

Agenda

Council

NOTICE OF MEETING

Notice is hereby given that a meeting of the Council will be held in the

**Council Chamber - Glenelg Town Hall
Moseley Square Glenelg**

28 May 2024 at 7.00pm



Roberto Bria
Chief Executive Officer



1. Opening

The Mayor will declare the meeting open at 7.00pm.

2. Kurna Acknowledgement

We acknowledge Kurna people as the traditional owners and custodians of this land.

We respect their spiritual relationship with country that has developed over thousands of years, and the cultural heritage and beliefs that remain important to Kurna People today.

3. Service to Country Acknowledgement

The City of Holdfast Bay would like to acknowledge all personnel who have served in the Australian forces and services, including volunteers, for our country.

4. Prayer

Heavenly Father, we pray for your presence and guidance at our Council Meeting. Grant us your wisdom and protect our integrity as we carry out the powers and responsibilities entrusted to us on behalf of the community that we serve.

5. Apologies

5.1 Apologies received

5.2 Absent – Councillor J Smedley (Approved Leave of Absence)

6. Items Presented to Council

7. Declaration Of Interest

If a Member has an interest (within the terms of the Local Government Act 1999) in a matter before the Council they are asked to disclose the interest to the Council and provide full and accurate details of the relevant interest. Members are reminded to declare their interest before each item.

8. Confirmation Of Minutes

That the minutes of the Ordinary Meeting of Council held on 14 May 2024 be taken as read and confirmed.

9. Public Presentations

9.1 Petitions

9.1.1 Petition – Mural – South Esplanade, Glenelg South (Report No: 158/24)

9.1.2 Petition – Budget for 2024-25 Opposition to Rate Increase (Report No: 159/24)



9.2 Presentations - Nil

9.3 Deputations- Nil

10. Questions by Members

10.1 Without Notice

10.2 On Notice- Nil

11. Member’s Activity Reports - Nil

12. Motions on Notice - Nil

13. Adjourned Matters- Nil

14. Reports of Management Committees and Subsidiaries - Nil

15. Reports by Officers

15.1 Items in Brief (Report No: 153/24)

15.2 Monthly Financial Report – as at 30 April 2024 (Report No: 155/24)

15.3 Seacliff Sports Club Lease (Report No: 156/24)

15.4 Seacliff and Somerton Community Kindergarten Leases (Report No: 157/24)

15.5 Request to Fly the Italian Flag on Italian National Day (Report No: 154/24)

15.6 Glenelg Ice Cream Festival 2024 (Report No: 149/24)

15.7 Partridge House - Future Directions (Report No: 148/24)

15.8 Transforming Jetty Road – Committee Appointments (Report No: 160/24)

16. Resolutions Subject to Formal Motions

Presented for the information of Members is a listing of resolutions subject to formal resolutions, for Council and all Standing Committees, to adjourn or lay on the table items of Council business, for the current term of Council.

17. Urgent Business – Subject to the Leave of the Meeting

18. Items in Confidence - Nil

19. Closure

Roberto Bria
Chief Executive Officer

Item No: 9.1.1

Subject: PETITION – MURAL – SOUTH ESPLANADE, GLENELG SOUTH

Summary

A non-conforming petition has been received from Ms Raelene Elmes requesting a) the removal of the seawall mural at Glenelg South or b) hold a consultation with residents to consider how to tone down the colours so they 'blend in' and complement the area.

The petition does not meet the criteria outlined in Council's Code of Practice – Meeting Procedures as it does not include the Head Petitioners contact details on each page of the petition or restate the whole of the request or submission of the petitioners.

Ms Elmes has been advised that while her petition is non-conforming, the Mayor has agreed to include the item on the Council Agenda for noting.

Recommendation

That Council notes the non-conforming petition from Raelene Elmes regarding the seawall Mural – South Esplanade, Glenelg South.

Report

On 9 May 2024, a non-conforming petition was received from Ms Raelene Elmes. Ms Elmes lodged the petition on behalf of residents of Glenelg South.

The petition states:

“By signing this petition, we, the undersigned residents of Glenelg South, respectfully request the following actions:

a) Complete removal of the mural, restoring the wall to original state;

OR

b) Consultation with residents to consider how to tone down the colours so they 'blend in' and complement the area.”

Refer Attachment 1

A copy of the signatories' page has been made available to Elected Members under a separate cover and is not attached to this agenda item.

The *Local Government (Procedures at Meetings) Regulations 2013* and City of Holdfast Bay Code of Practice – Meeting Procedures describe how petitions are dealt with by Council and the minimum criteria that they need to meet to be considered as a petition by Council.

Section 10 of regulations are shown below.

10—Petitions

- (1) A petition to the council must—
 - (a) be legibly written or typed or printed; and
 - (b) clearly set out the request or submission of the petitioners; and
 - (c) include the name and address of each person who signed or endorsed the petition; and
 - (d) be addressed to the council and delivered to the principal office of the council.
- (2) If a petition is received under subregulation (1), the chief executive officer must ensure that the petition or, if the council has so determined as a policy of the council, a statement as to the nature of the request or submission and the number of signatures or the number of persons endorsing the petition, is placed on the agenda for the next ordinary meeting of the council or, if so provided by a policy of the council, a committee of the council.
- (3) Subregulation (2) may be varied at the discretion of the council pursuant to regulation 6.

In addition, the City of Holdfast Bay Code of Practice – Meeting Procedures has additional criteria which a petition must also meet, and these are shown below.

Part Two, Regulation 10:

- (4) Each page of a petition is to be presented by the head petitioner to Council's Administration and identify the name and contact details of the head petitioner.
- (5) Each page of a petition presented to Council is to restate the whole of the request or submission of the petitioners.
- (6) Where a page of a petition does not comply with City of Holdfast Bay provision 5 above, the signatures on that page will not be taken into account by the Council when considering the petition.
- (7) A petition to the Council must be received no less than 6 clear days prior to the date of the next ordinary meeting of the Council (in this case, as the Council meets on a Tuesday, the deadline is 5.00pm the prior Tuesday), or the date at which the head petitioner requests that the petition be presented to the Council. Petitions received less than 6 clear days will be tabled at the next subsequent meeting.
- (8) On receipt of a petition, a summary report providing the statement as to the nature of the request or submission of the petitioners, and the number of signatures with name and address details (address includes street name and/or suburb name) on the petition, will be placed on the agenda for the next ordinary council meeting, subject to provision 7 above. A full copy of the petition will be available for viewing upon request but will not be placed on the agenda.

- (9) Signatures without name and address details will not be counted as valid signatories.
- (10) Online petitions will be dealt with as above and must meet the following requirements to be presented to Council:
- the petition must clearly set out the request or submission of the petitioners.
 - the names and addresses of each signatory must be clearly identified (in the case of an address, this must be by reference to at least a street name and/or suburb name).
 - the petition must be provided to Council either by mail (including email) or in person.

The petition received is deemed invalid and does not meet the requirements of the Code of Practice – Meeting Procedures, Regulations 10 (1) - 4,5,9.

Ms Elmes has been advised that whilst her petition is non-conforming, the Mayor has agreed to include the item on the Council Agenda for noting. Ms Marnie Lock, General Manager, Community and Business will meet with Ms Elmes during the week of 27 May 2024.

Budget

Not applicable

Life Cycle Costs

Not applicable

Strategic Plan

Statutory compliance

Council Policy

City of Holdfast Bay Code of Practice – Meeting Procedures

Statutory Provisions

Local Government Act 1999

Local Government (Procedures at Meetings) Regulations 2013

Written By: Executive Officer and Assistant to the Mayor

Chief Executive Officer: Mr R Bria

Attachment 1



20 March, 2024

City of Holdfast Bay
24 Jetty Road
BRIGHTON SA 5048
mail@holdfast.sa.gov.au

SUBJECT: MURAL – SOUTH ESPLANADE, GLENELG SOUTH

I am writing to express the concerns of myself and fellow residents of Glenelg South regarding the issue of the mural currently being painted on the sea wall along South Esplanade. We believe that the mural does not meet community expectations that it would 'blend in' and complement the surrounding natural environment.

As you are aware, Glenelg South is a thriving diverse community. While we can appreciate public art, we feel that unfortunately the particular mural chosen, with its bright colours, is not appropriate for this particular site.

By signing this petition, we, the undersigned residents of Glenelg South, respectfully request the following actions:

a) Complete removal of the mural, restoring the wall to original state;

OR

b) Consultation with residents to consider how to tone down the colours so they 'blend in' and complement the area.

We understand that while "consultation" was conducted in relation to this issue, by way of the 2023-24 Annual Business Plan in June last year. We believe that with something so visual, consultation and engagement with residents more directly impacted by this mural would have been advantageous.

We kindly request the opportunity to meet with you to discuss this matter further and share additional insights from our community. Your expertise and guidance in this regard would be greatly appreciated.

Thank you for our attention to this pressing matter. We look forward to our positive response and hope this matter can be resolved in a timely manner.

Sincerely,



Item No: 9.1.2

Subject: PETITION – BUDGET FOR 2024-25 OPPOSITION TO RATE INCREASE

Summary

A petition has been received from Ms Karen Donaldson opposing the budget for 2024-25 rate increase.

The petition states:

“We the undersigned reject the 7.1% increase in rates as proposed by the Administration of the City of Holdfast Bay. That there needs to be current independent consultation with residents and traders regarding the changes proposed to Jetty Road, Glenelg. In the current financial environment that is an impost on residents, traders and tenants now and into the future”.

Recommendation

That Council notes the petition from Ms Donaldson regarding opposing the budget for 2024-25 rate increase.

Report

On 17 May 2024, Administration received a petition from Ms Karen Donaldson opposing the budget for 2024-25 rate increase.

The petition is deemed to be valid, meeting the requirements of the Code of Practice – Meeting Procedures, Regulations 10 (1) – (9). There are 43 signatories which excludes two signatures where the address details were not provided in full and therefore unable to be counted as valid signatories.

Administration received an additional page of the petition after the cut off period of six clear days prior to the next Council meeting. This page had two signatures, however, is unable to be counted towards the total number of signatures received.

A full copy of the petition has been made available to Elected Members under a separate cover and is not attached to this agenda item.

Budget

Not applicable

Life Cycle Costs

Not applicable

Strategic Plan

Statutory compliance

Council Policy

City of Holdfast Bay Code of Practice – Meeting Procedures

Statutory Provisions

Local Government Act 1999

Local Government (Procedures at Meetings) Regulations 2013

Written By: Executive Officer and Assistant to the Mayor

Chief Executive Officer: Mr R Bria

Item No: 15.1

Subject: ITEMS IN BRIEF

Summary

These items are presented for the information of Members.

After noting the report any items of interest can be discussed and, if required, further motions proposed.

Recommendation

That the following items be noted and items of interest discussed:

- 1. Resilient South wins joint award**
 - 2. Better Protection for Stingrays – Letter to Minister for Primary Industries and Regional Development**
 - 3. Local Government Professionals – Leadership Excellence Awards**
 - 4. Glenelg Oval Masterplan Stages 3 and 4**
-

Report

1. Resilient South wins joint award

Resilient South and The University of Adelaide have jointly won the Parks and Leisure Australia SA/NT Award of Excellence for Research for the Future Trees Benchmarking Study.

The study was a partnership between Resilient South and The University of Adelaide. The Future Trees benchmarking study used data from 20 councils (including the City of Holdfast Bay) across metropolitan Adelaide to create the largest urban tree database in the world. The research identified key vulnerabilities and limitations to achieving our shared greening agenda.

The study found that some parts of Adelaide had worryingly low tree diversity, with as few as four species making up 50% of the urban forest in some areas. This work has been a major influence on the State Government's recently released draft Urban Greening Strategy (out for consultation until 28 June) and will inform tree management across Adelaide for years to come.

The study is the foundation for what is hoped will be a much larger piece of work through the Future Trees program, which will now turn its attention to determining what tree species we should plant for future resilience of the urban forest and how to upskill our tree professionals to ensure Adelaide remains green under a more challenging climate. The research was funded by Green Adelaide, The University of Adelaide, SA Power Networks and Preventative Health SA.

2. Better Protection for Stingrays – Letter to Minister for Primary Industries and Regional Development

At the Council meeting on 23 January 2024, Council carried a motion (C230124/7655) to write to the Hon. Clare Scriven, Minister for Primary Industries, and Deputy Premier Dr Susan Close Minister for Climate, Environment and Water to advocate for protection of stingrays in South Australia. In particular, the letter highlights our community's concerns for the stingrays that are mostly resident in the Seacliff to Kingston Park area.

A letter has been sent to the Minister for Primary Industries, with a copy to the Deputy Premier, in her capacity as the Minister for Climate, Environment and Water, as the *Fisheries Management Act 2007* is the most relevant legislation for the issue. The letter makes several requests including:

- that PIRSA (Department of Primary Industries and Regions, South Australia) undertake a review or investigation into the impacts of recreational fishing activities on sharks and rays in metropolitan Adelaide coastal waters, especially those occurring at night on metropolitan jetties;
- that PIRSA investigate tighter restrictions on recreational fishing gear so that it is more difficult to target rays;
- that PIRSA inform us of their response to a significant community campaign on the same issues (including a petition delivered to them last year with approximately 15,000 signatures);
- that a review be undertaken looking into the potential for improved protection for non-target shark and ray species from harm; and
- that PIRSA community education materials include information about the importance of stingrays to both the Kurna Nation and non-aboriginal Australians, and their importance as meso-predators to the health of our fragile marine ecosystems.

Refer Attachment 1

3. Local Government Professionals – Leadership Excellence Awards

The Local Government Professionals SA - Leadership Excellence Awards Program recognises outstanding achievement and innovation in local government that not only recognises excellence but contributes to the advancement and improvement of local government as a sector. Winners were announced at the 23rd Leadership Excellence Awards Gala Dinner held 10 May 2024 at the Adelaide Convention Centre.

The City of Holdfast Bay, Signal Fires Team was announced the winner of the *Excellence in Community Partnerships and Collaboration* for Signal Fires: A Revival of Culture project.

We were also finalists for:

- *Excellence in Infrastructure Delivery*
Engineering Team - Pine Gully Restoration
- *Excellence in Environmental Leadership and Sustainability*
Waste Management Team - Council-Wide Implementation of Weekly FOGO

4. Glenelg Oval Masterplan Stages 3 and 4

Monday 6 May 2024 marked the official opening of the Glenelg Oval Masterplan Stages 3 and 4.

Glenelg Oval is a high-profile football and cricket venue used primarily by Glenelg Football Club who participate in the SANFL and the Glenelg District Cricket Club. The site is also occupied by the Holdfast Bay Tennis Club and Glenelg Primary School, who have access to the playing field for daily use, interschool sports and other activities.

The completion of the Masterplan Stages 3 and 4 follows on from Stage 2 (Changerooms, opened in 2021) and Stage 1 (Holdfast Tennis Clubrooms, opened in 2020).

This event opened with a Welcome to Country and smoking ceremony by Ilassac Hannam, Proud Southern-Kurna and Ngarrindjeri man, followed by the official opening, and ending with the unveiling of two plaques by Mayor Wilson.

In attendance, representing the Federal Government was Ms Louise Miller-Frost MP, Federal Member for Boothby. Representing the State Government was the Hon Reggie Martin MLC, with the Local Member for Morphett, Stephen Patterson MP. Also in attendance was Margaret Messenger, a Glenelg resident and Olympic Gold Medallist, along with key lead contractors.

Written By: Executive Support Officer

Chief Executive Officer: Mr R Bria

Attachment 1

21 May 2024

The Hon. Clare Scriven MLC
Minister for Primary Industries and Regional Development
GPO Box 1671
ADELAIDE SA 5001

Via email: Minister.Scriven@sa.gov.au

Dear Minister

Better protection for stingrays

The City of Holdfast Bay covers 9km of Adelaide's coastline and is concerned about the welfare of the stingrays that use the coast.

There are two inter-related issues we wish to bring to your attention and advocate for action.

Recreational fishing impacts on sharks and stingrays

Our community have, for years, witnessed stingrays washed up dead on the beach with obvious signs of human-caused death, including knife wounds. Scuba divers who dive under the jetties regularly witness dead stingrays, sharks and other non-target species that have been mutilated by humans (usually fishers) before being discarded. These abused and mutilated animals invariably succumb to their injuries and die, often slowly over a long period. Divers have witnessed paralysed animals that have been stabbed in the head and are still alive on the sea floor, unable to move or feed. This has been occurring for years and our community is concerned.

Although these ray species are not usually targeted by recreational fishers, some purposely target rays because they are challenging to catch, as they are often strong and fight. There also seems to be many shark fishers targeting rays to use them as bait for shark fishing, not for food. Brighton Jetty is a popular night-fishing spot for shark fishers. The Marine Life Society of South Australia has reported their scuba diving members often seeing the remains of non-target species, which have been caught, cut up and thrown back. These include southern eagle rays, many juvenile Port Jackson sharks and most other shark and ray species that frequent these coastal waters.

The City of Holdfast Bay is aware that the state government has conducted a review of the Animal Welfare Act and has developed a range of reform opportunities, including broadening the definition of 'animal' by removing the exclusion of fish. We are extremely pleased to hear about this particular change and look forward to these amendments being implemented with increased resources for compliance via both the RSPCA (Royal Society for the Prevention of Cruelty to Animals) and PIRSA (Department of Primary Industries and Regions) Fisheries Officers.

The City of Holdfast Bay is also aware of the current recreational fishing gear restrictions that apply daily between 5.00am and 9.00pm, seven days a week in coastal waters from Outer Harbour to the Lady Bay shacks. However, additional protection could be afforded to these abused animals, through tightening the recreational fishing gear restrictions.

The City of Holdfast Bay requests that PIRSA undertakes a review or investigation into the impacts of recreational fishing activities on sharks and rays in metropolitan Adelaide coastal waters, especially those occurring at night on metropolitan jetties, and includes investigation of tighter restrictions to recreational fishing gear so it is more difficult to target rays.

Protection of stingrays at Seacliff/Kingston Park

The second issue of particular interest to our community is the smooth (*Bathytoshia brevicaudata*) and southern eagle rays (*Myliobatis tenuicaudatus*) that frequent the shallows in the Seacliff and Kingston Park area, for which there is significant community concern. The Seacliff to Kingston Park intertidal rocky reef and seagrass habitat also provides a nursery area for juvenile fiddler rays (*Trygonorrhina fasciata*) and shovelnose rays (*Aptychotrema spp.*). The larger rays are regular visitors as people have been feeding them and the Seacliff Surf Lifesaving Club considers them 'part of their training squad'. Juvenile rays are often seen swimming along the shoreline, actively approaching beach visitors and boaters. In January 2024, a very large (1.7m wide), old female smooth ray was found on Seacliff beach with multiple stab wounds to the head and another injury to the front wing flap. Many people witnessed the animal dying and the Seacliff Surf Lifesaving Club covered it with a tarp as it was too distressing for many. Flinders University recovered the body for autopsy.

Unpublished data from Flinders University Southern Shark Ecology Group show that the southern eagle ray population at Seacliff is a mostly resident population of large, sexually mature females that are restricted to the area year-round. This population of large, reproducing females close to shore puts them at risk of fishing pressure, general human interaction, pollution and climate change, which threatens the fecundity and stability of the population. Both southern eagle rays and smooth rays are long-lived, slow growing, with low recruitment rates of offspring to the adult population. This makes them more susceptible to population decline if targeted by fishers who are night fishing at Brighton Jetty, which is just 1km north of the Seacliff/Kingston Park area.

The City of Holdfast Bay and our community are concerned that the Seacliff/Kingston Park population may be at increasing risk of harm and/or population decline due to several factors:

- Social media increases public awareness of fishing sites and locations where interactions with these species occur – at this particular location, their close, frequent proximity to the shore make them an easy target.
- Adelaide's population increase will see a parallel increase in recreational fishers, which will put increased fishing pressure on local coastal waters.
- Climate change, which will see the shallow coastal waters of Gulf St Vincent increase in average temperatures, which may make the area uninhabitable to these temperate water animals.

While we recognise that both southern eagle rays and smooth rays are currently listed as Least Concern under the IUCN Red List and are not protected under any state or commonwealth laws, the persistent removal of mature females will result in reduced reproductive output of the populations, which could lead to gradual population declines and instability. Best practice and a prudent approach would recommend a precautionary approach to their protection, rather than waiting until their population has to be down-listed to a higher level of protection before action is taken.

We have been informed that in September 2022 a large pack of materials, including a community submission with numerous requests for discussion and action, letters of support for the submission from coast and marine associations and businesses in SA, and a petition with 15,000 signatures was delivered to PIRSA directly as part of a long-term community campaign requesting improved protection for sharks and rays, particularly non-target species. The City of Holdfast Bay would like to know the response of PIRSA to this campaign and if any changes are being considered as a result.

The City of Holdfast Bay requests a review into the potential for better protection of non-target shark and ray species from harm, including options such as compulsory best practice release, increased monitoring of abuse at jetties (especially at night), enforcement of new regulations, changes to gear restrictions and a well-resourced community education package with more on-ground outreach.

We also request that PIRSA community education materials include information about the importance of stingrays to both the Kurna Nation and non-aboriginal Australians, and their importance as meso-predators to the health of our fragile marine ecosystems.

The City of Holdfast Bay cannot implement any kind of formal protections through our bylaws, partly because councils have no jurisdiction below the low water mark, and partly because protections such as spatial or species-based protections are the regulatory remit of the state government, which is why we are requesting your assistance. However, we will play our part by developing and implementing a communications plan to raise awareness about sharing our beaches safely with stingrays.

We look forward to hearing from you soon and to potentially working with you to improve protection for our sharks and rays.

Yours sincerely



Amanda Wilson
Mayor

cc: The Hon. Susan Close MP, Deputy Premier, Minister for Climate, Environment and Water

Item No: 15.2

Subject: MONTHLY FINANCIAL REPORT – AS AT 30 APRIL 2024

Summary

The financial report for municipal activities to the 30 April 2024 confirms that council is on target to meet its estimated surplus of \$624,920 in 2-24. Favourable minor variances indicate a positive financial position for the remainder of the year.

Recommendation

That Council receives the financial report for Municipal activities for the ten months to 30 April 2024.

Background

Applying the principles of good corporate governance, Council is provided with monthly reports detailing its financial performance compared to its budget.

Report

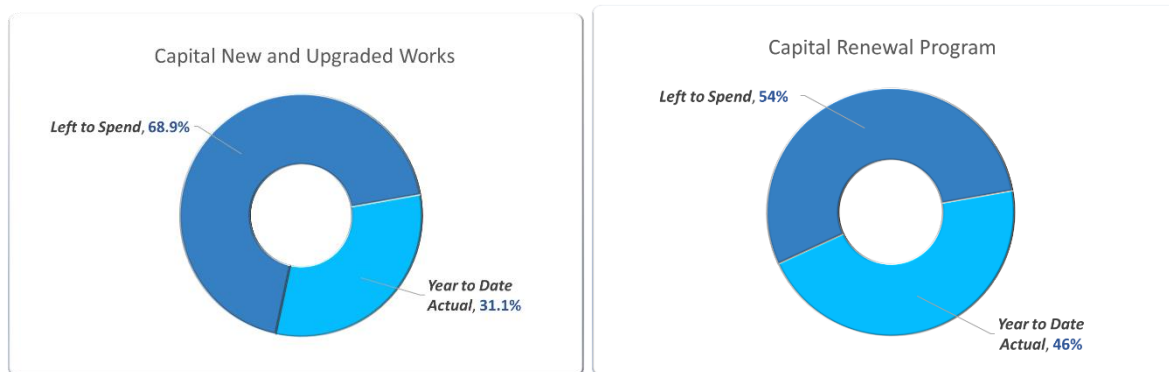
A summary of Council's financial performance to 30 April 2024 is provided in the following table.

All amounts in \$000	2023-24 Adopted Budget	2023-24 Year to date Budget	2023-24 Year to date Actuals	Variance	
Operating revenue	55,088	52,162	52,691	529	↑
Operating expenditure	(54,462)	(42,754)	(42,563)	191	↑
Result from Operational Activities	625	9,408	10,128	720	
Capital Renewal Program (Net)	(12,609)	(9,472)	(5,676)	3,796	↑
Capital New and Upgraded Works (Net)	(16,285)	(9,503)	(2,739)	6,764	↑
Loan Repayments	(1,396)	(1,163)	(554)	609	↑
Loans repaid by community clubs	217	215	215	-	
Result from Capital Activities	(30,073)	(19,923)	(8,754)	11,169	
Add back non-cash items	8,043	8,116	8,106	(10)	↑
Funding (Requirement)/Surplus	(21,405)	(2,399)	9,480	11,879	

Operational activities are currently ahead of budget with additional revenue raised through car parking and dog management fees. Similarly, year to date expenditure is lower than budget due to a range of minor favourable variances. More detailed explanations of major variances by individual business units are provided in Attachment 1.

Refer Attachment 1

A detailed progress report on council's program of works is provided each quarter, however, in the interim the following graphs represent the percentage of total capital works financially completed by 30 April 2024. A number of projects are forecast to be incomplete as at 30 June 2024 and the remaining budget will be requested to be carried forward to 2024-25.



Budget

The content and recommendation of this report indicates the effect on the budget.

Life Cycle Costs

Not applicable

Strategic Plan

Statutory compliance

Council Policy

Not applicable

Statutory Provisions

Local Government (Financial Management) Regulations 2011, Regulation 9.

Written By: Management Accountant Lead

General Manager: Strategy and Corporate, Ms S Wachtel

Attachment 1

City of Holdfast Bay
Municipal Funds Statement as at April 2024

2023 - 2024 Original Budget \$'000	Year to Date				2023 - 2024 Adopted Forecast \$'000	Note
	Adopted Forecast \$'000	Actual \$'000	Variance \$'000			
169	272	314	(43)	Cemeteries	295	
535	363	391	(28)	Commercial & Club Leases	468	
(1,265)	(1,029)	(998)	(31)	Council Administration	(1,265)	
(912)	(744)	(704)	(41)	Development Services	(935)	
1,672	735	735	-	- FAG/R2R Grants	2,055	
(2,087)	(1,836)	(1,818)	(18)	Financial Services	(2,019)	
(10,911)	(8,116)	(8,106)	(10)	Financial Services-Depreciation	(11,351)	
(280)	-	-	-	- Financial Services-Employee Leave Provisions	(280)	
(985)	(243)	(243)	-	- Financial Services-Interest on Borrowings	(735)	
91	-	-	-	- Financial Services-SRWRA	206	
41,372	41,740	41,784	(44)	General Rates	41,372	
(2,992)	(2,715)	(2,711)	(5)	Innovation & Technology	(3,117)	
(717)	(504)	(465)	(39)	People & Culture	(722)	
(964)	(725)	(711)	(14)	Strategy & Governance	(964)	
(1,440)	(1,142)	(1,099)	(43)	City Activation	(1,499)	
1,502	1,165	1,173	(8)	Commercial - Brighton Caravan Park	1,502	
35	39	27	13	Commercial - Partridge House	35	
(583)	(464)	(464)	-	- Communications and Engagement	(583)	
(369)	(293)	(312)	19	Community and Business Administration	(369)	
(1,089)	(835)	(777)	(57)	Community Events	(996)	1
831	1,576	1,807	(230)	Community Safety	1,569	2
(669)	(526)	(434)	(92)	Community Wellbeing	(673)	3
(570)	(456)	(466)	10	Customer Service	(570)	
-	54	100	(45)	Jetty Road Mainstreet	(115)	
(1,565)	(1,314)	(1,309)	(5)	Library Services	(1,655)	
(335)	(372)	(366)	(6)	Assets & Delivery Administration	(445)	
(1,532)	(1,165)	(1,137)	(29)	Engineering & Traffic	(1,707)	
(659)	(633)	(588)	(45)	Environmental Services	(849)	
(2,388)	(1,778)	(1,739)	(39)	Property Management	(2,388)	
(572)	(472)	(459)	(13)	Public Realm and Urban Design	(572)	
(726)	(488)	(461)	(28)	Street Lighting	(646)	
(8,682)	(7,355)	(7,520)	165	Field Services & Depot	(8,911)	4
(4,530)	(3,333)	(3,318)	(14)	Waste Management	(4,511)	
999	-	-	-	- Less full cost attribution - % admin costs capitalised	999	
386	9,408	10,128	(720)	=Operating Surplus/(Deficit)	625	
10,911	8,116	8,106	10	Depreciation	11,351	
189	-	-	-	- Other Non Cash Items	74	
11,100	8,116	8,106	10	Plus Non Cash Items in Operating Surplus/(Deficit)	11,425	
11,486	17,524	18,234	(710)	=Funds Generated from Operating Activities	12,050	
484	3,886	3,879	7	Amounts Received for New/Upgraded Assets	5,007	
201	448	437	10	Proceeds from Disposal of Assets	670	
685	4,334	4,317	17	Plus Funds Sourced from Capital Activities	5,677	
(8,170)	(9,920)	(6,113)	(3,807)	Capital Expenditure on Renewal and Replacement	(13,308)	
(7,560)	(13,390)	(6,618)	(6,772)	Capital Expenditure on New and Upgraded Assets	(21,262)	
(15,730)	(23,310)	(12,731)	(10,579)	Less Total Capital Expenditure	(34,570)	5
217	215	215	-	Plus:Repayments of loan principal by sporting groups	217	
217	215	215	-	Plus/(less) funds provided (used) by Investing Activities	217	
(3,342)	(1,237)	10,035	(11,272)	= FUNDING SURPLUS/(REQUIREMENT)	(16,626)	
				Funded by		
-	(132)	(132)	-	- Increase/(Decrease) in Cash & Cash Equivalents	-	
(4,738)	(2,268)	12,463	(14,731)	Non Cash Changes in Net Current Assets	3,382	
-	-	-	-	- Less: Proceeds from new borrowings	(21,404)	
-	-	(2,851)	2,851	Less: Net Movements from Cash Advance Debentures	-	
1,396	1,163	554	609	Plus: Principal repayments of borrowings	1,396	
(3,342)	(1,237)	10,035	(11,272)	=Funding Application/(Source)	(16,626)	

Note 1 – Community Events - \$57,000 favourable

Additional revenue from events (\$38,000) and savings on completed events (\$20,000).

Note 2 – Community Safety - \$230,000 favourable

Employment cost savings due to temporary vacancies (\$48,000) along with higher than forecast revenue for car parking (\$112,000), dog management fees (\$45,000) and food related permits (\$25,000).

Note 3 – Community Wellbeing - \$92,000 favourable

Employment cost savings due to temporary vacancies.

Note 4 – Field Services & Depot- \$165,000 unfavourable

Unfavourable variances include additional repairs and maintenance expenditure (\$84,000) and increased electricity (\$44,000) and water charges (\$26,000).

Note 5 – Capital Expenditure - \$10,579,000 favourable

There are positive variances on a number of capital projects mainly due to the timing of projects. A review of the capital program was undertaken as part of the March 2024 budget update and a number of major projects are forecast to be incomplete as at 30 June 2024 including the following:

- Seacliff Plaza Upgrade
- Stormwater Management Plan Implementation
- Brighton Caravan Park - Stage 2 redevelopment
- Kingston Park Stages 4 & 6 - Detailed Design
- Patawalonga Lock - renewal

Item No: 15.3

Subject: SEACLIFF SPORTS CLUB LEASE

Summary

Following the granting by Council of a lease to Seacliff Sports Club (incorporating the Seacliff Tennis Club and the Seacliff Hockey Club) for exclusive management of the first-floor function area of the Kauri Community and Sporting Complex for a term of five years commencing in July 2022, Council granted a two year trial period to enable Administration to support the Seacliff Sports Club as it transitions to a self-management model. The trial period has been a success, with negotiations now finalised and a draft lease ready for Council's endorsement.

Recommendation

That Council:

- 1. enters into a lease agreement with Seacliff Sports Club Incorporated provided as Attachment 1 to this report over a portion of land at Lipson Avenue, Seacliff contained within Certificate of Title Volume 5553 Folio 244 for a period of five years commencing 1 July 2024; and**
 - 2. endorses the Mayor and Chief Executive Officer to be authorised to execute and seal the documentation to give effect to the lease.**
-

Background

At its meeting held 14 June 2022, Council resolved in confidence to grant the Seacliff Sports Club (incorporating the Seacliff Tennis Club and the Seacliff Hockey Club) a five year lease for the management of the first floor of the Kauri Community and Sports Complex (Resolution No. C140622/2636). Previously, the space was managed by a third-party commercial entity by way of a Management Agreement. The Council resolution was conditional on the basis that the lease was preceded by a trial period of one year to enable a smooth transition to a self-management model, whilst also providing a meaningful period of evaluation to better inform the terms of the lease and the expectations of the lessee long-term. The trial period was extended by an additional year by way of a subsequent Council resolution on 8 August 2023 (Resolution No. C080823/7518). Since then, Administration has worked with the Clubs to transition to a self-management model, while balancing the broader community needs for continued access to the facility.

Report

The Seacliff Tennis Club and the Seacliff Hockey Club (the Clubs) have enjoyed self-management of the first floor of the Kauri Community and Sports Complex building since late July 2022, whilst also making the premises available for use to the broader community in a similar manner and on similar terms as has been provided historically, including to the Holdfast Bay Music Centre.

Like many community clubs that operate premises on a self-management model, particularly those transitioning away from a specialised commercial venue operator, great reliance is placed on volunteers and the in-kind support from Council to succeed. The initial transition stage from a commercial venue operator was more challenging than first anticipated by Council Administration and the Clubs. Specifically, there were technical difficulties with transferring financial and social media accounts that delayed new bookings. There were also several undisclosed bookings taken by the previous operator that needed to be honoured, and there were maintenance and cleaning obligations that were initially beyond the Clubs' capacity.

The initial one-year trial had therefore not provided an accurate reflection of what the Clubs could expect long-term. In this regard, Council granted a further one-year extension to the trial period prior to entering into the lease agreement previously endorsed by Council, enabling a better understanding of actual costs to be expected, and an assessment as to whether there is capacity and capability within the Clubs' member group to manage the premises long-term.

Following an evaluation of the combined two-year trial period, the Clubs are now comfortable and confident in their ability to meet their tenancy obligations long-term and are now prepared to commit to an agreement with Council as per the lease document provided as Attachment 1 to this report.

Refer Attachment 1

The combined two-year trial period provided the added reassurance that the Clubs sought, whilst also providing Council Administration with comfort that the venue can be capably managed before assigning the lease, which is in the best interest of the broader community. In this regard, this report recommends that Council grant the Seacliff Sport Club Incorporated the lease provided as an attachment to this report over a portion of the upper floor at the Kauri Community and Sporting Centre for a period of five years commencing 1 July 2024. The commencing annual rent of \$4,839 (excl. GST) is calculated based on the formula provided in Council's Sporting and Community Leasing Policy.

Budget

The anticipated rent received from the Seacliff Sports Club is factored into Council's Annual Business Plan for 2024-25.

Life Cycle Costs

There are no lifecycle costs associated with entering a lease agreement with the Seacliff Sports Club.

Strategic Plan

Vision - creating a welcoming and healthy place for everyone

Council Policy

Sporting and Community Leasing Policy

Statutory Provisions

Local Government Act 1999

Retail and Commercial Lease Act 1995

Written By: Manager, Development Services

General Manager: Strategy and Corporate, Ms S Wachtel

Attachment 1

CITY OF HOLDFAST BAY

(Landlord)

and

SEACLIFF SPORTS CLUB INC

(Tenant)

LEASE

PORTION OF LIPSON AVENUE SEACLIFF SA 5049

LEASE

PARTIES

BEWTEEN CITY OF HOLDFAST BAY ABN 62 551 270 492 of PO Box 19 Brighton SA 5048 (**Landlord**)

AND THE PARTY NAMED IN ITEM 1 OF SCHEDULE 1 (**Tenant**)

BACKGROUND

- A. The Landlord is registered as the proprietor, or has the care, control and management, of the Land.
- B. The Tenant has requested a lease of the Premises for the Permitted Use.
- C. The Landlord has agreed and resolved to grant the Tenant a lease of the Premises on the terms and conditions of this Lease.
- D. Where required, the Landlord has undertaken public consultation and/or been granted Parliamentary approval in accordance with the *Local Government Act 1999* (SA).
- E. The parties wish to record the terms of their agreement as set out in this Lease.

AGREED TERMS

1. INTERPRETATION AND DEFINITIONS

The following definitions and rules of interpretation apply unless the contrary intention appears

1.1 **Accounting Period** means respectively:

- (a) the period from the Commencement Date to the next 30th June;
- (b) each successive period of twelve (12) months commencing on the 1st July and expiring on the next 30th June during the Term;
- (c) the period from the 1st July in the last year of the Term to the date of expiration or termination of this Lease.

1.2 **Building** means the buildings erected on the Land and includes the Landlord's Property.

1.3 **Commencement Date** means the date specified in Item 5 of Schedule 1.

1.4 **Common Areas** means those portions of the Land designated by the Landlord for common use by the occupiers of the Land and their employees invitees and licensees (if any).

1.5 **CPI Rent Review** is a review of the then current annual rent of the Premises to an amount calculated by changing the rent payable by the Tenant during the year immediately preceding the review date (disregarding any rent free period or other incentive) by a percentage figure equal to the amount (expressed as a percentage) by which the Consumer Price Index (Adelaide - All Groups) has changed during the one year period immediately preceding the relevant review date provided that if during the term the Consumer Price Index ceases to be published or substantially changes, the Landlord will select another similar index or indicator of changes in consumer costs in lieu of the Consumer Price Index for the purposes of this definition.

1.6 **Current Market Rent Review** is a review of the then current annual rent of the Premises to such rent, having regard to the terms and conditions of this Lease and other relevant matters which would be reasonably expected for the Premises if it were unoccupied and offered for renting at the highest and best use to which the Premises may be put under this Lease disregarding the value of any goodwill created by the Tenant's occupation and the value of the Tenant's fixtures and fittings (if any), as may be agreed between the Landlord and the Tenant and failing such

agreement by the relevant review date as determined by a valuation carried out by a person appointed by agreement between the Landlord and the Tenant or, failing agreement as to such person, appointed on the application of either party by the person for the time being holding or acting in the office of President of the Australian Property Institute Incorporated (SA Division) whose costs shall be borne equally by the Landlord and the Tenant. The valuer will act as an expert and not as an arbitrator. Notwithstanding any other provision in this Lease, the rent payable following a Current Market Rent Review shall not be less than the annual rent paid or payable for the period immediately prior to the relevant review date.

- 1.7 **Default Rate** means a rate of two per centum (2%) per annum greater than the published annual rate of interest charged from time to time by Westpac Banking Corporation on overdraft facilities of more than \$100,000.00 and if there is more than one rate published the higher of those rates.
- 1.8 **GST** has the meaning given to it under the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any similar or ancillary legislation.
- 1.9 **Land** means the land described in Item 3 of Schedule 1.
- 1.10 **Landlord** means the City of Holdfast Bay and includes:
- (a) the successors and the assigns of the Landlord if the Landlord is a body corporate; and
 - (b) (where the context allows) any servants workmen or agents of the Landlord,
- 1.11 **Landlord's Property** means all Landlord's fixtures, fittings, plant, equipment, services, chattels and any other goods installed or situated in or on the Land by or behalf of the Landlord and available for use by the Tenant.
- 1.12 **Outgoings** means (to the extent that the same are not specifically payable by any tenant of the Building or the Tenant pursuant to this Lease) all amounts paid or payable by the Landlord or payments which the Landlord incurs or may be or become liable for in any one Accounting Period or in any other lesser or relevant period in respect of the Land whether by direct assessment or otherwise howsoever and includes:
- (a) all rates taxes charges assessments outgoing levies and impositions whatsoever which may be assessed charged or imposed in respect of the Land including any charges for excess water but excluding income tax capital gains tax and all other taxes applicable to income or capital gain payable by the Landlord;
 - (b) all insurance premiums and other charges including stamp duty payable by the Landlord in relation to policies of public risk insurance covering the Building and the Landlord's Property therein (including all glass if applicable) against normal and usual risks deemed necessary by the Landlord (including but without limiting the generality thereof loss or damage by fire, explosion, storm, lightning, earthquake, tempest, flood, burst pipes, impact, aircraft and articles dropped therefrom, riot, civil commotion and malicious or accidental damage, loss of rent and machinery breakdown) to the full insurable value thereof;
 - (c) insurance premiums and other charges including stamp duty for workers compensation insurance for all employees of the Landlord engaged in employment in the Building;
 - (d) the costs of electricity or other sources of energy consumed in the production and reticulation of chilled water and conditioned air for the air conditioning equipment servicing the Building and all other costs arising from the operation of the air conditioning system including but not limited to fuel oil grease labour and a full comprehensive maintenance contract (if any);
 - (e) all costs in connection with the repair, maintenance, operation, supply, replacement and renovation of lifts, air conditioning equipment, fire protection equipment, all other services and plant and equipment in the Land from time to time;

- (f) all costs in connection with the cleaning, lighting, heating and air-conditioning of the Land and the Common Areas and providing supplies and consumables for toilets, washrooms and other facilities provided to the Land;
- (g) all costs in connection with the maintenance, repair, replacement and renovation of car parking areas, pedestrian areas and landscaped areas within and around the Land;
- (h) all costs in connection with caretaking and security services;
- (i) all costs (including employment and other usual employment on-costs) of the management, control and administration of the Land;
- (j) the cost of maintaining lighting servicing and repairing the Building such cost comprising the gross costs and expenses of every kind and nature incurred by the Landlord including but not limited to the replacement of parts necessary to keep any of the plant, machinery and equipment in good working order and condition, resurfacing and repainting, pest control, and caretaking services, emergency evacuation systems and procedures, access control systems, replanting and re landscaping, directional signs and other markers, patrol of the Common areas and supervision of traffic directions when reasonably required, car stops, lighting and other utilities and the cost of electricity consumed therein and all things necessary in the reasonable opinion of the Landlord for the operation maintenance repair and/or renovation of the Common Areas in a state of good and sanitary order condition and repair;
- (k) all reasonable legal, accounting and other professional fees incurred in connection with the conduct and operation of the Building and in particular any such fees of and incidental to the preparation of any estimates or statements of Outgoings or otherwise required to be furnished by the Landlord to the Tenant hereunder or at law; and
- (l) all and any other expenditure costs or expenses incurred by the Landlord in or about or incidental to the Building or the Land not hereinbefore expressly referred to.

1.13 **Premises** means the premises specified in Item 2 of Schedule 1 and includes any improvements and Landlord's Property erected or located on the Premises from time to time.

1.14 **rent** means the rent payable under this Lease.

1.15 **Review Date** means the respective date(s) set out in Item 7 of Schedule 1.

1.16 **Rules and Regulations** means the procedures and rules and regulations annexed hereto and so entitled and or as may from time to time be made, varied or amended by the Landlord pursuant to this Lease.

1.17 **Services** means the services (such as gas, electricity, water, sewerage, drainage, communications, fire fighting, air conditioning, lifts, plant, equipment, grease trap, range hood, pipes and cables) to or of the Building or any premises in or the Land, provided by authorities, the Landlord or any person authorised by the Landlord.

1.18 **Tenant** means the Tenant named in Item 1 of Schedule 1 and includes:-

- (a) the executors administrators and permitted assigns of the Tenant if the Tenant is a natural person;
- (b) the successors and the permitted assigns of the Tenant if the Tenant is a body corporate;
- (c) any and all trust or trusts of which the Tenant is trustee; and
- (d) (where the context allows) any servants workmen or agents of the Tenant and any other person in or about the Land at any time at the request or invitation of or under the control or direction of the Tenant.

1.19 **Tenant's Property** means any and all fixtures and fittings and other equipment installed in or brought on to or kept in the Premises by the Tenant.

- 1.20 **Tenant's Proportion** means the same proportion as the lettable area of the Premises bears to the whole of the lettable area of the Building, such lettable areas to be determined in accordance with the Property Council of Australia 1997 method of measurement or such other method of measurement as the Landlord reasonably determines.
- 1.21 **Term** means the term specified in Item 5 of Schedule 1 and includes the term of any extension or renewal and period of holding over of this Lease.
- 1.22 Headings to clauses shall not form part of this Lease or be used for the purpose of interpretation but shall be deemed to be for the purpose only of facilitating reference to the various provisions of this Lease.
- 1.23 Where the context of this Lease permits or requires:
- (a) words in the singular shall include the plural and words in the plural include the singular;
 - (b) words of or importing the masculine gender include the feminine gender; and
 - (c) words referring to a person include a body corporate.
- 1.24 A reference to any statute code or regulation includes all amendments and revisions made from time to time to that statute code or regulation and any statute code or regulation passed in substitution therefor or incorporating any of its provisions.
- 1.25 Any provision of this Lease which by virtue of any statute or law that is invalid void or unenforceable, is capable of severance without affecting any other provision of this Lease.
- 1.26 Unless otherwise stated, the Landlord may in its discretion give (conditionally or unconditionally) or withhold any approval or consent under this Lease.
- 1.27 If the Tenant comprises two or more persons the word "Tenant" will apply to them jointly and each of them severally.

2. **GRANT OF LEASE**

The Landlord grants and the Tenant accepts a lease of the Premises for the Term as set out in this Lease.

3. **RENT AND RENT REVIEW**

3.1 Rent

- (a) The Tenant must pay the rent as specified in Item 6 of Schedule 1 and reviewed in accordance with the terms of this Lease to the Landlord as directed from time to time by the Landlord or the Landlord's agent.
- (b) The Tenant must pay the rent in advance, the first payment to be made on or before the Commencement Date and subsequent payments must be made on the same day of each calendar month during the Term without any abatement, deduction or demand.

3.2 Rent Review

- (a) The rent will be reviewed as at the times and in the manner specified in Item 7 of Schedule 1.

3.3 Until the rent is determined or agreed in accordance with the relevant rent review formula the Tenant will continue to pay to the Landlord rent at the rate applicable immediately prior to the relevant Review Date. On the first day for payment of rent after the rent is determined or agreed in accordance with this clause the Tenant must pay the new rent to the Landlord together with an adjustment (if any) in respect of the period from the date of the rent review until the date of such payment.

3.4 The rent payable pursuant to any review of rent will in no case be less than the rent payable immediately prior to the relevant Review Date.

4. **GST**

Unless otherwise stated in Item 6 of Schedule 1, rent and other monies payable by the Tenant to the Landlord pursuant to this Lease do not include any GST. If GST is chargeable with respect to the payment by the Tenant to the Landlord of rent and or other monies pursuant to this Lease, the Tenant must on demand pay the GST or reimburse the Landlord for any GST paid or payable by the Landlord with respect to such rent and or other monies. The Landlord must provide to the Tenant an appropriate tax invoice in respect of any such GST payment or re-imbusement by the Tenant.

5. **RATES, TAXES AND OUTGOINGS**

5.1 Rates and Taxes

The Tenant must pay or reimburse to the Landlord the Tenant's Proportion of all present and future rates charges taxes levies assessments duties impositions and fees (including council rates and emergency services levy) levied, assessed or charged in respect of the Premises or upon the owner or occupier of the Premises and such payments must be adjusted between the Landlord and the Tenant as at the Commencement Date and the end or termination date of this Lease in respect of that portion of the Accounting Period the relevant cost was incurred.

5.2 Utility Charges

- (a) The Tenant must pay as and when the same fall due, all charges for gas electricity oil and water separately metered and consumed in or on the Premises and also all charges in respect of any telephone services connected to the Premises and all other charges and impositions imposed by any public utility or authority for the supply of any other utility service separately supplied or consumed in respect of the Premises.
- (b) If the Tenant defaults in payment of any of the charges referred to in clause 5.2(a) then the Landlord may pay the same and recover the amount paid as if the same were rent in arrears payable by the Tenant.

5.3 Payment Of Outgoings

- (a) The Tenant must pay the Tenant's Proportion of the Outgoings by way of equal monthly payments together with the rent each month or by way of lump sum payments as Outgoings are incurred or payable by the Landlord (as the Landlord may direct). If the period in which any particular outgoing is payable does not coincide with a year of this Lease, the amount the Tenant is to pay in the first and last years of this Lease is to be adjusted proportionately.
- (b) The Landlord will calculate the actual amount payable by the Tenant pursuant to clause 5.3(a) as soon as possible after 30 June in each Accounting Period and will adjust any difference. Any over-payment by the Tenant will be credited to the first payment due by the Tenant after the assessment is made (or refunded if this Lease is at an end) and any under-payment by the Tenant shall be added to the first payment to be made by the Tenant after the assessment is made (or will be paid by the Tenant on demand if this Lease is at an end).

6. **MAINTENANCE AND REPAIRS**

6.1 Maintenance

- (a) The Tenant must keep and maintain the Premises, the Tenant's Property and any Services situated within the Premises and which exclusively service the Premises in good and substantial repair and condition and where appropriate in good working order, which includes an obligation to ensure that all electrical wiring and appliances are at all times in a safe condition.
- (b) If the Landlord so requires, the Tenant must enter into a service and maintenance contract in respect of any airconditioning plant and equipment exclusively servicing the Premises,

which contract must be first approved by the Landlord (such approval not to be unreasonably withheld).

- (c) If the Landlord so requires, the Tenant must promptly repair any damage to the Land including the Building caused or contributed to by the act, omission, negligence or default of the Tenant. Any work must be undertaken by appropriately qualified contractors and/or tradesmen and in a proper and professional manner.
- (d) In addition to the maintenance, repair and replacement obligations outlined in this clause 6.1 (and this Lease generally) the respective responsibilities of the Landlord and the Tenant for the maintenance that is reasonably expected to be needed during the Term including planned structural maintenance, painting and replacement or renovation works are set out in Schedule 2 (**Maintenance**).
- (e) Where the Tenant is responsible for any Maintenance pursuant to the terms of this Lease, the Tenant must, at the same time as providing a copy of its annual report in accordance with clause 11, provide a report to the Landlord setting out the amount of money which the Tenant proposes to set aside in the following year for Maintenance.
- (f) The Tenant must, when requested to do so by the Landlord, provide the Landlord with:
 - A. a copy of all invoices, receipts, records, reports, certificates and other related information in relation to all maintenance, repair and replacement works carried out by (or on behalf of) the Tenant during the Term;
 - B. a report setting out all projected items of Maintenance, the approximate date when each item of maintenance is likely to be required and the estimated cost; and
 - C. a report setting out the amount of money currently set aside by the Tenant for Maintenance.

6.2 Maintenance of Plant and Equipment

If the Tenant exclusively uses any plant or machinery installed in the Premises or the Landlord installs any plant or machinery at the request of the Tenant within or servicing the Premises then the Tenant must keep all such plant or machinery maintained serviced and in good repair and will enter into and keep current at the Tenant's expense such maintenance service and repair contracts as are reasonably required by the Landlord for that purpose with contractors approved by the Landlord.

6.3 Tenant's Other Maintenance Obligations

The Tenant must at the Tenant's expense:

- (a) ensure that all waste is placed daily in suitable receptacles and subject to this clause 6, ensure the Premises is cleaned regularly in a proper and professional manner and ensure all waste and refuse is promptly and regularly removed from the Land;
- (b) as soon as is reasonably possible make good any damage to any part of the Building (including the Common Areas) or to the Premises or any part thereof (including ceilings) caused or contributed to by the Tenant;
- (c) immediately replace all broken glass in respect of the Premises;
- (d) take all proper precautions to keep the Premises free from pest infestation and if required by the Landlord engage a pest exterminator approved by the Landlord for that purpose;
- (e) repair or where appropriate replace any Landlord's Property such as heating lighting electrical and plumbing fittings installed in the Premises broken or damaged by the Tenant;
- (f) comply with all statutes ordinances proclamations orders and regulations affecting the Premises or any fixtures or fittings installed by the Tenant; and

- (g) comply with any notices or orders which may be given by any statutory or regulatory authority in respect of the Premises or their use by the Tenant and keep the Landlord indemnified for all such matters.

6.4 Repairs

If at any time during this Lease the Landlord, or the Landlord's agents or contractors find any defect decay or want of repair in the Premises or find any state or condition thereof contrary to any covenant or agreement on the part of the Tenant contained in this Lease, the Landlord, or the Landlord's agent or contractor may give to the Tenant notice in writing to make good repair restore or amend the same within a reasonable time to be therein stated and the Tenant must within such time sufficiently and in good and proper and professional manner make good repair restore or amend the same to the reasonable satisfaction of the Landlord and if the Tenant fails to comply with any such notice the Landlord may (but is not obliged to do so) by or with the Landlord's attorney agent and or contractors enter into and upon the Premises and carry out the requirements of such notice (causing as little disturbance to the Tenant as is practicable). All costs charges and expenses incurred by the Landlord in so doing will be a debt due from the Tenant to the Landlord payable on demand and recoverable in the same manner in all respects as the rent hereby reserved.

6.5 Cleaning

- (a) The Tenant must ensure the Premises is routinely and properly cleaned (including without limitation to arrange for all rubbish waste and garbage to be regularly removed from the Premises).
- (b) If the Landlord provides or requires a service for the routine cleaning of the Building or the Premises then the Tenant must, if reasonably requested by the Landlord, use such service for the cleaning of the Premises (to the extent the service applies) and must permit the Landlord's cleaning contractors to have access to the Premises at all reasonable times for the purpose of carrying out such cleaning. The Tenant must pay to the Landlord in addition to the rent and as and when required by the Landlord, all costs of the cleaning of the Premises and the Tenant's Proportion of the overall costs of the cleaning of the Building (including any Common Areas).

6.6 Notice of Defect

The Tenant must promptly give notice to the Landlord (or where appropriate to the appointed agent of the Landlord) of:

- (a) any damage and of any accident to or defect or want of repair in the Land or in the Premises or in any Services or other facilities provided by the Landlord and including any danger, risk or hazard; or
- (b) any circumstance or event which the Tenant ought reasonably be aware might cause danger, risk or hazard to any person within the Premises or the Building.

6.7 Common Areas and Grounds

The Tenant must not deposit or cause permit or suffer to be deposited any debris refuse or rubbish of any kind in or on any Common Areas grounds gardens yards lanes ways or rights of way or in or on any public road or footway abutting upon or adjacent to the Premises or the Land.

6.8 Inspection and Landlord Works

The Tenant must permit the Landlord and the Landlord's agents and contractors and all persons authorised by them at all reasonable times of the day and on reasonable notice to enter the Premises to examine the state of repair and condition thereof, carry out and observe the Landlord's maintenance and repair obligations as set out in Schedule 2, and execute repairs or to paint the Premises or any part thereof (which the Landlord may do without prejudice to any

covenant or agreement on the part of the Tenant contained in this Lease). The Landlord in executing such repairs or painting must use reasonable endeavours to cause as little disturbance to the Tenant as is practicable.

6.9 Employment of Contractors

If any work has to be done by the Tenant in or about the Premises in order to comply with the Tenant's obligations pursuant to this Lease the Tenant must engage and employ only such contractors as have a public liability policy for an amount which in the reasonable opinion of the Landlord is adequate and who are previously approved of in writing by the Landlord or the Landlord's architect.

6.10 Repainting

At or immediately before the expiration or earlier determination of this Lease, the Tenant shall repaint with two coats of premium quality paint in a thorough and workmanlike manner those internal parts of the Premises which previously have been painted. Such painting shall be done in such manner and with such paint as the Landlord may reasonably direct.

6.11 Capital and Structural Works

Nothing contained in clauses 6.1 to 6.10 (inclusive) shall oblige the Tenant to do work of a structural or capital nature unless such work is required as a result of the act, neglect or default of the Tenant or would not have been required but for the Tenant's use or occupancy of the Premises.

7. ALTERATIONS AND ADDITIONS

7.1 Alterations by Tenant

- (a) The Tenant must not install or use in the Premises internal partitions other than of a standard and specification previously approved in writing by the Landlord.
- (b) The Tenant must not install or place in the Premises any heavy item fixture or fitting which may (in the reasonable opinion of the Landlord) cause unreasonable noise or vibrations, overload the switchboard or cause structural or other damage to any part of the Building.
- (c) The Tenant must not make alterations or addition to the Premises nor install or alter any partitioning or temporary or permanent structures or fittings in the Premises without the Landlord's prior written approval, and:
 - A. in seeking the Landlord's approval to a proposed alteration, addition or installation the Tenant must submit plans and specifications of the proposed work;
 - B. if the Landlord agrees to grant its approval, then such approval may be granted subject to any conditions the Landlord considers appropriate, including:
 - i. any such work be supervised by a person nominated by the Landlord;
 - ii. any such work be executed by contractors or tradesmen in a proper and professional manner under the supervision of appropriately qualified persons approved by the Landlord with public liability insurance for an amount that in the reasonable opinion of the Landlord is adequate;
 - iii. the Tenant pays all reasonable costs incurred by the Landlord in considering the proposed works and their supervision including the fees of architects or other consultants employed by the Landlord;
 - iv. the Tenant obtains all necessary approvals or permits necessary to enable such proposed work to be lawfully effected and on request by the Landlord produces for inspection to the Landlord copies of all such approvals and permits;
 - v. upon completion of the works, the Tenant must produce to the Landlord any

certificates of compliance issued by any such statutory or regulatory authority; and

- vi. the Tenant reimburses the Landlord any reasonable cost or expense that it incurs as a result of the installation operation or removal of any such equipment fixture fitting or machinery.

7.2 Alterations by Landlord

- (a) The Tenant will permit the Landlord and any person authorised by the Landlord:
 - A. to carry out inspections of or modifications or additions to or other works on the Land (including the Premises where the Landlord has given reasonable prior notice to the Tenant); and
 - B. where the Landlord has given reasonable prior notice to the Tenant to enter the Premises for the purpose of carrying out such works causing as little disturbance as is practical to the Tenant in undertaking such works provided that the Landlord may not commence to carry out any alteration or refurbishment to the Land (other than routine maintenance or repairs) that is likely to adversely affect the Tenant's use of the Premises unless:
 - C. the Landlord has given the Tenant at least one (1) month's notice of the proposed alteration or refurbishment; or
 - D. the alteration or refurbishment is required by an emergency and the Landlord has given the Tenant the maximum period of notice that is reasonably practicable in the circumstances;
- (b) Subject to the preceding subclause in an emergency the Landlord may without notice enter the Premises and carry out any works deemed necessary by the Landlord;
- (c) Except as permitted by the Act, the Tenant will not make any claim or commence any action against the Landlord for breach of this clause or otherwise in respect of such entry on to the Premises or the execution of any of the works contemplated by this clause.

8. GREASE TRAP AND RANGE HOOD

8.1 Where any range-hood, exhaust, grease arrestor or triple interceptor and associated plant and equipment exclusively service the Premises, the Tenant must:

- (a) at its own expense, regularly clean, service, maintain, repair and empty (where applicable) each device to ensure it is in good working order and condition and so that nothing impairs its operation or efficiency, or causes unreasonable annoyance, nuisance, damage or disturbance to any persons who occupy nearby space or premises;
- (b) pay for all running costs associated with each device;
- (c) not do, or permit, or suffer to be done, anything in relation to each item that might interfere with, or impair, its efficient operation;
- (d) comply with all applicable laws, regulations and notices and requirements of any governmental body relating to the grease arrestor and the transport and disposal of grease and other waste from the grease arrestor;
- (e) provide to the Landlord upon request all service notes and invoices evidencing the completion of all servicing, repairs, cleaning and waste removal;
- (f) obtain and maintain during the Term all permits, licences or other consents required in relation to the installation, use and operation of the grease arrestor; and
- (g) promptly and fully comply with all directions and requirements of the Landlord regarding the use and operation of the grease arrestor which the Landlord notifies the Tenant in writing.

- 8.2 If any range-hood, exhaust, grease arrestor or triple interceptor comprises the Landlord's Property, then the Tenant will not be responsible for any replacement of those items at the end of their useful life provided that the need for replacement was not caused or contributed by the act, omission, negligence or default of the Tenant. If any range-hood, exhaust, grease arrestor or triple interceptor comprises the Tenant's Property, then the Tenant is in all respects responsible for all costs associated with those devices.
- 8.3 If the Premises are not connected to a range-hood, exhaust, grease arrestor or triple interceptor or similar device and the Tenant's use of the Premises means that the Premises are required to be connected to such a device, then the Tenant must promptly install such a device in compliance with clause 7, at its expense and thereafter comply with clause 6 and this clause.
- 8.4 Where a range-hood, exhaust, grease arrestor or triple interceptor does not exclusively service the Premises, the Tenant must punctually pay, free from all deductions, a proportion of all charges associated with maintenance of the range-hood, exhaust, grease arrestor or triple interceptor as the Landlord in its sole discretion deems reasonable having regard to:
- (a) the Tenant's Proportion;
 - (b) other occupants on the Land;
 - (c) the respective use of the range-hood, exhaust, grease arrestor or triple interceptor by all occupiers of the Land; and
 - (d) any other reasonable factor that is relevant to the Landlord.
- 8.5 Without limiting any other provision of this Lease, the Tenant:
- (a) must maintain insurance for the grease arrestor;
 - (b) must repair, maintain and replace any damaged or non working item comprising the grease arrestor;
 - (c) must reinstate and make good; and
 - (d) indemnifies the Landlord,
 - (e) in the same manner and to the same extent as provided in this Lease.
- 8.6 If the Tenant does not pay the costs of any of the Services by the respective due date, the Landlord may pay for the Services and the amount paid is repayable by the Tenant as a debt due to the Landlord.

9. ASSIGNMENT AND OTHER DEALINGS

- 9.1 Assignment, Subletting and Disposal of Tenant's Interests
- (a) The Tenant must not transfer or assign the Premises or any part thereof or assign, transfer or otherwise dispose of this Lease without the Landlord's prior written consent. The Landlord's consent may be withheld in the Landlord's absolute discretion.
 - (b) The Tenant must:
 - A. request the Landlord's consent to an assignment, transfer or other disposition of the Premises or this Lease in writing;
 - B. promptly provide the Landlord with information the Landlord reasonably requires about the financial standing and business experience of the proposed assignee; and
 - C. before requesting the Landlord's consent to a proposed assignment of the Premises or this Lease, the Tenant must furnish the proposed assignee with:
 - i. a copy of any disclosure statement given to the Tenant in respect of this Lease;
 - ii. details of any changes that have occurred in respect of the information

contained in that disclosure statement since it was given to the Tenant (being changes of which the Tenant is aware or could reasonably be expected to be aware); and

- iii. comply with any other procedural requirements of the Landlord.
- (c) To enable the Tenant to comply with the preceding subclause, the Tenant may, in writing, request the Landlord to provide the Tenant with a copy of the disclosure statement concerned and if the Landlord does not comply with such a request within fourteen (14) days after it is made, the preceding subclause will not apply to the Tenant in respect of the assignment transfer or other disposition in relation to which the disclosure statement applies.
- (d) The Landlord may withhold the Landlord's consent to the assignment of the Premises or this Lease in any of the following circumstances:
 - A. if the proposed assignee proposes to change the use to which the Premises are put;
 - B. if the proposed assignee is unlikely (in the Landlord's reasonable opinion) to be able to meet the financial obligations of the Tenant under this Lease;
 - C. if the proposed assignee's business skills are inferior (in the Landlord's reasonable opinion) to those of the Tenant, or
 - D. if the Tenant has not complied with procedural requirements for obtaining the Landlord's consent.
- (e) Nothing in clause 9.1(d) will prohibit the Landlord from granting the Landlord's consent to an assignment, transfer or other disposition of this Lease subject to the Tenant complying with such reasonable conditions as the Landlord considers appropriate.
- (f) Nothing in the preceding provisions of clause 9.1(d) prevents the Landlord from requiring payment of a reasonable sum for legal or other expenses incurred in connection with such a consent (whether consent is granted or not).
- (g) The Landlord may as a condition of granting its consent require that the proposed transferee or assignee provide to the Landlord such guarantee or guarantees of the transferee's or assignee's performance of the Tenant's obligations under this Lease which the Landlord requires.
- (h) The Tenant must not:
 - A. grant a sub-lease, licence of concession for the whole or any part of the Premises;
 - B. part with or share possession of the whole or any part of the Premises; and
 - C. mortgage or otherwise change or encumber the Tenant's interest in this Lease, without the Landlord's prior written consent, which consent the Landlord is not obliged to give notwithstanding anything to the contrary in this Lease.
- (i) If the Tenant is a company (except a company whose shares are listed on a stock exchange in Australia) a transfer of shares (except as a result of inheritance) totalling more than one half of the issued share capital of the Tenant, or of the controlling interest of the Tenant will be deemed to be an assignment of this Lease requiring the prior written consent of the Landlord.

10. USE OF PREMISES

10.1 Permitted Use

- (a) The Tenant must use the Premises only for the purpose specified in Item 4 of Schedule 1 or other purposes incidental thereto or for such other purposes for which the Landlord may give prior written approval.

- (b) The Tenant must not use the Premises or any part thereof nor cause permit or allow anyone to sleep on the Premises, nor carry on or cause permit or allow to be carried on upon the Premises or any part thereof for any noxious noisome or offensive art trade business occupation or calling and must not use the Premises or any part thereof or cause permit or allow the same to be used for any unlawful purpose.

10.2 No Warranty by Landlord

The Tenant warrants to the Landlord that the Tenant has relied on the Tenant's own judgement and expertise and the Tenant's experts in deciding that the Premises are suitable for the Tenant's purposes and that the Landlord has given no promise, representation or warranty to the Tenant as to the use to which the Premises may be put and that the Tenant has satisfied itself thereof and the Tenant will be deemed to have accepted this Lease with full knowledge of, and subject to, any prohibition or restrictions on the use thereof under or in pursuance of any Act, Ordinance, Regulation, By-law or other statutory enactment or order of Court. Should the Permitted Use require the consent of any authority under or in pursuance of any such Act, Ordinance, Regulation, By-law or other enactment or order of Court the Tenant must obtain such consent at the Tenant's own cost and expense. To the fullest extent permitted by law all warranties as to suitability and as to adequacy implied by law are hereby expressly negated.

10.3 Signs

The Tenant must not allow any advertisement notice poster hoarding or sign to be affixed to or placed near any window in the Premises so as to be visible from the outside of the Building except where the Landlord's consent is obtained and where all relevant laws and statutory requirements are satisfied.

10.4 Compliance with Acts, By Laws and Regulations

The Tenant must at the Tenant's cost and expense:

- (a) comply with every notice order or requirement relating to the Premises and requiring any condition defect or want of reparation to be remedied which may be given or made to the Landlord or to the Tenant in pursuance of the *South Australian Public Health Act (2011 (SA))* and or the *Local Government Act (1999) (SA)* or Acts for the time being in force in the State of South Australia and or any other Act or Acts of Parliament or any by-laws rules or regulations made under or in pursuance of any such Act or Acts or purporting so to be and will comply therewith within the time limited therein for complying therewith. If the Tenant fails to comply with any statutory or regulatory obligations the Landlord may comply therewith (but it not be obligatory for the Landlord to do so) and all costs charges and expenses incurred by the Landlord in so doing will be a debt due and recoverable from the Tenant in the same manner in all respects as the rent is recoverable; and
- (b) take such precautions against fire on and in respect of the Premises as are or may from time to time be required under or in pursuance of any Statute now or hereafter in force or which may be required by any authority (whether Governmental municipal civic or other) having jurisdiction in relation thereto and also at the Tenant's own expense in all things, do all such other acts matters and things in relation to fire safety as are or may from time to time be directed or required to be done or executed (whether by the owner or occupier of the Premises) by any authority (whether Governmental municipal civic or other) having jurisdiction in relation thereto pursuant to any law now or hereafter in force.

10.5 Use of Premises and Provision of Emergency Number

The Tenant must:

- (a) advise the Landlord (or where applicable the Landlord's agent) of the telephone number of the Tenant's nominated emergency after hours contact and must keep the Landlord or the Landlord's agent informed of any change of such telephone number;

- (b) secure the Premises against unauthorised entry at all times when the Premises are left unoccupied and the Landlord reserves the right to enter upon the Premises and secure the Premises if left unsecured;
- (c) not do anything whereby the Services such as the working or efficiency of the air conditioning plant servicing the Building or the Premises may be affected;
- (d) upon the cessation of the Tenant's right to occupy the Premises, deliver to the Landlord or the Landlord's Agent all keys and or access cards to the Premises; and
- (e) observe the Rules and Regulations.

10.6 Restrictions on Use

The Tenant must not:

- (a) use or permit to be used for other than their designed purposes any of the fixtures or fittings in the Premises or the Building;
- (b) store or use inflammable or dangerous substances upon the Premises (except as may be necessary for the ordinary conduct of the Permitted Use of the Premises by the Tenant in which case the Tenant undertakes to notify the Landlord in writing of the maximum quantity of any such inflammable or dangerous substance that the Tenant intends to store on the Premises);
- (c) cause permit or allow on the Premises or in the Building anything which in the reasonable opinion of the Landlord may become a nuisance or disturbance obstruction or cause of damage whether to the Landlord or to other tenants or users of the Building nor use the Premises in any noisy noxious or offensive manner;
- (d) do any act or thing, or permit any activities which may discredit the Landlord;
- (e) obstruct or interfere with any of the entrances of the Building or Common Areas;
- (f) permit any sign advertisement name or notice to be placed on any part of the Premises or the Building where such sign advertisement name or notice is of an incongruous or unsightly nature having regard to the character and use of the Building and prior to the installation or placement of any sign advertisement name or notice the Tenant must:
 - A. obtain the Landlord's prior written consent; and
 - B. obtain the prior consent of any relevant statutory or regulatory authority;
- (g) use or permit to be used any radio record player tape or video recorder television loudspeaker screen or other like equipment likely to be heard or seen from outside the Premises; or
- (h) conduct or permit to be conducted on the Premises any auction or fire sale.

10.7 Heavy Machinery

- (a) The Tenant must not bring upon the Premises any heavy machinery or other plant or equipment not reasonably necessary or proper for the conduct of the Tenant's permitted use of the Premises. In no circumstances must the Tenant bring upon the Premises any heavy machinery or other plant or equipment:
 - A. of such nature or size or weight as to cause or (in the reasonable opinion of the Landlord) be likely to cause any structural or other damage to the floors or walls or any other parts of the Land, or
 - B. of such construction or manufacture as to cause to emanate therefrom any noise or vibration or noxious odour fume or gas that could pervade the Premises or escape therefrom to the discernible notice of any person outside the Premises.
- (b) Prior to bringing upon the Premises any heavy machinery or other plant or equipment

permitted to be brought upon the Premises the Tenant must inform the Landlord of the Tenant's intention so to do and the Landlord or the Landlord's architects or engineers may direct the routing installation and location of all such machinery plant and equipment. The Tenant must observe and comply with all such directions and any reasonable fees payable to the Landlord's architects or engineers in connection with ascertaining the safest and most favourable and convenient method of routing installing and locating such machinery plant and equipment as aforesaid must be paid by the Tenant on demand.

10.8 Alcohol

Except as otherwise permitted by the terms and conditions of this Lease, the Tenant must not under any circumstances allow alcohol onto the Land and must ensure that its patrons, members and visitors do not bring alcohol onto the Land.

10.9 Locks and Keys

The Tenant must not tamper with or change any lock of the Premises or have any keys of such locks cut without the consent of the Landlord or its agent. The Tenant will pay for any keys or change required to any lock and in the event of the Landlord or its agent being required to open the Premises the Tenant will pay a reasonable fee fixed by the Landlord or the Landlord's agent.

10.10 Use of Conduits

The Tenant must allow the Landlord and other occupiers of the Land the free and uninterrupted passage of gas water and electricity through and along the services including electrical services situated under in or on the Premises.

10.11 Blinds and Awnings

The Tenant must not erect or affix any blinds or awnings to the outside of the Premises or any blinds to the interior of the windows display windows or doors thereof or affix any fittings to the floors walls or ceilings of the Premises without the prior consent in writing of the Landlord which consent may be granted or refused or granted subject to conditions in the discretion of the Landlord.

10.12 Airconditioning

- (a) Where any plant machinery or equipment for heating cooling or circulating air is provided or installed by the Landlord in the Premises or in the Building for the benefit of tenants of the Building (**airconditioning plant**):
- A. the Tenant must comply with and observe the reasonable requirements of the Landlord in respect of the airconditioning plant;
 - B. to the maximum extent permitted by law, the Landlord will be under no liability to the Tenant in respect of the Landlord's inability or failure to operate service maintain replace or repair the airconditioning plant at any time for any reason and the Tenant acknowledges that the Landlord does not warrant that the airconditioning plant (if any) is suitable or adequate for the business to be conducted in the Premises by the Tenant; and
 - C. the Tenant must permit the Landlord and all persons authorised by the Landlord at all reasonable times on giving to the Tenant reasonable prior notice (except in the case of emergency where no notice is required) to enter the Premises to view the state of repair of the airconditioning plant and there remain for the purpose of carrying out any necessary or desirable maintenance servicing or repair to or replacement of the airconditioning plant.
- (b) Where any airconditioning plant is installed in the Premises or the Building for the exclusive use of the Tenant, the Tenant must keep such airconditioning plant in good repair, condition and working order and must pay all costs of operating and maintaining

the same.

10.13 Electricity Supply

If the Landlord and the Tenant have entered into an agreement as to the supply by the Landlord to the Tenant of electricity for the Premises then the terms and conditions of such agreement will apply to the parties and any breach by the Tenant of that agreement will be deemed to be a breach by the Tenant of this Lease. In the absence of any such agreement between the Landlord and the Tenant, the following provisions apply:

- (a) If at the Commencement Date the Landlord supplies electricity to the Premises and requires the Tenant to purchase such electricity from the Landlord, the Tenant must pay to the Landlord for all such electricity at such rate as the parties may agree from time to time and in the absence of such agreement at the maximum rate applicable under the *Electricity (General) Regulations 2012 (SA)*.
- (b) Notwithstanding clause 10.13(a), there is no obligation on the Landlord to supply or continue to supply electricity to the Premises and upon giving at least sixty (60) days prior written notice to the other either:
 - A. the Landlord may elect to cease selling electricity to the Tenant, or
 - B. the Tenant may elect to cease purchasing electricity from the Landlord.
- (c) If either the Landlord elects to cease selling electricity to the Tenant or the Tenant elects to cease purchasing electricity from the Landlord in accordance with the preceding subclause, the Tenant must on or before the time at which such sale and purchase is to cease pursuant to the notice given in accordance with clause 10.13(b):
 - A. enter into a contract to purchase electricity for the Premises from a licensed electricity retailer of the Tenant's choice;
 - B. ensure that any such contract contains a provision that such electricity retailer must provide details to the Landlord concerning the Tenant's consumption of electricity in or in relation to the Premises; and
 - C. install at no cost to the Landlord such new or additional equipment and meters as may reasonably be necessary to supply and record the supply of electricity to the Premises.
- (d) If the Tenant is supplied electricity via an Inset Network (as defined in the *Electricity (General) Regulations 2012 (SA)* on the Land, the Tenant must pay to the Landlord the Tenant's share of Inset Network charges such share to be as is reasonably determined by the Landlord from time to time taking into account the quantum of electricity provided to the Premises and the quantum of electricity provided to other premises situate on the Land.
- (e) Save to the extent caused or contributed to by the Landlord's negligence, the Landlord shall not be liable to the Tenant for any failure of electricity supply to the Premises.

11. TENANT GOVERNANCE

The Tenant will provide to the Landlord:

- 11.1 a copy of its constitution;
- 11.2 a copy of any rules or by-laws of the Tenant in existence at the Commencement Date;
- 11.3 within twenty-eight (28) days of any amendments being made to the Tenant's constitution, rules or by-laws, a copy of those amendments;
- 11.4 by 30 November in each year a copy of the annual report of the Tenant including its Annual General Meeting report, balance sheets and independent auditor's report;

- 11.5 by 30 November in each year a copy of the Tenant's adopted budget within twenty-eight (28) days of adoption;
- 11.6 upon request from the Landlord a schedule of all subleases or other tenancies relating to the Premises;
- 11.7 upon request from the Landlord or any employee, agent or contractor to examine and take copies of all accounts records and bank records of the Tenant and minutes of any meeting of the Tenant or any committee of the Tenant;
- 11.8 any other documents that regulate the Tenant's governance and operations; and
- 11.9 any information in relation to the Tenant's use and occupation of the Premises and finances reasonably required by the Landlord and will permit, upon request from Landlord or any employee, agent or contractor to examine and take copies of all account books and bank books of the Tenant the minutes of any meeting of the Tenant or any committee of the Tenant; and
- 11.10 upon request from the Landlord, any or all of the documentation and information listed in clauses 11.1 to 11.9 above except in respect of Seacliff Tennis Club Incorporated ABN 76 482 586 529 and Seacliff Hockey Club Incorporated ABN 18 733 148 445.

12. **INSURANCE**

12.1 Tenant's Insurance

At its own expense, the Tenant shall maintain during the term of this Lease the following insurance:

- (a) a policy of public risk insurance with respect to the Premises and the business or businesses carried on in the Premises for a sum of not less than the amount specified in 2.9 of Schedule 1. Such amount shall be in respect of any one single accident or event and extend to claims, loss and damage the subject of the indemnity contained in clause 13.2;
- (b) a policy to insure all permitted additions to the Premises carried out by the Tenant and to insure all of the Tenant's fixtures, fittings and property including stock against loss or damage by any cause and for their full replacement value; and
- (c) plate glass insurance in respect of all plate glass (including windows) in the Premises.

12.2 Certificates of Insurance

All policies of insurance shall be taken out with a recognised and reputable public insurance office and the Tenant shall provide the Landlord with copies of certificates of insurance in relation to the policies upon request. The policies of insurance specified in clauses 12.1(a) and 12.1(c) shall be in the name of the Tenant and note the interest of the Landlord.

12.3 Tenant Not to Cause Premium to Increase

The Tenant shall not do or fail to do anything which may increase the rate of premium payable under any policy of insurance taken out in respect of the Premises. The Tenant shall pay within fourteen (14) days of demand any additional or increased premium levied on account of the Tenant's use or occupation of the Premises in respect of any policy of insurance effected in respect of the Land or its contents or any policy of public liability insurance effected by the Landlord.

13. **INDEMNITY, RELEASE AND RISK**

13.1 Risk of Tenant

The Tenant agrees to occupy and use the Premises and to enter the Land at its own risk. The Tenant releases to the fullest extent permitted by law the Landlord (and its agents, contractors and employees) from every claim and demand which may result from an accident, damage or injury occurring on the Premises or on the Land. The Landlord shall not be released from liability

to the extent that the accident, damage or injury was caused by the negligence of the Landlord.

13.2 Indemnity by Tenant

The Tenant indemnifies the Landlord and will at all times keep the Landlord indemnified against all costs, losses, damages or actions incurred by or brought against the Landlord directly or indirectly arising from the use or occupation of the Premises by the Tenant or from any action or non-action whatsoever on the part of the Tenant.

13.3 Interruption of Services

The Landlord will not be responsible or liable to the Tenant or to any person claiming by, through or under the Tenant for the failure of any equipment or machinery in the Premises or the Building or for their ineffectual operation or for any damage or loss caused by or arising out of them or for the interruption or failure of any services, including the supply of electricity, gas and water.

14. TENANT'S YIELDING UP OBLIGATIONS

14.1 The Tenant must immediately prior to vacating the Premises at the expiration or sooner determination of this Lease (or in the case of the determination of the Term of this Lease within a reasonable time after such determination):

- (a) complete any repairs and maintenance which the Tenant is obliged to carry out under this Lease;
- (b) remove all of the Tenant's Property in or on the Premises or the Land and immediately make good any damage caused by such removal;
- (c) wash down the Premises and treat as previously treated all internal surfaces of the Premises by painting staining polishing or otherwise to a specification reasonably approved by the Landlord and to the reasonable satisfaction of the Landlord;
- (d) replace all damaged and non-operative light bulbs and fluorescent tubes in the Premises with new light bulbs and fluorescent tubes;
- (e) thoroughly clean the Premises throughout, remove all refuse therefrom leaving the Premises in a clean, tidy, secure and safe condition;
- (f) comply with all reasonable requirements and directions of the Landlord in respect of all removal and reinstatement works; and
- (g) hand over to the Landlord all keys and other security devices for the Premises which the Tenant has in its possession or control.

14.2 If the Tenant does not complete such removal and making good on the expiration of the Term (or in the case of the determination, within a reasonable time after such determination) then (without prejudice to any other rights of the Landlord) the Landlord may undertake such obligations and the Tenant must repay on demand all costs and expenses incurred by the Landlord in so doing.

14.3 In addition to clause 14.2, the Landlord may elect not to effect such removal of the Tenant's Property (including all partitions, alterations and additions) in which case the Landlord may by notice in writing given to the Tenant notify the Tenant that unless the Tenant has effected such removal within fourteen (14) days of the date on which such notice is given such partitions alterations or additions not removed by the Tenant will be forfeited to the Landlord and where the Tenant fails to comply with such notice such partitions alterations and additions will at the expiration of such fourteen (14) day period become the absolute property of the Landlord.

14.4 Until such time as the Tenant has complied with its obligations under clause 14.1 or the date upon which the same have been forfeited to the Landlord pursuant to clause 14.3 (whichever is the earlier) ("**the compliance date**"), the Tenant must pay by way of damages to the Landlord an amount which represents the rent payable immediately prior to the expiration or termination

of this Lease calculated on a daily basis multiplied by the number of days between the compliance date and the date of expiration or the termination of this Lease.

15. LANDLORD'S OBLIGATIONS AND RIGHTS

15.1 Quiet Possession

Provided that the Tenant pays the rent and all other monies payable under this Lease and performs and observes the terms conditions and covenants on the Tenant's part to be performed or observed herein contained or implied, the Tenant may quietly enjoy the Premises without unlawful interruption by the Landlord or any person lawfully claiming under or in trust for the Landlord.

15.2 Reservation of Services

The Landlord reserves the right for itself and for all others authorised by the Landlord the passage of any air conditioning equipment, fire sprinkler systems, pipes, ducts, cables, wiring, communications, water sewerage and drainage connections and any other services through or along or in or into the Premises and also access to and through the Premises at any time for the purpose of installing, maintaining or repairing any such equipment, systems, pipes, ducts, cables, wirings, connections and Services.

15.3 Costs of Proceedings

If the Landlord may without fault on the Landlord's part be made a party to any litigation commenced by or against the Tenant, the Tenant must pay to the Landlord on demand by the Landlord all reasonable legal fees and disbursements (as between solicitor and client) incurred by the Landlord in connection therewith.

15.4 Landlord's Right to Add to Building

- (a) The Landlord may at any time during the Term enlarge vary or reduce any Building and in so doing (but without in any way limiting the generality of the foregoing) may:
- A. acquire or dispose of any land;
 - B. permanently encroach upon any Common Areas, portions of the Land including any car park;
 - C. employ or use the air space above or below any part of any Common Areas including any car park;
 - D. erect additional floors above or below any part of the said Building;
 - E. provide multi-deck parking facilities;
 - F. strata title the Building or any one or more of the floors of the Building (in which event the Tenant will execute all relevant documents provided same do not prejudice the Tenant's rights to occupy the Premises upon the terms contained in this Lease); or
 - G. interrupt the water gas electrical air conditioning or other Services to the Premises.
- (b) The Landlord must in carrying out such works use reasonable endeavours to minimise so far as may be practicable any inconvenience to or interruption to the business of the Tenant.

15.5 Right to Enter

- (a) At any time during the Term the Landlord may (except in an emergency when no notice is required) enter the Premises after giving the Tenant reasonable notice:
- A. to view the state of repair and condition of the Premises;
 - B. carry out any works on the Land or in or to the Building (including alterations and

redevelopment), but in these circumstances the Landlord will take reasonable steps (except in emergencies) to minimise interference with the Tenant's use;

- C. restrict access to the Land including parking areas but in these circumstances the Landlord will take reasonable steps (except in emergencies) to minimise interference with the Tenant's use;
- D. redirect pedestrian or vehicular traffic into, out of or through the Land;
- E. close the Building in an emergency;
- F. use, maintain, repair, alter and add to the Services to or in the Premises, but the Landlord must take reasonable steps (except in emergencies) to minimise interference with the Tenant's use;
- G. exclude or remove any person from the Land;
- H. to do anything the Landlord must or may do under this Lease or pursuant to any legal obligation; and
- I. to carry out and observe the Landlord's maintenance and repair obligations as set out in Schedule 2,

and the Tenant will not be permitted to make any claim or abate any payment if the Landlord exercises any of its rights under this clause 15.5.

- (b) If the Landlord or the Landlord's agents or contractors find any defect decay or want of repair in the Premises or find any state or condition thereof contrary to any covenant or agreement on the part of the Tenant contained in this Lease, the Landlord, or the Landlord's agent or contractor may give to the Tenant notice in writing to make good repair restore or amend the same within a reasonable time to be therein stated and the Tenant must within such time sufficiently and in good and proper and professional manner make good repair restore or amend the same to the reasonable satisfaction of the Landlord and if the Tenant fails to comply with any such notice the Landlord may (but is not obliged to do so) by or with the Landlord's attorney agent or contractors enter into and upon the Premises and carry out the requirements of such notice (causing as little disturbance to the Tenant as is practicable). All costs charges and expenses incurred by the Landlord in so doing will be a debt due from the Tenant to the Landlord payable on demand and recoverable in the same manner in all respects as the rent hereby reserved.

15.6 Interest on Overdue Amounts

If the Tenant does not pay an amount when it is due, and does not rectify such non-compliance within fourteen (14) days of written demand then it must pay interest on that amount on demand from when the amount became due until it is paid in full. Interest is calculated on outstanding daily balances of that amount at the Default Rate.

16. **DAMAGE TO BUILDING OR PREMISES**

16.1 Subject to clause 16.2, if the Building of which the Premises forms part is damaged:

- (a) the Tenant is not liable to pay rent or Outgoings or other charges that are attributable to the period during which the Premises cannot be used or are inaccessible due to that damage;
- (b) if the Premises are still useable but their useability is diminished due to the damage, a fair and just proportion of the rent, Outgoings and other charges payable by the Tenant pursuant to this Lease having regard to the nature of the damage shall abate from the date of the damage until the date that the Premises have become useable. If any dispute as to the amount of rent, Outgoings and charges to be abated arises, the same will be determined by a licensed valuer appointed by the President of the South Australian Division of the Australian Property Institute (or should that body have ceased to exist, the

President or other principal officer for the time being of such body or association as then serves substantially the same objects) at the request of the Landlord;

- (c) if the Landlord notifies the Tenant in writing that the Landlord considers that the damage is such as to make its repair impractical or undesirable, the Landlord or the Tenant may terminate this Lease by giving not less than seven (7) days' notice in writing and neither party shall have any claim for or right to recover any compensation by reason of such termination save in respect of any antecedent breach or default or any claim regarding the cause of such damage; and
- (d) if the Landlord fails to repair the damage within a reasonable time after the Tenant requests the Landlord in writing so to do, then the Tenant may terminate this Lease by giving not less than seven (7) days' notice in writing of termination to the Landlord.

16.2 Damage caused by Tenant

If the damage to the Building was caused or contributed to by the wrongful act or negligence of the Tenant no proportion of the rent, Outgoings and charges shall be abated and the Tenant will not be entitled to terminate this Lease.

16.3 Set off

The Landlord may, by notice to the Tenant, set off any amount due by the Tenant to the Landlord under this Lease or otherwise against any amount due by the Landlord to the Tenant under this Lease.

16.4 Damage to Goods or Person

Except to the extent caused by the negligent or wilful act or omission of the Landlord, its servants or agents, the Landlord its attorney or agent shall not be under any liability to the Tenant for any loss expense or damage sustained by the Tenant or any invitee of the Tenant arising out of personal injury or destruction of or damage to goods chattels furniture or effects howsoever caused including by water gas or electricity bursting overflowing leaking or escaping (as the case may be) from any water gas electrical apparatus installation fitting pipe sewer wiring roof or roof gutter down pipe or storm water drain (as the case may be) on in or connected to or appurtenant to the Premises and/or the Building.

17. REDEVELOPMENT AND DEMOLITION

17.1 The Tenant acknowledges that:-

- (a) the Landlord may during the term of this Lease decide to refurbish, repair, redevelop or extend the Premises and/or the Building and land of which the Premises form part;
- (b) the Landlord will suffer harm expense and loss if the Landlord elects to do so and is unable to obtain vacant possession of the Premises;
- (c) the Landlord has only agreed to the Tenant's offer to lease the Premises on the condition the Landlord can obtain vacant possession of the Premises for the purpose of so refurbishing, repairing, redeveloping or extending as and when required by the Landlord; and
- (d) this Lease is expressly subject to a condition precedent that the term of this Lease be subject to the Landlord's right to refurbish, redevelop or extend.

17.2 If during the Term or any extension of the Term the Landlord elects to refurbish, repair, redevelop or extend the Premises, the Building or the Land of which the Premises form part or any part thereof and the Landlord provides to the Tenant details of the proposed repair, redevelopment or extension sufficient to indicate a genuine proposal to refurbish, repair, redevelop or extend within a reasonably practicable time after the date upon which the Landlord requires vacant possession of the Premises, then the Landlord may on or after the

commencement of this Lease:

- (a) give to the Tenant not less than six (6) months written notice requiring the Tenant to relocate its business to other premises in the Building or on the Land ("new premises") specifying the date on which the Landlord requires vacant possession of the Premises and requires the Tenant to relocate to the new premises ("relocation date") whereupon:-
 - A. this Lease will terminate on the relocation date;
 - B. not less than seven (7) days prior to the relocation date the Tenant must upon receipt of the same from the Landlord execute and deliver to the Landlord:
 - i. a surrender of this Lease in registrable form by mutual consent and for no monetary or other consideration effective from the relocation date;
 - ii. a lease of the new premises from the relocation date which lease will be upon the terms and conditions hereinafter appearing; and
 - iii. the Tenant's registered duplicate copy of this Lease; and
 - C. the Tenant must vacate the Premises and relocate to the new premises on the relocation date;

- (b) the relocation to the new premises will be upon the following terms and conditions:-
 - A. the new premises must (in the reasonable opinion of the Landlord) be of comparable quality and utility to the Premises; and
 - B. the Landlord will, at its cost, move the Tenant's stock from the Premises to the new premises;
 - C. the lease of the new premises shall be on the same terms and conditions as this Lease (changed as necessary),

and the Tenant may, not later than one month (time being of the essence) of receiving the written notice of relocation from the Landlord, notify the Landlord in writing that the Tenant does not intend to enter into a lease for the new premises, in which case the Tenant shall vacate the Premises on the relocation date without any right to compensation or damages from the Landlord by reason of termination of this Lease; and

- (c) give to the Tenant not less than twelve (12) months written notice requiring the Tenant to vacate the premises specifying the date on which the Landlord requires vacant possession of the Premises (the "termination date") whereupon:
 - A. this Lease will terminate on the termination date;
 - B. not less than seven (7) days prior to the termination date the Tenant must upon receipt of the same from the Landlord execute and deliver to the Landlord such documents as the Landlord reasonably requires to effect a surrender of this Lease as at the termination date; and
 - C. the Tenant must vacate the Premises on the termination date,

and the Tenant may at any time after receipt of notice of termination from the Landlord terminate this Lease upon giving not less than seven (7) days prior notice in writing to the Landlord.

18. RULES AND REGULATIONS

18.1 The Landlord may from time to time make such rules and regulations that the Landlord considers necessary for the management, safety, security, care of or cleanliness of the Premises or the Building.

18.2 The Landlord reserves the right to amend from time to time the Rules and Regulations.

- 18.3 The Rules and Regulations bind the Tenant when it receives notice of the Rules and Regulations from the Landlord.
- 18.4 If there is any inconsistency between this Lease and the Rules and Regulations, then this Lease prevails.
- 18.5 A failure by the Tenant to comply with the Rules and Regulations is a breach of this Lease.
- 18.6 The Rules and Regulations applicable at the date of this Lease are those appended to this Lease.

19. EXTENSION OF TERM

If not more than six (6) months nor less than three (3) months prior to the expiration of the Term the Tenant gives to the Landlord notice in writing of its desire to extend the Term and if the Tenant is not in breach of any of the covenants agreements and conditions on the part of the Tenant to be performed and complied with, the Tenant (at the Tenant's cost and expense in all things) will be entitled to an extension of the Term for the further period referred to in Item 9 of Schedule 1 at a rent to be fixed in the manner provided by the terms of this Lease but otherwise upon the same terms and conditions as are herein contained with the exception of this right of renewal.

20. ESSENTIAL TERMS, RE-ENTRY, BREACH, DAMAGES

20.1 Essential Terms

The clauses of this Lease referred to in Item 10 of Schedule 1 are essential terms of this Lease and the Landlord may at its option treat any breach or default by the Tenant in the observance or performance of its obligations under any of such clauses as a repudiation by the Tenant of this Lease.

20.2 Power of Re-entry

If:

- (a) the rent or any part of it is unpaid for fourteen (14) days after any of the days on which it should have been paid (although no formal or legal demand may have been made for payment); or
 - (b) the Tenant commits or permits to occur any other breach or default in the due and punctual observance and performance of any of the terms of this Lease and fails to remedy the breach within a period of fourteen (14) days of written notice from Landlord (or such shorter time as the Landlord may in any particular case reasonably stipulate);
 - (c) any Tenant's Property in or on the Premises is seized or taken in execution under any judgment or other proceedings;
 - (d) the Tenant ceases to be able to pay its debts as they become due;
 - (e) any step is taken to enter into any arrangement between the Tenant and its creditors;
 - (f) any step is taken to appoint a receiver, a receiver and manager, a trustee in bankruptcy, a liquidator, a provisional liquidator, an administrator or other like person of the whole or any part of the Tenant's assets or business; or
 - (g) the Tenant is deregistered or dissolved or any step is taken by any person towards that,
- then the Landlord or the Landlord's attorney or duly authorised agent, solicitor or representative may without notice to the Tenant re-enter into and upon the Premises or any part thereof in the name of the whole and use and enforce all such ways and means and adopt all such measures as may be necessary or expedient for the purpose of effecting such re-entry by force or otherwise as the occasion may require without being liable for any loss expense damage action suit or proceeding or cost and to hold and enjoy the Premises as if these presents had not been made and thereupon the Tenant's leasehold interest in the Premises will cease and determine.

20.3 Damages generally

The Landlord's entitlement to recover losses, damages, costs or expenses will not be affected or limited by:

- (a) the Tenant abandoning or vacating the Premises;
- (b) the Landlord re-entering the Premises or terminating the Tenant's leasehold interest in the Premises;
- (c) the Landlord accepting the Tenant's repudiation; or
- (d) conduct of the parties which may constitute a surrender by operation of law.

21. NOTICES

21.1 Any written notice to be given by one party to the other shall be signed by the party giving the notice or by an officer or the duly authorised solicitor or agent of that party. Notice may be given to a party:

- (a) personally
- (b) by leaving it at the party's address last notified;
- (c) by sending it by pre-paid mail to the party's postal address last notified; or
- (d) by sending it by email to the party's email address last notified.

21.2 Notice is deemed received by a party:

- (a) if hand delivered, on the date of delivery; or
- (b) if sent by prepaid post within Australia, on the fourth Business Day after posting;
- (c) if sent by email:
 - A. at the time shown in the delivery confirmation report generated by the sender's email system; or
 - B. if the sender's email system does not generate a delivery confirmation report within twelve (12) hours of the time the email is sent, unless the sender receives a return e-mail notification that the email was not delivered, undeliverable or similar, at the time which is twelve (12) hours from the time the email was sent.

21.3 However, if the notice is deemed to be received on a day which is not a Business Day or after 5pm, it is deemed to be received at 9am on the next Business Day.

21.4 When two or more people comprise a party, notice to one is effective notice to all.

21.5 Each party hereby notifies the other party that its addresses for notice as at the date of this document are as set out in the respective party details in Schedule 1.

22. COSTS

22.1 Each party will bear its own costs in respect of the preparation, negotiation, execution and stamping of this Lease.

22.2 The Tenant must pay all stamp duty and registration fees in respect of this Lease and any renewal, extension, surrender, assignment or transfer of this Lease and any other incidental documents including any lease plan costs.

23. MISCELLANEOUS

23.1 Holding Over

If the Tenant continues in occupation of the Premises after the expiration of the Term with the consent of the Landlord the Tenant will thereupon become or be deemed to be a monthly tenant of the Landlord at a rent determined in accordance with the provisions of this Lease, and such

tenancy will be subject to such of the conditions and covenants contained in this Lease as are applicable to a monthly tenancy.

23.2 Waiver

No waiver by the Landlord of any breach or non-observance by the Tenant of any covenant herein contained shall constitute a general waiver of the obligations of the Tenant.

23.3 Acceptance of Rent Arrears

In respect of the Tenant's obligations to pay rent the acceptance by the Landlord of arrears of or any late payment of rent will not constitute a waiver of the essentiality of the Tenant's obligations to pay rent on the dates hereinbefore set out for payment of rental or in respect of the Tenant's continuing obligation to pay rent during the Term.

23.4 Kiosks and Marquee

- (a) The Landlord may erect from time to time during the term and remove and re-erect kiosks, marquees and other temporary or permanent structures in any part of the Land (not comprising the Premises) and may grant to any person the exclusive use of all or any part thereof for such purposes for such periods and upon such terms and conditions as the Landlord may in its absolute discretion think fit.
- (b) The Tenant may request the consent of the Landlord to erect a marquee on the Premises for a particular day or days, where a sporting game or match will be held. If the Landlord's consent is granted, such consent will be subject to certain conditions and requirements of the Landlord from time to time. Such conditions will include an obligation on the Tenant to ensure that such marquee is weighted to prevent damage to sub-surface irrigation.

23.5 No Caveat

The Tenant must not lodge or cause or permit to be lodged any absolute caveat over the certificate of title for the Land or the Premises.

23.6 Landlord and Tenant Act

A notice under section 10 of the *Landlord and Tenant Act 1936* (SA) must allow fourteen (14) days for the Tenant to remedy a breach of this Lease if it is capable of remedy and to make reasonable compensation in money to the satisfaction of the Landlord. No period of notice is required in respect of non-payment of rent.

23.7 Power of Attorney

If the Landlord becomes entitled to terminate this Lease and re-enter and take possession of the Premises (a statutory declaration of any duly authorised officer, employee or agent of the Landlord will be conclusive evidence for the purpose of the Registrar-General) then the Tenant irrevocably appoints the Landlord as the attorney of the Tenant to execute any documents and perform any acts the Landlord requires to give full effect to the power of re-entry under the *Real Property Act 1886* (SA). The Tenant must execute any documents and perform any acts the Landlord requires to give full effect to the power of re-entry under the *Real Property Act 1886* (SA).

23.8 Special Conditions

This Lease is subject to the special terms and conditions (if any) specified in Item 11 of Schedule 1 and if there is any inconsistency between any such special terms and conditions and any of the provisions of this Lease then such special terms and conditions will prevail.

Schedule 1

Item 1 **Tenant** (clause 1.18)

Name: Seacliff Sports Club Inc

ABN: 62 785 462 790

Address: Lipson Avenue, Seacliff SA 5048

Email: president@seacliffsc.com

Item 2 **Premises** (clause 1.13)

That portion of the land comprised in Certificate of Title Volume 6184 Folio 142 as delineated in red on the plan contained in Annexure 3 and more particularly being portion of the Kauri Community and Sports Centre situate at Lipson Avenue Seacliff SA 5049

Item 3 **Land** (clause 1.9)

The whole of the land comprised in Certificate of Title Volume 6184 Folio 142

Item 4 **Permitted Use** (clause 10.1)

The provision of community recreational tennis and hockey and hiring of the Premises on the conditions imposed by Development Approval No. 110/00031/15

Item 5 **Term** (clause 1.22)

A term of five (5) years commencing on 1 July 2024 (**Commencement Date**) and expiring at 11.59PM on 30 June 2029

Item 6 **Commencing Rent** (clause 3)

\$4,839.00 per annum plus GST

Item 7 **Rent Review** (clause 3)

Dates: 1 July 2025, 2026, 2027 and 2028

Method: As at and from each review date specified above, there shall be a CPI Rent Review.

Item 8 **Public Risk Insurance** (clause 12)

TWENTY MILLION DOLLARS per claim and unlimited in the annual aggregate or such higher amount as the Landlord may from time to time reasonably require.

Item 9 **Extension Of Term** (clause 19)

Nil

Item 10 **Essential Terms** (clause 20)

Clauses 3.1, 4, 5, 6, 7, 8, 10.1, 11, 12, 13, 17 and 23.83.1, 4, 5, 6, 7, 8, 9.1, 9.3, 10, 11, 12, 17, 22.8 and any obligations imposed on the Tenant pursuant to Item 10 of this Schedule.

Item 11 **Special Conditions** (clause 23.8)

1. **Trial Period and Termination of Lease**

1.1 The parties acknowledge and agree that this Lease is subject to:

(a) a trial period of one (1) year (Trial Period); and

- (b) a review of the operation of the Premises by the Tenant during that Trial Period and the continuing viability of such operation which must be undertaken jointly by the parties within two (2) months of the expiration of the Trial Period (**Lease Review**).
- 1.2 Following the Lease Review, either party shall have the right to terminate this Lease by giving not less than three (3) months written notice of such termination upon the other.
- 1.3 If either party validly exercises its right to terminate this Lease pursuant to Special Condition 1.2, the Tenant must (without limitation) ensure that all rent, Outgoings and other amounts payable by the Tenant pursuant to this Lease are paid in full up to and including the date of termination, vacate the Premises on or before the date of termination and must on or before the Termination Date comply with all of the yielding up and make good obligations contained in this Lease.
- 1.4 The Tenant acknowledges and agrees that it must comply with its reporting obligations outlined Special Condition 11.1 on a monthly basis during the Trial Period, with each report to be provided to the Landlord within seven (7) days of the end of each month.

2. **Common Area Licence**

- 2.1 Whilst the Tenant is Seacliff Sports Club Inc ABN 62 785 462 790 the Landlord shall grant to the Tenant during the term of this Lease a licence (**Licence**) to use such part or parts of the Common Area as delineated in blue on the plan annexed hereto as Schedule 3 (as may be designated by the Landlord from time to time) (**Licence Area**) provided always that:
 - (a) such use does not obstruct or prevent pedestrian traffic nor obstruct or prevent members of the community from using the Licence Area as a viewing platform during training and matches; and
 - (b) there be no use of the balcony on the 1st floor between the hours of 11:00pm and 8:00am the following day in accordance with Development Application No. 110/00031/15.
- 2.2 The Licence Area shall be used by customers of the Tenant for consuming products purchased from the Premises only and the Landlord shall not sell goods to the public nor provide services to the public or invite the public to negotiate for the supply of services from the Licence Area. The use of the Licence Area shall at all times be subject to the reasonable directions and requirements of the Landlord.
- 2.3 The Tenant acknowledges and agrees that the terms of the Lease apply as far as they are applicable to the Tenant's occupation and use of the Licence Area and the Tenant must comply with and is bound by the terms of the Lease in all respects as if the Licence Area formed part of the Premises.
- 2.4 The Tenant, at its cost and expense, must at all times keep the Licence Area in good, clean and tidy condition and must immediately make good any damage to the Licence Area.
- 2.5 The Tenant must not cause or allow any loud noise or other nuisance, disturbance or annoyance to be made in or emanate from the Licence Area or make any alteration or addition to the Licence Area without the Landlord's consent.
- 2.6 This Licence does not confer on the Tenant any estate or interest in the Licence Area or the Land.
- 2.7 On termination, the Tenant must promptly remove any property belonging to it or in the possession of it in the Licence Area and make good to the same condition as

at the commencement of the Tenant's use or occupation of the Licence Area (fair wear and tear excepted).

- 2.8 The Tenant indemnifies the Landlord and will at all times keep the Landlord indemnified against all costs, losses, damages or actions incurred by or brought against the Landlord directly or indirectly arising from this Licence or the Tenant's use or occupation of the Licence Area.
- 2.9 The public risk insurance which the Tenant is required to take out and maintain pursuant to clause 12.1(b) of this Lease must extend to cover the Licence Area and the access and egress ways thereto.
- 2.10 For the purpose of the Rent review provisions contained in Item 7 of the Schedule 1, the Licence Area shall be deemed to form part of the Premises.

3. **Use of the Function Space by The Holdfast Bay Music Centre Incorporated**

The Tenant acknowledges and agrees that it will permit The Holdfast Bay Music Centre Incorporated (**Music Centre**) to book the kitchen and function area of the Premises (including the balcony) (**Function Space**) as follows:

- 3.1 The Music Centre is entitled to use the Function Space free of charge for five (5) events each and every year during the term of this Lease provided always that:
 - (a) events must be booked via the usual booking process set down by the Tenant for all other users;
 - (b) one (1) free event/function is equivalent to one (1) day free access hire;
 - (c) an event run over consecutive days will be considered as multiple dates (but Preferential Rates will apply after the fifth (5th) date);
 - (d) set up and pack up of events to be organised by the Music Centre and must be undertaken immediately prior to and after each event unless otherwise agreed between the Tenant and the Music Centre;
 - (e) cleaning is to be organised by the Music Centre at its own cost. The Function Space should be left clean and tidy after each use of the Function Space, including all rubbish waste and garbage to be removed; and
 - (f) the Tenant will run the bar under their Liquor licence (refer to licensed area section below). All costs (staffing, stock and \$50 administration fee) will be charged to the Music Centre but all profits from the bar/kitchen will be returned to the Music Centre.
- 3.2 Any additional use of the Function Space by the Music Centre (outside the five (5) free events provided pursuant to Special Condition 3.1) will be charged at Preferential Rates set by the Landlord provided always that:
 - (a) events must be booked via the usual booking process set down by the Tenant for all other users;
 - (b) set up and pack up of events to be organised by the Music Centre and must be undertaken immediately prior to and after each event unless otherwise agreed between the Tenant and the Music Centre;
 - (c) cleaning is to be organised by the Music Centre at its own cost. The Function Space should be left clean and tidy after each use of the Function Space, including all rubbish waste and garbage to be removed; and
 - (d) the Tenant will run the bar under their Liquor licence (refer to licensed area section below) with all costs (staffing, stock and \$50 administration fee) charged to the Music Centre and profits from the bar / kitchen to be retained

by the Tenant.

- 3.3 The free and discounted bookings detailed in Special Conditions 3.1 and 3.2 are available for Music Centre activities only. Bookings made by Music Centre members for private functions will be managed by the Tenant directly and incur the standard fees as set by the Tenant.
- 3.4 Notwithstanding anything else herein contained, the Tenant acknowledges and agrees that, if the Function Space is booked by the Music Centre or a private third party, it will ensure that the Seacliff Tennis Club and the Seacliff Hockey Club and their respective members keep clear of the booked areas (including but not limited to the balcony and view platforms if those areas are booked) and ensure that the noise level is kept to a respectful level.
- 3.5 For the purposes of this Special Condition 3, **Preferential Rates** means \$35.00 per hour or \$120.00 for four (4) hours up to a maximum cost of \$200.00 per day or such other amounts as may be determined by the Landlord in its absolute discretion from time to time and notified in writing to both the Tenant and the Music Centre.

4. **Use of the Function Space by The City of Holdfast Bay**

The Tenant acknowledges and agrees that it will permit The City of Holdfast Bay (**Council**) to book use the Function Space free of charge for the Well Being "Let's Eat" Programme only each and every year during the term of this Lease.

5. **Child Safe Environment**

- 5.1 The Tenant acknowledges that the City of Holdfast Bay is committed to providing a child safe environment (as defined by the *Children and Young People (Safety) Act 2017 (SA)*) at all times. A child safe environment is 'an environment, which is both child-safe and child-friendly, where children are valued and feel respected and encouraged to reach their full potential.'
- 5.2 The Tenant represents to the Landlord that it has fulfilled and will ensure that it continues to fulfil its requirements under the *Children and Young People (Safety) Act 2017 (SA)* in relation to occupying the Premises for the Permitted Use.
- 5.3 The Tenant must act in the best interests of the community at large.
- 5.4 The Tenant must at the request of the Landlord provide a current police clearance or the relevant criminal history screening certificate under relevant legislation for the Tenant or any of the Tenant's officers, volunteers, members, employees, contractors, tenants and agents who provide services from the Premises.
- 5.5 If the Landlord makes a request of the Tenant under this special condition, the Tenant must provide the requested documents to the Landlord within ten (10) Business Days of such request. Failure to do so will be considered a breach of an essential term of this Lease.

6. **Clean and Tidy**

The Tenant must leave the Premises and the Common Areas in a clean and tidy state at the end of each use.

7. **Common Areas**

For the absence of doubt, the Tenant acknowledges and agrees that the areas delineated in blue on the plans attached in Schedule 3 are Common Areas and that it will comply with all the terms and conditions relating to the Common Areas contained herein including but not limited to clauses 1.4, 1.12, 6.5(b), 6.7, 10.6(e), 15.4(a)B, 15.4(a)C, Special Condition 7 and Rule and Regulation 1.12.

8. **Liquor Licence**

8.1 The Tenant must not serve, sell or provide to persons or consume or allow persons to consume alcoholic beverages on the Premises unless it has first obtained both the Landlord's written consent AND any liquor licence(s) required by the *Liquor Licensing Act 1997 (SA)* (**Liquor Act**).

8.2 If the Tenant obtains a licence (or licences) as permitted by this special condition, the Tenant acknowledges and agrees the such liquor licence must only permit the sale, service or consumption of alcohol on the days and during the times as follows:

Sunday to Friday (inclusive) 9:00 am to 12:00 am

Saturday 9:00 am to 1:00 am

8.3 The Tenant further acknowledges and agrees that the Tenant:

- (a) will not do or omit to do or allow to be done or omitted to be done any act whereby any licence issued under the Liquor Act in respect of the Premises or of any business conducted thereon may be liable to be suspended, forfeited or removed from the Premises or in any way prejudicially affected or whereby any offence is committed under the Liquor Act;
- (b) will at the Tenant's own cost at all times during the term of this Lease comply with all of the requirements of the Liquor Act and every order and requirement relating to the Premises made or imposed by the Licensing Authority. In default thereof, it shall be lawful for but not obligatory upon the Landlord to enter the Premises and to comply with, observe, carry out and perform such order or requirement. All costs incurred by the Landlord in so doing shall be repaid by the Tenant to the Landlord upon demand. Any work carried out by the Tenant pursuant to any such order or requirement shall be carried out to the reasonable satisfaction of the Landlord and the Landlord's architect provided that the Tenant shall not be responsible for any structural works except if such works are required due to any act, neglect or omission of the Tenant or the Tenant's use of the Premises;
- (c) will renew any licence issued in respect of the Premises as and when required from time to time;
- (d) will not transfer any licence issued under the Liquor Act in respect of the Premises without the prior written consent of the Landlord;
- (e) will during the term of this Lease supply to the Landlord within seven (7) days after forwarding the same to the Licensing Authority a copy of every form, letter or application required to be lodged with the Licensing Authority pursuant to the Liquor Act; and
- (f) if the Tenant receives any summons, complaint or other legal process or any notice or communication from any person or authority relating to the Premises or to any licence issued in respect thereof, the Tenant shall immediately provide to the Landlord all necessary particulars of such notice or communication and all relevant circumstances and events. The Tenant will not consent to any matter referred to in any such communication nor take any action in relation thereto without first obtaining the written consent of the Landlord.

9. **Hiring out of Premises**

9.1 The Tenant may hire the Premises to other persons or bodies on a casual basis during such times notified by Landlord from time to time strictly in accordance with the following terms and conditions:

- (a) if the party wishing to hire the Premises intends to use any floodlights servicing the outdoor areas of the Premises, then unless the proposed use of the floodlights is restricted to times during which the Landlord has already given permission of floodlighting to be used, the Tenant must first obtain the Landlord's written consent;
- (b) the Tenant must notify the Landlord of the fees set by the Tenant for hiring out the Premises, and any changes to the hire fees within fourteen (14) days of the determination of or change in the hire fees;
- (c) if the Landlord considers at its discretion that the hire fees set by the Tenant are too high or too low (in comparison) with hire fees for similar facilities in those areas of the City of Holdfast Bay council area then it may direct the Tenant to change the hire fees to a level set by the Landlord;
- (d) the Tenant must ensure that any hire agreement it enters into does not breach any provision of this Lease and is in such form notified and approved by Landlord;
- (e) upon written request, the Tenant must provide the Landlord with a full report in relation to the hiring out of the Premises, such details to include the dates, times, name of the hiring party, event purpose, fees charged and any other details reasonably requested by the Landlord;
- (f) the Tenant must not unreasonably refuse to hire out or otherwise licence the Premises to any person or organisation upon receipt of a request to do so from the Landlord and/or any member of the public at any time other than when the Premises are:
 - A. actively in use by the Tenant; or
 - B. on hire or licensed to another person or organisation pursuant to this special condition; and
- (g) when the Premises or the Building is being used for any function or is otherwise being used in relation to any hiring out, the Tenant must ensure that:
 - A. any noise is kept to a level that does not cause unreasonable annoyance or nuisance to any persons who occupy nearby space or premises; and
 - B. the use and enjoyment of the Land by any other party or licensee then in possession of or otherwise using the Land is not unduly interfered with or otherwise impeded.

10. **Tenant's Fixtures and Fittings**

- 10.1 For the avoidance of doubt, the Tenant acknowledges that the Landlord has no liability or responsibility for any fixtures, fittings and/or other items installed, owned or otherwise brought onto the Premises by the Tenant.
- 10.2 At the expiration or earlier determination of the this Lease, if requested in writing by the Landlord, the Tenant must, in consideration for \$1.00 (if demanded) transfer ownership to the Landlord all such fixtures and fittings within the Premises, free of any other interests, which are nominated by the Landlord pursuant to this special condition.

11. **Tenant Reporting**

- 11.1 Subject to Special Condition 1.4, the Tenant must provide quarterly reports to the Landlord within twenty-one (21) days of 30 June, 30 September, 31 December and

31 March of each year, which must include the following information for the relevant quarter:

- (a) details of all bookings and actual use by community user groups and hirers including number of bookings per group, attendance numbers, hire charge, bar revenue and kiosk revenue;
- (b) details of all maintenance carried out or caused to be carried out by the Tenant;
- (c) details of any maintenance of a structural nature which the Tenant is aware of or has identified which the Tenant believes should be undertaken. For the avoidance of doubt, notice by the Tenant under this Special Condition of any such maintenance does not oblige the Landlord to commence or complete any maintenance, repair or replacement works with respect to the matter;
- (d) details of and all reporting information as required by the Work Health and Safety Act 2012, Work Health and Safety Regulations 2012 and all relevant codes of practice (as amended from time to time) regarding any incidents or risks; and
- (e) any changes or proposed changes to fee structures.

12. Council Rebate

The parties acknowledge that there is no automatic right to a council rate rebate levied on the Premises. The Tenant has an opportunity to request the Landlord to apply a rebate of the rates levied on the Premises by lodging an application with the Landlord in accordance with the Landlord's prescribed form by no later than 15 May each year during the Term of this Lease. The prescribed form can be requested from the Landlord during April in each calendar year.

SCHEDULE 2 Maintenance Schedule

1. This schedule outlines specific responsibilities of Landlord and the Tenant, where applicable, and must be read in conjunction with relevant provisions within this Lease including but not limited to **clauses 6 and 14**. This schedule is not an exhaustive list and the obligations on the parties are not limited to the items below, rather they form part of the maintenance, repair and replacement obligations outlined in clause 6.
2. For the absence of doubt, the Tenant acknowledges and agrees that it is responsible, at its own cost and expense, to keep the Premises clean, free from damage and misuse and in the same condition as it was as at the commencement date of this Lease (fair wear and tear excepted). As outlined in clause 6 of this Lease, but not expressly stated below, this obligation extends to making good (to the Landlord's satisfaction, acting reasonably) any damage to the Premises howsoever caused or contributed to by the Tenant or any of the Tenant's members, servants, agents, Tenants or invitees.
3. The Landlord is responsible for structural and capital repairs, maintenance and replacement except to the extent that such repairs, replacement and costs are required as a result of the act, omission or negligence of the Tenant or any of the Tenant's members, servants, agents, Tenants or invitees.
4. To the extent of any inconsistency with this Maintenance Schedule and the main provisions of this Lease, this Maintenance Schedule will prevail.
5. In this Schedule 2:
 - (a) *all references to "end of life" must be interpreted as being the period over which an asset is expected to be available for use by the Tenant if properly maintained and repaired in good order, or the asset has fully depreciated such that it has no economic life;*
 - (b) *all references to "periodically" must be interpreted to any program or time frame stated within any manufacturing specifications, Australian Standards or industry best practice benchmarking, as notified by the Landlord to the Tenant from time to time; and*
 - (c) *The Landlord's responsibility is limited to the extent that such repairs, maintenance or replacement is required as a result either directly or indirectly of the act, omission or negligence of the Tenant or its members, agents, servants, Tenants or invitees.*

Leased Area – Internal Building

Item	Tenant's responsibility		Frequency	Landlord's responsibility
	Organised and paid by Tenant	Organised by Landlord AND on charged to Tenant		
General cleaning (excepting kitchen area)	Nil responsibility		Periodically	Landlord to effect contract
Kitchen and Bar including but not limited to all kitchen appliances, grease arrestors, equipment, fridges, cool room, storage, taps, sinks, and all fixtures and fittings as may form part of the kitchen and bar area from time to time	Tenant required to undertake cleaning in respect of the kitchen as well as regular maintenance, servicing and cleaning contract in respect of the grease arrestors and any other appliances or equipment as may be required by the Landlord from time to time	Portion of costs in respect of Landlord's other maintenance contracts may be passed on in accordance with the terms of the Lease	As required	Service and maintenance obligations (except when Tenant is responsible). Replace at end of life – TBC

Water, sewer and gas piping	Keep free from blockages – unblock / repair drains, unless caused by the Landlord		As required	Repair / unblock drains where damage caused by Landlord Replace at end of life
Hot water systems	Utility costs associated with HWS		As Required	Maintenance and replacement at end of life
Security Alarm System and general Cameras, if installed (System owned and managed by Council)	Operate as required and keep free of damage	Call outs or attendance by security patrols or MFS caused by the Tenant and their activities Any approved changes to the system or its configuration that are requested by the Tenant.	Periodically	Oversee any additions or changes. Manage Council owned CCTV Configuration of the systems, servicing, maintenance and monitoring. Replace at end of life
POS CCTV equipment, if installed (System owned and managed by Council)		Call outs or attendance by security patrols or MFS caused by the Tenant and their activities Any approved changes to the system or its configuration that are requested by the Tenant	As required	Oversee any additions or changes. Manage Council owned CCTV Configuration of the systems, servicing, maintenance and monitoring. Replace at end of life
Fire extinguishers, hose reels and fire blankets, sprinkler systems etc	Make sure fire equipment is accessible at all times. Report any damage or usage of fire equipment to Landlord.	Repair, replace or replenish if used or damaged by Tenant	Periodically	Service, maintain and replace fire extinguishers and blankets, hose reels and sprinkler systems at end of life unless damaged caused by Tenant

Emergency exit lighting and evacuation signage	Make sure exit lighting and evacuation signage can be seen and is operational at all times. Report any failures or damage to Landlord as soon as reasonably practicable	Repair / replacement / reinstatement required to make good damage caused or contributed to by Tenant to the Landlord's satisfaction (acting reasonably)	Periodically	Full responsibility
Smoke detectors	Report any failures or damage to Landlord as soon as reasonably practicable	Call outs or attendance by security patrols or MFS caused by the Tenant and their activities Any approved changes to the system or its configuration that are requested by the Tenant	Periodically	Configuration of the system, servicing, maintenance and monitoring. Replacement at end of life
Telecommunications	Full responsibility		As required	Nil responsibility
Doors, locking mechanisms	Do not obstruct and keep clean , free of damage and in the same condition as at the commencement date of the Lease (fair wear and tear excepted)	Full responsibility re Tenant's proportion of costs of and incidental to proximity card replacement, maintenance and repair	As required	Service and maintain and replace at end of life
Lighting fixtures	Keep clean and in the same condition as at the commencement date of the Lease		As required	Replace light fittings and globes, ballast's and fuses. Repair/replace wiring Connections.
Flooring (all types)	Keep clean, free of damage and treat as required by type of floor covering and keep free from dirt, debris and stains		As required	Replace at end of life

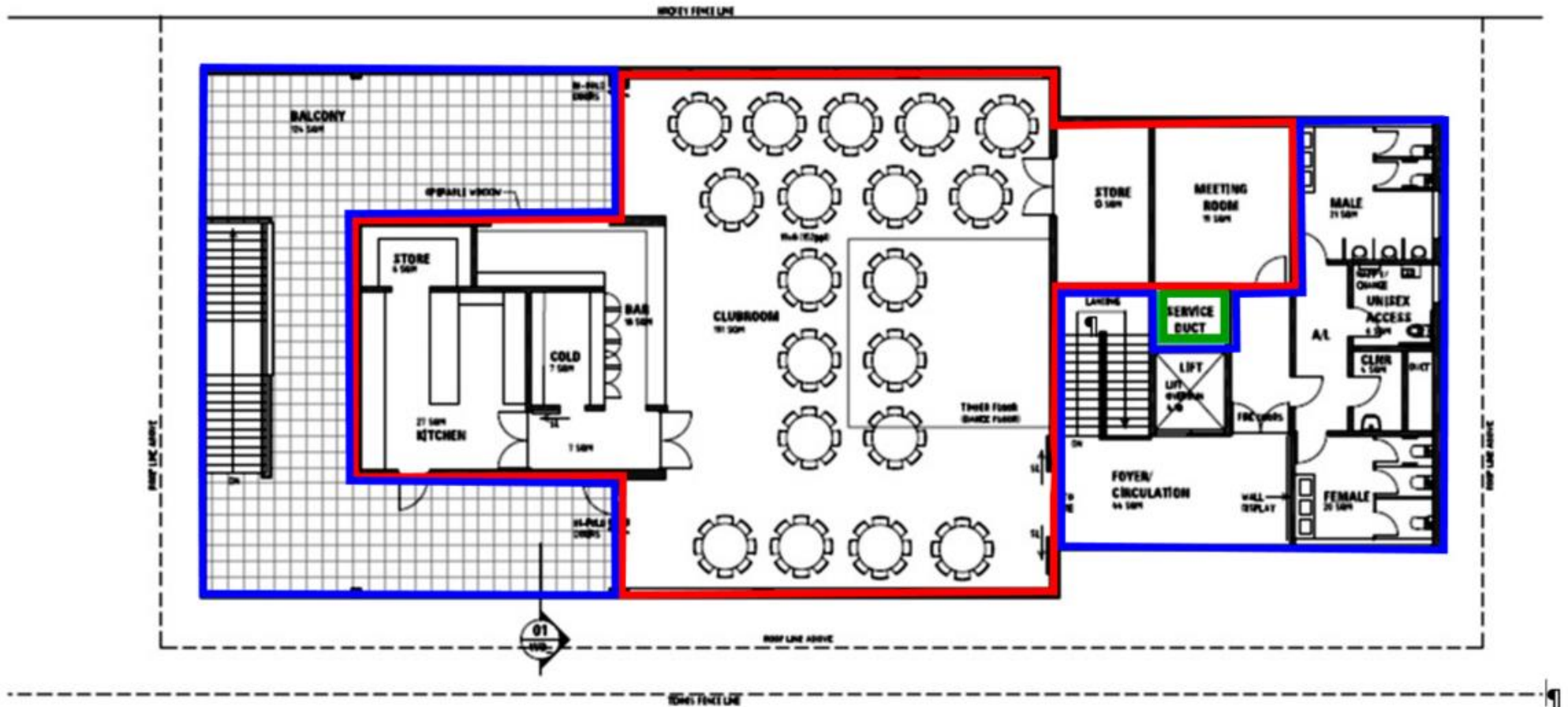
Air conditioning units/thermostats, ducting etc	Keep clean, free of damage and in the same condition as at the commencement date of the Lease (fair wear and tear excepted)	Regular service and repairs to maintain working order (including maintenance contract with third party)	In line with manufacturer's specification	Replace at end of natural life
Electrical services, sub switchboards, distribution boards and power lighting circuits	Keep free of damage and in same condition as at the commencement date of the Lease (fair wear and tear excepted)		As required	Full responsibility
Electrical Tagging and Testing (excepting Tenant equipment)	Nil responsibility		Periodically	Full responsibility
Water/waste services – associated fittings including taps etc	Clean fittings, toilet, sinks, etc. – maintain and replace washers and keep free of damage and in same condition as at the commencement date of the Lease (fair wear and tear excepted)		Periodically	Replace sinks, drains and toilets at end of life
Internal Walls/screens, etc	Keep clean, free from damage and in same condition as at the commencement date of the Lease (fair wear and tear excepted). Touch up painting when required.		Periodically	Responsibility for structural maintenance and periodic scheduled repainting, replace at end of life.
Tenant's fixtures, fittings and loose / soft furniture and equipment	Full maintenance and responsibility		As required	Nil responsibility except to the extent damage caused by act or negligence of Landlord
Pest removal	Full responsibility		As required	Nil responsibility

Electrical Tagging and Testing of Tenant's electrical items and equipment	Full responsibility		Periodically	Nil responsibility
Window Coverings (curtains, blinds, shutters, etc)	Nil responsibility		As required	Full responsibility, replace at end of life
Plate Glass	If Tenant liable, make good damage caused or contributed to by Tenant to the Landlord's satisfaction (acting reasonably)		As required	Landlord to repair and reinstate if liable. Replace at end of life.

Upstairs Common Areas

Item	Tenant' responsibility		Frequency	Landlord's responsibility
	Organised and paid by Tenant	Organised by Landlord, on charged to Tenant		
All upstairs common areas (excluding service duct area and cleaner's storage room)	Keep clean, tidy after each and every use, free from obstruction and damage and in same condition as at the commencement date of the licence (fair wear and tear excepted).	Repair / replacement / reinstatement / repainting required to make good damage caused or contributed to by Tenant to the Landlord's satisfaction (acting reasonably)	As required	Landlord to repair, replace and reinstate except as otherwise required.

Schedule 3
Plan of Premises



RULES AND REGULATIONS

1. The Tenant must not:
 - 1.1 smoke in the Building or on the areas outside the Building on the Land;
 - 1.2 put up signs, notices, advertisements, blinds or awnings, antennae or receiving dishes or install vending or amusement machines without the Landlord's approval;
 - 1.3 hold auction, bankrupt or fire sales in the Premises;
 - 1.4 keep an animal or bird on the Premises;
 - 1.5 use a business name which includes words connecting the business name with the Building without the Landlord's approval;
 - 1.6 remove floor coverings from where they were originally laid in the Premises without the Landlord's approval;
 - 1.7 do anything to the floor coverings in the Building which affects any guarantee in connection with them if the Landlord has given the Tenant a notice setting out the relevant terms of the guarantee;
 - 1.8 use any method of heating, cooling or lighting the Premises other than those provided or approved by the Landlord;
 - 1.9 operate a musical instrument, radio, television or other equipment that can be heard outside the Premises;
 - 1.10 throw anything out of any part of the Building;
 - 1.11 move heavy or bulky objects through the Building without the Landlord's approval;
 - 1.12 obstruct:
 - (a) windows in the Premises except by internal blinds or curtains approved by the Landlord;
 - (b) any air vents, air conditioning ducts or skylights in the Premises; or
 - (c) emergency exits from the Building or the Premises; or
 - (d) the Common Areas; or
 - (e) interfere with directory boards provided by the Landlord.
2. The Tenant must:
 - 2.1 put up signs in the Premises prohibiting smoking if required by the Landlord;
 - 2.2 if the Landlord approves the Tenant's use of a business name which is connected with the Building, terminate any right it has to use that business name on the date it must vacate the Premises;
 - 2.3 participate in any emergency drill of which the Landlord gives reasonable notice;
 - 2.4 evacuate the Building immediately and in accordance with the Landlord's directions when informed of any actual or suspected emergency; and
 - 2.5 secure the Premises when they are unoccupied and comply with the Landlord's directions about Building security.

IMPORTANT NOTICE

EXCLUSION OF WARRANTY OF FITNESS FOR PURPOSE

THE LANDLORD DOES NOT WARRANT THAT THE PREMISES YOU ARE ABOUT TO LEASE WILL, FOR THE DURATION OF YOUR LEASE, BE STRUCTURALLY SUITABLE FOR THE TYPE OF BUSINESS THAT YOU INTEND TO CARRY ON.

SIGNED as an agreement

DATED

**THE COMMON SEAL of
CITY OF HOLDFAST BAY**
was hereunto affixed in the presence of:

.....
Mayor

.....
Chief Executive Officer

**THE COMMON SEAL of
SEACLIFF SPORTS CLUB INC**
was affixed pursuant to the *Associations
Incorporation Act 1985 (SA)* in accordance with
its constitution:-

.....
Chairperson/Vice-Chairperson
(Please delete as applicable)

.....
Signature of Committee/Board Member
{Please delete as applicable}

.....
Print Full Name

.....
Print Full Name

Item No: 15.4

Subject: SEACLIFF AND SOMERTON PARK COMMUNITY KINDERGARTEN
LEASES

Summary

For a considerable period, the Department for Education (*“Department / Lessee”*) has held a lease over two Council owned properties (located at 47 Kauri Parade Seacliff and 1/3 Grantham Road Somerton Park) for the purpose of operating Seacliff and Somerton Park Community Kindergartens. The current lease agreements for both properties expire on 30 June 2024 and the lessee is now seeking new agreements for both kindergartens. As the Department has proven to be a worthwhile tenant over many years, this report recommends that Council enters into new Lease Agreements for both properties for a period of five years.

Recommendation

That:

- 1. Council enters into a new Lease Agreement with the Minister for Education, Training and Skills for a term of five years commencing 1 July 2024 over the whole of the land contained within Certificate of Title Volume 6016 Folio 186 (Seacliff Community Kindergarten);**
 - 2. a commencing annual rent of \$1,200 (plus GST) be charged to the Lessee for the Seacliff Community Kindergarten;**
 - 3. the Mayor and Chief Executive Officer be authorised to execute and seal any documents required to give effect to the lease for the Seacliff Community Kindergarten provided as Attachment 1 to this report;**
 - 4. Council enters into a new Lease Agreement with the Minister for Education, Training and Skills for a term of five years commencing 1 July 2024 over portion of land contained within Certificates of Title Volume 5719 Folio 136 and Volume 5796 Folio 800 (Somerton Park Community Kindergarten).**
 - 5. a commencing annual rent of \$900 (plus GST) be charged to the Lessee for the Somerton Park Community Kindergarten; and**
 - 6. the Mayor and Chief Executive Officer be authorised to execute and seal any documents required to give effect to the lease for the Somerton Park Community Kindergarten provided as Attachment 2 to this report.**
-

Background

At its meeting held 9 April 2019, Council resolved to grant separate leases to the Department for Education (through the relevant Minister at the time) over two Council owned properties (located at 47 Kauri Parade Seacliff and 1/3 Grantham Road, Somerton Park) for the purpose of operating two community kindergartens for a five-year term to 30 June 2024, without a further right renewal (Resolution No. C130224/7674).

Report

The Seacliff and Somerton Community Kindergartens provide an invaluable service to the communities they serve and have done so in their current premises since 1968 and 1976 respectively. With access to affordable early learning becoming increasingly difficult for many families, it remains important that the City of Holdfast Bay make its premises available to the Department for Education so that it can continue to provide access to safe and affordable kindergartens to the Seacliff and Somerton communities. Administration has negotiated the terms of new leases with the Department for Education based on the *Sporting and Community Club Leasing Policy*. The rent amounts for both premises are derived by referencing the *Sporting and Community Club Leasing Policy* and applying the 2.5% market rental rate and community benefit discounts of 60% to the combined value of both the land and main building for the Seacliff property, to which the Lessee will maintain exclusive use rights.

The basic terms negotiated for the Seacliff Kindergarten located at 47 Kauri Parade, Seacliff afford the Department for Education a five-year tenure of the premises from 1 July 2024 at a commencing rent of \$900.00 (plus GST), with a right of renewal for a further five years. The draft lease containing all the terms of the agreement is provided as Attachment 1 to this report.

Refer Attachment 1

The basic terms negotiated for the Somerton Kindergarten located at 1/3 Grantham Road, Somerton Park afford the Department for Education a five-year tenure of the premises from 1 July 2024 at a commencing rent of \$1,200.00 (plus GST), with a right of renewal for a further five years. The draft lease containing all the terms of the agreement is provided as Attachment 2 to this report.

Refer Attachment 2

Budget

The anticipated rent received from the Department for Education for both the Seacliff and Somerton Kindergartens is factored into Council's Annual Business Plan for 2024-25.

Life Cycle Costs

There are no lifecycle costs associated with granting each lease.

Strategic Plan

Vision - creating a welcoming and healthy place for everyone

Council Policy

Sporting and Community Leasing Policy

Statutory Provisions

Local Government Act 1999

Retail and Commercial Lease Act 1995

Written By: Manager, Development Services

General Manager: Strategy and Corporate, Ms S Wachtel

Attachment 1

LEASE

PRIVACY COLLECTION STATEMENT: The information in this form is collected under statutory authority and is used for maintaining publicly searchable registers and indexes. It may also be used for authorised purposes in accordance with Government legislation and policy requirements.

LAND DESCRIPTION

The whole of the land comprised in Certificate of Title Register Book Volume 6016 Folio 186 as delineated in red on the plan annexed hereto and being commonly known as 47 Kauri Parade Seacliff South Australia

ESTATE & INTEREST

Fee simple

LESSOR (Full name and address)

CITY OF HOLDFAST BAY ABN 62 551 270 492 of 24 Jetty Road Brighton South Australia 5048

LESSEE (Full name, address and mode of holding)

MINISTER FOR EDUCATION, TRAINING AND SKILLS ABN 91 814 239 978 pursuant to the *Administrative Arrangements Act 1994 (SA)* of 31 Flinders Street Adelaide South Australia 5000

TERM

FIVE (5) YEARS

COMMENCING ON 1 JULY 2024

AND

EXPIRING AT 11.59PM ON 30 JUNE 2029

together with a right of renewal for a further five (5) years

RENT AND MANNER OF PAYMENT (or other consideration)

At a commencing rent of ONE THOUSAND TWO HUNDRED DOLLARS (\$1,200.00) per annum plus GST payable annually in advance and reviewed in accordance with clause 2.5 of this Lease

IT IS COVENANTED BY AND BETWEEN THE LESSOR AND THE LESSEE as listed herein:

(Covenants, where not deposited, to be set forth on insert sheet(s) and securely attached)

OPERATIVE CLAUSE **Delete the inapplicable*

The Lessor LEASES TO THE LESSEE the land *above / ~~*hereinafter~~ described and the LESSEE ACCEPTS THIS LEASE of the land for the term and at the rent stipulated, subject to the covenants and conditions expressed *herein / ~~*in Memorandum No.~~ and to the powers and covenants implied by the Real Property Act 1886 (except to the extent that the same are modified or negated below).

DEFINE THE LAND BEING LEASED INCORPORATING THE REQUIRED EASEMENT(S) ETC.

Not Applicable

CONSENTS OF MORTGAGEES AND SECTION 32 DEVELOPMENT ACT 1993 CERTIFICATION

This Lease does not contravene Section 101 of the Planning, Development and Infrastructure Act 2016.

1. The following definitions and rules shall apply unless they are inconsistent with the context:-
 - 1.1 “**Accounting period**” means respectively:
 - 1.1.1 the period from the commencement of the term to the next 30th June;
 - 1.1.2 each successive period of twelve months commencing on the 1st July and expiring on the next 30th June during the term and any extension of the term;
 - 1.1.3 the period from the 1st July in the last year of the term (or the last year of the extended term if the term be extended) to the date of expiration of this Lease.
 - 1.2 “**the Act**” means the Retail and Commercial Leases Act 1995.
 - 1.3 “**the building**” means the building or buildings erected on the Land and also the fixtures and fittings in the building together with any extensions or alterations subsequently made to the building.
 - 1.4 “**Clean**” means the maintenance of the premises and the water closets washrooms and lavatories of the building in a thoroughly clean sanitary and tidy condition including but without limiting the generality thereof the cleaning of the exterior and interior of all windows and glass doors, the removal of all waste and garbage from the premises the building and the Land and ensuring that at all times there is a good and sufficient supply of paper towels and other toilet requisites and services in the water closets washrooms and lavatories of the building. “**Cleaning**” shall have a corresponding meaning.
 - 1.5 “**GST**” means any goods and services tax, value added tax, retail sales tax, consumption tax or other similar tax, duty, excise, surcharge, levy or other impost introduced at any time by the Commonwealth Government or the Government of South Australia.
 - 1.6 “**the Land**” means the land described in Item 2 of the Schedule and includes any part of the Land.
 - 1.7 “**Lessee**” means the party described in the “Lessee” panel on the first page of this Lease and includes:-
 - 1.7.1 the executors administrators and permitted assigns of the Lessee if the Lessee is a natural person,
 - 1.7.2 the successors and the permitted assigns of the Lessee if the Lessee is a body corporate,
 - 1.7.3 any and all Trust or Trusts of which the Lessee is trustee,
 - 1.7.4 (where the context allows) any servants workmen or agents of the Lessee and any other person in or about the premises at any time at the request or invitation of or under the control or direction of the Lessee,

If the Lessee comprises two or more persons the word “Lessee” shall apply to them jointly and each of them severally.
 - 1.8 “**Lessor**” means the party described in the “Lessor” panel on the first page of this Lease and includes:

- 1.8.1 the executors administrators and assigns of the Lessor if the Lessor is a natural person,
 - 1.8.2 the successors and the assigns of the Lessor if the Lessor is a body corporate,
 - 1.8.3 (where the context allows) any servants workmen or agents of the Lessor,
- 1.9 **"the Lessee's proportion"** means the same proportion as the lettable area of the premises bears to the whole of the lettable area of the building such lettable areas to be determined in accordance with the method of measurement recommended for such premises by the guidelines published by the Property Council of Australia current at the date of commencement of this Lease (or if such guidelines are not then current, then the guidelines published in March 1997).
- 1.10 **"the premises"** means that portion of the building and the Land as is described in the "Land Description" panel on the first page of this Lease and any part thereof and includes all buildings improvements appurtenances alterations or additions (if any) now or hereafter situated thereon and any fixtures fittings plant equipment goods chattels furniture furnishings and effects (if any) of the Lessor therein or thereabouts including but without limiting the generality of the foregoing those items particularly referred to in Item 1 of the Schedule.
- 1.11 **"the term"** and **"the term hereof"** means the term specified on the first page of this Lease in the section marked "TERM" and includes any extension of the term and any period during which the Lessee shall hold over or be or remain a tenant or be in occupation of the premises.
- 1.12 **"Rules and Regulations"** means the procedures and rules and regulations annexed hereto and so entitled and or as may from time to time be made, varied or amended by the Lessor pursuant to this Lease.
- 1.13 **"the Schedule"** means the Schedule annexed hereto and so entitled.
- 1.14 **"Operating Expenses"** means (to the extent that the same are not specifically payable by any tenant of the building or the Lessee pursuant to this Lease) all amounts paid or payable by the Lessor or payments which the Lessor properly incurs or may be or become liable for in any one Accounting period or in any other lesser or relevant period in respect of the Land and the building whether by direct assessment or otherwise howsoever and includes:
- 1.14.1 all rates, taxes, duties, charges assessments, levies and impositions of any statutory authority, department or authority having the power to raise or levy such amounts in respect of the use, ownership or occupation of the Land, the building or the premises or any part thereof including State Land Tax (on the basis the Land is a single holding) and any charges for excess water but excluding income tax capital gains tax and all other taxes applicable to income or capital gain payable by the Lessor;
 - 1.14.2 the cost of insuring the building on such terms and conditions the Lessor considers appropriate from time to time;
 - 1.14.3 the costs of insuring the Lessor against public risk on such terms and conditions the Lessor considers appropriate from time to time,

- 1.14.4 the amount of any excess or deductible not paid or excluded under any insurance policy taken out by the Lessor;
- 1.14.5 insurance premiums and other charges including stamp duty for workers compensation insurance for all employees of the Lessor engaged in employment in the building;
- 1.14.6 the costs of electricity or other sources of energy consumed in the production and reticulation of chilled water and conditioned air for the air conditioning equipment servicing the building and all other costs arising from the operation of the air conditioning system including but not limited to fuel oil grease labour and a full comprehensive maintenance contract (if any);
- 1.14.7 all reasonable costs and charges for water gas electricity and any other energy consumed in or about the building for the operation of lifts, fire protection equipment or any other services in the building not otherwise expressly referred to or provided for herein;
- 1.14.8 the cost of caretaking and security services;
- 1.14.9 all reasonable legal, accounting and other professional fees incurred in connection with the conduct and operation of the building and in particular any such fees of and incidental to the preparation of any estimates or statements of Operating Expenses or otherwise required to be furnished by the Lessor to the Lessee hereunder or at law.
- 1.14.10 all and any other expenditure costs or expenses incurred by the Lessor in or about or incidental to the building or the premises not hereinbefore expressly referred to;

but where the Act applies to this Lease, shall not include such of the abovementioned as the Act may preclude the Lessor from recovering from the Lessee.

- 1.15 If the premises are or become part of land to which either the Strata Titles Act 1988 or the Community Titles Act 1996 applies then:
 - 1.15.1 "**the Titles Act**" means that of the above Acts which applies;
 - 1.15.2 "**the Division Plan**" means the plan referred to in the Certificate of Title for the Land in the description of the Land (and if that be a community plan, all primary and secondary community plans which are associated with that plan);
 - 1.15.3 "**the body corporate**" means the corporation established pursuant to the provisions of the Titles Act in relation to the subdivided property;
 - 1.15.4 "**the subdivided property**" means the whole of the real property included in the Division Plan of which the Land forms part and all buildings and improvements thereon;
 - 1.15.5 "**the by-laws**" means the by-laws applicable to and or made by the body corporate from time to time;
- and
- 1.15.6 included in the definition of Operating Expenses shall be

- (a) payments required to be made by the Lessor to the body corporate for services and other work in relation to the premises and or the buildings on the subdivided property and which services and work or payments are not otherwise required to be met by the Lessor pursuant to this Lease;
- (b) monies required to be paid by the Lessor to the body corporate pursuant to the provisions of the Titles Act.

- 1.16 Headings to clauses shall not form part of this Lease or be used for the purpose of interpretation but shall be deemed to be for the purpose only of facilitating reference to the various provisions of this Lease.
- 1.17 Where the context of this Lease permits or requires:
- 1.17.1 words in the singular shall include the plural and words in the plural include the singular;
 - 1.17.2 words of or importing the masculine gender include the feminine gender;
 - 1.17.3 words referring to a person include a body corporate,
- 1.18 A reference to any statute code or regulation includes all amendments and revisions made from time to time to that statute code or regulation and any statute code or regulation passed in substitution therefor or incorporating any of its provisions.
- 1.19 Any provision of this Lease which by virtue of the Act (if it applies to this Lease) or any other statute or law is invalid void or unenforceable, shall be capable of severance without affecting any other provision of this Lease.
- 1.20 A reference in this Lease to the Lessor's approval or consent, is to the Lessor's prior written approval or consent which may be granted or withheld in the absolute discretion of the Lessor;

2. RENT, RENT REVIEW AND LESSEE'S CONTRIBUTION TO OPERATING EXPENSES

Rent

- 2.1 The Lessee must pay the rent to the Lessor at the Lessor's business address or at such other place as may be directed by the Lessor or the Lessor's agent. The Lessee must pay the rent in advance, the first payment to be made on or before the commencement of this Lease and subsequent payments on the same day of each calendar month during the term without any abatement or deduction whatsoever and without any demand having been made.

GST

- 2.2 Unless otherwise stated in Item 7 of the Schedule, rent and other monies payable by the Lessee to the Lessor pursuant to this Lease do not include any GST. If a GST is chargeable with respect to the payment by the Lessee to the Lessor of rental and or other monies pursuant to this Lease, the Lessee must pay the GST or reimburse the Lessor for any GST paid or payable by the Lessor with respect to such rental and or other monies. The Lessor must provide to the Lessee an appropriate Tax Invoice in respect of any such GST payment or re-imbusement by the Lessee.

Additional Rent

- 2.3 The Lessee must pay to the Lessor as additional rent:
- 2.3.1 a proportion of the Operating Expenses as specified in clause 2.4 of this Lease;
 - 2.3.2 where the Lessor provides a cleaning service for the building, the Lessee's proportion of the cost of such cleaning service.

Payment of Operating Expenses

- 2.4 The Lessee must pay the Lessee's proportion of the Operating Expenses by way of equal monthly payments together with the rent each month or by way of lump sum payments as Operating Expenses are incurred or payable by the Lessor (as the Lessor may direct). If the year in which any particular operating expense is payable does not coincide with a year of this Lease, the amount the Lessee is to pay in the first and last years of this Lease is to be adjusted proportionately. The Lessor shall calculate the actual amount payable by the Lessee pursuant to this clause as soon as possible after the 30th June in each Accounting period and shall adjust any difference. Any over-payment by the Lessee shall be credited to the first payment due by the Lessee after the assessment is made (or refunded if the Lease is at an end) and any under-payment by the Lessee shall be added to the first payment to be made by the Lessee after the assessment is made (or will be paid by the Lessee forthwith on demand if the Lease is at an end).

Rent Review

- 2.5 The rental reserved by this Lease shall be reviewed on the dates and in the manner set out in Item 5 of the Schedule. If this Lease is not a Lease to which the Act applies, the rental payable pursuant to any review of rental shall in no case be less than the rental payable immediately prior to the relevant review date.

Interest on Late Payments

- 2.6 The Lessee must pay to the Lessor interest at a rate being two percentum per annum (2%) higher than the rate charged from time to time by the Commonwealth Bank of Australia on overdraft accounts on amounts no greater than the annual rental payable hereunder, on any rent or other moneys becoming payable under this Lease if not paid within ten days of becoming due and payable and such interest shall be computed on and from the due day for payment and shall accrue from day to day until the date of actual payment. Such interest and other moneys shall be recoverable in like manner as rent in arrears.

3. MAINTENANCE, REPAIRS, ALTERATIONS AND ADDITIONS

Maintenance

- 3.1 The Lessee must keep
- 3.1.1 the premises,
 - 3.1.2 the sanitary water electricity and gas apparatus therein, and
 - 3.1.3 the Lessor's fixtures and fittings and all glass doors and glass windows

in at least the same condition and working order (as applicable) as at the date the Lessee first took occupation of the premises (fair wear and tear excepted). For the avoidance of doubt, the Lessee is responsible for all repairs, maintenance, replacements and renovations in connection with the premises (irrespective of whether those costs are general, capital and/or structural). Such maintenance, repairs, replacement and renovation includes the car parking areas, pedestrian areas and landscaped areas within and around the building the building, air conditioning equipment, fire protection equipment and other services and plant and equipment in the building.

Maintenance of Plant and Equipment

3.2 If the Lessee exclusively uses any plant or machinery installed in the premises or the Lessor installs any plant or machinery at the request of the Lessee within and or servicing the premises then the Lessee must keep all such plant or machinery maintained serviced and in good repair and will enter into and keep current at the Lessee's expense such maintenance service and repair contracts as are reasonably required by the Lessor for that purpose with contractors approved by the Lessor.

Removal of Waste and Repair of Damage

3.3 The Lessee must at the Lessee's expense:

- 3.3.1 ensure that all waste is placed daily in suitable receptacles and subject to clause 3.4, ensure the premises to be cleaned regularly in a proper and workmanlike manner and ensure all waste and refuse promptly and regularly removed from the Land (and in so far as wet refuse is concerned, daily outside normal trading hours);
- 3.3.2 as soon as is reasonably possible make good any damage to any part of the building or to the premises or any part thereof (including ceilings) caused or contributed by the Lessee;
- 3.3.3 immediately replace all broken glass in respect of the premises;
- 3.3.4 take any steps necessary to control any pest infestation occurring within the premises and if required by the Lessor engage a pest exterminator approved by the Lessor;
- 3.3.5 repair or where appropriate replace heating lighting electrical and plumbing fittings installed in the premises broken or damaged by the Lessee;
- 3.3.6 comply with all statutes ordinances proclamations orders and regulations affecting the premises or any fixtures or fittings installed by the Lessee therein;
- 3.3.7 comply with any notices or orders which may be given by any competent authority in respect of the premises or their use by the Lessee and keep the Lessor indemnified for all such matters.

Cleaning

3.4 If the Lessor provides a service for the routine cleaning of the building the Lessee must, if reasonably so required by the Lessor, use such service for the cleaning of the premises (to the extent that that service applies) and shall permit the Lessor's cleaning contractors to have access to the premises at all reasonable times for the

purpose of carrying out such cleaning. The Lessee must pay to the Lessor in addition to the rent and as and when required by the Lessor, the cost of the cleaning of the premises and the Lessee's proportion of the overall costs of the cleaning of the building.

Alterations and Additions

- 3.5 3.5.1 The Lessee must not install or use in the premises internal partitions other than of a standard as to type quality and size as the Lessor shall approve.
- 3.5.2 The Lessee must not install or place in the premises any heavy item fixture or fitting which may (in the reasonable opinion of the Lessor) cause unreasonable noise or vibrations, overload the switchboard or cause structural or other damage to any part of the building.
- 3.5.3 The Lessee must not make alterations or additions to the premises nor install or alter any partitioning in the premises without the Lessor's prior written approval, and :
- (a) in seeking the Lessor's approval to a proposed alteration or addition or installation/alteration the Lessee must submit plans and specifications of the proposed work;
 - (b) the Lessor may require as a condition of its approval that:
 - (i) any such work be supervised by a person nominated by the Lessor;
 - (ii) any such work be executed by contractors or tradesmen in a tradesmanlike manner under the supervision of appropriately qualified persons approved by the Lessor with public liability insurance for an amount that in the reasonable opinion of the Lessor is adequate;
 - (iii) the Lessee pay all reasonable costs incurred by the Lessor in considering the proposed works and their supervision including the fees of architects or other building consultants employed by the Lessor;
 - (iv) the Lessee obtain from any competent authority all necessary approvals or permits necessary to enable such proposed work to be lawfully effected and on request by the Lessor produce for inspection to the Lessor copies of all such approvals and permits;
 - (v) upon completion of the works, the Lessee produce to the Lessor any certificates of compliance issued by any such competent authority;
 - (vi) the Lessee reimburse the Lessor any reasonable cost or expense that may be incurred by the Lessor as a result of the installation operation or removal of any equipment fixture fitting or machinery.
- 3.5.4 The Lessee must not without the prior written consent of the Lessor cause any advertisement notice poster hoarding or sign to be affixed to or placed

near any window in the premises so as to be visible from the outside of the building.

- 3.5.5 If the Lessor causes any alterations or improvements to be made to the premises at the request of the Lessee or as a result of a notice received from any government or semi-government authority with such notice being predominately as a result of the nature of the Lessee's business or the occupation of the premises by the Lessee the annual rental otherwise payable by the Lessee hereunder as at the date of completion of such alterations or improvements shall be increased by an amount equivalent to not less than fifteen (15%) per centum of the amount certified in writing by an Architect nominated by the Lessor to be the completed value of such alterations or improvements. The stipulations contained in this Lease relating to the time method and manner of payment of rental shall also apply to any increase in the rental determined in accordance with the provisions of this clause

Removal of Fixtures and Fittings

- 3.6 3.6.1 Unless otherwise agreed by the parties in writing the Lessee must prior to the expiration of the term remove all partitions alterations or additions installed or made by the Lessee and make good any damage to the premises (including floors carpets walls and ceilings) caused by such removal. Where the term of this Lease shall be determined prior to the expiration of the term the Lessee must effect such removal and make good any such damage within a reasonable time after such determination.
- 3.6.2 If the Lessee shall not have completed such removal and making good on the expiration of the term of this Lease (or in the case of the determination of the term of this Lease within a reasonable time after such determination) then (without prejudice to any other rights of the Lessor) the Lessor may remove and store such partitions alterations or additions as the Lessee shall have failed to remove and the Lessee must repay on demand all reasonable costs and expenses incurred by the Lessor in so doing.
- 3.6.3 The Lessor may alternatively elect not to effect such removal in which case the Lessor shall by notice in writing given to the Lessee notify the Lessee that unless the Lessee shall have effected such removal within fourteen (14) days of the date on which such notice is given such partitions alterations or additions as have not been removed by the Lessee shall be forfeited to the Lessor and where the Lessee fails to comply with such notice such partitions alterations and additions shall at the expiration of such fourteen (14) day period become the absolute property of the Lessor.
- 3.6.4 Until such time as the Lessee has removed the Lessee's partitions alterations and additions and has made good the premises or the date upon which the same have been forfeited to the Lessor pursuant to the preceding subclause (whichever is the earlier) ("the compliance date"), the Lessee must pay by way of damages to the Lessor an amount which represents the rental payable immediately prior to the expiration or termination of this Lease calculated on a daily basis multiplied by the number of days between the compliance date and the date of expiration or termination of this Lease.

Notice of Damage

3.7 The Lessee must forthwith give notice to the Lessor (or where appropriate to the Building Supervisor or Managing Agent of the Lessor) of:-

3.7.1 any damage and of any accident to or defect or want of repair in the premises or in the building or in any of the services or other facilities provided by the Lessor in the premises or the building to make the premises or the building safe from any danger, risk or hazard.

3.7.2 any circumstance or event which the Lessee ought reasonably be aware might cause danger, risk or hazard to any person within the premises or the building.

4. THE LESSEE HEREBY COVENANTS AND AGREES WITH THE LESSOR as follows:

Utility Charges

4.1 4.1.1 The Lessee must pay as and when the same fall due, all charges for gas electricity oil and water separately metered and consumed in or on the premises and also all charges in respect of any telephone services connected to the premises and all other charges and impositions imposed by any public utility or authority for the supply of any service separately supplied and/or consumed in respect of the premises.

4.1.2 Should the Lessee make default in payment of any of the charges referred to in the preceding clause then the Lessor may pay the same and forthwith recover the amount paid as if the same were rent in arrears payable by the Lessee.

Grounds

4.2 The Lessee must not deposit or cause permit or suffer to be deposited any debris refuse or rubbish of any kind in or on any grounds gardens yards lanes ways or rights of way or in or on any public road or footway abutting upon or adjacent to the premises or the Land.

Inspection and Workmen

4.3 The Lessee must permit the Lessor and the Lessor's attorney and agent and all persons lawfully authorised by them with or without workmen at all reasonable times of the day and on reasonable notice to enter into and upon the premises to examine the state of repair and condition thereof and must permit workmen engaged by the Lessor or by the Lessor's attorney or agent at all reasonable times and upon reasonable notice to enter into and upon the premises with all necessary appliances to execute repairs or to paint the premises or any part thereof (which the Lessor may do without prejudice to any covenant or agreement on the part of the Lessee contained in this Lease). The Lessor in executing such repairs or painting must use reasonable endeavours to cause as little disturbance to the Lessee as is practicable. If so required by the Lessee, any entry onto the premises by the Lessor or any person(s) authorised by the Lessor must be in the presence of a representative of the Lessee.

Repairs

- 4.4 If at any time during this Lease the Lessor the Lessor's attorney or agent shall find any defect decay or want of reparation in the premises or shall find any state or condition thereof contrary to any covenant or agreement on the part of the Lessee contained in this Lease, the Lessor the Lessor's attorney or agent may give to the Lessee notice in writing to make good repair restore or amend the same within a reasonable time to be therein stated and the Lessee must within such time sufficiently and in good and proper workmanlike manner make good repair restore or amend the same to the reasonable satisfaction of the Lessor or the Lessor's attorney or agent and if default shall be made by the Lessee in complying with any such notice the Lessor may (but it shall not be obligatory for the Lessor to do so) by or with the Lessor's attorney agent and or workmen enter into and upon the premises and carry out the requirements of such notice (causing as little disturbance to the Lessee as is practicable). All costs charges and expenses incurred by the Lessor in so doing shall be a debt due from the Lessee to the Lessor payable on demand and recoverable in the same manner in all respects as the rent hereby reserved is recoverable.

Employment of Contractors

- 4.5 If any work has to be done by the Lessee in or about the premises in order to comply with the Lessee's obligations pursuant to this Lease the Lessee must engage and employ only such tradesmen or contractors as have a current public liability policy for an amount which in the reasonable opinion of the Lessor is adequate and who are previously approved of in writing by the Lessor or the Lessor's architect.

Assignment and Underletting

- 4.6 4.6.1 The Lessee must not transfer, assign, sublet, license, hire out or part with possession or otherwise dispose of its interest in this Lease without the Lessor's prior written consent, which may be withheld or subject to such conditions the Lessor deems appropriate in its absolute discretion.
- 4.6.2 If requesting the Lessor's consent under this clause, the Lessee must:-
- (a) request the Lessor's consent to an assignment transfer or other disposition of the premises or this Lease in writing.
 - (b) forthwith provide the Lessor with information the Lessor reasonably requires about the financial standing and business experience of the proposed assignee.
 - (c) if the Act applies to this Lease, before requesting the Lessor's consent to a proposed assignment of the premises or this Lease, furnish the proposed assignee with:-
 - (i) a copy of any disclosure statement given to the Lessee in respect of this Lease, and
 - (ii) details of any changes that have occurred in respect of the information contained in that disclosure statement since it was given to the Lessee (being changes of which the Lessee is aware or could reasonably be expected to be aware); and
 - (iii) any other procedural requirements set out in the Act.

- 4.6.3 To enable the Lessee to comply with the preceding subclause and if the Act applies to this Lease, the Lessee may, in writing, request the Lessor to provide the Lessee with a copy of the disclosure statement concerned and if the Lessor does not comply with such a request within 14 days after it is made, the preceding subclause 4.6.2(c) shall not apply to the Lessee in respect of the assignment transfer or other disposition in relation to which the disclosure statement applies.
- 4.6.4 Nothing in the preceding subclause shall prohibit the Lessor from granting the Lessor's consent to an assignment, transfer or other disposition of this Lease subject to the Lessee complying with such reasonable conditions as the Lessor shall consider appropriate.
- 4.6.5 Nothing in the preceding provisions of this clause prevents the Lessor from requiring payment of a reasonable sum for legal or other expenses incurred in connection with such a consent (whether consent is granted or not).
- 4.6.6 The Lessor may as a condition of granting its consent require that the proposed transferee or assignee provide to the Lessor such guarantee or guarantees of the transferee's or assignee's performance of the Lessee's obligations under this Lease which the Lessor requires.
- 4.6.7 If the Lessee is a company (except a company whose shares are listed on a stock exchange in Australia) a transfer of shares (except as a result of inheritance) totalling more than one half of the issued share capital of the Lessee, or of the controlling interest of the Lessee shall be deemed to be an assignment of this Lease requiring the consent of the Lessor.

Use

- 4.7 4.7.1 The Lessee may use the premises only for the purpose specified in Item 3 of the Schedule or other purposes incidental thereto or for such other purposes which the Lessor may give prior written permission for.
- 4.7.2 The Lessee must not use the premises or any part thereof nor cause permit or suffer the same to be used as a boarding or lodging house, nor carry on or cause permit or suffer to be carried on upon the premises or any part thereof any noxious noisome or offensive art trade business occupation or calling and must not use the premises or any part thereof or cause permit or suffer the same to be used for any unlawful purpose.

No Warranty by Lessor

- 4.8 The Lessee warrants that the Lessee has relied on the Lessee's own judgement expertise and the Lessee's experts in deciding that the premises are suitable for the Lessee's purposes and that the Lessor has given no warranty as to the use to which the premises may be put and that the Lessee has satisfied itself thereof and the Lessee shall be deemed to have accepted this Lease with full knowledge of, and subject to, any prohibitions or restrictions on the use thereof under or in pursuance of any Act, Ordinance, Regulation, By-law or other statutory enactment or order of Court. Should the use be permissible only with the consent of any authority under or in pursuance of any such Act, Ordinance, Regulation, By-law or other enactment or order of Court the Lessee shall obtain such consent at the Lessee's own cost and

expense. To the fullest extent permitted by law all warranties as to suitability and as to adequacy implied by law are hereby expressly negated.

Use of Premises and Provision of Emergency Number

4.9 The Lessee must:

- 4.9.1 advise the Lessor (or where applicable the Lessor's Managing Agent) of the private address and telephone number of the Lessee's nominated emergency after hours contact and shall keep the Lessor or the Lessor's Managing Agent informed of any change of such address or telephone number;
- 4.9.2 secure the premises against unauthorised entry at all times when the premises are left unoccupied and the Lessor reserves the right by the Lessor's servants and agents to enter upon the premises and fasten same if the premises are left unsecured;
- 4.9.3 not do anything whereby the working or efficiency of the air conditioning plant servicing the building or the premises may be affected;
- 4.9.4 upon the cessation of the Lessee's right to occupy the premises, deliver to the Lessor or the Lessor's Managing Agent all keys and or access cards to the premises;
- 4.9.5 observe the Rules and Regulations.

Restrictions on Use

4.10 The Lessee must not:

- 4.10.1 use or permit to be used for other than their designed purposes any of the fixtures or fittings in the premises or the building;
- 4.10.2 store or use inflammable or dangerous substances upon the premises (except as may be necessary for the ordinary conduct of the permitted use of the premises by the Lessee in which case the Lessee shall notify the Lessor in writing of the maximum quantity of any such inflammable or dangerous substance that the Lessee shall store on the premises);
- 4.10.3 do or permit to be done on the premises or in the building anything which in the reasonable opinion of the Lessor may become a nuisance or disturbance obstruction or cause of damage whether to the Lessor or to other tenants or users of the building nor use the premises in any noisy noxious or offensive manner;
- 4.10.4 obstruct or interfere with any of the entrances of the building;
- 4.10.5 permit any sign advertisement name or notice to be placed on any part of the premises or the building where such sign advertisement name or notice is of an incongruous or unsightly nature having regard to the character and use of the building and prior to the installation or placement of any sign advertisement name or notice the Lessee must:
 - (a) obtain the Lessor's prior written consent; and
 - (b) obtain the prior consent of any relevant competent authority;

- 4.10.6 use or permit to be used any radio record player tape or video recorder television loudspeaker screen or other like equipment likely to be heard or seen from outside the premises;
- 4.10.7 conduct or permit to be conducted on the premises any auction or fire sale.

Notice of Damage

- 4.11 The Lessee must give to the Lessor (or where appropriate to the building Supervisor or Managing Agent of the Lessor) notice of the occurrence of any accident or damage to or defect or blockage in (as the case may be) any water gas or electrical apparatus installation or fixed appliance or any water or gas pipes or electrical wiring or any sewer pipes roof gutters down pipes or storm water drains in or adjacent to the premises, near the premises or any part of the building adjacent to or near the premises, and will give such notice promptly after the occurrence thereof; but the covenant or agreement in this clause shall not lessen or modify the effect of any other covenant or agreement herein on the part of the Lessee to be performed and observed

Heavy Machinery

- 4.12 The Lessee must not bring upon the premises any heavy machinery or other plant or equipment not reasonably necessary or proper for the conduct of the Lessee's permitted use of the premises. In no circumstances must the Lessee bring upon the premises any heavy machinery or other plant or equipment:-
 - 4.12.1 of such nature or size or weight as to cause or (in the reasonable opinion of the Lessor) be likely to cause any structural or other damage to the floors or walls or any other parts of the premises or the Land, or
 - 4.12.2 of such construction or manufacture as to cause to emanate therefrom any noise or vibration or noxious odour fume or gas that could pervade the premises or escape therefrom to the discernible notice of any person outside the premises.

Prior to bringing upon the premises any heavy machinery or other plant or equipment permitted to be brought upon the premises pursuant to this covenant the Lessee must inform the Lessor of the Lessee's intention so to do and the Lessor or the Lessor's architects or engineers may direct the routing installation and location of all such machinery plant and equipment . The Lessee must observe and comply with all such directions and any reasonable fees payable to the Lessor's architects or engineers in connection with ascertaining the safest and most favourable and convenient method of routing installing and locating such machinery plant and equipment as aforesaid must be paid by the Lessee on demand.

Selling and Reletting

- 4.13 The Lessee must at all reasonable times permit the Lessor the Lessor's attorney agent and all persons with the Lessor or lawfully authorised by the Lessor (including workmen for the purpose of affixing signs as hereinafter in this clause stated) to enter into and upon the premises:-
 - 4.13.1 during the continuance of this Lease or after the termination thereof and while the Lessee is in occupation of the premises to view for the purpose of

selling the same and to affix to and exhibit at such part thereof as the Lessor or the Lessor's agent shall reasonably think fit a "For Sale" notice

- 4.13.2 during the period of six months prior to the termination of this lease or after the termination thereof and while the Lessee is in occupation of the premises to view the premises for the purpose of letting or reletting the same and to affix to and exhibit at such part thereof as the Lessor or the Lessor's agent shall think fit a "To Let" notice, and such notice may in each case include the name and address of the Lessor and/or the Lessor's agent. The Lessee must not remove any such notice without the written consent of the Lessor first had and obtained, and if the Lessee shall remove any such notice with such consent as aforesaid the Lessee must return such notice to the Lessor or the Lessor's agent.

Indemnity

- 4.14 Save to the extent that any loss expense or damage is caused or contributed to by the negligent or wilful act or omission of the Lessor, the Lessee will indemnify and keep indemnified and hold harmless the Lessor from all loss expense and damage occasioned to the Lessor as the result of any damage to the premises or any part thereof caused by the negligent use misuse waste or abuse of the water gas or electricity supplied to the premises or supplied to the Lessee or caused by any faulty fitting fixture or installation installed by the Lessee or by the use of any faulty appliance used by the Lessee.

Vermin

- 4.15 The Lessee must take all practicable measures to prevent any infestation of the premises or any part thereof by rats mice or other vermin or by flies, cockroaches ants or other insects and must not expose any food garbage rubbish debris rags or utensils to rats, mice or other vermin or flies cockroaches or other insects.

Locks and Keys

- 4.16 The Lessee must not tamper with or change any lock of the premises or have any keys of such locks cut without the consent of the Lessor or its agent. The Lessee will pay for any keys or change required to any lock and in the event of the Lessor or its agent being required to open the premises the Lessee will pay a reasonable fee fixed by the Lessor or the Lessor's agent.

Yielding Up

- 4.17 The Lessee must immediately prior to vacating the premises at the expiration or sooner determination of this Lease (or in the case of the determination of the term of this Lease within a reasonable time after such determination):
- 4.17.1 complete any repairs and maintenance which the Lessee is obliged to carry out under this Lease;
 - 4.17.2 remove all of the Lessee's fixtures, fittings, plant and equipment in or on the Land and immediately make good any damage caused by such removal;
 - 4.17.3 wash down the premises and treat as previously treated all internal surfaces of the premises by painting staining polishing or otherwise to a

specification reasonably approved by the Lessor and to the reasonable satisfaction of the Lessor;

- 4.17.4 replace all damaged and non-operative light bulbs and fluorescent tubes in the premises with new light bulbs and fluorescent tubes; and
- 4.17.5 thoroughly clean the premises throughout, remove all refuse therefrom leaving the premises in a clean, tidy, secure and safe condition;
- 4.17.6 comply with all reasonable requirements and directions of the Lessor in respect of all removal and reinstatement works;
- 4.17.7 hand over to the Lessor all keys and other security devices for the premises which the Lessee has in its possession or control.

Costs of Lease

- 4.18 The Lessee must pay to the Lessor on demand one half of the Lessor's costs and other expenses incurred in connection with the preparation, negotiation, stamping and registration of this Lease except that the Lessee will be responsible for all stamp duty (if applicable), registration fees and the preparation of any lease plan.

Blinds and Awnings

- 4.19 The Lessee must not erect or affix any blinds or awnings to the outside of the premises or any blinds to the interior of the windows display windows or doors thereof or affix any fittings to the floors walls or ceilings of the premises without the prior consent in writing of the Lessor which consent may be granted or refused or granted subject to conditions in the discretion of the Lessor.

Airconditioning

- 4.20 Where any plant machinery or equipment for heating cooling or circulating air is provided or installed by the Lessor in the premises or in the building for the benefit of tenants of the building ("**airconditioning plant**")
 - 4.20.1 the Lessee must pay all costs and expenses (charged at an hourly rate reasonably determined by the Lessor) associated with the operation of the airconditioning plant (when such operation is requested or required by the Lessee) between 6.00 pm and 8.00 am Monday to Friday and at any time on public holidays and weekends;
 - 4.20.2 the Lessee must comply with and observe the reasonable requirements of the Lessor in respect of the airconditioning plant;
 - 4.20.3 to the maximum extent permitted by law, the Lessor shall be under no liability to the Lessee in respect of the Lessor's inability or failure to operate service maintain replace or repair the airconditioning plant at any time for any reason and the Lessee acknowledges that the Lessor does not warrant that the airconditioning plant (if any) is suitable or adequate for the business to be conducted in the premises by the Lessee;
 - 4.20.4 the Lessee must permit the Lessor and all persons authorised by the Lessor at all reasonable times on giving to the Lessee reasonable prior notice (except in the case of emergency where no notice is required) to enter the premises to view the state of repair of the airconditioning plant and there remain for the purpose of carrying out any necessary or

desirable maintenance servicing or repair to or replacement of the airconditioning plant.

- 4.21 Where any airconditioning plant is installed in the premises or the building for the exclusive use of the Lessee, the Lessee must keep such airconditioning plant in good repair, condition and working order and must pay all costs of operating, maintaining, repairing, servicing and replacing the same (irrespective of whether those costs are general, capital and/or structural)..

Electricity Supply

- 4.22 If the Lessor and the Lessee have entered into an agreement as to the supply by the Lessor to the Lessee of electricity for the premises then the terms and conditions of such agreement will apply to the parties and any breach by the Lessee of that agreement will be deemed to be a breach by the Lessee of this Lease. In the absence of any such agreement between the Lessor and the Lessee, the following provisions will apply:

- 4.22.1 If at the commencement of this Lease the Lessor supplies electricity to the premises and requires the Lessee to purchase such electricity from the Lessor, the Lessee must pay to the Lessor for all such electricity at such rate as the parties may agree from time to time and in the absence of such agreement at the maximum rate applicable under the Electricity (General) Regulations 2012.
- 4.22.2 Notwithstanding the preceding subclause, there is no obligation on the Lessor to supply or continue to supply electricity to the premises and upon giving at least 60 days prior written notice to the other either:-
- (a) the Lessor may elect to cease selling electricity to the Lessee, or
 - (b) the Lessee may elect to cease purchasing electricity from the Lessor.
- 4.22.3 If either the Lessor elects to cease selling electricity to the Lessee or the Lessee elects to cease purchasing electricity from the Lessor in accordance with the preceding subclause, the Lessee must on or before the time at which such sale and purchase is to cease pursuant to the notice given in accordance with the preceding subclause,
- (a) enter into a contract to purchase electricity for the premises from a licensed electricity retailer of the Lessee's choice,
 - (b) ensure that any such contract contains a provision that such electricity retailer must provide details to the Lessor concerning the Lessee's consumption of electricity in or in relation to the premises,
 - (c) install at no cost to the Lessor such new or additional equipment and meters as may reasonably be necessary to supply and record the supply of electricity to the premises.
- 4.22.4 If the Lessee is supplied electricity via an Inset Network (as defined in the Electricity (General) Regulations 2012) on the Land, the Lessee must pay to the Lessor the Lessee's share of Inset Network charges such share to be as is reasonably determined by the Lessor from time to time taking into account the quantum of electricity provided to the premises and the quantum of electricity provided to other premises situate on the Land.

- 4.22.5 Save to the extent caused or contributed to by the Lessor's negligence, the Lessor will not be liable to the Lessee for any failure of electricity supply to the premises.

Strata and Community Title Obligations

- 4.23 If the premises are or become part of land to which either the Strata Titles Act 1988 or the Community Titles Act 1996 applies then the following provisions shall also apply:
- 4.23.1 where the Lessee is pursuant to the provisions of this Lease required to secure the consent of the Lessor to any structural alteration or repair, the Lessee must also secure the consent of the body corporate;
- 4.23.2 the Lessee must permit the body corporate and the body corporate's attorney and agent and all persons lawfully authorised by them with or without workmen at all reasonable times of the day and on reasonable notice to enter into and upon the premises to examine the state of repair and condition thereof and must permit workmen engaged by the body corporate or by the body corporate's attorney or agent at all reasonable times and upon reasonable notice to enter into and upon the premises with all necessary appliances to execute repairs (which the body corporate may do without prejudice to any covenant or agreement on the part of the Lessee contained in this Lease). The body corporate in executing such repairs must use reasonable endeavours to cause as little disturbance to the Lessee as is practicable. If so required by the Lessee, any entry onto the premises by the body corporate or any person authorized by the body corporate must be in the presence of a representative of the Lessee.
- 4.23.3 The Lessee and all persons acting by, through or under the Lessee or with the Lessee's authority express or implied must comply with so many of the provisions of the Titles Act and the by-laws and all lawful orders, motions and directives pursuant to the same as may be applicable to the exercise of the Lessee's obligations pursuant to the provisions of this Lease.
- 4.23.4 The Lessee must not, without the prior written consent of the body corporate, do or allow or permit to be done any act, matter or thing which shall or may:-
- (a) increase the rate of premium payable by the body corporate under any policy of insurance taken out by the body corporate in respect of the subdivided property or any part thereof,
 - (b) invalidate, avoid or suspend the operation of any such policy of insurance or otherwise prejudice the body corporate's rights under any such policy,
 - (c) in any way prejudice the rights or increase the obligations of or invalidate, avoid or suspend any rights of the body corporate under any mortgage, permit, authority or other instrument relating to the subdivided property or the use of the same or any part thereof.
- 4.23.5 Upon the occurrence of any of the matters previously referred to the Lessee must:-

- (a) pay to the Lessor or such other person responsible for payment of the same any amounts payable to the body corporate as a consequence thereof,
- (b) pay to the Lessor for and on behalf of the body corporate any amounts payable by the body corporate as a consequence thereof and not the subject of sub-clause (a) hereof,
- (c) pay to the Lessor for and on behalf of the body corporate the amount of any and all losses and damage arising to the body corporate from the occurrence of any of the said matters.

4.23.6 Where at any time the Lessee fails to comply with the Lessee's obligations in the preceding sub-clauses hereof, the Lessor may, in the Lessor's own complete discretion and without prejudice to the Lessor's other rights against the Lessee with respect to such failure, do or authorise the doing of all such acts, matters and things as may be necessary to ensure such compliance with the said obligations and recover from the Lessee any and all costs, expenses and outlays occasioned thereby.

4.23.7 Wherever there is any inconsistency between the provisions of this Lease imposing specific obligations upon the Lessee and the Titles Act and or the by-laws:-

- (a) the Lessee must refer the matter to the Lessor as soon as possible,
- (b) the provisions of this Lease imposing such specific obligations shall subsist until the Lessor directs the Lessee in writing to the contrary,

4.23.8 (a) Wherever obligations are imposed upon or accepted by the body corporate pursuant to the provisions of the Titles Act and are also imposed upon or accepted by the Lessee pursuant to the provisions of this Lease, the Lessee's obligations pursuant to this Lease shall subsist subject to the provisions hereof,

- (b) In any such case, the Lessee:-
 - (i) shall at all times be entitled to call upon and require the Lessor to procure the body corporate to exercise its said obligations,
 - (ii) must pay to the Lessor or such other person obliged to pay the same the reasonable amount of any and all contributions costs and payments required to be made for and in respect of the performance by the body corporate of its said obligations,
 - (iii) subject to any provisions of the Titles Act and the by-laws to the contrary, must do all acts, matters and things necessary to comply with the Lessee's obligations pursuant to the provisions of this Lease only after giving the body corporate reasonable notice requesting it to comply with its obligations,
 - (iv) must complete any acts, matters or things done by the body corporate to the extent that the body corporate's compliance with its obligations would not represent complete performance of the Lessee's obligations in accordance with the provisions of this Lease,

- 4.23.9 When called upon to do so by the Lessor, the Lessee must enter into a covenant with the body corporate under which the Lessee covenants to perform as many of the covenants as are contained herein as relate to the lessee's obligations to comply with the Titles Act and the by-laws.
- 4.23.10 The Lessee shall indemnify the Lessor for any loss or damage suffered by the Lessor by reason of any failure by the Lessee's employees, agents, contractors or other persons acting with the Lessee's authority actual or ostensible to comply with the same obligations as to conduct as are imposed upon the Lessee by this Lease.

Community Titling

- 4.24 If the premises are not part of land to which the Community Titles Act 1996 applies then:
 - 4.24.1 if the Lessor notifies the Lessee in writing that the Lessor desires to divide the Land pursuant to the Community Titles Act, the Lessee must when called upon to do so by the Lessor consent to and execute such Application for the Deposit of a Plan of Community Division as the Lessor may reasonably require without the payment by the Lessor to the Lessee of any monetary or other consideration;
 - 4.24.2 the Lessee must do all such reasonable acts and things as shall be necessary or desirable to allow the Land to be divided in accordance with the plan or plans accompanying the said Lessor's Application for Deposit of a Plan of Community Division.

Resumption

- 4.25 If the Lessor receives notice of resumption or acquisition of the premises or the building (or any part of the building affecting the premises) from or by any Statutory Authority governmental or semi-governmental body, then the Lessor may terminate this Lease by giving not less than three months' written notice to the Lessee. If such termination takes effect, but without prejudice to the rights of either party for any antecedent breach or default but otherwise no party will have a right against the other to claim for compensation for any loss or damage suffered as a result of that resumption or acquisition.

Exclusion of Trespassers

- 4.25.1 The Lessor may at any time and from time to time and for so long as it shall think fit exclude and restrain any person or persons from entering upon any part of the Land other than bona fide customers patrons delivery men or service suppliers of the Lessee or of the other lessees of the Land who make use of the same in accordance with the rules and regulations of the Lessor relating thereto. Without in any way limiting the meaning of the term "bona fide" any person who has entered upon the Land or any part thereof in breach of the Lessor's rules and regulations relating thereto and who having been notified of such breach shall commit a further breach of the said rules and regulations (whether the like nature or not) shall for the purpose of this clause be deemed to be not bona fide.

Revocation of Licence to Enter

4.25.2 The Lessee must whenever requested so to do by the Lessor give notice in writing to any person who purports to enter upon any part of the Land as a customer patron or invitee of the Lessee and who does not observe the Rules and Regulations of the Lessor relating thereto or who is deemed not to be bona fide revoking the licence of such person to enter upon any part of the Land.

5. INSURANCE AND INDEMNITY

Lessee's Insurance

5.1 The Lessee must during the entire term hereof and any extensions hereto keep in full force and effect:-

5.1.1 a policy of public risk insurance with respect to the premises appurtenant thereto and the business or businesses carried on in the premises in which the limits of public risk shall be not less than the amount referred to in Item 4 of the Schedule. Such policy must include an extension to cover the Lessee's legal liability in respect of death or injury to any person and damage to property of any such person or to the premises and must include an extension to cover the Lessee's liability in respect of the Lessor's property (and if the premises are or become part of land to which either the Strata Titles Act or the Community Titles Act applies, the body corporate) in or upon or part of the premises. The policy must name as insured the Lessor (and the body corporate if applicable) and the Lessee unless it is customary at the time for Insurance Companies to decline to do so, when it may be in the name of the Lessee but must note the interest of the Lessor (and the body corporate if applicable).

5.1.2 a policy of insurance covering the Lessee's plant fittings and stock in trade contained in or about the premises to the full replacement value thereof against all usual risks including loss or damage by fire fire fighting activities fusion explosion lighting civil commotion storm tempest earthquake and malicious damage or accidental damage, and any other insurances required by law or which the Lessor reasonably requires for the amount the Lessor reasonably requires.

The Lessee must use the Lessee's best endeavours to ensure that each such policy contains a clause that the insurer will not cancel or change the insurance without first giving the Lessor thirty days prior written notice. The policy or a copy thereof or a certificate of insurance must be produced by the Lessee to the Lessor at the Lessor's place of business upon request in writing being made by the Lessor for the production thereof.

Insurance not to be affected

5.2 5.2.1 The Lessee must not do or store nor cause permit or suffer to be done or to be stored in or upon or in connection with the premises anything whereby any policy or policies of insurance now effected or which may hereafter be effected on the premises or any part thereof or on any adjoining premises belonging to the Lessor may be invalidated or become

void or voidable or whereby any increased rate of premium may become payable under any such policy or policies of insurance.

- 5.2.2 Without prejudice to the preceding sub-clause, the Lessee must from time to time on demand by the Lessor pay to the Lessor all extra or excess premiums (if any) for all and any insurance effected by the Lessor (and if the premises are or become part of land to which either the Strata Titles Act or the Community Titles Act applies, the body corporate) in relation to the Land and the buildings thereon and or the premises required on account of extra risk caused directly or indirectly by the use to which the premises are put by the Lessee and or required by reason of any breach by the Lessee of any covenants in this Lease.

Compliance with Acts, By Laws and Regulations

- 5.3 The Lessee must at the Lessee's cost and expense

- 5.3.1 comply with every notice order or requirement relating to the premises and requiring any condition defect or want of reparation to be remedied which may be given or made to the Lessor or to the Lessee in pursuance of the Public and Environmental Health Act 1987 and or the Local Government Act or Acts for the time being in force in the State of South Australia and or any other Act or Acts of Parliament or any by-laws rules or regulations made under or in pursuance of any such Act or Acts or purporting so to be and will comply therewith within the time limited therein for complying therewith. If default shall be made by the Lessee in so complying the Lessor may comply therewith (but it shall not be obligatory for the Lessor to do so) and all costs charges and expenses incurred by the Lessor in so doing shall be a debt due and recoverable from the Lessee in the same manner in all respects as the rent is recoverable;
- 5.3.2 take such precautions against fire on and in respect of the premises as are or may from time to time be required under or in pursuance of any Statute now or hereafter in force or which may be required by any authority (whether Governmental municipal civic or other) having jurisdiction in relation thereto and also at the Lessee's own expense in all things, do all such other acts matters and things in relation to fire safety as are or may from time to time be directed or required to be done or executed (whether by the owner or occupier of the premises) by any authority (whether Governmental municipal civic or other) having jurisdiction in relation thereto pursuant to any Statute now or hereafter in force.

Lessee to Occupy Premises at own Risk

- 5.4 The Lessee agrees to occupy and use the premises and the Land at the Lessee's sole risk.

Indemnity and Release

- 5.5 The Lessee indemnifies the Lessor against all claims, actions, damages, losses, costs and expenses of any nature which the Lessor may suffer or incur or for which the Lessor may become liable in connection with:

- 5.5.1 The Lessee's use or occupation of the premises;

- 5.5.2 The overflow or leakage of water or any other substance into or from the premises arising out of any faulty fixture or fitting of the Lessee;
- 5.5.3 any accident or damage to property or injury or death suffered by any person arising from any occurrence in connection with the premises arising wholly or in part by reason of any act or omission by the Lessee and persons under the control of the Lessee;
- 5.5.4 any act or omission of the Lessee;
- 5.5.5 any fire from the premises;
- 5.5.6 any breach of this Lease by the Lessee,

save to the extent that any such claim, action, damages, losses, costs and expenses are caused or contributed to by the negligent or wilful act or omission of the Lessor.

5.6 The Lessee releases the Lessor from all actions, liabilities, penalties, claims or demands for any damage, loss, injury or death occurring in the premises, the building and/or the Land except to the extent that it is caused by the Lessor's negligence.

6. THE LESSOR HEREBY COVENANTS AND AGREES WITH THE LESSEE that the Lessee paying the rent and all other outgoings and performing and observing the terms conditions and covenants on the Lessee's part to be performed or observed herein contained or implied shall during the term or any extension thereof subject to the provisions of this Lease quietly enjoy the premises without unlawful interruption by the Lessor or any person lawfully claiming under or in trust for the Lessor.

7. IT IS HEREBY MUTUALLY AGREED BY AND BETWEEN THE LESSOR AND THE LESSEE as follows:

Damage to Building or Premises

7.1 Subject to clause 7.2 hereof, if the building of which the premises forms part is damaged:-

7.1.1 the Lessee is not liable to pay rent or Operating Expenses or other charges that are attributable to the period during which the premises cannot be used or are inaccessible due to that damage;

7.1.2 if the premises are still useable but their useability is diminished due to the damage, a fair and just proportion of the rent, Operating Expenses and other charges payable by the Lessee pursuant to this Lease having regard to the nature of the damage shall abate from the date of the damage until the date that the premises have become useable. If any dispute as to the amount of rent, Operating Expenses and charges to be abated arises, the same shall be determined by a licensed valuer appointed by the President of the South Australian Division of the Australian Property Institute (or should that body have ceased to exist, the President or other principal officer for the time being of such body or association as then serves substantially the same objects) at the request of the Lessor;

7.1.3 if the Lessor notifies the Lessee in writing that the Lessor considers that the damage is such as to make its repair impractical or undesirable, the Lessor or the Lessee may terminate this Lease by giving not less than seven days notice in writing and neither party shall have any claim for or

right to recover any compensation by reason of such termination save in respect of any antecedent breach or default or any claim regarding the cause of such damage;

- 7.1.4 if the Lessor fails to repair the damage within a reasonable time after the Lessee requests the Lessor in writing so to do, then the Lessee may terminate the Lease by giving not less than seven days notice in writing of termination to the Lessor.

Damage caused by Lessee

- 7.2 If the damage to the building was caused or contributed to by the wrongful act or negligence of the Lessee no proportion of the rent, Operating Expenses and charges shall be abated and the Lessee shall not be entitled to terminate this Lease.

Holding Over

- 7.3 If the Lessee continues in occupation of the premises after the expiration of the term or any extension thereof with the consent or acquiescence of the Lessor the Lessee shall thereupon become or be deemed to be a monthly tenant of the Lessor at a rental determined in accordance with the provisions of this Lease, and such tenancy shall be subject to such of the conditions and covenants contained in this Lease as are applicable to a monthly tenancy.

Damage to Goods or Person

- 7.4 Except to the extent caused by the negligent or wilful act or omission of the Lessor, its servants or agents, the Lessor its attorney or agent shall not be under any liability to the Lessee for any loss expense or damage sustained by the Lessee or any invitee of the Lessee arising out of personal injury or destruction of or damage to goods chattels furniture or effects howsoever caused including by water gas or electricity bursting overflowing leaking or escaping (as the case may be) from any water gas electrical apparatus installation fitting pipe sewer wiring roof or roof gutter down pipe or storm water drain (as the case may be) on in or connected to or appurtenant to the premises and/or the building, and the Lessee will indemnify and keep indemnified the Lessor against all claims demands actions suits and all legal proceedings whatsoever (including the costs thereof) made brought or taken by any other persons by reason of any loss expense or damage or alleged loss expense or damage sustained or alleged to have been sustained by such person and arising or alleged to arise out of personal injury to such other person or destruction of or damage to his goods chattels furniture or effects or alleged to have been caused as aforesaid.

Waiver

- 7.5 No waiver by the Lessor of any breach or non-observance by the Lessee of any covenant herein contained shall constitute a general waiver of the obligations of the Lessee.

Acceptance of Rent Arrears

- 7.6 In respect of the Lessee's obligations to pay rent the acceptance by the Lessor of arrears of or any late payment of rent shall not constitute a waiver of the essentiality of the Lessee's obligations to pay rent on the dates hereinbefore set out for payment of rental or in respect of the Lessee's continuing obligation to pay rent during the term.

Notices

- 7.7 Any notice or other document required to be given or served under this Lease must be in writing addressed to the other party in accordance with the parties addresses set out in this Lease and may by ordinary or registered mail to that party's address, or transmitted by facsimilie (or in respect of the Lessee only, sent by email).
- 7.8 A notice given to a party in accordance with this clause 7 is treated as having been given and received:
- 7.8.1 if delivered to a party's address or transmitted by facsimilie on the day of delivery if a business day and before 5.00pm, otherwise on the next following business day;
 - 7.8.2 if sent by registered mail, on the third business day after posting;
 - 7.8.3 if sent by email to the Lessee, on the first to occur of:
 - (a) receipt by the sender of an email acknowledgement from the recipient's information system showing that the notice has been delivered;
 - (b) the time that the notice enters an information system which is under the control of the recipient; and
 - (c) the time that the notice is first opened or read by the intended addressee.

Reservation of Services

- 7.9 The Lessor reserves the right for itself and for all others authorised by the Lessor the passage of any air conditioning equipment, fire sprinkler systems, pipes, ducts, cables, wiring, communications, water sewerage and drainage connections and any other services through or along or in or into the premises and also access to and through the premises at any time for the purpose of installing, maintaining or repairing any such equipment, systems, pipes, ducts, cables, wirings, connections and services.

Costs of Proceedings

- 7.10 If the Lessor shall without fault on the Lessor's part be made a party to any litigation commenced by or against the Lessee, the Lessee must pay to the Lessor on demand by the Lessor all reasonable legal fees and disbursements (as between solicitor and client) incurred by the Lessor in connection therewith.

Permitted use not exclusive

- 7.11 Nothing contained in this Lease shall confer on the Lessee the exclusive right to conduct on the Land a business of a particular type, to the intent that the Lessor shall be free to let to any person other premises on the Land for a use similar to that permitted by this Lease.

Relocation of Parking Facilities

- 7.12 The Lessor may at any time relocate any driveways entrances and exits and change the boundaries and locations of any motor vehicle parking areas available to the

Land and may rearrange any parking spaces therein or add additional parking spaces.

Rules and Regulations

- 7.13 7.13.1 The Lessor may from time to time make such rules and regulations that the Lessor considers necessary for the management, safety, security, care of or cleanliness of the premises or the building.
- 7.13.2 The Lessor reserves the right to amend from time to time the Rules and Regulations (provided such amendments do not derogate from the Lessee's rights under this Lease)
- 7.13.3 The Rules and Regulations bind the Lessee when it receives notices of the Rules and Regulations from the Lessor.
- 7.13.4 If there is any inconsistency between this Lease and the Rules and Regulations, then this Lease prevails.
- 7.13.5 A failure by the Lessee to comply with the Rules and Regulations is a breach of this Lease.
- 7.13.6 The Rules and Regulations applicable at the date of this Lease are those appended to this Lease.

Extension of term

- 7.14 If not more than six months nor less than three months prior to the expiration of the term the Lessee shall give to the Lessor notice in writing of its desire to extend the term and if the Lessee shall not be in breach of any of the covenants agreements and conditions on the part of the Lessee to be performed and complied, with the Lessee (at the Lessee's cost and expense in all things) shall be entitled to an extension of the term for the further period referred to in Item 6 of the Schedule at a rental to be fixed in the manner therein specified but otherwise upon the same terms and conditions as are herein contained with the exception of this right of renewal.
- If the Act applies to this Lease but not otherwise, and if the rental is to be reviewed on the commencement of the extended term to a current market rent, the Lessee may within the period commencing nine months prior to the end of the term and five months prior to the end of the term, by notice in writing to the Lessor require that the rental to apply for the first year of the extended term be determined in accordance with the method for determination specified in the Schedule.

No Caveat

- 7.15 The Lessee must not lodge or cause or permit to be lodged any absolute caveat over the certificate of title for the premises.

Set off

- 7.16 The Lessor may, by notice to the Lessee, set off any amount due by the Lessee to the Lessor under this Lease or otherwise against any amount due by the Lessor to the Lessee under this Lease.

Use of Conduits

7.17 The Lessee must allow the Lessor and other occupiers of the Land the free and uninterrupted passage of gas water and electricity through and along the services including electrical services situated under in or on the Premises.

Special Conditions

7.18 This Lease is subject to the special terms and conditions (if any) specified in Item 7 of the Schedule and if there is any inconsistency between any such special terms and conditions and any of the provisions of this Lease and/or the Rules and Regulations then such special terms and conditions shall prevail.

8. ESSENTIAL TERMS, RE-ENTRY, BREACH, DAMAGES

Essential Terms

8.1 The clauses of this Lease referred to in Item 8 of the Schedule are essential terms of this Lease.

Power of Re-entry

8.2 If the Lessee shall fail neglect or omit to perform or observe any essential term on the Lessee's part to be performed or observed and such failure neglect or omission shall remain unremedied for a period of 14 days (or such shorter time as the Lessor may in any particular case reasonably stipulate) then the Lessor or the Lessor's attorney or duly authorised agent, solicitor or representative may without notice to the Lessee re-enter into and upon the premises or any part thereof in the name of the whole and use and enforce all such ways and means and adopt all such measures as may be necessary or expedient for the purpose of effecting such re-entry by force or otherwise as the occasion may require without being liable for any loss expense damage action suit or proceeding or cost and to hold and enjoy the premises as if these presents had not been made and thereupon the Lessee's leasehold interest in the premises shall cease and determine.

Compensation for Breach

8.3 The Lessee shall compensate the Lessor for any breach by the Lessee of an essential term of this Lease and the Lessor shall at all times be entitled to sue for and recover all losses, damages, costs and expenses of whatever nature from the Lessee in respect of any and all such breaches. The Lessor's entitlement pursuant to this clause is in addition to any other remedy or entitlement of the Lessor pursuant to this Lease.

Lessor's Rights on Repudiation

8.4 If the Lessee's conduct (whether acts or omissions) constitutes a repudiation of this Lease (or of any of the Lessee's obligations under this Lease) or constitutes a breach of any covenant or covenants, the Lessee must compensate the Lessor for all loss, damage, costs and expenses of any nature suffered or incurred by reason of the repudiation or breach.

Damages for breach or repudiation

8.5 The Lessor shall be entitled to recover losses, damages, costs and expenses from and against the Lessee in respect of any repudiation or breach of covenant for the losses, damages, costs and expenses suffered or incurred by the Lessor during the entire term of this Lease or any extension thereto or any holding over period.

Damages generally

8.6 The Lessor's entitlement to recover losses, damages, costs or expenses shall not be

affected or limited by:

- 8.6.1 the Lessee abandoning or vacating the premises;
- 8.6.2 the Lessor re-entering the premises and/or terminating the Lessee's leasehold interest in the premises;
- 8.6.3 the Lessor accepting the Lessee's repudiation;
- 8.6.4 conduct of the parties which may or shall constitute a surrender by operation of law.

Proceedings

- 8.7 The Lessor shall be entitled to institute legal proceedings claiming losses, damages, costs or expenses against the Lessee in respect of the entire lease term, any extension or any holding over period including the periods before and after the Lessee has vacated the leased premises, and before and after the abandonment, termination, repudiation, acceptance of repudiation or surrender by operation of law referred to in clause 8.6 whether the proceedings are instituted before or after such conduct.

Mitigation

- 8.8 If the Lessee vacates the premises, whether with or without the Lessor's consent, the Lessor shall be obliged to take reasonable steps to mitigate its damages and to endeavour to lease the premises at a reasonable rent and on reasonable terms. The Lessor's damages shall be assessed on the basis that the Lessor should have observed the obligation to mitigate damages contained in this paragraph. The Lessor's conduct in attempting to mitigate its damages shall not constitute acceptance of the Lessee's breach or repudiation or a surrender by operation of law.

9. LESSOR'S RIGHT TO TRANSFER

- 9.1 The Lessor may at any time or from time to time sell, transfer, assign, mortgage, encumber or charge the premises, the Land and the Lessor's right, interest, title or estate therein and in this Lease.
- 9.2 The Lessor will give notice of this Lease to any such transferee, assignee, mortgagee, encumbrancee or chargee provided always that the Lessor shall not be liable for any losses, damages, costs or expenses of whatever nature the Lessee may suffer as a result of any such transfer assignment mortgage encumbrance or charge or as a result of any actions or conduct by any such transferee, assignee, mortgagee, encumbrancee or chargee.

RULES AND REGULATIONS

1. The outside of the premises and the forecourt entrance vestibules corridors passages stairways landings lifts male and female toilets of the building shall be under the absolute control of the Lessor and shall not be obstructed by the Lessee or his clerks servants employees agents licensees clients customers visitors or invitees, or with the exception of the said male and female toilets, used by them for any purpose other than ingress and egress to and from the premises.
2. No sign device furnishing ornament or object which is visible from the street or from any other part of the building or from any other building which is in the reasonable opinion of the Lessor incongruous or unsightly or may detract from the general appearance of the building shall be displayed exhibited erected constructed or maintained by the Lessee in the building.
3. No sign advertisement or notice shall be inscribed painted or affixed to any part of the outside or inside of the building except with the consent in writing of the Lessor and then only of such colour size and style and in such places upon or in the building as shall be first approved by the Lessor. Signs on glass doors and on the directory tablet will be painted or affixed for the Lessee by the Lessor, the cost of painting or affixing being paid by the Lessee. A directory tablet in a conspicuous place with the names of the Lessee or the firm name in the case of a partnership is provided by the Lessor at the Lessee's expense in the entrance vestibule of the building and in the lift lobby on the floor on which the premises are situated and the Lessee's name on such directory tablets shall not exceed the number of lines allocated to each Lessee by the Lessor.
4. The Lessee shall give to the Lessor prompt notice of any breakage or defect of the water pipes air-conditioning ducts electric light or other fittings.
5. All keys to every portion of the building held by the Lessee or any of his employees or agents during the occupancy of the premises and whether the same shall have been supplied by the Lessor or not shall be surrendered to the Lessor on the determination of the Lease.
6. The Lessee shall at the expiration or sooner determination of this Lease remove at his own expense all lettering and other distinctive marks or signs put by him on any of the doors or other parts of the building and shall make good to the satisfaction of the Lessor any damage or disfigurement caused to any such door or other part by reason of such removal.
7. No towels clothes or other similar articles shall be hung out of windows or on balconies or upon the roof.
8. The Lessee shall advise the Lessor of the private address of the Lessee or if the Lessee shall be a corporation of the Manager thereof or if there shall be more than one Lessee of any two of them. The Lessor shall be promptly informed of a change in any such address.
9. No blinds whether venetian or of any other kind or awnings or curtains shall be fitted to the outside of the premises or to the windows from inside without the consent in writing of the Lessor first had and obtained which consent may be withdrawn by the Lessor at any time in which event blinds and/or awnings shall be removed within such period as may be specified by the Lessor and the Lessee shall comply with any request made in connection with such blinds or awnings and shall bear all expenses of erection maintenance and removal thereof.
10. The Lessee shall not allow any accumulation of useless property or rubbish in the premises.
11. All doors and windows of the premises shall be securely fastened on all occasions when the premises are left unoccupied and the Lessor reserves the right for its Managing Agent employees servants and workmen to enter and fasten the same if left insecurely fastened and the Lessee shall have no claim against the Lessor in respect of any matter or thing occurring in the course of or as a result of any such entry.
12. The Lessee shall take such steps as may be necessary to prevent excessive infiltration of air into the premises and air leakages and shall not do any act or thing whereby the working of the air-conditioning plant in the building shall be affected.

13. The Lessee shall not erect any partitions or fittings or electric light connections or wiring or electric light fittings or fixtures until he has first obtained the approval of the proper authority or authorities and until a drawing or other specification of the proposed work and class of material which is to be used have been submitted to and approved by the Lessor in writing. The Lessor has the right to obtain at the Lessee's cost, architects approval of the said drawings or other specification of proposed work.
14. The Lessor shall have power to prescribe the position of any partition or partitions erected in the premises and the Lessee shall not erect any partition or partitions until the approval of the Lessor in writing for its or their position has been obtained.
15. The Lessee shall not use or install in the premises any chairs, desks or other equipment which are or is likely to cause damage to the floor coverings in the premises and shall make good to the satisfaction of the Lessor any damage or disfigurement caused to any such floor coverings by any chairs, desks or other equipment used or installed by the Lessee.
16. Until otherwise determined by the Lessor or its Managing Agent the normal business hours during which the building shall be open on business days (Mondays to Fridays other than public holidays) shall be from 8:00 a.m. to 6:00 p.m.
17. If the Lessor shall approve the use of the premises for any retail trade or business the Lessee shall during the term of this Lease operate the business with due diligence and efficiency and in a proper and business like manner.
18. The Lessee shall ensure that the Lessee or any servant or agent of the Lessee or any person authorised by the Lessee leaving or entering the building before 8:00 a.m. or after 6:00 p.m. on any business day or at any time on any other day shall close and lock the external door to the building.
19. The Lessor shall not be liable for any non-enforcement of these Rules and Regulations or any of them.

THE SCHEDULE

ITEM 1 SPECIFIC PLANT AND EQUIPMENT (clause 1.10)

All Lessor's fixtures and building equipment included in the premises at the commencement of the Lease or installed by or on behalf of the Lessor at any time after the commencement, including air conditioning plant and equipment, fire protection plant and equipment, lavatory and washroom plant and equipment, built-in kitchen equipment, floor coverings, window treatments, ceiling, standard lighting equipment, any standard telephone lines and connection points, electrical fittings and any partitioning supplied by the Lessor.

ITEM 2 THE LAND (clause 1.6)

The whole of the land comprised in Certificate of Title Register Book Volume 6016 Folio 186

ITEM 3 USE (clause 4.7.1)

Kindergarten, preschool, children's services and other incidental activities or for such other lawful use as the Lessor may consent to

ITEM 4 PUBLIC RISK INSURANCE (clause 5.1)

TWENTY MILLION DOLLARS per claim and unlimited in the annual aggregate or such higher amount as the Lessor may from time to time reasonably require

ITEM 5 RENT REVIEW (clause 2.5)

The rent hereby reserved will be reviewed as at 1 July each year of the term and the extended term (if any) and any period of holding over calculated in accordance with the following formula:-

$$A = \frac{R \times C1}{C2}$$

where:

'A' is the revised annual rent.

'R' is the annual rental payable during the year immediately preceding the relevant review date.

'C1' is the Index Number for the quarter ending immediately prior to the relevant review date.

'C2' is the Index Number for the quarter ending immediately prior to the date the annual rent being reviewed first became payable

The words "Index Number" used above mean the Consumer Price Index all groups for Adelaide as published by the Australian Bureau of Statistics but if the Australian Bureau of Statistics ceases to publish the Consumer Price Index before the end of the term or any extended term or if there should be any significant change in the manner of calculation of the same, the words "Index Number" shall mean some index reflecting fluctuations in the cost of living in Adelaide upon which the parties agree, but in default of such agreement, such index as shall be determined by the President for the time being of the Australian Property Institute (South Australian Division) or his nominee as reflecting fluctuations in the cost of living in Adelaide, and such person's decision shall be final and binding on the parties. In making such determination the President or his nominee shall be deemed to be acting as an expert and not as an arbitrator. The cost of any such determination will be borne equally by the Lessor and the Lessee.

Until the rent is determined or agreed in accordance with this provision, the Lessee must continue to pay to the Lessor rent at the rate applicable immediately prior to the review date. On the first day for payment of rent after the rent is determined or agreed in accordance with this provision the Lessee must pay the new rent to the Lessor together with an adjustment (if any) in respect of the period from the date of the rent review until the date of such payment.

ITEM 6 EXTENSION OF TERM (clause 7.14)

A term of five (5) years commencing on 1 July 2029.

ITEM 7 SPECIAL CONDITIONS (clause 7.18)

1. Insurance requirements

1.1 The Lessee warrants that it is entitled to the benefits of the South Australian Government Insurance and Risk Management Arrangements administered by the South Australian Government Captive Insurance Corporation (SAICORP) and the Lessee will at all times ensure that it remains entitled to those benefits in respect of the Lessee's use and occupation of the premises under this Lease.

1.2 The Lessee agrees to indemnify and keep indemnified the Lessor, its employees and agents and each of them from and against all actions, costs, claims, charges and expenses whatsoever which may be brought or made or claimed out of or in relation to this Lease. But the Lessee will not be rendered liable for the personal injury or the death of any person or loss of or damage to property resulting from any breach of the Lessor of any provision of this Lease or any negligent act or omission of the Lessor or its employees or agents.

2. Maintenance

Whilst the Lessee is the Minister for Education, the Lessor acknowledges and agrees that the engagement of contractors pursuant to clause 4.5 will be procured by the Department for Infrastructure and Transport and on that basis, the Lessee will not be required to obtain the Lessor's prior written consent to such contractors.

3. Noise

Whilst the Premises is used as a kindergarten, preschool, children's services and incidental activities (as specified in Item 3 of this Schedule), the Lessor acknowledges and agrees that the noise generated from such use will not contravene clause 4.7 of this Lease.

ITEM 8 ESSENTIAL TERMS (clause 8.1)

Clauses 2.1 - 2.6 (inclusive), 3.1, 3.2, 3.3, 3.5, 4.6, 4.7, 5.1, 5.2, 5.3, 7.17 and any obligations imposed on the Lessee pursuant to Item 7 of this Schedule

ITEM 9 Representatives

Lessor

Mr Anthony Marroncelli

Manager Development Services

Phone: 8229 9904

Email: amarroncelli@holdfast.sa.gov.au

Lessee

Mr Nathan Hoban

Senior Adviser, Property

Phone: 8226 1036

Email: Education:PropertyServices@sa.gov.au

IMPORTANT NOTICE

EXCLUSION OF WARRANTY OF FITNESS FOR PURPOSE

Retail and Commercial Leases Act 1995: Section 18

Retail and Commercial Leases Regulations 1995: Regulation 7

THE LESSOR DOES NOT WARRANT THAT THE PREMISES YOU ARE ABOUT TO LEASE WILL, FOR THE DURATION OF YOUR LEASE, BE STRUCTURALLY SUITABLE FOR THE TYPE OF BUSINESS THAT YOU INTEND TO CARRY ON.

DATED:

**THE COMMON SEAL of
CITY OF HOLDFAST BAY**
was hereunto affixed in the presence of:

.....
Mayor

.....
Chief Executive Officer

THE COMMON SEAL of MINISTER)
FOR EDUCATION, TRAINING AND)
SKILLS was affixed to this)
Memorandum of Lease with the)
authority of the Minister by a person who)
is duly authorised to do so:

.....
Signature of Authorised Officer

.....
Name of Authorised Officer

Attachment 2

LEASE

PRIVACY COLLECTION STATEMENT: The information in this form is collected under statutory authority and is used for maintaining publicly searchable registers and indexes. It may also be used for authorised purposes in accordance with Government legislation and policy requirements.

LAND DESCRIPTION

Portion of the land comprised in Certificate of Title Register Book Volume 5719 Folio 136 and Volume 5796 Folio 800 which portion is delineated in red on the plan annexed hereto and being commonly known as 3 Grantham Road Somerton Park South Australia

ESTATE & INTEREST

Fee simple

LESSOR (Full name and address)

CITY OF HOLDFAST BAY ABN 62 551 270 492 of 24 Jetty Road Brighton South Australia 5048

LESSEE (Full name, address and mode of holding)

MINISTER FOR EDUCATION, TRAINING AND SKILLS ABN 91 814 239 978 pursuant to the *Administrative Arrangements Act 1994* (SA) of 31 Flinders Street Adelaide South Australia 5000

TERM

FIVE (5) YEARS

COMMENCING ON 1 JULY 2024

AND

EXPIRING AT 11.59PM ON 30 JUNE 2029

together with a right of renewal for a further five (5) years

RENT AND MANNER OF PAYMENT (or other consideration)

At a commencing rent of NINE HUNDRED DOLLARS (\$900.00) per annum plus GST payable annually in advance and reviewed in accordance with clause 2.5 of this Lease

IT IS COVENANTED BY AND BETWEEN THE LESSOR AND THE LESSEE as listed herein:

(Covenants, where not deposited, to be set forth on insert sheet(s) and securely attached)

OPERATIVE CLAUSE **Delete the inapplicable*

The Lessor LEASES TO THE LESSEE the land *above / ~~*hereinafter~~ described and the LESSEE ACCEPTS THIS LEASE of the land for the term and at the rent stipulated, subject to the covenants and conditions expressed *herein / ~~*in Memorandum No.~~ and to the powers and covenants implied by the Real Property Act 1886 (except to the extent that the same are modified or negated below).

DEFINE THE LAND BEING LEASED INCORPORATING THE REQUIRED EASEMENT(S) ETC.

Not Applicable

CONSENTS OF MORTGAGEES AND SECTION 32 DEVELOPMENT ACT 1993 CERTIFICATION

This Lease does not contravene Section 101 of the Planning, Development and Infrastructure Act 2016.

1. The following definitions and rules shall apply unless they are inconsistent with the context:-
 - 1.1 “**Accounting period**” means respectively:
 - 1.1.1 the period from the commencement of the term to the next 30th June;
 - 1.1.2 each successive period of twelve months commencing on the 1st July and expiring on the next 30th June during the term and any extension of the term;
 - 1.1.3 the period from the 1st July in the last year of the term (or the last year of the extended term if the term be extended) to the date of expiration of this Lease.
 - 1.2 “**the Act**” means the Retail and Commercial Leases Act 1995.
 - 1.3 “**the building**” means the building or buildings erected on the Land and also the fixtures and fittings in the building together with any extensions or alterations subsequently made to the building.
 - 1.4 “**Clean**” means the maintenance of the premises and the water closets washrooms and lavatories of the building in a thoroughly clean sanitary and tidy condition including but without limiting the generality thereof the cleaning of the exterior and interior of all windows and glass doors, the removal of all waste and garbage from the premises the building and the Land and ensuring that at all times there is a good and sufficient supply of paper towels and other toilet requisites and services in the water closets washrooms and lavatories of the building. “**Cleaning**” will have a corresponding meaning.
 - 1.5 “**GST**” means any goods and services tax, value added tax, retail sales tax, consumption tax or other similar tax, duty, excise, surcharge, levy or other impost introduced at any time by the Commonwealth Government or the Government of South Australia.
 - 1.6 “**the Land**” means the land described in Item 2 of the Schedule and includes any part of the Land.
 - 1.7 “**Lessee**” means the party described in the “Lessee” panel on the first page of this Lease and includes:-
 - 1.7.1 the executors administrators and permitted assigns of the Lessee if the Lessee is a natural person,
 - 1.7.2 the successors and the permitted assigns of the Lessee if the Lessee is a body corporate,
 - 1.7.3 any and all Trust or Trusts of which the Lessee is trustee,
 - 1.7.4 (where the context allows) any servants workmen or agents of the Lessee and any other person in or about the premises at any time at the request or invitation of or under the control or direction of the Lessee,

If the Lessee comprises two or more persons the word “Lessee” shall apply to them jointly and each of them severally.
 - 1.8 “**Lessor**” means the party described in the “Lessor” panel on the first page of this Lease and includes:

- 1.8.1 the executors administrators and assigns of the Lessor if the Lessor is a natural person,
 - 1.8.2 the successors and the assigns of the Lessor if the Lessor is a body corporate,
 - 1.8.3 (where the context allows) any servants workmen or agents of the Lessor,
- 1.9 **"the Lessee's proportion"** means the same proportion as the lettable area of the premises bears to the whole of the lettable area of the building such lettable areas to be determined in accordance with the method of measurement recommended for such premises by the guidelines published by the Property Council of Australia current at the date of commencement of this Lease (or if such guidelines are not then current, then the guidelines published in March 1997).
- 1.10 **"the premises"** means that portion of the building and the Land as is described in the "Land Description" panel on the first page of this Lease and any part thereof and includes all buildings improvements appurtenances alterations or additions (if any) now or hereafter situated thereon and any fixtures fittings plant equipment goods chattels furniture furnishings and effects (if any) of the Lessor therein or thereabouts including but without limiting the generality of the foregoing those items particularly referred to in Item 1 of the Schedule.
- 1.11 **"the term"** and **"the term hereof"** means the term specified on the first page of this Lease in the section marked "TERM" and includes any extension of the term and any period during which the Lessee shall hold over or be or remain a tenant or be in occupation of the premises.
- 1.12 **"Rules and Regulations"** means the procedures and rules and regulations annexed hereto and so entitled and or as may from time to time be made, varied or amended by the Lessor pursuant to this Lease.
- 1.13 **"the Schedule"** means the Schedule annexed hereto and so entitled.
- 1.14 **"Operating Expenses"** means (to the extent that the same are not specifically payable by any tenant of the building or the Lessee pursuant to this Lease) all amounts paid or payable by the Lessor or payments which the Lessor properly incurs or may be or become liable for in any one Accounting period or in any other lesser or relevant period in respect of the Land and the building whether by direct assessment or otherwise howsoever and includes:
- 1.14.1 all rates, taxes, duties, charges assessments, levies and impositions of any statutory authority, department or authority having the power to raise or levy such amounts in respect of the use, ownership or occupation of the Land, the building or the premises or any part thereof including State Land Tax (on the basis the Land is a single holding) and any charges for excess water but excluding income tax capital gains tax and all other taxes applicable to income or capital gain payable by the Lessor;
 - 1.14.2 the cost of insuring the building on such terms and conditions as the Lessor considers appropriate from time to time;
 - 1.14.3 the costs of insuring the Lessor against public risk on such terms and conditions the Lessor considers appropriate from time to time,

- 1.14.4 the amount of any excess or deductible not paid or excluded under any insurance policy taken out by the Lessor;
- 1.14.5 insurance premiums and other charges including stamp duty for workers compensation insurance for all employees of the Lessor engaged in employment in the building;
- 1.14.6 the costs of electricity or other sources of energy consumed in the production and reticulation of chilled water and conditioned air for the air conditioning equipment servicing the building and all other costs arising from the operation of the air conditioning system including but not limited to fuel oil grease labour and a full comprehensive maintenance contract (if any);
- 1.14.7 all reasonable costs and charges for water gas electricity and any other energy consumed in or about the building for the operation of lifts, fire protection equipment or any other services in the building not otherwise expressly referred to or provided for herein;
- 1.14.8 the cost of caretaking and security services;
- 1.14.9 all reasonable legal, accounting and other professional fees incurred in connection with the conduct and operation of the building and in particular any such fees of and incidental to the preparation of any estimates or statements of Operating Expenses or otherwise required to be furnished by the Lessor to the Lessee hereunder or at law.
- 1.14.10 all and any other expenditure costs or expenses incurred by the Lessor in or about or incidental to the building or the premises not hereinbefore expressly referred to;

but where the Act applies to this Lease, shall not include such of the abovementioned as the Act may preclude the Lessor from recovering from the Lessee.

- 1.15 If the premises are or become part of land to which either the Strata Titles Act 1988 or the Community Titles Act 1996 applies then:
 - 1.15.1 "**the Titles Act**" means that of the above Acts which applies;
 - 1.15.2 "**the Division Plan**" means the plan referred to in the Certificate of Title for the Land in the description of the Land (and if that be a community plan, all primary and secondary community plans which are associated with that plan);
 - 1.15.3 "**the body corporate**" means the corporation established pursuant to the provisions of the Titles Act in relation to the subdivided property;
 - 1.15.4 "**the subdivided property**" means the whole of the real property included in the Division Plan of which the Land forms part and all buildings and improvements thereon;
 - 1.15.5 "**the by-laws**" means the by-laws applicable to and or made by the body corporate from time to time;
- and
- 1.15.6 included in the definition of Operating Expenses will be

- (a) payments required to be made by the Lessor to the body corporate for services and other work in relation to the premises and or the buildings on the subdivided property and which services and work or payments are not otherwise required to be met by the Lessor pursuant to this Lease;
- (b) monies required to be paid by the Lessor to the body corporate pursuant to the provisions of the Titles Act.

- 1.16 Headings to clauses shall not form part of this Lease or be used for the purpose of interpretation but shall be deemed to be for the purpose only of facilitating reference to the various provisions of this Lease.
- 1.17 Where the context of this Lease permits or requires:
- 1.17.1 words in the singular include the plural and words in the plural include the singular;
 - 1.17.2 words of or importing the masculine gender include the feminine gender;
 - 1.17.3 words referring to a person include a body corporate,
- 1.18 A reference to any statute code or regulation includes all amendments and revisions made from time to time to that statute code or regulation and any statute code or regulation passed in substitution therefor or incorporating any of its provisions.
- 1.19 Any provision of this Lease which by virtue of the Act (if it applies to this Lease) or any other statute or law is invalid void or unenforceable, shall be capable of severance without affecting any other provision of this Lease.
- 1.20 A reference in this Lease to the Lessor's approval or consent, is to the Lessor's prior written approval or consent which may be granted or withheld in the absolute discretion of the Lessor;

2. RENT, RENT REVIEW AND LESSEE'S CONTRIBUTION TO OPERATING EXPENSES

Rent

- 2.1 The Lessee must pay the rent to the Lessor at the Lessor's business address or at such other place as may be directed by the Lessor or the Lessor's agent. The Lessee must pay the rent in advance, the first payment to be made on or before the commencement of this Lease and subsequent payments on the same day of each calendar month during the term without any abatement or deduction whatsoever and without any demand having been made.

GST

- 2.2 Unless otherwise stated in Item 7 of the Schedule, rent and other monies payable by the Lessee to the Lessor pursuant to this Lease do not include any GST. If a GST is chargeable with respect to the payment by the Lessee to the Lessor of rental and or other monies pursuant to this Lease, the Lessee must pay the GST or reimburse the Lessor for any GST paid or payable by the Lessor with respect to such rental and or other monies. The Lessor must provide to the Lessee an appropriate Tax Invoice in respect of any such GST payment or re-imbusement by the Lessee.

Additional Rent

- 2.3 The Lessee must pay to the Lessor as additional rent:
- 2.3.1 a proportion of the Operating Expenses as specified in clause 2.4 of this Lease;
 - 2.3.2 where the Lessor provides a cleaning service for the building, the Lessee's proportion of the cost of such cleaning service.

Payment of Operating Expenses

- 2.4 The Lessee must pay the Lessee's proportion of the Operating Expenses by way of equal monthly payments together with the rent each month or by way of lump sum payments as Operating Expenses are incurred or payable by the Lessor (as the Lessor may direct). If the year in which any particular operating expense is payable does not coincide with a year of this Lease, the amount the Lessee is to pay in the first and last years of this Lease is to be adjusted proportionately. The Lessor shall calculate the actual amount payable by the Lessee pursuant to this clause as soon as possible after the 30th June in each Accounting period and shall adjust any difference. Any over-payment by the Lessee shall be credited to the first payment due by the Lessee after the assessment is made (or refunded if the Lease is at an end) and any under-payment by the Lessee shall be added to the first payment to be made by the Lessee after the assessment is made (or will be paid by the Lessee forthwith on demand if the Lease is at an end).

Rent Review

- 2.5 The rental reserved by this Lease shall be reviewed on the dates and in the manner set out in Item 5 of the Schedule. If this Lease is not a Lease to which the Act applies, the rental payable pursuant to any review of rental shall in no case be less than the rental payable immediately prior to the relevant review date.

Interest on Late Payments

- 2.6 The Lessee must pay to the Lessor interest at a rate being two percentum per annum (2%) higher than the rate charged from time to time by the Commonwealth Bank of Australia on overdraft accounts on amounts no greater than the annual rental payable hereunder, on any rent or other moneys becoming payable under this Lease if not paid within ten days of becoming due and payable and such interest shall be computed on and from the due day for payment and shall accrue from day to day until the date of actual payment. Such interest and other moneys shall be recoverable in like manner as rent in arrears.

3. MAINTENANCE, REPAIRS, ALTERATIONS AND ADDITIONS

Maintenance

- 3.1 The Lessee must keep
- 3.1.1 the premises,
 - 3.1.2 the sanitary water electricity and gas apparatus therein, and
 - 3.1.3 the Lessor's fixtures and fittings and all glass doors and glass windows

in at least the same condition and working order (as applicable) as at the date the Lessee first took occupation of the premises (fair wear and tear excepted). For the avoidance of doubt, the Lessee is responsible for all repairs, maintenance, replacements and renovations in connection with the premises (irrespective of whether those costs are general, capital and/or structural). Such maintenance, repairs, replacement and renovation includes the car parking areas, pedestrian areas and landscaped areas within and around the building the building, air conditioning equipment, fire protection equipment and other services and plant and equipment in the building.

Maintenance of Plant and Equipment

3.2 If the Lessee exclusively uses any plant or machinery installed in the premises or the Lessor installs any plant or machinery at the request of the Lessee within and or servicing the premises then the Lessee must keep all such plant or machinery maintained serviced and in good repair and will enter into and keep current at the Lessee's expense such maintenance service and repair contracts as are reasonably required by the Lessor for that purpose with contractors approved by the Lessor.

Removal of Waste and Repair of Damage

3.3 The Lessee must at the Lessee's expense:

- 3.3.1 ensure that all waste is placed daily in suitable receptacles and subject to clause 3.4, ensure the premises to be cleaned regularly in a proper and workmanlike manner and ensure all waste and refuse promptly and regularly removed from the Land (and in so far as wet refuse is concerned, daily outside normal trading hours);
- 3.3.2 as soon as is reasonably possible make good any damage to any part of the building or to the premises or any part thereof (including ceilings) caused or contributed by the Lessee;
- 3.3.3 immediately replace all broken glass in respect of the premises;
- 3.3.4 take any steps necessary to control any pest infestation occurring within the premises and if required by the Lessor engage a pest exterminator approved by the Lessor;
- 3.3.5 repair or where appropriate replace heating lighting electrical and plumbing fittings installed in the premises broken or damaged by the Lessee;
- 3.3.6 comply with all statutes ordinances proclamations orders and regulations affecting the premises or any fixtures or fittings installed by the Lessee therein;
- 3.3.7 comply with any notices or orders which may be given by any competent authority in respect of the premises or their use by the Lessee and keep the Lessor indemnified for all such matters.

Cleaning

3.4 If the Lessor provides a service for the routine cleaning of the building the Lessee must, if reasonably so required by the Lessor, use such service for the cleaning of the premises (to the extent that that service applies) and will permit the Lessor's cleaning contractors to have access to the premises at all reasonable times for the

purpose of carrying out such cleaning. The Lessee must pay to the Lessor in addition to the rent and as and when required by the Lessor, the cost of the cleaning of the premises and the Lessee's proportion of the overall costs of the cleaning of the building.

Alterations and Additions

- 3.5 3.5.1 The Lessee must not install or use in the premises internal partitions other than of a standard as to type quality and size as the Lessor shall approve.
- 3.5.2 The Lessee must not install or place in the premises any heavy item fixture or fitting which may (in the reasonable opinion of the Lessor) cause unreasonable noise or vibrations, overload the switchboard or cause structural or other damage to any part of the building.
- 3.5.3 The Lessee must not make alterations or additions to the premises nor install or alter any partitioning in the premises without the Lessor's prior written approval, and :
- (a) in seeking the Lessor's approval to a proposed alteration or addition or installation/alteration the Lessee must submit plans and specifications of the proposed work;
 - (b) the Lessor may require as a condition of its approval that:
 - (i) any such work be supervised by a person nominated by the Lessor;
 - (ii) any such work be executed by contractors or tradesmen in a tradesmanlike manner under the supervision of appropriately qualified persons approved by the Lessor with public liability insurance for an amount that in the reasonable opinion of the Lessor is adequate;
 - (iii) the Lessee pay all reasonable costs incurred by the Lessor in considering the proposed works and their supervision including the fees of architects or other building consultants employed by the Lessor;
 - (iv) the Lessee obtain from any competent authority all necessary approvals or permits necessary to enable such proposed work to be lawfully effected and on request by the Lessor produce for inspection to the Lessor copies of all such approvals and permits;
 - (v) upon completion of the works, the Lessee produce to the Lessor any certificates of compliance issued by any such competent authority;
 - (vi) the Lessee reimburse the Lessor any reasonable cost or expense that may be incurred by the Lessor as a result of the installation operation or removal of any equipment fixture fitting or machinery.
- 3.5.4 The Lessee must not without the prior written consent of the Lessor cause any advertisement notice poster hoarding or sign to be affixed to or placed

near any window in the premises so as to be visible from the outside of the building.

- 3.5.5 If the Lessor causes any alterations or improvements to be made to the premises at the request of the Lessee or as a result of a notice received from any government or semi-government authority with such notice being predominately as a result of the nature of the Lessee's business or the occupation of the premises by the Lessee the annual rental otherwise payable by the Lessee hereunder as at the date of completion of such alterations or improvements shall be increased by an amount equivalent to not less than fifteen (15%) per centum of the amount certified in writing by an Architect nominated by the Lessor to be the completed value of such alterations or improvements. The stipulations contained in this Lease relating to the time method and manner of payment of rental shall also apply to any increase in the rental determined in accordance with the provisions of this clause

Removal of Fixtures and Fittings

- 3.6 3.6.1 Unless otherwise agreed by the parties in writing the Lessee must prior to the expiration of the term remove all partitions alterations or additions installed or made by the Lessee and make good any damage to the premises (including floors carpets walls and ceilings) caused by such removal. Where the term of this Lease shall be determined prior to the expiration of the term the Lessee must effect such removal and make good any such damage within a reasonable time after such determination.
- 3.6.2 If the Lessee shall not have completed such removal and making good on the expiration of the term of this Lease (or in the case of the determination of the term of this Lease within a reasonable time after such determination) then (without prejudice to any other rights of the Lessor) the Lessor may remove and store such partitions alterations or additions as the Lessee shall have failed to remove and the Lessee must repay on demand all reasonable costs and expenses incurred by the Lessor in so doing.
- 3.6.3 The Lessor may alternatively elect not to effect such removal in which case the Lessor shall by notice in writing given to the Lessee notify the Lessee that unless the Lessee shall have effected such removal within fourteen (14) days of the date on which such notice is given such partitions alterations or additions as have not been removed by the Lessee shall be forfeited to the Lessor and where the Lessee fails to comply with such notice such partitions alterations and additions shall at the expiration of such fourteen (14) day period become the absolute property of the Lessor.
- 3.6.4 Until such time as the Lessee has removed the Lessee's partitions alterations and additions and has made good the premises or the date upon which the same have been forfeited to the Lessor pursuant to the preceding subclause (whichever is the earlier) ("the compliance date"), the Lessee must pay by way of damages to the Lessor an amount which represents the rental payable immediately prior to the expiration or termination of this Lease calculated on a daily basis multiplied by the number of days between the compliance date and the date of expiration or termination of this Lease.

Notice of Damage

3.7 The Lessee must forthwith give notice to the Lessor (or where appropriate to the Building Supervisor or Managing Agent of the Lessor) of:-

3.7.1 any damage and of any accident to or defect or want of repair in the premises or in the building or in any of the services or other facilities provided by the Lessor in the premises or the building to make the premises or the building safe from any danger, risk or hazard.

3.7.2 any circumstance or event which the Lessee ought reasonably be aware might cause danger, risk or hazard to any person within the premises or the building.

4. THE LESSEE HEREBY COVENANTS AND AGREES WITH THE LESSOR as follows:

Utility Charges

4.1 4.1.1 The Lessee must pay as and when the same fall due, all charges for gas electricity oil and water separately metered and consumed in or on the premises and also all charges in respect of any telephone services connected to the premises and all other charges and impositions imposed by any public utility or authority for the supply of any service separately supplied and/or consumed in respect of the premises.

4.1.2 Should the Lessee make default in payment of any of the charges referred to in the preceding clause then the Lessor may pay the same and forthwith recover the amount paid as if the same were rent in arrears payable by the Lessee.

Grounds

4.2 The Lessee must not deposit or cause permit or suffer to be deposited any debris refuse or rubbish of any kind in or on any grounds gardens yards lanes ways or rights of way or in or on any public road or footway abutting upon or adjacent to the premises or the Land.

Inspection and Workmen

4.3 The Lessee must permit the Lessor and the Lessor's attorney and agent and all persons lawfully authorised by them with or without workmen at all reasonable times of the day and on reasonable notice to enter into and upon the premises to examine the state of repair and condition thereof and must permit workmen engaged by the Lessor or by the Lessor's attorney or agent at all reasonable times and upon reasonable notice to enter into and upon the premises with all necessary appliances to execute repairs or to paint the premises or any part thereof (which the Lessor may do without prejudice to any covenant or agreement on the part of the Lessee contained in this Lease). The Lessor in executing such repairs or painting must use reasonable endeavours to cause as little disturbance to the Lessee as is practicable. If so required by the Lessee, any entry onto the premises by the Lessor or any person(s) authorised by the Lessor must be in the presence of a representative of the Lessee.

Repairs

- 4.4 If at any time during this Lease the Lessor the Lessor's attorney or agent shall find any defect decay or want of reparation in the premises or shall find any state or condition thereof contrary to any covenant or agreement on the part of the Lessee contained in this Lease, the Lessor the Lessor's attorney or agent may give to the Lessee notice in writing to make good repair restore or amend the same within a reasonable time to be therein stated and the Lessee must within such time sufficiently and in good and proper workmanlike manner make good repair restore or amend the same to the reasonable satisfaction of the Lessor or the Lessor's attorney or agent and if default shall be made by the Lessee in complying with any such notice the Lessor may (but it shall not be obligatory for the Lessor to do so) by or with the Lessor's attorney agent and or workmen enter into and upon the premises and carry out the requirements of such notice (causing as little disturbance to the Lessee as is practicable). All costs charges and expenses incurred by the Lessor in so doing shall be a debt due from the Lessee to the Lessor payable on demand and recoverable in the same manner in all respects as the rent hereby reserved is recoverable.

Employment of Contractors

- 4.5 If any work has to be done by the Lessee in or about the premises in order to comply with the Lessee's obligations pursuant to this Lease the Lessee must engage and employ only such tradesmen or contractors as have a current public liability policy for an amount which in the reasonable opinion of the Lessor is adequate and who are previously approved of in writing by the Lessor or the Lessor's architect.

Assignment and Underletting

- 4.6 4.6.1 The Lessee must not transfer, assign, sublet, license, hire out or part with possession or otherwise dispose of its interest in this Lease without the Lessor's prior written consent, which may be withheld or subject to such conditions the Lessor deems appropriate in its absolute discretion
- 4.6.2 If requesting the Lessor's consent under this clause, the Lessee must:-
- (a) request the Lessor's consent to an assignment transfer or other disposition of the premises or this Lease in writing.
 - (b) forthwith provide the Lessor with information the Lessor reasonably requires about the financial standing and business experience of the proposed assignee.
 - (c) if the Act applies to this Lease, before requesting the Lessor's consent to a proposed assignment of the premises or this Lease, furnish the proposed assignee with:-
 - (i) a copy of any disclosure statement given to the Lessee in respect of this Lease, and
 - (ii) details of any changes that have occurred in respect of the information contained in that disclosure statement since it was given to the Lessee (being changes of which the Lessee is aware or could reasonably be expected to be aware); and
 - (iii) any other procedural requirements set out in the Act.

- 4.6.3 To enable the Lessee to comply with the preceding subclause and if the Act applies to this Lease, the Lessee may, in writing, request the Lessor to provide the Lessee with a copy of the disclosure statement concerned and if the Lessor does not comply with such a request within 14 days after it is made, the preceding subclause 4.6.2(c) shall not apply to the Lessee in respect of the assignment transfer or other disposition in relation to which the disclosure statement applies.
- 4.6.4 Nothing in the preceding subclause shall prohibit the Lessor from granting the Lessor's consent to an assignment, transfer or other disposition of this Lease subject to the Lessee complying with such reasonable conditions as the Lessor shall consider appropriate.
- 4.6.5 Nothing in the preceding provisions of this clause prevents the Lessor from requiring payment of a reasonable sum for legal or other expenses incurred in connection with such a consent (whether consent is granted or not).
- 4.6.6 The Lessor may as a condition of granting its consent require that the proposed transferee or assignee provide to the Lessor such guarantee or guarantees of the transferee's or assignee's performance of the Lessee's obligations under this Lease which the Lessor requires.
- 4.6.7 If the Lessee is a company (except a company whose shares are listed on a stock exchange in Australia) a transfer of shares (except as a result of inheritance) totalling more than one half of the issued share capital of the Lessee, or of the controlling interest of the Lessee shall be deemed to be an assignment of this Lease requiring the consent of the Lessor.

Use

- 4.7 4.7.1 The Lessee may use the premises only for the purpose specified in Item 3 of the Schedule or other purposes incidental thereto or for such other purposes which the Lessor may give prior written permission for.
- 4.7.2 The Lessee must not use the premises or any part thereof nor cause permit or suffer the same to be used as a boarding or lodging house, nor carry on or cause permit or suffer to be carried on upon the premises or any part thereof any noxious noisome or offensive art trade business occupation or calling and must not use the premises or any part thereof or cause permit or suffer the same to be used for any unlawful purpose.

No Warranty by Lessor

- 4.8 The Lessee warrants that the Lessee has relied on the Lessee's own judgement expertise and the Lessee's experts in deciding that the premises are suitable for the Lessee's purposes and that the Lessor has given no warranty as to the use to which the premises may be put and that the Lessee has satisfied itself thereof and the Lessee shall be deemed to have accepted this Lease with full knowledge of, and subject to, any prohibitions or restrictions on the use thereof under or in pursuance of any Act, Ordinance, Regulation, By-law or other statutory enactment or order of Court. Should the use be permissible only with the consent of any authority under or in pursuance of any such Act, Ordinance, Regulation, By-law or other enactment or order of Court the Lessee shall obtain such consent at the Lessee's own cost and

expense. To the fullest extent permitted by law all warranties as to suitability and as to adequacy implied by law are hereby expressly negated.

Use of Premises and Provision of Emergency Number

4.9 The Lessee must:

- 4.9.1 advise the Lessor (or where applicable the Lessor's Managing Agent) of the private address and telephone number of the Lessee's nominated emergency after hours contact and shall keep the Lessor or the Lessor's Managing Agent informed of any change of such address or telephone number;
- 4.9.2 secure the premises against unauthorised entry at all times when the premises are left unoccupied and the Lessor reserves the right by the Lessor's servants and agents to enter upon the premises and fasten same if the premises are left unsecured;
- 4.9.3 not do anything whereby the working or efficiency of the air conditioning plant servicing the building or the premises may be affected;
- 4.9.4 upon the cessation of the Lessee's right to occupy the premises, deliver to the Lessor or the Lessor's Managing Agent all keys and or access cards to the premises;
- 4.9.5 observe the Rules and Regulations.

Restrictions on Use

4.10 The Lessee must not:

- 4.10.1 use or permit to be used for other than their designed purposes any of the fixtures or fittings in the premises or the building;
- 4.10.2 store or use inflammable or dangerous substances upon the premises (except as may be necessary for the ordinary conduct of the permitted use of the premises by the Lessee in which case the Lessee shall notify the Lessor in writing of the maximum quantity of any such inflammable or dangerous substance that the Lessee shall store on the premises);
- 4.10.3 do or permit to be done on the premises or in the building anything which in the reasonable opinion of the Lessor may become a nuisance or disturbance obstruction or cause of damage whether to the Lessor or to other tenants or users of the building nor use the premises in any noisy noxious or offensive manner;
- 4.10.4 obstruct or interfere with any of the entrances of the building;
- 4.10.5 permit any sign advertisement name or notice to be placed on any part of the premises or the building where such sign advertisement name or notice is of an incongruous or unsightly nature having regard to the character and use of the building and prior to the installation or placement of any sign advertisement name or notice the Lessee must:
 - (a) obtain the Lessor's prior written consent; and
 - (b) obtain the prior consent of any relevant competent authority;

- 4.10.6 use or permit to be used any radio record player tape or video recorder television loudspeaker screen or other like equipment likely to be heard or seen from outside the premises;
- 4.10.7 conduct or permit to be conducted on the premises any auction or fire sale.

Notice of Damage

- 4.11 The Lessee must give to the Lessor (or where appropriate to the building Supervisor or Managing Agent of the Lessor) notice of the occurrence of any accident or damage to or defect or blockage in (as the case may be) any water gas or electrical apparatus installation or fixed appliance or any water or gas pipes or electrical wiring or any sewer pipes roof gutters down pipes or storm water drains in or adjacent to the premises, near the premises or any part of the building adjacent to or near the premises, and will give such notice promptly after the occurrence thereof; but the covenant or agreement in this clause shall not lessen or modify the effect of any other covenant or agreement herein on the part of the Lessee to be performed and observed

Heavy Machinery

- 4.12 The Lessee must not bring upon the premises any heavy machinery or other plant or equipment not reasonably necessary or proper for the conduct of the Lessee's permitted use of the premises. In no circumstances must the Lessee bring upon the premises any heavy machinery or other plant or equipment:-
 - 4.12.1 of such nature or size or weight as to cause or (in the reasonable opinion of the Lessor) be likely to cause any structural or other damage to the floors or walls or any other parts of the premises or the Land, or
 - 4.12.2 of such construction or manufacture as to cause to emanate therefrom any noise or vibration or noxious odour fume or gas that could pervade the premises or escape therefrom to the discernible notice of any person outside the premises.

Prior to bringing upon the premises any heavy machinery or other plant or equipment permitted to be brought upon the premises pursuant to this covenant the Lessee must inform the Lessor of the Lessee's intention so to do and the Lessor or the Lessor's architects or engineers may direct the routing installation and location of all such machinery plant and equipment . The Lessee must observe and comply with all such directions and any reasonable fees payable to the Lessor's architects or engineers in connection with ascertaining the safest and most favourable and convenient method of routing installing and locating such machinery plant and equipment as aforesaid must be paid by the Lessee on demand.

Selling and Reletting

- 4.13 The Lessee must at all reasonable times permit the Lessor the Lessor's attorney agent and all persons with the Lessor or lawfully authorised by the Lessor (including workmen for the purpose of affixing signs as hereinafter in this clause stated) to enter into and upon the premises:-
 - 4.13.1 during the continuance of this Lease or after the termination thereof and while the Lessee is in occupation of the premises to view for the purpose of

selling the same and to affix to and exhibit at such part thereof as the Lessor or the Lessor's agent shall reasonably think fit a "For Sale" notice

- 4.13.2 during the period of six months prior to the termination of this lease or after the termination thereof and while the Lessee is in occupation of the premises to view the premises for the purpose of letting or reletting the same and to affix to and exhibit at such part thereof as the Lessor or the Lessor's agent shall think fit a "To Let" notice, and such notice may in each case include the name and address of the Lessor and/or the Lessor's agent. The Lessee must not remove any such notice without the written consent of the Lessor first had and obtained, and if the Lessee shall remove any such notice with such consent as aforesaid the Lessee must return such notice to the Lessor or the Lessor's agent.

Indemnity

- 4.14 Save to the extent that any loss expense or damage is caused or contributed to by the negligent or wilful act or omission of the Lessor, the Lessee will indemnify and keep indemnified and hold harmless the Lessor from all loss expense and damage occasioned to the Lessor as the result of any damage to the premises or any part thereof caused by the negligent use misuse waste or abuse of the water gas or electricity supplied to the premises or supplied to the Lessee or caused by any faulty fitting fixture or installation installed by the Lessee or by the use of any faulty appliance used by the Lessee.

Vermin

- 4.15 The Lessee must take all practicable measures to prevent any infestation of the premises or any part thereof by rats mice or other vermin or by flies, cockroaches ants or other insects and must not expose any food garbage rubbish debris rags or utensils to rats, mice or other vermin or flies cockroaches or other insects.

Locks and Keys

- 4.16 The Lessee must not tamper with or change any lock of the premises or have any keys of such locks cut without the consent of the Lessor or its agent. The Lessee will pay for any keys or change required to any lock and in the event of the Lessor or its agent being required to open the premises the Lessee will pay a reasonable fee fixed by the Lessor or the Lessor's agent.

Yielding Up

- 4.17 The Lessee must immediately prior to vacating the premises at the expiration or sooner determination of this Lease (or in the case of the determination of the term of this Lease within a reasonable time after such determination):
- 4.17.1 complete any repairs and maintenance which the Lessee is obliged to carry out under this Lease;
 - 4.17.2 remove all of the Lessee's fixtures, fittings, plant and equipment in or on the Land and immediately make good any damage caused by such removal;
 - 4.17.3 wash down the premises and treat as previously treated all internal surfaces of the premises by painting staining polishing or otherwise to a

specification reasonably approved by the Lessor and to the reasonable satisfaction of the Lessor;

- 4.17.4 replace all damaged and non-operative light bulbs and fluorescent tubes in the premises with new light bulbs and fluorescent tubes; and
- 4.17.5 thoroughly clean the premises throughout, remove all refuse therefrom leaving the premises in a clean, tidy, secure and safe condition;
- 4.17.6 comply with all reasonable requirements and directions of the Lessor in respect of all removal and reinstatement works;
- 4.17.7 hand over to the Lessor all keys and other security devices for the premises which the Lessee has in its possession or control.

Costs of Lease

- 4.18 The Lessee must pay to the Lessor on demand one half of the Lessor's costs and other expenses incurred in connection with the preparation, negotiation, stamping and registration of this Lease except that the Lessee will be responsible for all stamp duty (if applicable), registration fees and the preparation of any lease plan.

Blinds and Awnings

- 4.19 The Lessee must not erect or affix any blinds or awnings to the outside of the premises or any blinds to the interior of the windows display windows or doors thereof or affix any fittings to the floors walls or ceilings of the premises without the prior consent in writing of the Lessor which consent may be granted or refused or granted subject to conditions in the discretion of the Lessor.

Airconditioning

- 4.20 Where any plant machinery or equipment for heating cooling or circulating air is provided or installed by the Lessor in the premises or in the building for the benefit of tenants of the building ("**airconditioning plant**")
 - 4.20.1 the Lessee must pay all costs and expenses (charged at an hourly rate reasonably determined by the Lessor) associated with the operation of the airconditioning plant (when such operation is requested or required by the Lessee) between 6.00 pm and 8.00 am Monday to Friday and at any time on public holidays and weekends;
 - 4.20.2 the Lessee must comply with and observe the reasonable requirements of the Lessor in respect of the airconditioning plant;
 - 4.20.3 to the maximum extent permitted by law, the Lessor shall be under no liability to the Lessee in respect of the Lessor's inability or failure to operate service maintain replace or repair the airconditioning plant at any time for any reason and the Lessee acknowledges that the Lessor does not warrant that the airconditioning plant (if any) is suitable or adequate for the business to be conducted in the premises by the Lessee;
 - 4.20.4 the Lessee must permit the Lessor and all persons authorised by the Lessor at all reasonable times on giving to the Lessee reasonable prior notice (except in the case of emergency where no notice is required) to enter the premises to view the state of repair of the airconditioning plant and there remain for the purpose of carrying out any necessary or

desirable maintenance servicing or repair to or replacement of the airconditioning plant.

- 4.21 Where any airconditioning plant is installed in the premises or the building for the exclusive use of the Lessee, the Lessee must keep such airconditioning plant in good repair, condition and working order and must pay all costs of operating, maintaining, repairing, servicing and replacing the same (irrespective of whether those costs are general, capital and/or structural).

Electricity Supply

- 4.22 If the Lessor and the Lessee have entered into an agreement as to the supply by the Lessor to the Lessee of electricity for the premises then the terms and conditions of such agreement will apply to the parties and any breach by the Lessee of that agreement will be deemed to be a breach by the Lessee of this Lease. In the absence of any such agreement between the Lessor and the Lessee, the following provisions will apply:

- 4.22.1 If at the commencement of this Lease the Lessor supplies electricity to the premises and requires the Lessee to purchase such electricity from the Lessor, the Lessee must pay to the Lessor for all such electricity at such rate as the parties may agree from time to time and in the absence of such agreement at the maximum rate applicable under the Electricity (General) Regulations 2012.
- 4.22.2 Notwithstanding the preceding subclause, there is no obligation on the Lessor to supply or continue to supply electricity to the premises and upon giving at least 60 days prior written notice to the other either:-
- (a) the Lessor may elect to cease selling electricity to the Lessee, or
 - (b) the Lessee may elect to cease purchasing electricity from the Lessor.
- 4.22.3 If either the Lessor elects to cease selling electricity to the Lessee or the Lessee elects to cease purchasing electricity from the Lessor in accordance with the preceding subclause, the Lessee must on or before the time at which such sale and purchase is to cease pursuant to the notice given in accordance with the preceding subclause,
- (a) enter into a contract to purchase electricity for the premises from a licensed electricity retailer of the Lessee's choice,
 - (b) ensure that any such contract contains a provision that such electricity retailer must provide details to the Lessor concerning the Lessee's consumption of electricity in or in relation to the premises,
 - (c) install at no cost to the Lessor such new or additional equipment and meters as may reasonably be necessary to supply and record the supply of electricity to the premises.
- 4.22.4 If the Lessee is supplied electricity via an Inset Network (as defined in the Electricity (General) Regulations 2012) on the Land, the Lessee must pay to the Lessor the Lessee's share of Inset Network charges such share to be as is reasonably determined by the Lessor from time to time taking into account the quantum of electricity provided to the premises and the quantum of electricity provided to other premises situate on the Land.

- 4.22.5 Save to the extent caused or contributed to by the Lessor's negligence, the Lessor will not be liable to the Lessee for any failure of electricity supply to the premises.

Strata and Community Title Obligations

- 4.23 If the premises are or become part of land to which either the Strata Titles Act 1988 or the Community Titles Act 1996 applies then the following provisions shall also apply:
- 4.23.1 where the Lessee is pursuant to the provisions of this Lease required to secure the consent of the Lessor to any structural alteration or repair, the Lessee must also secure the consent of the body corporate;
- 4.23.2 the Lessee must permit the body corporate and the body corporate's attorney and agent and all persons lawfully authorised by them with or without workmen at all reasonable times of the day and on reasonable notice to enter into and upon the premises to examine the state of repair and condition thereof and must permit workmen engaged by the body corporate or by the body corporate's attorney or agent at all reasonable times and upon reasonable notice to enter into and upon the premises with all necessary appliances to execute repairs (which the body corporate may do without prejudice to any covenant or agreement on the part of the Lessee contained in this Lease). The body corporate in executing such repairs must use reasonable endeavours to cause as little disturbance to the Lessee as is practicable. If so required by the Lessee, any entry onto the premises by the body corporate or any person authorized by the body corporate must be in the presence of a representative of the Lessee.
- 4.23.3 The Lessee and all persons acting by, through or under the Lessee or with the Lessee's authority express or implied must comply with so many of the provisions of the Titles Act and the by-laws and all lawful orders, motions and directives pursuant to the same as may be applicable to the exercise of the Lessee's obligations pursuant to the provisions of this Lease.
- 4.23.4 The Lessee must not, without the prior written consent of the body corporate, do or allow or permit to be done any act, matter or thing which shall or may:-
- (a) increase the rate of premium payable by the body corporate under any policy of insurance taken out by the body corporate in respect of the subdivided property or any part thereof,
 - (b) invalidate, avoid or suspend the operation of any such policy of insurance or otherwise prejudice the body corporate's rights under any such policy,
 - (c) in any way prejudice the rights or increase the obligations of or invalidate, avoid or suspend any rights of the body corporate under any mortgage, permit, authority or other instrument relating to the subdivided property or the use of the same or any part thereof.
- 4.23.5 Upon the occurrence of any of the matters previously referred to the Lessee must:-

- (a) pay to the Lessor or such other person responsible for payment of the same any amounts payable to the body corporate as a consequence thereof,
- (b) pay to the Lessor for and on behalf of the body corporate any amounts payable by the body corporate as a consequence thereof and not the subject of sub-clause (a) hereof,
- (c) pay to the Lessor for and on behalf of the body corporate the amount of any and all losses and damage arising to the body corporate from the occurrence of any of the said matters.

4.23.6 Where at any time the Lessee fails to comply with the Lessee's obligations in the preceding sub-clauses hereof, the Lessor may, in the Lessor's own complete discretion and without prejudice to the Lessor's other rights against the Lessee with respect to such failure, do or authorise the doing of all such acts, matters and things as may be necessary to ensure such compliance with the said obligations and recover from the Lessee any and all costs, expenses and outlays occasioned thereby.

4.23.7 Wherever there is any inconsistency between the provisions of this Lease imposing specific obligations upon the Lessee and the Titles Act and or the by-laws:-

- (a) the Lessee must refer the matter to the Lessor as soon as possible,
- (b) the provisions of this Lease imposing such specific obligations shall subsist until the Lessor directs the Lessee in writing to the contrary,

4.23.8 (a) Wherever obligations are imposed upon or accepted by the body corporate pursuant to the provisions of the Titles Act and are also imposed upon or accepted by the Lessee pursuant to the provisions of this Lease, the Lessee's obligations pursuant to this Lease shall subsist subject to the provisions hereof,

- (b) In any such case, the Lessee:-
 - (i) shall at all times be entitled to call upon and require the Lessor to procure the body corporate to exercise its said obligations,
 - (ii) must pay to the Lessor or such other person obliged to pay the same the reasonable amount of any and all contributions costs and payments required to be made for and in respect of the performance by the body corporate of its said obligations,
 - (iii) subject to any provisions of the Titles Act and the by-laws to the contrary, must do all acts, matters and things necessary to comply with the Lessee's obligations pursuant to the provisions of this Lease only after giving the body corporate reasonable notice requesting it to comply with its obligations,
 - (iv) must complete any acts, matters or things done by the body corporate to the extent that the body corporate's compliance with its obligations would not represent complete performance of the Lessee's obligations in accordance with the provisions of this Lease,

- 4.23.9 When called upon to do so by the Lessor, the Lessee must enter into a covenant with the body corporate under which the Lessee covenants to perform as many of the covenants as are contained herein as relate to the lessee's obligations to comply with the Titles Act and the by-laws.
- 4.23.10 The Lessee shall indemnify the Lessor for any loss or damage suffered by the Lessor by reason of any failure by the Lessee's employees, agents, contractors or other persons acting with the Lessee's authority actual or ostensible to comply with the same obligations as to conduct as are imposed upon the Lessee by this Lease.

Community Titling

- 4.24 If the premises are not part of land to which the Community Titles Act 1996 applies then:
 - 4.24.1 if the Lessor notifies the Lessee in writing that the Lessor desires to divide the Land pursuant to the Community Titles Act, the Lessee must when called upon to do so by the Lessor consent to and execute such Application for the Deposit of a Plan of Community Division as the Lessor may reasonably require without the payment by the Lessor to the Lessee of any monetary or other consideration;
 - 4.24.2 the Lessee must do all such reasonable acts and things as shall be necessary or desirable to allow the Land to be divided in accordance with the plan or plans accompanying the said Lessor's Application for Deposit of a Plan of Community Division.

Resumption

- 4.25 If the Lessor receives notice of resumption or acquisition of the premises or the building (or any part of the building affecting the premises) from or by any Statutory Authority governmental or semi-governmental body, then the Lessor may terminate this Lease by giving not less than three months' written notice to the Lessee. If such termination takes effect, but without prejudice to the rights of either party for any antecedent breach or default but otherwise no party will have a right against the other to claim for compensation for any loss or damage suffered as a result of that resumption or acquisition.

Exclusion of Trespassers

- 4.25.1 The Lessor may at any time and from time to time and for so long as it shall think fit exclude and restrain any person or persons from entering upon any part of the Land other than bona fide customers patrons delivery men or service suppliers of the Lessee or of the other lessees of the Land who make use of the same in accordance with the rules and regulations of the Lessor relating thereto. Without in any way limiting the meaning of the term "bona fide" any person who has entered upon the Land or any part thereof in breach of the Lessor's rules and regulations relating thereto and who having been notified of such breach shall commit a further breach of the said rules and regulations (whether the like nature or not) shall for the purpose of this clause be deemed to be not bona fide.

Revocation of Licence to Enter

4.25.2 The Lessee must whenever requested so to do by the Lessor give notice in writing to any person who purports to enter upon any part of the Land as a customer patron or invitee of the Lessee and who does not observe the Rules and Regulations of the Lessor relating thereto or who is deemed not to be bona fide revoking the licence of such person to enter upon any part of the Land.

5. INSURANCE AND INDEMNITY

Lessee's Insurance

5.1 The Lessee must during the entire term hereof and any extensions hereto keep in full force and effect:-

5.1.1 a policy of public risk insurance with respect to the premises appurtenant thereto and the business or businesses carried on in the premises in which the limits of public risk shall be not less than the amount referred to in Item 4 of the Schedule. Such policy must include an extension to cover the Lessee's legal liability in respect of death or injury to any person and damage to property of any such person or to the premises and must include an extension to cover the Lessee's liability in respect of the Lessor's property (and if the premises are or become part of land to which either the Strata Titles Act or the Community Titles Act applies, the body corporate) in or upon or part of the premises. The policy must name as insured the Lessor (and the body corporate if applicable) and the Lessee unless it is customary at the time for Insurance Companies to decline to do so, when it may be in the name of the Lessee but must note the interest of the Lessor (and the body corporate if applicable).

5.1.2 a policy of insurance covering the Lessee's plant fittings and stock in trade contained in or about the premises to the full replacement value thereof against all usual risks including loss or damage by fire fire fighting activities fusion explosion lighting civil commotion storm tempest earthquake and malicious damage or accidental damage, and any other insurances required by law or which the Lessor reasonably requires for the amount the Lessor reasonably requires.

The Lessee must use the Lessee's best endeavours to ensure that each such policy contains a clause that the insurer will not cancel or change the insurance without first giving the Lessor thirty days prior written notice. The policy or a copy thereof or a certificate of insurance must be produced by the Lessee to the Lessor at the Lessor's place of business upon request in writing being made by the Lessor for the production thereof.

Insurance not to be affected

5.2 5.2.1 The Lessee must not do or store nor cause permit or suffer to be done or to be stored in or upon or in connection with the premises anything whereby any policy or policies of insurance now effected or which may hereafter be effected on the premises or any part thereof or on any adjoining premises belonging to the Lessor may be invalidated or become

void or voidable or whereby any increased rate of premium may become payable under any such policy or policies of insurance.

- 5.2.2 Without prejudice to the preceding sub-clause, the Lessee must from time to time on demand by the Lessor pay to the Lessor all extra or excess premiums (if any) for all and any insurance effected by the Lessor (and if the premises are or become part of land to which either the Strata Titles Act or the Community Titles Act applies, the body corporate) in relation to the Land and the buildings thereon and or the premises required on account of extra risk caused directly or indirectly by the use to which the premises are put by the Lessee and or required by reason of any breach by the Lessee of any covenants in this Lease.

Compliance with Acts, By Laws and Regulations

- 5.3 The Lessee must at the Lessee's cost and expense

5.3.1 comply with every notice order or requirement relating to the premises and requiring any condition defect or want of reparation to be remedied which may be given or made to the Lessor or to the Lessee in pursuance of the Public and Environmental Health Act 1987 and or the Local Government Act or Acts for the time being in force in the State of South Australia and or any other Act or Acts of Parliament or any by-laws rules or regulations made under or in pursuance of any such Act or Acts or purporting so to be and will comply therewith within the time limited therein for complying therewith. If default shall be made by the Lessee in so complying the Lessor may comply therewith (but it shall not be obligatory for the Lessor to do so) and all costs charges and expenses incurred by the Lessor in so doing shall be a debt due and recoverable from the Lessee in the same manner in all respects as the rent is recoverable;

5.3.2 take such precautions against fire on and in respect of the premises as are or may from time to time be required under or in pursuance of any Statute now or hereafter in force or which may be required by any authority (whether Governmental municipal civic or other) having jurisdiction in relation thereto and also at the Lessee's own expense in all things, do all such other acts matters and things in relation to fire safety as are or may from time to time be directed or required to be done or executed (whether by the owner or occupier of the premises) by any authority (whether Governmental municipal civic or other) having jurisdiction in relation thereto pursuant to any Statute now or hereafter in force.

Lessee to Occupy Premises at own Risk

- 5.4 The Lessee agrees to occupy and use the premises and the Land at the Lessee's sole risk.

Indemnity and Release

- 5.5 The Lessee indemnifies the Lessor against all claims, actions, damages, losses, costs and expenses of any nature which the Lessor may suffer or incur or for which the Lessor may become liable in connection with:

5.5.1 The Lessee's use or occupation of the premises;

- 5.5.2 The overflow or leakage of water or any other substance into or from the premises arising out of any faulty fixture or fitting of the Lessee;
- 5.5.3 any accident or damage to property or injury or death suffered by any person arising from any occurrence in connection with the premises arising wholly or in part by reason of any act or omission by the Lessee and persons under the control of the Lessee;
- 5.5.4 any act or omission of the Lessee;
- 5.5.5 any fire from the premises;
- 5.5.6 any breach of this Lease by the Lessee,

save to the extent that any such claim, action, damages, losses, costs and expenses are caused or contributed to by the negligent or wilful act or omission of the Lessor.

5.6 The Lessee releases the Lessor from all actions, liabilities, penalties, claims or demands for any damage, loss, injury or death occurring in the premises, the building and/or the Land except to the extent that it is caused by the Lessor's negligence.

6. THE LESSOR HEREBY COVENANTS AND AGREES WITH THE LESSEE that the Lessee paying the rent and all other outgoings and performing and observing the terms conditions and covenants on the Lessee's part to be performed or observed herein contained or implied shall during the term or any extension thereof subject to the provisions of this Lease quietly enjoy the premises without unlawful interruption by the Lessor or any person lawfully claiming under or in trust for the Lessor.

7. IT IS HEREBY MUTUALLY AGREED BY AND BETWEEN THE LESSOR AND THE LESSEE as follows:

Damage to Building or Premises

7.1 Subject to clause 7.2 hereof, if the building of which the premises forms part is damaged:-

7.1.1 the Lessee is not liable to pay rent or Operating Expenses or other charges that are attributable to the period during which the premises cannot be used or are inaccessible due to that damage;

7.1.2 if the premises are still useable but their useability is diminished due to the damage, a fair and just proportion of the rent, Operating Expenses and other charges payable by the Lessee pursuant to this Lease having regard to the nature of the damage shall abate from the date of the damage until the date that the premises have become useable. If any dispute as to the amount of rent, Operating Expenses and charges to be abated arises, the same shall be determined by a licensed valuer appointed by the President of the South Australian Division of the Australian Property Institute (or should that body have ceased to exist, the President or other principal officer for the time being of such body or association as then serves substantially the same objects) at the request of the Lessor;

7.1.3 if the Lessor notifies the Lessee in writing that the Lessor considers that the damage is such as to make its repair impractical or undesirable, the Lessor or the Lessee may terminate this Lease by giving not less than seven days notice in writing and neither party shall have any claim for or

right to recover any compensation by reason of such termination save in respect of any antecedent breach or default or any claim regarding the cause of such damage;

- 7.1.4 if the Lessor fails to repair the damage within a reasonable time after the Lessee requests the Lessor in writing so to do, then the Lessee may terminate the Lease by giving not less than seven days notice in writing of termination to the Lessor.

Damage caused by Lessee

- 7.2 If the damage to the building was caused or contributed to by the wrongful act or negligence of the Lessee no proportion of the rent, Operating Expenses and charges shall be abated and the Lessee shall not be entitled to terminate this Lease.

Holding Over

- 7.3 If the Lessee continues in occupation of the premises after the expiration of the term or any extension thereof with the consent or acquiescence of the Lessor the Lessee shall thereupon become or be deemed to be a monthly tenant of the Lessor at a rental determined in accordance with the provisions of this Lease, and such tenancy shall be subject to such of the conditions and covenants contained in this Lease as are applicable to a monthly tenancy.

Damage to Goods or Person

- 7.4 Except to the extent caused by the negligent or wilful act or omission of the Lessor, its servants or agents, the Lessor its attorney or agent shall not be under any liability to the Lessee for any loss expense or damage sustained by the Lessee or any invitee of the Lessee arising out of personal injury or destruction of or damage to goods chattels furniture or effects howsoever caused including by water gas or electricity bursting overflowing leaking or escaping (as the case may be) from any water gas electrical apparatus installation fitting pipe sewer wiring roof or roof gutter down pipe or storm water drain (as the case may be) on in or connected to or appurtenant to the premises and/or the building, and the Lessee will indemnify and keep indemnified the Lessor against all claims demands actions suits and all legal proceedings whatsoever (including the costs thereof) made brought or taken by any other persons by reason of any loss expense or damage or alleged loss expense or damage sustained or alleged to have been sustained by such person and arising or alleged to arise out of personal injury to such other person or destruction of or damage to his goods chattels furniture or effects or alleged to have been caused as aforesaid.

Waiver

- 7.5 No waiver by the Lessor of any breach or non-observance by the Lessee of any covenant herein contained shall constitute a general waiver of the obligations of the Lessee.

Acceptance of Rent Arrears

- 7.6 In respect of the Lessee's obligations to pay rent the acceptance by the Lessor of arrears of or any late payment of rent shall not constitute a waiver of the essentiality of the Lessee's obligations to pay rent on the dates hereinbefore set out for payment of rental or in respect of the Lessee's continuing obligation to pay rent during the term.

Notices

- 7.7 Any notice or other document required to be given or served under this Lease must be in writing addressed to the other party in accordance with the parties addresses set out in this Lease and may by ordinary or registered mail to that party's address, or transmitted by facsimilie (or in respect of the Lessee only, sent by email).
- 7.8 A notice given to a party in accordance with this clause 7 is treated as having been given and received:
- 7.8.1 if delivered to a party's address or transmitted by facsimilie on the day of delivery if a business day and before 5.00pm, otherwise on the next following business day;
 - 7.8.2 if sent by registered mail, on the third business day after posting;
 - 7.8.3 if sent by email to the Lessee, on the first to occur of:
 - (a) receipt by the sender of an email acknowledgement from the recipient's information system showing that the notice has been delivered;
 - (b) the time that the notice enters an information system which is under the control of the recipient; and
 - (c) the time that the notice is first opened or read by the intended addressee.

Reservation of Services

- 7.9 The Lessor reserves the right for itself and for all others authorised by the Lessor the passage of any air conditioning equipment, fire sprinkler systems, pipes, ducts, cables, wiring, communications, water sewerage and drainage connections and any other services through or along or in or into the premises and also access to and through the premises at any time for the purpose of installing, maintaining or repairing any such equipment, systems, pipes, ducts, cables, wirings, connections and services.

Costs of Proceedings

- 7.10 If the Lessor shall without fault on the Lessor's part be made a party to any litigation commenced by or against the Lessee, the Lessee must pay to the Lessor on demand by the Lessor all reasonable legal fees and disbursements (as between solicitor and client) incurred by the Lessor in connection therewith.

Permitted use not exclusive

- 7.11 Nothing contained in this Lease shall confer on the Lessee the exclusive right to conduct on the Land a business of a particular type, to the intent that the Lessor shall be free to let to any person other premises on the Land for a use similar to that permitted by this Lease.

Relocation of Parking Facilities

- 7.12 The Lessor may at any time relocate any driveways entrances and exits and change the boundaries and locations of any motor vehicle parking areas available to the

Land and may rearrange any parking spaces therein or add additional parking spaces.

Rules and Regulations

- 7.13 7.13.1 The Lessor may from time to time make such rules and regulations that the Lessor considers necessary for the management, safety, security, care of or cleanliness of the premises or the building.
- 7.13.2 The Lessor reserves the right to amend from time to time the Rules and Regulations (provided such amendments do not derogate from the Lessee's rights under this Lease).
- 7.13.3 The Rules and Regulations bind the Lessee when it receives notices of the Rules and Regulations from the Lessor.
- 7.13.4 If there is any inconsistency between this Lease and the Rules and Regulations, then this Lease prevails.
- 7.13.5 A failure by the Lessee to comply with the Rules and Regulations is a breach of this Lease.
- 7.13.6 The Rules and Regulations applicable at the date of this Lease are those appended to this Lease.

Extension of term

- 7.14 If not more than six months nor less than three months prior to the expiration of the term the Lessee shall give to the Lessor notice in writing of its desire to extend the term and if the Lessee shall not be in breach of any of the covenants agreements and conditions on the part of the Lessee to be performed and complied, with the Lessee (at the Lessee's cost and expense in all things) shall be entitled to an extension of the term for the further period referred to in Item 6 of the Schedule at a rental to be fixed in the manner therein specified but otherwise upon the same terms and conditions as are herein contained with the exception of this right of renewal.
- If the Act applies to this Lease but not otherwise, and if the rental is to be reviewed on the commencement of the extended term to a current market rent, the Lessee may within the period commencing nine months prior to the end of the term and five months prior to the end of the term, by notice in writing to the Lessor require that the rental to apply for the first year of the extended term be determined in accordance with the method for determination specified in the Schedule.

No Caveat

- 7.15 The Lessee must not lodge or cause or permit to be lodged any absolute caveat over the certificate of title for the premises.

Set off

- 7.16 The Lessor may, by notice to the Lessee, set off any amount due by the Lessee to the Lessor under this Lease or otherwise against any amount due by the Lessor to the Lessee under this Lease.

Use of Conduits

7.17 The Lessee must allow the Lessor and other occupiers of the Land the free and uninterrupted passage of gas water and electricity through and along the services including electrical services situated under in or on the Premises.

Special Conditions

7.18 This Lease is subject to the special terms and conditions (if any) specified in Item 7 of the Schedule and if there is any inconsistency between any such special terms and conditions and any of the provisions of this Lease and/or the Rules and Regulations then such special terms and conditions shall prevail.

8. ESSENTIAL TERMS, RE-ENTRY, BREACH, DAMAGES

Essential Terms

8.1 The clauses of this Lease referred to in Item 8 of the Schedule are essential terms of this Lease.

Power of Re-entry

8.2 If the Lessee shall fail neglect or omit to perform or observe any essential term on the Lessee's part to be performed or observed and such failure neglect or omission shall remain unremedied for a period of 14 days (or such shorter time as the Lessor may in any particular case reasonably stipulate) then the Lessor or the Lessor's attorney or duly authorised agent, solicitor or representative may without notice to the Lessee re-enter into and upon the premises or any part thereof in the name of the whole and use and enforce all such ways and means and adopt all such measures as may be necessary or expedient for the purpose of effecting such re-entry by force or otherwise as the occasion may require without being liable for any loss expense damage action suit or proceeding or cost and to hold and enjoy the premises as if these presents had not been made and thereupon the Lessee's leasehold interest in the premises shall cease and determine.

Compensation for Breach

8.3 The Lessee shall compensate the Lessor for any breach by the Lessee of an essential term of this Lease and the Lessor shall at all times be entitled to sue for and recover all losses, damages, costs and expenses of whatever nature from the Lessee in respect of any and all such breaches. The Lessor's entitlement pursuant to this clause is in addition to any other remedy or entitlement of the Lessor pursuant to this Lease.

Lessor's Rights on Repudiation

8.4 If the Lessee's conduct (whether acts or omissions) constitutes a repudiation of this Lease (or of any of the Lessee's obligations under this Lease) or constitutes a breach of any covenant or covenants, the Lessee must compensate the Lessor for all loss, damage, costs and expenses of any nature suffered or incurred by reason of the repudiation or breach.

Damages for breach or repudiation

8.5 The Lessor shall be entitled to recover losses, damages, costs and expenses from and against the Lessee in respect of any repudiation or breach of covenant for the

losses, damages, costs and expenses suffered or incurred by the Lessor during the entire term of this Lease or any extension thereto or any holding over period.

Damages generally

- 8.6 The Lessor's entitlement to recover losses, damages, costs or expenses shall not be affected or limited by:
- 8.6.1 the Lessee abandoning or vacating the premises;
 - 8.6.2 the Lessor re-entering the premises and/or terminating the Lessee's leasehold interest in the premises;
 - 8.6.3 the Lessor accepting the Lessee's repudiation;
 - 8.6.4 conduct of the parties which may or shall constitute a surrender by operation of law.

Proceedings

- 8.7 The Lessor shall be entitled to institute legal proceedings claiming losses, damages, costs or expenses against the Lessee in respect of the entire lease term, any extension or any holding over period including the periods before and after the Lessee has vacated the leased premises, and before and after the abandonment, termination, repudiation, acceptance of repudiation or surrender by operation of law referred to in clause 8.6 whether the proceedings are instituted before or after such conduct.

Mitigation

- 8.8 If the Lessee vacates the premises, whether with or without the Lessor's consent, the Lessor shall be obliged to take reasonable steps to mitigate its damages and to endeavour to lease the premises at a reasonable rent and on reasonable terms. The Lessor's damages shall be assessed on the basis that the Lessor should have observed the obligation to mitigate damages contained in this paragraph. The Lessor's conduct in attempting to mitigate its damages shall not constitute acceptance of the Lessee's breach or repudiation or a surrender by operation of law.

9. LESSOR'S RIGHT TO TRANSFER

- 9.1 The Lessor may at any time or from time to time sell, transfer, assign, mortgage, encumber or charge the premises, the Land and the Lessor's right, interest, title or estate therein and in this Lease.
- 9.2 The Lessor will give notice of this Lease to any such transferee, assignee, mortgagee, encumbrancee or chargee provided always that the Lessor shall not be liable for any losses, damages, costs or expenses of whatever nature the Lessee may suffer as a result of any such transfer assignment mortgage encumbrance or charge or as a result of any actions or conduct by any such transferee, assignee, mortgagee, encumbrancee or chargee.

RULES AND REGULATIONS

1. The outside of the premises and the forecourt entrance vestibules corridors passages stairways landings lifts male and female toilets of the building shall be under the absolute control of the Lessor and shall not be obstructed by the Lessee or his clerks servants employees agents licensees clients customers visitors or invitees, or with the exception of the said male and female toilets, used by them for any purpose other than ingress and egress to and from the premises.
2. No sign device furnishing ornament or object which is visible from the street or from any other part of the building or from any other building which is in the reasonable opinion of the Lessor incongruous or unsightly or may detract from the general appearance of the building shall be displayed exhibited erected constructed or maintained by the Lessee in the building.
3. No sign advertisement or notice shall be inscribed painted or affixed to any part of the outside or inside of the building except with the consent in writing of the Lessor and then only of such colour size and style and in such places upon or in the building as shall be first approved by the Lessor. Signs on glass doors and on the directory tablet will be painted or affixed for the Lessee by the Lessor, the cost of painting or affixing being paid by the Lessee. A directory tablet in a conspicuous place with the names of the Lessee or the firm name in the case of a partnership is provided by the Lessor at the Lessee's expense in the entrance vestibule of the building and in the lift lobby on the floor on which the premises are situated and the Lessee's name on such directory tablets shall not exceed the number of lines allocated to each Lessee by the Lessor.
4. The Lessee shall give to the Lessor prompt notice of any breakage or defect of the water pipes air-conditioning ducts electric light or other fittings.
5. All keys to every portion of the building held by the Lessee or any of his employees or agents during the occupancy of the premises and whether the same shall have been supplied by the Lessor or not shall be surrendered to the Lessor on the determination of the Lease.
6. Electrical radiators or air-conditioning or cooling units or other methods of heating or cooling shall not be used unless the consent of the Lessor is first obtained.
7. No towels clothes or other similar articles shall be hung out of windows or on balconies or upon the roof.
8. The Lessee shall advise the Lessor of the private address of the Lessee or if the Lessee shall be a corporation of the Manager thereof or if there shall be more than one Lessee of any two of them. The Lessor shall be promptly informed of a change in any such address.
9. No blinds whether venetian or of any other kind or awnings or curtains shall be fitted to the outside of the premises or to the windows from inside without the consent in writing of the Lessor first had and obtained which consent may be withdrawn by the Lessor at any time in which event blinds and/or awnings shall be removed within such period as may be specified by the Lessor and the Lessee shall comply with any request made in connection with such blinds or awnings and shall bear all expenses of erection maintenance and removal thereof.
10. The Lessee shall not allow any accumulation of useless property or rubbish in the premises.
11. All doors and windows of the premises shall be securely fastened on all occasions when the premises are left unoccupied and the Lessor reserves the right for its Managing Agent employees servants and workmen to enter and fasten the same if left insecurely fastened and the Lessee shall have no claim against the Lessor in respect of any matter or thing occurring in the course of or as a result of any such entry.
12. The Lessee shall take such steps as may be necessary to prevent excessive infiltration of air into the premises and air leakages and shall not do any act or thing whereby the working of the air-conditioning plant in the building shall be affected.

13. The Lessee shall not erect any partitions or fittings or electric light connections or wiring or electric light fittings or fixtures until he has first obtained the approval of the proper authority or authorities and until a drawing or other specification of the proposed work and class of material which is to be used have been submitted to and approved by the Lessor in writing. The Lessor has the right to obtain at the Lessee's cost, architects approval of the said drawings or other specification of proposed work.
14. The Lessor shall have power to prescribe the position of any partition or partitions erected in the premises and the Lessee shall not erect any partition or partitions until the approval of the Lessor in writing for its or their position has been obtained.
15. The Lessee shall not use or install in the premises any chairs, desks or other equipment which are or is likely to cause damage to the floor coverings in the premises and shall make good to the satisfaction of the Lessor any damage or disfigurement caused to any such floor coverings by any chairs, desks or other equipment used or installed by the Lessee.
16. Until otherwise determined by the Lessor or its Managing Agent the normal business hours during which the building shall be open on business days (Mondays to Fridays other than public holidays) shall be from 8:00 a.m. to 6:00 p.m.
17. If the Lessor shall approve the use of the premises for any retail trade or business the Lessee shall during the term of this Lease operate the business with due diligence and efficiency and in a proper and business like manner.
18. The Lessee shall ensure that the Lessee or any servant or agent of the Lessee or any person authorised by the Lessee leaving or entering the building before 8:00 a.m. or after 6:00 p.m. on any business day or at any time on any other day shall close and lock the external door to the building.
19. The Lessor shall not be liable for any non-enforcement of these Rules and Regulations or any of them.

THE SCHEDULE

ITEM 1 SPECIFIC PLANT AND EQUIPMENT (clause 1.10)

All Lessor's fixtures and building equipment included in the premises at the commencement of the Lease or installed by or on behalf of the Lessor at any time after the commencement, including air conditioning plant and equipment, fire protection plant and equipment, lavatory and washroom plant and equipment, built-in kitchen equipment, floor coverings, window treatments, ceiling, standard lighting equipment, any standard telephone lines and connection points, electrical fittings and any partitioning supplied by the Lessor.

ITEM 2 THE LAND (clause 1.6)

The whole of the land comprised in Certificate of Title Register Book Volume 5719 Folio 136 and Volume 5796 Folio 800

ITEM 3 USE (clause 4.7.1)

Kindergarten, preschool, children's services and other incidental activities or for such other lawful use as the Lessor may consent to

ITEM 4 PUBLIC RISK INSURANCE (clause 5.1)

TWENTY MILLION DOLLARS per claim and unlimited in the annual aggregate or such higher amount as the Lessor may from time to time reasonably require

ITEM 5 RENT REVIEW (clause 2.5)

The rent hereby reserved will be reviewed as at 1 July each year of the term and the extended term (if any) and any period of holding over calculated in accordance with the following formula:-

$$A = \frac{R \times C1}{C2}$$

where:

'A' is the revised annual rent.

'R' is the annual rental payable during the year immediately preceding the relevant review date.

'C1' is the Index Number for the quarter ending immediately prior to the relevant review date.

'C2' is the Index Number for the quarter ending immediately prior to the date the annual rent being reviewed first became payable

The words "Index Number" used above mean the Consumer Price Index all groups for Adelaide as published by the Australian Bureau of Statistics but if the Australian Bureau of Statistics ceases to publish the Consumer Price Index before the end of the term or any extended term or if there should be any significant change in the manner of calculation of the same, the words "Index Number" shall mean some index reflecting fluctuations in the cost of living in Adelaide upon which the parties agree, but in default of such agreement, such index as shall be determined by the President for the time being of the Australian Property Institute (South Australian Division) or his nominee as reflecting fluctuations in the cost of living in Adelaide, and such person's decision shall be final and binding on the parties. In making such determination the President or his nominee shall be deemed to be acting as an expert and not as an arbitrator. The cost of any such determination will be borne equally by the Lessor and the Lessee.

Until the rent is determined or agreed in accordance with this provision, the Lessee must continue to pay to the Lessor rent at the rate applicable immediately prior to the review date. On the first day for payment of rent after the rent is determined or agreed in accordance with this provision the Lessee must pay the new rent to the Lessor together with an adjustment (if any) in respect of the period from the date of the rent review until the date of such payment.

ITEM 6 EXTENSION OF TERM (clause 7.14)

A term of five (5) years commencing on 1 July 2029.

ITEM 7 SPECIAL CONDITIONS (clause 7.18)

1. Insurance requirements

1.1 The Lessee warrants that it is entitled to the benefits of the South Australian Government Insurance and Risk Management Arrangements administered by the South Australian Government Captive Insurance Corporation (SAICORP) and the Lessee will at all times ensure that it remains entitled to those benefits in respect of the Lessee's use and occupation of the premises under this Lease.

1.2 The Lessee agrees to indemnify and keep indemnified the Lessor, its employees and agents and each of them from and against all actions, costs, claims, charges and expenses whatsoever which may be brought or made or claimed out of or in relation to this Lease. But the Lessee will not be rendered liable for the personal injury or the death of any person or loss of or damage to property resulting from any breach of the Lessor of any provision of this Lease or any negligent act or omission of the Lessor or its employees or agents.

2. Maintenance

Whilst the Lessee is the Minister for Education, the Lessor acknowledges and agrees that the engagement of contractors pursuant to clause 4.5 will be procured by the Department for Infrastructure and Transport and on that basis, the Lessee will not be required to obtain the Lessor's prior written consent to such contractors.

3. Noise

Whilst the Premises is used as a kindergarten, preschool, children's services and incidental activities (as specified in Item 3 of this Schedule), the Lessor acknowledges and agrees that the noise generated from such use will not contravene clause 4.7 of this Lease.

ITEM 8 ESSENTIAL TERMS (clause 8.1)

Clauses 2.1 - 2.6 (inclusive), 3.1, 3.2, 3.3, 3.5, 4.6, 4.7, 5.1, 5.2, 5.3, 7.17 and any obligations imposed on the Lessee pursuant to Item 7 of this Schedule

ITEM 9 Representatives

Lessor

Mr Anthony Marroncelli

Manager Development Services

Phone: 8229 9904

Email: amarroncelli@holdfast.sa.gov.au

Lessee

Mr Nathan Hoban

Senior Adviser, Property

Phone: 8226 1036

Email: Education:PropertyServices@sa.gov.au

IMPORTANT NOTICE

EXCLUSION OF WARRANTY OF FITNESS FOR PURPOSE

Retail and Commercial Leases Act 1995: Section 18

Retail and Commercial Leases Regulations 1995: Regulation 7

THE LESSOR DOES NOT WARRANT THAT THE PREMISES YOU ARE ABOUT TO LEASE WILL, FOR THE DURATION OF YOUR LEASE, BE STRUCTURALLY SUITABLE FOR THE TYPE OF BUSINESS THAT YOU INTEND TO CARRY ON.

**THE COMMON SEAL of
CITY OF HOLDFAST BAY**

was hereunto affixed in the presence of:

.....
Mayor

.....
Chief Executive Officer

THE COMMON SEAL of MINISTER)
FOR EDUCATION, TRAINING AND)
SKILLS was affixed to this)
Memorandum of Lease with the)
authority of the Minister by a person who)
is duly authorised to do so:


.....
Signature of Authorised Officer

.....
Name of Authorised Officer

PLAN

- Az. Proj/211'1' Addrass Lab/ls
- Az. HoUB-e Ntrmbars
- N Hol-&.1Bo-
- AZ Road, N,mc
- Az Art-erial
- Al Sub-Ana.rial
- Ar Callee.or
- Az Local
- Az Trock 2-'s'ked U,m,e
- Az Ur-<f'eftned
- Roods;
- A rial
- Sub-Art.rial
- Coll->0!>r
- Looal
- N Track 2-'s'1oeel 0r,....
- IJOOeifined
- Z CHBA-<rial (201'1')-7fum



	This document is a preliminary plan. It is subject to change without notice. It is not to be used for construction or other purposes. It is not to be relied upon for any purpose. It is not to be used for any purpose. It is not to be used for any purpose.	SOMERTON PARK KINDERGARTEN er	19/03/2019	0
			1:430	

Item No: 15.5

Subject: **REQUEST TO FLY THE ITALIAN FLAG ON ITALIAN NATIONAL DAY**

Summary

Council has received a request from Professor Marinella Marmo, local Holdfast Bay resident and past president of Com.It.Es. South Australia inviting Council to fly the Italian flag on 2 June 2024, Italian Republic Day.

Subject to Council approval, flags can be flown within the City of Holdfast Bay if they are flags of another nation, a symbolic gesture of inclusiveness and multiculturalism.

Recommendation

That Council:

- 1. Notes the request received from Com.It.Es. South Australia to fly the Italian Flag on 2 June 2024, the Italian Republic Day.**
- 2. Approves the request to fly the Italian Flag in Moseley Square, Glenelg and illuminate the Michael Herbert Bridge and Chapel Plaza on 2 June 2024.**

OR

Approves the illumination of the Michael Herbert Bridge and Chapel Plaza on 2 June 2024.

Background

A request has been received from Professor Marinella Marmo, local Holdfast Bay resident and past president of Com.It.Es. South Australia inviting Council to fly the Italian flag on 2 June 2024, the Italian Republic Day.

Com.It.Es stands for Comitato Italiani all'Estero. Com.It.Es is the only official representative body for the Italian community, elected by Italian citizens living in South Australia, regulated by Italian legislation, and responding to the Italian Ministry of Foreign Affairs.

Requests for Council to fly flags other than those permanently flown on Council property, will be considered on a case-by-case basis and are subject to Council approval.

Report

Professor Marinella Marmo, a local Holdfast Bay resident and past president of Com.It.Es. South Australia has invited Council to fly the Italian flag on 2 June 2024, the Italian Republic Day.

Refer Attachment 1

As per the website of Com.It.Es. South Australia, they:

- are an elected body, enacted by the Italian Government to represent the needs, desires, hopes, and aspirations of the diverse Italian communities in South Australia and advise the Italian Government authorities and relevant stakeholders on ways of responding to these needs
- put forward perspectives, proposals and initiatives which are intended to benefit local Italians and Italian Communities in areas that include social, cultural, welfare, education, recreation, sport and leisure
- work in partnership with the Consular Authorities, Governments, Organisations and Associations to advocate, advise and facilitate on the needs, hopes and aspirations of the Italian Communities
- do the above through consultation, and research to extend our understanding.

Further information regarding Com.It.Es. South Australia can be found on their website: [Com.It.Es South Australia \(sacomites.org.au\)](http://Com.It.Es South Australia (sacomites.org.au)).

Italian National Day – 2 June

This significant date, widely known as ‘Festa della Repubblica’ by Italians, is nationally celebrated in Italy on 2 June every year. The historical day commemorates the institutional referendum of 1946 where Italians were called to take a vote and decide the form of their government after World War II.

Council’s Field Services maintains and fly flags at several locations throughout the City, including Brighton Civic Centre and Moseley Square, Glenelg. Council at all times (where possible) will fly the Australian National Flag and the Australian Aboriginal Flag. Variations to the flags being raised on any particular day are advised to Council by the Protocol’s Office, Department of the Premier and Cabinet. Additionally, the Pride Flag is flown during the annual Feast Festival, in support of the LGBTIQ+ community, following a motion of Council on 24 November 2020.

In accordance with Council’s Inclusion Policy, Council has a responsibility to ensure its decisions and actions meet the needs of the community, which is diverse in its needs and aspirations. This policy articulates Council’s commitment to creating a welcoming place for all, regardless of background, age, religion, sexuality, gender identity or abilities.

Should Council approve the request to fly the Italian Flag in Moseley Square, and if Com.It.Es South Australia is unable to provide an Italian Flag, Council will illuminate the Michael Herbet Bridge and Chapel Plaza on 2 June 2024.

Budget

There will be no cost to Council as a request has been made to Com.It.Es. South Australia to provide the flag.

Life Cycle Costs

Not applicable

Strategic Plan

Our Holdfast 2050+ Strategic Plan is, in part, to create “a welcoming and healthy place for all in South Australia’s most sustainable city”.

Council Policy

Inclusion Policy

Statutory Provisions

Not applicable

Written By: Executive Officer and Assistant to the Mayor

Chief Executive Officer: Mr R Bria

Attachment 1

From: [Marinella Marmo](#)
To: [Holdfast Mail](#)
Cc: [REDACTED]
Subject: Request to fly the Italian flag - 2 June
Date: Wednesday, 15 May 2024 12:52:31 PM
Attachments: [REDACTED]

Caution: This Email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender or know the content is safe.

Dear CEO Roberto Bria,

I am writing to kindly ask that the City of Holdfast Bay, where I live, fly the Italian flag on June 2nd, the Italian Republic Day.

We have a few Councils flying the flag and/or illuminating buildings for the weekend (since the date of 2 June falls on a weekend, they decided that the flags will stay up from Friday to Monday morning).

The five Councils are:

- Campbelltown
- Norwood, Payneham, St Peters
- West Torrens
- Tea Tree Gully
- Unley, where the flag was first raised in 2023
 - the decision by the Council of Charles Sturt is currently under consideration.

My request comes as I am an elected member of Com.It.Es. and the immediate past president. The current President is cc'ed here: Dr Antonio Dottore.

- Com.It.Es stands for Comitato Italiani all'Estero. Com.It.ES is the only official representative body for the Italian community, elected by Italian citizens living in South Australia, regulated by Italian legislation, and responding to the Italian Ministry of Foreign Affairs.

I remain available for possible queries (also via videocall / teams) and I am grateful for your kind consideration on the matter.

Ngaityalya (thanks, in Kaurna)

Marinella

Professor Marinella Marmo (she, her)

LLBHons, PhD

College of Business, Government and Law

[REDACTED]

[REDACTED]



Sturt Road, Bedford Park SA 5042
GPO Box 2100 Adelaide SA 5001

flinders.edu.au

Flinders University acknowledges the Traditional Owners and Custodians of the lands on which its campuses are located, these are the Traditional Lands of the Arrernte, Dagoman, First Nations of the South-East, First Peoples of the River Murray & Mallee region, Jawoyn, Kaurna, Larrakia, Ngadjuri, Ngarrindjeri, Ramindjeri, Warumungu, Wardaman and Yolngu people. We honour their Elders past, present and emerging.

CRICOS Provider Number: 00114A This email and any attachments may be confidential. If you are not the intended recipient, please inform the sender by reply email and delete all copies of this message.

Please consider the environment before printing this email.

Item No: 15.6

Subject: **GLENELG ICE CREAM FESTIVAL 2024**

Summary

The third Glenelg Ice Cream Festival was held Friday 12 January 2024, the evening before a race stage start for the Santos Tour Down Under (Health Partners Women's Stage 2: Glenelg to Stirling). Attendance exceeded 35,000 over the course of the evening event, with the 2024 Festival being the most successful to date.

Recommendation

That Council notes this report.

Background

The first Glenelg Ice Cream Festival was held in October 2021 as Council's first large public event post-pandemic. In 2022-23, with the addition of Sea to Shore: Glenelg Seafood Festival as a spring event, the Ice Cream Festival was moved to a January time slot, to better align the ice cream theme to midsummer.

The budget for the 2024 Glenelg Ice Cream Festival was approved by Council at their meeting held 11 April 2023, as part of the 2023-24 event budget (Council Motion: C110423/7406). The event is jointly funded by the Jetty Road Mainstreet Committee.

As in 2023, the 2024 Glenelg Ice Cream Festival was scheduled to align with a race stage start of the Santos Tour Down Under, which took place the following morning. This allows the cost of the road closure to be amortised across both events.

Report

The Glenelg Ice Cream Festival seeks to build on the link between ice cream as a summer treat with South Australia's most popular and iconic beach destination, Glenelg Beach. It lays claim to being South Australia's biggest festival dedicated to ice cream, featuring a wide range of offerings from external traders while showcasing those offered year-round in store by Jetty Road traders.

Designed as a family-friendly, accessible community event celebrating the strong association between the beach, summer and ice cream, the Glenelg Ice Cream festival aims to offer something for every taste and dietary requirement.

Marketing for the event targets families headed by medium-high income 25–50-year-olds who are seeking to enjoy a shared experience on a summer evening. According to the market research conducted during the 2023 event, 66% of attendees were families. The event aims to target residents and businesses in the City of Holdfast Bay, particularly in Jetty Road, Glenelg, aiming to engage in cultural, recreational, and economic activities, thereby fostering community pride and economic revitalisation.

In the lead up to the event, a PR agency was engaged to ensure maximum media impact across a range of platforms. The total media value of the coverage achieved was \$62,000, across digital, social media, print, TV and radio.

The event took place from 4.00pm to 10.00pm on 12 January 2024, with perfect 35-degree weather attracting a record crowd of at least 35,000 over the course of the evening. Jetty Road from Colley Terrace to Gordon/Partridge Streets was activated, with a dedicated ice cream village at the eastern end of the street being popular with crowds. This area included 11 external traders (six more than 2023). External traders were charged a site fee for participating in the event.

There was a total of 15 activations by Jetty Road traders along the street, and an activation by Doughballs Pizza in Moseley Square. Fashion parades held at 6.00pm and 7.00pm in Chapel Plaza saw involvement from 10 Jetty Road traders (two more than last year), and reportedly the best attendance in years.

In response to feedback from 2023 to have more 'grab and go' food options, the Rotary Club of Glenelg ran a sausage sizzle as an affordable, quick food option. Over 50kg of sausages sourced from Jetty Road trader SA Gourmet Meats were sold raising \$2,000 for the club.

Given families are a key target audience of the event, kids' activities were an essential part of the offering. These were run internally by council departments (City Activation, Youth Coordinator, Libraries) which were free to the community:

- A Kids Zone area with large outdoor games attracted over 500 kids and 300 adults with over 500 craft ice cream cones made.
- A scavenger hunt for kids to find components of an ice cream cone along the street, attracting over 200 entries.
- Silent Disco with bubble machine.
- A soft play zone that was externally operated had over 500 children engage.

As part of Council's commitment to increase accessibility to events, this year a Sensory Zone was installed in Cowper Street. This was intended to act as a quieter space of retreat, particularly valued by people susceptible to sensory overload. Both the sensory zone and the kids' zone were well utilised by families seeking a less busy, shaded area to rest.

A photo opportunity was developed near Chapel Plaza with a branded Ice Cream Festival backdrop and two high white chairs. This was well utilised by attendees and Channel 10 conducted a weather cross from there on the night.

Economic Impact

According to Spendmapp, Total Local Spend on the day of the 2024 event was \$4.74 million, 20% more than on the day of the 2023 event (Saturday 14 January 2023). Spend in the Dining and Entertainment category was 28% higher than in 2023.

Trader Feedback

A post-event survey was circulated among participating traders, with the majority of responses received from external (non-Jetty Road) traders that participated in the event. Overall traders were positive about their experience, with strong intention to participate in future events. Suggestions for improvement focused on expanding the event, hosting more vendors, and trading later into the evening.

Future Improvements

With strong attendance and positive feedback from patrons, there are no plans to significantly change the event design for next year. However, areas that will be considered for review include:

- Space to expand in future years, possibly into side streets
- Improvements to site operations and management
- Consider a slightly later start and finish times

Budget

The event was delivered within the \$80,000 budget allocation (\$40,000 from Jetty Road Mainstreet Committee and \$40,000 from Council's Events budget).

Life Cycle Costs

The budget allocation for this event in future years will be presented for approval as part of the annual events planning process.

Strategic Plan

Innovation: economic and social vibrancy in a thriving environment

Council Policy

City of Holdfast Bay Events Strategy 2021-2025

Statutory Provisions

Not applicable

Written By: Manager City Activation

General Manager: Community and Business, Ms M Lock

Item No: 15.7

Subject: PARTRIDGE HOUSE – FUTURE DIRECTIONS

Summary

Partridge House is a much-valued Council asset that is run as a mixed-use community and commercial asset. A business case has been prepared that identifies the opportunities and risks that the property currently faces and recommends a plan of scheduled works and upgrades to ensure Partridge House continues to offer a high level of service to the community.

Recommendation

That Council:

- 1. endorses continuing Partridge House operations with the existing usage and revenue mix as outlined in the Partridge House Business Plan 2024 - 2026;**
 - 2. approves the preparation of a plan and budget for the renewal of the playground, utilising the existing footprint, for inclusion in the 2025-26 Annual Business Plan; and**
 - 3. approves Administration developing a fully costed service delivery renewal plan 2025-2030 for Council consideration.**
-

Background

Originally built in 1899 as a private residence, Partridge House was acquired by Council in 1973. Since then, it has come to reflect the changing needs and aspirations of the community it serves. Initially envisioned as a space for the public to enjoy and connect with local history, it has successfully merged its historical allure with functional service delivery, accommodating a wide array of events and activities that foster community engagement and celebrate life's milestones. From weddings to funerals, community gatherings to quiet moments of reflection within the well-tended gardens, Partridge House has seamlessly integrated into the fabric of community life, becoming a beloved venue for commemorating personal and collective achievements.

This transformation was assisted by a transition from external management to council Administration in 2012, marking a turning point in its operational model and community contribution. Since then, the house and its surrounding gardens have witnessed a remarkable increase in usage, by both boosting revenue and enhancing the property's value as a community space. While a fully competitive commercial operation is not practically achievable given Partridge House's residential location and limitation on hours of licenced operation, the introduction of mixed-use strategies, balancing commercial ventures with community accessibility, has proven to be a sustainable approach, ensuring that Partridge House remains a vibrant and inclusive space for all.

Report

Administration has prepared a detailed business case for Partridge House, which outlines current utilisation of the site, key sources of revenue, and factors that will affect the ongoing sustainability of the property as a community and commercial asset.

Refer Attachment 1

Priority works that have been identified in the business case include:

- renewal of the playground that has been identified as end of life;
- garden and external area enhancements;
- Service Level Delivery Renewal Program.

Budget

There is \$10,000 allocated in the 2024-25 Annual Business Plan for design of a renewed playground for Partridge House.

A capital allocation of \$100,000 for paving renewal that has not yet been expended will be carried forward to 2024-25.

Costs and a staged timeframe for additional works will be presented to Council as part of the service delivery renewal plan 2025-2030.

Life Cycle Costs

An annual renewal program will be developed for endorsement.

Strategic Plan

Wellbeing: public spaces are universally accessible, welcoming, green, just around the corner.

Sustainability: honouring heritage

Innovation: creative use of Council assets for economic and social vibrancy and a thriving environment.

Council Policy

Asset Management Policy

Statutory Provisions

Not applicable

Written By: Commercial Specialist

General Manager: Community and Business, Ms M Lock

Attachment 1



Partridge House Business Plan 2024 - 2026

Prepared by Commercial Specialist

April 2024

Contents

Executive Summary

.....	1
1 Background.....	4
2 Partridge House Business	5
2.1 Business Details	5
2.2 Visitation Numbers and Finance	5
5 Proposed Works	9
5.1 Playground Renewal.....	9
5.2 Priority Costs: Garden and External Area Enhancements	9
5.3 Service Level Delivery Renewal Program	9
6 Playground Renewal.....	10
7 Priority Costs: Garden and External Area Enhancements	11
7.1 Priority Cost #1 Pond Renewal: Estimated Cost \$25,000.....	11
7.2 Priority Cost #2 Renewed paving and planting Estimated Cost \$100-130,000.....	12
8 Service Level Delivery Renewal Program	13
9 Conclusion	14

Executive Summary

Partridge House is a historic and beloved community asset managed by the City of Holdfast Bay. The purpose of this Business Plan is to outline the existing business and usage mix along with priorities for sustainably managing the property in the future. It aims to align with the Our Holdfast Strategic Plan 2050+ by optimising the use of space, maintaining commercial revenue and enhancing the community's engagement and enjoyment of the site.

The strategic vision for Partridge House, guided by comprehensive planning and community input, aims to further enhance its role as a central hub for cultural, social and recreational activities. By leveraging its unique characteristics and historical significance, the goal is to optimise the use of space and resources to better accommodate events and activities, thereby maintaining its commercial viability without compromising its accessibility and value to the community.

Partridge House stands as a testament to the enduring importance of heritage in building and sustaining vibrant communities. Its continued evolution, from a grand residence to a multifaceted community asset, exemplifies the dynamic relationship between history, culture and community development. As Partridge House continues to evolve, its place within the Holdfast Bay community remains much cherished.

1 Background

Partridge House is a testament to a rich history intertwined with the collective memory and identity of the Holdfast Bay Community. Built in 1899, this example of Australian neo-baroque architecture stands as a beacon of elegance and grace, surrounded by lush gardens and located a kilometre from the Glenelg sea front. Partridge House was acquired by the then Glenelg Council in 1973 marking the beginning of a new chapter where the house and gardens would evolve from a private residence into a vibrant community asset, cherished by residents and visitors alike for its beauty, versatility and historical significance.

Partridge House has come to reflect the changing needs and aspirations of the community it serves. Initially envisioned as a space for the public to enjoy and connect with local history, it has successfully merged its historical allure with functional service delivery, accommodating a wide array of events and activities that foster community engagement and celebrate life's milestones. From weddings to funerals, from community gatherings to quiet moments within the well-tended gardens, Partridge House has become a beloved community venue for commemorating personal and collective achievements.

This transformation was assisted by a transition from external management to council administration in 2012, marking a turning point in its operational model and community contribution. Since then, the house and its surrounding gardens have witnessed an increase in utilisation, both by boosting revenue and enhancing the property's value as a community space.

While fully competitive commercial operation is not achievable given Partridge House's residential location and limitation on hours of licensed operation, the introduction of mixed-use strategies, balancing commercial ventures with community accessibility, has proven to be a sustainable approach, ensuring that Partridge House remains a vibrant and inclusive space for all.

Adaptive use and complementary multiple uses have grown in respect of civic spaces and the value of a mixture of activities is recognised as the best return to Council. It is noted that the commercial uses of Partridge House show strong community value and are regularly hired by current or former residents.

The essence of Partridge House lies not only in its physical beauty and architectural grandeur but also in its ability to adapt to the evolving needs of the community while preserving its historical integrity. It represents a unique blend of past and present, where heritage and modernity coalesce to create a space that is both timeless and timely. The house serves as a physical and symbolic anchor, fostering a sense of belonging and continuity among residents and offering a tranquil oasis in the hustle and bustle of modern life.

2 Partridge House Business

Since its transition to council management in 2012, Partridge House has demonstrated tangible benefits to the community through increased revenues and diverse uses. The property accommodates a mix of commercial and community activities demonstrating the community's attachment and co-investment in maintaining this heritage asset. The blend of commercial and casual community use underscores its unique position in the local economy and society, fostering a sense of ownership and engagement among residents.

2.1 Business Details

The business model of Partridge House emphasises a dual approach: generating revenue through event bookings while providing a space for community enjoyment. This model supports the property's upkeep and ensures its continued availability as a community resource.

2.2 Visitation Numbers and Finance

In 2022-23, there were more than 500 events held in Partridge House comprising community group bookings, funerals, weddings, and other events (e.g. private parties). The breakdown of bookings by event type for the first three quarters of the 2023-24 financial year is shown in Table 1 below. Events have generated \$200,000 revenue year to date in 2023-24, which is in line with revenue as budgeted this financial year, as shown in Table 2.

2023-24	Funerals	Community Groups	Weddings	Other Events	Viewings and Appointments
July	13	23	1	3	14
August	15	37	-	4	15
September	13	27	2	6	11
October	9	28	1	11	26
November	13	33	1	5	19
December	9	14	6	10	30
January	11	18	1	5	19
February	11	24	3	3	23
March	12	25	5	4	17
April					
May					
June					
TOTAL (YTD)	106	229	20	51	174

Table 1: Number of Events 2023 – 24

Strong revenue growth continues with private functions demonstrating the connection between community and commercial events. For example, residents will often choose Partridge House for life celebrations (funerals, birthdays) etc. and then return for future events. While funerals and weddings are recorded separately, they are often local community members at both. While casual use is neither been recorded nor monetised, Partridge House's venue managers' report regular community return visitation.

2023-2024	Funerals	Community Groups	Weddings	Other Events	Total
Proposed Income	\$108,000	\$30,000	\$45,000	\$43,700	\$226,700
Year to Date (31 March 2024)	\$98,910	\$23,000	\$36,783	\$37,264	\$195,957
% actual to proposed (YTD Q3 2024)	91%	76%	81%	85%	86%

Table 2: 2024 Income Year to Date 31 March 2024

Analysis of revenue and expenditure in Table 4 shows significant growth since the transition to internal management in 2012, however, net revenue has plateaued since 2020. While Partridge House has become a net generator of revenue to Council, further growth is inherently constrained by the nature of the site and its mixed community/commercial uses. While the current mix of commercial and community use has provided income streams that can support the upkeep of the property, there is a risk of revenue reducing in the absence of ongoing investment that will maintain the appeal of the asset for all users.

	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15	2015-16
Expenditure (\$)	109,709	75,020	88,853	99,952	101,198	118,981	129,495	143,054
Revenue (\$)	(65,737)	(43,036)	(65,047)	(50,504)	(66,280)	(112,206)	(114,880)	(127,415)
(Surplus)/Deficit (\$)	43,972	31,984	23,806	49,449	34,917	6,775	14,615	15,640
	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23	2023-24
Expenditure (\$)	149,660	175,199	177,317	153,600	171,439	195,186	119,793	130,397
Revenue (\$)	(140,191)	(176,069)	(171,913)	(172,636)	(213,383)	(239,177)	(161,563)	[226,700]
(Surplus)/Deficit (\$)	9,469	(870)	5,403	(19,036)	(41,944)	(43,991)	(41,770)	[96,303]

Table 3: Expenditure/ Revenue 2008 - 2024

Partridge House represents inspired leadership in the purchase and maintenance as a community asset. The current operating model allows for community co- investment in the maintenance and running costs through fee for service hire for special events, and it is recommended that the current usage mix continues.

3 SWOT Analysis

The SWOT analysis highlights the strengths, weaknesses, opportunities, and threats associated Partridge House. In addition, it is worth considering:

- **Historical Significance:** Partridge House has a rich history, having witnessed generations of events and celebrations. Its architectural features reflect the aesthetics of its time, making it a cultural landmark.
- **Community Attachment:** The local community holds Partridge House in high regard.
- **Residents and visitors alike appreciate its beauty, gardens and proximity to the sea.**
- **Usage Patterns:** Partridge House hosts multiple events, including funerals, community gatherings, weddings and viewings. The venue’s versatility allows for both private and public functions.
- **Community Involvement:** Community groups actively contribute to the maintenance and upkeep of the gardens. The gardening group’s efforts exemplify community co-investment.
- **Strategic Alignment:** Partridge House aligns with the goals outlined in the “Our Holdfast Strategic Plan 2050+.” Optimising space utilisation and zoning can enhance its value to the community.

<p>Strengths</p> <ul style="list-style-type: none"> • Strong community sentiment and attachment to the site • Unique event offerings • Community connection through volunteering • Net revenue generator for council (excluding asset maintenance costs) 	<p>Weaknesses</p> <ul style="list-style-type: none"> • Residential location limits extent of commercial uses and thus revenue generation • Location in a suburban residential street limits its passerby prominence meaning more active marketing is required • Relative expense of maintaining asset due to higher expected service level for quality of both house and garden • Differing uses of venue are sometimes in conflict (e.g. funerals and children’s play; casual use vs pre-booked events) • Playground at rear of property is end of life and no longer compliant
<p>Opportunities</p> <ul style="list-style-type: none"> • Opportunities to more actively market the venue for private parties and weddings • New markets for community and cultural celebrations • Minor reconfigurations of the site can lead to better functional separation of different user groups 	<p>Threats</p> <ul style="list-style-type: none"> • Non-compliant playground represents a liability risk to Council • Lack of forward planning in maintaining house and garden leads to a deterioration of the quality of the asset and thus reduced appeal as a venue

Table 4: SWOT Analysis Partridge House

4 Marketing & User Sentiment

Partridge House has a modest marketing and advertising budget of approximately \$8,000 per annum. Expenditure in recent years has focused on Google advertising, wedding-focused websites and publications such as SA Weddings, and signage/brochures.

Future strategies for tourism marketing should focus on promoting Partridge House's unique blend of historical significance, beautiful gardens and versatile event spaces. Collaborations with local businesses, tourism operators and marketing campaigns have the potential to enhance its visibility as a premier destination for visitors and locals alike.

Of 222 reviews received over five years, only two have been negative: one of which was a review of the wrong site, and the other is over five years old and gave no description. Further to the official business page, excellent online feedback is received across social media platforms Facebook and Instagram.

4.1 Review

Ongoing reviews should involve continuous evaluation of the property's performance, user feedback and the effectiveness of implemented strategies. Risk management will require proactive measures to address potential challenges related to funding, maintenance and operational adjustments needed to accommodate evolving community and commercial needs.

An ongoing review process will be essential to monitor the effectiveness of the proposed enhancements, ensuring they align with community needs and strategic objectives. This would include feedback mechanisms from users and stakeholders.

Risks to community sentiment remain a significant challenge of balancing commercial and community use is complex and ongoing. It will be important to consider the reputational risk to City of Holdfast Bay should unexpected maintenance issues impact on community and commercial uses.

5 Proposed Works - Summary

The following proposed works ensure that Partridge House is equipped to maintain its advantage as a community/ commercial site for mixed activities.

5.1 Playground Renewal

Aligning with Australian Standards for public playgrounds, the plan includes reconfiguring the playground within existing footprint.

5.2 Priority Projects: Garden and External Area Enhancements

Upgrading the pond and improved amenities such as additional seating areas and screening to enhance aesthetics and functionality.

- **Enhanced Community Engagement:** The proposed enhancements will create inviting and usable spaces for the community, encouraging active participation and stewardship of the site.
- **Community and Commercial Balance:** The proposal seeks to increase revenue from commercial use while ensuring the space remains welcoming and accessible for community enjoyment, thus maintaining a balance between generating income and providing public value.
- **Stakeholder Engagement:** Engaging with community members, local businesses and other stakeholders to gather input and build support.
- **Increased Revenue:** By optimising the layout and facilities, Partridge House can accommodate more events and activities, leading to increased revenue from bookings.

5.3 Service Level Delivery Renewal Program

Continued improvement in annual maintenance of house to continue to reflect the expectations and wear and tear of the commercial use of spaces.

- **Sustainability and Biodiversity:** The continued careful consideration of landscaping will support biodiversity, environmental education and sustainability practices.
- **Heritage Preservation:** The integration of features with the historic character of Partridge House ensures that its heritage is celebrated and preserved for future generations.
- **Budget and Funding:** Identification of budgetary allocations or potential funding sources to support the proposed enhancements.
- **Lifecycle Costs:** Consideration of long-term maintenance and operational costs to ensure sustainability of the enhancements.

6 Playground Renewal

The playground on the southeast corner of the site was built more than 20 years ago and the equipment has now reached its end of life. The equipment was recommended for replacement in 2020-21 in the *2019-2029 Playspace Action Plan* looking at potential to increase play value and opportunities for a wider range of ages.

Australian Standard 4685.0 sets out principles and guidance for public playgrounds in Australia and introduces a risk benefit analysis technique that allows operators and owners of playgrounds to assist evidence-based decisions regarding the maintenance, repairs and the timely replacement of their assets. The playground is no longer compliant with this standard.

The current location of the playground equipment near the Ombu (*Phytolacca dioica*) presents a risk to the longevity of this tree.

Renewal of the playground equipment would take place by replacing the existing equipment, set at appropriate distance from the Ombu tree roots, within the same landscaping footprint.

7 Priority Projects: Garden and External Area Enhancements

Priority enhancements and upgrades are required to maintain the standards of Partridge House as a significant heritage community asset.

7.1 Critical Landscaping Considerations

The age limit to many of the older specimens in the grounds can be difficult to gauge with expectancy largely dependable on how they are treated. For example, the Ombu, (*Phytolacca dioica*) located behind the playground is estimated to be 125 years old and could well live to see out multiple future generations. Ombu trees are long-lived with one in Sevilla, Spain estimated to be 423 years old.

However, the Ombu tree in the gardens of Partridge House is in critical need of attention. To assure a long useful life, the area surrounding the roots of the tree should be kept free from disturbance, best achieved by reconfiguring the playground equipment to avoid compaction and the necessity to over-prune. Retaining a mulched space beneath the canopy will ensure sufficient soil health to sustain full life in the tree.

To ensure that the garden does not suffer should trees such as the Ombu unexpectedly die, the City of Holdfast Bay continuously fills voids with juvenile trees. Since 2018, four mature trees have been removed while fifteen juvenile trees have been planted.

Removed since 2018

- Regulated *Corymbia ficifolia* – Diseased
- Significant multi stemmed *Pittosporum undulatum* – Storm damage
- *Pittosporum undulatum* -Diseased
- *Fraxinus oxycarpa* –Storm damage.

Planted since 2018¹

- 5x Native Frangipani
- 8x Crepe Myrtle
- 1x English Oak
- 1x Maple

The northern boundary (External Area 1 in Figure 4) includes ‘Capital’ Ornamental Pears. These were planted to serve as a screen due to their narrow habit (overall shape). These are not a fruiting variety and their longevity has provided a useful example of how screening can be achieved throughout the garden.

7.2 Priority Project: Pond Renewal

The much-loved pond at Partridge House is regularly used as a backdrop in photos. The fish attract regular visitors and while there are problems with the filtration and general upkeep, the pond remains a significant asset within the gardens.

¹ *This summary does not include juvenile trees that did not survive and were replaced.

Over the years the pond has received minor upgrades, including painting, new filters and pumps and intermittent cleaning. It now requires significant attention to assure the safety and security of the structure, together with the publicly-accessible water quality. In 2023 two short term 'fixes' were applied – minor paint work and filter repair. However, the usefulness of these activities are limited and will need to be repaired to ensure the ongoing safety and security of the pond. The quoted cost of these works is \$25,000, to be programmed as part of the asset renewal program.

7.3 Priority Project: renewed paving and planting

Paving throughout the site has been scheduled for renewal, with \$100,000 of capital expenditure deferred. Proceeding with these works will ensure that there are no safety risks associated with cracked or dislodged pavers. Paving and new planting will ensure that community use can continue particularly in high traffic areas. In addition, this space would be more tranquil as quiet space when not in use for events, augmenting community casual use as well as commercial use. This simple initiative is expected to see increased usage of this area.

8 Service Level Renewal Program

In recent years, several reports have been developed to manage the upkeep of Partridge House, including:

- Defects List 2012
- Capital LTFP 2016
- Cleaning Specifications 2016
- Equipment Update 2016
- Painting Maintenance 2016
- Feasibility Project 2012

To date, these have yet to be refined into a single maintenance schedule which would identify a staged and prioritised program of works to ensure ongoing upkeep of the asset. Developing such a program would ensure that annual maintenance is budgeted and scheduled to ensure that both the heritage of Partridge House is assured as a site and its ability to function as a community and cultural resource is maintained.

In advance of the Service Level Renewal program, there are several items that have already been identified. These will be scheduled within existing asset maintenance budgets or where necessary, be presented as part of the Service Level Renewal program for Council's consideration.

9 Conclusion

The future direction of Partridge House presents a promising opportunity to enhance its role as a cultural and community asset. By focusing on strategic site developments, maintaining a balance between commercial and community uses and leveraging its unique attributes, Partridge House can continue to thrive as a beloved landmark within the community. Implementing the proposed initiatives will require collaborative efforts, strategic planning and a commitment to preserving the property's heritage while adapting to contemporary needs.

Item No: 15.8

Subject: **TRANSFORMING JETTY ROAD – COMMITTEE APPOINTMENTS**

Summary

The Transforming Jetty Road Committee is established under section 41 of the *Local Government Act 1999*.

Council endorsed the Committee's Terms of Reference at its meeting on 23 April 2024. The Terms of Reference require that members of the Committee are appointed by Council.

The report seeks formal appointment of two more members to the Committee.

Recommendation

That Council:

- 1. appoints Mr Russell Troup, Director, Transport Strategy and Network Planning to the Transforming Jetty Road Committee as the Department of Infrastructure and Transport representative; and**
 - 2. appoints Mr Con Maios to the Transforming Jetty Road Committee as the Jetty Road precinct property owner representative.**
-

Background

The Transforming Jetty Road Committee is established under section 41 of the *Local Government Act 1999*.

Council endorsed the Committee's Terms of Reference at its meeting on 23 April 2024. The Terms of Reference require that members of the Committee are appointed by Council.

Council authorised the Chief Executive Officer to seek a nomination from the Department of Infrastructure and Transport and to approach owners of properties in the Jetty Road precinct to join the Committee.

Report

The Acting Chief Executive Officer wrote to the Department of Infrastructure and Transport (DIT) seeking the nomination of a representative to join the Committee. DIT have nominated Mr Russell Troup, Director, Transport Strategy and Network Planning.

The Chief Executive Officer has approached Mr Con Maios to seek his interest in joining the Committee. Mr Maios is an owner of several properties in the Jetty Road precinct. Mr Maios has indicated he is willing to join the Committee as the property owner representative.

Budget

Not applicable

Life Cycle Costs

Not applicable

Strategic Plan

Statutory compliance

Council Policy

Transforming Jetty Road Committee Terms of Reference

Statutory Provisions

Local Government Act 1999, section 41

Written By: Executive Assistant to the Chief Executive Officer

Chief Executive Officer: Mr R Bria