

Annexure I

Exhibit D2 to the M2 Motorway Project Deed - Annexed M2 Upgrade Sublease

M2 Motorway

EXHIBIT B TO PROJECT DEED

ANNEXED M2 UPGRADE SUBLEASE as at the date of the M2 Upgrade Project Deed

This is Exhibit B to the M2 Motorway Project Deed between the Roads and Traffic Authority of New South Wales, The Minister for Roads for and on behalf of Her Majesty Queen Elizabeth the Second in right of the State of New South Wales, The Hills Motorway Limited and Hills Motorway Management Limited as trustee of the Trust as at #[insert date]# 2008.

OFFER FOR LEASE

This offer is made on 2010

By:

HILLS MOTORWAY MANAGEMENT LIMITED (ACN 064 687 645) of Level 3, 505 Little Collins Street, Melbourne VIC 3000 ("Lessor")

To:

THE HILLS MOTORWAY LIMITED (ACN 062 329 828) of Level 3, 505 Little Collins Street, Melbourne VIC 3000 ("Lessee")

1 DEFINITIONS AND INTERPRETATION

Definitions

1.1 In this offer unless the context otherwise requires:

Authorised Officer of a corporation means, a director of the corporation.

Head Lease means the lease of the Premises to be entered into between Roads and Traffic Authority of New South Wales and the Lessor pursuant to the Project Deed between the Roads and Traffic Authority of New South Wales and the Lessor dated 26 August 1994.

Lease means the lease of the Premises the form annexed to this agreement and marked "A" completed in accordance with clause 2.3 with such amendments or additions as the Lessor and the Lessee may agree.

Lease Commencement Date means the date of commencement of the Head Lease.

Premises means the land described as "Property Sub-Leased" on the cover sheet to the Lease and all improvements erected upon it from time to time and being the whole property leased under the Head Lease.

Interpretation

1.2 In this offer unless the contrary intention appears:

- (a) words importing the singular number include the plural and vice versa;
- (b) words importing any particular gender include all genders;
- (c) reference to clauses, sub-clauses, schedules and annexures shall be references to clauses, sub-clauses of or schedules and annexures to this offer;

- (d) headings for this offer have been inserted for guidance only and shall not form part of the context and shall not limit or govern the construction of this offer;
- (e) a reference to this offer includes any variation or replacement;
- (f) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations and amendments, re-enactments or replacements of any of them;
- (g) the word person includes a firm, a body corporate, an unincorporated association or an authority;
- (h) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including without limitations, persons taking by novation) and assigns;
- (i) a reference to anything (including without limitation any amount) is a reference to the whole or any part of it and a reference to a group of persons is a reference to any one or more of them; and
- (f) clause 1.8A of the Project Deed applies to this Deed as if set out in full.

2 OFFER

Offer to grant Lease

- 2.1 The Lessor offers to grant the Lease commencing on and from the Lease Commencement Date.

Acceptance of offer

- 2.2 This offer may be accepted by the Lessee. Acceptance is only valid if effected orally by an Authorised Officer of the Lessee to an Authorised Officer of the Lessor.

Irrevocability of offer

- 2.3 In consideration of the payment of \$10,000 paid by the Lessee to the Lessor (receipt of which the Lessor acknowledges) the Lessor agrees not to revoke this offer.

Consequence of acceptance of offer

- 2.4 On acceptance of this offer the provisions of clause 3 will bind the parties.

3 THE LEASE

Grant Lease

3.1 The Lessor must grant and the Lessee must accept the grant of the Lease commencing on and from the Lease Commencement Date.

Parties bound from Lease Date

3.2 On and from the Lease Commencement Date the Lessor and Lessee shall be bound by the covenants and conditions contained in the Lease whether or not it has been formally executed.

Completion of Lease

2.3 The Lessor must at the request of the Lessee prepare, complete and execute the Lease. Prior to execution, the Lease is to be completed by the insertion of:

- (a) the Lease Commencement Date; and
- (b) such other details as may be necessary to complete the Lease and ensure that the Lease is in a registrable form.

2.4 The Lessor may elect to prepare, complete (in the manner described in clause 2.3) and execute the Lease. If requested by the Lessor the Lessee must execute the lease and return it to the Lessor. If the Lessor exercises its rights under this clause 2.4 the Lessor must reimburse the Lessee for any stamp duty payable under the lease. The Lessee may set off any amount so payable against amounts due under the Lease.

EXECUTED

EXECUTED by HILLS MOTORWAY)
MANAGEMENT LIMITED by:)
)
)

.....
Signature of Director

.....
Name of Director

.....
Signature of Director/Secretary

.....
Name of Director/Secretary



Form: 07SL
Release: 2.0
www.lands.nsw.gov.au

SUBLEASE
New South Wales
Real Property Act 1900

Leave this space clear. Affix additional pages to the top left-hand corner.

PRIVACY NOTE: Section 31B of the Real Property Act 1900 (RP Act) authorises the Registrar General to collect the information required by this form for the establishment and maintenance of the Real Property Act Register. Section 96B RP Act requires that the Register is made available to any person for search upon payment of a fee, if any.

STAMP DUTY Office of State Revenue use only

(A) **HEAD LEASE**

(B) **TORRENS TITLE**

(C) LOGGED BY	Document Collection Box	Name, Address or FX and Telephone	CODE
	2363	Reference:	SL

(D) **SUBLESSOR**
PERPETUAL PROPERTIES AUSTRALIA LIMITED (ACN 000 431 827)
HILLS PROPERTY MANAGEMENT LIMITED (ACN 064 627 845)

The sublessor leases to the sublessee the property referred to above.

(E) Encumbrances (if applicable):

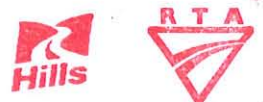
(F) **SUBLESEE**

THE HILLS MOTORWAY LIMITED (ACN 062 323 826)
of The Hill Plaza, Off Gulgong Road, North Ryde NSW 2113 1st Floor
25-29 Bridge Street, Rydalmere NSW 2108

TENANCY:

- (H) 1. **TERM** means the term defined in clause 1.1 of this lease.
2. **COMMENCING DATE**
3. **TERMINATING DATE**
4. with an OPTION TO PURCHASE for a period of N.A.
set out in clause _____ of _____
5. Together with and reserving the **RIGHTS** set out in clause No. _____ of _____
6. Incorporates the provisions or additional material set out in **ANNEXURE(S)** _____ herein.
7. Incorporates the provisions set out in N.A. in the Department of Lands, Land and Property Information Division's No(s).
8. The **RENT** is set out in No. _____ of _____

ALL HANDWRITING MUST BE IN BLOCK CAPITALS.
0507



DATE

- (1) I certify that the person(s) signing opposite, with whom I am personally acquainted or as to whose identity I am otherwise satisfied, signed this instrument in my presence.

Certified correct for the purposes of the Real Property Act 1900 by the sublessor.

Signature of witness:

Signature of sublessor:

Name of witness:

Address of witness:

I certify that the person(s) signing opposite, with whom I am personally acquainted or as to whose identity I am otherwise satisfied, signed this instrument in my presence.

Certified correct for the purposes of the Real Property Act 1900 by the sublessee.

Signature of witness:

Signature of sublessee:

Name of witness:

Address of witness:

(1) **STATUTORY DECLARATION***

I

solemnly and sincerely declare that—

1. The time for the exercise of option to renew in expired sublease No. _____ has ended; and
2. The lessee under that lease has not exercised the option.

I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act 1900

and I certify this application correct for the purposes of the Real Property Act 1900.

Made and subscribed at _____ in the State of New South Wales

on _____ in the presence of—

Signature of witness:

Signature of lessor:

Full name of witness:

Address of witness:

Qualification of witness: *[tick one]*

Justice of the Peace

Practising Solicitor

Other *[specify]*

* As the Department of Lands may not be able to provide the services of a justice of the peace or other qualified witness, the statutory declaration should be signed and witnessed prior to lodgment of the form at Land and Property Information Division.

ALL HANDWRITING MUST BE IN BLOCK CAPITALS.

0507

Item 1 **Day of month on which rent instalments are due**
(definition of Rent
Day in clause 1.1
and clause 2)

Item 2 **Consumer Price Index - commodity group**
(definition of the
Consumer Price
Index in clause 1.1
and clause 3)

Item 3 **CPI Adjustment Dates**
(definition of CPI
Adjustment Date in
clause 1.1 and
clause 3) each anniversary of the Lease Commencement Date.

Item 4 **Market Review Dates**
(definition of
Market Review Date
in clause 1.1 and
clause 4)

Item 5 **Public liability insurance**
(clause 8)
\$

Item 6 **Permitted Use**
(definition of
Permitted Use in
clause 1.1 and
clause 10)

Item 7 **Redecoration requirements and dates**
(clause 14)

Item 8 **Landlord's address for service**
(clause 21)
Address:

Facsimile No:

Tenant's address for service

Address:

Facsimile No:

Item 9
(clause 24)

Particulars of new lease

term:
commencement date:
expiry date:
rent review dates:
re-decoration requirements and dates:

This is the schedule referred to in the lease
Between
**HILLS MOTORWAY MANAGEMENT LIMITED (ACN 064
687 645)**
And
THE HILLS MOTORWAY LIMITED (ACN 062 329 828)
dated _____ of the premises known as
[_____]

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Item 1 (definition of Rent Day in clause 1.1 and clause 2)	Day of month on which rent instalments are due
Item 2 (definition of the Consumer Price Index in clause 1.1 and clause 3)	Consumer Price Index - commodity group
Item 3 (definition of CPI Adjustment Date in clause 1.1 and clause 3)	CPI Adjustment Dates each anniversary of the Lease Commencement Date.
Item 4 (definition of Market Review Date in clause 1.1 and clause 4)	Market Review Dates (a) the first occurring 1 July after the Lease Commencement Date and every second anniversary of that date during the Term; and (b) each date on which the Tenant serves on the Landlord an Insolvency Notice (unless such a notice is deemed not to have been given under clause 4.14).
Item 5 (clause 8)	Public liability insurance \$
Item 6 (definition of Permitted Use in clause 1.1 and clause 10)	Permitted Use
Item 7 (clause 14)	Redecoration requirements and dates
Item 8 (clause 20)	Landlord's address for service Address: Facsimile No: Tenant's address for service Address:

Facsimile No:

Item 9
(clause 2.1)

Rent

Rent Period

1

each subsequent Rent
Period for the remainder
of the term

Rent

As determined in accordance
with clause 4.2

the current annual
market rent of the
Premises as
determined or agreed
under clause 4

The Tenant agrees with the Landlord as follows.

1 INTERPRETATION

- 1.1 The following words have these meanings unless the contrary intention appears. Item numbers are those in the reference schedule. Other definitions are on the cover sheet.

Adjusted Current CPI means the Current CPI calculated on the basis that the movement in the Consumer Price Index over each twelve month period commencing with the last Market Review Date (or if there has not been one, the Lease Commencement Date) is an increase of not less than 4% per annum.

BOMA means the New South Wales division of the Building Owners and Managers Association of Australia Limited.

Consumer Price Index means the index in item 2 or the index officially substituted for it.

CPI Adjustment Date means each date in item 3.

CPI means the Consumer Price Index number for the quarter ending immediately before the relevant CPI Adjustment Date.

Head Lease means the lease of the Premises to be entered into between Roads and Traffic Authority of New South Wales and the Lessor pursuant to the Project Deed between the Roads and Traffic Authority of New South Wales and the Lessor dated 26 August 1994.

Insolvency Notice means a notice from the Tenant to the Landlord that the Tenant is reasonably expected to become Insolvent in the Rent Period (during which the notice is served).

Insolvent means insolvent after making all payments or provisions which the Tenant is obliged to make or set aside under the Project Deed (to enable it to meet its obligations) and any other agreements to which it may be a party in connection with the management and operation of the motorway which constitutes the Premises.

Land means the land described on the cover sheet on which the Premises are situated.

Landlord's Property means all plant, equipment, fixtures, fittings, furniture, furnishings and other property the Landlord provides in the Premises.

Lettable Area means the gross lettable area calculated by the Landlord's surveyor using the BOMA method of measurement applicable at the time of measurement.

Market Review Date means each date in item 4.

Outgoings means all amounts paid or payable by the Landlord for an Outgoings Year in connection with the Premises (other than the cost of structural works) for:

- (a) rates, land taxes (on the basis that the land included in the Premises is the only land owned by the Landlord and is not subject to a trust), and other charges imposed by any authority and levies and charges imposed under strata, community title or similar legislation; and
- (b) taxes (except income or capital gains tax), levies, imposts, deductions, charges, withholdings and duties imposed by any authority; and
- (c) insurance which the Landlord reasonably considers is appropriate; and
- (d) cleaning those parts of the Premises which no occupier is obliged to clean and keeping them free of vermin and refuse; and
- (e) indoor and outdoor gardening and landscaping of the Premises and areas near it; and
- (f) caretaking services, security and regulating traffic; and
- (g) management, administration and marketing; and
- (h) supplying, maintaining, repairing and replacing Services and upgrading them to comply with requirements of authorities and all laws; and
- (i) charges for the supply of Services which are not separately metered to an occupier; and
- (j) repairs, redecoration and maintenance which no occupier is obliged to do.

Outgoings Year means the 12 month period ending on 31 December in each year or on another day specified in a notice the Landlord gives the Tenant.

Permitted Use means the use in item 6.

Premises means that part of the Premises referred to on the cover sheet of this lease.

Previous CPI means the Consumer Price Index number for the quarter ending immediately before the last Market Review Date (or, if there has not been one, the Lease Commencement Date).

Project Deed is the M2 Motorway Project Deed dated 26 August 1994 between Roads and Traffic Authority of New South Wales, the Minister for Roads, The Hills Motorway Limited and Hills Motorway Management Limited in its capacity as trustee of the Hills Motorway Trust, as amended from time to time.

Rent means for each Rent Period an amount equal to the amount determined in accordance with clause 4.

Rent Day means for each month, the day in item 1 except that there shall be no Rent Day in respect of the first month of the Term.

Rent Instalment means one twelfth of the Rent payable in respect of a Rent Period.

Rent Period means each of:

- (a) the period from and including the Lease Commencement Date to and including the first 30 June in the Term; and
- (b) each 12 month period ending on 30 June during the Term; and
- (c) the period from and including the last 1 July in the Term to and including the Expiry Date.

Services means the services to or of the Premises provided by authorities or the Landlord (including water, electricity, air conditioning and lifts).

Tenant's Business means the business carried on from the Premises.

Tenant's Employees and Agents means each of the Tenant's employees, officers, agents, contractors and invitees.

Tenant's Property means all property on the Premises which is not Landlord's Property.

Tenant's Sales means all money and the value in money of things other than money received or receivable for all:

- (a) tolls collected from vehicles passing through the Premises; or
- (b) from sub-leasing, licensing or granting concessions in respect of the Premises; or
- (c) advertising or the grant of advertising rights in to be carried out on the Premises; or
- (d) sales of goods, hirings and provision of services delivered, made or provided from the Premises

Term means the term granted by the Headlease (as that term may, at the option of the Lessor, be determined) less one day.

1.2 Unless the contrary intention appears:

- (a) the singular includes the plural and vice versa; and
- (b) "person" includes a firm, a body corporate, an unincorporated association or an authority; and
- (c) an agreement, representation or warranty:

- (i) in favour of two or more persons is for the benefit of them jointly and severally; and
- (ii) on the part of two or more persons binds them jointly and severally; and
- (d) a reference to:
 - (i) a person includes the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns; and
 - (ii) a document includes any variation or replacement of it; and
 - (iii) a law includes regulations and other instruments under it and amendments or replacements of any of them; and
 - (iv) a thing includes the whole and each part of it; and
 - (v) a group of persons includes all of them collectively, any two or more of them collectively and each of them individually; and
 - (vi) the president of a body or authority includes any person acting in that capacity;
- (e) "including" when introducing a list of items does not limit the meaning of the words to which the list relates to those items or to items of a similar kind; and
- (f) clause 1.8A of the Project Deed applies to this Deed as if set out in full.

2 RENT

- 2.1 The Tenant must pay the Rent on each Rent Day in accordance with the procedure set out in clause 5.

3 CONSUMER PRICE INDEX ADJUSTMENT

- 3.1 If the Current CPI, for a CPI Adjustment Date is more than the Previous CPI, then the Rent from and including that CPI Adjustment Date is the greater of:
- (a) the Rent as at that CPI Adjustment Date multiplied by the Current CPI and divided by the previous CPI; and
 - (b) the Rent as at that CPI Adjustment Date multiplied by the Adjusted Current CPI and divided by the Previous CPI.

4 MARKET REVIEW OF RENT

- 4.1 The Landlord may give the Tenant a notice stating the Landlord's assessment of the current annual market rent of the Premises on a Market Review Date and for each Rent Period until the next Market Review Date at any time before the CPI Adjustment Date or Market Review Date immediately after the relevant Market Review Date.

If the Landlord gives the notice later than six months after the relevant Market Review Date, then, although the Rent from and including the relevant Market Review Date is to be the amount decided under this clause 4, the Tenant need not pay, despite clause 4.6, any increase in instalments from and including the relevant Market Review Date to but excluding the day on which the Landlord gives the notice.

- 4.2 In respect of the first Rent Period, Rent will be determined by the Landlord on or before the date which is 20 Business Days after the commencement of this lease in accordance with the Landlord's assessment of the current annual market rent of the Premises. The Landlord is to give the Tenant notice stating this assessment prior to that date.
- 4.3 If the Tenant does not dispute the Landlord's assessment or does not give a dispute notice on time, the Rent from and including the relevant Market Review Date or the commencement of this lease (in relation to a notice under clause 4.2) is the amount stated in the Landlord's notice.
- 4.4 If the Tenant disputes the Landlord's notice within 21 days after the Landlord gives its notice, and the parties are unable to reach agreement by the date 30 days after the date on which the Tenant has given a dispute notice, the parties must refer the matter for dispute resolution under clause 4.7.

Disputes over rent review

- 4.5 If the Tenant gives a dispute notice on time, the Rent is decided under clause 4.5. Until then the Tenant must pay, by equal monthly instalments on account of the Rent from the relevant Market Review Date, the Rent immediately before the relevant Market Review Date and 80% of the increase sought by the Landlord.
- 4.6 In respect of the first Rent Period, if there is a dispute over the amount of the Rent to apply to that Rent Period, the Tenant must pay the amount proposed by the Landlord until such dispute is resolved.
- 4.7 The current annual market rent of the Premises on the relevant Market Review Date must be decided by a valuer who:
- (a) is appointed by the parties (and if they do not agree on who to appoint within 14 days after the Tenant gives the dispute notice, then that valuer is to be nominated at either party's request by the president of the New South Wales division of the Australian Institute of Valuers and Land Economists (Incorporated));and

- (b) is a full member of at least five years' standing of the Australian Institute of Valuers and Land Economists (Incorporated); and
- (c) at the time of appointment is experienced in and actively engaged in valuing retail premises in retail shopping complexes; and
- (d) must be instructed to:
 - (i) decide what is the current annual market rent of the Premises on the relevant Market Review Date (disregarding the goodwill of the Tenant's Business and the value of any fit out in the Premises paid for by the Tenant if taking these things into account would increase the current annual market rent of the Premises on the relevant Market Review Date); and
 - (ii) give a written valuation setting out what was taken into account, what was disregarded, their respective weightings and any other adjustments; and
- (e) acts as an expert and not as an arbitrator and, subject to clause 4.8, whose decision is final and binding, and
- (f) decides who must pay the valuer's costs and in what proportion, if they are to be shared.

The amount decided by the valuer is, subject to clause 4.8, the Rent from and including the relevant Market Review Date.

Adjustments

- 4.8 On the first Rent Day after the Rent is agreed or decided under this clause 4, the Tenant must pay the Landlord (or the Landlord must credit the Tenant with) the difference between what the Tenant has paid on account of Rent and the Rent for the period from and including the relevant Market Review Date to but excluding that Rent Day.
- 4.9 If a Market Review Date and a CPI Adjustment Date fall on the same date, the Landlord may treat it either as a Market Review Date or as a CPI Adjustment Date.

Tenant's Insolvency

- 4.10 If the Tenant reasonably expects that it may, in any Rent Period, become Insolvent, then the Tenant may give the Landlord an Insolvency Notice at any time during that Rent Period.
- 4.11 If the Tenant gives the Landlord an Insolvency Notice then:
 - (a) the Landlord must within 30 days after service of the Insolvency Notice on the Landlord give the Tenant a notice stating the Landlord's assessment of the current annual market



rent of the Premises on the Market Review Date (being the date on which the Tenant served the Insolvency Notice on the Landlord);

- (b) the provisions of clauses 4.2, 4.3, 4.4, 4.5 and 4.6 apply; and
- (c) clause 4.7 does not apply in respect of that market review.

- 4.12 If the Landlord does not agree that the Tenant may, in any Rent Period, become Insolvent then the Landlord must give the Tenant written notice of the dispute within 14 days of the date on which the Insolvency Notice was given to the Landlord and the dispute must be settled under clause 22 of this Lease. If the Landlord does not give the Tenant notice of the dispute within the time period required by this clause then the date on which the Tenant served on the Landlord the Insolvency Notice is a Market Review Date.
- 4.13 If on settlement of the dispute under clause 22 of this Lease, it is resolved that the Tenant may not become Insolvent in the relevant Rent Period then the Insolvency Notice given by the Tenant shall be deemed not to have been given to the Landlord.

5 CALCULATION OF RENT

- 5.1 This clause 5 sets out the procedure for calculating and paying Rent.

Payments on account of Rent

- 5.2 The Tenant must for each Rent Period pay interim instalments on account of Rent equal to the Rent Instalment.
- 5.3 If an instalment calculated under this clause 5 is for a period of less than one month, then that instalment is a proportion of one twelfth of the instalment which would have been payable in a full month equal to the proportion that the number of days in the period bears to the number of days in the month in which that period begins.

6 OUTGOINGS

The Tenant must pay when incurred or assessed all Outgoings and reimburse the Landlord for any Outgoings paid by the Landlord.

7 PAYMENT REQUIREMENTS

- 7.1 The Tenant must make payments under this lease to the Landlord (or to a person nominated by the Landlord in a notice to the Tenant) by the method the Landlord reasonably requires without set-off, counterclaim, withholding or deduction.
- 7.2 If the Tenant pays an amount and it is found later that the amount was not correct then, even though the Landlord has given the Tenant a receipt for the other amount, within seven days after either party gives the other a notice about the mistake the Tenant must pay the Landlord

(or the Landlord must credit the Tenant with) the difference between what the Tenant has paid and what the Tenant should have paid.

- 7.3 The Landlord need not make demand for any amount payable by the Tenant unless this lease says that demand must be made.
- 7.4 If the Tenant must pay an amount on the next Rent Day and there is no next Rent Day, then the Tenant must pay that amount within seven days after the Landlord demands it.
- 7.5 Expiry or termination of this lease does not affect the Tenant's obligations:
- (a) to make payments under this lease for periods before then; or
 - (b) to give information to the Landlord to enable it to calculate those payments.
- 7.6 Each payment by the Tenant must be made with an additional amount equal to any goods and services, consumption, value added or similar tax applying to that payment.
- 7.7 Time is of the essence of this lease in connection with the Tenant's obligations to pay money.

Interest on overdue money

- 7.8 If the Tenant does not pay any amount payable by it under this lease on time, it must pay, on demand by the Landlord, interest on that amount from when it becomes due for payment until it is paid. Interest is calculated on daily balances at a rate 2% per annum above the rate quoted on the day of demand by the Landlord's bankers (as nominated by the Landlord) on unsecured overdraft accommodation in excess of \$100,000.

8 INSURANCES

- 8.1 The Tenant must:
- (a) in connection with the Premises, maintain with insurers and on terms (including a cross liability and waiver of subrogation clause) approved by the Landlord (which approval may not be unreasonably withheld) in the names of the Tenant, the Landlord and any other person named by the Landlord:
 - (i) public liability insurance for at least the amount in item 5 (as varied by notice from the Landlord to the Tenant); and
 - (ii) plate glass insurance against all risks specified by the Landlord; and
 - (iii) other insurances which are required by law or which, in the Landlord's reasonable opinion, a prudent tenant

would take out including those in connection with Tenant's works on the Premises; and

- (b) give the Landlord evidence that it has complied with clause 8.1(a) when asked to do so; and
 - (c) notify the Landlord immediately if an insurance policy required by this clause is cancelled or an event occurs which may allow a claim or affect rights under an insurance policy in connection with the Premises.
- 8.2 The Tenant may not enforce, conduct, settle or compromise claims under any insurance policy required by this lease, even if that policy also covers other property, if the Landlord gives the Tenant a notice that the Landlord wishes to do these things.
- 8.3 The Tenant may not do anything which may affect rights under any insurance or which may increase an insurance premium payable in connection with the Premises.
- 8.4 Insurance proceeds (even if of a policy in the Tenant's name only in breach of claim 8.1(a)) which the insurer does not require to be used for replacement or reinstatement must be paid into a separate joint account in the names of the Landlord, the Tenant and, if required by the Landlord, any other person. The money must be used to settle claims in connection with the event insured against or to replace or reinstate the insured item and then shared between the account holders having regard to the effect on them of that event or their respective interests in that item.

9 INDEMNITIES AND RELEASES

- 9.1 The Tenant is liable for and indemnifies the Landlord against liability or loss arising from, and cost incurred in connection with:
- (a) damage, loss, injury or death caused or contributed to by the act, negligence or default of the Tenant or of the Tenant's Employees and Agent; and
 - (b) the Landlord doing anything which the Tenant must do under this lease but has not done or has not done properly.
- 9.2 The Tenant releases the Landlord from, and agrees that the Landlord is not liable for, liability or loss arising from, and cost incurred in connection with:
- (a) damage, loss, injury or death unless it is caused by the act, negligence or default of the Landlord or of the Landlord's employees or agent; and
 - (b) anything the Landlord is permitted to do under this lease; and
 - (c) if the Landlord has complied with clause 15.2:



- (i) a Service being interrupted or not working properly; and
- (ii) the Landlord's plant and equipment not working properly; and
- (iii) the Premises not being clean.

9.3 Each indemnity is independent from the Tenant's other obligations and continues during this lease and after it expires or is terminated. The Landlord may enforce an indemnity before incurring expense.

10 TRADING AND USE

10.1 The Tenant must use the Premises only for the Permitted Use.

11 TENANT'S ADDITIONAL OBLIGATIONS

11.1 The Tenant must:

- (a) subject to clause 13.5, comply on time with all laws and the requirements of authorities in connection with the Premises, the Tenant's Business, the Tenant's Property and the use or occupation of the Premises (including obtaining all permits); and
- (b) inform the Landlord of damage to the Premises or of a faulty Service immediately it becomes aware of it; and
- (c) observe the maximum load weights throughout the Premises; and
- (d) get the Landlord's approval before moving heavy or bulky objects through the Premises; and

11.2 The Tenant may not:

- (a) alter the Landlord's Property or remove it from the Premises; or
- (b) store or use inflammable, volatile or explosive substances on the Premises; or
- (c) do anything in or around the Premises which in the Landlord's reasonable opinion may be annoying, dangerous or offensive; or
- (d) use the Premises facilities or Services for anything other than their intended purpose; or

11.3 If the Tenant may not do something in connection with this lease, then it may not do anything which may result in it happening.

11.4 The Tenant must ensure that the Tenant's Employees and Agents comply, if appropriate, with the Tenant's obligations under this lease.

11.5 The Tenant must keep proper accounting records for all transactions of the Tenant's Business for 18 months after the end of the Rent Period to which they relate.

- 11.6 On giving reasonable notice, the Landlord may inspect, copy or audit those records. Within the period stated in the notice, the Tenant must produce them for the Landlord at a place the Tenant specifies acting reasonably.

12 CLEANING THE PREMISES

The Tenant must keep the Premises and everything in them clean and free of vermin and comply with the Landlord's directions in that regard.

13 REPAIR, REDECORATION AND TENANT'S WORKS

Landlord's approval

- 13.1 The Tenant may not carry out works to the Premises without the Landlord's approval.

If the Landlord gives approval it may, when giving it, impose conditions including specifying:

- (a) which parts of the Premises may not be reinstated and which parts must be; and
- (b) which items of Tenant's Property installed as part of the works may not be removed when the Tenant vacates the Premises.

Tenant's works

- 13.2 The Tenant must ensure that any works it does, including works under clause 13.4, are done:

- (a) by contractors approved by the Landlord who may not unreasonably withhold its approval; and
- (b) in a proper and workmanlike manner; and
- (c) in accordance with any plans, specifications and schedule of finishes required and approved by the Landlord who may not unreasonably withhold its approval; and
- (d) in accordance with all laws and the requirements of authorities; and
- (e) in accordance with the Landlord's reasonable requirements and directions.

Repair of items

- 13.3 The Tenant acknowledges that the Premises were in good repair at the Lease Commencement Date.

Repair, replace and redecorate

- 13.4 The Tenant must.
- (a) keep the Premises and the Tenant's Property in good repair excluding fair wear and tear; and

- (b) promptly replace worn or damaged items in or attached to the Premises (including plate glass, Tenant's Property (other than stock) and those floor coverings and furnishings which are part of the Landlord's Property) with items of similar quality.

Structural work

- 13.5 The Tenant need not carry out structural work unless it is required because of the use or occupation of the Premises or the act, negligence or default of the Tenant or of the Tenant's Employees and Agents.

14 TRANSFER AND OTHER DEALINGS

- 14.1 The Lessee must not:
 - (a) assign or otherwise deal with its interest in or obligations under this Lease; or
 - (b) sublease or licence the Premises, except in accordance with clause 12.2 of the Project Deed.
- 14.2 The Lessee must not give Security Interests (as defined in the Head Lease) over its interest in this Lease to secure its obligations to any person in respect of the Project Debt except in accordance with clause 12.3 of the Project Deed.

15 LANDLORD'S ADDITIONAL OBLIGATIONS AND RIGHTS

Quiet enjoyment

- 15.1 Subject to the Landlord's rights, while the Tenant complies with its obligations under this lease, it may occupy the Premises during the Term without interference by the Landlord.
- 15.2 The Landlord must take reasonable action to keep:
 - (a) the Services available to the Premises during the trading hours referred to in clause 10.2; and
 - (b) the Landlord's plant and equipment in the Premises in good working order.

The Tenant may not terminate this lease or stop or reduce payments under it because a Service is interrupted or fails or the Landlord's plant or equipment breaks down.

Consents

- 15.3 If the Landlord has agreed to obtain a person's consent in connection with this lease, then the Landlord must do everything reasonably necessary to obtain that consent.

15.4 The Landlord may:

- (a) carry out any works in the Premises (including altering and redeveloping it), if the Landlord takes reasonable steps (except in emergencies) to minimise interference with the Tenant's Business; and
- (b) exclude or remove any person from the Premises, and
- (c) restrict access to delivery and pick-up areas; and
- (d) permit functions, displays, parades and other activities in the Premises.

To enter

- 15.5 The Landlord may enter the Premises at reasonable times on reasonable notice to see if the Tenant is complying with its obligations under this lease or to do anything it must or may do under this lease.

If the Landlord decides there is an emergency, the Landlord may enter at any time without notice.

Change of landlord

- 15.6 If the Landlord deals with its interest in the Premises so that any other person becomes landlord, the Landlord is released from any obligation under this lease arising after it ceases to be landlord.

Landlord may rectify

- 15.7 The Landlord may do anything which the Tenant should have done under this lease but which it has not done or which the Landlord considers it has not done properly.

Agents

- 15.8 The Landlord may appoint agents or others to exercise any of its rights or perform any of its duties under this lease. Communications from the Landlord override those from the agents or others if the communications are inconsistent.

16 EXPIRY OR TERMINATION

Tenant to vacate

- 16.1 The Tenant must vacate the Premises on the earlier of the Terminating Date and the date this lease is terminated and, subject to clause 16.2; leave them in a condition satisfactory to the Landlord acting reasonably.

No removal of certain items

- 16.2 The Tenant may not remove other Tenant's Property which:
- (a) the Landlord has stated (as a condition of giving approval to works) may not be removed; or

- (b) is part of structural work done by the Tenant to the Premises unless the Landlord gives the Tenant a notice requiring the Tenant to remove that Tenant's Property.

Removal of Tenant's Property

- 16.3 Subject to clause 16.2, the Tenant must remove the Tenant's Property from the Premises during the seven days immediately before the day the Premises must be vacated and must promptly make good any damage caused by that removal.

Tenant's Property not removed

- 16.4 If the Landlord terminates this lease by re-entry, the Tenant may give the Landlord a notice within seven days after termination that it wants to remove the Tenant's Property which it may or must remove from the Premises.
- 16.5 Within seven business days after the Tenant gives its notice, the Landlord must give the Tenant a notice, stating when and how the Tenant's Property is to be removed from the Premises and by whom.
- 16.6 The Landlord may treat the Tenant's Property as abandoned and deal with it in any way it sees fit at the Tenant's expense if the Tenant does not:
- (a) give its notice on time; or
 - (b) remove the Tenant's Property in accordance with this clause 16 or a notice given under it.
- 16.7 The Tenant's Property is at the Tenant's risk at all times.
- 16.8 On the day the Tenant must vacate the Premises, the Tenant must give the Landlord the keys, access cards and similar devices for the Premises held by the Tenant, the Tenant's Employees and Agents and any other person they have given them to.

Termination of Project Deed

- 16.9 If the Project Deed is terminated, this lease simultaneously terminates.

17 DAMAGES TO PREMISES

- 17.1 If the Premises is damaged so that the Tenant's use of the Premises is substantially adversely affected, the Landlord must give the Tenant a notice within six weeks after the damage occurs either:
- (a) terminating this lease on a date not less than two weeks after the date the Landlord gives the notice; or
 - (b) stating that the Landlord intends to make the Premises fit for the Tenant's use.

- 17.2 If the Landlord does not make the Premises fit for the Tenant's use within a reasonable time after giving the notice that it intends to do so, the Tenant may give the Landlord a notice stating that the Tenant will terminate this lease if the Landlord does not make the Premises fit within one month after the Tenant gives the notice.

Abatement of payments

- 17.3 The Tenant may reduce its payments under this lease for the period from and including the date the damage occurs to and including the date this lease is terminated or to but excluding the date the Premises are made fit for the Tenant's use. Any reduction must be proportionate to the loss of amenity caused by the damage.
- 17.4 If the parties do not agree on the proportion within seven days after the damage occurs, then each party must give the other a notice under clause 22.2 and the proportion must be decided under clause 22. Until that proportion is agreed or decided, the Tenant must continue making payments under this lease but may reduce them by 50%.
- 17.5 On the first Rent Day after the proportion is agreed or decided, the Tenant must pay the Landlord (or the Landlord must credit the Tenant with) any difference between what the Tenant has paid under this lease and what the Tenant should have paid for the period from and including the date the damage occurs to but excluding that Rent Day.
- 17.6 The Tenant may not terminate this lease or reduce payments under this clause if:
- (a) the damage is caused or contributed to by; or
 - (b) rights under an insurance policy in connection with the Premises are prejudiced or a policy is cancelled or payment of a premium or a claim is refused by the insurer because of
- the act, negligence or default of the Tenant or of the Tenant's Employees and Agents. This does not affect rights the Landlord may have in connection with the events specified in this clause 17.6.
- 17.7 This clause 17 does not oblige the Landlord to restore or reinstate the Premises.

18 DEFAULT

Essential terms

- 18.1 Each obligation of the Tenant to pay money and its obligations under clauses 8, 10, 13 and 14 are essential terms of this lease. Other obligations under this lease may also be essential terms.

Landlord's right to terminate

- 18.2 The Landlord may terminate this lease by giving the Tenant notice or by re-entry if the Tenant:
- (a) repudiates its obligations under this lease; or
 - (b) does not comply with an essential term of this lease; or
 - (c) does not comply with an obligation under this lease (which is not an essential term) and, in the Landlord's reasonable opinion:
 - (i) the non-compliance can be remedied, but the Tenant does not remedy it within a reasonable time after the Landlord gives the Tenant notice to remedy it; or
 - (ii) the non-compliance cannot be remedied or compensated for; or
 - (iii) the non-compliance cannot be remedied but the Landlord can be compensated and the Tenant does not pay the Landlord compensation for the breach within a reasonable time after the Landlord gives the Tenant notice to pay it.
- 18.3 If this lease is terminated under this clause 18, then the Tenant indemnifies the Landlord against any liability or loss arising and any cost incurred, whether before or after termination of this lease, in connection with the Tenant's breach of this lease or the termination of this lease including the Landlord's loss of the benefit of the Tenant performing its obligations under this lease from the date of that termination until the Expiry Date. The Landlord must take reasonable steps to mitigate its loss if this lease is terminated.

19 COSTS, CHARGES AND EXPENSES

In connection with this lease and any document or matter in connection with it, the Tenant must pay promptly:

- (a) for everything it must do; and
- (b) all stamp duty and registration fees; and
- (c) on demand, the Landlord's reasonable costs, charges and expenses including those for negotiating, preparing, executing, stamping, registering, obtaining my consents the Landlord must obtain before giving approvals, considering requests for approvals and exercising right; and
- (d) all costs, charges and expenses in connection with works the Tenant carries out, including those incurred by the Landlord in considering, approving and SUM the works and those of modifying or varying the Premises because of the works.

20 NOTICES

- 20.1 A notice or approval must be:
- (a) in writing; and
 - (b) left at or posted to the address or sent to the facsimile number of the party in item 8, as varied by notice.
- 20.2 A notice or approval is taken to be given:
- (a) if posted, on the third day after posting; and
 - (b) if sent by facsimile, on the next business day after it is sent unless the sender is aware that transmission is impaired.

21 MISCELLANEOUS

Waiver and variation

- 21.1 A provision of or a right under this lease may not be waived or varied except in writing signed by whoever is to be bound.
- 21.2 If the Landlord:
- (a) accepts rent or other money under this lease (before or after termination); or
 - (b) failure to exercise its rights under clause 18; or
 - (c) grant of any indulgence to the Tenant; or
 - (d) attempt to mitigate its loss

it is not a waiver of any breach or of the Landlord's rights under this lease. An attempt by the Landlord to mitigate its loss is not a surrender of this lease.

Approvals

- 21.3 The Landlord may give conditionally or unconditionally or withhold its approval in its absolute discretion unless this lease expressly says otherwise.

Exclusion of statutory provisions

- 21.4 The covenants, powers and provisions implied in leases by sections 84, 84A, 85 and 86 of the Conveyancing Act 1919 do not apply to this lease.
- 21.5 In this lease words used in any of the forms of words in the first column of part 2 of schedule 4 to the Conveyancing Act 1919 do not imply a covenant under section 86 of that act.

Prior breaches

- 21.6 Expiry or termination of this lease does not affect any rights in connection with a breach of this lease before then.

Caveats

- 21.7 The Tenant may not:
- (a) lodge a caveat on the title to the Land, except a caveat noting the Tenant's interest under this lease (if this lease is not registered but must be to ensure that it is enforceable against the Landlord's successors in title); or
 - (b) allow a caveat lodged by a person claiming through the Tenant to remain on that title.

If the Tenant lodges a caveat permitted by this clause, it must do everything necessary to permit registration of any dealing if its rights under this lease are protected. The Tenant must withdraw that caveat on the earlier of registration and expiry or termination of this lease.

Warranties and undertakings

- 21.8 The Tenant warrants that it:
- (a) has relied only on its own enquiries in connection with this lease and not on any representation or warranty by the Landlord or any person acting or seeming to act on the Landlord's behalf; and
 - (b) was made aware of the Rules then current when signing this lease.
- 21.9 The Tenant must comply on time with undertakings given by or on behalf of the Tenant in connection with this lease.

Counterparts

- 21.10 This lease may consist of a number of counterparts and the counterparts taken together constitute one and the same instrument.

22 DISPUTES

Legal proceedings conditional

- 22.1 A party may not begin legal proceedings in connection with a dispute under this lease (except under clause 4) unless that dispute has first been decided by a person appointed under this clause 22.

Notice of dispute

- 22.2 If there is a dispute under this lease (except under clause 4) either party may give the other a notice requiring the dispute to be settled under this clause.

Referral of dispute

- 22.3 The dispute must be referred to a person agreed on by the parties but if the parties do not agree within seven days after the notice is given, then to a person appropriately qualified to deal with the dispute appointed at the request of either party by the President of The Law Society of New South Wales.
- 22.4 The person acts as an expert and not as an arbitrator and must give a written decision including reasons. Unless there is manifest error, that person's decision is final and binding.

Enquiries

- 22.5 The person may enquire into the dispute as that person thinks fit including hearing representations and taking advice from people that person considers appropriate.
- 22.6 The parties may make submissions to and must give the person every assistance that person requires, including providing copies of relevant documents.

Costs

- 22.7 Each party must pay its own costs in connection with the dispute. The costs of referring the dispute to the person and that person's costs and the cost of the enquiries must be shared equally.

We certify this dealing to be correct for the purposes of the Real Property Act 1900

DATE: