an Outgoings Year, the Landlord must give the Tenant a statement (Landlord's Statement) containing:

(a) a full and detailed breakdown of each of the actual Outgoings incurred by the Landlord for the previous Outgoings Year;

(b) the Landlord's calculation of the Tenant's Share of Outgoings based on the actual Outgoings; and

(c) the amount (if any) the Tenant still owes for the Tenant's Share of Outgoings for that Outgoings Year or the amount (if any) the Landlord must credit the Tenant with because the instalments on account of the Tenant's Share of Outgoings were more than the actual Tenant's Share of Outgoings for that Outgoings Year.

7.9 Audited Landlord's Statement

(a) The Tenant may, within 20 Business Days of receiving the Landlord's Statement, require the Landlord to have the Landlord's Statement audited by an independent certified practising accountant and provide to the Tenant a new audited statement of Outgoings (Audited Landlord's Statement) containing the same information as required under clause 7.8.

(b) The cost of the auditor engaged by the Landlord to prepare the Audited Landlord's Statement must be:

(i) paid by the Landlord if the total amount of the Tenant's Share of Outgoings stated in the Audited Landlord's Statement varies from the total amount stated in the Landlord's Statement by more than 3%; and

(ii) paid by the Tenant if the total amount of the Tenant's Share of Outgoings stated in the Audited Landlord's Statement does not vary from the total amount stated in the Landlord's Statement by more than 3%.

7.10 Adjustment

Within 20 Business Days after the later of:

(a) the date the Landlord gives the Tenant the Landlord's Statement;

(b) the date the Audited Landlord's Statement is given to the Tenant; or

(c) the first Payment Date after the Landlord gives the Tenant the Landlord's Statement (except where the lease has expired),

the Tenant must pay any shortfall or the Landlord must pay to the Tenant any overpayment of the Tenant's Share of Outgoings for the previous Outgoings Year.

7.11 Tenant to pay for services to the Premises

(a) The Tenant must pay all charges for the supply of any service separately metered to the Premises, including gas, electricity, water and telephone, when due.

(b) If a direct supply of a service is not available to the Premises, then unless otherwise included as part of the Tenant's Share of Outgoings, the Tenant must pay the Landlord all service charges payable by the Landlord in respect of services consumed in the Premises but not any amount greater than the lesser of:

(i) what is payable by the Landlord; and

(ii) the amount the Tenant would pay if it was buying the service directly from a supplier in the market.

(c) The Landlord must provide the Tenant with an invoice for any amount payable under clause 7.11(b) and the invoice must contain the same information as would be provided in an invoice of a similar nature by an external service provider of the relevant service consumed.

(d) If the Tenant disputes any amount charged to it by the Landlord for services consumed in the Premises, the dispute is to be resolved by dispute resolution under clause 31.

(e) Where, at the Commencement Date, a direct supply of electricity is not available to the Premises, the Landlord must use reasonable endeavours to arrange at its cost a direct supply (with amounts billed directly from the supplier to the Tenant) as soon as possible.

(f) Where the supply of electricity has been deregulated in the State:

(i) the Tenant may nominate the supplier for the purposes of clause 7.11(e); and

(ii) all electricity meters for the Premises must be supplied and installed by the Landlord.

(g) Where the supply of electricity has not been deregulated in the State:

(i) all meters for the Premises must be supplied and installed by the Landlord in accordance with the requirements of the electricity supplier; and

(ii) the Landlord must obtain the Tenant's prior written approval to any tariff that the Landlord selects for the supply of electricity to the Premises.

(h) Where at the Commencement Date a direct supply of electricity is available to the Premises and electricity supply is or subsequently becomes deregulated in the State:

(i) the Tenant may receive electricity supply direct to the Premises and is not obliged to purchase electricity from the Landlord; and

(ii) the Tenant may, in its absolute discretion, determine which electricity supplier supplies electricity to the Premises from time to time.

8 Use of Premises and conduct of business

8.1 Permitted use of the Premises

The Tenant must not use or allow anyone else to use the Premises for any purpose other than the Permitted Use.

8.2 Compliance with Laws and Requirements - Tenant

(a) Subject to clause 10.11(b), the Tenant must at its own expense comply with all Laws and Requirements in respect of any Tenant's Fixtures and Fittings.

(b) Where any Requirement is served on the Tenant, the Tenant will promptly give the Landlord a copy.

9 Cleaning

9.1 Landlord's cleaning obligations

(a) The Landlord must arrange and ensure that cleaning of the exterior of Building and the Common Areas is undertaken (either by the Landlord or any suitably qualified contractor) to a standard appropriate to the Building and the activities and functions of the Tenant with such cleaning works to include all cleaning services at the frequency specified in Schedule 3 (as may be amended from time to time by agreement in writing between the parties). The Landlord must ensure that any other tenants of the Building comply with their cleaning obligations.

(b) In carrying out the cleaning services required under clause 9.1(a), the Landlord must and must ensure that the Landlord's Associates:

(i) cause no undue interference to the occupation use or enjoyment of the Premises by the Tenant;

(ii) are appropriately licensed and qualified persons;

(iii) carry suitable identification;

(iv) carry out the necessary work promptly with high levels of workmanship and quality materials; and

(v) take reasonable measures to protect people and property.

If either party becomes aware of any act matter or thing that may affect the protection of people and property then the relevant party must notify the other as soon as practicable.

(c) The Landlord must replace the cleaning contractor appointed by it if the Tenant reasonably objects to the standard of work performed by the cleaning contractor and the cleaning contractor does not improve its standard of work to a level satisfactory to the Tenant (acting reasonably) within a reasonable time of the Landlord receiving a notice from the Tenant requiring the cleaning contractor to do so.

9.2 Cleaning of Premises

The Tenant must engage its own cleaning services to undertake the cleaning of the Premises during the Term and must keep the Premises in a clean condition.

10 Repairs and Maintenance

10.1 Landlord's Maintenance obligations

(a) The Landlord must, as a minimum, undertake the Maintenance of the Building, the Premises and the Common Areas during the Term.

(b) Without limiting the generality of clause 10.1(a), the Landlord must, subject to clause 10.3 at its own cost and expense:

(i) maintain the Building, the Premises and the Common Areas to a standard consistent with the requirements for an 'A Grade' commercial office building as defined in the Property Council of Australia's 'A Guide to Office Building Quality' released 25 May 2006;

(ii) maintain, in good working order and condition, the plant, equipment, appliances, fittings or fixtures provided under this lease by the Landlord relating to the supply of all services (including the Essential Services);

(iii) maintain the plant and equipment in the Building, the Premises and the Common Areas for the delivery of the services in Schedule 2:

(A) in accordance with and to meet all relevant Law and Australian Standards; and

(B) to comply with the Services Specifications;

(iv) maintain the Building, the Premises and the Common Areas (including all plant and equipment, window treatments, carpets and floor coverings and all painted and decorative surfaces which are not Tenant's Fixtures and Fittings):

(A) in good and substantial repair and condition in keeping with comparable commercial buildings of a similar nature and quality; and

(B) in accordance with and to meet all relevant Law and Australian Standards;

(C) in accordance with the Building Legislation;

(v) remedy any structural defects associated with all or any of the Building, the Premises or the Common Areas within seven Business Days of notice from the Tenant or commence the required repairs within seven Business Days of receipt of the Tenant's notice or, if the repairs relate or require access to the Premises, within seven Business Days of the Tenant providing the Landlord with access to the Premises depending on the nature of the repairs;

(vi) maintain and keep the Building, the Premises, the Common Areas and the Landlord's Fixtures and Fittings (including, without limitation, the Essential Services) in a safe and secure condition to ensure that they remain lawfully occupiable, meet all relevant Laws and Australian Standards and the performance standards set out in the Schedule 2;

(vii) take all reasonable actions to prevent the entry of water into the Building, the Premises, and the Common Areas and to keep the Building, the Premises, and the Common Areas watertight, weatherproof and free of damp, mould and mildew;

(viii) keep the Building, the Premises and the Common Areas free of rodents, termites, cockroaches and other vermin; and

(ix) rectify all defects in the Building, the Premises and the Common Areas attributable to faulty design, faulty supervision, faulty work, faulty materials or work not having been carried out in a proper and workmanlike manner or in conformity with all applicable Law but excluding any defects caused by any works carried out by the Tenant to the Premises.

(c) Despite clause 10.1(b), the Landlord:

(i) is not required to do any Maintenance or carry out any repairs arising out of the deliberate misuse of the Building, the Premises or the Common Areas by the Tenant; and

(ii) is not responsible for maintenance of the Tenant's Fixtures and Fittings.

(d) For the purposes of this clause 10.1, maintain includes the replacement or renewal of any thing or part of a thing that cannot be repaired or is beyond reasonable economic repair and the carrying out of structural repairs.

(e) The Landlord's obligations under this clause 10.1 are not to be limited by reference to any other obligations of the Landlord under this lease.

10.2 Tenant's remedies for Landlord's failure to maintain

If:

(a) the Landlord fails to comply with any part of the Maintenance requirements set out in this lease; and

(b) the Tenant gives written notice to the Landlord of the failure and the Landlord fails to carry out the relevant Maintenance obligations within seven days of receipt of the Tenant's notice or, if the Maintenance relates to the Premises, within seven days of the Tenant providing the Landlord with access to the Premises;

then the Tenant:

(c) may carry out the relevant Maintenance obligations in accordance with all Laws and using its best endeavours not to disrupt other tenants in the Building and the reasonable costs and expenses (including costs in the form of salary, wages, leave entitlements, superannuation and other employment overheads) incurred by the Tenant in so doing may either:

(i) be set off by the Tenant against the Annual Rent payable to the Landlord; or

(ii) be claimed by the Tenant from the Landlord by way of reimbursement; or

(d) is entitled to an abatement of all Payments due to the Landlord's failure to carry out the Maintenance by the amount which is equal to the proportionate impact in dollars of the failure to maintain on the Tenant's ability to use the Premises for the Permitted Use from the date of the Tenant's notice in clause 10.2(b) or, if the Maintenance

relates to the Premises, within seven days of the Tenant providing the Landlord with access to the Premises until the Premises are made fit for the use and occupation of the Tenant for the Permitted Use.

10.3 Landlord may enter the Premises to maintain

(a) The Landlord and persons authorised by the Landlord may enter and remain on the Premises with tools equipment and materials at such reasonable times as is necessary for carrying out Maintenance and other works in accordance with clause 10.1 provided that the Landlord has given the Tenant not less than five Business Days prior notice of the intended date and time of entry, its purpose and likely duration of the intended work (except in the case of an emergency where prior notice is not required) and, if required by the Tenant, the Landlord is accompanied by a representative of the Tenant.

(b) The Landlord must cause as little disruption as possible to the Tenant in carrying out the work and where reasonable undertake that work outside Normal Operating Hours and must also:

(i) comply with all reasonable directions of the Tenant at all times during any occupation of or access to the Premises and the conduct of works on the Premises; and

(ii) make good any damage to the Tenant's Fixtures and Fittings,

in carrying out Maintenance and other works in accordance with clause 10.1.

10.4 Maintenance of air conditioning

(a) Without limiting any other provision of this lease, the Landlord must maintain the heating, air conditioning and ventilation systems in the Building (including the Premises and the Common Areas) in good working order and repair and take all reasonable precautions against the outbreak of Legionnellosis (Pontiac Fever and Legionnaires Disease) on and in respect of the Building (including the Premises and the Common Areas).

(b) Except where an act or omission of the Tenant, solely in the Tenant's capacity as the tenant of the Premises, has caused the presence of the Legionella Pneumophilia bacterium, in the event that Legionella Pneumophilia bacterium is found by the Tenant to be present on the Building (including the Premises, and the Common Areas the Landlord undertakes that it will remove and treat the said bacterium in accordance with the guidelines and standards set by the National Health and Medical Research Council or its successor body and otherwise comply with any Law or Requirement that may be in force during the Term.

10.5 Landlord's obligation to repaint

(a) The Landlord must, at its own cost and expense, repaint:

(i) all internal surfaces of the Premises and Common Area surfaces which were, (as at the date of first occupation of the Premises by the Tenant) or which have subsequently been painted, at least once every five years from the Commencement Date and in any event during the last three months of the Term upon the exercise of an option to renew the lease by the Tenant under clause 4.1; and

(ii) all external surfaces of the Building and the Public Open Space Area which were, (as at the date of first occupation of the Premises by the Tenant) or which have subsequently have been painted, at least once every ten years from the Commencement Date (and thereafter within every ten year period of occupation by the Tenant under this lease (as extended)),

to a standard and quality and colour such surfaces were painted as at the as at the date of first occupation of the Premises by the Tenant or the date when the surface was originally painted.

(c) If a part or parts of the Building require repainting sooner or more often than as required under clause 10.5(a) while the Tenant remains in occupation under this lease as a result of natural wear and tear or any other reason not caused or contributed to by the Tenant, the Landlord must undertake such repainting in accordance with clause 10.5(a).

10.6 Service Agents

(a) The Landlord must notify the Tenant of the names, telephone numbers and electronic address (if any) of the Landlord's Associates or independent contractors (Service Agents) who are to be contacted by the Tenant in relation to the provision of the Maintenance.

(b) The Service Agents may enter and remain on the Premises with tools, equipment and materials at such reasonable times in accordance with this clause 10 as is necessary for carrying out repairs and other works in accordance with this clause 10 and must comply with the requirements of clause 10.3.

10.7 Response time of Service Agents

(a) The Landlord must ensure that the Service Agents respond to any requirement of the Tenant in relation to any defect or malfunction in or on the Building, the Premises or the Common Areas or any one or more of them.

(b) The Service Agents must respond to a Tenant requirement as follows:

(i) within four hours for a defect or malfunction in or on any of Building, the Premises or the Common Areas during normal business hours which prevents the Tenant from using the Premises for the Permitted Use;

(ii) within twenty four hours for a defect or malfunction in or on any of the Building, the Premises or the Common Areas which causes inconvenience to the Tenant; and

(iii) within a maximum of three Business Days for all other non-essential defects or malfunctions in or on any of the Building, the Premises or the Common Areas.

10.8 Obligations of Service Agents

When undertaking Maintenance on or within any of the Building, the Premises or the Common Areas, the Landlord must and must ensure that the Service Agents:

(a) cause no undue interference to the occupation use or enjoyment of the Premises by the Tenant;

(b) use entrances and exits nominated by the Tenant (acting reasonably);

(c) are appropriately licensed and qualified trade persons;

(d) carry suitable identification;

(e) comply with the reasonable standards, protocols and security arrangements of the Tenant for the Premises;

(f) do not examine copy remove or otherwise interfere with any thing or item on the Premises except for the purposes of the Maintenance;

(g) carry out the necessary work promptly with high levels of workmanship and quality materials;

(h) carry out the necessary work without creating undue nuisance or interference with the use and enjoyment of the Premises; and

(i) take reasonable measures to protect people and property. If either party becomes aware of any act matter or thing that may affect the protection of people and property then the relevant party must notify the other as soon as practicable.

10.9 Indemnity

The Landlord indemnifies the Tenant from and against all Claims and Loss for which the Tenant becomes liable resulting from the Landlord's or a Service Agent's failure to comply with the Landlord's obligations for Maintenance except to the extent the non-compliance was:

(a) at the express request of the Tenant; or

(b) due to any act or omission of the Tenant.

10.10 Service Agent's insurance

If the Service Agent is not an employee of the Landlord, then the Landlord must ensure that before a Service Agent commences any Maintenance on the Premises, the Service Agent, subject to the availability of reasonable insurance cover on reasonable terms, takes out and maintains a public liability insurance policy for not less than $20,000,000.00 (or such other amount as is reasonably required by the Tenant) to cover the Tenant, the Landlord, the Service Agent and all their employees, agents, consultants and sub-contractors engaged in the performance of the Maintenance for:

(a) their respective rights and interests;

(b) their liabilities to third parties;

(c) loss or damage to property; and

(d) the death of or injury to any person (other than liability required by Law to be insured under a workers compensation policy of insurance).

10.11 Tenant's obligation to repair the Premises

(a) Subject to clause 10.11(b), the Tenant must:

(i) keep the Premises in good repair having regard to their condition as at the date of first occupation of the Premises;

(ii) repair any damage to the Premises as a result of any deliberate or negligent act or omission of the Tenant or any Tenant's Associates (reasonable fair wear and tear excepted); and

(iii) replace all glass broken by the Tenant or any Tenant's Associates.

(b) The obligations of the Tenant under clause 10.11 and clause 8.2 do not require the Tenant to:

(i) do repairs and maintenance that are the responsibility of the Landlord;

(ii) repair any inherent defect in the Building, the Premises or the Common Areas;

(iii) repair damage arising from fair wear and tear;

(iv) repair damage caused by risks against which the Landlord has insured or is required to insure;

(v) repair the structure of the Premises or spend money or do any works on items of a capital nature;

(vi) repair damage caused by or arising from an uninsurable risk and which is not caused by a negligent act or omission of the Tenant including tidal inundation, flood, earthquake, subsidence, strikes by aircraft or other aerial devices or articles dropped from such devices, impact by vehicles, structural or inherent defect, war, Act of God, radiation, fusion, explosion, concussion from explosion or malicious damage from third parties;

(vii) do any works of an exterior nature; and

(viii) put the Premises into a better state of repair or condition than their condition at the commencement of the Tenant's occupation of the Premises.

11 Building Services

11.1 Landlord to provide services

The Landlord must provide the services set out in Schedule 2.

11.2 Essential Services to be provided by the Landlord

The Landlord must ensure the continued and adequate provision of the Essential Services to the Building, the Premises or the Common Areas during the Term.

11.3 Replacement and renewal of Essential Services

If any of the Essential Services becomes totally or substantially unusable or inoperable or does not provide an adequate level of service, the Landlord must, within a reasonable time, repair that Essential Service. If it is impracticable or uneconomic to repair an Essential Service within a reasonable time, the Landlord must renew the Essential Service at its own cost and expense.

11.4 Adequacy of Essential Services

(a) For the purposes of clause 11.2, an Essential Service is taken to be adequate if that Essential Service performs to a standard which is generally similar to the level of performance for services of that kind provided in other good quality 'A-Grade' office buildings (as the term is defined in the Property Council of Australia's 'A Guide to Office Building Quality – A Grade' released 25 May 2006) which:

(i) are of similar age and design to the Building; and

(ii) have plant and equipment for the provision of the service which has been properly and adequately maintained and which is generally comparable to the plant and equipment in the Building for that Essential Service.

(b) The Landlord must ensure that each Essential Service specified in Schedule 2 is maintained, and where applicable operated, to comply with the relevant standard for that Essential Service specified in Schedule 2.

(c) Any non-compliance with clause 11.4(b) by the Landlord must, as soon as the Landlord becomes, or ought to have become, aware of it, be reported to the Tenant and any such notification must be accompanied with a plan identifying how the Landlord intends to rectify such non-compliance.

(d) Nothing in this clause limits the generality of clause 11.2.

11.5 Interruption of Services

(a) Except in an emergency or where such interruption is due to the failure of any supplier to supply power, gas or water to the Premises through no fault of the Landlord, the Landlord must not cause or allow any of the Essential Services or other services (including, without limitation, gas, telephone, plumbing and standby generator services) to the Premises to be interrupted in a manner likely to cause disruption or damage to the Tenant without first arranging for alternative services to be provided during the period of the interruption and notifying the Tenant.

(b) If there is any malfunction of or interruption to any of the Essential Services or any other services to the Premises or a blockage of any sewers, drains, gutters or downpipes which has not been caused by the neglect or default of the Tenant which continues for a period greater than:

(i) for an Essential Service:

(A) 24 hours of receipt of the Tenant's notice; or

(B) if the Essential Service can only be rectified by the Landlord accessing the Premises, within 24 hours of the Tenant providing the Landlord with access to the Premises; or

(ii) for any other service:

(A) two Business Days of receipt of the Tenant's written notice; or

(B) if the service can only be rectified by the Landlord accessing the Premises, within two Business Days of the Tenant providing the Landlord with access to the Premises,

and which malfunction, interruption or blockage is not due to any supplier failing to supply power, gas or water to the Premises through no fault of the Landlord, then any Payment under this lease will abate by an amount equal to the proportionate impact of the malfunction or interruption or blockage has on the Tenant's ability to use the Premises for the Permitted Use until the malfunction, interruption or blockage has been rectified by the Landlord to the satisfaction of the Tenant.

(c) If the Landlord fails to rectify the malfunction, interruption or blockage within a reasonable time then the Tenant:

(i) may carry out such works as are reasonably required to rectify the interruption or blockage in accordance with all Law using its best endeavours not to disrupt other tenants in the Building and the reasonable costs and expenses (including costs in the form of salary, wages, leave entitlements, superannuation and other employment overheads) incurred by the Tenant in so doing may either:

(A) be set off by the Tenant against the Annual Rent payable to the Landlord; or

(B) be claimed by the Tenant from the Landlord by way of reimbursement; or

(ii) subject to this clause 10.5, is entitled to an abatement of all Payments due to the Landlord's failure to rectify the interruption or blockage by the amount which is equal to the proportionate impact of the failure to rectify the interruption or blockage on the Tenant's ability to use the Premises for the Permitted Use from:

(A) the date of the Tenant's notice in clauses 11.5(b)(i)(A) or 11.5(b)(ii)(A); or

(B) if the Landlord requires access to the Premises to rectify the interruption or blockage, the date the Tenant provides the Landlord with access to the Premises,

until the Premises are made fit for the use and occupation of the Tenant for the Permitted Use.

(d) In this clause 11.5, malfunction includes:

(i) the failure to operate at an appropriate standard or in accordance with this lease; and

(ii) in respect of an Essential Service, a failure of the Service to operate in accordance with the standard for that service in Schedule 2.

11.6 Operating times and standards

(a) Until otherwise agreed in writing by the Landlord and the Tenant and subject to this clause 11, the Landlord must operate the air conditioning plant so that the air in the Premises is heated, cooled and circulated in accordance with the standards specified in Schedule 2:

(i) at all times during the Normal Operating Hours; and

(ii) at all other times, as may be required by the Tenant.

(iii) the core hours of occupation, lighting and comfort are between 6:30 a.m to 7.00 p.m 62.5 hours per week.

(b) If the Tenant requires the air conditioning plant to be operated at any time outside the Normal Operating Hours, the Tenant must pay the Landlord's reasonable costs of operating the air conditioning plant at that time excluding any charge or cost in respect of additional depreciation or additional wear and tear.

(c) The Landlord must:

(i) advise the Tenant from time to time of the cost of operating the air conditioning plant outside the Normal Operating Hours; and

(ii) not charge the Tenant an amount for operating the air conditioning plant outside the Normal Operating Hours in excess of the actual cost of the Landlord doing so.

(d) The Landlord must provide a lift service in the Building at all times in accordance with the standards specified in Schedule 2.

11.7 Building management reports

As and when reasonably requested by the Tenant, the Landlord must give to the Tenant a building management report showing how the services have operated during the period covered by that report and/or any other data relating to the operation of the services that the Tenant reasonably requires including without limitation all service reports and other records and copies of all Service Contracts.

12 Consultation in respect of Service Contracts

(a) As and when the Tenant may reasonably require during the Term, the Landlord must convene a meeting (Services Meeting) with the Tenant to discuss all Service Contracts.

(b) At each Services Meeting the Landlord must:

(i) inform the Tenant of any proposed change(s) to the Service Contracts and the reasons for such change(s);

(ii) inform the Tenant of the name or names of any proposed contractors; and

(iii) take into consideration any comments the Tenant may have regarding the proposed changes to the Service Contracts and the Tenant's requirements as to the performance levels of service contractors and any penalties for failure to meet the required performance levels.

(c) The Landlord agrees not to enter into any new Service Contract or vary any existing Service Contract unless the Tenant has been provided with details of the proposed contract or variation and the Landlord has allowed the Tenant a period of 10 Business Days after such service within which to provide the Tenant's approval to the proposed contract or variation. The Landlord must not enter into or vary any existing Service Contract to which the Tenant objects by notice to the Landlord within the time permitted by this clause.

13 Carpet

13.1 Replacement of carpet

The Landlord must arrange for the replacement of the carpet within the Premises and the Common Areas within ten (10) years of the Commencement Date it being acknowledged that the replacement carpet must be of a quality, style and standard suitable for use by the Tenant and be approved of by the Tenant with such approval not to be unreasonably withheld.

13.2 Warranties and guarantees for carpet

The Landlord must obtain all appropriate warranties and guarantees for the replacement carpet referred to in clause 13.1 including colour fastness, static levels, wear, zippering and delamination and ensure the fire indices of such carpet are to Australian Standards and otherwise acceptable in the reasonable opinion of the Tenant.

13.3 Timing of replacement of carpet

The Landlord must use all reasonable endeavours to undertake the removal of old carpet and laying of the replacement carpet by the Landlord outside of Normal Operating Hours and in a manner and at all times that minimises interference with the Tenant's occupation of and continued operation within the Premises.

13.4 Laying of new carpet

(a) The Tenant acknowledges that:

(i) at times agreed with the Landlord, the Tenant will allow access to the Premises for the Landlord to remove the old carpet and lay the replacement carpet; and

(ii) the Tenant will comply with all reasonable requests of the Landlord as to the relocation and removal of furniture to ensure the work referred to in clause 13.1 can occur.

(b) The Landlord acknowledges that it will be responsible for the removal and relocation of all furniture and equipment including confidential information sensitive equipment and valuable property belonging to the Tenant from the Premises while the removal of the old carpet and laying of new carpet occurs with such removal and relocation to be at the cost of the Landlord.

(c) Clause 10.8 (with any necessary changes) applies in relation to carrying out of any work in relation to removal of old carpet and the laying of new carpet.

13.5 Costs of new carpet

The Landlord is responsible for all costs associated with the purchase testing and installation of the replacement carpet and the removal and disposal of the old carpet.

13.6 Sooner replacement of carpet

If carpet within the Premises and/or the Common Areas requires replacement sooner or more often than as required under clause 13.1 while the Tenant remains in occupation under this lease for any reason not caused or contributed to by the Tenant the Landlord must replace the carpet in accordance with clauses 13.1to 13.5inclusive;

14 Disease or Illness

14.1 Tenant's obligations

(a) If infection, notifiable disease or illness occurs in or about the Premises as a result of an act or omission of the Tenant then the Tenant must:

(i) immediately give notice to the Landlord; and

(ii) at the Tenant's cost make arrangements for the Premises to be thoroughly fumigated, disinfected or treated in accordance with applicable Law.

(b) If the Tenant fails to make these arrangements then the Landlord may give notice to the Tenant of the Landlord's intent to do so and if the Tenant still fails to make such arrangements then the Landlord may but is not bound to arrange for the Premises to be fumigated, disinfected or treated with the cost being attributable to the Tenant and recoverable by action.

14.2 Landlord's obligations

(a) If an infection, notifiable disease or illness occurs in or about the Premises or the Building otherwise than as a result of an act or omission of the Tenant, then the Landlord must:

(i) immediately give notice to the Tenant; and

(ii) at the Landlord's cost make arrangements for the Premises or Building or both to be thoroughly fumigated, disinfected or treated in accordance with applicable Laws.

(b) If the Landlord fails to make these arrangements then the Tenant may give notice to the Landlord of the Tenant's intent to do so and if the Landlord still fails to make such arrangements then the Tenant may but is not bound to arrange for the Premises to be fumigated, disinfected or treated with the cost being attributable to the Landlord and recoverable by action.

15 Asbestos

(a) The Landlord warrants that there is no asbestos present in the Building or the Premises.

(b) If asbestos is found or known to be present in the Building or the Premises, the Landlord must:

(i) remove it from the Building and the Premises;

(ii) at its cost, carry out the work to remove the asbestos in a proper and workmanlike manner and in accordance with all applicable Laws; and

(iii) indemnify the Tenant against all Loss incurred or suffered by the Tenant in connection with the removal of the asbestos and the reinstatement of the Building and the Premises.

16 Special conditions

The special conditions set out in Schedule 4 form part of the terms, conditions and covenants of this Lease. In the event of any inconsistency between any part of this Lease and the special conditions in Schedule 4, then the special conditions in Schedule 4 shall prevail.

17 Building Legislation

17.1 Landlord to comply with Building Legislation

(a) The Landlord is responsible for the carrying out of all inspections and maintenance related to the Building, the Premises or the Common Areas necessary to ensure compliance with the Building Legislation including:

(i) the carrying out of required inspections and testing of an Essential Safety and Health Feature or Essential Safety and Health Measure;

(ii) obtaining, maintaining and displaying an Occupancy Approval for the Building; and

(iii) the issuing and displaying of a Certificate.

(b) If the Landlord fails to comply with any of its obligations in clause 17.1(a) and as a result the Tenant is unable to use the Premises for the Permitted Use, all Payments by the Tenant to the Landlord under this lease will abate from the date of the Landlord's failure to comply or, if the Landlord required access to the Premises to comply, on and from the date the Tenant provides the Landlord with access to the Premises until such time as the Tenant is able to use the Premises for the Permitted Use.

17.2 Tenant not to hinder the Landlord

The Tenant must not unreasonably hinder the Landlord from meeting the Landlord's obligations under the Building Legislation including allowing the Landlord to grant access to the Premises to all relevant qualified persons to allow the Landlord to:

(a) carry out the required inspections and testing of an Essential Safety and Health Feature or Essential Safety and Health Measure and the issuing of a Certificate;

(b) carry out the maintenance repair or replacement of an Essential Safety and Health Feature and the implementation of or change to an Essential Safety and Health Measure; and

(c) display a Certificate,

subject always to the Landlord complying with the obligations in clause 10.3 (with the necessary changes being made).

17.3 Landlord's Indemnity

The Landlord must indemnify the Tenant from and against all Claims and Loss for which the Tenant becomes liable resulting from the Landlord's failure to comply with the Landlord's obligations under the Building Legislation except where the non-compliance was:

(a) at the request of the Tenant; or

(b) due to any negligent act or omission of the Tenant.

18 Alterations, additions and works

18.1 Restriction on Tenant's alterations

(a) The Tenant must not:

(i) make or permit to be made any structural alterations or additions in or to the Premises; or

(ii) install or make any additions or alterations to the Landlord's Fixtures and Fittings,

except with the Landlord's prior written consent (which must not be unreasonably withheld or delayed).

(b) **Structural alterations** include any installation of, or alteration to plant and equipment, water pipes or drains.

18.2 Where consent not required

(a) The Tenant may, without the consent or approval of the Landlord, make any non-structural alterations to the Premises provided that:

(i) it gives prior notice to the Landlord; and

(ii) in doing so the Tenant must not adversely affect the integrity of any of the Landlord's services in or about the Premises.

(b) Non-structural alterations include:

(i) the installation of, or alterations to, the Tenant's internal partitioning;

(ii) the installation of additional light fittings;

(iii) the installation of power points, and data, telephone and communication connection points; and

(iv) any other alteration which does not adversely or otherwise affect the structural integrity of the Building.

18.3 Alterations by the Tenant

(a) Any alterations done by the Tenant under this clause 19 must:

(i) be done in a proper and workmanlike manner;

(ii) comply with all Laws and the requirements of any relevant Government Agency; and

(iii) be done in a manner which does not cause an unreasonable disturbance to other tenants within the Building.

(b) The Landlord must, as owner, promptly sign any application made by the Tenant which is required to be signed by the owner for the consent or approval of any

relevant Government Agency to alterations to the Premises permitted under this clause.

18.4 Alterations to Building by Landlord

(a) The Landlord must only carry out alterations to the Building during the Term with the prior written consent of the Tenant. If at any time during the Term or the term of any further term, the Tenant is not the sole tenant in the Building, the Tenant's consent must not be unreasonably withheld.

(b) In carrying out any alterations to the Building, the Landlord must not alter or interfere with the Premises, the Common Areas or the Tenant's entitlement to quiet enjoyment of the Premises.

(c) As part of seeking the Tenant's consent under clause 18.4(a), the Landlord must provide to the Tenant details of:

(i) the general nature and extent of the intended work;

(ii) the period and hours during which it is intended to be carried out; and

(iii) the anticipated interference with the Tenant's use of the Premises or the Common Areas until the work is completed.

(d) The Tenant is, or persons authorised by the Tenant are, entitled to inspect any plans, specifications and working drawings prepared for the Landlord in respect of works, notice of which has been given to the Tenant, and of any approvals for the work before or while the work is carried out.

18.5 Works by Landlord

(a) Any alterations, additions or works done by the Landlord in respect of the Building, the Premises or the Common Areas must be:

(i) carried out by reputable and licensed contractors supervised by the Landlord's architect or engineer;

(ii) carried out and completed in a proper and workmanlike manner with high quality materials workmanship and finish in keeping with the standard quality and appearance of the Building; and

(iii) undertaken in such a way as to:

(A) not cause any inconvenience or nuisance to the Tenant and the Tenant's entitlement to quiet enjoyment and use of the Premises;

(B) comply with all Law and the requirements of any Government Agency including, without limitation, all planning requirements;

(C) ensure clear and direct access for operations within the Premises and to and from the adjacent roads is provided at all times during the work;

(D) minimise any noise, vibration or dust;

(E) ensure that the persons engaged in the work minimise the extent to which any vehicles, site huts, buildings, structures, equipment or

materials are kept on the car parks or roads of the Premises, the Common Areas or the Building; and

(F) continue to provide proper and unimpeded access to the Premises from outside the Premises and ensure that the access is not affected during or as a result of the work.

(b) The Landlord must, at its own cost and expense:

(i) carry out any alterations, additions or works on or to the Premises required by any relevant Government Agency as a consequence of any alterations, additions or works to the Building, the Premises or the Common Areas including any consequential alterations to and making good of the Building, the Premises or the Common Areas or any property of the Tenant; and

(ii) during the course of carrying out any alterations, additions or work, regularly consult with the Tenant as to the time at which and the manner in which the work is carried out so as to minimise the disruption to the use of the Premises by the Tenant and any permitted sub-tenants or licensees from the Tenant.

(c) The Landlord must give the Tenant at least 30 Business Days notice of any alteration or refurbishment of the Building or the Common Areas or any works by the Landlord which are likely to adversely affect the operations of the Tenant or the Tenant's use of the Premises or the Common Areas.

19 General Landlord covenants

19.1 Quiet enjoyment

The Landlord must allow the Tenant to peaceably hold and enjoy the Premises during the Term without any interruption by the Landlord or by any person claiming through the Landlord.

19.2 Compliance with Laws

The Landlord must comply with all Laws relating to the Building and the Premises which are not the responsibility of the Tenant under this lease or another tenant or occupier of the Building. If compliance with a Law is the responsibility of another tenant or occupier of the Building, the Landlord must ensure that the tenant or occupier complies with its obligations as soon as practicable.

19.3 Electromagnetic interference

The Landlord must ensure that electromagnetic interference levels within the Premises comply with the standards set out in AS 61000.6.3 and any other Australian Standards which specify electromagnetic interference levels for commercial buildings or for equipment used in commercial buildings (as may be amended from time to time). If the electromagnetic interference levels within the Premises exceed these standards and the electromagnetic interference levels are not caused by the Tenant or its equipment, the Landlord must at its cost take all necessary steps to comply promptly with those standards.

19.4 Viewing

(a) The Landlord or its agents may enter the Premises at all reasonable times in accordance with clause 19.4(b) to view the Premises with:

(i) prospective tenants of the Premises but only during the period of six months prior to the Expiry Date; or

(ii) prospective purchasers of the Land.

(b) If the Landlord or its agents exercise their right to enter the Premises under clause 19.4(a), the following conditions apply:

(i) the Landlord must give prior notice to the Tenant of its intention to enter and inspect the Premises;

(ii) the Tenant must receive this notice at least 10 Business Days before the Landlord enters and inspects the Premises;

(iii) the Landlord must be accompanied by the Tenant or the Tenant's nominated representative;

(iv) the Landlord must comply with the Tenant's reasonable requirements and must not interfere with or disrupt the Tenant's operations;

(v) if the Landlord or its agent makes any record of the state or condition of the Premises (or any area occupied by the Tenant) by any means, it must, unless it has obtained the Tenant's prior written consent, keep the record confidential and must not release it except:

(A) as required by Law; or

(B) to a professional adviser or consultant of the Landlord or the Tenant; and

(C) to any prospective financier;

(vi) the Tenant may refuse entry to any ministerial office or any area which contains confidential data or operations related to the administration of government in Tasmania.

(c) If the Landlord releases any record under clause 19.4(b)(v) it must use its best endeavours to do so in circumstances which preserve the confidentiality of the record. The Landlord must instruct any recipient that the record is confidential and obtain from them an undertaking to keep the record confidential.

19.5 Graffiti and markings

The Landlord must:

(a) not allow the defacement of any external or internal surfaces of any buildings or structures on the Land; and

(b) remove all graffiti from any external or internal surfaces of the Building or the Common Areas and all other areas and buildings comprising the Land, as soon as is practicable.

19.6 Compliance with encumbrances on title

The Landlord must at all times comply with all covenants, whether positive or restrictive in nature, which are registered on the certificate of title to the Land.

19.7 Landlord to act reasonably

(a) If the permission, consent or approval of the Landlord is required in connection with any matter or thing that permission, consent or approval must not be unreasonably withheld or delayed.

(b) If the Landlord is entitled to give any directions, issue instructions or specify its requirements in relation to any matter or thing, those instructions, directions and requirements must be reasonable and the Landlord must act reasonably.

(c) A permission, approval or consent may be given conditionally or unconditionally. Any conditions imposed by the Landlord must be reasonable.

19.8 Restrictions on occupation of tenancies on the Land

(a) This clause 19.8 applies for so long as the Tenant under this lease is the Crown in Right of Tasmania or a Crown Agency.

(b) The Landlord must not grant or agree to grant a lease or licence or permit to be occupied any tenancy within any building on the Land for any of the following uses:

(i) the provision of adult entertainment or the supply of adult goods, products or services;

(ii) the provision or sale of firearms or ammunition; or

(iii) a high turnover convenience food outlet.

(c) Nothing in this clause affects the Landlord's obligation not to derogate from the grant.

19.9 Notices affecting Premises

If the Landlord receives a notice or Requirement from a Government Agency which relates to:

(a) planning permits or development approvals;

(b) rezoning of land;

(c) compulsory acquisition of land;

(d) revaluation;

(e) resumption of land;

(f) road widening; or

(g) interruption of services,

which would or could affect the Land or the use of the Land, the Landlord must give a copy of the notice to the Tenant as soon as practical after it is received by the Landlord.

19.10 Mortgagee's consent

The Landlord must, at its cost, obtain the unconditional consent to this lease from any mortgagee or caveator of the Land from time to time as reasonably required and in a form reasonably acceptable to the Tenant and promptly provide a copy to the Tenant.

19.11 Building Manager

(a) The Landlord must engage a Building Manager to manage and supervise the maintenance and running of the Building on behalf of the Landlord so as to provide the Tenant with a prompt and efficient building management service. The Building Manager must be local to Hobart and approved by the Tenant, which approval must not be unreasonably withheld and, except in an emergency, must be readily available for contact by the Tenant at all reasonable times during the Term.

(b) If the Tenant is, from time to time on reasonable grounds, dissatisfied with the performance of the Building Manager it may notify the Landlord of its dissatisfaction. The Landlord must, within six months from the date of receipt of this notice from the Tenant, take steps to rectify any dissatisfaction expressed by the Tenant. If, after the expiration of this six month period, the Tenant is still not satisfied, on reasonable grounds, with the Building Manager then the Landlord must replace the Building Manager with a new Building Manager approved by the Tenant, such approval not to be unreasonably withheld.

19.12 No resident caretaker

The Landlord must not permit any caretaker employed by the Landlord to reside or dwell in or upon the Building or any part of it.

19.13 Warranty of Fitness

Except to the extent of:

(a) any damage or destruction to the Building or the Premises; or

(b) any negligent acts or omissions of the Tenant,

the Landlord warrants that at the Commencement Date, at all times during the Term and any renewal and holding over, the Common Areas, the Premises and the Building:

(c) are and will remain fit for use and occupation in accordance with the Permitted Use;

(d) will comply with the standards specified in Schedule 2 (if any), the relevant Australian Standards provided that in the event of inconsistency, the highest standard will apply; and

(e) will be managed and operated at a high standard.

19.14 Landlord's access to the Premises

Whenever the Landlord enters the Premises in connection with the performance of any obligation or at Law, the Landlord must:

(a) first provide the Tenant with at least 10 Business Days notice except where otherwise specified in this lease;

(b) if required by the Tenant, be accompanied by a representative of the Tenant;

(c) cause as little disruption as possible to the Tenant whilst:

(i) it remains in the Premises; and

(ii) carrying out any works;

(d) where reasonable, undertake any work outside Normal Operating Hours;

(e) comply with all reasonable security requirements and directions of the Tenant at all times during any occupation of or access to the Premises and the conduct of works on the Premises; and

(f) make good any damage to the Premises and the Tenant's Fixtures and Fittings caused by the Landlord during any occupation of or access to the Premises and the conduct of works on the Premises.

20 Access to the Building and the Premises

20.1 Access time

The Landlord agrees to give the Tenant unrestricted access to the Premises and the Common Areas at all times.

20.2 Access Devices

(a) The Landlord must at the Commencement Date and, if it changes the access system to the Building or Premises or both that was in place at the Commencement Date, provide the Tenant, at the cost of the Landlord, with a sufficient number (but not less than 80) of keys or magnetic cards or other devices reasonably required by the Tenant for the purposes of entry into the Building and Premises and the use of lifts during and outside of Normal Operating Hours.

(b) The Tenant must ensure that the Access Devices are:

(i) kept secure at all times;

(ii) not duplicated;

(iii) not practical to anyone other than a person permitted to have use of the Access Devices by the Tenant; and

(iv) returned to the Landlord upon the expiration or sooner determination of this lease.

20.3 Tenant not liable for malfunction

The Tenant is not liable for any Loss sustained in any of the circumstances contemplated by clause 20.2 if any door (having been unlocked and opened by an After Hours Entrant using an Access Device) cannot be closed and/or locked because of some malfunction.

20.4 Lost access device

The Landlord (in the absence of a negligent or wilful act or omission of the Landlord or the Landlord's Associates) is not responsible or liable to the Tenant in any way if an Access Device comes into the possession of an unauthorised person.

21 Security

21.1 Building security

The Landlord must use its best endeavours to ensure the Tenant's reasonable requirements as to the security and safety of the Building and the Premises are achieved and maintained to a standard normally delivered by a prudent building owner for a building similar to the Building and containing a government tenant, or to such other higher standard as may be required by the Tenant from time to time during the Term.

21.2 Tenant's additional security requirements

Without limiting the generality of clause 21.1, the Tenant will be responsible for the provision of all security requirements pertaining to the Tenant's occupation of the Premises, including the provision of security services to the Premises.

22 Signs and advertising

22.1 Directory signage

The Landlord must, at the Landlord's cost, include the Tenant's name (and such other names as advised to the Landlord by the Tenant) and the location of the Premises within the Building on a directory board in the main entry foyer of the Building.

22.2 Restriction on signage

The Landlord must not display or permit any person to display from or affix to the internal or external surfaces of the Building any sign, advertisement or placard.

23 Common areas

23.1 Landlord in control of Common Areas

(a) The parties acknowledge that the Landlord has control over the Common Areas of the Building.

(b) The Landlord must not:

(i) renovate, alter or modify the Common Areas without the prior written consent of the Tenant which will not be unreasonably withheld if the renovations, alteration or modification will not detrimentally affect the Tenant's use of the Common Areas; or

(ii) hold functions or erect temporary structures or displays in the Common Areas without the prior written consent of the Tenant.

23.2 Illumination of Common Areas

The Landlord must ensure that the Common Areas are adequately illuminated:

(a) while in use for the safety of users; and

(b) for security purposes.

23.3 Common Area Rules

(a) The Landlord may make and may subsequently alter such reasonable rules or regulations (Rules) relating to the use and management of the Common Areas including:

(i) the use, safety and cleanliness of the Common Areas;

(ii) the closure of whole or part of the Common Areas outside of Normal Operating Hours;

(iii) access to the Building outside of Normal Operating Hours; and

(iv) the location of garbage pending removal,

subject always to the prior approval and ratification of all tenants of the Building, including the Tenant.

(b) The Rules must not be inconsistent with the provisions of this lease with regard to the Tenant's use and enjoyment of the Premises and must not derogate from the Tenant's entitlements under this lease to use the Common Areas.

(c) The Tenant must observe the Rules throughout this lease and must ensure that the Tenant's Associates observe the Rules.

(d) The Landlord must provide to the Tenant a copy of the Rules (if any Rules are in force) within seven days after the Commencement Date and subsequently with details of any alterations in the Rules at least 14 days before an alteration becomes effective.

(e) The Landlord must enforce observance of the Rules by other tenants of the Building.

(f) A breach of the Rules by the Tenant gives the Landlord a right in damages only but not a right to terminate this lease.

24 Insurance and Indemnities

24.1 Insurance

The Landlord must take out and maintain:

(a) a public risk insurance policy applicable to the Building, the Premises and the Common Areas for an amount not less than the amount set out in Item 10, which includes the indemnities given by the Landlord to the Tenant in the lease in respect of any single Claim or such higher amount as the Tenant notifies the Landlord from time to time;

(b) plate glass insurance for the Building and the Premises;

(c) insurance over the Building, the Premises and the Common Areas for their full reinstatement and replacement value against damage or destruction caused by fire, explosion, lightning, flood, storm and tempest, malicious action, impact of vehicles, earthquake, damage by aircraft, breakdown of plant and equipment and other insurable risks applicable to the Building, the Premises, the Common Areas, and the Landlord's Fixtures and Fittings.

24.2 Insurance Requirements

In effecting and maintaining the insurances required under clause 24.1, the Landlord must ensure that each policy:

(a) is taken out in the name of the Landlord, the Tenant and their employees, contractors and agents as co-insured persons so that there is a separate contract of insurance between each co-insured person and the insurer;

(b) includes a clause enabling one insured person to claim against the insurer where another insured person would have been entitled to claim against the insurer but is precluded from doing so for any reason including, but not limited to, a breach of the policy by that other insured person;

(c) includes a cross liability clause enabling one insured person to claim against the insurer even if the party making the claim against that insured person is also insured under the policy;

(d) includes a clause waiving the insurer's rights of subrogation against all the insured persons;

(e) requires the insurer to obtain the Tenant 's written approval to any change to the provisions referred to in clauses 24.2(a) to 24.2(d); and

(f) requires the insurer to notify the Tenant of any cancellation or non renewal of the policies.

24.3 Maintain insurance

The Landlord must maintain the insurance policies referred to in clause 24.1 throughout the Term.

24.4 Landlord's indemnity

The Landlord must indemnify the Tenant from and against all Claims and Loss for which the Tenant becomes liable resulting from any breach of this lease by the Landlord or act or omission, negligent or otherwise, on the part of the Landlord or the Landlord's Associates but only to the extent of such breach, act or omission.

24.5 Continuing obligations

The indemnities contained in clause 24.4 are continuing obligations of the parties separate and independent from any other obligations of the parties and survive the expiration or sooner termination of this lease.

24.6 Evidence of insurance

The Landlord must provide to the Tenant a copy of the certificate of currency for each insurance policy required to be held by the Landlord under this lease within 10 Business Days of a request by the Tenant.

25 Inability to use or occupy the Premises

25.1 Suspension of rent

(a) If:

(i) the whole or any part of the Building, including the Premises and the Common Areas, is unfit for occupation or use by the Tenant for the Permitted Use, including as a result of damage; or

(ii) the usual and substantial means of access to the Building, the Premises or the Common Areas is interrupted and there is no other reasonable means of public pedestrian access to the Premises,

then the whole or a proportionate part of any Payment payable by the Tenant under this lease will be suspended. The amount suspended will be determined by reference to the nature and extent of the damage sustained or interruption to access to Building, the Premises or the Common Areas.

(b) The suspension of any Payment payable by the Tenant under this lease will continue until:

(i) the Building, the Premises and the Common Areas are made fit for the occupation of and/or use by the Tenant and the Tenant has had a reasonable time to carry out any necessary refitting to the Premises required because of the damage;

(ii) there is no longer any interruption to usual and substantial means of access to the Building, the Premises or the Common Areas; or

(iii) the lease is terminated under the provisions of this lease.

(c) If a dispute arises as to the duration or extent of an abatement the dispute must be dealt with under the *Commercial Arbitration Act 1986* (Tas).

25.2 Damage or destruction

(a) If the whole or part of the Building, the Premises or the Common Areas is damaged resulting in whole or part of the Building, the Common Areas or the Premises being unfit for the occupation and/or use of the Tenant, then the Landlord must promptly repair the damage to and reinstate the Building, the Premises or the Common Areas as soon as is practicable after the date the damage occurred.

(b) If the Landlord does not:

(i) substantially commence works to repair the damage to the Building, the Common Areas and the Premises within a reasonable time (but in any case not later than six months) after the date on which the damage occurred; or

(ii) complete the works required to repair the damage to and reinstate the Building, the Common Areas and the Premises within 18 months of the date on which the damage occurred,

the Tenant may terminate this lease by giving not less than 15 Business Days notice to the Landlord.

(c) If the damage or destruction to the Building, the Common Areas or the Premises is so extensive that the whole of the Premises must be rebuilt, the Landlord must reinstate the Building and the Premises except should the Tenant give notice of termination of this lease within three months of the date on which the damage occurred.

(d) The Tenant may not terminate this lease under clause 25.2(b) or clause 25.2(c) if, and the Payments will not abate, to the extent that:

(i) the damage or destruction is caused or contributed to by the Tenant or Tenant's Associates; and

(ii) any material amount of the insurance money otherwise recoverable under an 'Industrial Special Risk' insurance policy in respect of the damage or destruction cannot be recovered because of any act, omission, default or negligence by the Tenant or Tenant's Associates.

(e) No liability will attach to the Landlord or to the Tenant if this lease ends pursuant to this clause. The rights of either party for any preceding breach or non observance of any covenant or provision of this lease are not affected by this clause.

25.3 Application of insurance proceeds

If, during the Term:

(a) the Building is damaged or destroyed by a risk against which the Landlord is required by this lease to insure;

(b) the payment of insurance moneys under the insurance policy has not been refused in whole or in part because of any act or omission of the Tenant or any Tenant's Employee; and

(c) the Tenant has notified the Landlord that it requires the Landlord to reinstate the Building,

the Landlord must promptly do everything reasonably necessary to:

(d) claim and obtain payment of any insurance moneys to which it is entitled under the insurance policy for the damage or destruction;

(e) obtain any permission, permits and consents that may be required under an applicable Law to enable the Landlord to reinstate the Building; and

(f) use all relevant insurance proceeds in reinstating the Building making up any difference between the cost of reinstating and the insurance proceeds.

26 Abatement for Occupation matters

26.1 Abatement if no Occupancy Approval

Subject to clause 26.3, if an Occupancy Approval for the Premises (or a part of the Premises) ends and another Occupancy Approval does not come into force for the Premises (or that part of the Premises) on the next Business Day, then all Payments will abate (or a fair proportion of each of them in the case of there being no Occupancy Approval for part of the Premises) on and from the date the previous Occupancy Approval came to an end until a new Occupancy Approval comes into force.

26.2 Abatement if breach of occupational health and safety laws

Subject to clause 26.3, if:

(a) an Essential Service is inadequate or fails to operate;

(b) the inadequacy or failure of the Essential Service causes the Tenant to be in breach of a Law binding on the Tenant relating to occupational health and safety in respect of those of its employees who work in the Premises (or a part of the Premises); and

(c) the Tenant in order to avoid a continuing breach of that Law removes its employees from the Premises (or a part of the Premises),

then except to the extent a Payment is already being abated for the inadequacy or failure of the Essential Service under this Lease, all Payments will abate (or a fair proportion of them) for so long as the Tenant removes its employees from the Premises (or that part of the Premises) for the purposes of avoiding a continuing breach of the Law relating to occupational health and safety caused by inadequacy or failure of the Essential Service.

26.3 Exclusion of entitlement to abatement

(a) The Tenant is not entitled to an abatement to the extent that the cancellation of the Occupancy Approval or the breach of the Law relating to occupational health or safety is caused or contributed to by:

(i) any act, neglect or default by the Tenant or any Tenant's Associates;

(ii) any works done by the Tenant in relation to the Premises;

(iii) a breach of this lease by the Tenant.

(b) The Tenant is not entitled to an abatement of under clause 26.1 if the Occupancy Approval is cancelled by the repeal of the applicable Law relating to Occupancy Approvals, so that there is no longer any requirement to hold an Occupancy Approval.

27 Assignment and other dealings

27.1 Prohibition on Assignment and other dealings

The Tenant must not assign, transfer, sublet, part with, share the possession of, grant any licence, mortgage, charge or otherwise deal with the whole or part of the Premises or this lease without the Landlord's prior written consent.

27.2 Landlord consent to assignment by Tenant

The Landlord must not withhold its consent to the Tenant assigning, transferring, licensing or subleasing where:

(a) at the time the Tenant notifies the Landlord of its wish to assign or transfer this lease or sublease the Premises the Tenant is not in default under this lease;

(b) there are no subsequent defaults by the Tenant;

(c) in the case of a transfer or assignment, the proposed transferee or assignee enters into a deed with the Landlord in a form reasonably required by the Landlord pursuant to which:

(i) the Landlord agrees with the transferee or assignee to be bound by all of the Landlord's obligations under this lease (including any obligations which do not transmit by operation of Law); and

(ii) the transferee or assignee agrees with the Landlord to be bound by all of the Tenant's obligations under this lease (including any obligations which do not transmit by operation of Law);

(d) the transferee or assignee gives the Landlord any security the Landlord reasonably requires in connection with the Tenant's obligations under this lease; and

(e) the Tenant pays the reasonable costs and disbursements incurred by the Landlord in giving its consent.

27.3 Release of Tenant

Upon any assignment or transfer of this lease by the Tenant, the existing Tenant is released from liability under the Lease by the Landlord.

27.4 Assignment to related bodies

Despite clauses 27.1 and 27.2, the Landlord's consent is not required to an assignment, transfer, licence or sublease to a Crown Agency. Notwithstanding that the Landlord's consent is not required, the Tenant must give to the Landlord written notice of any assignment, transfer, licence or sublease to a Crown agency.

27.5 Change in control

(a) This clause 27.5 only applies if the Tenant is not the Crown in Right of Tasmania or a Crown Agency.

(b) If:

(i) the Tenant is a company neither listed nor wholly owned by a company listed on the Australian Stock Exchange; and

(ii) there is a proposed change in the shareholding of the Tenant or its holding company so that a different person or group of persons will control the composition of the board of directors or more than 50% of the shares giving a right to vote at general meetings,

then before the proposed change can take place, the Tenant must obtain the Landlord's consent.

(c) The Landlord must give its consent if the Tenant:

(i) is not in default under this lease;

(ii) proves to the Landlord's reasonable satisfaction that if the proposed change takes place, the Tenant will be as:

(A) respectable and responsible;

(B) unlikely to create a security interest risk in the Building; and

(C) financially sound and capable of complying with the Tenant's payment obligations under this lease and under any renewal of this lease,

as it was immediately before the change was proposed; and

(iii) gives the Landlord any security the Landlord reasonably requires in connection with the Tenant's obligations under this lease.

28 Default and termination

28.1 Tenant may rectify Landlord's failure

(a) If the Landlord fails to:

(i) pay any money that this lease requires it to pay to any third party; or

(ii) comply with any of its other obligations under this lease,

and does not remedy the failure within a reasonable time after being requested to do so by notice from the Tenant, the Tenant may make the payment or do anything and incur any cost necessary to comply with the Landlord's obligation.

(b) The Landlord must reimburse the Tenant for the amount paid or the cost incurred within 10 Business Days of demand provided that the Tenant has not exercised a self-help right elsewhere in this lease and sought reimbursement from the Landlord.

(c) If the Landlord fails to reimburse the Tenant within 10 Business Days of demand then the Tenant may deduct the amount outstanding from any payments due to the Landlord by the Tenant under this lease.

(d) If the Landlord disputes the Tenant's right to act under this clause or the amount of reimbursement claimed then until the dispute is resolved the Landlord will not be required to pay and the Tenant will not be entitled to deduct the amount in dispute.

28.2 Interest

(a) Where any money payable under this lease is not paid by the due date interest is payable on the amount outstanding.

(b) The interest payable in respect of any month will be an amount equivalent to the Interest Rate.

(c) The interest will be calculated daily and compounded monthly from and including the day on which the payment was due up to but excluding the day on which the payment is made.

28.3 Tenant's default and re-entry

(a) The Tenant commits an Event of Default if:

(i) rent in arrears: the Annual Rent is not paid within ten Business Days after the due date;

(ii) failure to pay money: any other money due and payable by the Tenant to the Landlord is not paid within ten Business Days after the Landlord demands payment;

(iii) failure to effect repairs: the Tenant does not commence and complete the repairs required by any notice given under this lease within a reasonable time after the notice is given (being not less than 30 Business Days);

(iv) liquidation: the Tenant enters into liquidation, administration or an order is made or a resolution is passed for the winding up of the Tenant (except for the purpose of amalgamation or solvent reconstruction) or a receiver or official

manager or administrator or liquidator is appointed to any property of the Tenant;

(v) assignment: the Tenant assigns this lease other than in accordance with clause 27; or

(vi) other breach: the Tenant commits any other breach of the terms of this lease, which breach is not remedied within 30 Business Days after the Landlord has given notice to the Tenant of such breach.

(b) If the Tenant commits an Event of Default the Landlord must give the Tenant a notice that it has committed that Event of Default.

(c) If, after receipt of the notice, the Tenant fails to remedy the Event of Default:

(i) if constituted by failure to pay Annual Rent, by paying the Annual Rent within 20 Business Days of receipt of the notice;

(ii) if constituted by failure to pay any other money due and payable under this lease, by paying the amount due and payable within 20 Business Days after the Landlord demands payment;

(iii) if not constituted by failure to pay rent or other money but if capable of being remedied, by undertaking in writing to the Landlord within 30 Business Days to remedy the Event of Default and then within a reasonable time remedying the Event of Default;

(iv) if not capable of being remedied but for which the Landlord can be compensated, by paying reasonable compensation to the Landlord within 30 Business Days; or

(v) if not capable of being remedied and the Landlord cannot be compensated for the Event of Default,

then the Landlord may re-enter upon the Premises and thereupon this lease will be determined absolutely.

(d) Upon re-entry under clause 28.3(c), the Landlord may remove all of the Tenant's Fixtures and Fittings from the Premises and store them in a public warehouse or elsewhere at the cost of the Tenant payable on demand.

(e) The Landlord must not re-enter, forfeit or otherwise terminate this lease because of any breach or repudiation of this lease by the Tenant other than in accordance with clauses 28.3 and 29.

(f) The Landlord must mitigate any damage it suffers because of a breach of this lease by the Tenant.

29 Essential terms

(a) This clause 29 only applies if the Tenant is not the Crown in Right of Tasmania or a Crown Agency.

(b) It is agreed that the following obligations by the Tenant are essential terms of this lease:

(i) the covenant to pay rent throughout the Term as required by this lease;

(ii) the covenant to pay the Tenant's Share of Outgoings throughout the Term as required by this lease; and

(iii) the covenants regarding assignment and change in control.

(c) The Landlord may treat the breach by the Tenant of an essential term of this lease as a repudiation of this lease and terminate this lease for breach of the essential term and for repudiation and is then entitled to immediate possession of the Premises.

(d) The Tenant covenants to compensate the Landlord in respect of any breach of an essential term of this lease and the Landlord is entitled to recover damages from the Tenant in respect of such breaches, including, if this lease is terminated by the Landlord as a consequence, the Landlord's loss of the benefit of the Tenant performing its obligations under this lease from the date of that termination until the Expiry Date. The Landlord's entitlement to damages is in addition to any other remedy or entitlement including termination of this lease.

(e) The acceptance by the Landlord of arrears or of any late payment of rent, rates, taxes, outgoings or operating expenses, does not constitute a waiver of the essentiality of the Tenant's obligation to make those payments or in respect of the Tenant's continuing obligation to make those payments during the Term.

30 Yielding up and make good

30.1 Tenant to yield up Premises

The Tenant must on the Expiry Date or sooner determination of this lease return possession of the Premises to the Landlord and may remove any or all of the Tenant's Fixtures and Fittings.

30.2 Make Good Works

The Tenant is not required to carry out any make good works to the Premises or the Building upon the expiry or sooner determination of this lease except where any damage is caused to the Premises or the Building by the Tenant in removal by it of any of the Tenant's Fixtures and Fittings in which case the Tenant must make good that damage.

30.3 Ownership of the Tenant's Fixtures and Fittings not removed from the Premises

Any of the Tenant's Fixtures and Fittings left on the Premises upon the expiry or sooner determination of this lease will become the property of the Landlord and the Landlord may without being liable in any way to the Tenant deal with the Tenant's Fixtures and Fittings as if they were the Landlord's Fixtures and Fittings.

31 Dispute resolution

31.1 Dispute Notice

If any dispute arises between the Tenant and the Landlord (Dispute), then either party may give to the other a notice adequately identifying the matters the subject of that Dispute (Dispute Notice).

31.2 Negotiation

An Authorised Representative of both parties must meet within 15 Business Days of the Dispute Notice and endeavour to resolve the Dispute in good faith.

31.3 Time for resolution

(a) If a settlement meeting does not take place between the Authorised Representatives by the time required or, after one month of the settlement meeting the Dispute remains unresolved, the Chief Executive Officer of the Landlord and the Secretary of the Department (or such other person nominated from time to time by the Tenant) must meet within a further 10 Business Days after that date and endeavour to resolve the Dispute in good faith.

(b) If clause 31.3(a) applies and a settlement meeting does not take place by the time required or, after one month of the settlement meeting the Dispute remains unresolved, either party may commence litigation proceedings.

(c) Neither party may commence or maintain any proceedings in relation to any Dispute until it has complied with this clause 31 (except for proceedings seeking injunctive or declaratory relief).

31.4 Process not to apply

This clause 31 does not apply to the following disputes or differences:

(a) a dispute or difference as to the non-payment of any liquidated sum exceeding $10,000;

(b) a dispute or difference which involves or may involve a third party; or

(c) a dispute or difference where the remedies sought by a party will include an injunction.

32 GST

(a) Unless expressly stated otherwise, amounts expressed payable or any other consideration provided, or to be provided, under or in connection with this lease, are GST exclusive.

(b) Unless expressly stated otherwise, a party (Supplier) making a taxable supply under or in connection with this lease, may recover from the party (Recipient) to whom the taxable supply is made, an additional amount of GST calculated by multiplying the value of the consideration payable or to be provided for the supply (without any deduction or set-off) by the prevailing GST rate (Additional Amount).

(c) The Additional Amount must be paid at the same time and in the same manner when payment of the consideration for the taxable supply is due if the consideration is monetary. If the consideration is non-monetary, the Additional Amount must be paid within 10 Business Days after the Supplier provides a tax invoice to the Recipient.

(d) The Supplier must provide a valid tax invoice to the Recipient for any taxable supply made under or in connection with this lease.

(e) A Supplier's right to payment for a taxable supply is subject to a valid tax invoice being delivered to the Recipient of the taxable supply.

(f) If the amount of GST recovered by the Supplier from the Recipient differs from the amount of GST payable at law by the Supplier in respect of the supply, the amount payable by the Recipient to the Supplier must be adjusted accordingly.

(g) If, under the terms of this lease, one party is required to indemnify another, then the amount by which the indemnifying party indemnifies the other party (the indemnity amount) does not include any amount for which the indemnified party has claimed, or is entitled to claim, an input tax credit. However, to the extent that the receipt of any indemnity amount renders the recipient of that payment liable to pay GST, the other provisions of this clause apply.

(h) If the consideration for a supply is a payment or reimbursement for, or contribution to, any expense or liability incurred by the Supplier to a third party, the amount to be paid reimbursed or contributed in respect of the expense or liability will be the amount of the expense or liability net of any input tax credit to which the Supplier is entitled in respect of the expense or liability.

(i) Where any amount payable under this lease is paid by being set-off against another amount, each amount must be calculated in accordance with this clause 37 as if it were an actual payment made pursuant to this lease.

(j) In this clause 32, unless the context otherwise requires:

(i) GST Act means the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth) and the related imposition Acts of the Commonwealth; and

(ii) expressions defined in the GST Act have the same meaning when used in this clause 32.

33 Set off

The Tenant may set off against Payments due by the Tenant to the Landlord any amount due from the Landlord to the Tenant whether or not the amount due from the Landlord arises under this lease. Each obligation of the Tenant to make a Payment is subject to the Tenant's right of set off under this clause. For the avoidance of doubt, this clause does not exclude any other right of set off at Law.

34 Costs, registration and duty

34.1 Costs

(a) Each party is responsible for its own costs and expenses incurred in relation to the negotiation, preparation and execution of this lease.

(b) The Tenant must pay to the Landlord on demand all reasonable costs and charges incurred by or on the Landlord's behalf in relation to:

(i) any consent required under this lease if caused by the Tenant;

(ii) any assignment subletting or similar arrangement;

(iii) any surrender or ending of this lease unless this lease ends because the Term ends; and

(iv) any breach by the Tenant of its obligations under this lease.

(c) The Landlord must pay to the Tenant on demand all reasonable costs and charges incurred by or on the Tenant's behalf in relation to:

(i) any consent required under this lease if caused by the Landlord;

(ii) any assignment subletting or similar arrangement; and

(iii) any breach by the Landlord of its obligations under this lease.

34.2 Lease is valid and enforceable regardless of registration

The validity and enforceability of this lease is not conditional on the registration of this lease under the *Land Titles Act 1980* (Tas). This lease is intended to take effect as a lease irrespective of its registration.

34.3 Duty

The Tenant must pay any duty on this lease.

35 Statutes and severance

35.1 Exclusion of statutory covenants

The covenants, powers and provisions implied by any Statute do not apply to this lease and are expressly negatived.

35.2 Severance

(a) A construction of this lease that results in all provisions being enforceable is to be preferred to a construction that does not so result.

(b) If, despite the application of clause 35.2(a), a provision of this lease is illegal or unenforceable:

(i) and it would be legal and enforceable if a word or words were omitted, that word or those words are severed; and

(ii) in any other case, the whole provision is severed, and the remainder of this lease continues in force.

36 Law and jurisdiction

36.1 Governing law

This lease is governed by the Law of the State.

36.2 Submission to Jurisdiction

The parties submit to the non-exclusive jurisdiction of the courts of the State and any courts that may hear appeals from those courts in respect of any proceedings in connection with this lease.

37 Notices

37.1 Method of giving Notices

A notice, notification, requirement to notify, consent, approval, application or other communication (each of which, for the purposes of this clause 37, is taken to be a Notice) under this lease must be in writing, signed by or on behalf of the person giving it by any attorney, director, secretary or other duly authorised officer or solicitor of such party, addressed to the person to whom it is to be given and:

(a) delivered;

(b) sent by pre-paid mail; or

(c) sent by facsimile,

to that person's address as shown in the Information table.

No Notice may be given either verbally or by e-mail.

37.2 Time of receipt of notices

A Notice given to a person is treated as having been given and received:

(a) if delivered, on the day of delivery if delivered after 9.00a.m. and before 4.00p.m. on a Business Day, otherwise on the next Business Day;

(b) if sent by pre-paid mail, on the day of actual delivery if delivered after 9.00a.m. and before 4.00p.m. on a Business Day, otherwise on the next Business Day; and

(c) if sent by facsimile and the transmission report states that it was sent in full and without error, on the day of transmission if that report states that the transmission was completed after 9.00a.m. and before 4.00p.m. on a Business Day, otherwise on the next Business Day.

37.3 Address for Notices

For the purposes of this clause 37, a person (the sender) may take the address and facsimile number of another person (the recipient) to be:

(a) the address and number set out in the information table; or

(b) if the recipient has notified the sender of another address or facsimile number, the last address or facsimile number so notified to the sender.

38 Disclosure

38.1 Disclosure

Despite any confidentiality subsisting in this lease, any party may publish without reference to the other party, all or any part of this lease.

38.2 No derogation from Acts

Nothing in this clause derogates from a party's obligations under the *Personal Information Protection Act 2004* (Tas) or the *Privacy Act 1988* (Cwlth).

39 Miscellaneous

39.1 Relationship of parties

Except as expressly provided in this lease, nothing contained or implied in this lease will:

(a) constitute or be deemed to constitute a party to be the partner, agent or legal representative of any other party for any purpose;

(b) create or be deemed to create any partnership; or

(c) create or be deemed to create any agency or trust.

39.2 Waiver

The non-exercise of or delay in exercising any power or right of a party does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other exercise of it or the exercise of any other power or right. A power or right may only be waived in writing, signed by the party to be bound by the waiver and such a waiver is effective only in the specific instance and for the specific purpose for which it was given.

39.3 Exact compliance

No failure or delay by the Landlord or the Tenant to exercise any right remedy or power under this lease or to insist on strict compliance by the other party with any obligation under this lease and no custom or practice of the parties at variance with the terms of this lease constitutes a waiver of the Landlord's or the Tenant's right to demand exact compliance with this lease.

39.4 Attorneys

Each attorney who executes this lease on behalf of a party declares that the attorney has no notice of the revocation or suspension by the grantor or in any manner of the power of attorney under the authority of which the attorney executes this lease.

39.5 Rights Cumulative

Each of the rights and remedies provided in this lease is exclusive and independent of each other right and remedy and all other rights and remedies at Law.

39.6 Exercise of Powers

The Landlord and the Tenant may exercise any or all of their powers authorities and discretions under this lease through their permanent officers or such other person as they appoint in writing for that purpose.

39.7 Amendment

This lease may only be amended or supplemented in writing signed by the parties.

39.8 Further assurance

Each party must do, sign, execute and deliver and must procure that each of its employees and agents does, signs, executes and delivers, all deeds, documents, instruments and acts as reasonably required of it or them and must carry out and give full effect to this lease and the rights and obligations of the parties under it.

Signing page

Dated: 23 May 2012

Executed for and on behalf of **Nekon Pty Ltd** (ACN 676 235 168) in accordance with section 127(1) of the *Corporations Act 2001* (Cwlth):

Signature ←

Robert Rockefeller.
Name and capacity (print)

Signature ←

VICTORIA ROCKEFELLER DIRECTOR
Name and capacity (print)

Signed for and on behalf of **The Crown in Right of Tasmania** by the **Honourable Larissa Tahireh Giddings MP**, Premier of Tasmania, in the presence of:

Signature ←

J Catchpole ←
Signature of witness

JULIE CATCHPOLE
Name of witness (print)

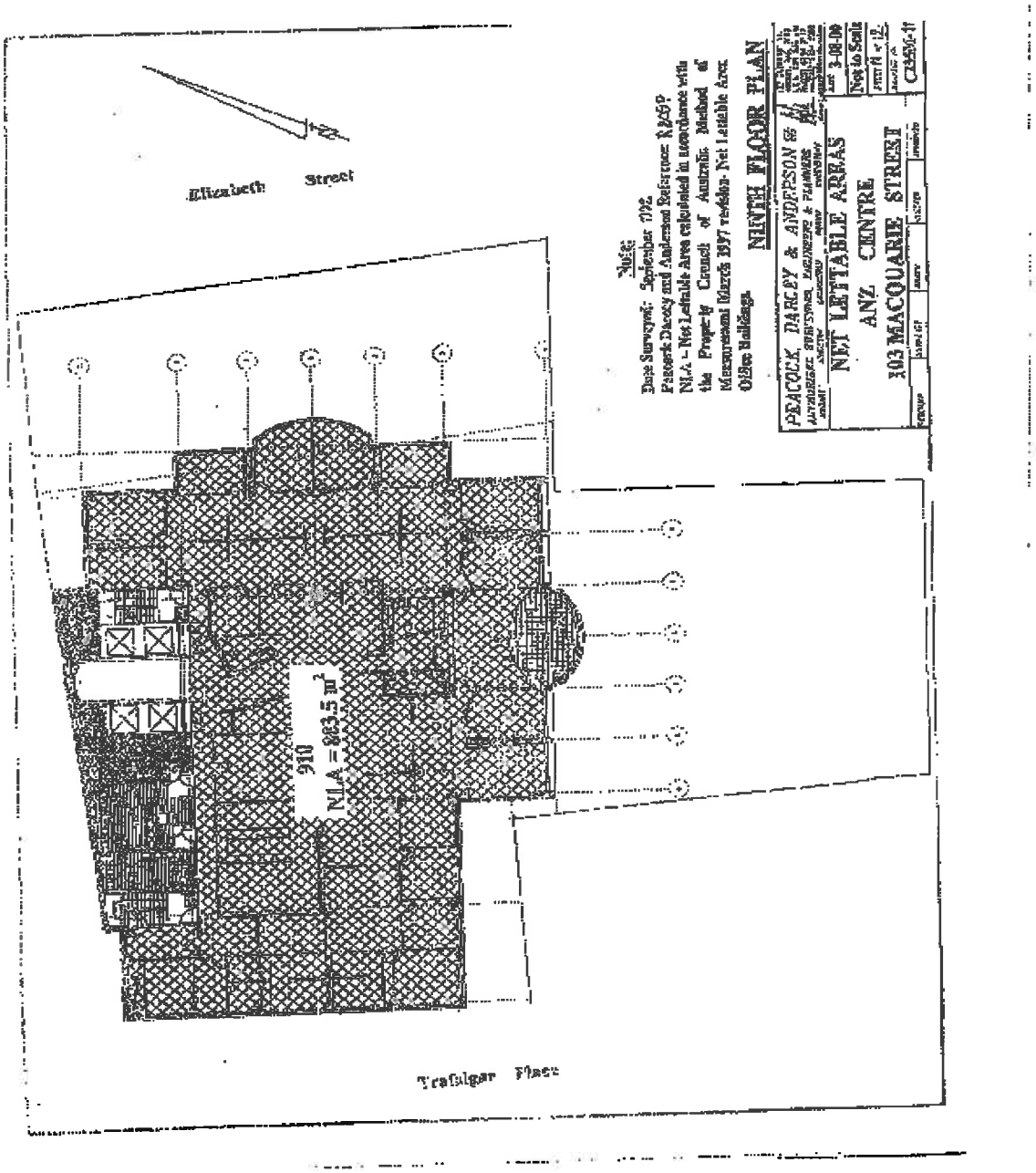
15 MURRAY ST. HOBART
Address of witness

EXECUTIVE OFFICER
Occupation

Schedule 1

Premises Plan

All that the net lettable floor area on Level 9, 22 Elizabeth Street, Hobart in Tasmania as shown on the attached plan.



Schedule 2

Maintenance and Services Specifications

1. Air-conditioning

The air-conditioning system must be operated and maintained to meet the design standards, including the following criteria:

(a) Temperature control in occupied office areas: $22.5^{O}C \pm 1.5^{O}C$ provided the outside air temperature is within the range of 1.5C and 27.1C.

(b) Filtration efficiency: 20% to AS 1324-1973 Test Dust No.1 (refer to additional specification in base building specification;

(c) Outdoor air: to comply with AS 1668.2;

(d) CO^2 level will not exceed 1000 ppm (measured in the return air ducts);

(e) Air flow rates in occupied areas: $5lt/s/m^2$ (min.);

(f) Air movement within occupied zone: 0.15-0.3m/s;

(g) Toilet exhaust rate: $10lt/s/m^2$ (min);

(h) Kitchenette exhaust rate: $10lt/s/m^2$ (min); and

(i) Mircrobial control: to comply with AS 3666-2006; and

(j) Fire shutdown to AS 1668.1.

2. Vertical Transportation

The lift service must be operated and maintained to meet the following criteria:

(a) waiting interval to be not less than 30 seconds;

(b) car capacity 16 persons or 1088 kilograms; and

(c) levelling to be within ± 6mm.

3. Electrical

The electrical systems must be operated and maintained to meet the following criteria:

(a) Lighting to comply with AS 1680.

(b) Lighting for screen based tasks to comply with AS 1680.2.2 .

(c) Emergency lighting to comply with AS 2293.

(d) EWIS to comply with AS 1670-4.

(e) Fire detection to comply with AS 1670.

(f) Annual thermo-graphic testing of electrical switching and distribution boards;

(g) AS3000;

(h) Verification of electrical safety devices.

4. Mechanical Services

4.1 The basis of maintenance for mechanical services must, as a minimum, include:

(a) Australian standards AS/NZS 3666, AS/NZS 1668, AS 1581.6 and SAA HB32;

(b) The *Public Health Act 1997* and associated guidelines;

(c) The Workplace Health and Safety Act 1995;

(d) The Building Legislation;

(e) All other statutory requirements;

(f) The installer's maintenance manuals; and

(g) Annual thermo-graphic testing of mechanical switchboards.

4.2 As a minimum the following systems must be maintained:

(a) Heating and ventilation and airconditioning;

(b) Mechanical ventilation system;

(c) Toilet and kitchen exhaust systems;

(d) Building management contract;

(e) Electicial distribution and power systems;

(f) External security system; and

(g) Essential Services as defined in the *Building Act 2000.*

5. Fire Services

5.1 The basis of maintenance for fire services must be to Australian Standard 1851, Tasmanian Fire Service requirements, Local Government Agency requirements, all applicable Law and, where applicable, the manufacturer's instructions.

5.2 As a minimum the following systems must be maintained:

(a) Annual full systems fire testing;

(b) Fire sprinkler systems;

(c) Fire detection systems;

(d) Emergency warning devices and evacuation systems;

(e) Mechanical systems associated with fire systems;

(f) Automatic door openers associated with fire systems;

(g) Fire hydrants and hose reels

(h) Fire and smoke doors;

(i) Portable fire extinguishers.

6. Plumbing

(a) Maintenance of hot water cylinders including pressure relief valves, backflow prevention devices, sewerage pumps, water pumps and hot water tempering valves in accordance with AS/NZS 3500, the Tasmanian Plumbing Code, Local Government Agency requirements and the Building Legislation requirements.

(b) Inspection and clearing of roof gutters and downpipes as necessary, with a minimum of two inspections in each twelve month period.

7. Maintaining Services

Nothing in this Section 2 prevents the Landlord from maintaining any service referred to above to a better or higher standard.

Schedule 3

Cleaning Schedule

1. The Landlord must ensure (unless the Tenant advises otherwise) that the cleaning services to be rendered as set out in the following table are provided to the corresponding items at the frequency given:

	Item	Services to be rendered	Frequency
1.	Counters, partitions, ledges, handrails, skirtings, etc.	Dust and damp dust	Daily
2.	Main entrance doors	Clean and polish	Daily
3.	Male and female toilets	Clean thoroughly	Daily
	Toilet floors	Sweep and scrub	Daily
	Pedestals and urinals	Wash and disinfect	Daily
	Strainer cups	Scrub	Daily
	Mirrors	Clean	Daily
	Walls and doors	Dust	Daily
	Hand basins	Clean	Daily
	Metal work including chrome taps and waste panes	Clean and polish	Daily
	Toilet partitions	Clean thoroughly	Weekly
	Urinal partitions	Clean thoroughly	Daily
	Toilet paper, soap and paper towels	Install as required	
	Hygiene services	Install and service as required	
4.	Sinks	Clean	Daily
5.	All floors including corridors, landings, stairways and foyers	Sweep	Daily
6.	Foyer and entrance (including glass doors)	Dust and clean	Daily
7.	Lift door and interior of lift car	Dust and clean	Daily
	Lift carpet	Vacuum	Daily
		Steam clean	Fortnightly

	Item	Services to be rendered	Frequency
8.	Carpet	Vacuum	3 times per week
		Spot clean	Daily
9.	Cobwebs	Remove	Daily
10.	All metal work in other than public areas	Clean and polish	Weekly
11.	Glass in the internal partitions doors, etc.	Clean and polish	Monthly
12.	Internal and external windows		
	Low-level	Clean and polish	Six Monthly
	High-level	Clean and polish	Six monthly
13.	Any spillages on carpet floors		Must receive priority attention as required

2. The Landlord is responsible for providing or arranging for all matters necessary to meet the requirements of this Schedule including labour, equipment, materials and plant. In providing soap, paper towels and toilet rolls and associated dispensing equipment, the Landlord must ensure they are of an appropriate standard and are maintained and replaced as and when necessary.

3. All cleaning requirements set out in this schedule are to be performed on all Business Days during the Term and at such other times as may be necessary, with the hours of cleaning to be before 7.00am and after 6 .00pm and at such other times as the Tenant may specify to meet its needs.

4. The Landlord is responsible for ensuring rubbish is removed from the Building in an appropriate manner and in accordance with all requirements of the relevant local Council.

5. The Landlord is responsible to ensure that litter from areas adjoining, abutting or surrounding the Building is appropriately managed so as not to increase the cleaning frequencies in and around the Building.

Schedule 4

Special Conditions

1. In addition to the lease of the Premises, the Landlord shall lease to the Tenant an area in the basement of the Building comprising 21.5 square metres (or thereabouts) at a rental of Two Thousand One Hundred and Fifty Dollars ($2,150.00) per annum (plus GST). That rental payment is a gross payment inclusive of outgoings. This rental payment will be reviewed annually on the same basis as the Annual Rent for the Premises.

2. The Landlord must provide the Tenant access to the shower and bike racks located in the basement area of the Building at no additional charge to the Tenant for the Term.