



LICENCE AGREEMENT

City of Parramatta Council

and

|insert name |

for

|1-3x Brigg Road EPPING |

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Licence Agreement

Date of Agreement

Parties

Name	City of Parramatta Council
ABN	49 907 174 773
Address	126 Church Street, Parramatta NSW 2150
Short name	Licensor

Name	
ABN	
Address	
Short name	Licensee

Background

- A. The Licensor is the owner of the Land.
- B. The Licensee has requested that the Licensor grant to it a licence of the Licence Area for the Permitted Use.
- C. The Licensor has agreed to grant a licence of the Licence Area to the Licensee on the terms and conditions contained in this Agreement.

THE PARTIES AGREE:

1. Interpretation

1.1 Definitions

In this Agreement unless expressed or implied to the contrary:

Approval means any certificate, licence, consent, permit, approval or other requirement of any Relevant Authority having jurisdiction in connection with the activities intended by this Agreement.

Bank Guarantee means a bank guarantee:

- (a) issued by a bank approved by the Licensor;
- (b) containing an unconditional undertaking to pay the Licensor on demand, the Security Amount in full or part as demanded;

- (c) for the Security Amount; and
- (d) without an expiry date.

Bond means the deposit bond paid by the Licensee to the Licensor for the Security Amount in accordance with clause 3.3.

Building means all car parks, buildings and improvements erected on the Land including, without limitation, all plant and equipment, fixtures, fittings, signs, furniture and furnishings (other than the Licensee's Property or the property of any other occupier of the Building).

Business Day means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Sydney, Australia.

Car Park means any part of the improvements on the Land or any adjoining land designated by the Licensor for use as a car park, including the Car Spaces.

Car Spaces means those car spaces specified in Item 14 of the Reference Schedule.

Car Space Licence means the car space licence described in clause **Error! Reference source not found.**

Car Space Licence Fee means the amount specified in Item 14 of the Reference Schedule.

Claim means any Cost, claim, loss, liability, damage, proceeding, order, judgement or expense.

Commencement Date means the commencement date of the Term set out at Item 5 of the Reference Schedule.

Common Area means any part of the Building or Land provided by the Licensor for common use and includes any plazas, forecourts, pedestrian ways, car parks, stairways, toilets, elevators, landscaped areas and common amenities other than those reserved by the Licensor.

Contamination means any substance or organism present in the soil, substrata or groundwater on the Land or otherwise anywhere in the Licence Area in concentrations greater than the background levels naturally present for the substance or organism and which (based on generally accepted knowledge and practice at the Commencement Date) harms the Environment or is hazardous or otherwise harmful to health.

Cost includes any cost, charge, expense, outgoing, payment or other expenditure of any nature (whether direct, indirect or consequential and whether accrued or paid).

CPI means the Consumer Price Index (All Groups) for Sydney published by the Australian Bureau of Statistics or any similar published index which replaces it.

Current CPI means the CPI for the quarter last published at the relevant Review Date.

Demolition means:

- (a) demolition of the Building or that part of it as contains the Licence Area; or
- (b) any substantial repairs, renovations or reconstruction of the Building (or that part of it as contains the Licence Area) that cannot be carried out practicably without the vacant possession of the Licence Area,

and "**Demolish**" has the corresponding meaning.

Electronic Communication has the same meaning as in the *Electronic Transactions Act 1999* (Cth).

Encumbrance means a caveat, charge, bill of sale, mortgage, pledge, lien, option to acquire, lease, security, preferential interest or arrangement of any kind and any agreement to grant or create any of those encumbrances whether registered or unregistered.

Environment includes:

- (a) ecosystems and their constituent parts, including people and communities; and
- (b) all natural and physical resources; and
- (c) the qualities and characteristics of locations, places and areas, however large or small, that contribute to their biological diversity and integrity, intrinsic or attributed scientific value or interest, amenity, harmony and sense of community; and
- (d) the social, economic, aesthetic and cultural condition.

Expiry Date means the expiry date set out in Item 6 of the Reference Schedule or the expiry date of the Option Term (if applicable).

Fitout Guide means the fitout guide provided by or on behalf of the Licensor applicable to the Licence Area.

GST means the same as in the GST Law.

GST Law means the same as “GST law” means in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Hirer means community groups and/or members of the public and/or private entities who sublicence/hire the Premises under a Sub-Licence/hire arrangement permitted under this Licence.

Initial Term means the initial term specified in Item 7 of the Reference Schedule.

Insolvency Event means, in relation to a party, the happening of any one or more of the following events:

- (a) that party makes an arrangement, compromise or composition with, or assignment for, the benefit of its creditors or a class of them;
- (b) a receiver, receiver and manager, administrator, provisional liquidator, trustee, controller, inspector or analogous person is appointed in relation to, or over, all or any part of that party’s business, assets or securities;
- (c) a presumption of insolvency has arisen under legislation because of the party’s failure to comply with a statutory demand or analogous process;
- (d) an application for the winding up of, or for the appointment of a receiver to, that party, other than winding up for the purpose of solvent reconstruction or re-amalgamation, is presented and not withdrawn or dismissed within 21 days (or such longer period agreed to by the parties), or an order is made or an effective resolution is passed for the winding up of, or for the appointment of a receiver to, that party, or any analogous application is made or proceedings initiated;
- (e) any shareholder or director of that party convenes a meeting for the purpose of considering or passing any resolution for the winding up or administration of that party;
- (f) that is an individual, a creditor’s petition or a debtor’s petition is presented to the official receiver or analogous authority in connection with that party;
- (g) an execution or similar process is levied or enforced against the property of that party;

- (h) that party ceases or suspends, or threatens to cease or suspend, the conduct of all or a substantial part of its business;
- (i) that party disposes of, or threatens to dispose of, a substantial part of its assets;
- (j) that party stops or suspends, or threatens to stop or suspend, payment of all or a class of its debts; or
- (k) that party is unable to pay the party's debts as and when they become due and payable.

Interest Rate means a rate equal to 2% above the overdraft rate for \$100,000 or more charged by the Licensor's bank per annum, capitalised daily.

Keys means any key, access card or other opening device to access the Licence Area, Building, Car Park or Land.

Land means the land specified in Item 3 of the Reference Schedule.

Law includes any requirement of statute, rule, regulation, common law, proclamation, ordinance, by-law or Australian Standard present or future and whether state, federal or otherwise.

Licence Area means that part of the Land described at Item 4 of the Reference Schedule and where the context so admits includes the structures and improvements and any fixtures, fittings, plant, machinery, furnishings and equipment now erected or installed or placed or to be erected or installed or placed during the Term by the Licensor or the Licensee.

Licence Fee means the amount payable by the Licensee specified in Item 8 of the Reference Schedule.

Licensee means the licensee identified in Item 2 of the Reference Schedule and where not repugnant to the context includes the Licensee's employees, agents, contractors and invitees.

Licensee's Business means the business carried on by the Licensee from the Licence Area in accordance with the Permitted Use.

Licensee's Fixtures means all fixtures, fittings, plant, equipment or other articles installed in the Licence Area by the Licensee or brought onto the Licence Area by the Licensee.

Licensee PPS Items means any item of Personal Property:

- (a) which is owned or leased by the Licensee;
- (b) which is situated in the Licence Area at any time during the Term; and
- (c) in which the Licensor can require the Licensee to transfer ownership to the Licensor, or in which the Licensee is required to transfer ownership to the Licensor, before or after the end of the Term,

but does not include any Licensor PPS Items.

Licensee's Property means all property owned or leased by the Licensee in the Licence Area or elsewhere in the Building.

Licensor means the licensor identified in Item 1 of the Reference Schedule and where not repugnant to the context includes the Licensor's employees, agents, contractors and invitees.

Licensor PPS Items means any item of Personal Property which is owned or leased by the Licensor and is situated in the Licence Area at any time during the Term.

Licensor's Assessment means the Licensor's written determination of the current market Licence Fee for the Licence Area from the relevant Review Date, having regard to anything the Licensor in its absolute discretion considers relevant.

Licensor's Property means all plant, equipment, fixtures, fittings, furniture, furnishings and other property the Licensor provides on the Land.

Make Good means:

- (a) removing all Licensee's Property (unless the Licensor directs otherwise);
- (b) removing all alterations or additions to the Licence Area made by or on behalf of the Licensee including signs, advertisements, notices (unless the Licensor directs otherwise);
- (c) properly repairing any damage to the Licence Area, Building or Land caused by the Licensee;
- (d) thoroughly cleaning the Licence Area including where necessary removing all rubbish and other materials; and
- (e) reinstating the Licence Area, Car Space and the Services to their condition at the Commencement Date (unless the Licensor directs otherwise);

Old Licence Fee means the Licence Fee payable immediately before the relevant Review Date.

Option Term means the option term(s), if any, specified in Item 7 of the Reference Schedule.

Outgoings means all amounts, costs, expenses of any kind whatsoever assessed, incurred or levied in relation to the Licence Area or upon the Licensor or the Licensee on account thereof including:

- (a) Rates, Taxes and other charges imposed by any Relevant Authority; and
- (b) supplying, renting, operating, maintaining, servicing, repairing and replacing Services and upgrading Services to comply with requirements or orders of Relevant Authorities or any Law; and
- (c) charges for the supply (including charges for installation and connection) of Services to the Licence Area.

Permitted Hours means the permitted hours specified in Item 11 of the Reference Schedule.

Permitted Use means the use specified in Item 10 of the Reference Schedule.

PPS Act means the *Personal Property Securities Act 2009* (Cth).

Previous CPI means the CPI number for the quarter last published before:

- (a) in the case of the first Review Date, the Commencement Date; or
- (b) in all other cases, the Review Date immediately before the relevant Review Date.

Principal Contractor has the same meaning given under the WHS Law.

Rates means rates, land taxes, levies, assessments and other charges (including charges for consumption and garbage and waste removal), together with any interest, fines and penalties in connection with them.

Reference Schedule means Schedule 1 of this Agreement.

Relevant Authority means, in respect to a particular context or circumstances, any government or any governmental, semi-governmental, quasi-governmental, administrative or judicial body, department, commission, authority, tribunal or entity having jurisdiction and responsibility in respect to that context or circumstance.

Review Date means each date in Item 9 of the Reference Schedule.

Rules mean the rules in Schedule 2 as varied or amended by the Licensor from time to time and any other rules applicable to the Licence Area from time to time.

Security means the security in the form specified in Item 13 of the Reference Schedule payable by the

Licensee to the Licensor in accordance with clause 3.3.

Security Amount means the security amount specified in Item 13 of the Reference Schedule.

Secured Party has the same meaning as that term is defined in the PPSA.

Security Interest has the same meaning as that term is defined in the PPSA.

Services means any utility or services running through or servicing the Licence Area including but not limited to air conditioning, electricity, power, gas, oil, water, sewerage, telecommunications, fire hydrant, service sprinkler and public address and includes all pipes, wires, cables, ducts and other conduits in connection with them.

Sublessee means a sublessee under a Sub-Licence of the Premises and includes a Hirer.

Sub-Licence means the booking and hiring of parts of the Premises to Sublessees/Hirers for purposes and uses that reflect the Permitted Use.

Taxes means taxes, levies, imposts, deductions, charges, withholdings and duties imposed by any authority (including stamp and transaction duties), together with any related interest, penalties, fines and expenses in connection with them, except if imposed on the overall net income or capital gains of the Licensor.

Term means the term of this Agreement set out in Item 7 of the Reference Schedule, beginning on the Commencement Date and ending on the Expiry Date.

Valuer means a certified practising valuer who:

- (a) is a current full member of the Australian Property Institute and has at least 5 years' experience of valuing premises of a like nature in the same market; and
- (b) at the time of appointment is both experienced and actively engaged in valuing like premises.

WHS means work, health and safety.

WHS Act means the *Work Health and Safety Act 2011* (NSW).

WHS Law means all Laws relating to work, health and safety including the WHS Act and WHS Regulation as amended from time to time.

WHS Regulation means the *Work Health and Safety Regulation 2017* (NSW).

WHS Management Plan has the same meaning given under the WHS Regulations.

Work includes maintenance, repair, replacement, redecoration, alteration or addition (including the erection of signage).

1.2 Interpretation

1.2.1 In this Agreement unless the context otherwise requires:

- (a) a reference to this Agreement or another document includes any documents which varies, supplements, replaces, assigns or novates this Agreement or that other document;
- (b) a reference to a person includes a natural person, corporation, statutory corporation, partnership, the Crown and any other organisation or legal entity and their personal representatives, successors, substitutes (including persons taking by novation) and permitted assigns;
- (c) a reference to dollars or \$ is to Australian currency;
- (d) words denoting the singular number include the plural and vice versa;

- (e) words denoting any gender include all genders;
- (f) words denoting individuals include corporations and vice versa;
- (g) headings are inserted for convenience only and do not affect the interpretation of this Agreement;
- (h) 'including' and 'includes' are not words of limitation, and a list of examples is not limited to those items or to items of a similar kind;
- (i) a word that is derived from a defined word has a corresponding meaning;
- (j) neither this Agreement nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting; and
- (k) any covenant or agreement on the part of or in favour of two or more persons is be deemed to bind them or be in favour of them jointly and each of them severally.

2. GRANT OF LICENCE

2.1 Grant

The Licensor grants to the Licensee a licence to use the Licence Area and the Licensee accepts the licence subject to the provisions of this Agreement.

2.2 Term

This Agreement commences on the Commencement Date and ends on the Expiry Date, unless terminated earlier in accordance with this Agreement.

2.3 Option Term

2.3.1 If an Option Term is stated in the Reference Schedule, the parties may extend this Agreement for the Option Term if:

- (a) the Licensee gives the Licensor a written notice stating that it wants to extend the Agreement for the Option Term;
- (b) the Licensor receives the notice referred in clause 2.3.1(a) at least three (3) months before the Expiry Date but no more than six (6) months before the Expiry Date;
- (c) the Licensee has paid the Licence Fee on time and not committed any breach of this Agreement; and
- (d) the Licensee delivers to the Licensor additional or replacement Security for the Security Amount (if applicable).

2.3.2 The Agreement during the Option Term will be under the same terms and conditions except:

- (a) the Licence Fee will be reviewed in accordance with clause 4; and
- (b) for those changes which are necessary to make this Agreement appropriate for the Option Term.

2.4 **Holding over**

- 2.4.1 If the Licensee continues to occupy the Licence Area after the Expiry Date with the Licensor's approval (which may be given or withheld in the Licensor's absolute discretion), it does so under a new monthly licence.
- 2.4.2 Either party may terminate the monthly licence at any time by providing one month's written notice to the other.

2.5 **Terms of holding over**

- 2.5.1 If the Licensor agrees to allow the Licensee to continue use of the Licence Area under clause 2.4, the monthly licence will be on the same terms as this Agreement except:
- (a) for those changes which are necessary to make this Agreement appropriate for a monthly licence; and
 - (b) for those changes which the Licensor requires as a condition of giving its approval to the holding over.

3. **PAYMENTS**

3.1 **Licence Fee**

The Licensee will pay to the Licensor the Licence Fee without any deduction whatsoever.

3.2 **Manner of Payment**

- 3.2.1 The Licensee must pay the Licence Fee and other monies payable by the Licensee to the Licensor at the address nominated by the Licensor from time to time and in such manner as the Licensor directs in writing.
- 3.2.2 The Licence Fee must be paid by the Licensee to the Licensor by equal monthly instalments, with the first instalment of the Licence Fee payable on the Commencement Date, and subsequent monthly payments to be made on the first day of each calendar month.
- 3.2.3 Payment of the Licence Fee in respect of any part calendar month will be apportioned.

3.3 **Security**

- 3.3.1 On or before the Commencement Date, the Licensee must give the Licensor the Security.
- 3.3.2 If the Licensee defaults under this Agreement (including any extension or holding over), then the Licensor may call on the Security without notice to the Licensee, and apply the proceeds towards remedying the default.
- 3.3.3 If the Licensor calls on the Security, or the Licence Fee is increased, then no later than 10 Business Days after the Licensor gives the Licensee a notice asking for it, the Licensee must deliver to the Licensor a replacement or additional Security so that the amount guaranteed is the Security Amount.
- 3.3.4 The Licensor will return the Security to the Licensee on the later of:
- (a) the expiration or termination of this Agreement; and
 - (b) satisfactory completion of all the Licensee's obligations, including payment to the Licensor of any damages arising from any breach of this Agreement by the Licensee.

3.4 Outgoings

3.4.1 The Licensee must pay all Outgoings.

3.4.2 The Licensee must pay all Costs for the:

(a) connection of;

(b) consumption of; and

(c) installation of separate metering in the Licence Area for,

all Services in connection with the Licensee's use of the Licence Area.

3.5 Goods and Services Tax

All sums payable under this Agreement by either party to the other are exclusive of GST. Where those payments are consideration for a taxable supply, or adjustments to the consideration of a taxable supply, the amount payable will be increased by a sum equal to the amount of the payment multiplied by the then current rate of GST.

3.6 Interest on Unpaid Monies

3.6.1 The Licensee must pay on demand, interest on each amount that is not paid when due, from (and including) the day on which it falls due to the day on which it is paid in full, at the rate calculated in accordance with clause 3.6.2.

3.6.2 Interest on an unpaid amount accrues each day at the Interest Rate.

3.6.3 Nothing in this clause affects the Licensee's obligation to pay each amount under this Agreement when it is due.

4. LICENCE FEE REVIEW

4.1 Review Method

The Licence Fee review method applicable on a Review Date is the method specified next to that Review Date.

4.2 Fixed Amount

If a fixed amount appears next to a Review Date, the Licence Fee to be paid from that Review Date is that amount.

4.3 Fixed Percentage Increase

If a percentage appears next to a Review Date, the Licence Fee to be paid from the Review Date is the amount calculated by the following formula:

$$N = O + (O \times P)$$

where:

N means the Licence Fee to be paid from the Review Date

O means the Old Licence Fee

P means the percentage next to the Review Date.

4.4 **CPI Review**

If the letters “CPI” appear next to a Review Date, the Licence Fee to be paid from the Review Date is the amount calculated by the following formula:

$$N = O \times \left(\frac{C}{R} \right)$$

where:

N means the Licence Fee to be paid from the Review Date

O means the Old Licence Fee

C means the Current CPI

R means the Previous CPI

4.5 **CPI Plus Percentage**

If the letters “CPI+ (x)%” appear next to a Review Date, the Licence Fee to be paid from the Review Date is the amount calculated by the following formula:

$$N = O \times \left(\frac{C}{R} + P \right)$$

where:

C means the Current CPI

N means the Licence Fee payable from the Review Date

O means the Old Licence Fee

P means the percentage next to a Review Date

R means the Previous CPI

4.6 **Market Review**

4.6.1 If “Market Review” appears next to a Review Date, the Licensor may give the Licensee a Licensor’s Assessment no more than 6 months before (and at any time after) the Review Date.

4.6.2 The amount stated in the Licensor’s Assessment is the Licence Fee to be paid from the Review Date unless the Licensee gives the Licensor written notice that it does not agree with the amount (**Dispute Notice**) within 15 Business Days (or any other period agreed between the parties in writing) of the Licensor giving a Licensor’s Assessment to the Licensee.

4.7 **Appointment of Valuer**

4.7.1 If:

- (a) the Licensee gives a Dispute Notice under clause 4.6.2; and
- (b) the Licensor and the Licensee do not agree in writing on the Licence Fee payable from the relevant Review Date within 5 Business Days of the Licensee giving a Dispute Notice,

then the Licensee and the Licensor must, within 10 Business Days of the Licensee giving a Dispute Notice, jointly appoint a Valuer to do the following within 1 month of the Valuer's appointment:

- (c) determine the current market licence fee for the Licence Area, which is the Licence Fee to be paid from the Review Date; and
- (d) give the Licensor and Licensee a written copy of its determination and reasons for its determination.

4.7.2 If the Licensor and Licensee do not agree on a Valuer under clause 4.7.1, either party may request the President of the Australian Property Institute (NSW Division) to appoint a Valuer.

4.7.3 If a Valuer appointed under this clause declines its appointment or does not make its determination in time, the parties may appoint another Valuer in its place.

4.8 **Determination by Valuer**

4.8.1 When determining the current market licence fee of the Licence Area as at the relevant Review Date the Valuer must observe all relevant valuation principles and:

- (a) take into account:
 - (i) the terms of this Agreement;
 - (ii) the Term, including the expired part of the Term, and any option term;
 - (iii) the value of the Licensor's Property in, on or servicing the Licence Area; and
 - (iv) the licence fee currently paid for comparable premises;
- (b) make a determination on the basis that the Licence Area are fit for immediate occupation and offered with vacant possession;
- (c) value the Licence Area as being available to be licensed by a willing licensor to a willing licensee as a whole without a premium but with vacant possession and subject to the provisions of this Agreement for a term equal to the original term of this Agreement;
- (d) any licence- free period or other incentive or benefit applicable to the Licensee's occupation of the Licence Area under this Agreement; and
- (e) not take into account:
 - (i) the Licence Fee paid by the Licensee at the time of review;
 - (ii) the value of the Licensee's Property or the Licensee's goodwill;
 - (iii) any condition of the Licence Area resulting from the Licensee's default under this Agreement; orwhen making a determination under this Agreement.

4.8.2 The Valuer acts as an expert and not as an arbitrator and the Valuer's decision is final and binding.

4.8.3 The parties may make written submissions to the Valuer, and the Valuer is obliged to consider the reasonable submissions of the parties.

4.8.4 The parties must comply with the requirements of the Valuer which relate to the Valuer's appointment or determination.

4.9 **Valuer's Costs**

The Licensor and the Licensee must pay the Valuer's cost in equal shares.

4.10 **Adjustment**

- 4.10.1 The Licensee must continue to pay the Licence Fee payable immediately before the relevant Review Date and in addition pay 80% of the difference between the amount stated in the Licensor's Assessment and the Licence Fee that was payable immediately before the relevant Review Date until the current market licence fee is determined in accordance with this clause 4.
- 4.10.2 The current market licence fee calculated under this clause 4 is the Licence Fee to be paid from the relevant Review Date and the parties must make any adjustments necessary immediately after the determination of the current market licence fee.

5. USE OF LICENCE AREA

5.1 **Use of Licence Area**

- 5.1.1 The Licensee must use the Licence Area for the Permitted Use, in accordance with the terms of this Agreement.
- 5.1.2 The Licensee will not use or permit the use of the Licence Area for any purpose other than the Permitted Use.
- 5.1.3 The Licensee represents and warrants that:
- (a) it has not relied on any representation by or on behalf of the Licensor as to how the Licence Area may be used; and
 - (b) it has made its own appraisal of the suitability of the Licence Area for the Permitted Use; and
 - (c) it is aware of all prohibitions and restrictions applying for the Licence Area in accordance with the requirements and orders of all Relevant Authorities and all Laws.

5.2 **Compliance with Statutory Requirements**

- 5.2.1 The Licensee will, at the Licensee's expense, observe and comply with and cause to be observed and complied with in respect to the Licence Area, any business or activity conducted in the Licence Area by the Licensee, the conduct of any person using the Licence Area under the consent of the Licensee (express or implied), or the Permitted Use of the Licence Area:
- (a) the requirements of all Laws, including workers' compensation requirements, and of any Relevant Authority and all notices, orders and directions which may be given under the Law or by any Relevant Authority; and
 - (b) the requirements of all planning instruments, controls and policies whether federal, state or local.

5.3 **No Noxious Use**

The Licensee will not:

- (a) carry on or permit or suffer to be carried on, in or upon the Licence Area any unlawful, noxious or offensive use, act, trade, business occupation or calling;
- (b) permit or suffer any riotous, disorderly, offensive or improper conduct upon or near the Licence Area or permit or suffer any person who is drunk or behaving in a riotous, disorderly, offensive or improper manner to be or remain upon or near the Licence Area;
- (c) cause, allow or suffer to occur any annoyance, nuisance, injury, disturbance or obstruction to the Licensor or other persons rightfully using or being upon the Licence Area or the Land; and
- (d) carry on or allow any activities of a standard or kind which are not in keeping with the purposes of this Agreement, may adversely affect the use and enjoyment of the Licence Area, Building or Land by the public or other users of the Building, or in the Licensor's reasonable opinion are unsuitable or objectionable or may damage the image of the Licensor.

5.4 **Conduct of Permitted Use**

The Licensee must:

- (a) ensure that the Licence Area and the Permitted Use conducted therein is actively managed, maintained, conducted, controlled and promoted at all times in good faith and in a proper, orderly, efficient, reputable and businesslike manner for the purposes authorised by this Agreement;
- (b) conduct the Licensee's Business at all times in a professional and competent way;
- (c) conduct the Permitted Use during the Permitted Hours or at such other times as the Licensor may approve in writing;
- (d) use the Services, if any, provided by the Licensor in a proper manner at all times;
- (e) ensure that the employees, agents, contractors and invitees of the Licensee, a Sublessee or Hirers comply with the Licensee's obligations under this Licence
- (f) comply with all Rules;

5.5 **Keys**

5.5.1 If the Licensor gives the Licensee any Keys, the Licensee must:

- (a) not copy it without the Licensor's consent;
- (b) reimburse the Licensor for any cost it incurs because the Licensee loses any Keys;
- (c) give the Keys to current employees only, and must keep a list of those employees and give the list to the Licensor on request; and
- (d) promptly return all Keys to the Licensor on the expiration or termination of this Agreement.

5.6 **Vermin**

The Licensee must keep the Licence Area free of pests and take necessary steps to control any pest infestation occurring within the Licence Area and, if required by the Licensor, engage a pest exterminator approved by the Licensor.

5.7 **Pipes**

The Licensee must keep and maintain all waste pipes, drains, lavatories, hand basins, sinks and other plumbing facilities within or servicing the Licence Area clean, clear and operative and promptly employ licensed tradesmen to clear any blockages which may occur and regularly clean and service any grease traps used in the Licence Area.

5.8 **Movement of Vehicles**

The Licensee, its servants, contractors, agents and all persons authorised by it or them will comply with the reasonable directions of the Licensor and its officers in relation to the movement and parking of vehicles.

5.9 **Public Access**

The Licensee will allow the public to have access to all parts of the Licence Area which have been provided or intended for the use of and enjoyment by the public.

5.10 **Use of Inflammables, Chemicals and Explosives**

Except as may reasonably be necessary for lighting, heating, cleaning or maintenance purposes upon the Licence Area, the Licensee will not use or store inflammable liquids or gas, explosives, volatile oils, compounds or substances, insecticides, herbicides or other toxic chemicals or fertilisers on the Land without the prior written consent of the Licensor.

5.11 **Contamination**

The Licensee will not take any action which has the effect, whether direct or indirect, of causing any Contamination to the Licence Area or the Land. In particular, the Licensee will not permit any waste matter or fluid of any description or any fumes to emanate from the Licence Area except as may be approved by the Licensor and subject to such conditions as may be specified by the Licensor.

5.12 **Fire Safety and Emergency**

- 5.12.1 The Licensee must comply with all requirements of the Licensor and all other Relevant Authorities in relation to fire safety and will take all reasonable precautions to minimise the risk of fire in the Licence Area and Building.
- 5.12.2 The Licensee must maintain and keep in good working order and condition any fire protection and safety equipment servicing the Licence Area to the standard required or recommended by Law and provide the Licensor with appropriate certification of compliance with those standards as requested by the Licensor from time to time and on an annual basis.
- 5.12.3 The Licensee must participate in any emergency or safety drills of which the Licensor gives reasonable notice.
- 5.12.4 The Licensee must evacuate the Licence Area and Building immediately and in accordance with the Licensor's directions when informed of any actual or suspected emergency.

5.13 **No Exotic Plants and Weeds**

The Licensee will not plant within the Licence Area any plants or seeds without the prior approval of the Licensor, including those which are not indigenous to the locality except where such plants or seeds may be specified by the Licensor for use in any revegetation works.

5.14 **Fences**

The Licensee will not without the prior written consent of the Licensor carry out or permit the carrying out of any fencing work on or about the Licence Area.

5.15 **Signs**

The Licensee:

- (a) will not without the prior written approval of the Licensor erect, display, affix, paint or exhibit on or to the Licence Area or elsewhere on the Land any sign, advertisement, notice or hoarding; and
- (b) upon vacating the Licence Area or otherwise at the request of the Licensor will remove any such signs, advertisements, notices, hoarding or markings put in place by or on behalf of the Licensee.

5.16 **Licensor's Right of Entry to Inspect for Compliance**

The Licensor and its authorised officers may at all reasonable times upon giving to the Licensee reasonable notice (except in the case of emergency or if the Licensor wishes to ascertain whether the Licensee is complying with its obligations under this Agreement when no notice shall be required) enter upon the Licence Area for the purpose of observing the manner in which the same are being conducted or for the purpose of ascertaining whether the Licensee is complying with the provisions of this Agreement.

5.17 **Approvals**

The Licensee will obtain and keep current all Approvals required by all Relevant Authorities for the conduct of the Permitted Use and the Licensee's Business.

5.18 **Licensor's Directions**

The Licensee will comply with all directions of the Licensor and its authorised officers in relation to the use of the Licence Area.

5.19 **No Sound Equipment**

The Licensee must not use or allow to be used any audible means of advertising such as a public address system or other music or sound amplification equipment to or in connection with the Permitted Use without the Licensor's prior written consent.

5.20 **Alcohol**

The Licensee must not consume, and must not permit anyone to consume, any intoxicating or alcoholic liquor in the Licence Area or within the Building.

5.21 **Common Area**

5.21.1 The Licensee must not without the Licensor's prior written consent:

- (a) display goods or merchandise outside the Licence Area or in the Common Area;
- (b) solicit business or distribute pamphlets or other advertising material in the Common Area;
- (c) obstruct any part of the Common Area; or
- (d) erect, affix or display anything in the Common Area.

5.21.2 If the Licensee breaches clause 5.21.1, the Licensor may remove and dispose of the structure, obstruction or thing at the Licensee's cost without notice to the Licensee.

5.22 **Air Conditioning / Ventilation**

- 5.22.1 Where any heating, ventilation or air-conditioning equipment is installed in or services the Licence Area, the Licensee must pay to the Licensor all amounts reasonably charged to the Licensee by the Licensor in respect of such supply or the maintenance and repair of such heating, cooling, ventilation or air-conditioning equipment (where maintenance and repair are the Licensor's obligations under this Agreement).
- 5.22.2 The Licence Area is deemed to have received such heating, ventilation or air-conditioning if the Licence Area receive the benefit as a result of being wholly or partly open to any part of the Common Area.
- 5.22.3 Where heating, ventilation or air-conditioning equipment is installed in or about the Licence Area, the Licensee must, to the extent of the Licensee's control, at all times, use and regulate the heating, ventilation or air-conditioning to ensure that equipment is used to the best advantage in the conditions from time to time prevailing and will keep the equipment in good repair and condition.
- 5.22.4 The control of, use and operation of any heating, ventilation or air-conditioning equipment is at all times at the discretion of the Licensor.

5.23 **Undertaking in Respect of Food and Alcohol at the Premises**

The Licensee undertakes that it will not sell or otherwise deal with food and alcohol at the Premises or permit any Sub-Licensee, Hirer or other persons to sell or otherwise deal with food and alcohol at the Premises without having first obtained the approval of the Licensor and providing the Licensor with the details of any applicable liquor licence and details of its food safety supervisor as required under all applicable laws relating to the sale and dealing with food and alcohol.

5.24 **No Smoking**

- 5.24.1 The Licensee acknowledges that smoking is prohibited on any part of the Premises at all times.
- 5.24.2 The Licensee must not and must undertake all reasonable efforts to ensure that it, and its occupants, agents, contractors, invitees, Sublessees and/or Hirers do not smoke at the Premises.
- 5.24.3 The Licensee must ensure that "no smoking" signage is displayed at the Premises at all times.

5.25 **No Entry Fees**

- 5.25.1 The Licensee must not charge any door entry fees, entry fees to the Premises or entry fees to any event held at the Premises.
- 5.25.2 The Licensee acknowledges that the prohibition in clause 5.25.1 shall extend to any Sub-Licence permitted under this Licence.

6. LICENSEE'S FIXTURES

6.1 Placing and Removal of Licensee's Fixtures

- 6.1.1 The Licensee may at any time place in the Licence Area such Licensee's Fixtures as may be reasonably necessary for the Permitted Use subject to the written approval of the Licensor.
- 6.1.2 Upon the expiration or sooner determination of this Agreement, the Licensee must remove all Licensee's Fixtures from the Licence Area and the Licensee must make good any damage to the Licence Area.

7. CONSTRUCTION, MAINTENANCE, REPAIR, ALTERATIONS, ETC

7.1 Repair and Maintenance

- 7.1.1 The Licensee will maintain and keep the whole of the Licence Area in good and substantial repair, order and condition, fair wear and tear and damage by fire, flood, lightning, storm, tempest and impact only excepted.
- 7.1.2 The Licensee will maintain and repair any damage to the Services located on or in the Licence Area, including pipes, wires or other means of providing those Services located on or in the Licence Area.
- 7.1.3 The Licensee must immediately repair any damage to the Licence Area or the Building caused by the Licensee.

7.2 Repair on Termination of Licence

The Licensee will at the expiration or sooner determination of this Agreement peaceably surrender and yield up the Licence Area in good and substantial repair, order and condition and in a clean and sanitary state in all respects.

7.3 Cleaning

The Licensee will:

- 7.3.1 cause the interior and exterior of the Licence Area to be cleaned in a proper and workmanlike manner and kept clean and free from dirt, rubbish and inflammable materials;
- 7.3.2 provide and keep in good order and condition proper refuse bins and other containers of such style and in such numbers and locations as are approved by the Licensor; and
- 7.3.3 remove and take away or cause to be removed and taken away from the Licence Area all refuse, debris, ground litter and building materials in accordance with the reasonable requirements of the Licensor.

7.4 Licensee's Equipment

The Licensee must keep and maintain clean and in good order, repair and condition all fittings, plant, furnishings and equipment of the Licensee in the Licence Area.

7.5 Works

- 7.5.1 The Licensee must not erect or construct or cause or suffer to be erected or constructed any building, structure, improvement, works or access way in the Licence Area nor carry out or

permit to be carried out any addition, alteration, modification to or replacement of any building, structure, improvement, or access way without the prior written consent of the Licensor.

- 7.5.2 The Licensee is responsible for the costs of the Works.
- 7.5.3 Where applicable, before commencing any Works, the Licensee must give to the Licensor evidence of a contractor's all risk policy in a form acceptable to the Licensor covering the Works for the full replacement value.
- 7.5.4 All Works must be carried out in accordance with all Approvals and the requirements of all Relevant Authorities and Laws.
- 7.5.5 All Works must be carried out in accordance with the Fitout Guide and the reasonable directions of the Licensor.
- 7.5.6 When carrying out the Works, the Licensee must not:
 - (a) cause any damage to the Licence Area, Building or Land;
 - (b) interfere with the proper operation of any Services; and
 - (c) disturb any or creating a nuisance to the Licensor and other occupiers and users of the Building.

8. WORK HEALTH AND SAFETY

8.1 Compliance

- 8.1.1 The Licensee must at all times identify and exercise all necessary precautions and take all reasonably practicable steps to ensure the health and safety of all persons in the Licence Area or the Land who may be affected by the Licensee's Business or Works.
- 8.1.2 The Licensee:
 - (a) must comply with the WHS Law;
 - (b) warrants that it is familiar with and has the capability, appropriate resources and processes to comply with the WHS Law;
 - (c) must develop and implement WHS processes and programs to identify WHS requirements and to manage any third parties engaged by it;
 - (d) must comply with the Licensor's WHS policies and procedures to the extent that they are not inconsistent with the WHS Law; and
 - (e) must perform all relevant functions and fulfil all relevant duties under all WHS Law as a person conducting a business or undertaking or otherwise applicable to the role of the Licensee under this Agreement.

8.2 Control and Management of Risks

- 8.2.1 The parties acknowledge and agree that the Licensee has control of:
 - (a) the manner in which the Works are performed; and
 - (b) all matters arising out of or as a consequence of the carrying out of or failure to carry out the Works that give rise or may give rise to risks to WHS.

- 8.2.2 The Licensee must, prior to the performance of any part of the Works:
- (a) undertake an assessment of the WHS risks associated with the performance of the Works;
 - (b) identify and take all reasonably practicable steps to implement appropriate WHS risk control measures to eliminate and minimise all such WHS risks; and
 - (c) in accordance with any request by or on behalf of the Licensor, provide the Licensor with details of the WHS risk assessment undertaken and evidence of implementation of appropriate WHS risk control measures.

8.3 **Principal Contractor**

8.3.1 The Licensor:

- (a) appoints the Licensee as a principal contractor for the Works; and
- (b) authorises the Licensee to manage and control the Licence Area to discharge the responsibilities and duties of a principal contractor under the WHS Law.

8.3.2 The Licensee irrevocably accepts the engagement as a principal contractor and agrees to discharge the duties imposed on a principal contractor by the WHS Law.

8.3.3 The Licensee acknowledges that:

- (a) as the principal contractor, the Licensee has sole authority, management and control of the Licence Area and all WHS matters involved in the Works including ensuring the Licence Area and the means of entering the Licence Area are at all times safe and without risk to health (Sole Authority); and
- (b) the Sole Authority shall not be affected by any approval, authorisation, direction, instruction, order, permission, request or requirement of the Licensor or its representatives or the operation of any other clause of this Agreement.

8.4 **Consultation, Cooperation and Coordination**

8.4.1 The parties acknowledge that the Building is a multi-user site for the purposes of the WHS Law and that each party must play a role in the review, control and management of WHS matters in connection with the Building.

8.4.2 The parties must, so far as is reasonably practicable, consult, co-operate and co-ordinate the Works with:

- (a) each other party and any person, supplier, contractor or other person engaged in or associated with the Building, Land or the Works; and
- (b) any person who has control of access to or from the Land,

so as to achieve effective co-ordination of activities to ensure optimal WHS risk management and enable the Licensor and the Licensee and any other party engaged in or associated with the Works and any person who has control of access to or from the site, to comply with their respective obligations under all relevant WHS Law.

8.5 **Notification and Provision of Information**

8.5.1 The Licensee must:

- (a) immediately notify the Licensor of any incident, injury or property or environmental damage which occurs during the undertaking of the Works;
- (b) ensure that any person engaged to provide any part of the Works has obtained the necessary Approvals for the Works prior to the commencement of the Works and provide the Licensor with a copy of the same;
- (c) maintain and prepare such necessary records, documents and information concerning the health, safety and welfare of persons, and damage to property or the environment, arising out of or as a consequence of the carrying out of or failure to carry out the Works;
- (d) at all reasonable times provide the Licensor with access to such records, documents and information as may be necessary to establish the Licensee's compliance with its WHS obligations under this Agreement;
- (e) provide the Licensor a copy of the Licensee's Principal Contractor WHS Management Plan; and
- (f) provide the Licensor with any other report, management plan or other document reasonably required by the Licensor in connection with the Licensee's requirements under this clause 8.

8.5.2 If the Licensee is required by any Law to give any notice of any event to a Relevant Authority, the Licensee must at the same time give a copy of the notice to the Licensor.

8.6 Release and Indemnity

The Licensee releases and indemnifies the Licensor from and against any Claim arising out of or in connection with any breach by the Licensee of its obligations under this Agreement or the WHS Law.

9. LICENSOR'S RIGHTS

9.1 Licensor's Right of Entry

9.1.1 The Licensor (and any person authorised by it) may, at any reasonable time on giving reasonable notice, enter the Licence Area for the purposes of:

- (a) inspecting the state of repair of the Licence Area;
- (b) ensuring that the Licensee is complying with its obligations under this Agreement;
- (c) carrying out any repairs, renovations, maintenance, restoration, alterations or other works to the Licence Area deemed necessary or desirable by the Licensor;
- (d) carrying out any structural alterations, additions, conversions, improvements or other works in the Licence Area ordered, requested or required by any Relevant Authority having jurisdiction over the Licence Area which the Licensor elects to do and for which the Licensee is not liable under this Agreement;
- (e) doing anything the Licensor must or may do under this Agreement;
- (f) showing prospective purchasers, tenants, licensees through the Licence Area; or
- (g) complying with any Law or requirement of any Relevant Authority.

9.1.2 If the Licensor reasonably considers there is an emergency, the Licensor may enter the Licence Area at any time without notice.

9.2 Works

9.2.1 The Licensor may carry out any Works on the Building or Land, including:

- (a) demolition, with or without reconstruction;
- (b) enlargement or reduction in building floor area;
- (c) renovation or refurbishment;
- (d) changes in the size and location of the Common Areas or any facilities including furniture and planting in them;
- (e) changes in the layout, direction, level or position of any premises, walkways, travelators, elevators, escalators or pathways; and/or
- (f) changes to the access to the Building or the Licence Area for vehicles or for pedestrians.

9.2.2 In exercising its rights under clause 9.2.1, the Licensor must use its reasonable endeavours to cause as little inconvenience to the Licensee as is practical in the circumstances.

9.3 Common Area

9.3.1 The Common Area, at all times, will be subject to the control of the Licensor.

9.3.2 The Licensor may:

- (a) change the area, level, location and arrangement of any part of the Common Area;
- (b) exclude or remove any person from the Common Area;
- (c) restrict or prohibit access to the Common Area;
- (d) allow functions, displays, parades and other activities in the Common Area;
- (e) install and use a public address system in the Common Area;
- (f) if the Licensor decides there is an emergency, stop all persons (including the Licensee) from entering the Building or using the Common Area until after the emergency ends; and
- (g) grant leases and licences or other rights of occupation to use any part of the Common Area.

9.4 Dealings

9.4.1 The Licensor may at any time:

- (a) subdivide the Land;
- (b) grant a lease, licence or other right of occupation for any part of the Land;
- (c) grant easements or other similar rights over the Land;
- (d) create or allow to exist any Encumbrance over the Land; and
- (e) assign, transfer or otherwise deal with the Land.

9.4.2 The Licensee must do anything the Licensor reasonably requires concerning any dealing with the Land.

9.5 Rectify

9.5.1 After giving the Licensee reasonable notice of what is to be done, the Licensor may, at the Licensee's Cost, do anything which the Licensee should have done under this Agreement but which it has not done in accordance with that notice or which the Licensor considers the Licensee has not done properly.

9.5.2 Any Cost incurred by the Licensor in exercising the Licensor's rights under clause 9.5.1 must be paid by the Licensee to the Licensor within 5 Business Days of demand by the Licensor. If the Licensee fails to make payment, the Licensor may claim the Costs as liquidated damage.

9.5.3 For the purpose of clause 9.5, the Licensor and its authorised officers may enter the Licence Area at any time without notice.

9.6 Rules

9.6.1 The Licensor discloses the Rules and may at any time vary the Rules, in connection with the operation, use, safety, management and occupation of the Building.

9.6.2 The Licensee must comply with the Rules at all times.

9.6.3 If any Rules are inconsistent with the rights granted to the Licensee under this Agreement, the Rules must be read down to the extent of the inconsistency.

9.7 Restricted Access

9.7.1 The Licensor may at any time exclude any person (including the Licensee) from the Building:

- (a) if required by Law or Relevant Authority; or
- (b) for safety or security reasons.

9.8 Resumption

9.8.1 The Licensor may terminate this Agreement by notice to the Licensee if the Land or any part of it is resumed by a Relevant Authority.

9.8.2 The Licensor is not liable to the Licensee for any loss or damage or other Claim or Cost suffered by the Licensee in connection with the termination in accordance with this clause.

10. CONTAMINATION

10.1 No Warranty

The Licensor does not make any representation or warranty about any subsisting or previous Contamination on or about the Licence Area or Land.

10.2 Licensee's Warranty

10.2.1 The Licensee warrants it has relied on its own due diligence for all matters concerning any contamination issues relevant to the Licensee or the Licence Area.

10.2.2 The Licensee covenants not to contaminate the Licence Area or Land in any way.

- 10.2.3 The Licensee indemnifies and must keep the Licensor indemnified against any Claims and Costs arising during or after the Term in connection with any matters of and incidental to any Contamination of the Licence Area or Land caused by the Licensee.

11. NOT USED

12. INSURANCES

12.1 Required Insurances

- 12.1.1 The Licensee must effect and maintain in respect to the Licence Area from the commencement of this Agreement the following insurances:
- (a) a public liability policy covering personal injury and property damage including financial, economic or consequential loss arising as a result of such personal injury or property damage (in an amount of not less than the amount noted at Item 12 of the Reference Schedule or such other higher amount as the Licensor may from time to time require being the amount which may be paid arising out of any one single accident or event) in connection with the activities of the Licensee in relation to this Agreement noting the interest of the Licensor;
 - (b) insurance against any liability which may arise at common law or by virtue of any relevant workers' compensation legislation in connection with the Licence Area;
 - (c) insurance of the Licensee's property against loss, damage or destruction from any insurable risk reasonably required by the Licensor including (but not limited to) loss, damage or destruction by fire, flood, theft, lightning, storm, tempest and impact for the full reinstatement cost thereof (including extra costs reinstatement); and
 - (d) such other special insurances as may be appropriate and required by the Licensor from time to time.

12.2 Required Arrangements

- 12.2.1 The following provisions shall apply to all policies of insurance referred to in clause 12.1:
- (a) all such policies of insurance shall be effected with an insurance office or company approved by the Licensor (which approval shall not be unreasonably withheld) and shall be for such amounts and cover such risks and contain such conditions, endorsements and exclusions as are reasonably acceptable to or required by the Licensor;
 - (b) no exclusions, endorsements or alterations are to be made in or to any such policy of insurance unless first approved in writing by the Licensor (which approval shall not be unreasonably withheld);
 - (c) all such policies are to be taken out in the names of the Licensor and the Licensee for their respective rights and interests;
 - (d) insurance certificates of currency are to be lodged by the Licensee with the Licensor immediately upon execution of this Agreement;
 - (e) the Licensee shall provide full true and particular information to the office or company with which such policies are effected on all matters and things the non-disclosure of which might in any way prejudice or affect any such policy or payment of any monies thereunder;

- (f) the Licensee shall punctually pay all premiums and other monies payable in respect to all such policies on or before the due date for payment of the same and shall in respect to any such policy of insurance produce to the Licensor receipts for the payment of each premium and any other monies payable thereunder (or other proof of payment to the Licensor's satisfaction);
- (g) the Licensee shall not do or permit to be done any act, matter or thing upon or in the vicinity of the Licence Area whereby any insurance policy may be vitiated or rendered void or voidable or (except with the written approval of the Licensor) whereby the rate of premium for any such insurance shall be liable to be increased; and
- (h) the Licensor shall be entitled in its own name and as the attorney of the Licensor in the name of the Licensee or otherwise to institute all proceedings against any such office or company to recover from it any amount for loss, damage, destruction or injury or other monies payable under any indemnity in favour of the Licensor.

12.3 Licensor May Insure

In default of the Licensee so doing the Licensor may elect to effect all or any insurances referred to in clause 12.1 and charge the Licensee for the costs of the premiums and the Licensee shall upon demand reimburse the Licensor for the same.

13. RELEASE AND INDEMNITIES

13.1 Risk

- 13.1.1 The Licensee occupies the Licence Area, uses the Building and Land and carries out any Work at its own risk.
- 13.1.2 If the Licensee is obliged to do anything under this Agreement, it does so at its own risk.

13.2 Release

- 13.2.1 The Licensee releases to the full extent permitted by Law the Licensor from all Claims arising out of, in connection with, in respect to or as a consequence of the Licensee's operation from, occupation or use of the Licence Area or the Land.

13.3 Indemnity

- 13.3.1 The Licensee indemnifies and will keep indemnified the Licensor from and against all Claims arising out of, in connection with, in respect to or as a consequence of:
 - (a) the Licensee's operation from, occupation or use of the Licence Area or the Land; or
 - (b) any wilful or negligent act, default or omission by the Licensee, the Licensee's employees, officers, invitees or any person acting under the control or at the direction of the Licensee either on or outside the Licence Area,

except to the extent directly caused by the negligent act or omission of the Licensor.

- 13.3.2 The Licensee's obligations under this clause continue after the termination, expiration or other determination of this Agreement in respect to any matter or thing happening before such termination, expiration or determination.

- 13.3.3 It is immaterial to the obligations of the Licensee under this clause that a claim or demand arises out of any act, event or thing that the Licensee is authorised or obliged to do under this

Agreement or that any time waiver or other indulgence has been given to the Licensee in respect to any such obligation under this Agreement.

14. DEALINGS

14.1 Restriction on dealings

The Licensee must not assign, transfer, mortgage, charge or otherwise deal with or dispose of its interest in this Agreement or the Licence Area without the Licensor's written consent.

14.2 Sublicence

- 14.2.1 The Licensee may grant sublicences of the Licence Area for the Permitted Use subject to the written consent of the Licensor.
- 14.2.2 In granting the sublicences pursuant to clause 14. 2.1, the Licensee must ensure that each sublicense accords with the Licensor's requirements contained in Schedule 4 of this Agreement.
- 14.2.3 The Licensee must indemnify and hold the Licensor indemnified in respect of all matters, claims, losses, damage and/or demands relating to the sublicences and the use of the Licence Area by a sublicensee, hirer or user of the Licence Area.
- 14.2.4 The Licensee must keep proper accounts and records of all sublicenses granted pursuant to clause 14.2.1 and must provide a copy of such accounts and records upon request by Council.

14.3 Provision of Accounts and Documentation

- 14.3.1 The Licensee must, on a monthly basis, whether demanded or not by the Licensor, provide appropriate and accurate documentary evidence of all audited accounts, numbers and names of users of the Premises, copies of all insurance documentation and copies of all Sub-Licence documents entered into in respect of the Premises.
- 14.3.2 Without limiting the generality of clause 14.3.1 the documentary evidence referred to in clause 14.3.1 shall include:
 - (a) details of the Hirer/Sublicensee/user;
 - (b) area of hire by the Hirer/Sublicensee/user
 - (c) contact name, phone number and email of the Hirer/Sublicensee/user;
 - (d) copies of insurance documentation; and
 - (e) copies of the sublicense/hire agreement and/or documentation.

14.4 Fair Access and Use

- 14.4.1 It is an essential term of this Licence that the Licensee permits community groups and members of the public to use the Premises for purposes associated with the Permitted Use, by way of a Sub-Licence granted under clause 14, and the Licensee must ensure that a cross variety of these community users are granted fair and easy access to use of the Premises.

14.4.2 It is expressly acknowledged that permanent full-time bookings of the Premises under clause 10.2 shall not be permitted under this Licence.

14.5 **Charge**

The Licensee charges its interest in all Licensee PPS Items situated in the Licence Area from time to time in favour of the Licensor, as security for the performance of the Licensee's obligations under this Agreement, including but not limited to the Licensee's obligations to transfer ownership in the whole or any part of the Licensee PPS Items to the Licensor.

14.6 **Warranty and Covenant**

14.6.1 The Licensee:

- (a) warrants that it has not created a Security Interest in respect of any Licensor PPS Items on or prior to execution of this Agreement;
- (b) must not create a Security Interest in respect of any Licensor PPS Items or Licensee PPS Items in favour of any person other than the Licensor without the Licensor's prior written consent, which consent may be granted or withheld in the Licensor's absolute discretion;
- (c) must indemnify and hold harmless the Licensor against all Claims, and Costs incurred by the Licensor as a consequence of any breach by the Licensee of this clause 14.6; and
- (d) must on the expiration or earlier termination of this Agreement, sign (and procure any holder of a registered Security Interest to sign) any document that the Licensor considers necessary or desirable under or as a result of the PPS Act to discharge any registered Security Interests under the PPS Act in relation to the Licensee PPS Items and the Licensor PPS Items.

14.6.2 This clause is an essential term of this Agreement.

14.7 **Requirements for Security**

14.7.1 If the Licensee proposes to create or allow to come into existence a security over the Licensee's interest in this Agreement, before it enters the security, the Licensee and the entity receiving the security must obtain the prior written consent of the Licensor and enter into a deed relating to the security in a form required by the Licensor including (among other things) provisions that:

- (a) the entity receiving the security must promptly give the Licensor notice if the Licensee is in default under the security;
- (b) if the entity receiving the security or its appointee enters into possession of the Licence Area, then the entity receiving the security must remedy any subsisting default by the Licensee under this Agreement and comply with the Licensee's obligations under this Agreement; and
- (c) if the entity receiving the security exercises a power of sale under the security, it will comply with this clause, even if it does not take possession of the Licence Area.

15. DAMAGED PREMISES

15.1 Procedure

- 15.1.1 If the Building is destroyed or damaged so that, in the reasonable opinion of the Licensor, the whole of the Licence Area or a substantial part of it is unfit for occupation or use by the Licensee, then the Licensor may give notice to the Licensee at any time after that the Licensor:
- (a) intends to repair the Building or damage; or
 - (b) considers the damage is such that its repair is impracticable or undesirable.
- 15.1.2 If the Licensor notifies the Licensee that the damage is such that its repair is impracticable or undesirable then either party may terminate this Agreement by giving at least 7 days' written notice to the other and no compensation is payable in respect of that termination.
- 15.1.3 The Licensee may provide written notice to the Licensor requesting repair of the damage within a reasonable time.
- 15.1.4 If the Licensor does not repair the damage within a reasonable time after notice by the Licensee in accordance with clause 15.1.3 then the Licensee may terminate this Agreement by giving at least 7 days' written notice to the Licensor.

15.2 Abatement

- 15.2.1 Subject to clause 15.3, if the Licence Area or Building is damaged and the Licence Area:
- (a) cannot be used or are inaccessible, the Licensee is not liable to pay the Licence Fee for the period that the Licence Area cannot be used or are inaccessible; or
 - (b) is still useable but the useability is diminished due to the damage, the Licensee's liability to pay the Licence Area is reduced in proportion to the reduction in useability for the period that the useability of the Licence Area is diminished.

15.3 Damage caused by Licensee

- 15.3.1 If:
- (a) the destruction or damage is caused by the Licensee; and/or
 - (b) rights under an insurance policy in connection with the Building are prejudiced or a policy is validly cancelled or a claim is refused by the insurer because of an act, negligence or default of the Licensee.
- then:
- (c) the Licensee cannot terminate this Agreement under clause 15.1; and
 - (d) clause 15.2 does not apply.

15.4 No obligation to repair

Clause 15 does not impose an obligation on the Licensor to restore or reinstate the Building.

15.5 Mutual Release

Each party releases the other from all Costs, Claims, liability or loss arising from or incurred in connection with the termination of this Agreement under clause 15.

16. DISPUTE

16.1 Procedure

- 16.1.1 If a dispute arises between the parties about this Agreement, then the party who raises the dispute must tell the other party about the dispute in writing.
- 16.1.2 The parties must meet and take all reasonable steps to resolve such dispute by negotiation within 10 Business Days of notice under clause 16.1.1 (or such other time as agreed by the parties in writing).
- 16.1.3 If the dispute is not resolved under clause 16.1.2:
- (a) the parties may refer the dispute to mediation on such terms as they may agree; or
 - (b) either party may commence legal proceedings.
- 16.1.4 If there is a dispute, the parties must continue to perform their obligations under this Agreement.
- 16.1.5 Nothing in this clause 16 prevents either party from seeking urgent interim or interlocutory relief.

17. EXPIRY OR TERMINATION

17.1 Early Termination

- 17.1.1 The Licensor may terminate this Agreement by written notice to the Licensee provided that the Licensor gives the Licensee no less than six (6) months' notice of the date of termination under this clause. Where the balance of the unexpired Term is twelve (12) months or less, the Licensor must give the Licensee at least three (3) months' written notice of the date of termination under this clause.
- 17.1.2 The Licensee may, after receipt of a notice under clause 17.1.1, serve written notice on the Licensor terminating the Agreement on 5 Business Days' notice at a date earlier but not later than the date of termination specified by the Licensor in its notice under clause 17.1.1.
- 17.1.3 Unless the Licensee serves a notice in accordance with clause 17.1.2, this Agreement will terminate upon the date specified in the notice under clause 17.1.1.
- 17.1.4 The Licensee is not entitled:
- (a) to make a Claim; or
 - (b) to any form of compensation or damages,
- as a result of the Licensor exercising its rights pursuant to this clause 17.1.
- 17.1.5 Any such termination will be without prejudice to the rights of either party in respect of any preceding breach or non-observance of any provision of this Agreement.

17.2 **Suspension**

The Licensor may suspend this Agreement for any reason including for any breach of the terms and conditions of this Agreement.

17.3 **Termination due to default**

If the Licensee:

- 17.3.1 commits, permits or suffers to occur any breach or default in the due and punctual observance and performance of any of the covenants, obligations and provisions of this Agreement; or
- 17.3.2 an Insolvency Event occurs,

the Licensor may give the Licensee written notice specifying the breach and requiring that the breach be remedied within a specific period having regard to its nature. In the event that the breach is not rectified within the specified period, the Licensor may terminate this Agreement on 10 Business Days' written notice to the Licensee.

17.4 **Termination Without Prejudice to Remedies**

Termination of this Agreement will be without prejudice to any action or other remedy which the Licensor has or may have for any antecedent breach by the Licensee.

17.5 **No Compensation**

In the event of termination of this Agreement howsoever occurring, no compensation will be payable to the Licensee.

17.6 **Licensee to Vacate and Make Good**

- 17.6.1 On the earlier of the Expiry Date and the date this Agreement is terminated, the Licensee must:
 - (a) give vacant possession of the Licence Area;
 - (b) Make Good the Licence Area; and
 - (c) give to the Licensor any Keys in respect of the Licence Area, Building and Land held by the Licensee.
- 17.6.2 The Licensee must immediately repair any damage caused to the Licence Area, Building or the Land in the course of complying with clause 17.6.
- 17.6.3 If the Licensee does not comply with clause 17.6.1 or repair damage in accordance with clause 17.6.2:
 - (a) the Licensor may:
 - (i) carry out the Licensee's obligations at the Licensee's Cost;
 - (ii) store the Licensee's Property at the Licensee's Cost;
 - (iii) replace any Keys at the Licensee's Cost;
 - (iv) dispose of the Licensee's Property at the Licensee's Cost; and/or

- (v) take ownership of all or any of the Licensee's Property and deal with them in any manner the Licensor's thinks fit at the Licensee's Cost and without any liability to the Licensee or any other party; and
- (b) the Licence Fee and other money payable under this Agreement continues to be payable by the Licensee until the Licensee has Made Good.

17.6.4 The provisions of this clause 17.6 do not merge on termination or expiry of the Agreement.

18. DEMOLITION

18.1.1 If the Licensor proposes to Demolish the whole or part of the Building within which the Licence Area is located, the Licensor may terminate this Agreement.

18.1.2 In exercising its rights under clause 18.1.1, the Licensor must:

- (a) provide the Licensee with details of the proposed Demolition that are sufficient to indicate a genuine proposal to Demolish the whole or part of the Building within which the Licence Area is located within a reasonably practicable time after the Agreement is to be terminated; and
- (b) give the Licensee at least six (6) months' written notice of the termination date. Where the balance of the unexpired Term is twelve (12) months or less, the Licensor must give the Licensee at least three (3) months' written notice of the termination date.

18.1.3 If the Licensor gives the Licensee a notice of termination in accordance with clause 18.1.2, the Licensee may terminate the Agreement by giving the Licensor not less than 5 Business Days written notice of termination at any time within 6 months before the termination date notified by the Licensor.

18.1.4 The Licensee is not entitled:

- (a) to make a Claim; or
- (b) to any form of compensation or damages,

as a result of the Licensor exercising its rights pursuant to this clause 18.

19. NOTICES

19.1 Requirements of Effective Notice

19.1.1 A party giving notice or notifying under this Agreement must do so in English and in writing or by Electronic Communication:

- (a) directed to the other party's representative (as set out in the Reference Schedule and as varied by any notice); and
- (b) hand delivered or sent by prepaid post or Electronic Communication to that address.

19.2 Deemed Delivery

19.2.1 A notice given in accordance with clause 19.1 takes effect when it is taken to be received (or at a later time specified in it), and is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post, on the second Business Day after the date of posting (or on the seventh Business Day after the date of posting if posted to or from a place outside Australia); or
- (c) if sent by Electronic Communication, at the time that would be the time of receipt under the *Electronic Transactions Act 1999* (Cth),

but if the delivery, receipt or transmission is not on a Business Day or is after 4.00pm on a Business Day, the notice is taken to be received at 9.00am on the next Business Day.

19.3 Notice by Licensor

- 19.3.1 Any notice to be given under this Agreement by the Licensor may be signed by an authorised officer.

20. COSTS

- 20.1.1 Each party must bear their own legal costs in relation to the preparation, negotiation and completion of this Agreement.
- 20.1.2 The Licensee must pay:
 - (a) all costs reasonably incurred in relation to the carrying out any requirement or obligation imposed upon the Licensee by this Agreement;
 - (b) all public notification costs in relation to this Agreement as required by Law;
 - (c) all reasonable costs and expenses incurred by the Licensor in considering any application or request by the Licensee for the Licensor's consent (whether or not given);
 - (d) all reasonable costs incurred by the Licensor in connection with any variation, surrender or assignment of this Agreement; and
 - (e) all reasonable costs incurred by the Licensor in connection with a default by the Licensee under this Agreement, including, but not limited to, enforcement costs.

21. NO TENANCY

The Licensee acknowledges and agrees that this Agreement will not amount to or be construed as a demise nor will it create any tenancy in favour of the Licensee and it will not give the Licensee any exclusive possession of the Licence Area.

22. WAIVER OR VARIATION

- 22.1.1 A party's failure or delay to exercise a power or right does not operate as a waiver of that power or right.
- 22.1.2 The exercise of a power or right does not preclude:
 - (a) its future exercise; or
 - (b) the exercise of any other power or right.

- 22.1.3 The variation or waiver of a provision of this Agreement or a party's consent to a departure from a provision by another party will be ineffective unless in writing executed by the parties.

23. COUNTERPARTS

- 23.1.1 This Agreement may be executed in any number of counterparts each of which will be an original but such counterparts together will constitute one and the same instrument and the date of the Agreement will be the date on which it is executed by the last party.

24. WHOLE AGREEMENT

- 24.1.1 In relation to the subject matter of this Agreement:
- (a) this Agreement is the whole agreement between the parties; and
 - (b) this Agreement supersedes all oral and written communications by or on behalf the parties in respect of its subject matter.

25. SEVERANCE

- 25.1.1 If any part of this Agreement is invalid or unenforceable, this Agreement does not include it. The remainder of this Agreement continues in full force.

26. NO MERGER

- 26.1.1 Nothing in this Agreement merges, extinguishes, postpones, lessens or otherwise prejudicially affects any right, power or remedy that a party may have against another party or any other person at any time.

27. CONSENTS AND APPROVALS

- 27.1.1 Where this Agreement gives any party a right or power to consent or approve in relation to a matter under this Agreement, that party may withhold any consent or approval or give consent or approval conditionally or unconditionally. The party seeking consent or approval must comply with any conditions the other party imposes on its consent or approval.

28. NO FETTER

- 28.1.1 Nothing in this Agreement in any way restricts or otherwise affects the Licensor's unfettered discretion to exercise its statutory powers as public authority.

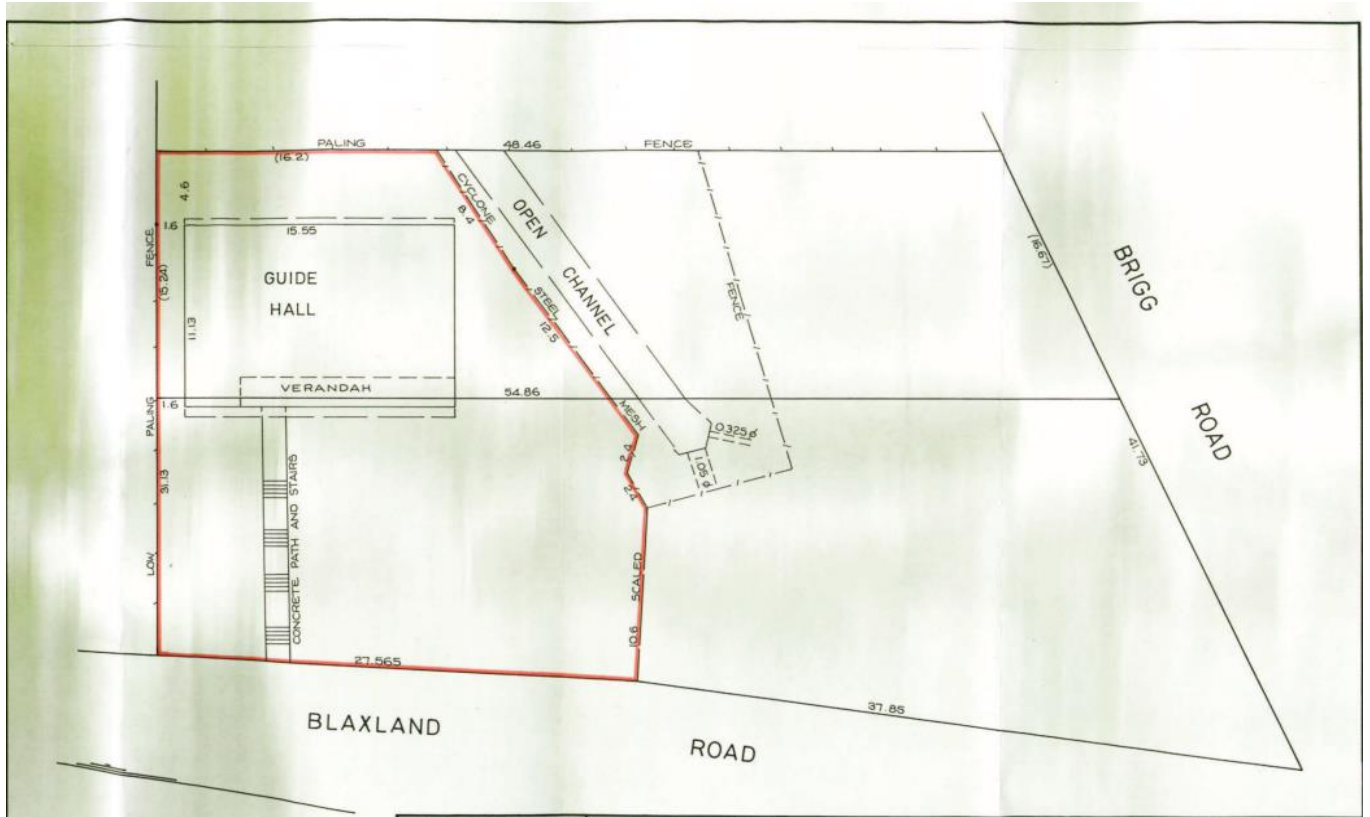
29. GOVERNING LAW

This Agreement is governed by the law in force in New South Wales. The parties submit to the non-exclusive jurisdiction of the courts exercising jurisdiction in New South Wales, and any court that may hear appeals from any of those courts, for any proceedings in connection with this Agreement, and waives any right it might have to claim that those courts are an inconvenient forum.

SCHEDULE 1 – REFERENCE SCHEDULE

Item	Description	Details	
1	Licensor	City of Parramatta Council ABN 49 907 174 773 126 Church Street, Parramatta NSW 2150 <u>Council's representative:</u>	
2	Licensee		
3	Land	Lot 8 DP 1044308, Lot 9 DP 1044308	
4	Licence Area	The area identified as the Licence Area in Schedule 2.	
5	Commencement Date	TBC	
6	Expiry Date	TBC	
7	Term	Initial Term: 2 years Option Term: N/A	
8	Licence Fee		
9	Licence Fee Review	<u>Review Date</u> TBC On each anniversary of the Commencement Date during holding over	<u>Method</u> <u>Fixed 4%</u> <u>Fixed 4%</u>
10	Permitted Use	Operation of a community facility	
11	Permitted Hours	As per Development consent	
12	Insurance	Public liability: \$20 million	
13	Security	Form of Security: Bank Guarantee / Bond Security Amount: Amount equal to 3 months' Licence Fee being [insert]	
14	Car Spaces	No. of Car Spaces: N/A Car Space Licence Fee: N/A	

SCHEDULE 2 - LICENCE AREA



SCHEDULE 3 - RULES

1. Except as provided for in this Agreement, a Licensee must not do any one or more of the following:
 - (a) anything in or about the Licence Area, the Building or Land (notwithstanding any consent given by the Licensor under this Agreement) which in the reasonable opinion of the Licensor is noxious, offensive, audibly or visually a nuisance or which interferes with the orderly operation of the Building or Land;
 - (b) use or permit any person to use any plant, equipment or machinery on or in the Licence Area which through noise, odour, vibration or otherwise cause any annoyance, nuisance, grievance, damage or disturbance to the Licensor or any other occupant or user of the Building or Land or occupiers of neighbouring land or to the customers or invitees of the Building
 - (c) not erect, install or use upon, within or without the Licence Area any aerial, radio, television or form of loudspeaker, screen or other similar device or equipment without the prior written consent of the Licensor;
 - (d) carry out works which interfere with the Services, unless the Licensee has complied with the provisions of the Agreement relating to Licensee's works or otherwise misuse, interfere with the Services or obstruct access to or overload the Services;
 - (e) use any method of heating, cooling or lighting the Licence Area other than those provided by the Licensor or as approved in writing by the Licensor upon request by the Licensee;
 - (f) use the facilities in or about the Licence Area or the Building for any purpose other than that for which they were constructed;
 - (g) place anything in the toilets, urinals, drains, basins or sinks which they were not designed to receive;
 - (h) fix blinds or awnings to the outside of the Licence Area or blinds to the inside of the windows or doors of the Licence Area unless first approved in writing by the Licensor;
 - (i) fix shop fittings in the Licence Area without the prior approval of the Licensor;
 - (j) alter, add to or redecorate the Licence Area without the prior approval of the Licensor;
 - (k) damage the Licence Area except so far as is reasonably necessary to fix or place signs, notices, advertisements, blinds, awnings or shop fittings approved by the Licensor;
 - (l) install or operate any coin operated or similar type of entertainment or vending or amusement machines in the Licence Area;
 - (m) hold any auction, bankrupt, closing down, liquidation, relocation, fire or similar sale in the Licence Area;
 - (n) hold, prepare or cook food except in any areas which are designed for and approved by the Licensor for that purpose;
 - (o) use the Licence Area as a residence;
 - (p) keep an animal or bird in the Licence Area, Building or Land;
 - (q) to smoke or permit any of the Licensee's employees or invitees to smoke in or about the Licence Area, Building or Land;
 - (r) bring upon or store in the Licence Area any dangerous, hazardous, explosive, flammable or corrosive material or chemical without the prior written consent of the Licensor;

- (s) use any radio, gramophone, television or other like media or equipment likely to be heard or seen from outside the Licence Area which is of a volume unacceptable to the Licensor;
 - (t) spruik from the Licence Area or on the Common Areas;
 - (u) erect, install or place upon the Common Areas any A-frame signs, brochure holders, stands or similar items;
2. The Licensee must immediately provide a copy of all consents, licences and approvals received from any Relevant Authority relating to the Licence Area or the Licensee's Business.

SCHEDULE 4 – SUB-LICENCE REQUIREMENTS

GENERAL TERMS

1. The Sub-Licence must contain an acknowledgment that the City of Parramatta Council is the owner of the Premises and that the Licensee is permitted to sub-licence/hire out the Premises pursuant to a Licence Agreement with City of Parramatta Council.
2. The terms of the Sub-Licence must not be inconsistent with the terms and conditions of the Licence Agreement.
3. The Hirer must be a community group outside of or within the local government area of the City of Parramatta or members of the general public including any private entities approved by the Licensee and the Licensor from time to time.
4. The Hirer may only use the Premises for community and recreational purposes in accordance with the Permitted Use under the Licence Agreement. City of Parramatta Council shall at all times reserve the right to refuse bookings that it reasonably considers is not in accordance with the Permitted Use.
5. The Licensee must ensure that only the specific areas which have been confirmed with a booking are to be used by the Hirer and only for the day(s) and time(s) confirmed by the respective booking.
6. The Licensee must ensure that any time required for setting up the Premises or for cleaning up at the end of a Hirer's event must be included in the period booked.
7. The Premises must be vacated by the end time noted in the Hirer's respective booking.
8. The Licensee may be entitled to charge additional hire fees if the Hirer exceeds the time of their confirmed booking.
9. The Licensee must confirm that the Hirer is at least 21 years of age and proof of age must be obtained.
10. The Licensee may impose special conditions for some types of events, including additional security requirements and is to require all parties held by a Hirer at the Premises to be registered with the NSW Police Force
11. The Licensee must ensure that the maximum capacity of the Premises must not be exceeded at any time. For details of the maximum capacity please contact the Licensor.
12. The Hirers are to acknowledge that use of the Premises may result in an action for damages against them due to an allegation of negligence or conduct which results in damage to the Premises.
13. The Licensee will be entitled to refuse a booking due to non-disclosure or supplying misleading information from a Hirer.
14. The Licensee reserves the right to refuse applications for hire based on its discretionary assessment or if the application does not accord with the community and recreational purposes contemplated by the Licence

Agreement

- 15. The Licensee must ensure that the Hirer does not conduct any games of chance, gambling or any other kind of illegal activities at the Premises during their period of hire
- 16. The Licensee must have ensure that the Hirer acknowledges that legislation exists at State and Federal level, which makes acts of discrimination, vilification, incitement, offensive conduct and public disorder unlawful.
- 17. in Sub-Licensing the Premises, the Licensee must have the Hirer warrant that there will be no discrimination, vilification or incitement of hatred or violence against any person or persons by any speaker during the hire period of the Premises.
- 18. The Hirer is to acknowledge that it should inspect the Premises and its surrounds prior to the hire period to ensure that the area is free from hazards. The Hirer must ensure compliance with the Child Protection Legislation – *Child Protection (Prohibited Employment) Act 1998* and *the Commission for Children and Young People Act 1998*.

HIRE CHARGES

- 19. Any fees charged by the Licensee to a Hirer under the Sub-Licence must accord with the following rates charges as per the City of Parramatta Council’s Schedule of Fees and Charges for the respective Accounting Year and as may be amended from time to time:

Area of Hire	Fees
Epping Hall	Meeting Room – Group 2

- 20. For avoidance of doubt, the Licensee cannot charge a fee in excess of that stipulated in the City of Parramatta Council’s Schedule of Fees and Charges for the respective Accounting Year.

BOND

- 21. The Licensee must obtain a bond from the Hirer in an amount of not less than the amount specified in City of Parramatta’s Schedule of Fee and Charges for the respective Accounting Year to secure performance of the Hirer’s obligations under the Sub-Licence, namely to clean, maintain and make-good any damage caused to the Premises during the Hirer’s occupation or use of the same.
- 22. Provided the Hirer has complied with their obligations under the Sub-Licence the Licensee must return the bond to Hirer within a reasonable time frame but not more than 28 days from the last date of hire to which the bond applies.
- 23. The Licensee shall be entitled to claim from the bond additional hire fees if the Hirer exceeds the time of their confirmed booking,as well as for the cost of any repairs or additional cleaning required. Such amounts must accord with the City of Parramatta Council’s Schedule of Fees and Charges for the respective Accounting Year.
- 24. The Licensee must inspect the Premises for any damage, including marks or stains on carpet, damaged paintwork or equipment, etc. following each hire period and to confirm that the Premises has been left in a clean and tidy condition, with floors swept, any spills cleaned up, kitchen equipment cleaned

and all decorations and rubbish removed.

25. The Licensee must report any damage to the Premises as soon as they are aware.

INSURANCE

26. The Licensee must ensure the Hirer has appropriate insurances in place, including but not limited to public liability insurance cover of not less than \$20 million covering the Hirer's use of the Premises.

27. The Licensee must ensure that the City of Parramatta Council is noted as an interested party on the insurance policy/certificate of currency and that the insurance remains current during all periods of hire.

28. The Licensee is to obtain a copy of the insurance policy/certificate of currency of the insurances obtained by the Hirer prior to any event and must retain the same for their records.

29. The Licensee must ensure that the Sub-Licensee acknowledges that the City of Parramatta Council is not responsible for property insurance covering all of the Hirer's equipment and contents within the Premises at any time.

RISK ASSESSMENT

30. The Licensee must obtain an acknowledgement from the Hirer as to the following:

- (a) that the Hirer will be responsible for inspecting the Premises, surrounds,

car park and associated amenities at the commencement of each period of hire of to ensure that they are free from obstacles or hazards.

- (b) that the Hirer and all persons entering the Premises do so at their own risk;

- (c) that the Hirer shall be responsible for the conduct and behaviour of all persons attending the Premises for the Hirer's event.

- (d) that there is no warranty from the City of Parramatta Council or the Licensee that the Premises is fit for the Hirer's proposed purpose and it is solely the responsibility of the Hirer to ensure that the Premises is appropriate for their proposed use.

- (e) that the Hirer must familiarise themselves with evacuation procedures and location of emergency equipment at the Premises ensuring that all exit doors are free from obstruction. In addition the Hirer is to be responsible for making all attendees aware of emergency exits for the area.

LIABILITY AND INDEMNITY

30. Any Sub-Licence issued by the Licensee must include provisions to the following effect:

- (a) the City of Parramatta Council and its employees will not be liable for any loss or damage sustained by the Hirer or any person, firm or corporation entrusted to or supplying any article or thing to the Hirer by reason of any

such article or thing being, stolen, damaged or lost or as a result of any injury being sustained at the Premises.

- (b) The Hirer agrees to indemnify City of Parramatta Council as the owner of the Premises and its employees and agents against any loss or damage in any form sustained by the Hirer or any person, firm or corporation for liability as a consequence of the use of the Premises.

SURVIELLANCE

- 31. The Licensee must ensure that the Hirers are made aware that specific areas of the Premises, including car park areas may be under 24-hour video surveillance (CCTV) operated by the City of Parramatta Council. If further information is required the Hirer may be directed to contact the City of Parramatta Council.

CHILD PROTECTION LEGISLATION

- 32. The Licensee must obtain a warranty from the Hirer whereby they warrant to observe and comply with all of its obligations under the *Child Protection (Prohibited Employment) Act 1998* and the *Commission for Children and Young People Act 1998* (both Acts hereinafter referred collectively as “the Child Protection Legislation”) and, in particular, will comply with those obligations during its use of the Premises and during the term of any hire arrangement of the Premises with the Licensee

- 33. The Sub-Licence must include a provision whereby the Hirer indemnifies City of Parramatta Council from and against all claims, demands, actions and suits (and the cost thereof calculated upon an indemnity basis) arising out of any breach by the Hirer of any of its obligations under the Child Protection Legislation and/or any of the warranties contained in the Sub- Licence.

HIRER’S OTHER OBLIGATIONS

- 34. The Sub-Licence must include provisions to the following effect:

- (a) **Prohibited Items:** Barbecues, gas bottles, open flames, portable stoves or ovens, fireworks, kerosene or spirit- type lamps, spit roasts or kegs must not be used within the premises. Prior authorisation must be obtained from City of Parramatta Council for the use of any candles and strict conditions will be imposed and must be observed which may include monitoring costs.
- (b) **Decorations:** Drawing pins, nails, screws or adhesive tape must not be used to affix decorations. All decorations are to be completed removed after the event (including any “blu tack” or similar that has been used). If any items remain, the cost of removal may be deducted from the bond.

- (c) **Breakages, theft or damage:** The Hirer is responsible for any breakages, theft or damage caused to the Premises or supplied equipment. Should such an incident occur, the Hirer must advise the Licensee immediately who must in turn notify the City of Parramatta Council. Where such loss exceeds the amount of the bond paid, the additional costs will be invoiced and recovered as a due debt payable within thirty (30) days of the date of the event. Unpaid amounts may attract interest and enforcement costs. Neither the Licensee or the City of Parramatta Council nor its employees shall be liable for any loss, theft or damage sustained by the Hirer or any person associated with the Hirer or attending the event at the Premises.
- (d) **No Entry Fees:** The Hirer must not charge any door entry fees, entry Fees to the Premises or entry fees to any event held at the Premises.
- (e) **End of Hire Period:** The Hirer must ensure that all lights, fans, heaters and cooking appliances are turned off, windows closed, and all doors locked prior to leaving the facility.
- (f) **Keys:** The Hirer must return all keys to the Premises within two (2) working days of the end of the hire period. In the event that the Hirer fails to return keys, the Hirer may be charged for the costs incurred for replacing locks and all keys.
- (g) **No Smoking:** Smoking is NOT to be permitted at the Premises. It is the responsibility of the Hirer to ensure this condition is strictly enforced. Any cigarette butts in the surrounds of the building are to be collected and placed in the garbage bins provided.
- (h) **Permits and Permissions:** the Hirer accepts responsibility to obtain any necessary permissions from the owner of the copyright (as defined in the *Copyright Act 1968*) in a work, including obtaining appropriate licences and permits from the Australian Performing Rights Association Ltd (APRA), Australian Mechanical Copyright Owners Society (AMCOS) and The Phonographic Performance Company of Australia (PPCA), for the:
- (i) Public performance, or communication of music; and
 - (ii) The playing of recorded music in public.
- The Hirer is to indemnify City of Parramatta Council for any breach of copyright in a work or other subject matter or for not obtaining adequate permission for the public performance and

the public playing of music.

- (i) **Noise:** Amplified music and general noise levels must not inconvenience surrounding residents. The *Protection of the Environment Operations Act 1997* and its respective regulations advise the time restrictions when noise should not be heard in a habitable room in a neighbour's residence.
- (j) **Cleaning:** If the Premises is left in an unsatisfactory condition that requires additional cleaning, the Hirers will be charged for this service even if the amount exceeds the total of the bond. If such costs exceed the amount of the bond paid, additional costs will be invoiced and recovered as a due debt payable within thirty (30) days of the date of the event. Unpaid amounts may attract interest and enforcement costs.
- (k) **Children:** The Hirer must ensure that Children are not to enter kitchen or kitchenette areas.
- (l) **Rubbish:** All rubbish must be removed from the Premises at the completion of the hire and it is acknowledged that the Hirer must take with them any rubbish that will not fit in the exterior bins provided at

the Premises.

- (m) **Alcohol:** The consumption of alcohol or sale of alcohol at the Premises is prohibited unless prior written approval is provided by the City of Parramatta Council and the appropriate licence(s) is obtained.
- (n) **Incident notification:** Any injuries or attendance of emergency services (Police, Fire and / or Ambulance) that occur during a hire period that require medical treatment must be reported to the Licensee and the Council no later than 4.30pm on the next working day.

HIGH RISK FUNCTIONS

- 35. In the event a High Risk Function is to take place at the Premises, which includes but is not limited to 16 – 21 year old birthday parties, youth events, large crowd events and live music events, the Hirer must complete the appropriate notifications and forms with the NSW Police Force to allow for the entry and consumption of alcohol at the Premises being a City of Parramatta Council facility. The Hirer is to provide a copy of the completed documentation to the Licensee who must forward the same onto City of Parramatta Council not less than two (2) weeks prior to the booking.
- 36. Hirers are required to register their function/event with the NSW Police Force and the relevant registration number must be provided to the Licensee and City of Parramatta Council not less than two (2) weeks prior to the booking.
- 37. The Hirer must warrant that Liquor must not be sold or offered for sale at

any time at the Premises. This includes disguising the cost of the liquor in the price of a meal, admission or any other type of ticket or function cost.

38. The Hirer must acknowledge that persons under the age of 18 years must not be served, supplied, to do so is an offence under the *Liquor Act 2007* and subject to a penalty/fine.
39. Licensed security guards must be employed at High Risk Functions for the duration of the function and evidence of security guard employment is to be provided to the Licensee and City of Parramatta Council not less than two (2) weeks prior to the booking. There must be a minimum of one (1) licensed security guard for up to 100 guests and thereafter, a ratio of one licensed security guard for every additional 100 guests.
40. The Hirer must acknowledge that functions are to be contained within the Premises and guests are not permitted to congregate in outside areas including car parks or streets.
41. The Hirer must acknowledge that they must not openly advertise an event for which the Premises has been hired

without prior written consent of City of Parramatta Council. This includes advertising via the internet including social media and forums.

PRIVACY NOTIFICATION – COUNCIL FACILITIES

42. The Sub-Licence must contain a provision to the effect that the personal information that may be disclosed and collected by the Licensee from the Hirer is personal information for the purposes of the *Privacy and Personal Information Protection Act 1998*. The intended recipients of the personal information are the officers of the Licensee as well as City of Parramatta Council as the owner of the Premises where the data will be kept and stored in accordance with the requirements of the *Privacy and Personal Information Protection Act 1998*.
43. The Licensee must adopt appropriate practices to ensure that the personal information collected from Hirers is protected in accordance with the provisions of the *Privacy and Personal Information Protection Act 1998*

Signing Page

EXECUTED BY THE PARTIES AS A AGREEMENT

Signed for and on behalf of the **LICENSOR** by its authorised officer in the presence of:

Signature of witness

Name of witness

Signature of authorised officer

Name of authorised officer

Position of authorised officer

Signed for and on behalf of the **LICENSEE** by its authorised officer in the presence of:

Signature of witness

Name of witness

Signature of authorised officer

Name of authorised officer

Position of authorised officer