PARTICULARS AND CONDITIONS OF SALE OF REAL ESTATE BY AUCTION

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AUCTION DETAILS

Auctioneer: Sloane Morpeth - PGG Wrightson Real Estate

Place of Auction: Te Puke Bridge Club, 4 Queen Street, Te Puke

Date and Time of Auction: Thursday 26th November 2026, 12:00pm

Licensed Real Estate Agent acting for Vendor: PGG Wrightson Real Estate Limited - David McLaren

Vendor: Pierrick Morlet and Alan James Albert Clark and Desmond Bernard Quinn

The vendor is registered under the GST Act in respect of this transaction and/or will be so registered at settlement: **Yes~~/No~~**
If "Yes", Schedule 3 must be completed by the parties.

PROPERTY

Address: 49 Jellicoe Street, Te Puke, Western Bay Of Plenty, Bay of Plenty

Estate: **FREEHOLD** **~~LEASEHOLD~~** **~~STRATUM IN FREEHOLD~~**
~~STRATUM IN LEASEHOLD~~ **~~CROSS LEASE (FREEHOLD)~~** **~~CROSS LEASE (LEASEHOLD)~~**

If none of the above are deleted, the estate being sold is the first option of freehold.

Legal Description:

Area (more or less):	*Lot/Flat/Unit:*	*DP:*	*Record of Title (unique identifier):*
503 sqm	Lot 1	DPS 16001	SA14C/840

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TENANCIES

Yes~~/No~~

Particulars of any tenancies are set out in Schedule 2 or another schedule attached to this agreement by the parties.

1.0 Conditions of sale

1.1 The property and the chattels included in the sale are sold on these Particulars and Conditions of Sale, the General Terms of Sale and any Further Terms of Sale.
1.2 GST will be payable in accordance with the statement of the purchase price in the Memorandum of Contract.
1.3 The GST date is (clause 14.0): The date of settlement
1.4 The settlement date is:
1.5 The interest rate for late settlement is 15.00 % p.a.

2.0 Conduct of auction

2.1 The property is offered for sale subject to a reserve price and, subject to the reserve price being met, the highest bidder whose bid is accepted by the auctioneer shall be the purchaser.
2.2 The auctioneer may nominate the sum by which the bidding can be raised.
2.3 The auctioneer may refuse any bid.
2.4 The auctioneer or the licensed real estate agent acting for the vendor in respect of the sale may submit a bid on behalf of any person. The auctioneer shall identify a person so acting before the commencement of bidding.
2.5 The vendor may bid personally, or by a representative, or through the auctioneer, provided that the bid is less than the reserve price. The auctioneer shall identify each vendor bid as it is made.
2.6 The vendor may withdraw the property at any time before it has been sold and without declaring the reserve price.
2.7 If a dispute arises concerning any bid, the auctioneer may determine the dispute or re-offer the property at the last undisputed bid.
2.8 The purchaser shall immediately on the completion of the auction:
(a) sign the Memorandum of Contract, failing which the auctioneer may sign on behalf of the purchaser;
(b) pay to the vendor's licensed real estate agent the deposit being 10% of the purchase price unless otherwise agreed; and
(c) complete its GST information in Schedule 3, if applicable.

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SCHEDULE 1

List all chattels included in the sale

(Strike out or add as applicable. If necessary complete on a separate schedule or the further terms of sale)

~~Stove~~	( )	~~Rangehood~~	( )	~~Wall/under bench oven~~	( )	~~Cooktop/hob~~	( )
~~Dishwasher~~	( )	~~Kitchen waste disposal~~	( )	~~Smoke detectors~~	( )	~~Bathroom extractor fan~~	( )
~~Security alarm~~	( )	~~Heated towel rail~~	( )	~~Heat pump~~	( )	~~Garage door remote control~~	( )
~~Garden shed~~	( )	~~Light fittings~~		~~Window coverings~~		~~Fixed floor coverings~~	
~~Automatic garage door facility~~							

Both parties should check that Schedule 1 (list of chattels) includes an accurate list of all items which are included with the sale and purchase (in addition to, or as part of any building).

SCHEDULE 2

Residential Tenancies

Name of Tenant(s):

Rent: **Term:** **Bond:** **Pet Bond:**

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Commercial/Industrial Tenancies

(If necessary complete on a separate schedule)

1. Name of Tenant(s): NBA Limited (Burley Castle Hawkins Law Limited)

Rent: $33,300 in GST **Term:** 6 years from 1 July 2019 **Right of Renewal:** 3 of 2 years duration each **Other:** Expires 30 June 2031

2. Name of Tenant(s): Finlay Dykzeul Limited

Rent: $28,867.20 inc GST **Term:** 2 years from 1 July 2026 **Right of Renewal:** 1 of 3 years duration each **Other:** Expires 31 March 2032

3. Name of Tenant(s): Westpac (NZ) Investments Limited

Rent: $74,280.00 plus GST **Term:** 3 years from 1 September 2026 **Right of Renewal:** 2 of 2 years duration each **Other:** Expires 31 August 2035

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GENERAL TERMS OF SALE

3.0 Definitions, time for performance, notices, and interpretation

3.1 Definitions

(1) Unless the context requires a different interpretation, words and phrases not otherwise defined have the same meanings ascribed to those words and phrases in the Goods and Services Tax Act 1985, the Property Law Act 2007, the Resource Management Act 1991 or the Unit Titles Act 2010.

(2) "Accessory unit", "owner", "principal unit" "unit", and "unit plan" have the meanings ascribed to those terms in the Unit Titles Act.

(3) "Agreement" means this document including the front page, these General Terms of Sale, any Further Terms of Sale, and any schedules and attachments.

(4) "Appointee", for the purposes of clause 11, means:

(a) an experienced property lawyer or an experienced litigator or an expert committee (such as a committee of TLANZ) appointed by the parties; and

(b) where, for the purposes of clause 11.8(4), the claim for compensation is made under clause 7.2, the appointee may be an experienced registered valuer or quantity surveyor appointed by the parties; but

(c) if the parties cannot agree on the appointee, the appointment shall be made on the application of either party by the president.

(5) "Associated person", "conveyancer", "offshore RLWT person", "residential land purchase amount", "RLWT", "RLWT certificate of exemption" and "RLWT rules" have the meanings ascribed to those terms in the Income Tax Act 2007.

(6) "Automatic garage door facility" means an electronic facility for the opening and closing of a garage door, operated by a garage door remote control.

(7) "Building", "building consent", "code compliance certificate", "commercial on-seller", "compliance schedule" and "household unit" have the meanings ascribed to those terms in the Building Act.

(8) "Building Act" means the Building Act 2004.

(9) "Building warrant of fitness" means a building warrant of fitness supplied to a territorial authority under the Building Act.

(10) "Cleared funds" means an electronic transfer of funds that has been made strictly in accordance with the requirements set out in the PLS Guidelines.

(11) "Commissioner" has the meaning ascribed to that term in the Tax Administration Act 1994.

(12) "Default GST" means any additional GST, penalty (civil or otherwise), interest, or other sum imposed on the vendor (or where the vendor is or was a member of a GST group its representative member) under the GST Act or the Tax Administration Act 1994 by reason of non-payment of any GST payable in respect of the supply made under this agreement but does not include any such sum levied against the vendor (or where the vendor is or was a member of a GST group its representative member) by reason of a default or delay by the vendor after payment of the GST to the vendor by the purchaser.

(13) "Electronic instrument" has the same meaning as ascribed to that term in the Land Transfer Act 2017.

(14) "Going concern", "goods", "principal place of residence", "recipient", "registered person", "registration number", "supply", "taxable activity" and "taxable supply" have the meanings ascribed to those terms in the GST Act.

(15) "GST" means Goods and Services Tax arising pursuant to the Goods and Services Tax Act 1985 and "GST Act" means the Goods and Services Tax Act 1985.

(16) "Key" includes any instrument, tool, or device for opening and shutting a lock to the property, whether a physical key, an electronic key, a code, a combination of these, or otherwise.

(17) "Landonline Workspace" means an electronic workspace facility approved by the Registrar-General of Land pursuant to the provisions of the Land Transfer Act 2017.

(18) "Leases" means any tenancy agreement, agreement to lease (if applicable), lease, sublease, or licence to occupy in respect of the property, and includes any receipt or other evidence of payment of any bond and any formal or informal document or letter evidencing any variation, renewal, extension, review, or assignment.

(19) "LINZ" means Land Information New Zealand.

(20) "Local authority" means a territorial authority or a regional council.

(21) "OIA consent" means consent to purchase the property under the Overseas Investment Act 2005.

(22) "PLS Guidelines" means the most recent edition, as at the date of this agreement, of the New Zealand Law Society Property Law Section Guidelines, issued by the New Zealand Law Society.

(23) "President" means the president of TLANZ, or other authorised delegate.

(24) "Proceedings" means any application to any court or tribunal or any referral or submission to mediation, adjudication or arbitration or any other dispute resolution procedure.

(25) "Property" means the property described in this agreement.

(26) "Purchase price" means the total purchase price stated in this agreement which the purchaser has agreed to pay the vendor for the property and the chattels included in the sale.

(27) "Regional council" means a regional council within the meaning of the Local Government Act 2002.

(28) "REINZ" means the Real Estate Institute of New Zealand Incorporated.

(29) "Remote settlement" means settlement of the sale and purchase of the property by way of the purchaser's lawyer paying the moneys due and payable on the settlement date directly into the trust account of the vendor's lawyer, in consideration of the vendor agreeing to meet the vendor's obligations under clause 5.8(2), pursuant to the protocol for remote settlement recommended in the PLS Guidelines.

(30) "Residential (but not otherwise sensitive) land" has the meaning ascribed to that term in the Overseas Investment Act 2005.

(31) "Rules" means body corporate operational rules under the Unit Titles Act.

(32) "Secure web document exchange" means an electronic messaging service enabling messages and electronic documents to be posted by one party to a secure website to be viewed by the other party immediately after posting.

(33) "Settlement" means (unless otherwise agreed by the parties in writing) the moment in time when the vendor and purchaser have fulfilled their obligations under clause 5.8.

(34) "Settlement date" means the date specified as such in this agreement.

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(35) "Settlement statement" means a statement showing the purchase price, plus any GST payable by the purchaser in addition to the purchase price, less any deposit or other payments or allowances to be credited to the purchaser, together with apportionments of all incomings and outgoings apportioned at the settlement date.
(36) "Tax information" and "tax statement" have the meanings ascribed to those terms in the Land Transfer Act 2017.
(37) "Territorial authority" means a territorial authority within the meaning of the Local Government Act 2002.
(38) "Title" includes where appropriate a record of title within the meaning of the Land Transfer Act 2017.
(39) "TLANZ" means The Law Association of New Zealand Incorporated.
(40) "Unit title" means a unit title under the Unit Titles Act.
(41) "Unit Titles Act" means the Unit Titles Act 2010
(42) "Working day" means any day of the week other than:
(a) Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, and Labour Day;
(b) if Waitangi Day or Anzac Day falls on a Saturday or Sunday, the following Monday;
(c) a day in the period commencing on the 24th day of December in any year and ending on the 5th day of January in the following year, both days inclusive;
(d) the day observed as the anniversary of any province in which the property is situated;
(e) the day on which a public holiday is observed to acknowledge Matariki, pursuant to the Te Kāhui o Matariki Public Holiday Act 2022; and
(f) any other day that the Government of New Zealand declares to be a public holiday.
A working day shall be deemed to commence at 9.00 am and to terminate at 5.00 pm.

3.2 Unless a contrary intention appears on the front page or elsewhere in this agreement:
(1) the interest rate for late settlement is equivalent to the interest rate charged by the Inland Revenue Department on unpaid tax under the Tax Administration Act 1994 during the period for which the interest rate for late settlement is payable, plus 5% per annum; and
(2) a party is in default if it did not do what it has contracted to do to enable settlement to occur, regardless of the cause of such failure.

3.3 Time for Performance
(1) Where the day nominated for settlement or the fulfilment of a condition is not a working day, then the settlement date or the date for fulfilment of the condition shall be the last working day before the day so nominated.
(2) Any act done pursuant to this agreement by a party, including service of notices, after 5.00 pm on a working day, or on a day that is not a working day, shall be deemed to have been done at 9.00 am on the next succeeding working day.
(3) Where two or more acts done pursuant to this agreement, including service of notices, are deemed to have been done at the same time, they shall take effect in the order in which they would have taken effect but for clause 3.3(2).

3.4 Notices
The following apply to all notices between the parties relevant to this agreement, whether authorised by this agreement or by the general law:
(1) All notices must be served in writing.
(2) Any notice under section 28 of the Property Law Act 2007, where the purchaser is in possession of the property, must be served in accordance with section 353 of that Act.
(3) All other notices, unless otherwise required by the Property Law Act 2007, must be served by one of the following means:
(a) on the party as authorised by sections 354 to 361 of the Property Law Act 2007, or
(b) on the party or on the party's lawyer:
(i) by personal delivery; or
(ii) by posting by ordinary mail; or
(iii) by email; or
(iv) in the case of the party's lawyer only, by sending by document exchange or, if both parties' lawyers have agreed to subscribe to the same secure web document exchange for this agreement, by secure web document exchange.
(4) In respect of the means of service specified in clause 3.4(3)(b), a notice is deemed to have been served:
(a) in the case of personal delivery, when received by the party or at the lawyer's office;
(b) in the case of posting by ordinary mail, on the fifth working day following the date of posting to the address for service notified in writing by the party or to the postal address of the lawyer's office;
(c) in the case of email;
(i) when sent to the email address provided for the party or the party's lawyer on the back page; or
(ii) any other email address notified subsequently in writing by the party or the party's lawyer (which shall supersede the email address on the back page); or
(iii) if no such email address is provided on the back page or notified subsequently in writing, the office email address of the party's lawyer's firm appearing on the firm's letterhead or website;
(d) in the case of sending by document exchange, on the second working day following the date of sending to the document exchange number of the lawyer's office;
(e) in the case of sending by secure web document exchange, on the first working day following the date of sending to the secure web document exchange.
(5) Any period of notice required to be given under this agreement shall be computed by excluding the day of service.

3.5 Interpretation and Execution
(1) If there is more than one vendor or purchaser, the liability of the vendors or of the purchasers, as the case may be, is joint and several.
(2) Where the purchaser executes this agreement with provision for a nominee, or as agent for an undisclosed or disclosed but unidentified principal, or on behalf of a company to be formed, the purchaser shall at all times remain liable for all obligations on the part of the purchaser.
(3) If any inserted term (including any Further Terms of Sale) conflicts with the General Terms of Sale the inserted term shall prevail.
(4) Headings are for information only and do not form part of this agreement.
(5) References to statutory provisions shall be construed as references to those provisions as they may be amended or re-enacted or as their application is modified by other provisions from time to time.

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(6) Reference to a party's lawyer includes reference to a conveyancing practitioner (as defined in the Lawyers and Conveyancers Act 2006) engaged by that party, provided that all actions of that conveyancing practitioner (including without limitation any actions in respect of any undertaking or in respect of settlement) must strictly accord with the PLS Guidelines.

(7) This agreement may be signed by means of an electronic signature.

3.6 Use of form

(1) Each party warrants that neither they nor their lawyer or agent has altered, removed, or added to the published text of this edition of the TLANZ-REINZ Agreement for Sale and Purchase of Real Estate. This warranty does not prohibit nor apply to:

(a) removal of published text by way of strikethrough (for example, ~~strikethrough~~), nor

(b) the addition of text to the published text in a manner which leaves the published text in place and which makes the alteration, removal, or addition reasonably identifiable.

4.0 Deposit

4.1 The purchaser shall pay the deposit to the vendor's licensed real estate agent immediately on the completion of the auction or, where the property has been sold prior to, or subsequent to, the auction, on the execution of this agreement by both parties, time being of the essence.

4.2 If the deposit is not paid as set out in clause 4.1, the vendor may cancel this agreement by serving notice of cancellation on the purchaser.

4.3 The deposit shall be in part payment of the purchase price.

4.4 If the property is a unit title, the person to whom the deposit is paid shall hold it as a stakeholder until the latest of the following matters:

(1) a pre-contract disclosure statement that complies with section 146 of the Unit Titles Act, and a pre-settlement disclosure statement that complies with section 147 of the Unit Titles Act, have been provided to the purchaser by the vendor within the times prescribed in those sections; and/or

(2) all rights of delay or cancellation under sections 149, 149A, 151, or 151A of the Unit Titles Act that have arisen have been waived or have expired without being exercised; and/or

(3) this agreement is cancelled pursuant to sections 149A or 151A of the Unit Titles Act.

4.5 Where the person to whom the deposit is paid is a real estate agent, the period for which the agent must hold the deposit as a stakeholder pursuant to clause 4.4 shall run concurrently with the period for which the agent must hold the deposit under section 123 of the Real Estate Agents Act 2008, but the agent must hold the deposit for the longer of those two periods, or such lesser period as is agreed between the parties in writing as required by section 123 of the Real Estate Agents Act 2008.

5.0 Possession and Settlement

Possession

5.1 Unless particulars of a tenancy are included in this agreement, the property is sold with vacant possession and the vendor shall so yield the property on the settlement date.

5.2 If the property is sold with vacant possession, then subject to the rights of any tenants of the property, the vendor shall permit the purchaser or any person authorised by the purchaser in writing, upon reasonable notice:

(1) to enter the property on one occasion prior to the settlement date for the purposes of examining the property, chattels and fixtures which are included in the sale; and

(2) to re-enter the property no later than the day prior to the settlement date to confirm compliance by the vendor with any agreement made by the vendor to carry out any work on the property, the chattels and the fixtures.

5.3 Possession shall be given and taken on the settlement date. Outgoings and incomings in respect of the settlement date are the responsibility of and belong to the vendor.

5.4 On the settlement date, the vendor shall make available to the purchaser keys to all exterior doors that are locked by key, electronic door openers to all doors that are opened electronically, and the keys and/or security codes to any alarms. The vendor does not have to make available keys, electronic door openers, and security codes where the property is tenanted and these are held by the tenant.

Settlement

5.5 The vendor shall prepare, at the vendor's own expense, a settlement statement. The vendor shall tender the settlement statement to the purchaser or the purchaser's lawyer a reasonable time prior to the settlement date. If the property is a unit title, the vendor's settlement statement must show any periodic contributions to the operating account that have been struck prior to the settlement date (whether or not they are payable before or after the settlement date) and these periodic contributions to the operating account shall be apportioned. There shall be no apportionment of contributions to any long-term maintenance fund, contingency fund or capital improvement fund.

5.6 The purchaser's lawyer shall:

(1) within a reasonable time prior to the settlement date create a Landonline Workspace for the transaction, notify the vendor's lawyer of the dealing number allocated by LINZ, and prepare in that workspace a transfer instrument in respect of the property; and

(2) prior to settlement:

(a) lodge in that workspace the tax information contained in the transferee's tax statement; and

(b) certify and sign the transfer instrument.

5.7 The vendor's lawyer shall:

(1) within a reasonable time prior to the settlement date prepare in that workspace all other electronic instruments required to confer title on the purchaser in terms of the vendor's obligations under this agreement; and

(2) prior to settlement:

(a) lodge in that workspace the tax information contained in the transferor's tax statement; and

(b) have those instruments and the transfer instrument certified, signed and, where possible, pre-validated.

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5.8 On the settlement date:

(1) the balance of the purchase price, interest and other moneys, if any, shall be paid by the purchaser in cleared funds or otherwise satisfied as provided in this agreement (credit being given for any amount payable by the vendor under clause 5.12 or 5.13, or for any deduction allowed to the purchaser under clause 7.2, or for any compensation agreed by the vendor in respect of a claim made by the purchaser pursuant to clause 11.2(1), or for any interim amount the purchaser is required to pay to a stakeholder pursuant to clause 11.8);

(2) the vendor's lawyer shall immediately thereafter:

(a) release or procure the release of the transfer instrument and the other instruments mentioned in clause 5.7(1) so that the purchaser's lawyer can then submit them for registration;

(b) pay to the purchaser's lawyer the LINZ registration fees on all of the instruments mentioned in clause 5.7(1), unless these fees will be invoiced to the vendor's lawyer by LINZ directly; and

(c) deliver to the purchaser's lawyer any other documents that the vendor must provide to the purchaser on settlement in terms of this agreement, including where this agreement provides for the property to be sold tenanted, all leases relating to the tenancy that are held by the vendor and a notice from the vendor to each tenant advising them of the sale of the property and directing them to pay to the purchaser as landlord, in such manner as the purchaser may prescribe, all rent or other moneys payable under the leases.

5.9 All obligations under clause 5.8 are interdependent.

5.10 The parties shall complete settlement by way of remote settlement in accordance with the PLS Guidelines. Where the purchaser considers it necessary or desirable to tender settlement, this may be effected (in addition to any other valid form of tender) by the purchaser's lawyer providing to the vendor's lawyer a written undertaking that:

(1) the purchaser is ready, willing, and able to settle;

(2) the purchaser's lawyer has certified and signed the transfer instrument and any other instruments in the Landonline Workspace for the transaction that must be signed on behalf of the purchaser; and

(3) the purchaser's lawyer holds in their trust account in cleared funds the amount that the purchaser must pay on settlement.

Last-Minute Settlement

5.11 If due to the delay of the purchaser, settlement takes place between 4.00 pm and 5.00 pm on the settlement date ("last-minute settlement"), the purchaser shall pay the vendor:

(1) one day's interest at the interest rate for late settlement on the portion of the purchase price paid in the last-minute settlement; and

(2) if the day following the last-minute settlement is not a working day, an additional day's interest (calculated in the same manner) for each day until, but excluding, the next working day.

Purchaser Default: Late Settlement

5.12 If any portion of the purchase price is not paid upon the due date for payment, then, provided that the vendor provides reasonable evidence of the vendor's ability to perform any obligation the vendor is obliged to perform on that date in consideration for such payment:

(1) the purchaser shall pay to the vendor interest at the interest rate for late settlement on the portion of the purchase price so unpaid for the period from the due date for payment until payment ("the default period"); but nevertheless, this stipulation is without prejudice to any of the vendor's rights or remedies including any right to claim for additional expenses and damages. For the purposes of this clause, a payment made on a day other than a working day or after the termination of a working day shall be deemed to be made on the next following working day and interest shall be computed accordingly; and

(2) the vendor is not obliged to give the purchaser possession of the property or to pay the purchaser any amount for remaining in possession, unless this agreement relates to a tenanted property, in which case the vendor must elect either to:

(a) account to the purchaser on settlement for incomings in respect of the property which are payable and received during the default period, in which event the purchaser shall be responsible for the outgoings relating to the property during the default period; or

(b) retain such incomings in lieu of receiving interest from the purchaser pursuant to clause 5.12(1).

(3) If the parties are unable to agree upon any amount payable under this clause 5.12, either party may make a claim under clause 11.0.

Vendor Default: Late Settlement or Failure to Give Possession

5.13 (1) For the purposes of this clause 5.13:

(a) the default period means:

(i) in clause 5.13(2), the period from the settlement date until the date when the vendor is able and willing to provide vacant possession and the purchaser takes possession; and

(ii) in clause 5.13(3), the period from the date the purchaser takes possession until the date when settlement occurs; and

(iii) in clause 5.13(5), the period from the settlement date until the date when settlement occurs; and

(b) the vendor shall be deemed to be unwilling to give possession if the vendor does not offer to give possession.

(2) If this agreement provides for vacant possession but the vendor is unable or unwilling to give vacant possession on the settlement date, then, provided that the purchaser provides reasonable evidence of the purchaser's ability to perform the purchaser's obligations under this agreement:

(a) the vendor shall pay the purchaser, at the purchaser's election, either:

(i) compensation for any reasonable costs incurred for temporary accommodation for persons and storage of chattels during the default period; or

(ii) an amount equivalent to interest at the interest rate for late settlement on the entire purchase price during the default period; and

(b) the purchaser shall pay the vendor an amount equivalent to the interest earned or which would be earned on overnight deposits lodged in the purchaser's lawyer's trust bank account on such portion of the purchase price (including any deposit) as is payable under this agreement on or by the settlement date but remains unpaid during the default period less:

(i) any withholding tax; and

(ii) any bank or legal administration fees and commission charges; and

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(iii) any interest payable by the purchaser to the purchaser's lender during the default period in respect of any mortgage or loan taken out by the purchaser in relation to the purchase of the property.

(3) If this agreement provides for vacant possession and the vendor is able and willing to give vacant possession on the settlement date, then, provided the purchaser provides reasonable evidence of the purchaser's ability to perform the purchaser's obligations under this agreement, the purchaser may elect to take possession in which case the vendor shall not be liable to pay any interest or other moneys to the purchaser but the purchaser shall pay the vendor the same amount as that specified in clause 5.13(2)(b) during the default period. A purchaser in possession under this clause 5.13(3) is a licensee only.

(4) Notwithstanding the provisions of clause 5.13(3), the purchaser may elect not to take possession when the purchaser is entitled to take it. If the purchaser elects not to take possession, the provisions of clause 5.13(2) shall apply as though the vendor were unable or unwilling to give vacant possession on the settlement date.

(5) If this agreement provides for the property to be sold tenanted then, provided that the purchaser provides reasonable evidence of the purchaser's ability to perform the purchaser's obligations under this agreement, the vendor shall on settlement account to the purchaser for incomings which are payable and received in respect of the property during the default period less the outgoings paid by the vendor during that period. Apart from accounting for such incomings, the vendor shall not be liable to pay any other moneys to the purchaser but the purchaser shall pay the vendor the same amount as that specified in clause 5.13(2)(b) during the default period.

(6) The provisions of this clause 5.13 shall be without prejudice to any of the purchaser's rights or remedies including any right to claim for any additional expenses and damages suffered by the purchaser.

(7) If the parties are unable to agree upon any amount payable under this clause 5.13, either party may make a claim under clause 11.0.

Deferment of Settlement and Possession

5.14 If:

(1) this is an agreement for the sale by a commercial on-seller of a household unit; and

(2) a code compliance certificate has not been issued by the settlement date in relation to the household unit,

then, unless the parties agree otherwise (in which case the parties shall enter into a written agreement in the form (if any) prescribed by the Building (Forms) Regulations 2004), the settlement date shall be deferred to the fifth working day following the date upon which the vendor has given the purchaser notice that the code compliance certificate has been issued (which notice must be accompanied by a copy of the certificate).

5.15 In every case, if neither party is ready, willing, and able to settle on the settlement date, the settlement date shall be deferred to the third working day following the date upon which one of the parties gives notice it has become ready, willing, and able to settle.

5.16 If:

(1) the property is a unit title; and

(2) the settlement date is deferred pursuant to either clause 5.14 or clause 5.15; and

(3) the vendor considers on reasonable grounds that an extension of time is necessary or desirable in order for the vendor to comply with clause 10.3,

then the vendor may extend the settlement date:

(a) where there is a deferment of the settlement date pursuant to clause 5.14, to the tenth working day after the date upon which the vendor gives the purchaser notice that the code compliance certificate has been issued, provided the vendor gives notice of the extension to the purchaser no later than the second working day after such notice; or

(b) where there is a deferment of the settlement date pursuant to clause 5.15, to the tenth working day after the date upon which one of the parties gives notice that it has become ready, willing, and able to settle, provided the vendor gives notice of the extension to the purchaser no later than the second working day after such notice.

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New Title Provision

5.17 (1) Where:

(a) the transfer of the property is to be registered against a new title yet to be issued; and

(b) a search copy, as defined in section 60 of the Land Transfer Act 2017, of that title is not obtainable by the tenth working day prior to the settlement date,

then, unless the purchaser elects that settlement shall still take place on the agreed settlement date, the settlement date shall be deferred to the tenth working day after the date on which the vendor has given the purchaser notice that a search copy is obtainable.

(2) Clause 5.17(1) shall not apply where it is necessary to register the transfer of the property to enable a plan to be deposited and title to the property to be issued.

6.0 Residential Land Withholding Tax

6.1 If the vendor does not have a conveyancer or the vendor and the purchaser are associated persons, then:

(1) the vendor must provide the purchaser or the purchaser's conveyancer, on or before the second working day before the due date for payment of the first residential land purchase amount payable under this agreement, with:

(a) sufficient information to enable the purchaser or the purchaser's conveyancer to determine to their reasonable satisfaction whether section 54C of the Tax Administration Act 1994 applies to the sale of the property; and

(b) if the purchaser or the purchaser's conveyancer determines to their reasonable satisfaction that section 54C of the Tax Administration Act 1994 does apply, all of the information required by that section and either an RLWT certificate of exemption in respect of the sale or otherwise such other information that the purchaser or the purchaser's conveyancer may reasonably require to enable the purchaser or the purchaser's conveyancer to determine to their reasonable satisfaction the amount of RLWT that must be withheld from each residential land purchase amount;

(2) the vendor shall be liable to pay any costs reasonably incurred by the purchaser or the purchaser's conveyancer in relation to RLWT, including the cost of obtaining professional advice in determining whether there is a requirement to withhold RLWT and the amount of RLWT that must be withheld, if any; and

(3) any payments payable by the purchaser on account of the purchase price shall be deemed to have been paid to the extent that:

(a) RLWT has been withheld from those payments by the purchaser or the purchaser's conveyancer as required by the RLWT rules; and

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(b) any costs payable by the vendor under clause 6.1(2) have been deducted from those payments by the purchaser or the purchaser's conveyancer.

6.2 If the vendor does not have a conveyancer or the vendor and the purchaser are associated persons and if the vendor fails to provide the information required under clause 6.1(1), then the purchaser may:
(1) defer the payment of the first residential land purchase amount payable under this agreement (and any residential land purchase amount that may subsequently fall due for payment) until such time as the vendor supplies that information; or
(2) on the due date for payment of that residential land purchase amount, or at any time thereafter if payment has been deferred by the purchaser pursuant to this clause and the vendor has still not provided that information, treat the sale of the property as if it is being made by an offshore RLWT person where there is a requirement to pay RLWT.

6.3 If pursuant to clause 6.2 the purchaser treats the sale of the property as if it is being made by an offshore RLWT person where there is a requirement to pay RLWT, the purchaser or the purchaser's conveyancer may:
(1) make a reasonable assessment of the amount of RLWT that the purchaser or the purchaser's conveyancer would be required by the RLWT rules to withhold from any residential land purchase amount if the sale is treated in that manner; and
(2) withhold that amount from any residential land purchase amount and pay it to the Commissioner as RLWT.

6.4 Any amount withheld by the purchaser or the purchaser's conveyancer pursuant to clause 6.3 shall be treated as RLWT that the purchaser or the purchaser's conveyancer is required by the RLWT rules to withhold.

6.5 The purchaser or the purchaser's conveyancer shall give notice to the vendor a reasonable time before payment of any sum due to be paid on account of the purchase price of:
(1) the costs payable by the vendor under clause 6.1(2) that the purchaser or the purchaser's conveyancer intends to deduct; and
(2) the amount of RLWT that the purchaser or the purchaser's conveyancer intends to withhold.

7.0 Risk and insurance

7.1 The property and chattels shall remain at the risk of the vendor until possession is given and taken.

7.2 If, prior to the giving and taking of possession, the property is destroyed or damaged, and such destruction or damage has not been made good by the settlement date, then the following subclauses shall apply:
(1) if the destruction or damage has been sufficient to render the property untenantable and it is untenantable on the settlement date, the purchaser may:
(a) complete the purchase at the purchase price, less a sum equal to any insurance moneys received or receivable by or on behalf of the vendor in respect of such destruction or damage, provided that no reduction shall be made to the purchase price if the vendor's insurance company has agreed to reinstate for the benefit of the purchaser to the extent of the vendor's insurance cover; or
(b) cancel this agreement by serving notice on the vendor in which case the vendor shall return to the purchaser immediately the deposit and any other moneys paid by the purchaser, and neither party shall have any right or claim against the other arising from this agreement or its cancellation;
(2) if the property is not untenantable on the settlement date, the purchaser shall complete the purchase at the purchase price less a sum equal to the amount of the diminution in value of the property which, to the extent that the destruction or damage to the property can be made good, shall be deemed to be equivalent to the reasonable cost of reinstatement or repair;
(3) if the property is zoned for rural purposes under an operative District Plan, damage to the property shall be deemed to have rendered the property untenantable where the diminution in value exceeds an amount equal to 20% of the purchase price; and
(4) if the amount of the diminution in value is disputed, the parties shall follow the same procedure as that set out in clause 11.8 for when an amount of compensation is disputed.

7.3 The purchaser shall not be required to take over any insurance policies held by the vendor.

8.0 Title, boundaries and requisitions

8.1 The vendor shall not be bound to point out the boundaries of the property except that on the sale of a vacant residential lot which is not limited as to parcels the vendor shall ensure that all boundary markers required by the Cadastral Survey Act 2002 and any related rules and regulations to identify the boundaries of the property are present in their correct positions at the settlement date.

8.2 The purchaser is deemed to have accepted the vendor's title to the property and the purchaser may not make any requisitions or objections as to title.

8.3 The vendor shall not be liable to pay for or contribute towards the expense of erection or maintenance of any fence between the property and any contiguous land of the vendor but this proviso shall not enure for the benefit of any subsequent purchaser of the contiguous land; and the vendor shall be entitled to require the inclusion of a fencing covenant to this effect in any transfer of the property.

9.0 Vendor's warranties and undertakings

9.1 The vendor warrants and undertakes that at the date of this agreement, the vendor has not:
(1) received any notice or demand and has no knowledge of any requisition or outstanding requirement:
(a) from any local or government authority or other statutory body; or
(b) under the Resource Management Act 1991; or
(c) from any tenant of the property; or
(d) from any other party; or
(2) given any consent or waiver,
which directly or indirectly affects the property and which has not been disclosed in writing to the purchaser.

9.2 The vendor warrants and undertakes that at the date of this agreement the vendor has no knowledge or notice of any fact which might result in proceedings being instituted by or against the vendor or the purchaser in respect of the property.

9.3 The vendor warrants and undertakes that at settlement:
(1) The chattels included in the sale listed in Schedule 1 and all plant, equipment, systems or devices which provide any services or amenities to the property, including, without limitation, automatic garage door facility, security, heating, cooling, or air-conditioning, are delivered to the purchaser in reasonable working order, but in all other respects in their state of repair as at the date of this agreement (fair wear and tear excepted).

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(2) All electrical and other installations on the property are free of any charge whatsoever and all chattels included in the sale are the unencumbered property of the vendor.

(3) There are no arrears of rates, water rates or charges outstanding on the property and where the property is subject to a targeted rate that has been imposed as a means of repayment of any loan, subsidy or other financial assistance made available by or through the local authority, the amount required to remove the imposition of that targeted rate has been paid.

(4) Where an allowance has been made by the vendor in the settlement statement for incomings receivable, the settlement statement correctly records those allowances including, in particular, the dates up to which the allowances have been made.

(5) Where the vendor has done or caused or permitted to be done on the property any works:
  (a) any permit, resource consent, or building consent required by law was obtained; and
  (b) where any "restricted building work" as defined in the Building Act was done on the property on or after 13 March 2012, such work was carried out or supervised by a suitably qualified person;
  (c) to the vendor's knowledge, the works were completed in compliance with any required permits or consents; and
  (d) where appropriate, a code compliance certificate was issued for those works.

(6) Where under the Building Act, any building on the property sold requires a compliance schedule:
  (a) the vendor has fully complied with any requirements specified in any compliance schedule issued by a territorial authority under the Building Act in respect of the building;
  (b) the building has a current building warrant of fitness; and
  (c) the vendor is not aware of any reason, that the vendor has not disclosed in writing to the purchaser, which would prevent a building warrant of fitness from being supplied to the territorial authority when the building warrant of fitness is next due.

(7) Since the date of this agreement, the vendor has not given any consent or waiver which directly or indirectly affects the property.

(8) Any notice or demand received by the vendor, which directly or indirectly affects the property, after the date of this agreement:
  (a) from any local or government authority or other statutory body; or
  (b) under the Resource Management Act 1991; or
  (c) from any tenant of the property; or
  (d) from any other party,

has been delivered forthwith by the vendor to either the purchaser or the purchaser's lawyer, unless the vendor has paid or complied with such notice or demand. If the vendor fails to so deliver or pay the notice or demand, the vendor shall be liable for any penalty incurred.

9.4 If the property is or includes part only of a building, the warranty and undertaking in clause 9.3(6) does not apply. Instead the vendor warrants and undertakes at the date of this agreement that, where under the Building Act the building of which the property forms part requires a compliance schedule:

(1) to the vendor's knowledge, there has been full compliance with any requirements specified in any compliance schedule issued by a territorial authority under the Building Act in respect of the building;

(2) the building has a current building warrant of fitness; and

(3) the vendor is not aware of any reason, that the vendor has not disclosed in writing to the purchaser, which would prevent a building warrant of fitness from being supplied to the territorial authority when the building warrant of fitness is next due.

9.5 The vendor warrants and undertakes that on or immediately after settlement:

(1) If the water and wastewater charges are determined by meter, the vendor will have the water meter read and will pay the amount of the charge payable pursuant to that reading; but if the water supplier will not make special readings, the water and wastewater charges shall be apportioned.

(2) Any outgoings included in the settlement statement are paid in accordance with the settlement statement and, where applicable, to the dates shown in the settlement statement, or will be so paid immediately after settlement.

(3) The vendor will give notice of sale in accordance with the Local Government (Rating) Act 2002 to the territorial authority and regional council in whose district the land is situated and will also give notice of the sale to every other authority that makes and levies rates or charges on the land and to the supplier of water.

(4) Where the property is a unit title, the vendor will notify the body corporate in writing of the transfer of the property and the name and address of the purchaser.

10.0 Unit title provisions

10.1 If the property is a unit title, sections 144 to 153 of the Unit Titles Act require the vendor to provide to the purchaser a pre-contract disclosure statement and a pre-settlement disclosure statement in accordance with the Unit Titles Act. The requirements of this clause 10.0 are in addition to, and do not derogate from, the requirements in the Act.

10.2 If the property is a unit title, then except to the extent the vendor has disclosed otherwise to the purchaser in writing prior to the parties entering into this agreement, the vendor warrants and undertakes as follows as at the date of this agreement:

(1) The information in the pre-contract disclosure statement provided to the purchaser was complete and correct to the extent required by the Unit Titles Act.

(2) Apart from regular periodic contributions, no contributions have been levied or proposed by the body corporate

(3) There are no unsatisfied judgments against the body corporate and no proceedings have been instituted against or by the body corporate.

(4) No order or declaration has been made by any Court or Tribunal against the body corporate or the vendor under any provision of the Unit Titles Act.

(5) The vendor has no knowledge or notice of any fact which might result in:
  (a) the vendor or the purchaser incurring any other liability under any provision of the Unit Titles Act;
  (b) any proceedings being instituted by or against the body corporate; or
  (c) any order or declaration being sought against the body corporate or the vendor under any provision of the Unit Titles Act.

(6) The vendor is not aware of proposals to pass any body corporate resolution relating to its rules nor are there any unregistered changes to the body corporate rules.

(7) No lease, licence, easement, or special privilege has been granted by the body corporate in respect of any part of the common property.

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(8) No resolution has been passed and no application has been made and the vendor has no knowledge of any proposal for:
(a) the transfer of the whole or any part of the common property;
(b) the addition of any land to the common property;
(c) the cancellation of the unit plan;
(d) the deposit of an amendment to the unit plan, a redevelopment plan, or a new unit plan in substitution for the existing unit plan; or
(e) any change to utility interest or ownership interest for any unit on the unit plan.

10.3 If the property is a unit title, not less than five working days before the settlement date, the vendor will provide:
(1) a certificate of insurance for all insurances effected by the body corporate under the provisions of section 135 of the Unit Titles Act; and
(2) a pre-settlement disclosure statement from the vendor, certified correct by the body corporate, under section 147 of the Unit Titles Act.

10.4 If the property is a unit title, then except to the extent the vendor has disclosed otherwise to the purchaser in writing prior to the parties entering into this agreement, the vendor warrants and undertakes as at the settlement date:
(1) Other than contributions to the operating account, long-term maintenance fund, contingency fund, or capital improvements fund that are shown in the pre-settlement disclosure statement, there are no other amounts owing by the vendor under any provision of the Unit Titles Act.
(2) All contributions and other moneys payable by the vendor to the body corporate have been paid in full.
(3) Since the date of this agreement, the vendor has not voted on any matter that would alter the warranties at clause 10.2(2), (3), (4), (5), (6), (7), and (8) without the written consent of the purchaser.

10.5 If the property is a unit title and if the vendor does not provide the certificates of insurance and the pre-settlement disclosure statement under section 147 of the Unit Titles Act in accordance with the requirements of clause 10.3, then in addition to the purchaser's rights under sections 150, 151 and 151A of the Unit Titles Act, the purchaser may:
(1) postpone the settlement date until the fifth working day following the date on which that information is provided to the purchaser; or
(2) elect that settlement shall still take place on the settlement date, such election to be a waiver of any other rights to delay or cancel settlement under the Unit Titles Act or otherwise.

10.6 If the property is a unit title, each party specifies that:
(1) any email address of that party's lawyer provided on the back page of this agreement, or notified subsequently in writing by that party's lawyer, shall be an address for service for that party for the purposes of section 205(1)(d) of the Unit Titles Act; and
(2) if that party is absent from New Zealand, that party's lawyer shall be that party's agent in New Zealand for the purposes of section 205(2) of the Unit Titles Act.

11.0 Claims for compensation

11.1 If the purchaser has not purported to cancel this agreement, the breach by the vendor of any term of this agreement does not defer the purchaser's obligation to settle, but that obligation is subject to the provisions of this clause 11.0.

11.2 The provisions of this clause apply if:
(1) the purchaser claims a right to compensation (and in making such a claim, the purchaser must act reasonably, but the vendor taking the view that the purchaser has not acted reasonably does not affect the purchaser's ability or right to make such a claim) for:
(a) a breach of any term of this agreement;
(b) a misrepresentation;
(c) a breach of section 9 or section 14 of the Fair Trading Act 1986;
(d) an equitable set-off, or
(2) there is a dispute between the parties regarding any amounts payable:
(a) under clause 5.12 or clause 5.13; or
(b) under clause 7.2.

11.3 To make a claim under this clause 11.0:
(1) the claimant must serve notice of the claim on the other party as early as is reasonably practicable and in any event no later than on or before the last working day prior to the settlement date, time being of the essence (except for claims made after the settlement date for amounts payable under clause 5.12 or clause 5.13, in respect of which the claimant may serve notice of the claim on the other party at any time after a dispute arises over those amounts); and
(2) the notice must:
(a) state the particular breach of the terms of this agreement, or the claim under clause 5.12, clause 5.13 or clause 7.2, or for misrepresentation, or for breach of section 9 or section 14 of the Fair Trading Act 1986, or for an equitable set-off; and
(b) state a genuine pre-estimate of the loss suffered by the claimant; and
(c) be particularised and quantified to the extent reasonably possible as at the date of the notice.

11.4 If the claimant is unable to give notice under clause 11.3 in respect of claims under clause 11.2(1) or clause 11.2(2)(b) on or before the date that notice is due under clause 11.3(1) by reason of the conduct or omission of the other party, the notice may be served on or before the working day immediately preceding the last working day on which settlement must take place under a settlement notice served by either party under clause 12.1, time being of the essence.

11.5 If the amount of compensation is agreed, it shall be deducted from or added to the amount to be paid by the purchaser on settlement.

11.6 If the purchaser makes a claim for compensation under clause 11.2(1) but the vendor disputes that the purchaser has a valid or reasonably arguable claim, then:
(1) the vendor must give notice to the purchaser within three working days after service of the purchaser's notice under clause 11.3, time being of the essence; and
(2) the purchaser's right to make the claim (on the basis that such claim is valid or reasonably arguable) shall be determined by an appointee. The appointee's costs shall be met by the party against whom the determination is made or otherwise as determined by the appointee.

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11.7 If the purchaser makes a claim for compensation under clause 11.2(1) and the vendor fails to give notice to the purchaser pursuant to clause 11.6, the vendor is deemed to have accepted that the purchaser has a valid or reasonably arguable claim.

11.8 If it is accepted, or determined under clause 11.6, that the purchaser has a right to claim compensation under clause 11.2(1) but the amount of compensation claimed is disputed, or if the claim is made under clause 11.2(2) and the amount of compensation claimed is disputed, then:

(1) an interim amount shall be paid on settlement by the party required to a stakeholder until the amount of the claim is determined;

(2) if the parties cannot agree on a stakeholder, the interim amount shall be paid to a stakeholder nominated on the application of either party by the president;

(3) the interim amount must be a reasonable sum having regard to the circumstances, except that:

(a) where the claim is under clause 5.13 the interim amount shall be the lower of the amount claimed, or an amount equivalent to interest at the interest rate for late settlement for the relevant default period on such portion of the purchase price (including any deposit) as is payable under this agreement on or by the settlement date;

(b) neither party shall be entitled or required to undertake any discovery process, except to the extent this is deemed necessary by the appointee under clause 11.8(4) for the purposes of determining that the requirements of clauses 11.3(2)(b)-(c) have been met.

(4) if the parties cannot agree on the interim amount, the interim amount shall be determined by an appointee. The appointee's costs shall be met equally by the parties, or otherwise as determined by the appointee;

(5) the amount of the claim determined to be payable shall not be limited by the interim amount;

(6) the stakeholder shall lodge the interim amount on an interest-bearing call deposit with a bank registered under the Reserve Bank of New Zealand Act 1989 in the joint names of the vendor and the purchaser;

(7) the interest earned on the interim amount net of any withholding tax and any bank or legal administration fees and commission charges shall follow the destination of the interim amount; and

(8) apart from the net interest earned on the interim amount, no interest shall be payable by either party to the other in respect of the claim for compensation once the amount of the claim has been determined, provided that if the amount determined is in excess of the interim amount, the party liable to make payment of that excess shall pay interest to the other party at the interest rate for late settlement on the amount of that excess if it is not paid on or before the third working day after the date of notification of the determination, computed from the date of such notification until payment.

11.9 Where a determination has to be made under clause 11.6(2) or clause 11.8(4) and the settlement date will have passed before the determination is made, the settlement date shall be deferred to the second working day following the date of notification to both parties of the determination. Where a determination has to be made under both of these clauses, the settlement date shall be deferred to the second working day following the date on which notification to both parties has been made of both determinations. However, the settlement date will only be deferred under this clause 11.9 if, prior to such deferral, the purchaser's lawyer provides written confirmation to the vendor's lawyer that but for the resolution of the claim for compensation, the purchaser is ready, willing, and able to complete settlement.

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11.10 The procedures prescribed in clauses 11.1 to 11.9 shall not prevent either party from taking proceedings for specific performance of this agreement.

11.11 A determination under clause 11.6 that the purchaser does not have a valid or reasonably arguable claim for compensation under clause 11.2(1) shall not prevent the purchaser from pursuing that claim following settlement.

11.12 Where a determination is made by an appointee under either clause 11.6 or clause 11.8, that appointee:

(1) shall not be liable to either party for any costs or losses that either party may claim to have suffered in respect of the determination; and

(2) may make an order that one party must meet all or some of the reasonable legal costs of the other party, and in making such an order the appointee may without limitation take into account the appointee's view of the reasonableness of the conduct of the parties under this clause.

11.3 Where the appointee is determined by the president, the president shall not be liable to either party for any costs or losses that either party may claim to have suffered in respect of that determination.

12.0 Notice to complete and remedies on default

12.1 (1) If the sale is not settled on the settlement date, either party may at any time thereafter serve on the other party a settlement notice.

(2) The settlement notice shall be effective only if the party serving it is at the time of service either in all material respects ready, willing, and able to proceed to settle in accordance with this agreement or is not so ready, willing, and able to settle only by reason of the default or omission of the other party.

(3) If the purchaser is in possession, the vendor's right to cancel this agreement will be subject to sections 28 to 36 of the Property Law Act 2007 and the settlement notice may incorporate or be given with a notice under section 28 of that Act complying with section 29 of that Act.

12.2 Subject to clause 12.1(3), upon service of the settlement notice the party on whom the notice is served shall settle:

(1) on or before the twelfth working day after the date of service of the notice; or

(2) on the first working day after the 13th day of January if the period of twelve working days expires during the period commencing on the 6th day of January and ending on the 13th day of January, both days inclusive,

time being of the essence, but without prejudice to any intermediate right of cancellation by either party.

12.3 (1) If this agreement provides for the payment of the purchase price by instalments and the purchaser fails duly and punctually to pay any instalment on or within one month from the date on which it fell due for payment then, whether or not the purchaser is in possession, the vendor may immediately give notice to the purchaser calling up the unpaid balance of the purchase price, which shall upon service of the notice fall immediately due and payable.

(2) The date of service of the notice under this clause shall be deemed the settlement date for the purposes of clause 12.1.

(3) The vendor may give a settlement notice with a notice under this clause.

(4) For the purposes of this clause a deposit is not an instalment.

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12.4 If the purchaser does not comply with the terms of the settlement notice served by the vendor then, subject to clause 12.1(3):
(1) Without prejudice to any other rights or remedies available to the vendor at law or in equity, the vendor may:
(a) sue the purchaser for specific performance; or
(b) cancel this agreement by notice and pursue either or both of the following remedies, namely:
(i) forfeit and retain for the vendor's own benefit the deposit paid by the purchaser, but not exceeding in all 10% of the purchase price; and/or
(ii) sue the purchaser for damages.
(2) Where the vendor is entitled to cancel this agreement, the entry by the vendor into a conditional or unconditional agreement for the resale of the property or any part thereof shall take effect as a cancellation of this agreement by the vendor if this agreement has not previously been cancelled and such resale shall be deemed to have occurred after cancellation.
(3) The damages claimable by the vendor under clause 12.4(1)(b)(ii) shall include all damages claimable at common law or in equity and shall also include (but shall not be limited to) any loss incurred by the vendor on any bona fide resale contracted within one year from the date by which the purchaser should have settled in compliance with the settlement notice. The amount of that loss may include:
(a) interest on the unpaid portion of the purchase price at the interest rate for late settlement from the settlement date to the settlement of such resale; and
(b) all costs and expenses reasonably incurred in any resale or attempted resale; and
(c) all outgoings (other than interest) on or maintenance expenses in respect of the property from the settlement date to the settlement of such resale.
(4) Any surplus money arising from a resale shall be retained by the vendor.

12.5 If the vendor does not comply with the terms of a settlement notice served by the purchaser, then, without prejudice to any other rights or remedies available to the purchaser at law or in equity the purchaser may:
(1) sue the vendor for specific performance; or
(2) cancel this agreement by notice and require the vendor forthwith to repay to the purchaser any deposit and any other money paid on account of the purchase price and interest on such sum(s) at the interest rate for late settlement from the date or dates of payment by the purchaser until repayment.

12.6 The party serving a settlement notice may extend the term of the notice for one or more specifically stated periods of time and thereupon the term of the settlement notice shall be deemed to expire on the last day of the extended period or periods and it shall operate as though this clause stipulated the extended period(s) of notice in lieu of the period otherwise applicable; and time shall be of the essence accordingly. An extension may be given either before or after the expiry of the period of the notice.

12.7 Nothing in this clause shall preclude a party from suing for specific performance without serving a settlement notice.

12.8 A party who serves a settlement notice under this clause shall not be in breach of an essential term by reason only of that party's failure to be ready, willing, and able to settle upon the expiry of that notice.

13.0 Non-merger

13.1 The obligations and warranties of the parties in this agreement shall not merge with:
(1) the giving and taking of possession;
(2) settlement;
(3) the transfer of title to the property;
(4) delivery of the chattels (if any); or
(5) registration of the transfer of title to the property.

14.0 Goods and Services Tax

14.1 If this agreement provides for the purchaser to pay (in addition to the purchase price stated without GST) any GST which is payable in respect of the supply made under this agreement, then:
(1) the purchaser shall pay to the vendor the GST which is so payable in one sum on the GST date;
(2) where the GST date has not been inserted on the front page of this agreement the GST date shall be the settlement date;
(3) where any GST is not so paid to the vendor, the purchaser shall pay to the vendor:
(a) interest at the interest rate for late settlement on the amount of GST unpaid from the GST date until payment; and
(b) any default GST;
(4) it shall not be a defence to a claim against the purchaser for payment to the vendor of any default GST that the vendor has failed to mitigate the vendor's damages by paying an amount of GST when it fell due under the GST Act; and
(5) any sum referred to in this clause is included in the moneys payable by the purchaser on settlement pursuant to clause 5.8(1).

14.2 If the supply under this agreement is a taxable supply, the vendor will deliver a tax invoice to the purchaser on or before the GST date or such earlier date as the purchaser is entitled to delivery of an invoice under the GST Act.

14.3 (1) Without prejudice to the vendor's rights and remedies under clause 14.1, where any GST is not paid to the vendor on or within one month of the GST date, then whether or not the purchaser is in possession, the vendor may immediately give notice to the purchaser calling up any unpaid balance of the purchase price, which shall upon service of the notice fall immediately due and payable.
(2) The date of service of the notice under this clause shall be deemed the settlement date for the purposes of clause 12.1.
(3) The vendor may give a settlement notice under clause 12.1 with a notice under this clause.

15.0 Zero-rating

15.1 The vendor warrants that the statement on the front page regarding the vendor's GST registration status in respect of the supply under this agreement and any particulars stated by the vendor in Schedule 3 are correct at the date of this agreement and will remain correct at settlement.

15.2 The purchaser warrants that any particulars stated by the purchaser in Schedule 3 are correct at the date of this agreement.

15.3 Where the particulars stated on the front page and in Schedule 3 indicate that:
(1) the vendor is and/or will be at settlement a registered person in respect of the supply under this agreement;
(2) the recipient is and/or will be at settlement a registered person;
(3) the recipient intends at settlement to use the property for making taxable supplies; and

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(4) the recipient does not intend at settlement to use the property as a principal place of residence by the recipient or a person associated with the recipient under section 2A(1)(c) of the GST Act,

GST will be chargeable on the supply under this agreement at 0% pursuant to section 11(1)(mb) of the GST Act.

15.4 If GST is chargeable on the supply under this agreement at 0% pursuant to section 11(1)(mb) of the GST Act, then on or before settlement the purchaser will provide the vendor with the recipient's name, address, and registration number if any of those details are not included in Schedule 3 or they have altered.

15.5 (1) If any of the particulars stated by the purchaser in Schedule 3:

(a) are incomplete; or

(b) alter between the date of this agreement and settlement,

the purchaser shall notify the vendor of the particulars which have not been completed and the altered particulars as soon as practicable before settlement.

(2) The purchaser warrants that any added or altered particulars will be correct as at the date of the purchaser's notification.

(3) If the GST treatment of the supply under this agreement should be altered as a result of the added or altered particulars, the vendor shall prepare and deliver to the purchaser or the purchaser's lawyer an amended settlement statement, if the vendor has already tendered a settlement statement, and a credit note or a debit note, as the case may be, if the vendor has already issued a tax invoice.

15.6 If

(1) the particulars in Schedule 3 state that part of the property is being used as a principal place of residence at the date of this agreement; and

(2) that part is still being so used at the time of the supply under this agreement,

then, the supply of that part will be a separate supply in accordance with section 5(15)(a) of the GST Act.

15.7 If

(1) the particulars stated in Schedule 3 indicate that the recipient intends to use part of the property as a principal place of residence by the recipient or a person associated with the recipient under section 2A(1)(c) of the GST Act; and

(2) that part is the same part as that being used as a principal place of residence at the time of the supply under this agreement,

then the references in clauses 15.3 and 15.4 to "the property" shall be deemed to mean the remainder of the property excluding that part and the references to "the supply under this agreement" shall be deemed to mean the supply under this agreement of that remainder.

15.8 If the particulars stated on the front page and in Schedule 3 indicate in terms of clause 15.3 that GST will be chargeable on the supply under this agreement at 0% pursuant to section 11(1)(mb) of the GST Act, but any of the particulars stated by the purchaser in Schedule 3 should alter between the date of this agreement and settlement, such that GST no longer becomes chargeable on the supply at 0%, then:

(1) the purchase price shall be plus GST (if any), even if it has been expressed as being inclusive of GST (if any) in the Memorandum of Contract; and

(2) if the vendor has already had to account to the Inland Revenue Department for the GST which is payable in respect of the supply under this agreement and did so on the basis that in accordance with clause 15.3 the GST would be chargeable at 0%, the purchaser shall pay GST and any default GST to the vendor immediately upon demand served on the purchaser by the vendor (and where any GST or default GST is not so paid to the vendor, the purchaser shall pay to the vendor interest at the interest rate for late settlement on the amount unpaid from the date of service of the vendor's demand until payment).

16.0 Supply of a going concern

16.1 If there is a supply under this agreement to which section 11(1)(mb) of the GST Act does not apply but which comprises the supply of a taxable activity that is a going concern at the time of the supply, then, unless otherwise expressly stated in this agreement:

(1) each party warrants that it is a registered person or will be so by the date of the supply;

(2) each party agrees to provide the other party by the date of the supply with proof of its registration for GST purposes;

(3) the parties agree that they intend that the supply is of a taxable activity that is capable of being carried on as a going concern by the purchaser; and

(4) the parties agree that the supply made pursuant to this agreement is the supply of a going concern on which GST is chargeable at 0%.

16.2 If it subsequently transpires that GST is payable in respect of the supply and if this agreement provides for the purchaser to pay (in addition to the purchase price without GST) any GST which is payable in respect of the supply made under this agreement, then the provisions of clause 14.0 of this agreement shall apply.

17.0 Limitation of liability

17.1 If a person enters into this agreement as trustee of a trust and is not a beneficiary of the trust, then that person will be known as an "independent trustee" and clauses 17.2 and 17.3 will apply.

17.2 The liability of an independent trustee under this agreement is limited to the extent of the indemnity from the assets of the trust available to the independent trustee at the time of enforcement of that indemnity.

17.3 However, if the entitlement of the independent trustee to be indemnified from the trust assets has been lost or impaired (whether fully or in part) by reason of the independent trustee's act or omission (whether in breach of trust or otherwise), then the limitation of liability in clause 17.2 does not apply, and the independent trustee will be personally liable up to the amount that would have been indemnified from the assets of the trust had the indemnity not been lost.

18.0 Overseas Investment Act Consent not required

18.1 The purchaser warrants that the purchaser does not require OIA Consent or that the purchaser has obtained OIA Consent.

19.0 Counterparts

19.1 This agreement may be executed and delivered in any number of counterparts (including scanned and emailed PDF counterparts).

19.2 Each executed counterpart will be deemed an original and all executed counterparts together will constitute one (and the same) instrument.

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20.0 Agency

20.1 If the name of a licensed real estate agent is recorded on this agreement, it is acknowledged that the sale evidenced by this agreement has been made through that agent whom the vendor has appointed as the vendor's agent according to an executed agency agreement.

20.2 The scope of the authority of the agent under clause 20.1 does not extend to making an offer, counteroffer, or acceptance of a purchaser's offer or counteroffer on the vendor's behalf without the express authority of the vendor for that purpose. That authority, if given, should be recorded in the executed agency agreement.

20.3 The vendor shall be liable to pay the agent's charges including GST in accordance with the executed agency agreement.

21.0 Collection of sales information

21.1 Once this agreement has become unconditional in all respects, the agent referred to in clause 20.0 may provide certain information relating to the sale to REINZ.

21.2 This information includes the sale price, address and other details about the property. The information is stored on a secure password protected network under REINZ's control.

21.3 REINZ combines this information with other property and market information and uses it itself or makes it available to real estate agencies and valuers, and other third parties (or service providers to any of them) for the following purposes:

(1) provision of appraisals and valuations to prospective vendors or purchasers of properties in the same area as the property;

(2) publication of reports and guidance on the real estate market nationally or in particular locations; and

(3) research, statistical, and predictive analysis for internal use or publication.

21.4 The information provided to REINZ under clause 21.1 does not specifically identify either of the parties to this agreement but may be combined with other information in the databases maintained by REINZ or other recipients, resulting in it becoming personal information under the Privacy Act 2020. Either party is therefore entitled to request access to and correction of any personal information held by REINZ by contacting REINZ at info@reinz.co.nz or by post or telephone.

22.0 COVID-19 / Pandemic Provisions

22.1 The parties acknowledge that the Government of New Zealand or a Minister of that Government may, as a result of public health risks arising from a Pandemic, order restrictions on personal movement pursuant to the COVID-19 Public Health Response Act 2020 (or other legislation), and the effect of such restrictions may be that personal movement within or between particular regions is unlawful for the general population of those regions.

22.2 Where such a legal restriction on personal movement exists either nationally or in the region or district where the property is located:

(1) The settlement date will be the later of:

(a) the date that is 10 working days after the date on which the restriction on personal movement in the region or district in which the property is located is removed; or

(b) the settlement date as stated elsewhere in this agreement.

(2) Nothing in the previous provisions of this clause is to have the effect of bringing forward a date specified in this agreement.

22.3 Clause 22.2 applies whether such legal restriction on personal movement exists at, or is imposed after, the date of this agreement, and on each occasion such restriction is imposed.

22.4 Neither party will have any claim against the other for a deferral of the settlement date under this clause 22.0.

22.5 For the purposes of this clause 22.0, "Pandemic" means the COVID-19 pandemic, or such other pandemic or epidemic that gives rise to Government orders restricting personal movement.

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FURTHER TERMS OF SALE

See further terms of sale for Auction

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Further Terms Of Sale for Auction

49 Jellicoe Street, Te Puke

23.0 The Purchase Price – Apportionment of component price

The parties hereto agree and acknowledge that for revenue purposes the value of the building and chattels on the aforementioned property and included in this agreement without further consideration are as follows:

Chattels $160,000.00

The balance of the purchase price shall be apportioned to the land and building.

23.1 **Chattels**

Included in this sale are the following chattels:

a. Airconditioning units in the premises occupied by Findlay Dykzeul Limited;

b. Chattels in the premises leased by Westpac Limited are:

Suspended ceiling (and grid)
Base lighting
Kitchenette – including bench unit, joinery, and vinyl flooring
Toilet facilities including wash basins and vinyl floor covering
Fire egress door
Inter-tenancy walls and fixed partitioning
Shop front

24.0 Vendor and Purchaser Acknowledgements

24.1 **Legal, Technical and Other Advice**

The vendor and purchaser both acknowledge that before signing this agreement that it has been recommended that they seek legal, technical, and other advice or information and that they have either obtained that advice or information: or have included a provision in this Agreement to obtain that advice or information; or have decided not to do so of their own accord.

24.2 **Tax and Legal Advice**

The vendor and purchaser both acknowledge that before signing this agreement that they have been: Recommended to seek professional advice (Tax and Legal advice) before entering into any negotiations, particularly regarding the tax treatment of a transaction so that they understand the tax and legal consequences of any purchase price allocations.

24.3 **Complaints and Dispute Resolution**

The vendor and purchaser both acknowledge that before signing this agreement that they have been made aware of the Agents in house complaints and disputes resolution procedure and that a copy is located and available on the Agent's website www.pggwre.co.nz under the Code of Conduct tab. The vendor and the purchaser have also been advised that they may access the REAA complaints process and additional information at www.reaa.govt.nz without first using the in-house process and that any use of the in-house process does not preclude them making a complaint to the REAA.

SCHEDULE 3

(GST Information – see clause 15.0)

This Schedule must be completed if the vendor has stated on the front page that the vendor is registered under the GST Act in respect of the transaction evidenced by this agreement and/or will be so registered at settlement. Otherwise, there is no need to complete it.

Section 1 Vendor		
1(a)	The vendor's registration number (if already registered):079-302-864	
1(b)	(i) All of the property is being used as a principal place of residence at the date of this agreement.	~~Yes/~~No~~/NA~~
	(ii) The supply of all of the property will be a taxable supply.	Yes~~/No/NA~~
	(iii) Part of the property is being used as a principal place of residence at the date of this agreement	~~Yes/~~No~~/NA~~
	(iv) That part is: (e.g. "the main farmhouse" or "the apartment above the shop")	
	(v) The supply of that part described in 1(b)(iv) will be a taxable supply.	~~Yes/No~~/NA
Section 2 Purchaser		
2(a)	The purchaser is registered under the GST Act and/or will be so registered at settlement.	Yes~~/No~~
2(b)	The purchaser intends at settlement to use the property for making taxable supplies.	Yes~~/No~~
If the answer to either or both of questions 2(a) and 2(b) is "No", go to question 2(e)		
2(c)	The purchaser's details are as follows: (i) Full name:	
	(ii) Address:	
	(iii) Registration number (if already registered):	
2(d)	The purchaser intends at settlement to use the property as a principal place of residence by the purchaser or by a person associated with the purchaser under section 2A(1)(c) of the GST Act (connected by blood relationship, marriage, civil union, de facto relationship or adoption). **OR** The purchaser intends at settlement to use part of the property (and no other part) as a principal place of residence by the purchaser or by a person associated with the purchaser under section 2A(1)(c) of the GST Act. That part is: (e.g. "the main farmhouse" or "the apartment above the shop")	Yes/No Yes/No
2(e)	The purchaser intends to direct the vendor to transfer title to the property to another party ("nominee").	Yes/No
If the answer to question 2(e) is "Yes", then please continue. Otherwise, there is no need to complete this Schedule any further.		
Section 3 Nominee		
3(a)	The nominee is registered under the GST Act and/or is expected by the purchaser to be so registered at settlement.	Yes/No
3(b)	The purchaser expects the nominee at settlement to use the property for making taxable supplies.	Yes/No
If the answer to either or both of questions 3(a) and 3(b) is "No", there is no need to complete this Schedule any further.		
3(c)	The nominee's details (if known to the purchaser) are as follows: (i) Full name:	
	(ii) Address:	
	(iii) Registration number (if already registered):	
3(d)	The purchaser expects the nominee to intend at settlement to use the property as a principal place of residence by the nominee or by a person associated with the nominee under section 2A(1)(c) of the GST Act (connected by blood relationship, marriage, civil union, de facto relationship or adoption). **OR** The purchaser expects the nominee to intend at settlement to use part of the property (and no other part) as a principal place of residence by the nominee or by a person associated with the nominee under section 2A(1)(c) of the GST Act. That part is: (e.g. "the main farmhouse" or "the apartment above the shop")	Yes/No Yes/No

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BEFORE BIDDING AT THE AUCTION

- If you are the successful bidder or you sign this agreement before or after the auction, this sale will be legally binding on you.
- If you are the successful bidder, the auctioneer may sign the Memorandum of Contract on your behalf if you should fail or refuse to do so.
- It is recommended you seek professional advice before bidding, or if you sign this agreement before or after the auction, before signing. **You should always get legal advice before bidding at the auction and throughout the buying and selling process.**
- TLANZ and REINZ accept no liability whatsoever in respect of this document and any agreement which may arise from it.
- The vendor should check the correctness of all warranties made under clause 9, clause 10, and elsewhere in this agreement.
- In the case of a unit title, before the purchaser bids at the auction or signs this Memorandum of Contract, the vendor **must** provide to the purchaser a pre-contract disclosure statement under section 146 of the Unit Titles Act.
- The transaction may have tax implications for the parties and it is recommended that both parties seek their own professional advice regarding the tax implications of the transaction before signing, including:
  - the GST treatment of the transaction, which depends upon the GST information supplied by the parties and could change before settlement if that information changes; and
  - the income tax treatment of the transaction, including any income tax implications of purchase price allocation.

PROFESSIONAL ADVICE SHOULD BE SOUGHT REGARDING THE EFFECT AND CONSEQUENCES OF BECOMING THE SUCCESSFUL BIDDER AT THE AUCTION.

MEMORANDUM OF CONTRACT

Date of Memorandum:

~~At~~, ~~or prior to~~, ~~or subsequent to~~, the auction (*delete as applicable*),

PURCHASER'S NAME: **and/or nominee ("the purchaser")**

became the purchaser of the property by being the highest bidder, or by agreeing with the vendor to purchase the property.

The vendor agrees to sell and the purchaser agrees to purchase the property and chattels included in the sale for the purchase price stated below in accordance with the terms and conditions of this agreement.

Purchase price: $

Plus GST (if any) OR ~~**Inclusive of GST** (if any)~~**.**
If neither is deleted, the purchase price includes GST (if any).

Deposit: $

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Acknowledgements

Where this agreement relates to the sale of a residential property and this agreement was provided to the parties by a real estate agent, or by a licensee on behalf of the agent, the parties acknowledge that they have been given the guide about the sale of residential property approved by the Real Estate Authority and a copy of the agency's in-house complaints and dispute resolution process.

The person or persons signing this agreement acknowledge that either:

(a) they are signing in a personal capacity as the 'vendor' named on the front page or 'purchaser' named above, or

(b) they have authority to bind the party named as 'vendor' named on the front page or 'purchaser' named above.

WARNING *(This warning does not form part of this agreement)*

Before signing, each party should read this entire contract and should obtain all relevant professional advice.
This is a binding contract. Once signed, you will be bound by the terms of it and there may be no, or only limited, rights to terminate it.

Signature of Purchaser(s) or Auctioneer:

_____

Name:

Director / Trustee / Authorised Signatory / Agent / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

_____

Name:

Director / Trustee / Authorised Signatory / Agent / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

Signature of Vendor(s) or Auctioneer:

_____

Name:

Director / Trustee / Authorised Signatory / Agent / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

_____

Name:

Director / Trustee / Authorised Signatory / Agent / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

* If this agreement is signed under:

(i) a Power of Attorney – please attach a **Certificate of non-revocation** (available from TLANZ: 4098WFP or REINZ); or

(ii) an Enduring Power of Attorney – please attach a **Certificate of non-revocation and non-suspension of the enduring power of attorney** (available from TLANZ: 4997WFP or REINZ).

Also insert the following wording for the Attorney's Signature above:

Signed by [full name of the donor] by his or her Attorney [attorney's signature].

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PARTICULARS AND CONDITIONS OF SALE OF REAL ESTATE BY AUCTION

Address of Property:
49 Jellicoe Street, Te Puke, Western Bay Of Plenty, Bay of Plenty

VENDOR:
Pierrick Morlet and Alan James Albert Clark and Desmond Bernard Quinn

Contact Details:

VENDOR'S LAWYERS:
Firm: Thomson Wilson
Individual Acting: Graeme Mathias
Email: gjm@thomsonwilson.co.nz
Contact Details: 09 438 4380

Email Address for Service of Notices (clause 3.4)**:**

PURCHASER:

Contact Details:

PURCHASER'S LAWYERS:
Firm:
Individual Acting:
Email:
Contact Details:

Email Address for Service of Notices (clause 3.4)**:**

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Auctioneer:
Sloane Morpeth - PGG Wrightson Real Estate

Licensed Real Estate Agent listing property: PGG Wrightson Real Estate Limited (Tauranga)
PGG Wrightson Real Estate

Manager: Camron Meade

Salesperson: David McLaren dmclaren@pggwrightson.co.nz (027 223 3366)

Second Salesperson:

Contact Details:
Unit 7
4 Te Puna Road Tauranga 3174
Ph: 07 571 5795 tauranga@pggwre.co.nz

Licensed Real Estate Agent under Real Estate Agents Act 2008

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IMPORTANT WARNING: All copyright in and associated with this form and its contents is owned by TLANZ & REINZ. A user of this form only acquires a limited non-exclusive licence to use it *once within a single transaction only*. The standard TLANZ & REINZ contract terms apply, which also prohibit any form of distribution, on-selling, or reproduction, including copying, digitising or recreating the form by any means whatsoever. TLANZ & REINZ monitor the use of this form and may take enforcement action against any person acting in breach of these obligations. Copying or digitising this form and altering its standard text, without clearly identifying the alterations, is prohibited, and, in addition to copyright infringement, may also be a breach of the Fair Trading Act 1986 and misrepresentation.

RECORD OF TITLE
UNDER LAND TRANSFER ACT 2017
FREEHOLD

Search Copy

R.W. Muir
Registrar-General
of Land

Identifier	**SA14C/840**
Land Registration District	**South Auckland**
Date Issued	10 August 1972

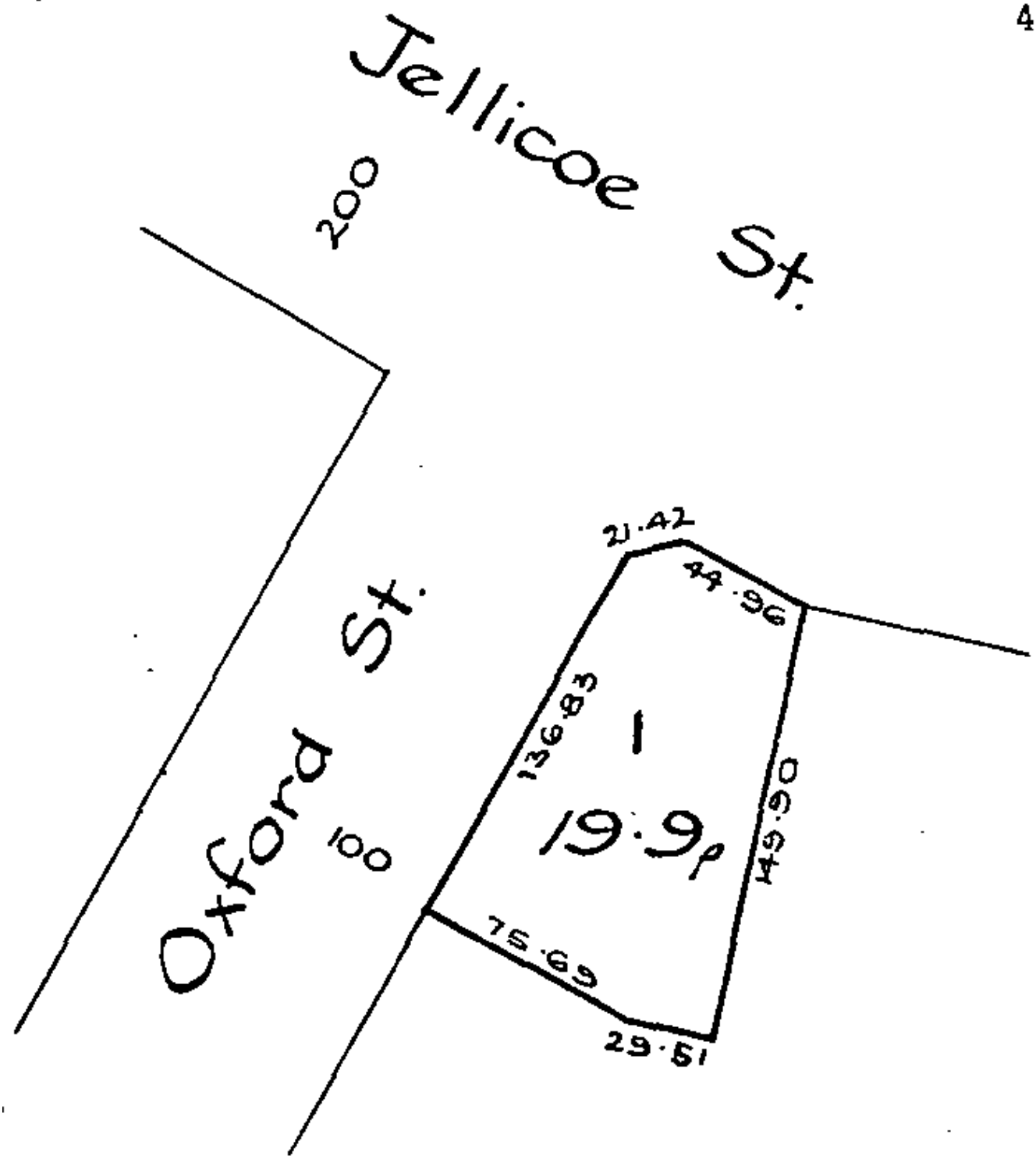
Prior References
SA992/68

Estate	Fee Simple
Area	503 square metres more or less
Legal Description	Lot 1 Deposited Plan South Auckland 16001

Registered Owners
Alan James Albert Clark, Desmond Bernard Quinn and Pierrick Morlet

Interests

4



Scale: 1 inch = 1 Chain

M.G.M.

DEED OF LEASE

Sixth Edition 2012 (5)

GENERAL address of the premises:
49 Jellicoe Street, Te Puke

DATE: 9 November 2023

LANDLORD:
Desmond Bernard Quinn, Alan James Albert Clark and Pierrick Morlet

TENANT:
Westpac (NZ) Investments Limited

~~**GUARANTOR:**~~

THE LANDLORD leases to the Tenant and the Tenant takes on lease the premises and the car parks (if any) described in the First Schedule together with the right to use the common areas of the property for the term from the commencement date and at the annual rent (subject to review if applicable) as set out in the First Schedule.

THE LANDLORD AND TENANT covenant as set out in the First, Second and Third Schedules.

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

SIGNED by the Landlord DESMOND BERNARD QUINN

in the presence of: Graeme J Mathias
Solicitor
Whangarei

Signature of Landlord

DESMOND BERNARD QUINN

Print Full Name
~~Director~~ / Trustee / ~~Authorised Signatory / Attorney~~*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

SIGNED by the landlords ALAN JAMES ALBERT CLARK & PIERRICK MERLET in the presence of:

Witness Signature

Witness Name
Allan Nobilo

Witness Occupation
Retired

Witness Address
Papamoa

Signature of Landlord

Print Full Name
~~Director~~ / Trustee / ~~Authorised Signatory / Attorney~~*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

SIGNED by the Tenant

in the presence of:

Witness Signature

NICHOLAS DESMOND ANSLEY
Witness Name

PROPERTY MANAGER
Witness Occupation

EPSOM AUCKLAND
Witness Address

Signature of Tenant

ANDREW JOHN NAGEL

Print Full Name
~~Director / Trustee / Authorised Signatory~~ / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

Signature of Tenant

CORINA HOON

Print Full Name
~~Director / Trustee / Authorised Signatory~~ / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

WITNESSED BY:

Anna Louisa Vickerman
Bank Officer
Westpac New Zealand Limited
AUCKLAND

Note: If signing by a company or as an Attorney - please refer to the notes on page 3

SIGNED by the Landlord

in the presence of:

Witness Signature

CAVAILLEZ gregory
Witness Name

gestionnaire gérance
Witness Occupation

514 chemin de Valdinat
Witness Address 34120 PEZENAS
FRANCE

Signature of Landlord

PIERRICK MORLET
Print Full Name
~~Director~~ / Trustee / ~~Authorised Signatory / Attorney*~~
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

Signature of Landlord

Print Full Name
Director / Trustee / Authorised Signatory / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

SIGNED by the Tenant

in the presence of:

Witness Signature

Witness Name

Witness Occupation

Witness Address

Signature of Tenant

Print Full Name
Director / Trustee / Authorised Signatory / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

Signature of Tenant

Print Full Name
Director / Trustee / Authorised Signatory / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

Note: *If signing by a company or as an Attorney - please refer to the notes on page 3*

CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

I, ANDREW JOHN NAGEL, of Auckland in New Zealand, Bank Officer

HEREBY CERTIFY -

1. **THAT** by Deed dated 8 December 2006, a copy of which is deposited with Land Information New Zealand and numbered PA 7158880.1, **WESTPAC (NZ) INVESTMENTS LIMITED**, incorporated in New Zealand and having its principal place of business in New Zealand at Westpac on Takutai Square, 16 Takutai Square, Auckland, appointed me its attorney on the terms (as defined) and subject to the conditions set out in that Deed and the attached document is executed by me under the powers conferred by that Deed.

2. **THAT** at the date of this certificate I am a Business Attorney for **WESTPAC (NZ) INVESTMENTS LIMITED.**

3. **THAT** at the date of this certificate I have not received any notice of any event revoking the power of attorney and to the best of my knowledge and belief no such notice has been received by **WESTPAC (NZ) INVESTMENTS LIMITED** or by any employee or agent of **WESTPAC (NZ) INVESTMENTS LIMITED.**

SIGNED at **Auckland**

On this 19th day of September 2023

Andrew John Nagel

Classification: PROTECTED

CERTIFICATE OF NON-REVOCATION OF POWER OF ATTORNEY

I, CORINA DELICIA HOON, of Auckland in New Zealand, Bank Officer

HEREBY CERTIFY -

1. **THAT** by Deed dated 8 December 2006, a copy of which is deposited with Land Information New Zealand and numbered PA 7158880.1, **WESTPAC (NZ) INVESTMENTS LIMITED**, incorporated in New Zealand and having its principal place of business in New Zealand at Westpac on Takutai Square, 16 Takutai Square, Auckland, appointed me its attorney on the terms (as defined) and subject to the conditions set out in that Deed and the attached document is executed by me under the powers conferred by that Deed.

2. **THAT** at the date of this certificate I am a Legal Attorney for **WESTPAC (NZ) INVESTMENTS LIMITED.**

3. **THAT** at the date of this certificate I have not received any notice of any event revoking the power of attorney and to the best of my knowledge and belief no such notice as been received by **WESTPAC (NZ) INVESTMENTS LIMITED** or by any employee or agent of **WESTPAC (NZ) INVESTMENTS LIMITED.**

SIGNED at **Auckland**

On this 19th day of September 2023

Corina Delicia Hoon

~~**SIGNED** by the Guarantor~~

in the presence of:

Signature of Guarantor

Print Full Name
Director / Trustee / Authorised Signatory / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

Witness Signature

Witness Name

Witness Occupation

Witness Address

Signature of Guarantor

Print Full Name
Director / Trustee / Authorised Signatory / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity.



* If this agreement is signed under:
(i) a Power of Attorney – please attach a **Certificate of non-revocation** (ADLS form code: 4098WFP); or
(ii) an Enduring Power of Attorney – please attach a **Certificate of non-revocation and non-suspension of the enduring power of attorney** (ADLS form code: 4997WFP).

Also insert the following wording for the Attorney's Signature above:
Signed by [full name of the donor] by his or her Attorney [attorney's signature].

Note: **Signing by a company** – Companies must sign this document in accordance with section 180 of the Companies Act 1993, to ensure it is binding as a deed. In general, this means:
(a) if there are two or more directors of the company, two directors must sign and no witnessing is necessary;
(b) if there is only one director of the company, that director signs and the signature must be witnessed.
Other methods of signing may be permitted by the company's constitution or if an attorney has been appointed.

FIRST SCHEDULE

1. **PREMISES:** That part of the premises being the ground floor of the building at 49 Jellicoe street, Te Puke as comprised within Record of Title SA14C/840 comprising 279.23 square metres of ground floor space

2. **CAR PARKS:** Nine (9) in the rear parking area of the premises

3. **TERM:** Three (3) years

4. **COMMENCEMENT DATE:** 1 September 2023

5. **RIGHTS OF RENEWAL:** Three (3) of three (3) years duration each

6. **RENEWAL DATES:** 1 September 2026, 1 September 2029, 1 September 2032

7. **FINAL EXPIRY DATE:** 31 August 2035

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

Premises	$ 74,280.00	plus GST	
Car Parks	$	plus GST	
TOTAL	$ 74,280.00	plus GST	which is inclusive of car parking and signage

9. **MONTHLY RENT:** $ 6,190.00 plus GST

10. **RENT PAYMENT DATES:** The 1st day of each month commencing on the 1st day of September 2023

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

1. Market rent review dates:
   1 September 2025, 1 September 2027, 1 September 2029, 1 September 2031, 1 September 2033

2. CPI rent review dates:

12. **DEFAULT INTEREST RATE:** (subclause 5.1) 3 % per annum above the commercial overdraft rate of the Landlord's principal bank

13. **BUSINESS USE:** (subclause 16.1) Retail and commercial banking chamber and ancillary office for associated or ancillary business services [and including ATMs, automated cash machines and a 24 hour lobby] or such other use as is compliant with the relevant district plan.

14. LANDLORD'S INSURANCE:
(subclause 23.1)

(Delete or amend extent of cover as appropriate)

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

(Delete either (a) or (b): if neither option is deleted, then option (a) applies)

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

~~OR~~

~~(b) Indemnity to full insurable value (including loss damage or destruction of windows and other glass).~~

(2) Cover for the following additional risks:

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

(a) (i) 12 months

~~OR~~

~~(ii) months~~

indemnity in respect of consequential loss of rent and outgoings.

(b) Loss damage or destruction of any of the Landlord's fixtures fittings and chattels.

(c) Public liability

15. NO ACCESS PERIOD:
(subclause 27.6)

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

(1) 9 months

~~OR~~

~~(2)~~

16. PROPORTION OF OUTGOINGS:
(subclause 3.1)

55.33 % which at commencement date is estimated to be **$ 11,904.25 inclusive of GST** ~~Plus GST~~ per annum

~~**17. LIMITED LIABILITY TRUSTEE:**~~
~~(subclause 45.2)~~

18. OUTGOINGS:
(clause 3)

(1) Rates or levies payable to any local or territorial authority.

(2) Charges for water, gas, electricity, telecommunications and other utilities or services, including line charges.

(3) Rubbish collection and recycling charges.

(4) New Zealand Fire Service charges and the maintenance charges in respect of all fire detection and fire fighting equipment.

(5) Any insurance excess (but not exceeding $2,000) in respect of a claim and insurance premiums and related valuation fees (subject to subclause 23.2).

(6) Service contract charges for air conditioning, lifts, other building services and security services.

(7) Cleaning, maintenance and repair charges including charges for repainting, decorative repairs and the maintenance and repair of building services to the extent that such charges do not comprise part of the cost of a service maintenance contract, but excluding charges for structural repairs to the building (minor repairs to the roof of the building shall not be a structural repair), repairs due to defects in design or construction, inherent defects in the building and renewal or replacement of building services.

(8) The provisioning of toilets and other shared facilities.

(9) The cost of maintenance of lawns, gardens and planted areas including plant hire and replacement, and the cost of repair of fences.

(10) Yard and car parking area maintenance and repair charges but excluding charges for repaving or resealing.

(11) Body Corporate charges for any insurance premiums under any insurance policy effected by the Body Corporate and related valuation fees and reasonable management administration expenses.

(12) Management expenses (subject to subclause 3.7).

(13) The costs incurred and payable by the Landlord in supplying to the territorial authority a building warrant of fitness and obtaining reports as required by sections 108 and 110 of the Building Act 2004 but excluding the costs of upgrading or other work to make the building comply with the Building Act 2004.

SECOND SCHEDULE

TENANT'S PAYMENTS

Rent

1.1 The Tenant shall pay the annual rent by equal monthly payments in advance (or as varied pursuant to any rent review) on the rent payment dates. The first monthly payment (together with rent calculated on a daily basis for any period from the commencement date of the term to the first rent payment date) shall be payable on the first rent payment date. All rent shall be paid without any deductions or set-off by direct payment to the Landlord or as the Landlord may direct.

Market Rent Review

2.1 The annual rent payable as from each market rent review date (except for a market rent review date that is a renewal date) shall be determined as follows:

(a) Either party may not earlier than 3 months prior to a market rent review date and not later than the next rent review date (regardless of whether the next rent review date is a market or CPI rent review date) give written notice to the other party specifying the annual rent proposed as the current market rent as at the relevant market rent review date.

(b) If the party receiving the notice ("the Recipient") gives written notice to the party giving the notice ("the Initiator") within 20 working days after service of the Initiator's notice disputing the annual rent proposed and specifying the annual rent proposed by the Recipient as the current market rent, then the new rent shall be determined in accordance with subclause 2.2.

(c) If the Recipient fails to give such notice (time being of the essence) the Recipient shall be deemed to have accepted the annual rent specified in the Initiator's notice and the extension of time for commencing arbitration proceedings contained in the Arbitration Act 1996 shall not apply.

(d) Notwithstanding any other provision of this clause, the annual rent payable as from the relevant market rent review date shall not be less than the annual rent payable as at the commencement date of the then current lease term.

(e) The annual rent agreed, determined or imposed pursuant to subclause 2.1 shall be the annual rent payable as from the relevant market rent review date, or the date of service of the Initiator's notice if such notice is served later than 3 months after the relevant market rent review date but subject to subclause 2.3 and 2.4.

(f) The market rent review at the option of either party may be recorded in a deed.

Rent Determinations

2.2 Immediately following service of the Recipient's notice on the Initiator, the parties shall endeavour to agree upon the current market rent, but if agreement is not reached within 10 working days then the new rent may be determined either:

(a) By one party giving written notice to the other requiring the new rent to be determined by arbitration; or

(b) If the parties so agree by registered valuers acting as experts and not as arbitrators as follows:

(1) Each party shall appoint a valuer and give written notice of the appointment to the other party within 20 working days of the parties agreeing to so determine the new rent.

(2) If the party receiving a notice fails to appoint a valuer within the 20 working day period then the valuer appointed by the other party shall determine the new rent and such determination shall be binding on both parties.

(3) The valuers appointed before commencing their determination shall appoint a third expert who need not be a registered valuer. If the parties cannot agree on the third expert, the appointment shall be made on the application of either party by the president or vice president for the time being of The New Zealand Institute of Valuers.

(4) The valuers appointed by the parties shall determine the current market rent of the premises but if they fail to agree then the rent shall be determined by the third expert.

(5) Each party shall be given the opportunity to make written or oral representations subject to such reasonable time and other limits as the valuers or the third expert may prescribe and they shall have regard to any of the representations but not be bound by them.

(6) The parties shall jointly and severally indemnify the third expert for their costs. As between the parties, they will share the costs equally. A party may pay the other party's share of the costs and recover the payment on demand from the other party.

(7) If the parties agree, they may release the third expert from liability for negligence in acting as third expert in accordance with this subclause 2.2.

When the new rent has been determined the person or persons determining it shall give written notice of it to the parties. The notice shall provide as to how the costs of the determination shall be borne and it shall be binding on the parties.

Interim Market Rent

2.3 Pending determination of the new rent, the Tenant shall from the relevant market rent review date, or the date of service of the Initiator's notice if the notice is served later than 3 months after the relevant market rent review date, until the determination of the new rent pay an interim rent as follows:

(a) if both parties supply a registered valuer's certificate substantiating the new rents proposed, the interim rent payable shall be half way between the new rents proposed by the parties; or

(b) if only one party supplies a registered valuer's certificate, the interim rent payable shall be the rent substantiated by the certificate; or

(c) if no registered valuer's certificates are supplied, the interim rent payable shall be the rent payable immediately prior to the relevant market rent review date,

but in no circumstances shall the interim rent be less than the rent payable as at the commencement date of the then current lease term.

The interim rent shall be payable with effect from the relevant market rent review date, or the date of service of the Initiator's notice if the notice is served later than 3 months after the relevant market rent review date and, subject to subclause 2.4, shall not be subject to adjustment.

2.4 Upon determination of the new rent, any overpayment shall be applied in payment of the next month's rent and any amount then remaining shall immediately be refunded to the Tenant. Any shortfall in payment shall immediately be payable by the Tenant.

CPI Rent Review

2.5 The annual rent payable from each CPI rent review date shall be determined as follows:

(a) The Landlord shall adjust the annual rent on the basis of increases (and not decreases) in the CPI by giving notice to the Tenant of the increase (if any) using the formula:

A = B x (C÷D)

Where:

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

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

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

D = CPI for the quarter year ending immediately before the last rent review date or if there is no previous rent review date, the commencement date of the then current term of the lease (and in the case where A is the CPI reviewed rent for a renewal date then the last rent review date of the immediate preceding lease term or if there is no rent review date the commencement date of the preceding term)

where (C÷D) shall not be less than 1.

(b) If the CPI is discontinued and not replaced, or if there is a material change to the basis of calculation of the CPI, or a resetting of the CPI, an appropriate index which reflects the change in the cost of living in New Zealand as agreed by the parties and failing agreement to be determined by an expert appointed by the president or vice president of the New Zealand Law Society will be used.

(c) If the relevant CPI is not published at the relevant CPI rent review date, as soon as the CPI is published an appropriate adjustment will be made to the rent (if necessary) with effect from the relevant CPI rent review date.

(d) Notwithstanding any other provision of subclause 2.5, the annual rent payable as from the relevant CPI rent review date shall not be less than the annual rent payable immediately preceding the CPI rent review date (and in the case where the relevant CPI rent review date is a renewal date, the annual rent payable at the expiry of the preceding term).

2.6 The new rent determined pursuant to subclause 2.5 shall be payable from the relevant CPI rent review date once it is determined by the Landlord giving notice under that subclause. Pending determination of the new rent, the Tenant will pay the rent that applies prior to the CPI rent review date. On determination of the new rent, the Tenant will immediately pay any shortfall to the Landlord.

Outgoings

3.1 The Tenant shall pay the outgoings properly and reasonably incurred in respect of the property which are specified in the First Schedule. Where any outgoing is not separately assessed or levied in respect of the premises then the Tenant shall pay such proportion of it as is specified in the First Schedule or if no proportion is specified then such fair proportion as shall be agreed or failing agreement determined by arbitration.

3.2 The Landlord shall vary the proportion of any outgoing payable to ensure that the Tenant pays a fair proportion of the outgoing.

3.3 If any outgoing is rendered necessary by another tenant of the property or that tenant's employees, contractors or invitees causing damage to the property or by another tenant failing to comply with that tenant's leasing obligations, then that outgoing shall not be payable by the Tenant.

3.4 The outgoings shall be apportioned between the Landlord and the Tenant in respect of periods current at the commencement and termination of the term.

3.5 The outgoings shall be payable on demand or if required by the Landlord by monthly instalments on each rent payment date of a reasonable amount as the Landlord shall determine calculated on an annual basis. Where any outgoing has not been taken into account in determining the monthly instalments it shall be payable on demand.

3.6 After the 31st March in each year of the term or other date in each year as the Landlord may specify, and after the end of the term, the Landlord shall supply to the Tenant reasonable details of the actual outgoings for the year or period then ended. Any over payment shall be credited or refunded to the Tenant and any deficiency shall be payable to the Landlord on demand.

3.7 Any profit derived by the Landlord and if a company by its shareholders either directly or indirectly from the management of the property shall not comprise part of the management expenses payable as an outgoing.

Goods and Services Tax

4.1 The Tenant shall pay to the Landlord or as the Landlord shall direct the GST payable by the Landlord in respect of the rental and other payments payable by the Tenant under this lease. The GST in respect of the rental shall be payable on each occasion when any rental payment falls due for payment and in respect of any other payment shall be payable upon demand.

4.2 If the Tenant shall make default in payment of the rental or other moneys payable under this lease and the Landlord becomes liable to pay Default GST then the Tenant shall on demand pay to the Landlord the Default GST in addition to interest payable on the unpaid GST under subclause 5.1.

Interest on Unpaid Money

5.1 If the Tenant defaults in payment of the rent or other moneys payable under this lease for 10 working days then the Tenant shall pay on demand interest at the default interest rate on the moneys unpaid from the due date for payment to the date of payment.

5.2 Unless a contrary intention appears on the front page or elsewhere in this lease the default interest rate is equivalent to the interest rate charged by the Inland Revenue Department on unpaid tax under the Tax Administration Act 1994 during the period for which the default interest is payable, plus 5 per cent per annum.

Costs

6.1 Each party will pay their own costs of the negotiation and preparation of this lease and any deed recording a rent review or renewal. The Tenant shall pay the Landlord's reasonable costs incurred in considering any request by the Tenant for the Landlord's consent to any matter contemplated by this lease, and the Landlord's legal costs (as between lawyer and client) of and incidental to the enforcement of the Landlord's rights remedies and powers under this lease.

LANDLORD'S PAYMENTS

Outgoings

7.1 Subject to the Tenant's compliance with the provisions of clause 3 the Landlord shall pay all outgoings in respect of the property not payable by the Tenant direct. The Landlord shall be under no obligation to minimise any liability by paying any outgoing or tax prior to receiving payment from the Tenant.

MAINTENANCE AND CARE OF PREMISES

Tenant's Obligations

8.1 The Tenant shall be responsible to:

(a) **Maintain the premises**

In a proper and workmanlike manner and to the reasonable requirements of the Landlord keep and maintain the interior of the premises in the same clean order repair and condition as they were in at the commencement date of this lease (or where the lease is renewed, the commencement date of the initial term of this lease) and will at the end or earlier determination of the term quietly yield up the same in the like clean order repair and condition. The premises condition report (if completed) shall be evidence of the condition of the premises at the commencement date of this lease. In each case the Tenant shall not be liable for fair wear and tear arising from reasonable use.

(b) **Breakages and minor replacements**

Repair or replace glass breakages with glass of the same or better weight and quality, repair breakage or damage to all doors windows light fittings and power points of the premises and replace light bulbs, tubes and power points that wear out with items of the same or better quality and specification.

(c) **Painting**

Paint and decorate those parts of the interior of the premises which have previously been painted and decorated as at the commencement date of this lease (or where the lease is renewed the commencement date of the initial term of this lease) when they reasonably require repainting and redecoration to a specification as approved by the Landlord such approval not to be unreasonably withheld.

(d) **Floor coverings**

Keep all floor coverings in the premises clean and replace all floor coverings worn or damaged other than by fair wear and tear with floor coverings of the same or better quality, specification and appearance when reasonably required by the Landlord.

(e) **Damage or Loss**

Make good any damage to the property or loss caused by improper careless or abnormal use by the Tenant or those for whom the Tenant is responsible, to the Landlord's reasonable requirements.

8.2 Where the Tenant is leasing all of the property, the Tenant shall:

(a) **Care of grounds**

Keep any grounds yards and surfaced areas in a clean and tidy condition and maintain any garden or lawn areas in a tidy and cared for condition.

(b) **Water and drainage**

Keep and maintain the storm or waste water drainage system including downpipes and guttering clear and unobstructed.

(c) **Other works**

Carry out those works maintenance and repairs to the property as the Landlord may require in respect of which outgoings are payable by the Tenant.

8.3 Notwithstanding subclause 8.1(a) the Tenant shall not be liable for the maintenance or repair of any building services but this subclause shall not release the Tenant from any obligation to pay for the cost of any service maintenance contract or charges in respect of the maintenance or repair of the building services if it is an outgoing specified in the First Schedule but only to the extent specified in the First Schedule.

8.4 Notwithstanding any other provision of this lease, the Tenant shall not be liable to repair any inherent defect in the premises nor to pay any outgoings incurred by the Landlord in remedying any inherent defect.

8.5 If the Landlord shall give the Tenant written notice of any failure on the part of the Tenant to comply with any of the requirements of subclauses 8.1 or 8.2 the Tenant shall with all reasonable speed so comply.

Toilets

9.1 The toilets sinks and drains shall be used for their designed purposes only and no substance or matter shall be deposited in them which could damage or block them.

Rubbish Removal

10.1 The Tenant shall regularly cause all of the Tenant's rubbish and recycling to be removed from the premises and will keep the Tenant's rubbish bins or containers in a tidy condition. The Tenant will also at the Tenant's own expense cause to be removed all trade waste boxes and other goods or rubbish not removable in the ordinary course by the local authority.

Landlord's Maintenance

11.1 The Landlord shall keep and maintain the building, all building services and the car parks in good order and repair and weatherproof but the Landlord shall not be liable for any:

(a) Repair or maintenance which the Tenant is responsible to undertake.

(b) Want of repair or defect in respect of building services, so long as the Landlord is maintaining a service maintenance contract covering the work to be done, or where the building services have not been supplied by the Landlord.

(c) Repair or maintenance which is not reasonably necessary for the Tenant's use and enjoyment of the premises and the car parks.

(d) Loss suffered by the Tenant arising from any want of repair or defect unless the Landlord shall have received notice in writing of that from the Tenant and has not within a reasonable time after that taken appropriate steps to remedy the same.

11.2 The Landlord shall keep and maintain service maintenance contracts for lifts, air-conditioning and at the Landlord's option any other building services supplied by the Landlord. Whenever building services cannot be maintained in good order and repair through regular maintenance, the Landlord will if reasonably required replace the services with services of a similar type and quality.

11.3 The Tenant shall be liable to reimburse the Landlord for the cost of any such repair, maintenance or service contract pursuant to subclauses 11.1 and 11.2 if it is an outgoing specified in the First Schedule but only to the extent specified in the First Schedule.

Notification of Defects

12.1 The Tenant shall give to the Landlord prompt written notice of any accident to or defect in the premises of which the Tenant may be aware and in particular in relation to any pipes or fittings used in connection with the water electrical gas or drainage services.

Landlord's Right of Inspection

13.1 The Landlord and the Landlord's employees contractors and invitees may at all reasonable times and after having given prior written notice to the Tenant (except in the case of emergencies) enter upon the premises to view their condition.

Landlord may Repair

14.1 If default shall be made by the Tenant in the due and punctual compliance with any repair notice given by the Landlord pursuant to this lease, or if any repairs for which the Tenant is responsible require to be undertaken as a matter of urgency then without prejudice to the Landlord's other rights and remedies expressed or implied the Landlord may by the Landlord's employees and contractors with all necessary equipment and material at all reasonable times and on reasonable notice (except in the case of emergencies) enter the premises to execute the works. Any moneys expended by the Landlord in executing the works shall be payable by the Tenant to the Landlord upon demand together with interest on the moneys expended at the default interest rate from the date of expenditure to the date of payment.

Access for Works

15.1 The Tenant shall permit the Landlord and the Landlord's employees and contractors at all reasonable times and on reasonable written notice (except in the case of emergencies) to enter the premises for a reasonable period to inspect and carry out works to the premises or adjacent premises and to install inspect repair renew or replace any services where they are not the responsibility of the Tenant or are required to comply with the requirements of any statutes, regulations, by-law or requirement of any competent authority. All repairs inspections and works shall be carried out with the least possible inconvenience to the Tenant subject to subclauses 15.3 and 15.4.

15.2 If the Tenant's business use of the premises is materially disrupted because of the Landlord's works provided for in subclause 15.1, then during the period the works are being carried out a fair proportion of the rent and outgoings shall cease to be payable but without prejudice to the Tenant's rights if the disruption is due to a breach by the Landlord of the Landlord's obligation, under subclause 15.1, to cause the least possible inconvenience to the Tenant.

15.3 If in the Landlord's reasonable opinion, the Landlord requires the Tenant to vacate the whole or part of the premises to enable the works referred to in subclause 15.1 to be carried out, the Landlord may give the Tenant reasonable written notice requiring the Tenant to vacate the whole or part of the premises and specifying a reasonable period for which the Landlord requires possession. On the expiry of the notice the Landlord may take possession of the premises or the part specified in the notice. A fair proportion of the rent and outgoings shall cease to be payable during the period the Tenant vacates the premises as required by the Landlord.

15.4 The Landlord shall act in good faith and have regard to the nature, extent and urgency of the works when exercising the Landlord's right of access or possession in accordance with subclauses 15.1 and 15.3.

USE OF PREMISES

Business Use

16.1 The Tenant shall not without the prior written consent of the Landlord use or permit the whole or any part of the premises to be used for any use other than the business use. The Landlord's consent shall not be unreasonably or arbitrarily withheld or delayed in respect of any proposed use which is:

(a) not in substantial competition with the business of any other occupant of the property which might be affected by the use; and

(b) reasonably suitable for the premises; and

(c) compliant with the requirements of the Resource Management Act 1991 or any other statutory provisions relating to resource management.

If any change in use renders any increased or extra premium payable in respect of any policy or policies of insurance on the premises the Landlord as a condition of granting consent may require the Tenant to pay the increased or extra premium.

16.2 If any change in use requires compliance with sections 114 and 115 of the Building Act 2004 the Landlord, as a condition of granting consent, may require the Tenant to comply with sections 114 and 115 of the Act and to pay all compliance costs.

16.3 If the premises are a retail shop the Tenant shall keep the premises open for business during usual trading hours and fully stocked with appropriate merchandise for the efficient conduct of the Tenant's business.**PROVIDED HOWEVER that this clause shall not apply while Westpac (NZ) Investment Limited or a Related Company is the Tenant.**

Lease of Premises and Car Parks Only

17.1 The tenancy shall relate only to the premises and the car parks (if any) and the Landlord shall at all times be entitled to use occupy and deal with the remainder of the property without reference to the Tenant and the Tenant shall have no rights in relation to it other than the rights of use under this lease.

Neglect of Other Tenant

18.1 The Landlord shall not be responsible to the Tenant for any act or default or neglect of any other tenant of the property.

Signage

19.1 The Tenant shall not affix paint or exhibit or permit to be affixed painted or exhibited any name sign name-plate signboard or advertisement of any description on or to the exterior of the building without the prior approval in writing of the Landlord but approval shall not be unreasonably or arbitrarily withheld or delayed in respect of signage describing the Tenant's business. If approved the signage shall be secured in a substantial and proper manner so as not to cause any damage to the building or any person and the Tenant shall at the end or sooner determination of the term remove the signage and make good any damage occasioned in connection with the signage.

19.2 **The signage of the Tenant which is at present erected on the exterior in the manner set out in the photographs attached as the Seventh Schedule is * *deemed to be approved.**

Additions, Alterations, Reinstatement and Chattels Removal

20.1 The Tenant shall neither make nor allow to be made any alterations or additions to any part of the premises or alter the external appearance of the building without first producing to the Landlord on every occasion plans and specifications and obtaining the written consent of the Landlord (not to be unreasonably or arbitrarily withheld or delayed) for that purpose. If the Landlord authorises any alterations or additions which are made before the commencement date or during the term of this lease the Tenant will at the Tenant's own expense if required by the Landlord no later than the end or earlier termination of the term reinstate the premises. Ownership of the alterations or additions that are not removed by the end or earlier termination of the lease may at the Landlord's election pass to the Landlord without compensation payable to the Tenant. If the Tenant fails to reinstate then any costs incurred by the Landlord in reinstating the premises whether in whole or in part, within 6 months of the end or earlier termination of the term shall be recoverable from the Tenant.

20.2 The Tenant, when undertaking any "building work" to the premises (as that term is defined in the Building Act 2004), shall comply with all statutory requirements including the obtaining of building consents and code compliance certificates pursuant to that Act and shall provide copies of the building consents and code compliance certificates to the Landlord.

20.3 The Tenant may at any time before and will if required by the Landlord no later than the end or earlier termination of the term remove all the Tenant's chattels. In addition to the Tenant's obligations to reinstate the premises pursuant to subclause 20.1 the Tenant will make good at the Tenant's own expense all resulting damage and if the chattels are not removed by the end or earlier termination of the term ownership of the chattels may at the Landlord's election pass to the Landlord or the Landlord may remove them from the premises and forward them to a refuse collection centre. Where subclause 27.5 applies, the time by which the Tenant must remove the chattels and to make good all resulting damage will be extended to 5 working days after access to the premises is available.

20.4 The cost of making good resulting damage and the cost of removal of the Tenant's chattels shall be recoverable from the Tenant and the Landlord shall not be liable to pay any compensation nor be liable for any loss suffered by the Tenant.

Compliance with Statutes and Regulations

21.1 The Tenant shall comply with the provisions of all statutes, ordinances, regulations and by-laws relating to the use of the premises by the Tenant or other occupant and will also comply with the provisions of all licences, requisitions and notices issued by any competent authority in respect of the premises or their use by the Tenant or other occupant provided that:

(a) The Tenant shall not be required to make any structural repairs alterations or additions nor to replace or install any plant or equipment except where required by reason of the particular nature of the business carried on by the Tenant or other occupant of the premises or the number or sex of persons employed on the premises.

(b) The Tenant shall not be liable to discharge the Landlord's obligations as owner under the Building Act 2004 unless any particular obligation is the responsibility of the Tenant as an occupier of the premises.

(c) The Tenant will promptly provide the Landlord with a copy of all requisitions and notices received from a competent authority under this subclause.

21.2 If the Landlord is obliged by any legislation or requirement of any competent authority to expend moneys during the term of this lease or any renewed term on any improvement addition or alteration to the property which is not the Tenant's responsibility under subclause 21.1 and the expenditure would be an unreasonable amount then the Landlord may determine this lease. Any dispute as to whether or not the amount to be expended by the Landlord is unreasonable shall be determined by arbitration.

21.3 The Landlord warrants that allowing the premises to be open to members of the public and allowing the use of the premises by members of the public at the commencement date will not be a breach of section 363 of the Building Act 2004. This clause does not apply to any "building work" (as defined in the Building Act 2004) relating to the fit-out of the premises by the Tenant.

21.4 The Tenant, when undertaking any building work to the premises, shall comply with all statutory requirements including the obtaining of building consents and code compliance certificates and shall not allow the premises to be open to members of the public or allow use of the premises by members of the public if that would be in breach of section 363 of the Building Act 2004.

21.5 During the term and any renewal, the Landlord shall not give consent to or carry out any building work in any part of the Landlord's property which may cause the Tenant to be in breach of section 363 of the Building Act 2004 by allowing the premises to be open to members of the public and allowing the use of the premises by members of the public.

No Noxious Use

22.1 The Tenant shall not:

(a) Bring upon or store within the premises nor allow to be brought upon or stored within the premises any machinery goods or things of an offensive noxious illegal or dangerous nature, or of a weight size or shape as is likely to cause damage to the building or any surfaced area.

(b) Contaminate the property and shall undertake all works necessary to remove any contamination of the property other than contamination not caused by the Tenant or which took place prior to the commencement date of the lease term. Contamination means any change to the physical chemical or biological condition of the property by a "contaminant" as that word is defined in the Resource Management Act 1991.

(c) Use the premises or allow them to be used for any noisome noxious illegal or offensive trade or business.

(d) Allow any act or thing to be done which may be or grow to be a nuisance disturbance or annoyance to the Landlord, other tenants of the property, or any other person, and generally the Tenant shall conduct the Tenant's business upon the premises in a clean quiet and orderly manner free from damage nuisance disturbance or annoyance to any such persons but the carrying on by the Tenant in a reasonable manner of the business use or any use to which the Landlord has consented shall be deemed not to be a breach of this clause.

INSURANCE

Landlord shall insure

23.1 The Landlord shall at all times during the term keep and maintain insurance of the type shown and for the risks specified in the First Schedule. If insurance cover required under this subclause becomes unavailable during the term of this lease or any renewal other than because of the Landlord's act or omission, the Landlord will not be in breach while cover is unavailable, provided the Landlord uses all reasonable endeavours on an ongoing basis to obtain cover. The Landlord will advise the Tenant in writing whenever cover becomes unavailable and provide reasons as to the unavailability. The Landlord will also provide the Tenant with reasonable information relating to the cover when requested by the Tenant.

23.2 The parties acknowledge and agree pursuant to section 271 of the Property Law Act 2007 that to the extent of any excess payable regarding any insurance policy held by the Landlord, the excess will represent an amount for which the Landlord has not insured, or has not fully insured the premises or the property against destruction or damage arising from the events that the section applies to. If the Landlord makes any claim against its insurance for any destruction or damage because of any act or omission of the Tenant, the Tenant will pay the Landlord the amount of the excess not exceeding the sum specified in the list of outgoings in the First Schedule

Tenant not to void insurance

24.1 The Tenant shall not carry on or allow upon the premises any trade or occupation or allow to be done any act or thing which:

(a) Shall make void or voidable any policy of insurance on the property.

(b) May render any increased or extra premium payable for any policy of insurance except where in circumstances in which any increased premium is payable the Tenant shall have first obtained the consent of the insurer of the premises and the Landlord and made payment to the insurer of the amount of any such increased or extra premium as may be payable but the carrying on by the Tenant in a reasonable manner of the business use or of any use to which the Landlord has consented shall be deemed not to be a breach of this clause.

24.2 In any case where in breach of subclause 24.1 the Tenant has rendered any insurance void or voidable and the Landlord has suffered loss or damage by that the Tenant shall at once compensate the Landlord in full for such loss or damage.

When Tenant to have benefit of Landlord's insurance

25.1 Where the property is destroyed or damaged by fire, flood, explosion, lightning, storm, earthquake, volcanic activity or any risk against which the Landlord is (or has covenanted with the Tenant to be) insured the Landlord will not require the Tenant to meet the cost of making good the destruction or damage to the property and will indemnify the Tenant against such cost where the Tenant is obligated to pay for making good such damage or destruction. The Landlord does not have to indemnify the Tenant and the Tenant will not be excused from liability under this subclause if and to the extent that:

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

(b) The destruction or damage was the result of an act or omission by the Tenant or those for whom the Tenant is responsible and that act or omission:

(1) occurred on or about the property; and

(2) constitutes an imprisonable offence; or

(c) Any insurance moneys that would otherwise have been payable to the Landlord for the damage or destruction are rendered irrecoverable in consequence of any act or omission of the Tenant or those for whom the Tenant is responsible.

DAMAGE TO OR DESTRUCTION OF PREMISES

Total Destruction

26.1 If the premises or any portion of the building of which the premises may form part shall be destroyed or so damaged:

(a) as to render the premises untenantable then the term shall at once terminate from the date of destruction or damage; or

(b) in the reasonable opinion of the Landlord as to require demolition or reconstruction, then the Landlord may within 3 months of the date of damage give the Tenant 20 working days notice to terminate and a fair proportion of the rent and outgoings shall cease to be payable as from the date of damage.

Any termination pursuant to this subclause shall be without prejudice to the rights of either party against the other.

Partial Destruction

27.1 If the premises or any portion of the building of which the premises may form part shall be damaged but not so as to render the premises untenantable and:

(a) the Landlord's policy or policies of insurance shall not have been invalidated or payment of the policy moneys refused in consequence of some act or default of the Tenant; and

(b) all the necessary permits and consents are obtainable,

the Landlord shall with all reasonable speed expend all the insurance moneys received by the Landlord in respect of such damage towards repairing such damage or reinstating the premises or the building but the Landlord shall not be liable to expend any sum of money greater than the amount of the insurance money received.

27.2 Any repair or reinstatement may be carried out by the Landlord using such materials and form of construction and according to such plan as the Landlord thinks fit and shall be sufficient so long as it is reasonably adequate for the Tenant's occupation and use of the premises.

27.3 Until the completion of the repairs or reinstatement a fair proportion of the rent and outgoings shall cease to be payable as from the date of damage.

27.4 If any necessary permit or consent shall not be obtainable or the insurance moneys received by the Landlord shall be inadequate for the repair or reinstatement then the term shall at once terminate but without prejudice to the rights of either party against the other.

No Access in Emergency

27.5 If there is an emergency and the Tenant is unable to gain access to the premises to fully conduct the Tenant's business from the premises because of reasons of safety of the public or property or the need to prevent reduce or overcome any hazard, harm or loss that may be associated with the emergency including:

(a) a prohibited or restricted access cordon applying to the premises; or

(b) prohibition on the use of the premises pending the completion of structural engineering or other reports and appropriate certifications required by any competent authority that the premises are fit for use; or

(c) restriction on occupation of the premises by any competent authority,

then a fair proportion of the rent and outgoings shall cease to be payable for the period commencing on the date when the Tenant became unable to gain access to the premises to fully conduct the Tenant's business from the premises until the inability ceases.

27.6 This subclause 27.6 applies where subclause 27.5 applies and the premises or building of which the premises form part are not totally or partially destroyed or damaged resulting in the lease being cancelled as provided for in subclauses 26.1 or 27.4. Either party may terminate this lease by giving 10 working days written notice to the other if:

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

(b) the party that terminates this lease can at any time prior to termination establish with reasonable certainty that the Tenant is unable to gain access to the premises for that period.

Any termination shall be without prejudice to the rights of either party against the other.

DEFAULT

Cancellation

28.1 The Landlord may (in addition to the Landlord's right to apply to the Court for an order for possession) and subject to section 245(2) of the Property Law Act 2007 cancel this lease by re-entering the premises at the time or at any time after that:

(a) If the rent shall be in arrears 10 working days after any rent payment date and the Tenant has failed to remedy that breach within 10 working days after service on the Tenant of a notice in accordance with section 245 of the Property Law Act 2007.

(b) In case of breach by the Tenant of any covenant or agreement on the Tenant's part expressed or implied in this lease (other than the covenant to pay rent) after the Tenant has failed to remedy that breach within the period specified in a notice served on the Tenant in accordance with section 246 of the Property Law Act 2007.

(c) If the Tenant shall make or enter into or endeavour to make or enter into any composition assignment or other arrangement with or for the benefit of the Tenant's creditors.

(d) In the event of the insolvency, bankruptcy, statutory management, voluntary administration, receivership or liquidation of the Tenant.

(e) If the Tenant shall suffer execution to issue against the Tenant's property goods or effects under any judgment against the Tenant in any Court for a sum in excess of five thousand dollars ($5,000).

The term shall terminate on the cancellation but without prejudice to the rights of either party against the other.

Essentiality of Payments

29.1 Failure to pay rent or other moneys payable under this lease on the due date shall be a breach going to the essence of the Tenant's obligations under the lease. The Tenant shall compensate the Landlord and the Landlord shall be entitled to recover damages from the Tenant for such breach. This entitlement shall subsist notwithstanding any determination of the lease and shall be in addition to any other right or remedy which the Landlord may have.

29.2 The acceptance by the Landlord of arrears of rent or other moneys shall not constitute a waiver of the essentiality of the Tenant's continuing obligation to pay rent and other moneys.

Repudiation

30.1 The Tenant shall compensate the Landlord and the Landlord shall be entitled to recover damages for any loss or damage suffered by reason of any acts or omissions of the Tenant constituting a repudiation of the lease or the Tenant's obligations under the lease. Such entitlement shall subsist notwithstanding any determination of the lease and shall be in addition to any other right or remedy which the Landlord may have.

QUIET ENJOYMENT

31.1 The Tenant paying the rent and performing and observing all the covenants and agreements expressed and implied in this lease shall quietly hold and enjoy the premises throughout the term without any interruption by the Landlord or any person claiming under the Landlord.

RENEWAL OF LEASE

32.1 If the Tenant has given to the Landlord written notice to renew the lease at least 3 calendar months before the end of the term and is not at the date of the giving of the notice in breach of this lease then the Landlord will grant a new lease for a further term from the renewal date as follows:

(a) If the renewal date is a market rent review date the annual rent shall be the current market rent which if not agreed on shall be determined in accordance with subclause 2.2 but the annual rent shall not be less than the rent payable as at the commencement date of the immediately preceding lease term.

(b) If the renewal date is a CPI rent review date, the annual rent shall be determined in accordance with subclause 2.5.

(c) Subject to the provisions of paragraphs (a) and (b) the new lease shall be upon and subject to the covenants and agreements expressed and implied in this lease except that the term of this lease plus all further terms shall expire on or before the final expiry date.

(d) The annual rent shall be subject to review during the term of the new lease on the rent review dates specified in the First Schedule.

(e) The Landlord as a condition of granting a new lease shall be entitled to have the new lease guaranteed by any guarantor who has guaranteed this lease on behalf of the Tenant who has given notice or the security of a bank guarantee that has been given.

(f) If the renewal date is a market rent review date, pending the determination of the rent, the Tenant shall pay an interim rent in accordance with subclauses 2.3 and 2.4.

(g) Notwithstanding anything contained in subclause 32.1(f) the interim rent referred to in that subclause shall not be less than the annual rent payable as at the commencement date of the immediately preceding lease term.

(h) The parties will not be released by the renewal of the lease from any liability for any breach under this lease.

ASSIGNMENT OR SUBLETTING

33.1 The Tenant shall not assign sublet or otherwise part with the possession of the premises, the carparks (if any) or any part of them without first obtaining the written consent of the Landlord which the Landlord shall not unreasonably withhold or delay if the following conditions are fulfilled:

(a) The Tenant proves to the reasonable satisfaction of the Landlord that the proposed assignee or subtenant is (and in the case of a company that the shareholders of the proposed assignee or subtenant are) respectable responsible and has the financial resources to meet the Tenant's commitments under this lease and in the case of the subtenant the subtenant's commitments under the sublease. The Tenant shall give the Landlord any additional information reasonably required by the Landlord.

(b) All rent and other moneys payable have been paid and there is not any subsisting breach of any of the Tenant's covenants.

(c) In the case of an assignment a deed of covenant in customary form approved or prepared by the Landlord is duly executed and delivered to the Landlord.

(d) In the case of an assignment to a company (other than a company listed on the main board of a public stock exchange in New Zealand or Australia) either a deed of guarantee in customary form approved or prepared by the Landlord is duly executed by the principal shareholders of that company and delivered to the Landlord or a bank guarantee from a registered trading bank in New Zealand on reasonable terms approved by the Landlord as security for the performance by the company of its obligations under this lease is provided to the Landlord.

(e) The Tenant pays the Landlord's reasonable costs and disbursements in respect of the approval and the preparation of any deed of covenant or guarantee and (if appropriate) all fees and charges payable in respect of any reasonable inquiries made by or on behalf of the Landlord concerning any proposed assignee subtenant or guarantor. All such costs shall be payable whether or not the assignment or subletting proceeds.

33.2 Where the Landlord consents to a subletting the consent shall extend only to the subletting and notwithstanding anything contained or implied in the sublease the consent shall not permit any subtenant to deal with the sublease in any way in which the Tenant is restrained from dealing without consent.

33.3 Where any Tenant is a company which is not listed on the main board of a public stock exchange in New Zealand or Australia, then any change in the legal or beneficial ownership of its shares or the shares of its shareholder or issue of new capital in the company or its shareholder where in any case there is a change in the effective management or control of the company will require the written consent of the Landlord which will not be unreasonably withheld or delayed.

33.4 Any transfer or assignment of this lease to a Related Company of the Tenant or any change in the company name of the Tenant as recorded with the New Zealand Companies Office shall not be an assignment to which the Landlord's consent is required.

33.5 It is acknowledged and accepted by the Landlord that the Tenant is the property holding subsidiary for Westpac in New Zealand and the permitted use herein will be carried out by personnel and entities associated, related to and/or under the control of the Tenant.

UNIT TITLE PROVISIONS

34.1 Clause 34 applies where the property is part of a unit title development.

Body Corporate

34.2 The expression "Body Corporate" means the Body Corporate under the Unit Titles Act 2010 (in subclauses 34.2 to 34.7 "the Act") in respect of the property.

Act and Rules Paramount

34.3 This lease shall be subject to the provisions of the rules of the Body Corporate and the provisions of the Act.

Insurance

34.4 Unless the Body Corporate has resolved that the Landlord is to insure the building the Landlord's obligation to insure the building shall be satisfied by the Body Corporate maintaining the same insurance cover in accordance with the Act.

Landlord's Obligations

34.5 The Landlord shall observe and perform all of the Landlord's obligations as a member of the Body Corporate and shall use the Landlord's best endeavours to ensure that the Body Corporate complies with its rules and the provisions of the Act.

Tenant's Obligations

34.6 The Tenant shall comply with the rules of the Body Corporate and the provisions of the Act to the extent that they apply to the Tenant's use of the property.

Consents

34.7 Where in this lease the consent of the Landlord is required in respect of any matter then the like consent of the Body Corporate shall also be required if the consent of the Body Corporate to the matter would be necessary under its rules or the Act.

CARPARKS

35.1 The Tenant shall have the right to exclusive possession of the leased car parks, but when any car park is not being used by the Tenant other persons shall be entitled to pass over the same.

35.2 The Landlord may carry out repairs to the car parks and no abatement of rent or other compensation shall be claimed by the Tenant except pursuant to subclauses 26.1 or 27.3.

35.3 The Tenant shall comply with the Landlord's reasonable requirements relating to the use of the car parks and access to them and in particular shall only use the car parks for the parking of one motor vehicle per parking space.

35.4 The provisions of the Second Schedule shall apply to the car parks as appropriate.

GENERAL

Holding Over

36.1 If the Landlord permits the Tenant to remain in occupation of the premises after the expiration or sooner determination of the term, the occupation shall be a periodic tenancy only terminable by at least 20 working days notice given at any time with the tenancy terminating on the expiry of the notice at the rent then payable and otherwise on the same covenants and agreements (so far as applicable to a periodic tenancy) as expressed or implied under this lease.

Access for Re-Letting or Sale

37.1 The Tenant will during the term permit the Landlord, the Landlord's representatives and prospective tenants or purchasers to have access to inspect the premises provided that:

(a) Any such inspection is at a time which is reasonably convenient to the Tenant and after reasonable written notice.

(b) The inspection is conducted in a manner which does not cause disruption to the Tenant.

(c) If the Landlord or the Landlord's representatives are not present the persons inspecting have written authority from the Landlord to do so.

37.2 See below

(d) **The Landlord and the Landlord's employees, agents or invitees must at all times comply with the reasonable direction of the Tenant to ensure the security of its banking facilities and customers.**

Suitability

38.1 No warranty or representation expressed or implied has been or is made by the Landlord that the premises are now suitable or will remain suitable or adequate for use by the Tenant or that any use of the premises by the Tenant will comply with the by-laws or ordinances or other requirements of any authority having jurisdiction.

Affirmation

39.1 A party to this lease shall not be entitled to cancel this lease if, with full knowledge of any repudiation or misrepresentation or breach of covenant, that party affirmed this lease.

Waiver

40.1 No waiver or failure to act by either party in respect of any breach by the other shall operate as a waiver of another breach.

Land Transfer Title or Mortgagee's consent

41.1 The Landlord shall not be required to do any act or thing to enable this lease to be registered or be required to obtain the consent of any mortgagee of the property and the Tenant will not register a caveat in respect of the Tenant's interest under this lease.

Notices

42.1 All notices must be in writing and must be served by one of the following means:

(a) In the case of a notice under sections 245 or 246 of the Property Law Act 2007 in the manner prescribed by section 353 of that Act; and

(b) In all other cases, unless otherwise required by sections 352 to 361 of the Property Law Act 2007:

(1) in the manner authorised by sections 354 to 361 of the Property Law Act 2007, or

(2) by personal delivery, or by posting by registered or ordinary mail, ~~or by facsimile,~~ or by email.

Access for Re-letting or Sale

37.2 The Landlord agrees to give the Tenant written notice prior to erecting any signage advertising the premises for sale and will consult with the Tenant as to the size and location of such signage.

42.2 In respect of the means of service specified in subclause 42.1(b)(2), a notice is deemed to have been served:

(a) In the case of personal delivery, when received by the addressee.

(b) In the case of posting by mail, on the second working day following the date of posting to the addressee's last known address in New Zealand.

~~(c) In the case of facsimile transmission, when sent to the addressee's facsimile number.~~

(d) In the case of email, when acknowledged by the addressee ~~orally or~~ by return email or otherwise in writing except that return emails generated automatically shall not constitute an acknowledgement.

42.3 In the case of a notice to be served on the Tenant, if the Landlord is unaware of the Tenant's last known address in New Zealand or the Tenant's facsimile number, any notice placed conspicuously on any part of the premises shall be deemed to have been served on the Tenant on the day on which it is affixed.

42.4 A notice shall be valid if given by any director, general manager, lawyer or other authorised representative of the party giving the notice.

42.5 Where two or more notices are deemed to have been served at the same time, they shall take effect in the order in which they would have been served but for subclause 47.1(p).

42.6 Any period of notice required to be given under this agreement shall be computed by excluding the date of service.

Arbitration

43.1 The parties shall first endeavour to resolve any dispute or difference by agreement and if they agree by mediation.

43.2 Unless any dispute or difference is resolved by mediation or other agreement within 30 days of the dispute or difference arising, the same shall be submitted to the arbitration of one arbitrator who shall conduct the arbitral proceedings in accordance with the Arbitration Act 1996 or any other statutory provision then relating to arbitration.

43.3 If the parties are unable to agree on the arbitrator, an arbitrator shall be appointed, upon request of any party, by the president or vice president of the New Zealand Law Society. That appointment shall be binding on all parties to the arbitration and shall be subject to no appeal. The provisions of Article 11 of the First Schedule of the Arbitration Act 1996 are to be read subject to this and varied accordingly.

43.4 The procedures prescribed in this clause shall not prevent the Landlord from taking proceedings for the recovery of any rent or other monies payable under this lease which remain unpaid or from exercising the rights and remedies in the event of the default prescribed in subclause 28.1.

No Implied Terms

44.1 The covenants, conditions and powers implied in leases pursuant to the Property Law Act 2007 and sections 224 and 266(1)(b) of that Act shall not apply to and are excluded from this lease where allowed.

Limitation of Liability

45.1 If any person enters into this lease as trustee of a trust, then:

(a) That person warrants that:

(1) that person has power to enter into this lease under the terms of the trust; and

(2) that person has properly signed this lease in accordance with the terms of the trust; and

(3) that person has the right to be indemnified from the assets of the trust and that right has not been lost or impaired by any action of that person including entry into this lease; and

(4) all of the persons who are trustees of the trust have approved entry into this lease.

(b) If that person has no right to or interest in any assets of the trust except in that person's capacity as a trustee of the trust, that person's liability under this lease will not be personal and unlimited but will be limited to the actual amount recoverable from the assets of the trust from time to time ("the limited amount"). If the right of that person to be indemnified from the trust assets has been lost or impaired as a result of fraud or gross negligence that person's liability will become personal but limited to the extent of that part of the limited amount which cannot be recovered from any other person.

45.2 Notwithstanding subclause 45.1, a party to this lease that is named in item 17 of the First Schedule as a limited liability trustee, that person's liability will not be personal and unlimited but limited in accordance with subclause 45.1(b).

Counterparts

46.1 This lease may be executed in two or more counterparts, all of which will together be deemed to constitute one and the same lease. A party may enter into this lease by signing a counterpart copy and sending it to the other party, including by facsimile or email.

DEFINITIONS AND INTERPRETATION

47.1 In this lease:

(a) "building services" means all services provided by the Landlord as an integral part of the building for the general use and enjoyment of the building by its tenants or occupants including water, gas, electricity, lighting, air conditioning, heating and ventilation, telecommunications, lifts and escalators whether or not they are located within the premises.

(b) "CPI" means the Consumer Price Index (All Groups) published by Statistics New Zealand or other government agency and any revised, replacement or substituted index.

(c) "Default GST" means any additional GST, penalty (civil or otherwise), interest, or other sum imposed on the Landlord (or where the Landlord is or was a member of a GST group its representative member) under the GST Act or the Tax Administration Act 1994 by reason of non-payment of any GST payable in respect of the supply made under this lease but does not include any sum levied against the Landlord (or where the Landlord is or was a member of a GST group its representative member) by reason of a default or delay by the Landlord after payment of the GST to the Landlord by the Tenant.

(d) "emergency" for the purposes of subclause 27.5 means a situation that:

(1) is a result of any event, whether natural or otherwise, including an explosion, earthquake, eruption, tsunami, land movement, flood, storm, tornado, cyclone, serious fire, leakage or spillage of any dangerous gas or substance, infestation, plague, epidemic, failure of or disruption to an emergency service; and

(2) causes or may cause loss of life or serious injury, illness or in any way seriously endangers the safety of the public or property; and

(3) the event is not caused by any act or omission of the Landlord or Tenant.

(e) "GST" means the Goods and Services Tax arising pursuant to the Goods and Services Tax Act 1985 and "GST Act" means the Goods and Services Tax Act 1985.

(f) "premises" includes all the Landlord's fixtures and fittings provided by the Landlord and those set out in the Fifth Schedule.

(g) "premises condition report" means the report as set out in the Sixth Schedule.

(h) "renewal" means the granting of a new lease as provided for in subclause 32.1.

(i) "rules" in clause 34 means the Body Corporate operational rules under the Unit Titles Act 2010 and any amendments to those rules or replacement rules.

(j) "structural repair" means a repair, alteration or addition to the structure or fabric of the building but excluding building services.

(k) "term" includes, where the context requires, a further term if the lease is renewed.

(l) "the common areas" means those parts of the property the use of which is necessary for the enjoyment of the premises and which is shared with other tenants and occupiers.

(m) "the Landlord" and "the Tenant" means where appropriate the executors, administrators, successors and permitted assigns of the Landlord and the Tenant.

(n) "the property" and "the building" mean the land, building(s) or improvements of the Landlord which comprise or contain the premises. Where the premises are part of a unit title development the words "the property" mean the land and building(s) comprised in the development.

(o) "those for whom the Tenant is responsible" includes the Tenant's agents employees contractors or invitees.

(p) "working day" has the meaning given to it in the Property Law Act 2007. Notices served after 5pm on a working day, or on a day which is not a working day, shall be deemed to have been served on the next succeeding working day.

(q) A reference in this lease to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.

(r) A reference to the words "include" or "including" are to be interpreted without limitation.

(s) If any inserted term (including any Further Term in the Third Schedule) conflicts with the covenants in the First, Second and Fourth Schedules, the inserted term will prevail.

(t) Whenever words appear in this lease that also appear in the First Schedule then those words shall mean and include the details supplied after them in the First Schedule.

(u) Where the context requires or admits, words importing the singular shall import the plural and vice versa.

(v) Where the Landlord's consent or approval to any matter is required under this lease then, unless expressly stated to the contrary in this lease, in each case the Landlord:

(1) must not unreasonably withhold consent or approval, and

(2) must, within a reasonable time of the Landlord's consent or approval being requested:

(i) grant that consent or approval; or

(ii) notify the Tenant in writing that the consent or approval is withheld.

(w) "Related Company" has the meaning attributed to it in the Companies Act 1993.

THIRD SCHEDULE

FURTHER TERMS (if any)

48.1 Further to clause 21.2

If the Landlord is obliged by any legislation or council requirement to expend moneys on any improvement, addition, alteration or renewal of the Premises then to the extent that the same shall not be included in the Operating Expenses the Landlord shall be entitled to charge in addition to the Annual Rent an annual sum ("Improvements Rent") equal to ten (10) percent of the amount expended by the Landlord and the periodic payment of Annual Rent shall increase accordingly for the term of this Lease from the next date for payment of Annual Rent following the date on which such improvement, addition, alteration or renewal is completed. For the avoidance of doubt the Tenant will not be liable for any Improvements Rent associated with the Tenant's future internal non-structural refurbishment or changes which are required from time to time during the normal course of the Tenant's business where these have been undertaken at the Tenant's own expense.

48.2 The Landlord releases the Tenant and the Tenant releases the Landlord from performance of each of their respective covenants, agreements, obligations and conditions under the existing lease for the Premises dated 1 August 2013 ("Existing Lease"). To avoid doubt and without limiting anything in this clause, the Tenant shall not be required to carry out any make good or reinstatement obligations under the Existing Lease.

FOURTH SCHEDULE

GUARANTEE

IN CONSIDERATION of the Landlord entering into the lease at the Guarantor's request the Guarantor:

(a) Guarantees payment of the rent and the performance by the Tenant of the covenants in the lease.

(b) Indemnifies the Landlord against any loss the Landlord might suffer should the lease be lawfully disclaimed or abandoned by any liquidator, receiver or other person.

THE GUARANTOR covenants with the Landlord that:

1. No release delay or other indulgence given by the Landlord to the Tenant or to the Tenant's successors or assigns or any other thing by which the Guarantor would have been released had the Guarantor been merely a surety shall release prejudice or affect the liability of the Guarantor as a guarantor or as indemnifier.
2. As between the Guarantor and the Landlord the Guarantor may for all purposes be treated as the Tenant and the Landlord shall be under no obligation to take proceedings against the Tenant before taking proceedings against the Guarantor.
3. The guarantee and indemnity is for the benefit of and may be enforced by any person entitled for the time being to receive the rent.
4. An assignment of the lease and any rent review in accordance with the lease shall not release the Guarantor from liability.
5. Should there be more than one Guarantor their liability under this guarantee and indemnity shall be joint and several.
6. The Guarantee and indemnity shall extend to any holding over by the Tenant.

FIFTH SCHEDULE

LANDLORD'S FIXTURES AND FITTINGS

(Subclause 47.1(f))

Suspended Ceiling (and grid)
Base Lighting
Kitchenette including bench unit, joinery and vinyl flooring
Toilet facilities including wash basins and vinyl floor covering
Fire egress door
Inter-tenancy walls and fixed partitioning
Shop front

Building Services:
Electrical Switchboard
Automatic doors (internal/external)
Fire detection system and equipment (panel/hose/extinguishers/sprinklers)
Air-Conditioning (main building system)
Lifts
Emergency Lighting

TENANT'S FIXTURES AND FITTINGS

Fixed Floor Coverings
Feature Lighting
ATM machines
All fixed and loose furniture
Demountable internal partition and doors
Power and Telecommunications
Signage (external and internal)
ATMS, courier bin (including signage and lighting) and other customer facilities
All remaining fit-out including furniture and fittings

Building services:
Air-Conditioning
Security-Systems and Devices
Air-Conditioning Cassettes
Automatic doors (internal/external)

SIXTH SCHEDULE

PREMISES CONDITION REPORT

(Subclause 8.1)

Dated

Between
Desmond Bernard Quinn, Alan James Albert Clark and Pierrick Morlet

Landlord

and
Westpac (NZ) Investments Limited

Tenant

and

Guarantor

DEED OF LEASE

General address of the premises:
49 Jellicoe Street, Te Puke

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REF. 4035

SEVENTH SCHEDULE

SIGNAGE



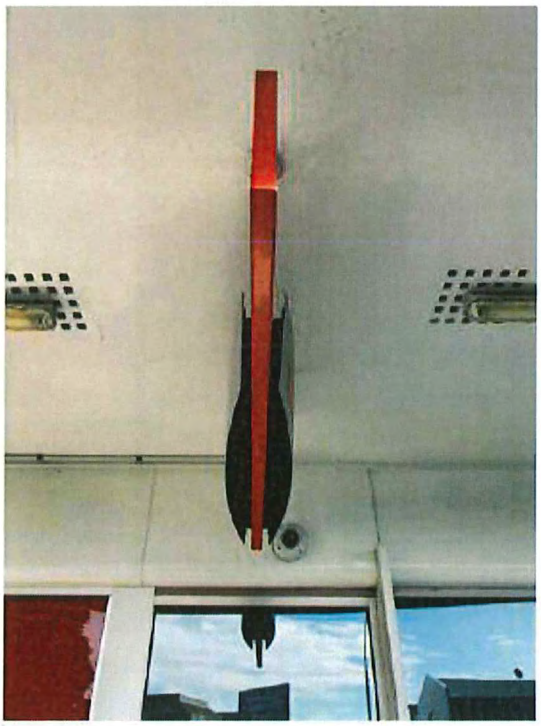
Jellicoe St UV sign



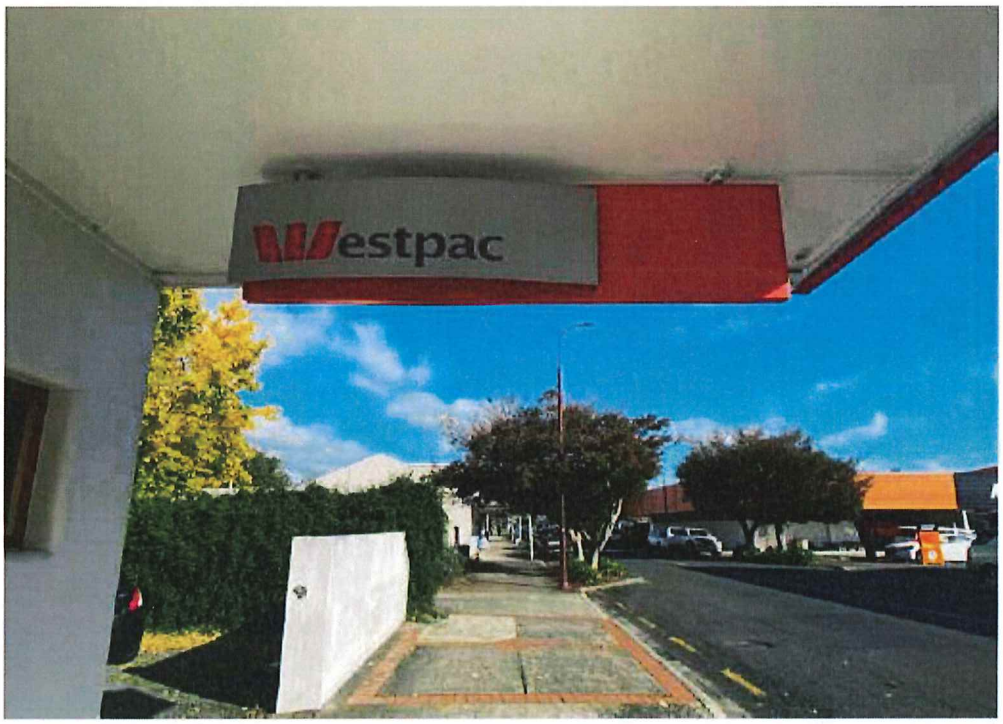
Jellicoe St UV signs



Jellicoe St Fascia + Roof sign



Jellicoe St - UV sign detail



Oxford St UV sign



Oxford St Fascia + Roof sign + UV sign



Oxford St Fascia - detail



Oxford St Fascia - Roof sign detail



Jellicoe St overall

DEED OF LEASE

Sixth Edition 2012 (5)

GENERAL address of the premises:
49 Jellicoe Street, Te Puke

DATE: 29 July 2020

LANDLORD:
DESMOND BERNARD QUINN of Whangarei and ALLAN JAMES ALBERT CLARK of Papamoa

TENANT:
FINLAY DYKZEUL LIMITED

GUARANTOR:
NICHOLAS JOHN DYKZEUL

THE LANDLORD leases to the Tenant and the Tenant takes on lease the premises and the car parks (if any) described in the First Schedule together with the right to use the common areas of the property for the term from the commencement date and at the annual rent (subject to review if applicable) as set out in the First Schedule.

THE LANDLORD AND TENANT covenant as set out in the First, Second and Third Schedules.

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

SIGNED by the Landlord

in the presence of:

Witness Signature

Allan Nobilo

Witness Name

Retired

Witness Occupation

Papamoa

Witness Address

Signature of Landlord

Desmond Bernard Quinn

Print Full Name

Director / Trustee / Authorised Signatory / Attorney*

Delete the options that do not apply

If no option is deleted, the signatory is signing in their personal capacity

WITNESS

GRAEME J MATHIAS
SOLICITOR
WHANGAREI

Signature of Landlord

Allan James Albert Clark

Print Full Name

Director / Trustee / Authorised Signatory / Attorney*

Delete the options that do not apply

If no option is deleted, the signatory is signing in their personal capacity

SIGNED by the Tenant

in the presence of:

Witness Signature

SHERRYL LYNETTE THOMPSON
ACCOUNT TECHNICIAN
TAURANGA

Witness Name

Witness Occupation

79 Fabian Drive

Witness Address Tauranga

Signature of Tenant

Nicholas John Dykzeul

Print Full Name

Director / Trustee / ~~Authorised Signatory~~ / ~~Attorney*~~

Delete the options that do not apply

If no option is deleted, the signatory is signing in their personal capacity

Signature of Tenant

Print Full Name

Director / Trustee / Authorised Signatory / Attorney*

Delete the options that do not apply

If no option is deleted, the signatory is signing in their personal capacity

Note: If signing by a company or as an Attorney - please refer to the notes on page 3

SIGNED by the Guarantor

in the presence of:

Signature of Guarantor

Nicholas John Dykzeul

Print Full Name
Director / Trustee / ~~Authorised Signatory~~ / ~~Attorney*~~
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

Witness Signature

SHERRYL LYNETTE THOMPSON
Witness Name ACCOUNT TECHNICIAN
TAURANGA

Witness Occupation

Witness Address

Signature of Guarantor

Print Full Name
Director / Trustee / Authorised Signatory / Attorney*
Delete the options that do not apply
If no option is deleted, the signatory is signing in their personal capacity

* If this agreement is signed under:

(i) a Power of Attorney – please attach a **Certificate of non-revocation** (ADLS form code: 4098WFP); or
(ii) an Enduring Power of Attorney – please attach a **Certificate of non-revocation and non-suspension of the enduring power of attorney** (ADLS form code: 4997WFP).

Also insert the following wording for the Attorney's Signature above:
Signed by [full name of the donor] by his or her Attorney [attorney's signature].

Note: Signing by a company – Companies must sign this document in accordance with section 180 of the Companies Act 1993, to ensure it is binding as a deed. In general, this means:
(a) if there are two or more directors of the company, two directors must sign and no witnessing is necessary;
(b) if there is only one director of the company, that director signs and the signature must be witnessed.
Other methods of signing may be permitted by the company's constitution or if an attorney has been appointed.

FIRST SCHEDULE

1. **PREMISES:** **The office on the first floor of the Westpac Building at 49 Jellicoe Street, Te Puke comprising 94.2 m2 more or less and being the area shown edged in blue on the annxed plan together with the use, in common with the landlord and other upstairs tenants, their invitees and all other persons lawfully entitled of the stairs to such first floor premises from Jellicoe Street and the foyer and access ways at the top of such stairs and the toilets and kitchen such common areas outlined in green on the plan attached such property being legally described as Lot 1 DP S16001 contained in Record of Title SA14C/840.**

2. ~~**CAR PARKS:**~~

3. **TERM:** **Three (3) years**

4. **COMMENCEMENT DATE:** **1 April 2020**

5. **RIGHTS OF RENEWAL:** **Three (3) of three (3) years duration each**

6. **RENEWAL DATES:** **1 April 2023, 1 April 2026, 1 April 2029**

7. **FINAL EXPIRY DATE:** **31 March 2032**

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

Premises	**$ 17,700.00**	**plus** GST
Car Parks	**$**	**plus** GST
TOTAL	**$ 17,700.00**	**plus** GST

9. **MONTHLY RENT:** **$ 1,475.00** **plus** GST

10. **RENT PAYMENT DATES:** The **1st** day of each month commencing on the **1st** day of **April** 20**20**

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

1. Market rent review dates:
   Every two (2) years during the term being 1 April 2022, 1 April 2024, 1 April 2026, 1 April 2028, 1 April 2030

2. ~~CPI rent review dates:~~

12. **DEFAULT INTEREST RATE:** (subclause 5.1) **15** % per annum

13. **BUSINESS USE:** **Chartered Accountants Premises** (subclause 16.1)

Office
A.H. Dickinson (1014 sq.ft)
Library
Manning & Gibbs
(104 sq.ft)
Office
Manning & Gibbs. (1057 sq.ft)
Jallicoe Street

14. LANDLORD'S INSURANCE:
(subclause 23.1)

(Delete or amend extent of cover as appropriate)

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

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

(Delete either (a) or (b): if neither option is deleted, then option (a) applies)

~~OR~~

~~(b) Indemnity to full insurable value (including loss damage or destruction of windows and other glass).~~

(2) Cover for the following additional risks:

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

~~(a) (i) 12 months~~

~~OR~~

~~(ii) months~~

~~indemnity in respect of consequential loss of rent and outgoings.~~

(b) Loss damage or destruction of any of the Landlord's fixtures fittings and chattels.

(c) Public liability

15. NO ACCESS PERIOD:
(subclause 27.6)

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

~~(1) 9 months~~ **6 months**

~~OR~~

(2)

16. PROPORTION OF OUTGOINGS:
(subclause 3.1)

20.81 **%** which at commencement date is estimated to be **$ 2,618.00** **Plus** GST per annum

17. LIMITED LIABILITY TRUSTEE:
(subclause 45.2)

Desmond Bernard Quinn of Whangarei and Allan James Albert Clark of Te Puke being the Landlord

18. OUTGOINGS:
(clause 3)

(1) Rates or levies payable to any local or territorial authority.

(2) Charges for water, gas, electricity, telecommunications and other utilities or services, including line charges.

(3) Rubbish collection and recycling charges.

~~(4) New Zealand Fire Service charges and the maintenance charges in respect of all fire detection and fire fighting equipment.~~

(5) Any insurance excess (but not exceeding $2,000) in respect of a claim and insurance premiums and related valuation fees (subject to subclause 23.2).

~~(6) Service contract charges for air conditioning, lifts, other building services and security services.~~

Interior

(7) Cleaning, maintenance and repair charges including charges for repainting, decorative repairs and the maintenance and repair of building services to the extent that such charges do not comprise part of the cost of a service maintenance contract, but excluding charges for structural repairs to the building (minor repairs to the roof of the building shall not be a structural repair), repairs due to defects in design or construction, inherent defects in the building and renewal or replacement of building services.

(8) The provisioning of toilets and other shared facilities.

~~(9) The cost of maintenance of lawns, gardens and planted areas including plant hire and replacement, and the cost of repair of fences.~~

~~(10) Yard and car parking area maintenance and repair charges but excluding charges for repaving or resealing.~~

~~(11) Body Corporate charges for any insurance premiums under any insurance policy effected by the Body Corporate and related valuation fees and reasonable management administration expenses.~~

(12) Management expenses (subject to subclause 3.7).

(13) The costs incurred and payable by the Landlord in supplying to the territorial authority a building warrant of fitness and obtaining reports as required by sections 108 and 110 of the Building Act 2004 but excluding the costs of upgrading or other work to make the building comply with the Building Act 2004.

(14) Cleaning and day to day maintenance of the common areas including stairs, accessway, toilets and kitchen.

SECOND SCHEDULE

TENANT'S PAYMENTS

Rent

1.1 The Tenant shall pay the annual rent by equal monthly payments in advance (or as varied pursuant to any rent review) on the rent payment dates. The first monthly payment (together with rent calculated on a daily basis for any period from the commencement date of the term to the first rent payment date) shall be payable on the first rent payment date. All rent shall be paid without any deductions or set-off by direct payment to the Landlord or as the Landlord may direct.

Market Rent Review

2.1 The annual rent payable as from each market rent review date (except for a market rent review date that is a renewal date) shall be determined as follows:

(a) Either party may not earlier than 3 months prior to a market rent review date and not later than the next rent review date (regardless of whether the next rent review date is a market or CPI rent review date) give written notice to the other party specifying the annual rent proposed as the current market rent as at the relevant market rent review date.

(b) If the party receiving the notice ("the Recipient") gives written notice to the party giving the notice ("the Initiator") within 20 working days after service of the Initiator's notice disputing the annual rent proposed and specifying the annual rent proposed by the Recipient as the current market rent, then the new rent shall be determined in accordance with subclause 2.2.

(c) If the Recipient fails to give such notice (time being of the essence) the Recipient shall be deemed to have accepted the annual rent specified in the Initiator's notice and the extension of time for commencing arbitration proceedings contained in the Arbitration Act 1996 shall not apply.

(d) Notwithstanding any other provision of this clause, the annual rent payable as from the relevant market rent review date shall not be less than the annual rent payable as at the commencement date of the then current lease term.

(e) The annual rent agreed, determined or imposed pursuant to subclause 2.1 shall be the annual rent payable as from the relevant market rent review date, or the date of service of the Initiator's notice if such notice is served later than 3 months after the relevant market rent review date but subject to subclause 2.3 and 2.4.

(f) The market rent review at the option of either party may be recorded in a deed.

Rent Determinations

2.2 Immediately following service of the Recipient's notice on the Initiator, the parties shall endeavour to agree upon the current market rent, but if agreement is not reached within 10 working days then the new rent may be determined either:

(a) By one party giving written notice to the other requiring the new rent to be determined by arbitration; or

(b) If the parties so agree by registered valuers acting as experts and not as arbitrators as follows:

(1) Each party shall appoint a valuer and give written notice of the appointment to the other party within 20 working days of the parties agreeing to so determine the new rent.

(2) If the party receiving a notice fails to appoint a valuer within the 20 working day period then the valuer appointed by the other party shall determine the new rent and such determination shall be binding on both parties.

(3) The valuers appointed before commencing their determination shall appoint a third expert who need not be a registered valuer. If the parties cannot agree on the third expert, the appointment shall be made on the application of either party by the president or vice president for the time being of The New Zealand Institute of Valuers.

(4) The valuers appointed by the parties shall determine the current market rent of the premises but if they fail to agree then the rent shall be determined by the third expert.

(5) Each party shall be given the opportunity to make written or oral representations subject to such reasonable time and other limits as the valuers or the third expert may prescribe and they shall have regard to any of the representations but not be bound by them.

(6) The parties shall jointly and severally indemnify the third expert for their costs. As between the parties, they will share the costs equally. A party may pay the other party's share of the costs and recover the payment on demand from the other party.

(7) If the parties agree, they may release the third expert from liability for negligence in acting as third expert in accordance with this subclause 2.2.

When the new rent has been determined the person or persons determining it shall give written notice of it to the parties. The notice shall provide as to how the costs of the determination shall be borne and it shall be binding on the parties.

Interim Market Rent

2.3 Pending determination of the new rent, the Tenant shall from the relevant market rent review date, or the date of service of the Initiator's notice if the notice is served later than 3 months after the relevant market rent review date, until the determination of the new rent pay an interim rent as follows:

(a) if both parties supply a registered valuer's certificate substantiating the new rents proposed, the interim rent payable shall be half way between the new rents proposed by the parties; or

(b) if only one party supplies a registered valuer's certificate, the interim rent payable shall be the rent substantiated by the certificate; or

(c) if no registered valuer's certificates are supplied, the interim rent payable shall be the rent payable immediately prior to the relevant market rent review date,

but in no circumstances shall the interim rent be less than the rent payable as at the commencement date of the then current lease term.

The interim rent shall be payable with effect from the relevant market rent review date, or the date of service of the Initiator's notice if the notice is served later than 3 months after the relevant market rent review date and, subject to subclause 2.4, shall not be subject to adjustment.

2.4 Upon determination of the new rent, any overpayment shall be applied in payment of the next month's rent and any amount then remaining shall immediately be refunded to the Tenant. Any shortfall in payment shall immediately be payable by the Tenant.

CPI Rent Review

2.5 The annual rent payable from each CPI rent review date shall be determined as follows:

(a) The Landlord shall adjust the annual rent on the basis of increases (and not decreases) in the CPI by giving notice to the Tenant of the increase (if any) using the formula:

A = B x (C÷D)

Where:

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

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

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

D = CPI for the quarter year ending immediately before the last rent review date or if there is no previous rent review date, the commencement date of the then current term of the lease (and in the case where A is the CPI reviewed rent for a renewal date then the last rent review date of the immediate preceding lease term or if there is no rent review date the commencement date of the preceding term)

where (C÷D) shall not be less than 1.

(b) If the CPI is discontinued and not replaced, or if there is a material change to the basis of calculation of the CPI, or a resetting of the CPI, an appropriate index which reflects the change in the cost of living in New Zealand as agreed by the parties and failing agreement to be determined by an expert appointed by the president or vice president of the New Zealand Law Society will be used.

(c) If the relevant CPI is not published at the relevant CPI rent review date, as soon as the CPI is published an appropriate adjustment will be made to the rent (if necessary) with effect from the relevant CPI rent review date.

(d) Notwithstanding any other provision of subclause 2.5, the annual rent payable as from the relevant CPI rent review date shall not be less than the annual rent payable immediately preceding the CPI rent review date (and in the case where the relevant CPI rent review date is a renewal date, the annual rent payable at the expiry of the preceding term).

2.6 The new rent determined pursuant to subclause 2.5 shall be payable from the relevant CPI rent review date once it is determined by the Landlord giving notice under that subclause. Pending determination of the new rent, the Tenant will pay the rent that applies prior to the CPI rent review date. On determination of the new rent, the Tenant will immediately pay any shortfall to the Landlord.

Outgoings

3.1 The Tenant shall pay the outgoings properly and reasonably incurred in respect of the property which are specified in the First Schedule. Where any outgoing is not separately assessed or levied in respect of the premises then the Tenant shall pay such proportion of it as is specified in the First Schedule or if no proportion is specified then such fair proportion as shall be agreed or failing agreement determined by arbitration.

3.2 The Landlord shall vary the proportion of any outgoing payable to ensure that the Tenant pays a fair proportion of the outgoing.

3.3 If any outgoing is rendered necessary by another tenant of the property or that tenant's employees, contractors or invitees causing damage to the property or by another tenant failing to comply with that tenant's leasing obligations, then that outgoing shall not be payable by the Tenant.

3.4 The outgoings shall be apportioned between the Landlord and the Tenant in respect of periods current at the commencement and termination of the term.

3.5 The outgoings shall be payable on demand or if required by the Landlord by monthly instalments on each rent payment date of a reasonable amount as the Landlord shall determine calculated on an annual basis. Where any outgoing has not been taken into account in determining the monthly instalments it shall be payable on demand.

3.6 After the 31st March in each year of the term or other date in each year as the Landlord may specify, and after the end of the term, the Landlord shall supply to the Tenant reasonable details of the actual outgoings for the year or period then ended. Any over payment shall be credited or refunded to the Tenant and any deficiency shall be payable to the Landlord on demand.

3.7 Any profit derived by the Landlord and if a company by its shareholders either directly or indirectly from the management of the property shall not comprise part of the management expenses payable as an outgoing.

Goods and Services Tax

4.1 The Tenant shall pay to the Landlord or as the Landlord shall direct the GST payable by the Landlord in respect of the rental and other payments payable by the Tenant under this lease. The GST in respect of the rental shall be payable on each occasion when any rental payment falls due for payment and in respect of any other payment shall be payable upon demand.

4.2 If the Tenant shall make default in payment of the rental or other moneys payable under this lease and the Landlord becomes liable to pay Default GST then the Tenant shall on demand pay to the Landlord the Default GST in addition to interest payable on the unpaid GST under subclause 5.1.

Interest on Unpaid Money

5.1 If the Tenant defaults in payment of the rent or other moneys payable under this lease for 10 working days then the Tenant shall pay on demand interest at the default interest rate on the moneys unpaid from the due date for payment to the date of payment.

5.2 Unless a contrary intention appears on the front page or elsewhere in this lease the default interest rate is equivalent to the interest rate charged by the Inland Revenue Department on unpaid tax under the Tax Administration Act 1994 during the period for which the default interest is payable, plus 5 per cent per annum.

Costs

6.1 Each party will pay their own costs of the negotiation and preparation of this lease and any deed recording a rent review or renewal. The Tenant shall pay the Landlord's reasonable costs incurred in considering any request by the Tenant for the Landlord's consent to any matter contemplated by this lease, and the Landlord's legal costs (as between lawyer and client) of and incidental to the enforcement of the Landlord's rights remedies and powers under this lease.

LANDLORD'S PAYMENTS

Outgoings

7.1 Subject to the Tenant's compliance with the provisions of clause 3 the Landlord shall pay all outgoings in respect of the property not payable by the Tenant direct. The Landlord shall be under no obligation to minimise any liability by paying any outgoing or tax prior to receiving payment from the Tenant.

MAINTENANCE AND CARE OF PREMISES

Tenant's Obligations

8.1 The Tenant shall be responsible to:

(a) **Maintain the premises**

In a proper and workmanlike manner and to the reasonable requirements of the Landlord keep and maintain the interior of the premises in the same clean order repair and condition as they were in at the commencement date of this lease (or where the lease is renewed, the commencement date of the initial term of this lease) and will at the end or earlier determination of the term quietly yield up the same in the like clean order repair and condition. The premises condition report (if completed) shall be evidence of the condition of the premises at the commencement date of this lease. In each case the Tenant shall not be liable for fair wear and tear arising from reasonable use.

(b) **Breakages and minor replacements**

Repair or replace glass breakages with glass of the same or better weight and quality, repair breakage or damage to all doors windows light fittings and power points of the premises and replace light bulbs, tubes and power points that wear out with items of the same or better quality and specification.

(c) **Painting**

Paint and decorate those parts of the interior of the premises which have previously been painted and decorated as at the commencement date of this lease (or where the lease is renewed the commencement date of the initial term of this lease) when they reasonably require repainting and redecoration to a specification as approved by the Landlord such approval not to be unreasonably withheld.

(d) **Floor coverings**

Keep all floor coverings in the premises clean and replace all floor coverings worn or damaged other than by fair wear and tear with floor coverings of the same or better quality, specification and appearance when reasonably required by the Landlord.

(e) **Damage or Loss**

Make good any damage to the property or loss caused by improper careless or abnormal use by the Tenant or those for whom the Tenant is responsible, to the Landlord's reasonable requirements.

8.2 Where the Tenant is leasing all of the property, the Tenant shall:

(a) **Care of grounds**

Keep any grounds yards and surfaced areas in a clean and tidy condition and maintain any garden or lawn areas in a tidy and cared for condition.

(b) **Water and drainage**

Keep and maintain the storm or waste water drainage system including downpipes and guttering clear and unobstructed.

(c) **Other works**

Carry out those works maintenance and repairs to the property as the Landlord may require in respect of which outgoings are payable by the Tenant.

8.3 Notwithstanding subclause 8.1(a) the Tenant shall not be liable for the maintenance or repair of any building services but this subclause shall not release the Tenant from any obligation to pay for the cost of any service maintenance contract or charges in respect of the maintenance or repair of the building services if it is an outgoing specified in the First Schedule but only to the extent specified in the First Schedule.

8.4 Notwithstanding any other provision of this lease, the Tenant shall not be liable to repair any inherent defect in the premises nor to pay any outgoings incurred by the Landlord in remedying any inherent defect.

8.5 If the Landlord shall give the Tenant written notice of any failure on the part of the Tenant to comply with any of the requirements of subclauses 8.1 or 8.2 the Tenant shall with all reasonable speed so comply.

Toilets

9.1 The toilets sinks and drains shall be used for their designed purposes only and no substance or matter shall be deposited in them which could damage or block them.

Rubbish Removal

10.1 The Tenant shall regularly cause all of the Tenant's rubbish and recycling to be removed from the premises and will keep the Tenant's rubbish bins or containers in a tidy condition. The Tenant will also at the Tenant's own expense cause to be removed all trade waste boxes and other goods or rubbish not removable in the ordinary course by the local authority.

Landlord's Maintenance

11.1 The Landlord shall keep and maintain the building, all building services and the car parks in good order and repair and weatherproof but the Landlord shall not be liable for any:

(a) Repair or maintenance which the Tenant is responsible to undertake.

(b) Want of repair or defect in respect of building services, so long as the Landlord is maintaining a service maintenance contract covering the work to be done, or where the building services have not been supplied by the Landlord.

(c) Repair or maintenance which is not reasonably necessary for the Tenant's use and enjoyment of the premises and the car parks.

(d) Loss suffered by the Tenant arising from any want of repair or defect unless the Landlord shall have received notice in writing of that from the Tenant and has not within a reasonable time after that taken appropriate steps to remedy the same.

11.2 The Landlord shall keep and maintain service maintenance contracts for lifts, air-conditioning and at the Landlord's option any other building services supplied by the Landlord. Whenever building services cannot be maintained in good order and repair through regular maintenance, the Landlord will if reasonably required replace the services with services of a similar type and quality.

11.3 The Tenant shall be liable to reimburse the Landlord for the cost of any such repair, maintenance or service contract pursuant to subclauses 11.1 and 11.2 if it is an outgoing specified in the First Schedule but only to the extent specified in the First Schedule.

Notification of Defects

12.1 The Tenant shall give to the Landlord prompt written notice of any accident to or defect in the premises of which the Tenant may be aware and in particular in relation to any pipes or fittings used in connection with the water electrical gas or drainage services.

Landlord's Right of Inspection

13.1 The Landlord and the Landlord's employees contractors and invitees may at all reasonable times and after having given prior written notice to the Tenant (except in the case of emergencies) enter upon the premises to view their condition.

Landlord may Repair

14.1 If default shall be made by the Tenant in the due and punctual compliance with any repair notice given by the Landlord pursuant to this lease, or if any repairs for which the Tenant is responsible require to be undertaken as a matter of urgency then without prejudice to the Landlord's other rights and remedies expressed or implied the Landlord may by the Landlord's employees and contractors with all necessary equipment and material at all reasonable times and on reasonable notice (except in the case of emergencies) enter the premises to execute the works. Any moneys expended by the Landlord in executing the works shall be payable by the Tenant to the Landlord upon demand together with interest on the moneys expended at the default interest rate from the date of expenditure to the date of payment.

Access for Works

15.1 The Tenant shall permit the Landlord and the Landlord's employees and contractors at all reasonable times and on reasonable written notice (except in the case of emergencies) to enter the premises for a reasonable period to inspect and carry out works to the premises or adjacent premises and to install inspect repair renew or replace any services where they are not the responsibility of the Tenant or are required to comply with the requirements of any statutes, regulations, by-law or requirement of any competent authority. All repairs inspections and works shall be carried out with the least possible inconvenience to the Tenant subject to subclauses 15.3 and 15.4.

15.2 If the Tenant's business use of the premises is materially disrupted because of the Landlord's works provided for in subclause 15.1, then during the period the works are being carried out a fair proportion of the rent and outgoings shall cease to be payable but without prejudice to the Tenant's rights if the disruption is due to a breach by the Landlord of the Landlord's obligation, under subclause 15.1, to cause the least possible inconvenience to the Tenant.

15.3 If in the Landlord's reasonable opinion, the Landlord requires the Tenant to vacate the whole or part of the premises to enable the works referred to in subclause 15.1 to be carried out, the Landlord may give the Tenant reasonable written notice requiring the Tenant to vacate the whole or part of the premises and specifying a reasonable period for which the Landlord requires possession. On the expiry of the notice the Landlord may take possession of the premises or the part specified in the notice. A fair proportion of the rent and outgoings shall cease to be payable during the period the Tenant vacates the premises as required by the Landlord.

15.4 The Landlord shall act in good faith and have regard to the nature, extent and urgency of the works when exercising the Landlord's right of access or possession in accordance with subclauses 15.1 and 15.3.

USE OF PREMISES

Business Use

16.1 The Tenant shall not without the prior written consent of the Landlord use or permit the whole or any part of the premises to be used for any use other than the business use. The Landlord's consent shall not be unreasonably or arbitrarily withheld or delayed in respect of any proposed use which is:

(a) not in substantial competition with the business of any other occupant of the property which might be affected by the use; and

(b) reasonably suitable for the premises; and

(c) compliant with the requirements of the Resource Management Act 1991 or any other statutory provisions relating to resource management.

If any change in use renders any increased or extra premium payable in respect of any policy or policies of insurance on the premises the Landlord as a condition of granting consent may require the Tenant to pay the increased or extra premium.

16.2 See Further Terms in Third Schedule ~~If any change in use requires compliance with sections 114 and 115 of the Building Act 2004 the Landlord, as a condition of granting consent, may require the Tenant to comply with sections 114 and 115 of the Act and to pay all compliance costs.~~

16.3 If the premises are a retail shop the Tenant shall keep the premises open for business during usual trading hours and fully stocked with appropriate merchandise for the efficient conduct of the Tenant's business.

Lease of Premises and Car Parks Only

17.1 The tenancy shall relate only to the premises and the car parks (if any) and the Landlord shall at all times be entitled to use occupy and deal with the remainder of the property without reference to the Tenant and the Tenant shall have no rights in relation to it other than the rights of use under this lease.

Neglect of Other Tenant

18.1 The Landlord shall not be responsible to the Tenant for any act or default or neglect of any other tenant of the property.

Signage

19.1 The Tenant shall not affix paint or exhibit or permit to be affixed painted or exhibited any name sign name-plate signboard or advertisement of any description on or to the exterior of the building without the prior approval in writing of the Landlord but approval shall not be unreasonably or arbitrarily withheld or delayed in respect of signage describing the Tenant's business. If approved the signage shall be secured in a substantial and proper manner so as not to cause any damage to the building or any person and the Tenant shall at the end or sooner determination of the term remove the signage and make good any damage occasioned in connection with the signage.

Additions, Alterations, Reinstatement and Chattels Removal

20.1 The Tenant shall neither make nor allow to be made any alterations or additions to any part of the premises or alter the external appearance of the building without first producing to the Landlord on every occasion plans and specifications and obtaining the written consent of the Landlord (not to be unreasonably or arbitrarily withheld or delayed) for that purpose. If the Landlord authorises any alterations or additions which are made before the commencement date or during the term of this lease the Tenant will at the Tenant's own expense if required by the Landlord no later than the end or earlier termination of the term reinstate the premises. Ownership of the alterations or additions that are not removed by the end or earlier termination of the lease may at the Landlord's election pass to the Landlord without compensation payable to the Tenant. If the Tenant fails to reinstate then any costs incurred by the Landlord in reinstating the premises whether in whole or in part, within 6 months of the end or earlier termination of the term shall be recoverable from the Tenant.

20.2 The Tenant, when undertaking any "building work" to the premises (as that term is defined in the Building Act 2004), shall comply with all statutory requirements including the obtaining of building consents and code compliance certificates pursuant to that Act and shall provide copies of the building consents and code compliance certificates to the Landlord.

20.3 The Tenant may at any time before and will if required by the Landlord no later than the end or earlier termination of the term remove all the Tenant's chattels. In addition to the Tenant's obligations to reinstate the premises pursuant to subclause 20.1 the Tenant will make good at the Tenant's own expense all resulting damage and if the chattels are not removed by the end or earlier termination of the term ownership of the chattels may at the Landlord's election pass to the Landlord or the Landlord may remove them from the premises and forward them to a refuse collection centre. Where subclause 27.5 applies, the time by which the Tenant must remove the chattels and to make good all resulting damage will be extended to 5 working days after access to the premises is available.

20.4 The cost of making good resulting damage and the cost of removal of the Tenant's chattels shall be recoverable from the Tenant and the Landlord shall not be liable to pay any compensation nor be liable for any loss suffered by the Tenant.

Compliance with Statutes and Regulations

21.1 The Tenant shall comply with the provisions of all statutes, ordinances, regulations and by-laws relating to the use of the premises by the Tenant or other occupant and will also comply with the provisions of all licences, requisitions and notices issued by any competent authority in respect of the premises or their use by the Tenant or other occupant provided that:

(a) The Tenant shall not be required to make any structural repairs alterations or additions nor to replace or install any plant or equipment except where required by reason of the particular nature of the business carried on by the Tenant or other occupant of the premises or the number or sex of persons employed on the premises.

(b) The Tenant shall not be liable to discharge the Landlord's obligations as owner under the Building Act 2004 unless any particular obligation is the responsibility of the Tenant as an occupier of the premises.

(c) The Tenant will promptly provide the Landlord with a copy of all requisitions and notices received from a competent authority under this subclause.

21.2 If the Landlord is obliged by any legislation or requirement of any competent authority to expend moneys during the term of this lease or any renewed term on any improvement addition or alteration to the property which is not the Tenant's responsibility under subclause 21.1 and the expenditure would be an unreasonable amount then the Landlord may determine this lease. Any dispute as to whether or not the amount to be expended by the Landlord is unreasonable shall be determined by arbitration.

21.3 The Landlord warrants that allowing the premises to be open to members of the public and allowing the use of the premises by members of the public at the commencement date will not be a breach of section 363 of the Building Act 2004. This clause does not apply to any "building work" (as defined in the Building Act 2004) relating to the fit-out of the premises by the Tenant.

21.4 The Tenant, when undertaking any building work to the premises, shall comply with all statutory requirements including the obtaining of building consents and code compliance certificates and shall not allow the premises to be open to members of the public or allow use of the premises by members of the public if that would be in breach of section 363 of the Building Act 2004.

21.5 During the term and any renewal, the Landlord shall not give consent to or carry out any building work in any part of the Landlord's property which may cause the Tenant to be in breach of section 363 of the Building Act 2004 by allowing the premises to be open to members of the public and allowing the use of the premises by members of the public.

Clauses 21.6 and 21.7 added - see Further Terms in Third Schedule.

No Noxious Use

22.1 The Tenant shall not:

(a) Bring upon or store within the premises nor allow to be brought upon or stored within the premises any machinery goods or things of an offensive noxious illegal or dangerous nature, or of a weight size or shape as is likely to cause damage to the building or any surfaced area.

(b) Contaminate the property and shall undertake all works necessary to remove any contamination of the property other than contamination not caused by the Tenant or which took place prior to the commencement date of the lease term. Contamination means any change to the physical chemical or biological condition of the property by a "contaminant" as that word is defined in the Resource Management Act 1991.

(c) Use the premises or allow them to be used for any noisome noxious illegal or offensive trade or business.

(d) Allow any act or thing to be done which may be or grow to be a nuisance disturbance or annoyance to the Landlord, other tenants of the property, or any other person, and generally the Tenant shall conduct the Tenant's business upon the premises in a clean quiet and orderly manner free from damage nuisance disturbance or annoyance to any such persons but the carrying on by the Tenant in a reasonable manner of the business use or any use to which the Landlord has consented shall be deemed not to be a breach of this clause.

INSURANCE

Landlord shall insure

23.1 The Landlord shall at all times during the term keep and maintain insurance of the type shown and for the risks specified in the First Schedule. If insurance cover required under this subclause becomes unavailable during the term of this lease or any renewal other than because of the Landlord's act or omission, the Landlord will not be in breach while cover is unavailable, provided the Landlord uses all reasonable endeavours on an ongoing basis to obtain cover. The Landlord will advise the Tenant in writing whenever cover becomes unavailable and provide reasons as to the unavailability. The Landlord will also provide the Tenant with reasonable information relating to the cover when requested by the Tenant.

23.2 The parties acknowledge and agree pursuant to section 271 of the Property Law Act 2007 that to the extent of any excess payable regarding any insurance policy held by the Landlord, the excess will represent an amount for which the Landlord has not insured, or has not fully insured the premises or the property against destruction or damage arising from the events that the section applies to. If the Landlord makes any claim against its insurance for any destruction or damage because of any act or omission of the Tenant, the Tenant will pay the Landlord the amount of the excess not exceeding the sum specified in the list of outgoings in the First Schedule

Tenant not to void insurance

24.1 The Tenant shall not carry on or allow upon the premises any trade or occupation or allow to be done any act or thing which:

(a) Shall make void or voidable any policy of insurance on the property.

(b) May render any increased or extra premium payable for any policy of insurance except where in circumstances in which any increased premium is payable the Tenant shall have first obtained the consent of the insurer of the premises and the Landlord and made payment to the insurer of the amount of any such increased or extra premium as may be payable but the carrying on by the Tenant in a reasonable manner of the business use or of any use to which the Landlord has consented shall be deemed not to be a breach of this clause.

24.2 In any case where in breach of subclause 24.1 the Tenant has rendered any insurance void or voidable and the Landlord has suffered loss or damage by that the Tenant shall at once compensate the Landlord in full for such loss or damage.

When Tenant to have benefit of Landlord's insurance

25.1 Where the property is destroyed or damaged by fire, flood, explosion, lightning, storm, earthquake, volcanic activity or any risk against which the Landlord is (or has covenanted with the Tenant to be) insured the Landlord will not require the Tenant to meet the cost of making good the destruction or damage to the property and will indemnify the Tenant against such cost where the Tenant is obligated to pay for making good such damage or destruction. The Landlord does not have to indemnify the Tenant and the Tenant will not be excused from liability under this subclause if and to the extent that:

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

(b) The destruction or damage was the result of an act or omission by the Tenant or those for whom the Tenant is responsible and that act or omission:

(1) occurred on or about the property; and

(2) constitutes an imprisonable offence; or

(c) Any insurance moneys that would otherwise have been payable to the Landlord for the damage or destruction are rendered irrecoverable in consequence of any act or omission of the Tenant or those for whom the Tenant is responsible.

DAMAGE TO OR DESTRUCTION OF PREMISES

Total Destruction

26.1 If the premises or any portion of the building of which the premises may form part shall be destroyed or so damaged:

(a) as to render the premises untenantable then the term shall at once terminate from the date of destruction or damage; or

(b) in the reasonable opinion of the Landlord as to require demolition or reconstruction, then the Landlord may within 3 months of the date of damage give the Tenant 20 working days notice to terminate and a fair proportion of the rent and outgoings shall cease to be payable as from the date of damage.

Any termination pursuant to this subclause shall be without prejudice to the rights of either party against the other.

Partial Destruction

27.1 If the premises or any portion of the building of which the premises may form part shall be damaged but not so as to render the premises untenantable and:

(a) the Landlord's policy or policies of insurance shall not have been invalidated or payment of the policy moneys refused in consequence of some act or default of the Tenant; and

(b) all the necessary permits and consents are obtainable,

the Landlord shall with all reasonable speed expend all the insurance moneys received by the Landlord in respect of such damage towards repairing such damage or reinstating the premises or the building but the Landlord shall not be liable to expend any sum of money greater than the amount of the insurance money received.

27.2 Any repair or reinstatement may be carried out by the Landlord using such materials and form of construction and according to such plan as the Landlord thinks fit and shall be sufficient so long as it is reasonably adequate for the Tenant's occupation and use of the premises.

27.3 Until the completion of the repairs or reinstatement a fair proportion of the rent and outgoings shall cease to be payable as from the date of damage.

27.4 If any necessary permit or consent shall not be obtainable or the insurance moneys received by the Landlord shall be inadequate for the repair or reinstatement then the term shall at once terminate but without prejudice to the rights of either party against the other.

No Access in Emergency

27.5 If there is an emergency and the Tenant is unable to gain access to the premises to fully conduct the Tenant's business from the premises because of reasons of safety of the public or property or the need to prevent reduce or overcome any hazard, harm or loss that may be associated with the emergency including:

(a) a prohibited or restricted access cordon applying to the premises; or

(b) prohibition on the use of the premises pending the completion of structural engineering or other reports and appropriate certifications required by any competent authority that the premises are fit for use; or

(c) restriction on occupation of the premises by any competent authority,

then a fair proportion of the rent and outgoings shall cease to be payable for the period commencing on the date when the Tenant became unable to gain access to the premises to fully conduct the Tenant's business from the premises until the inability ceases.

27.6 This subclause 27.6 applies where subclause 27.5 applies and the premises or building of which the premises form part are not totally or partially destroyed or damaged resulting in the lease being cancelled as provided for in subclauses 26.1 or 27.4. Either party may terminate this lease by giving 10 working days written notice to the other if:

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

(b) the party that terminates this lease can at any time prior to termination establish with reasonable certainty that the Tenant is unable to gain access to the premises for that period.

Any termination shall be without prejudice to the rights of either party against the other.

DEFAULT

Cancellation

28.1 The Landlord may (in addition to the Landlord's right to apply to the Court for an order for possession) and subject to section 245(2) of the Property Law Act 2007 cancel this lease by re-entering the premises at the time or at any time after that:

(a) If the rent shall be in arrears 10 working days after any rent payment date and the Tenant has failed to remedy that breach within 10 working days after service on the Tenant of a notice in accordance with section 245 of the Property Law Act 2007.

(b) In case of breach by the Tenant of any covenant or agreement on the Tenant's part expressed or implied in this lease (other than the covenant to pay rent) after the Tenant has failed to remedy that breach within the period specified in a notice served on the Tenant in accordance with section 246 of the Property Law Act 2007.

(c) If the Tenant shall make or enter into or endeavour to make or enter into any composition assignment or other arrangement with or for the benefit of the Tenant's creditors.

(d) In the event of the insolvency, bankruptcy, statutory management, voluntary administration, receivership or liquidation of the Tenant.

(e) If the Tenant shall suffer execution to issue against the Tenant's property goods or effects under any judgment against the Tenant in any Court for a sum in excess of five thousand dollars ($5,000).

The term shall terminate on the cancellation but without prejudice to the rights of either party against the other.

Essentiality of Payments

29.1 Failure to pay rent or other moneys payable under this lease on the due date shall be a breach going to the essence of the Tenant's obligations under the lease. The Tenant shall compensate the Landlord and the Landlord shall be entitled to recover damages from the Tenant for such breach. This entitlement shall subsist notwithstanding any determination of the lease and shall be in addition to any other right or remedy which the Landlord may have.

29.2 The acceptance by the Landlord of arrears of rent or other moneys shall not constitute a waiver of the essentiality of the Tenant's continuing obligation to pay rent and other moneys.

Repudiation

30.1 The Tenant shall compensate the Landlord and the Landlord shall be entitled to recover damages for any loss or damage suffered by reason of any acts or omissions of the Tenant constituting a repudiation of the lease or the Tenant's obligations under the lease. Such entitlement shall subsist notwithstanding any determination of the lease and shall be in addition to any other right or remedy which the Landlord may have.

QUIET ENJOYMENT

31.1 The Tenant paying the rent and performing and observing all the covenants and agreements expressed and implied in this lease shall quietly hold and enjoy the premises throughout the term without any interruption by the Landlord or any person claiming under the Landlord.

RENEWAL OF LEASE

32.1 If the Tenant has given to the Landlord written notice to renew the lease at least 3 calendar months before the end of the term and is not at the date of the giving of the notice in breach of this lease then the Landlord will grant a new lease for a further term from the renewal date as follows:

(a) If the renewal date is a market rent review date the annual rent shall be the current market rent which if not agreed on shall be determined in accordance with subclause 2.2 but the annual rent shall not be less than the rent payable as at the commencement date of the immediately preceding lease term.

(b) If the renewal date is a CPI rent review date, the annual rent shall be determined in accordance with subclause 2.5.

(c) Subject to the provisions of paragraphs (a) and (b) the new lease shall be upon and subject to the covenants and agreements expressed and implied in this lease except that the term of this lease plus all further terms shall expire on or before the final expiry date.

(d) The annual rent shall be subject to review during the term of the new lease on the rent review dates specified in the First Schedule.

(e) The Landlord as a condition of granting a new lease shall be entitled to have the new lease guaranteed by any guarantor who has guaranteed this lease on behalf of the Tenant who has given notice or the security of a bank guarantee that has been given.

(f) If the renewal date is a market rent review date, pending the determination of the rent, the Tenant shall pay an interim rent in accordance with subclauses 2.3 and 2.4.

(g) Notwithstanding anything contained in subclause 32.1(f) the interim rent referred to in that subclause shall not be less than the annual rent payable as at the commencement date of the immediately preceding lease term.

(h) The parties will not be released by the renewal of the lease from any liability for any breach under this lease.

ASSIGNMENT OR SUBLETTING

33.1 The Tenant shall not assign sublet or otherwise part with the possession of the premises, the carparks (if any) or any part of them without first obtaining the written consent of the Landlord which the Landlord shall not unreasonably withhold or delay if the following conditions are fulfilled:

(a) The Tenant proves to the reasonable satisfaction of the Landlord that the proposed assignee or subtenant is (and in the case of a company that the shareholders of the proposed assignee or subtenant are) respectable responsible and has the financial resources to meet the Tenant's commitments under this lease and in the case of the subtenant the subtenant's commitments under the sublease. The Tenant shall give the Landlord any additional information reasonably required by the Landlord.

(b) All rent and other moneys payable have been paid and there is not any subsisting breach of any of the Tenant's covenants.

(c) In the case of an assignment a deed of covenant in customary form approved or prepared by the Landlord is duly executed and delivered to the Landlord.

(d) In the case of an assignment to a company (other than a company listed on the main board of a public stock exchange in New Zealand or Australia) either a deed of guarantee in customary form approved or prepared by the Landlord is duly executed by the principal shareholders of that company and delivered to the Landlord or a bank guarantee from a registered trading bank in New Zealand on reasonable terms approved by the Landlord as security for the performance by the company of its obligations under this lease is provided to the Landlord.

(e) The Tenant pays the Landlord's reasonable costs and disbursements in respect of the approval and the preparation of any deed of covenant or guarantee and (if appropriate) all fees and charges payable in respect of any reasonable inquiries made by or on behalf of the Landlord concerning any proposed assignee subtenant or guarantor. All such costs shall be payable whether or not the assignment or subletting proceeds.

33.2 Where the Landlord consents to a subletting the consent shall extend only to the subletting and notwithstanding anything contained or implied in the sublease the consent shall not permit any subtenant to deal with the sublease in any way in which the Tenant is restrained from dealing without consent.

33.3 Where any Tenant is a company which is not listed on the main board of a public stock exchange in New Zealand or Australia, then any change in the legal or beneficial ownership of its shares or the shares of its shareholder or issue of new capital in the company or its shareholder where in any case there is a change in the effective management or control of the company will require the written consent of the Landlord which will not be unreasonably withheld or delayed.

UNIT TITLE PROVISIONS

~~34.1 Clause 34 applies where the property is part of a unit title development.~~

~~**Body Corporate**~~

~~34.2 The expression "Body Corporate" means the Body Corporate under the Unit Titles Act 2010 (in subclauses 34.2 to 34.7 "the Act") in respect of the property.~~

~~**Act and Rules Paramount**~~

~~34.3 This lease shall be subject to the provisions of the rules of the Body Corporate and the provisions of the Act.~~

~~**Insurance**~~

~~34.4 Unless the Body Corporate has resolved that the Landlord is to insure the building the Landlord's obligation to insure the building shall be satisfied by the Body Corporate maintaining the same insurance cover in accordance with the Act.~~

Landlord's Obligations

34.5 The Landlord shall observe and perform all of the Landlord's obligations as a member of the Body Corporate and shall use the Landlord's best endeavours to ensure that the Body Corporate complies with its rules and the provisions of the Act.

~~**Tenant's Obligations**~~

~~34.6 The Tenant shall comply with the rules of the Body Corporate and the provisions of the Act to the extent that they apply to the Tenant's use of the property.~~

~~**Consents**~~

~~34.7 Where in this lease the consent of the Landlord is required in respect of any matter then the like consent of the Body Corporate shall also be required if the consent of the Body Corporate to the matter would be necessary under its rules or the Act.~~

CARPARKS

35.1 The Tenant shall have the right to exclusive possession of the leased car parks, but when any car park is not being used by the Tenant other persons shall be entitled to pass over the same.

35.2 The Landlord may carry out repairs to the car parks and no abatement of rent or other compensation shall be claimed by the Tenant except pursuant to subclauses 26.1 or 27.3.

35.3 The Tenant shall comply with the Landlord's reasonable requirements relating to the use of the car parks and access to them and in particular shall only use the car parks for the parking of one motor vehicle per parking space.

35.4 The provisions of the Second Schedule shall apply to the car parks as appropriate.

GENERAL

Holding Over

36.1 If the Landlord permits the Tenant to remain in occupation of the premises after the expiration or sooner determination of the term, the occupation shall be a periodic tenancy only terminable by at least 20 working days notice given at any time with the tenancy terminating on the expiry of the notice at the rent then payable and otherwise on the same covenants and agreements (so far as applicable to a periodic tenancy) as expressed or implied under this lease.

Access for Re-Letting or Sale

37.1 The Tenant will during the term permit the Landlord, the Landlord's representatives and prospective tenants or purchasers to have access to inspect the premises provided that:

(a) Any such inspection is at a time which is reasonably convenient to the Tenant and after reasonable written notice.

(b) The inspection is conducted in a manner which does not cause disruption to the Tenant.

(c) If the Landlord or the Landlord's representatives are not present the persons inspecting have written authority from the Landlord to do so.

Suitability

38.1 No warranty or representation expressed or implied has been or is made by the Landlord that the premises are now suitable or will remain suitable or adequate for use by the Tenant or that any use of the premises by the Tenant will comply with the by-laws or ordinances or other requirements of any authority having jurisdiction.

Affirmation

39.1 A party to this lease shall not be entitled to cancel this lease if, with full knowledge of any repudiation or misrepresentation or breach of covenant, that party affirmed this lease.

Waiver

40.1 No waiver or failure to act by either party in respect of any breach by the other shall operate as a waiver of another breach.

Land Transfer Title or Mortgagee's consent

41.1 The Landlord shall not be required to do any act or thing to enable this lease to be registered or be required to obtain the consent of any mortgagee of the property and the Tenant will not register a caveat in respect of the Tenant's interest under this lease.

Notices

42.1 All notices must be in writing and must be served by one of the following means:

(a) In the case of a notice under sections 245 or 246 of the Property Law Act 2007 in the manner prescribed by section 353 of that Act; and

(b) In all other cases, unless otherwise required by sections 352 to 361 of the Property Law Act 2007:

(1) in the manner authorised by sections 354 to 361 of the Property Law Act 2007, or

(2) by personal delivery, or by posting by registered or ordinary mail, or by facsimile, or by email.

42.2 In respect of the means of service specified in subclause 42.1(b)(2), a notice is deemed to have been served:

(a) In the case of personal delivery, when received by the addressee.

(b) In the case of posting by mail, on the second working day following the date of posting to the addressee's last known address in New Zealand.

(c) In the case of facsimile transmission, when sent to the addressee's facsimile number.

(d) In the case of email, when acknowledged by the addressee orally or by return email or otherwise in writing except that return emails generated automatically shall not constitute an acknowledgement.

42.3 In the case of a notice to be served on the Tenant, if the Landlord is unaware of the Tenant's last known address in New Zealand or the Tenant's facsimile number, any notice placed conspicuously on any part of the premises shall be deemed to have been served on the Tenant on the day on which it is affixed.

42.4 A notice shall be valid if given by any director, general manager, lawyer or other authorised representative of the party giving the notice.

42.5 Where two or more notices are deemed to have been served at the same time, they shall take effect in the order in which they would have been served but for subclause 47.1(p).

42.6 Any period of notice required to be given under this agreement shall be computed by excluding the date of service.

Arbitration

43.1 The parties shall first endeavour to resolve any dispute or difference by agreement and if they agree by mediation.

43.2 Unless any dispute or difference is resolved by mediation or other agreement within 30 days of the dispute or difference arising, the same shall be submitted to the arbitration of one arbitrator who shall conduct the arbitral proceedings in accordance with the Arbitration Act 1996 or any other statutory provision then relating to arbitration.

43.3 If the parties are unable to agree on the arbitrator, an arbitrator shall be appointed, upon request of any party, by the president or vice president of the New Zealand Law Society. That appointment shall be binding on all parties to the arbitration and shall be subject to no appeal. The provisions of Article 11 of the First Schedule of the Arbitration Act 1996 are to be read subject to this and varied accordingly.

43.4 The procedures prescribed in this clause shall not prevent the Landlord from taking proceedings for the recovery of any rent or other monies payable under this lease which remain unpaid or from exercising the rights and remedies in the event of the default prescribed in subclause 28.1.

No Implied Terms

44.1 The covenants, conditions and powers implied in leases pursuant to the Property Law Act 2007 and sections 224 and 266(1)(b) of that Act shall not apply to and are excluded from this lease where allowed.

Limitation of Liability

45.1 If any person enters into this lease as trustee of a trust, then:

(a) That person warrants that:

(1) that person has power to enter into this lease under the terms of the trust; and

(2) that person has properly signed this lease in accordance with the terms of the trust; and

(3) that person has the right to be indemnified from the assets of the trust and that right has not been lost or impaired by any action of that person including entry into this lease; and

(4) all of the persons who are trustees of the trust have approved entry into this lease.

(b) If that person has no right to or interest in any assets of the trust except in that person's capacity as a trustee of the trust, that person's liability under this lease will not be personal and unlimited but will be limited to the actual amount recoverable from the assets of the trust from time to time ("the limited amount"). If the right of that person to be indemnified from the trust assets has been lost or impaired as a result of fraud or gross negligence that person's liability will become personal but limited to the extent of that part of the limited amount which cannot be recovered from any other person.

45.2 Notwithstanding subclause 45.1, a party to this lease that is named in item 17 of the First Schedule as a limited liability trustee, that person's liability will not be personal and unlimited but limited in accordance with subclause 45.1(b).

Counterparts

46.1 This lease may be executed in two or more counterparts, all of which will together be deemed to constitute one and the same lease. A party may enter into this lease by signing a counterpart copy and sending it to the other party, including by facsimile or email.

DEFINITIONS AND INTERPRETATION

47.1 In this lease:

(a) "building services" means all services provided by the Landlord as an integral part of the building for the general use and enjoyment of the building by its tenants or occupants including water, gas, electricity, lighting, air conditioning, heating and ventilation, telecommunications, lifts and escalators whether or not they are located within the premises.

(b) "CPI" means the Consumer Price Index (All Groups) published by Statistics New Zealand or other government agency and any revised, replacement or substituted index.

(c) "Default GST" means any additional GST, penalty (civil or otherwise), interest, or other sum imposed on the Landlord (or where the Landlord is or was a member of a GST group its representative member) under the GST Act or the Tax Administration Act 1994 by reason of non-payment of any GST payable in respect of the supply made under this lease but does not include any sum levied against the Landlord (or where the Landlord is or was a member of a GST group its representative member) by reason of a default or delay by the Landlord after payment of the GST to the Landlord by the Tenant.

(d) "emergency" for the purposes of subclause 27.5 means a situation that:

(1) is a result of any event, whether natural or otherwise, including an explosion, earthquake, eruption, tsunami, land movement, flood, storm, tornado, cyclone, serious fire, leakage or spillage of any dangerous gas or substance, infestation, plague, epidemic, failure of or disruption to an emergency service; and

(2) causes or may cause loss of life or serious injury, illness or in any way seriously endangers the safety of the public or property; and

(3) the event is not caused by any act or omission of the Landlord or Tenant.

(e) "GST" means the Goods and Services Tax arising pursuant to the Goods and Services Tax Act 1985 and "GST Act" means the Goods and Services Tax Act 1985.

(f) "premises" includes all the Landlord's fixtures and fittings provided by the Landlord and those set out in the Fifth Schedule.

(g) "premises condition report" means the report as set out in the Sixth Schedule.

(h) "renewal" means the granting of a new lease as provided for in subclause 32.1.

(i) "rules" in clause 34 means the Body Corporate operational rules under the Unit Titles Act 2010 and any amendments to those rules or replacement rules.

(j) "structural repair" means a repair, alteration or addition to the structure or fabric of the building but excluding building services.

(k) "term" includes, where the context requires, a further term if the lease is renewed.

(l) "the common areas" means those parts of the property the use of which is necessary for the enjoyment of the premises and which is shared with other tenants and occupiers.

(m) "the Landlord" and "the Tenant" means where appropriate the executors, administrators, successors and permitted assigns of the Landlord and the Tenant.

(n) "the property" and "the building" mean the land, building(s) or improvements of the Landlord which comprise or contain the premises. Where the premises are part of a unit title development the words "the property" mean the land and building(s) comprised in the development.

(o) "those for whom the Tenant is responsible" includes the Tenant's agents employees contractors or invitees.

(p) "working day" has the meaning given to it in the Property Law Act 2007. Notices served after 5pm on a working day, or on a day which is not a working day, shall be deemed to have been served on the next succeeding working day.

(q) A reference in this lease to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.

(r) A reference to the words "include" or "including" are to be interpreted without limitation.

(s) If any inserted term (including any Further Term in the Third Schedule) conflicts with the covenants in the First, Second and Fourth Schedules, the inserted term will prevail.

(t) Whenever words appear in this lease that also appear in the First Schedule then those words shall mean and include the details supplied after them in the First Schedule.

(u) Where the context requires or admits, words importing the singular shall import the plural and vice versa.

(v) Where the Landlord's consent or approval to any matter is required under this lease then, unless expressly stated to the contrary in this lease, in each case the Landlord:

(1) must not unreasonably withhold consent or approval, and

(2) must, within a reasonable time of the Landlord's consent or approval being requested:

(i) grant that consent or approval; or

(ii) notify the Tenant in writing that the consent or approval is withheld.

THIRD SCHEDULE

FURTHER TERMS (if any)

See attached

1. Clause 16.2 shall be deemed to be deleted and replaced with the following:

16.2 If any change in use requires compliance with Sections 114 and 115 of the Building Act 2004 then the Tenant shall comply with the requirements of Sections 114 and 115 and notwithstanding the provisions of the Clause 21 of this lease the Tenant shall pay:

(a) All compliance costs: and

(b) The costs of all structural repairs or other structural works or repairs or works to services within the premises or the property of which the premises forms part; and

(c) Any increases or additional outgoings which result from any change of use throughout the term of the lease and the outgoings listed in the First Schedule shall be deemed to be amended accordingly.

2. The following clause shall be added as Clause 21.6:

21.6 The Tenant indemnifies the Landlord against all fines, penalties, costs, actions, demands, losses, damages and expenses for which the landlord shall or may become liable (whether in the Landlords capacity as the owner of the premises or otherwise) in respect of the Tenant's failure to observe or otherwise comply with any stature or regulation including but without limitation, the Resource Management Act 1991, the Building Act 2004 and the Health and Safety at Work Act 2015 ("HSW Act").

3. The following clause shall be added as clause 21.7

21.7 The Tenant shall do all things necessary as the occupier of the premises to comply with the HSW Act including but without limitation:

(a) Take all practical steps to ensure that any person in or on the premises or the Building of which the premises forms part or in the vicinity of the premises or the building is not harmed by any hazard arising in or on the premises. and

(b) Comply with any notice issued pursuant to Section 101 of the HSW Act unless the work required by the notice would otherwise be work required by the provisions of this lease to be undertaken by the Landlord.

For the purpose of this clause "Hazard" shall have the same meaning as in section 16 of the HSW Act;

FOURTH SCHEDULE

GUARANTEE

IN CONSIDERATION of the Landlord entering into the lease at the Guarantor's request the Guarantor:

(a) Guarantees payment of the rent and the performance by the Tenant of the covenants in the lease.

(b) Indemnifies the Landlord against any loss the Landlord might suffer should the lease be lawfully disclaimed or abandoned by any liquidator, receiver or other person.

THE GUARANTOR covenants with the Landlord that:

1. No release delay or other indulgence given by the Landlord to the Tenant or to the Tenant's successors or assigns or any other thing by which the Guarantor would have been released had the Guarantor been merely a surety shall release prejudice or affect the liability of the Guarantor as a guarantor or as indemnifier.
2. As between the Guarantor and the Landlord the Guarantor may for all purposes be treated as the Tenant and the Landlord shall be under no obligation to take proceedings against the Tenant before taking proceedings against the Guarantor.
3. The guarantee and indemnity is for the benefit of and may be enforced by any person entitled for the time being to receive the rent.
4. An assignment of the lease and any rent review in accordance with the lease shall not release the Guarantor from liability.
5. Should there be more than one Guarantor their liability under this guarantee and indemnity shall be joint and several.
6. The Guarantee and indemnity shall extend to any holding over by the Tenant.

FIFTH SCHEDULE

LANDLORD'S FIXTURES AND FITTINGS

(Subclause 47.1(f))

SIXTH SCHEDULE

PREMISES CONDITION REPORT

(Subclause 8.1)



Dated

Between
DESMOND BERNARD QUINN and ALLAN JAMES ALBERT CLARK

Landlord

and
FINDLAY DYKZEUL LIMITED

Tenant

and
NICHOLAS JOHN DYKZEUL

Guarantor

DEED OF LEASE

General address of the premises:
49 Jellicoe Street, Te Puke

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REF. 4035

DEED OF LEASE

Sixth Edition 2012 (5)

GENERAL address of the premises:
49 Jellicoe Street, Te Puke

DATE: 30 June 2020

LANDLORD:
DESMOND BERNARD QUINN of Whangarei and ALLAN JAMES ALBERT CLARK of Te Puke

TENANT:
NBA LIMITED

GUARANTOR:
MICHAEL MAJOR ATTWOOD and NICHOLA ANN BURLEY

THE LANDLORD leases to the Tenant and the Tenant takes on lease the premises and the car parks (if any) described in the First Schedule together with the right to use the common areas of the property for the term from the commencement date and at the annual rent (subject to review if applicable) as set out in the First Schedule.

THE LANDLORD AND TENANT covenant as set out in the First, Second and Third Schedules.

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

SIGNED by the Landlord

in the presence of:

J.a. Clark

Signature of Landlord

ALLAN JAMES ALBERT CLARK.

Print Full Name

Director / Trustee / Authorised Signatory / Attorney*

Delete the options that do not apply

If no option is deleted, the signatory is signing in their personal capacity

Witness Signature

Allan Michael Nobilo

Witness Name

Retired

Witness Occupation

17 Waimarama Close

Witness Address

Paremoa

WITNESS to signature of Desmond Bernard Quinn

D. Quinn

Signature of Landlord

Desmond Bernard Quinn

Print Full Name

Director / Trustee / Authorised Signatory / Attorney*

Delete the options that do not apply

If no option is deleted, the signatory is signing in their personal capacity

GRAEME J MATHIAS
SOLICITOR
WHANGAREI

SIGNED by the Tenant

in the presence of:

Signature of Tenant

Nichola Ann Burley

Print Full Name

Director / Trustee / Authorised Signatory / Attorney*

Delete the options that do not apply

If no option is deleted, the signatory is signing in their personal capacity

Witness Signature

Witness Name

Witness Occupation

Witness Address

Signature of Tenant

Print Full Name

Director / Trustee / Authorised Signatory / Attorney*

Delete the options that do not apply

If no option is deleted, the signatory is signing in their personal capacity

Note: If signing by a company or as an Attorney - please refer to the notes on page 3

SIGNED by the Guarantor

in the presence of:

Signature of Guarantor

Nicola Ann Burley

Print Full Name

Director / Trustee / Authorised Signatory / Attorney*

Delete the options that do not apply

If no option is deleted, the signatory is signing in their personal capacity

Witness Signature

Witness Name **Deborah Evelyn Lake**

Practice Manager

Witness Occupation **Burley Attwood Law TAURANGA**

Witness Address

Signature of Guarantor

Print Full Name

Director / Trustee / Authorised Signatory / Attorney*

Delete the options that do not apply

If no option is deleted, the signatory is signing in their personal capacity

* If this agreement is signed under:

(i) a Power of Attorney – please attach a **Certificate of non-revocation** (ADLS form code: 4098WFP); or

(ii) an Enduring Power of Attorney – please attach a **Certificate of non-revocation and non-suspension of the enduring power of attorney** (ADLS form code: 4997WFP).

Also insert the following wording for the Attorney's Signature above:

Signed by [full name of the donor] by his or her Attorney [attorney's signature].

Note: Signing by a company – Companies must sign this document in accordance with section 180 of the Companies Act 1993, to ensure it is binding as a deed. In general, this means:

(a) if there are two or more directors of the company, two directors must sign and no witnessing is necessary;

(b) if there is only one director of the company, that director signs and the signature must be witnessed.

Other methods of signing may be permitted by the company's constitution or if an attorney has been appointed.

FIRST SCHEDULE

1. **PREMISES:** **All the offices shown edged in blue on the annexed plan situated on the first floor in the Westpac Building at 49 Jellicoe Street, Te Puke constructed on all that piece of land containing 503m2 more or less being Lot 1 DP S16001 Record of title SA14C/840 TOGETHER WITH the use, in common with the Landlord and her other upstairs tenants, their invitees and all other persons lawfully entitled of the stairs to such first floor premises from Jellicoe Street and the foyer and access ways at the top of such stairs and the toilets and kitchen such common areas outlined in green on the plan attached**

2. **CAR PARKS:** **Nil**

3. **TERM:** **Six (6) years**

4. **COMMENCEMENT DATE:** **1 July 2019**

5. **RIGHTS OF RENEWAL:** **Three (3) of two (2) years duration each**

6. **RENEWAL DATES:** **1 July 2025, 1 July 2027, 1 July 2029**

7. **FINAL EXPIRY DATE:** **30 June 2031**

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

Premises	**$ 27,792.00**	**plus** GST
Car Parks	**$**	**plus** GST
TOTAL	**$ 27,792.00**	**plus** GST

9. **MONTHLY RENT:** **$ 2,316.00** **plus** GST

10. **RENT PAYMENT DATES:** The **1st** day of each month commencing on the **1st** day of **July** 20**19**

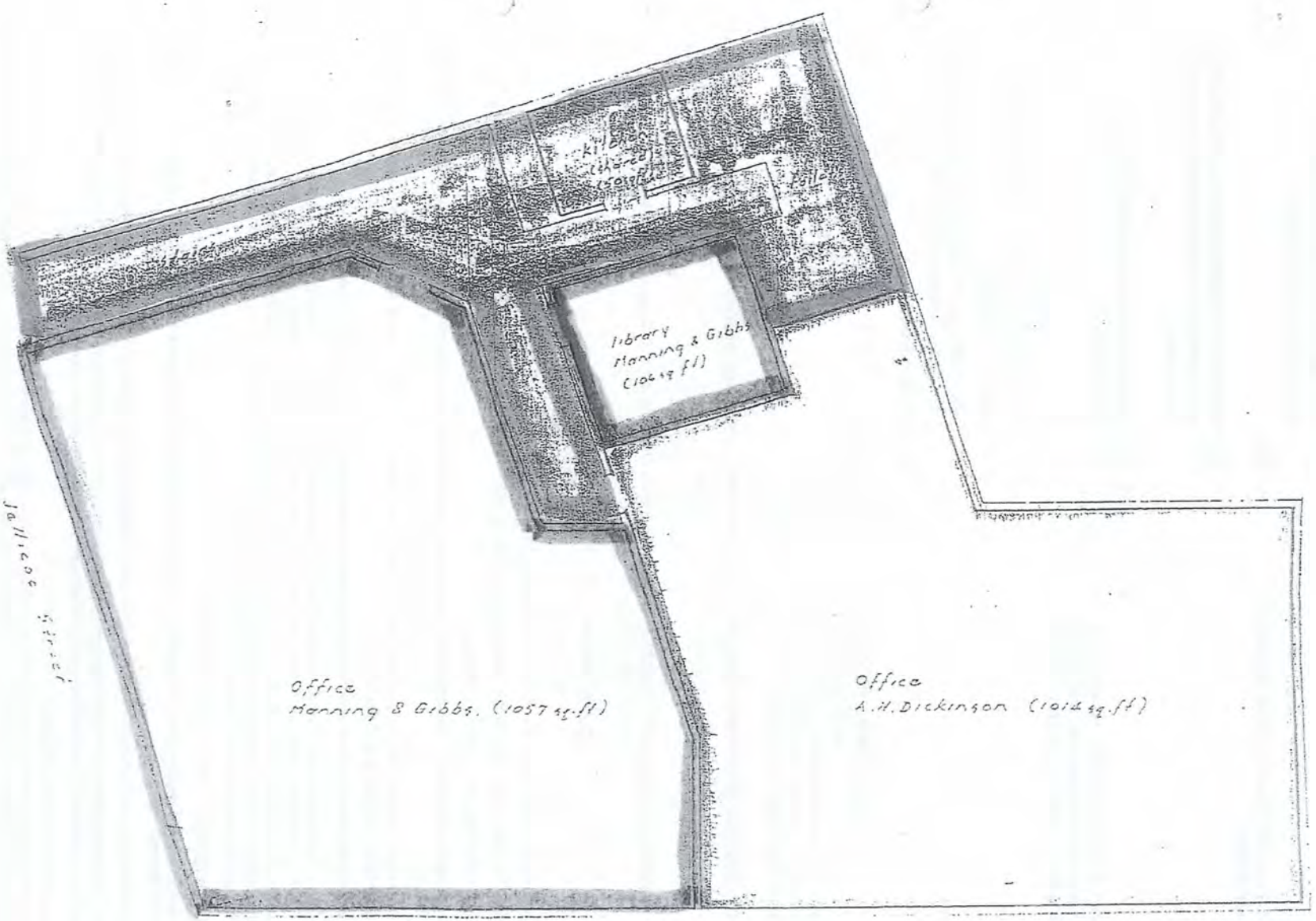
11. **RENT REVIEW DATES:** (Specify review type and insert dates for initial term, renewal dates and renewal terms. Unless dates are specified there will be no reviews. Where there is a conflict in dates, the market rent review date will apply.)

1. Market rent review dates:
   1 July 2021, 1 July 2023, 1 July 2025, 1 July 2027, 1 July 2029

2. CPI rent review dates:
   NA

12. **DEFAULT INTEREST RATE:** (subclause 5.1) **15** % per annum

13. **BUSINESS USE:** **Law Office** (subclause 16.1)


Library
Manning & Gibbs
(1064 sf)
Office
Manning & Gibbs. (1057 sq.ft)
Office
A.H. Dickinson (1014 sq.ft)

14. LANDLORD'S INSURANCE: (subclause 23.1)

(Delete or amend extent of cover as appropriate)

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

(Delete either (a) or (b): if neither option is deleted, then option (a) applies)

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

~~OR~~

~~(b) Indemnity to full insurable value (including loss damage or destruction of windows and other glass).~~

(2) Cover for the following additional risks:

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

(a) (i) 12 months

OR

(ii) months

indemnity in respect of consequential loss of rent and outgoings.

(b) Loss damage or destruction of any of the Landlord's fixtures fittings and chattels.

(c) Public liability

15. NO ACCESS PERIOD: (subclause 27.6)

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

(1) 9 months

OR

(2)

16. PROPORTION OF OUTGOINGS: (subclause 3.1)

23.86 **%** which at commencement date is estimated to be **$** **Plus** GST per annum

17. LIMITED LIABILITY TRUSTEE: (subclause 45.2)

Desmond Bernard Quinn and Allan James Albert Clark

18. OUTGOINGS: (clause 3)

(1) Rates or levies payable to any local or territorial authority.

(2) Charges for water, gas, electricity, telecommunications and other utilities or services, including line charges.

(3) Rubbish collection and recycling charges.

~~(4) New Zealand Fire Service charges and the maintenance charges in respect of all fire detection and fire fighting equipment.~~

(5) Any insurance excess (but not exceeding $2,000) in respect of a claim and insurance premiums and related valuation fees (subject to subclause 23.2).

~~(6) Service contract charges for air conditioning, lifts, other building services and security services.~~

(7) Interior / Cleaning, maintenance and repair charges including charges for repainting, decorative repairs and the maintenance and repair of building services to the extent that such charges do not comprise part of the cost of a service maintenance contract, but excluding charges for structural repairs to the building (minor repairs to the roof of the building shall not be a structural repair), repairs due to defects in design or construction, inherent defects in the building and renewal or replacement of building services.

(8) The provisioning of toilets and other shared facilities.

~~(9) The cost of maintenance of lawns, gardens and planted areas including plant hire and replacement, and the cost of repair of fences.~~

~~(10) Yard and car parking area maintenance and repair charges but excluding charges for repaving or resealing.~~

~~(11) Body Corporate charges for any insurance premiums under any insurance policy effected by the Body Corporate and related valuation fees and reasonable management administration expenses.~~

(12) Management expenses (subject to subclause 3.7).

(13) The costs incurred and payable by the Landlord in supplying to the territorial authority a building warrant of fitness and obtaining reports as required by sections 108 and 110 of the Building Act 2004 but excluding the costs of upgrading or other work to make the building comply with the Building Act 2004.

(14) Cleaning and day to day maintenance of the common areas including stairs, accessways, toilets and kitchen.

(15) Maintenance of all air-conditioning units as installed by the Landlord.

SECOND SCHEDULE

TENANT'S PAYMENTS

Rent

1.1 The Tenant shall pay the annual rent by equal monthly payments in advance (or as varied pursuant to any rent review) on the rent payment dates. The first monthly payment (together with rent calculated on a daily basis for any period from the commencement date of the term to the first rent payment date) shall be payable on the first rent payment date. All rent shall be paid without any deductions or set-off by direct payment to the Landlord or as the Landlord may direct.

Market Rent Review

2.1 The annual rent payable as from each market rent review date (except for a market rent review date that is a renewal date) shall be determined as follows:

(a) Either party may not earlier than 3 months prior to a market rent review date and not later than the next rent review date (regardless of whether the next rent review date is a market or CPI rent review date) give written notice to the other party specifying the annual rent proposed as the current market rent as at the relevant market rent review date.

(b) If the party receiving the notice ("the Recipient") gives written notice to the party giving the notice ("the Initiator") within 20 working days after service of the Initiator's notice disputing the annual rent proposed and specifying the annual rent proposed by the Recipient as the current market rent, then the new rent shall be determined in accordance with subclause 2.2.

(c) If the Recipient fails to give such notice (time being of the essence) the Recipient shall be deemed to have accepted the annual rent specified in the Initiator's notice and the extension of time for commencing arbitration proceedings contained in the Arbitration Act 1996 shall not apply.

(d) Notwithstanding any other provision of this clause, the annual rent payable as from the relevant market rent review date shall not be less than the annual rent payable as at the commencement date of the then current lease term.

(e) The annual rent agreed, determined or imposed pursuant to subclause 2.1 shall be the annual rent payable as from the relevant market rent review date, or the date of service of the Initiator's notice if such notice is served later than 3 months after the relevant market rent review date but subject to subclause 2.3 and 2.4.

(f) The market rent review at the option of either party may be recorded in a deed.

Rent Determinations

2.2 Immediately following service of the Recipient's notice on the Initiator, the parties shall endeavour to agree upon the current market rent, but if agreement is not reached within 10 working days then the new rent may be determined either:

(a) By one party giving written notice to the other requiring the new rent to be determined by arbitration; or

(b) If the parties so agree by registered valuers acting as experts and not as arbitrators as follows:

(1) Each party shall appoint a valuer and give written notice of the appointment to the other party within 20 working days of the parties agreeing to so determine the new rent.

(2) If the party receiving a notice fails to appoint a valuer within the 20 working day period then the valuer appointed by the other party shall determine the new rent and such determination shall be binding on both parties.

(3) The valuers appointed before commencing their determination shall appoint a third expert who need not be a registered valuer. If the parties cannot agree on the third expert, the appointment shall be made on the application of either party by the president or vice president for the time being of The New Zealand Institute of Valuers.

(4) The valuers appointed by the parties shall determine the current market rent of the premises but if they fail to agree then the rent shall be determined by the third expert.

(5) Each party shall be given the opportunity to make written or oral representations subject to such reasonable time and other limits as the valuers or the third expert may prescribe and they shall have regard to any of the representations but not be bound by them.

(6) The parties shall jointly and severally indemnify the third expert for their costs. As between the parties, they will share the costs equally. A party may pay the other party's share of the costs and recover the payment on demand from the other party.

(7) If the parties agree, they may release the third expert from liability for negligence in acting as third expert in accordance with this subclause 2.2.

When the new rent has been determined the person or persons determining it shall give written notice of it to the parties. The notice shall provide as to how the costs of the determination shall be borne and it shall be binding on the parties.

Interim Market Rent

2.3 Pending determination of the new rent, the Tenant shall from the relevant market rent review date, or the date of service of the Initiator's notice if the notice is served later than 3 months after the relevant market rent review date, until the determination of the new rent pay an interim rent as follows:

(a) if both parties supply a registered valuer's certificate substantiating the new rents proposed, the interim rent payable shall be half way between the new rents proposed by the parties; or

(b) if only one party supplies a registered valuer's certificate, the interim rent payable shall be the rent substantiated by the certificate; or

(c) if no registered valuer's certificates are supplied, the interim rent payable shall be the rent payable immediately prior to the relevant market rent review date,

but in no circumstances shall the interim rent be less than the rent payable as at the commencement date of the then current lease term.

The interim rent shall be payable with effect from the relevant market rent review date, or the date of service of the Initiator's notice if the notice is served later than 3 months after the relevant market rent review date and, subject to subclause 2.4, shall not be subject to adjustment.

2.4 Upon determination of the new rent, any overpayment shall be applied in payment of the next month's rent and any amount then remaining shall immediately be refunded to the Tenant. Any shortfall in payment shall immediately be payable by the Tenant.

CPI Rent Review

2.5 The annual rent payable from each CPI rent review date shall be determined as follows:

(a) The Landlord shall adjust the annual rent on the basis of increases (and not decreases) in the CPI by giving notice to the Tenant of the increase (if any) using the formula:

A = B x (C÷D)

Where:

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

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

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

D = CPI for the quarter year ending immediately before the last rent review date or if there is no previous rent review date, the commencement date of the then current term of the lease (and in the case where A is the CPI reviewed rent for a renewal date then the last rent review date of the immediate preceding lease term or if there is no rent review date the commencement date of the preceding term)

where (C÷D) shall not be less than 1.

(b) If the CPI is discontinued and not replaced, or if there is a material change to the basis of calculation of the CPI, or a resetting of the CPI, an appropriate index which reflects the change in the cost of living in New Zealand as agreed by the parties and failing agreement to be determined by an expert appointed by the president or vice president of the New Zealand Law Society will be used.

(c) If the relevant CPI is not published at the relevant CPI rent review date, as soon as the CPI is published an appropriate adjustment will be made to the rent (if necessary) with effect from the relevant CPI rent review date.

(d) Notwithstanding any other provision of subclause 2.5, the annual rent payable as from the relevant CPI rent review date shall not be less than the annual rent payable immediately preceding the CPI rent review date (and in the case where the relevant CPI rent review date is a renewal date, the annual rent payable at the expiry of the preceding term).

2.6 The new rent determined pursuant to subclause 2.5 shall be payable from the relevant CPI rent review date once it is determined by the Landlord giving notice under that subclause. Pending determination of the new rent, the Tenant will pay the rent that applies prior to the CPI rent review date. On determination of the new rent, the Tenant will immediately pay any shortfall to the Landlord.

Outgoings

3.1 The Tenant shall pay the outgoings properly and reasonably incurred in respect of the property which are specified in the First Schedule. Where any outgoing is not separately assessed or levied in respect of the premises then the Tenant shall pay such proportion of it as is specified in the First Schedule or if no proportion is specified then such fair proportion as shall be agreed or failing agreement determined by arbitration.

3.2 The Landlord shall vary the proportion of any outgoing payable to ensure that the Tenant pays a fair proportion of the outgoing.

3.3 If any outgoing is rendered necessary by another tenant of the property or that tenant's employees, contractors or invitees causing damage to the property or by another tenant failing to comply with that tenant's leasing obligations, then that outgoing shall not be payable by the Tenant.

3.4 The outgoings shall be apportioned between the Landlord and the Tenant in respect of periods current at the commencement and termination of the term.

3.5 The outgoings shall be payable on demand or if required by the Landlord by monthly instalments on each rent payment date of a reasonable amount as the Landlord shall determine calculated on an annual basis. Where any outgoing has not been taken into account in determining the monthly instalments it shall be payable on demand.

3.6 After the 31st March in each year of the term or other date in each year as the Landlord may specify, and after the end of the term, the Landlord shall supply to the Tenant reasonable details of the actual outgoings for the year or period then ended. Any over payment shall be credited or refunded to the Tenant and any deficiency shall be payable to the Landlord on demand.

3.7 Any profit derived by the Landlord and if a company by its shareholders either directly or indirectly from the management of the property shall not comprise part of the management expenses payable as an outgoing.

Goods and Services Tax

4.1 The Tenant shall pay to the Landlord or as the Landlord shall direct the GST payable by the Landlord in respect of the rental and other payments payable by the Tenant under this lease. The GST in respect of the rental shall be payable on each occasion when any rental payment falls due for payment and in respect of any other payment shall be payable upon demand.

4.2 If the Tenant shall make default in payment of the rental or other moneys payable under this lease and the Landlord becomes liable to pay Default GST then the Tenant shall on demand pay to the Landlord the Default GST in addition to interest payable on the unpaid GST under subclause 5.1.

Interest on Unpaid Money

5.1 If the Tenant defaults in payment of the rent or other moneys payable under this lease for 10 working days then the Tenant shall pay on demand interest at the default interest rate on the moneys unpaid from the due date for payment to the date of payment.

5.2 Unless a contrary intention appears on the front page or elsewhere in this lease the default interest rate is equivalent to the interest rate charged by the Inland Revenue Department on unpaid tax under the Tax Administration Act 1994 during the period for which the default interest is payable, plus 5 per cent per annum.

Costs

6.1 ~~Each party~~ **The Tenant** will pay ~~their own~~ **the Landlord's** costs of the negotiation and preparation of this lease and any deed recording a rent review or renewal. The Tenant shall pay the Landlord's reasonable costs incurred in considering any request by the Tenant for the Landlord's consent to any matter contemplated by this lease, and the Landlord's legal costs (as between lawyer and client) of and incidental to the enforcement of the Landlord's rights remedies and powers under this lease.

LANDLORD'S PAYMENTS

Outgoings

7.1 Subject to the Tenant's compliance with the provisions of clause 3 the Landlord shall pay all outgoings in respect of the property not payable by the Tenant direct. The Landlord shall be under no obligation to minimise any liability by paying any outgoing or tax prior to receiving payment from the Tenant.

MAINTENANCE AND CARE OF PREMISES

Tenant's Obligations

8.1 The Tenant shall be responsible to:

(a) **Maintain the premises**

In a proper and workmanlike manner and to the reasonable requirements of the Landlord keep and maintain the interior of the premises in the same clean order repair and condition as they were in at the commencement date of this lease (or where the lease is renewed, the commencement date of the initial term of this lease) and will at the end or earlier determination of the term quietly yield up the same in the like clean order repair and condition. The premises condition report (if completed) shall be evidence of the condition of the premises at the commencement date of this lease. In each case the Tenant shall not be liable for fair wear and tear arising from reasonable use.

(b) **Breakages and minor replacements**

Repair or replace glass breakages with glass of the same or better weight and quality, repair breakage or damage to all doors windows light fittings and power points of the premises and replace light bulbs, tubes and power points that wear out with items of the same or better quality and specification.

(c) **Painting**

Paint and decorate those parts of the interior of the premises which have previously been painted and decorated as at the commencement date of this lease (or where the lease is renewed the commencement date of the initial term of this lease) when they reasonably require repainting and redecoration to a specification as approved by the Landlord such approval not to be unreasonably withheld.

(d) **Floor coverings**

Keep all floor coverings in the premises clean and replace all floor coverings worn or damaged other than by fair wear and tear with floor coverings of the same or better quality, specification and appearance ~~when reasonably required by the Landlord~~.

(e) **Damage or Loss**

Make good any damage to the property or loss caused by improper careless or abnormal use by the Tenant or those for whom the Tenant is responsible, to the Landlord's reasonable requirements.

8.2 Where the Tenant is leasing all of the property, the Tenant shall:

(a) **Care of grounds**

Keep any grounds yards and surfaced areas in a clean and tidy condition and maintain any garden or lawn areas in a tidy and cared for condition.

(b) **Water and drainage**

Keep and maintain the storm or waste water drainage system including downpipes and guttering clear and unobstructed.

(c) **Other works**

Carry out those works maintenance and repairs to the property as the Landlord may require in respect of which outgoings are payable by the Tenant.

8.3 Notwithstanding subclause 8.1(a) the Tenant shall not be liable for the maintenance or repair of any building services but this subclause shall not release the Tenant from any obligation to pay for the cost of any service maintenance contract or charges in respect of the maintenance or repair of the building services if it is an outgoing specified in the First Schedule but only to the extent specified in the First Schedule.

8.4 Notwithstanding any other provision of this lease, the Tenant shall not be liable to repair any inherent defect in the premises nor to pay any outgoings incurred by the Landlord in remedying any inherent defect.

8.5 If the Landlord shall give the Tenant written notice of any failure on the part of the Tenant to comply with any of the requirements of subclauses 8.1 or 8.2 the Tenant shall with all reasonable speed so comply.

Toilets

9.1 The toilets sinks and drains shall be used for their designed purposes only and no substance or matter shall be deposited in them which could damage or block them.

Rubbish Removal

10.1 The Tenant shall regularly cause all of the Tenant's rubbish and recycling to be removed from the premises and will keep the Tenant's rubbish bins or containers in a tidy condition. The Tenant will also at the Tenant's own expense cause to be removed all trade waste boxes and other goods or rubbish not removable in the ordinary course by the local authority.

Landlord's Maintenance

11.1 The Landlord shall keep and maintain the building, all building services and the car parks in good order and repair and weatherproof but the Landlord shall not be liable for any:

(a) Repair or maintenance which the Tenant is responsible to undertake.

(b) Want of repair or defect in respect of building services, so long as the Landlord is maintaining a service maintenance contract covering the work to be done, or where the building services have not been supplied by the Landlord.

(c) Repair or maintenance which is not reasonably necessary for the Tenant's use and enjoyment of the premises and the car parks.

(d) Loss suffered by the Tenant arising from any want of repair or defect unless the Landlord shall have received notice in writing of that from the Tenant and has not within a reasonable time after that taken appropriate steps to remedy the same.

11.2 The Landlord shall keep and maintain service maintenance contracts for lifts, air-conditioning and at the Landlord's option any other building services supplied by the Landlord. Whenever building services cannot be maintained in good order and repair through regular maintenance, the Landlord will if reasonably required replace the services with services of a similar type and quality.

11.3 The Tenant shall be liable to reimburse the Landlord for the cost of any such repair, maintenance or service contract pursuant to subclauses 11.1 and 11.2 if it is an outgoing specified in the First Schedule but only to the extent specified in the First Schedule.

Notification of Defects

12.1 The Tenant shall give to the Landlord prompt written notice of any accident to or defect in the premises of which the Tenant may be aware and in particular in relation to any pipes or fittings used in connection with the water electrical gas or drainage services.

Landlord's Right of Inspection

13.1 The Landlord and the Landlord's employees contractors and invitees may at all reasonable times and after having given prior written notice to the Tenant (except in the case of emergencies) enter upon the premises to view their condition.

Landlord may Repair

14.1 If default shall be made by the Tenant in the due and punctual compliance with any repair notice given by the Landlord pursuant to this lease, or if any repairs for which the Tenant is responsible require to be undertaken as a matter of urgency then without prejudice to the Landlord's other rights and remedies expressed or implied the Landlord may by the Landlord's employees and contractors with all necessary equipment and material at all reasonable times and on reasonable notice (except in the case of emergencies) enter the premises to execute the works. Any moneys expended by the Landlord in executing the works shall be payable by the Tenant to the Landlord upon demand together with interest on the moneys expended at the default interest rate from the date of expenditure to the date of payment.

Access for Works

15.1 The Tenant shall permit the Landlord and the Landlord's employees and contractors at all reasonable times and on reasonable written notice (except in the case of emergencies) to enter the premises for a reasonable period to inspect and carry out works to the premises or adjacent premises and to install inspect repair renew or replace any services where they are not the responsibility of the Tenant or are required to comply with the requirements of any statutes, regulations, by-law or requirement of any competent authority. All repairs inspections and works shall be carried out with the least possible inconvenience to the Tenant subject to subclauses 15.3 and 15.4.

15.2 If the Tenant's business use of the premises is materially disrupted because of the Landlord's works provided for in subclause 15.1, then during the period the works are being carried out a fair proportion of the rent and outgoings shall cease to be payable but without prejudice to the Tenant's rights if the disruption is due to a breach by the Landlord of the Landlord's obligation, under subclause 15.1, to cause the least possible inconvenience to the Tenant.

15.3 If in the Landlord's reasonable opinion, the Landlord requires the Tenant to vacate the whole or part of the premises to enable the works referred to in subclause 15.1 to be carried out, the Landlord may give the Tenant reasonable written notice requiring the Tenant to vacate the whole or part of the premises and specifying a reasonable period for which the Landlord requires possession. On the expiry of the notice the Landlord may take possession of the premises or the part specified in the notice. A fair proportion of the rent and outgoings shall cease to be payable during the period the Tenant vacates the premises as required by the Landlord.

15.4 The Landlord shall act in good faith and have regard to the nature, extent and urgency of the works when exercising the Landlord's right of access or possession in accordance with subclauses 15.1 and 15.3.

USE OF PREMISES

Business Use

16.1 The Tenant shall not without the prior written consent of the Landlord use or permit the whole or any part of the premises to be used for any use other than the business use. The Landlord's consent shall not be unreasonably or arbitrarily withheld or delayed in respect of any proposed use which is:

(a) not in substantial competition with the business of any other occupant of the property which might be affected by the use; and

(b) reasonably suitable for the premises; and

(c) compliant with the requirements of the Resource Management Act 1991 or any other statutory provisions relating to resource management.

If any change in use renders any increased or extra premium payable in respect of any policy or policies of insurance on the premises the Landlord as a condition of granting consent may require the Tenant to pay the increased or extra premium.

16.2 See Attached ~~If any change in use requires compliance with sections 114 and 115 of the Building Act 2004 the Landlord, as a condition of granting consent, may require the Tenant to comply with sections 114 and 115 of the Act and to pay all compliance costs.~~

16.3 If the premises are a retail shop the Tenant shall keep the premises open for business during usual trading hours and fully stocked with appropriate merchandise for the efficient conduct of the Tenant's business.

Lease of Premises and Car Parks Only

17.1 The tenancy shall relate only to the premises and the car parks (if any) and the Landlord shall at all times be entitled to use occupy and deal with the remainder of the property without reference to the Tenant and the Tenant shall have no rights in relation to it other than the rights of use under this lease.

Neglect of Other Tenant

18.1 The Landlord shall not be responsible to the Tenant for any act or default or neglect of any other tenant of the property.

Signage

19.1 The Tenant shall not affix paint or exhibit or permit to be affixed painted or exhibited any name sign name-plate signboard or advertisement of any description on or to the exterior of the building without the prior approval in writing of the Landlord but approval shall not be unreasonably or arbitrarily withheld or delayed in respect of signage describing the Tenant's business. If approved the signage shall be secured in a substantial and proper manner so as not to cause any damage to the building or any person and the Tenant shall at the end or sooner determination of the term remove the signage and make good any damage occasioned in connection with the signage.

Additions, Alterations, Reinstatement and Chattels Removal

20.1 The Tenant shall neither make nor allow to be made any alterations or additions to any part of the premises or alter the external appearance of the building without first producing to the Landlord on every occasion plans and specifications and obtaining the written consent of the Landlord (not to be unreasonably or arbitrarily withheld or delayed) for that purpose. If the Landlord authorises any alterations or additions which are made before the commencement date or during the term of this lease the Tenant will at the Tenant's own expense if required by the Landlord no later than the end or earlier termination of the term reinstate the premises. Ownership of the alterations or additions that are not removed by the end or earlier termination of the lease may at the Landlord's election pass to the Landlord without compensation payable to the Tenant. If the Tenant fails to reinstate then any costs incurred by the Landlord in reinstating the premises whether in whole or in part, within 6 months of the end or earlier termination of the term shall be recoverable from the Tenant.

20.2 The Tenant, when undertaking any "building work" to the premises (as that term is defined in the Building Act 2004), shall comply with all statutory requirements including the obtaining of building consents and code compliance certificates pursuant to that Act and shall provide copies of the building consents and code compliance certificates to the Landlord.

1. Clause 16.2 shall be deemed to be deleted and replaced with the following:

   16.2 If any change in use requires compliance with Sections 114 and 115 of the Building Act 2004 then the Tenant shall comply with the requirements of Sections 114 and 115 and notwithstanding the provisions of the Clause 21 of this lease the Tenant shall pay:

   (a) All compliance costs: and

   (b) The costs of all structural repairs or other structural works or repairs or works to services within the premises or the property of which the premises forms part; and

   (c) Any increases or additional outgoings which result from any change of use throughout the term of the lease and the outgoings listed in the First Schedule shall be deemed to be amended accordingly.

2. The following clause shall be added as Clause 21.6:

   21.6 The Tenant indemnifies the Landlord against all fines, penalties, costs, actions, demands, losses, damages and expenses for which the landlord shall or may become liable (whether in the Landlords capacity as the owner of the premises or otherwise) in respect of the Tenant's failure to observe or otherwise comply with any stature or regulation including but without limitation, the Resource Management Act 1991, the Building Act 2004 and the Health and Safety at Work Act 2015 ("HSW Act").

3. The following clause shall be added as clause 21.7

   21.7 The Tenant shall do all things necessary as the occupier of the premises to comply with the HSW Act including but without limitation:

   (a) Take all practical steps to ensure that any person in or on the premises or the Building of which the premises forms part or in the vicinity of the premises or the building is not harmed by any hazard arising in or on the premises. and

   (b) Comply with any notice issued pursuant to Section 101 of the HSW Act unless the work required by the notice would otherwise be work required by the provisions of this lease to be undertaken by the Landlord.

   For the purpose of this clause "Hazard" shall have the same meaning as in section 16 of the HSW Act;

20.3 The Tenant may at any time before and will if required by the Landlord no later than the end or earlier termination of the term remove all the Tenant's chattels. In addition to the Tenant's obligations to reinstate the premises pursuant to subclause 20.1 the Tenant will make good at the Tenant's own expense all resulting damage and if the chattels are not removed by the end or earlier termination of the term ownership of the chattels may at the Landlord's election pass to the Landlord or the Landlord may remove them from the premises and forward them to a refuse collection centre. Where subclause 27.5 applies, the time by which the Tenant must remove the chattels and to make good all resulting damage will be extended to 5 working days after access to the premises is available.

20.4 The cost of making good resulting damage and the cost of removal of the Tenant's chattels shall be recoverable from the Tenant and the Landlord shall not be liable to pay any compensation nor be liable for any loss suffered by the Tenant.

Compliance with Statutes and Regulations

21.1 The Tenant shall comply with the provisions of all statutes, ordinances, regulations and by-laws relating to the use of the premises by the Tenant or other occupant and will also comply with the provisions of all licences, requisitions and notices issued by any competent authority in respect of the premises or their use by the Tenant or other occupant provided that:

(a) The Tenant shall not be required to make any structural repairs alterations or additions nor to replace or install any plant or equipment except where required by reason of the particular nature of the business carried on by the Tenant or other occupant of the premises or the number or sex of persons employed on the premises.

(b) The Tenant shall not be liable to discharge the Landlord's obligations as owner under the Building Act 2004 unless any particular obligation is the responsibility of the Tenant as an occupier of the premises.

(c) The Tenant will promptly provide the Landlord with a copy of all requisitions and notices received from a competent authority under this subclause.

21.2 If the Landlord is obliged by any legislation or requirement of any competent authority to expend moneys during the term of this lease or any renewed term on any improvement addition or alteration to the property which is not the Tenant's responsibility under subclause 21.1 and the expenditure would be an unreasonable amount then the Landlord may determine this lease. Any dispute as to whether or not the amount to be expended by the Landlord is unreasonable shall be determined by arbitration.

21.3 The Landlord warrants that allowing the premises to be open to members of the public and allowing the use of the premises by members of the public at the commencement date will not be a breach of section 363 of the Building Act 2004. This clause does not apply to any "building work" (as defined in the Building Act 2004) relating to the fit-out of the premises by the Tenant.

21.4 The Tenant, when undertaking any building work to the premises, shall comply with all statutory requirements including the obtaining of building consents and code compliance certificates and shall not allow the premises to be open to members of the public or allow use of the premises by members of the public if that would be in breach of section 363 of the Building Act 2004.

21.5 During the term and any renewal, the Landlord shall not give consent to or carry out any building work in any part of the Landlord's property which may cause the Tenant to be in breach of section 363 of the Building Act 2004 by allowing the premises to be open to members of the public and allowing the use of the premises by members of the public.

See attached 21.6 and 21.7

No Noxious Use

22.1 The Tenant shall not:

(a) Bring upon or store within the premises nor allow to be brought upon or stored within the premises any machinery goods or things of an offensive noxious illegal or dangerous nature, or of a weight size or shape as is likely to cause damage to the building or any surfaced area.

(b) Contaminate the property and shall undertake all works necessary to remove any contamination of the property other than contamination not caused by the Tenant or which took place prior to the commencement date of the lease term. Contamination means any change to the physical chemical or biological condition of the property by a "contaminant" as that word is defined in the Resource Management Act 1991.

(c) Use the premises or allow them to be used for any noisome noxious illegal or offensive trade or business.

(d) Allow any act or thing to be done which may be or grow to be a nuisance disturbance or annoyance to the Landlord, other tenants of the property, or any other person, and generally the Tenant shall conduct the Tenant's business upon the premises in a clean quiet and orderly manner free from damage nuisance disturbance or annoyance to any such persons but the carrying on by the Tenant in a reasonable manner of the business use or any use to which the Landlord has consented shall be deemed not to be a breach of this clause.

INSURANCE

Landlord shall insure

23.1 The Landlord shall at all times during the term keep and maintain insurance of the type shown and for the risks specified in the First Schedule. If insurance cover required under this subclause becomes unavailable during the term of this lease or any renewal other than because of the Landlord's act or omission, the Landlord will not be in breach while cover is unavailable, provided the Landlord uses all reasonable endeavours on an ongoing basis to obtain cover. The Landlord will advise the Tenant in writing whenever cover becomes unavailable and provide reasons as to the unavailability. The Landlord will also provide the Tenant with reasonable information relating to the cover when requested by the Tenant.

23.2 The parties acknowledge and agree pursuant to section 271 of the Property Law Act 2007 that to the extent of any excess payable regarding any insurance policy held by the Landlord, the excess will represent an amount for which the Landlord has not insured, or has not fully insured the premises or the property against destruction or damage arising from the events that the section applies to. If the Landlord makes any claim against its insurance for any destruction or damage because of any act or omission of the Tenant, the Tenant will pay the Landlord the amount of the excess not exceeding the sum specified in the list of outgoings in the First Schedule

Tenant not to void insurance

24.1 The Tenant shall not carry on or allow upon the premises any trade or occupation or allow to be done any act or thing which:

(a) Shall make void or voidable any policy of insurance on the property.

(b) May render any increased or extra premium payable for any policy of insurance except where in circumstances in which any increased premium is payable the Tenant shall have first obtained the consent of the insurer of the premises and the Landlord and made payment to the insurer of the amount of any such increased or extra premium as may be payable but the carrying on by the Tenant in a reasonable manner of the business use or of any use to which the Landlord has consented shall be deemed not to be a breach of this clause.

24.2 In any case where in breach of subclause 24.1 the Tenant has rendered any insurance void or voidable and the Landlord has suffered loss or damage by that the Tenant shall at once compensate the Landlord in full for such loss or damage.

When Tenant to have benefit of Landlord's insurance

25.1 Where the property is destroyed or damaged by fire, flood, explosion, lightning, storm, earthquake, volcanic activity or any risk against which the Landlord is (or has covenanted with the Tenant to be) insured the Landlord will not require the Tenant to meet the cost of making good the destruction or damage to the property and will indemnify the Tenant against such cost where the Tenant is obligated to pay for making good such damage or destruction. The Landlord does not have to indemnify the Tenant and the Tenant will not be excused from liability under this subclause if and to the extent that:

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

(b) The destruction or damage was the result of an act or omission by the Tenant or those for whom the Tenant is responsible and that act or omission:

(1) occurred on or about the property; and

(2) constitutes an imprisonable offence; or

(c) Any insurance moneys that would otherwise have been payable to the Landlord for the damage or destruction are rendered irrecoverable in consequence of any act or omission of the Tenant or those for whom the Tenant is responsible.

DAMAGE TO OR DESTRUCTION OF PREMISES

Total Destruction

26.1 If the premises or any portion of the building of which the premises may form part shall be destroyed or so damaged:

(a) as to render the premises untenantable then the term shall at once terminate from the date of destruction or damage; or

(b) in the reasonable opinion of the Landlord as to require demolition or reconstruction, then the Landlord may within 3 months of the date of damage give the Tenant 20 working days notice to terminate and a fair proportion of the rent and outgoings shall cease to be payable as from the date of damage.

Any termination pursuant to this subclause shall be without prejudice to the rights of either party against the other.

Partial Destruction

27.1 If the premises or any portion of the building of which the premises may form part shall be damaged but not so as to render the premises untenantable and:

(a) the Landlord's policy or policies of insurance shall not have been invalidated or payment of the policy moneys refused in consequence of some act or default of the Tenant; and

(b) all the necessary permits and consents are obtainable,

the Landlord shall with all reasonable speed expend all the insurance moneys received by the Landlord in respect of such damage towards repairing such damage or reinstating the premises or the building but the Landlord shall not be liable to expend any sum of money greater than the amount of the insurance money received.

27.2 Any repair or reinstatement may be carried out by the Landlord using such materials and form of construction and according to such plan as the Landlord thinks fit and shall be sufficient so long as it is reasonably adequate for the Tenant's occupation and use of the premises.

27.3 Until the completion of the repairs or reinstatement a fair proportion of the rent and outgoings shall cease to be payable as from the date of damage.

27.4 If any necessary permit or consent shall not be obtainable or the insurance moneys received by the Landlord shall be inadequate for the repair or reinstatement then the term shall at once terminate but without prejudice to the rights of either party against the other.

No Access in Emergency

27.5 If there is an emergency and the Tenant is unable to gain access to the premises to fully conduct the Tenant's business from the premises because of reasons of safety of the public or property or the need to prevent reduce or overcome any hazard, harm or loss that may be associated with the emergency including:

(a) a prohibited or restricted access cordon applying to the premises; or

(b) prohibition on the use of the premises pending the completion of structural engineering or other reports and appropriate certifications required by any competent authority that the premises are fit for use; or

(c) restriction on occupation of the premises by any competent authority,

then a fair proportion of the rent and outgoings shall cease to be payable for the period commencing on the date when the Tenant became unable to gain access to the premises to fully conduct the Tenant's business from the premises until the inability ceases.

27.6 This subclause 27.6 applies where subclause 27.5 applies and the premises or building of which the premises form part are not totally or partially destroyed or damaged resulting in the lease being cancelled as provided for in subclauses 26.1 or 27.4. Either party may terminate this lease by giving 10 working days written notice to the other if:

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

(b) the party that terminates this lease can at any time prior to termination establish with reasonable certainty that the Tenant is unable to gain access to the premises for that period.

Any termination shall be without prejudice to the rights of either party against the other.

DEFAULT

Cancellation

28.1 The Landlord may (in addition to the Landlord's right to apply to the Court for an order for possession) and subject to section 245(2) of the Property Law Act 2007 cancel this lease by re-entering the premises at the time or at any time after that:

(a) If the rent shall be in arrears 10 working days after any rent payment date and the Tenant has failed to remedy that breach within 10 working days after service on the Tenant of a notice in accordance with section 245 of the Property Law Act 2007.

(b) In case of breach by the Tenant of any covenant or agreement on the Tenant's part expressed or implied in this lease (other than the covenant to pay rent) after the Tenant has failed to remedy that breach within the period specified in a notice served on the Tenant in accordance with section 246 of the Property Law Act 2007.

(c) If the Tenant shall make or enter into or endeavour to make or enter into any composition assignment or other arrangement with or for the benefit of the Tenant's creditors.

(d) In the event of the insolvency, bankruptcy, statutory management, voluntary administration, receivership or liquidation of the Tenant.

(e) If the Tenant shall suffer execution to issue against the Tenant's property goods or effects under any judgment against the Tenant in any Court for a sum in excess of five thousand dollars ($5,000).

The term shall terminate on the cancellation but without prejudice to the rights of either party against the other.

Essentiality of Payments

29.1 Failure to pay rent or other moneys payable under this lease on the due date shall be a breach going to the essence of the Tenant's obligations under the lease. The Tenant shall compensate the Landlord and the Landlord shall be entitled to recover damages from the Tenant for such breach. This entitlement shall subsist notwithstanding any determination of the lease and shall be in addition to any other right or remedy which the Landlord may have.

29.2 The acceptance by the Landlord of arrears of rent or other moneys shall not constitute a waiver of the essentiality of the Tenant's continuing obligation to pay rent and other moneys.

Repudiation

30.1 The Tenant shall compensate the Landlord and the Landlord shall be entitled to recover damages for any loss or damage suffered by reason of any acts or omissions of the Tenant constituting a repudiation of the lease or the Tenant's obligations under the lease. Such entitlement shall subsist notwithstanding any determination of the lease and shall be in addition to any other right or remedy which the Landlord may have.

QUIET ENJOYMENT

31.1 The Tenant paying the rent and performing and observing all the covenants and agreements expressed and implied in this lease shall quietly hold and enjoy the premises throughout the term without any interruption by the Landlord or any person claiming under the Landlord.

RENEWAL OF LEASE

32.1 If the Tenant has given to the Landlord written notice to renew the lease at least 3 calendar months before the end of the term and is not at the date of the giving of the notice in breach of this lease then the Landlord will grant a new lease for a further term from the renewal date as follows:

(a) If the renewal date is a market rent review date the annual rent shall be the current market rent which if not agreed on shall be determined in accordance with subclause 2.2 but the annual rent shall not be less than the rent payable as at the commencement date of the immediately preceding lease term.

(b) If the renewal date is a CPI rent review date, the annual rent shall be determined in accordance with subclause 2.5.

(c) Subject to the provisions of paragraphs (a) and (b) the new lease shall be upon and subject to the covenants and agreements expressed and implied in this lease except that the term of this lease plus all further terms shall expire on or before the final expiry date.

(d) The annual rent shall be subject to review during the term of the new lease on the rent review dates specified in the First Schedule.

(e) The Landlord as a condition of granting a new lease shall be entitled to have the new lease guaranteed by any guarantor who has guaranteed this lease on behalf of the Tenant who has given notice or the security of a bank guarantee that has been given.

(f) If the renewal date is a market rent review date, pending the determination of the rent, the Tenant shall pay an interim rent in accordance with subclauses 2.3 and 2.4.

(g) Notwithstanding anything contained in subclause 32.1(f) the interim rent referred to in that subclause shall not be less than the annual rent payable as at the commencement date of the immediately preceding lease term.

(h) The parties will not be released by the renewal of the lease from any liability for any breach under this lease.

ASSIGNMENT OR SUBLETTING

33.1 The Tenant shall not assign sublet or otherwise part with the possession of the premises, the carparks (if any) or any part of them without first obtaining the written consent of the Landlord which the Landlord shall not unreasonably withhold or delay if the following conditions are fulfilled:

(a) The Tenant proves to the reasonable satisfaction of the Landlord that the proposed assignee or subtenant is (and in the case of a company that the shareholders of the proposed assignee or subtenant are) respectable responsible and has the financial resources to meet the Tenant's commitments under this lease and in the case of the subtenant the subtenant's commitments under the sublease. The Tenant shall give the Landlord any additional information reasonably required by the Landlord.

(b) All rent and other moneys payable have been paid and there is not any subsisting breach of any of the Tenant's covenants.

(c) In the case of an assignment a deed of covenant in customary form approved or prepared by the Landlord is duly executed and delivered to the Landlord.

(d) In the case of an assignment to a company (other than a company listed on the main board of a public stock exchange in New Zealand or Australia) either a deed of guarantee in customary form approved or prepared by the Landlord is duly executed by the principal shareholders of that company and delivered to the Landlord or a bank guarantee from a registered trading bank in New Zealand on reasonable terms approved by the Landlord as security for the performance by the company of its obligations under this lease is provided to the Landlord.

(e) The Tenant pays the Landlord's reasonable costs and disbursements in respect of the approval and the preparation of any deed of covenant or guarantee and (if appropriate) all fees and charges payable in respect of any reasonable inquiries made by or on behalf of the Landlord concerning any proposed assignee subtenant or guarantor. All such costs shall be payable whether or not the assignment or subletting proceeds.

33.2 Where the Landlord consents to a subletting the consent shall extend only to the subletting and notwithstanding anything contained or implied in the sublease the consent shall not permit any subtenant to deal with the sublease in any way in which the Tenant is restrained from dealing without consent.

33.3 Where any Tenant is a company which is not listed on the main board of a public stock exchange in New Zealand or Australia, then any change in the legal or beneficial ownership of its shares or the shares of its shareholder or issue of new capital in the company or its shareholder where in any case there is a change in the effective management or control of the company will require the written consent of the Landlord which will not be unreasonably withheld or delayed.

UNIT TITLE PROVISIONS

~~34.1 Clause 34 applies where the property is part of a unit title development.~~

~~**Body Corporate**~~

~~34.2 The expression "Body Corporate" means the Body Corporate under the Unit Titles Act 2010 (in subclauses 34.2 to 34.7 "the Act") in respect of the property.~~

~~**Act and Rules Paramount**~~

~~34.3 This lease shall be subject to the provisions of the rules of the Body Corporate and the provisions of the Act.~~

~~**Insurance**~~

~~34.4 Unless the Body Corporate has resolved that the Landlord is to insure the building the Landlord's obligation to insure the building shall be satisfied by the Body Corporate maintaining the same insurance cover in accordance with the Act.~~

~~**Landlord's Obligations**~~

~~34.5 The Landlord shall observe and perform all of the Landlord's obligations as a member of the Body Corporate and shall use the Landlord's best endeavours to ensure that the Body Corporate complies with its rules and the provisions of the Act.~~

~~**Tenant's Obligations**~~

~~34.6 The Tenant shall comply with the rules of the Body Corporate and the provisions of the Act to the extent that they apply to the Tenant's use of the property.~~

~~**Consents**~~

~~34.7 Where in this lease the consent of the Landlord is required in respect of any matter then the like consent of the Body Corporate shall also be required if the consent of the Body Corporate to the matter would be necessary under its rules or the Act.~~

CARPARKS

35.1 The Tenant shall have the right to exclusive possession of the leased car parks, but when any car park is not being used by the Tenant other persons shall be entitled to pass over the same.

35.2 The Landlord may carry out repairs to the car parks and no abatement of rent or other compensation shall be claimed by the Tenant except pursuant to subclauses 26.1 or 27.3.

35.3 The Tenant shall comply with the Landlord's reasonable requirements relating to the use of the car parks and access to them and in particular shall only use the car parks for the parking of one motor vehicle per parking space.

35.4 The provisions of the Second Schedule shall apply to the car parks as appropriate.

GENERAL

Holding Over

36.1 If the Landlord permits the Tenant to remain in occupation of the premises after the expiration or sooner determination of the term, the occupation shall be a periodic tenancy only terminable by at least 20 working days notice given at any time with the tenancy terminating on the expiry of the notice at the rent then payable and otherwise on the same covenants and agreements (so far as applicable to a periodic tenancy) as expressed or implied under this lease.

Access for Re-Letting or Sale

37.1 The Tenant will during the term permit the Landlord, the Landlord's representatives and prospective tenants or purchasers to have access to inspect the premises provided that:

(a) Any such inspection is at a time which is reasonably convenient to the Tenant and after reasonable written notice.

(b) The inspection is conducted in a manner which does not cause disruption to the Tenant.

(c) If the Landlord or the Landlord's representatives are not present the persons inspecting have written authority from the Landlord to do so.

Suitability

38.1 No warranty or representation expressed or implied has been or is made by the Landlord that the premises are now suitable or will remain suitable or adequate for use by the Tenant or that any use of the premises by the Tenant will comply with the by-laws or ordinances or other requirements of any authority having jurisdiction.

Affirmation

39.1 A party to this lease shall not be entitled to cancel this lease if, with full knowledge of any repudiation or misrepresentation or breach of covenant, that party affirmed this lease.

Waiver

40.1 No waiver or failure to act by either party in respect of any breach by the other shall operate as a waiver of another breach.

Land Transfer Title or Mortgagee's consent

41.1 The Landlord shall not be required to do any act or thing to enable this lease to be registered or be required to obtain the consent of any mortgagee of the property and the Tenant will not register a caveat in respect of the Tenant's interest under this lease.

Notices

42.1 All notices must be in writing and must be served by one of the following means:

(a) In the case of a notice under sections 245 or 246 of the Property Law Act 2007 in the manner prescribed by section 353 of that Act; and

(b) In all other cases, unless otherwise required by sections 352 to 361 of the Property Law Act 2007:

(1) in the manner authorised by sections 354 to 361 of the Property Law Act 2007, or

(2) by personal delivery, or by posting by registered or ordinary mail, or by facsimile, or by email.

42.2 In respect of the means of service specified in subclause 42.1(b)(2), a notice is deemed to have been served:

(a) In the case of personal delivery, when received by the addressee.

(b) In the case of posting by mail, on the second working day following the date of posting to the addressee's last known address in New Zealand.

(c) In the case of facsimile transmission, when sent to the addressee's facsimile number.

(d) In the case of email, when acknowledged by the addressee orally or by return email or otherwise in writing except that return emails generated automatically shall not constitute an acknowledgement.

42.3 In the case of a notice to be served on the Tenant, if the Landlord is unaware of the Tenant's last known address in New Zealand or the Tenant's facsimile number, any notice placed conspicuously on any part of the premises shall be deemed to have been served on the Tenant on the day on which it is affixed.

42.4 A notice shall be valid if given by any director, general manager, lawyer or other authorised representative of the party giving the notice.

42.5 Where two or more notices are deemed to have been served at the same time, they shall take effect in the order in which they would have been served but for subclause 47.1(p).

42.6 Any period of notice required to be given under this agreement shall be computed by excluding the date of service.

Arbitration

43.1 The parties shall first endeavour to resolve any dispute or difference by agreement and if they agree by mediation.

43.2 Unless any dispute or difference is resolved by mediation or other agreement within 30 days of the dispute or difference arising, the same shall be submitted to the arbitration of one arbitrator who shall conduct the arbitral proceedings in accordance with the Arbitration Act 1996 or any other statutory provision then relating to arbitration.

43.3 If the parties are unable to agree on the arbitrator, an arbitrator shall be appointed, upon request of any party, by the president or vice president of the New Zealand Law Society. That appointment shall be binding on all parties to the arbitration and shall be subject to no appeal. The provisions of Article 11 of the First Schedule of the Arbitration Act 1996 are to be read subject to this and varied accordingly.

43.4 The procedures prescribed in this clause shall not prevent the Landlord from taking proceedings for the recovery of any rent or other monies payable under this lease which remain unpaid or from exercising the rights and remedies in the event of the default prescribed in subclause 28.1.

No Implied Terms

44.1 The covenants, conditions and powers implied in leases pursuant to the Property Law Act 2007 and sections 224 and 266(1)(b) of that Act shall not apply to and are excluded from this lease where allowed.

Limitation of Liability

45.1 If any person enters into this lease as trustee of a trust, then:

(a) That person warrants that:

(1) that person has power to enter into this lease under the terms of the trust; and

(2) that person has properly signed this lease in accordance with the terms of the trust; and

(3) that person has the right to be indemnified from the assets of the trust and that right has not been lost or impaired by any action of that person including entry into this lease; and

(4) all of the persons who are trustees of the trust have approved entry into this lease.

(b) If that person has no right to or interest in any assets of the trust except in that person's capacity as a trustee of the trust, that person's liability under this lease will not be personal and unlimited but will be limited to the actual amount recoverable from the assets of the trust from time to time ("the limited amount"). If the right of that person to be indemnified from the trust assets has been lost or impaired as a result of fraud or gross negligence that person's liability will become personal but limited to the extent of that part of the limited amount which cannot be recovered from any other person.

45.2 Notwithstanding subclause 45.1, a party to this lease that is named in item 17 of the First Schedule as a limited liability trustee, that person's liability will not be personal and unlimited but limited in accordance with subclause 45.1(b).

Counterparts

46.1 This lease may be executed in two or more counterparts, all of which will together be deemed to constitute one and the same lease. A party may enter into this lease by signing a counterpart copy and sending it to the other party, including by facsimile or email.

DEFINITIONS AND INTERPRETATION

47.1 In this lease:

(a) "building services" means all services provided by the Landlord as an integral part of the building for the general use and enjoyment of the building by its tenants or occupants including water, gas, electricity, lighting, air conditioning, heating and ventilation, telecommunications, lifts and escalators whether or not they are located within the premises.

(b) "CPI" means the Consumer Price Index (All Groups) published by Statistics New Zealand or other government agency and any revised, replacement or substituted index.

(c) "Default GST" means any additional GST, penalty (civil or otherwise), interest, or other sum imposed on the Landlord (or where the Landlord is or was a member of a GST group its representative member) under the GST Act or the Tax Administration Act 1994 by reason of non-payment of any GST payable in respect of the supply made under this lease but does not include any sum levied against the Landlord (or where the Landlord is or was a member of a GST group its representative member) by reason of a default or delay by the Landlord after payment of the GST to the Landlord by the Tenant.

(d) "emergency" for the purposes of subclause 27.5 means a situation that:

(1) is a result of any event, whether natural or otherwise, including an explosion, earthquake, eruption, tsunami, land movement, flood, storm, tornado, cyclone, serious fire, leakage or spillage of any dangerous gas or substance, infestation, plague, epidemic, failure of or disruption to an emergency service; and

(2) causes or may cause loss of life or serious injury, illness or in any way seriously endangers the safety of the public or property; and

(3) the event is not caused by any act or omission of the Landlord or Tenant.

(e) "GST" means the Goods and Services Tax arising pursuant to the Goods and Services Tax Act 1985 and "GST Act" means the Goods and Services Tax Act 1985.

(f) "premises" includes all the Landlord's fixtures and fittings provided by the Landlord and those set out in the Fifth Schedule.

(g) "premises condition report" means the report as set out in the Sixth Schedule.

(h) "renewal" means the granting of a new lease as provided for in subclause 32.1.

(i) "rules" in clause 34 means the Body Corporate operational rules under the Unit Titles Act 2010 and any amendments to those rules or replacement rules.

(j) "structural repair" means a repair, alteration or addition to the structure or fabric of the building but excluding building services.

(k) "term" includes, where the context requires, a further term if the lease is renewed.

(l) "the common areas" means those parts of the property the use of which is necessary for the enjoyment of the premises and which is shared with other tenants and occupiers.

(m) "the Landlord" and "the Tenant" means where appropriate the executors, administrators, successors and permitted assigns of the Landlord and the Tenant.

(n) "the property" and "the building" mean the land, building(s) or improvements of the Landlord which comprise or contain the premises. Where the premises are part of a unit title development the words "the property" mean the land and building(s) comprised in the development.

(o) "those for whom the Tenant is responsible" includes the Tenant's agents employees contractors or invitees.

(p) "working day" has the meaning given to it in the Property Law Act 2007. Notices served after 5pm on a working day, or on a day which is not a working day, shall be deemed to have been served on the next succeeding working day.

(q) A reference in this lease to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.

(r) A reference to the words "include" or "including" are to be interpreted without limitation.

(s) If any inserted term (including any Further Term in the Third Schedule) conflicts with the covenants in the First, Second and Fourth Schedules, the inserted term will prevail.

(t) Whenever words appear in this lease that also appear in the First Schedule then those words shall mean and include the details supplied after them in the First Schedule.

(u) Where the context requires or admits, words importing the singular shall import the plural and vice versa.

(v) Where the Landlord's consent or approval to any matter is required under this lease then, unless expressly stated to the contrary in this lease, in each case the Landlord:

(1) must not unreasonably withhold consent or approval, and

(2) must, within a reasonable time of the Landlord's consent or approval being requested:

(i) grant that consent or approval; or

(ii) notify the Tenant in writing that the consent or approval is withheld.

THIRD SCHEDULE

FURTHER TERMS (if any)

FOURTH SCHEDULE

GUARANTEE

IN CONSIDERATION of the Landlord entering into the lease at the Guarantor's request the Guarantor:

(a) Guarantees payment of the rent and the performance by the Tenant of the covenants in the lease.

(b) Indemnifies the Landlord against any loss the Landlord might suffer should the lease be lawfully disclaimed or abandoned by any liquidator, receiver or other person.

THE GUARANTOR covenants with the Landlord that:

1. No release delay or other indulgence given by the Landlord to the Tenant or to the Tenant's successors or assigns or any other thing by which the Guarantor would have been released had the Guarantor been merely a surety shall release prejudice or affect the liability of the Guarantor as a guarantor or as indemnifier.
2. As between the Guarantor and the Landlord the Guarantor may for all purposes be treated as the Tenant and the Landlord shall be under no obligation to take proceedings against the Tenant before taking proceedings against the Guarantor.
3. The guarantee and indemnity is for the benefit of and may be enforced by any person entitled for the time being to receive the rent.
4. An assignment of the lease and any rent review in accordance with the lease shall not release the Guarantor from liability.
5. Should there be more than one Guarantor their liability under this guarantee and indemnity shall be joint and several.
6. The Guarantee and indemnity shall extend to any holding over by the Tenant.

FIFTH SCHEDULE

LANDLORD'S FIXTURES AND FITTINGS

(Subclause 47.1(f))

Air-conditioning Units

SIXTH SCHEDULE

PREMISES CONDITION REPORT

(Subclause 8.1)

Dated

Between
DESMOND BERNARD QUINN of Whangarei and ALLAN JAMES ALBERT CLARK of Te Puke

Landlord

and
NBA LIMITED

Tenant

and
MICHAEL MAJOR ATTWOOD and NICHOLA ANN BURLEY

Guarantor

DEED OF LEASE

General address of the premises:
49 Jellicoe Street, Te Puke

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