Licence Agreement – Portion of Reserve 21563 –13 Mrs Trivetts Place, Fremantle

City of Fremantle

[Insert Licensee's Name]

McLEODS
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Details

Parties

City of Fremantle

of PO Box 807, Fremantle, Western Australia 6959
(**Licensor**)

[insert Licensee's name]

of [insert Licensee's address]
(**Licensee**)

Background

A The Licensor is vested with care, control and management of the Land pursuant to the Management Order.

B The Licensor has agreed to grant to the Licensee a licence to use that portion of the Land comprising the Licensed Area, subject to the consent of the Minister for Lands first being obtained.

C The Licensor and the Licensee enter into this agreement to set out the terms and conditions upon which the licence is granted.

Agreed terms

1. Condition Precedent

This Licence is subject to and conditional upon the approval of the Minister for Lands being obtained under the *Land Administration Act 1997*. The parties acknowledge and agree that a copy of the Minister's consent shall be annexed as **Annexure 3**.

2. Grant of licence

In consideration of the covenants of the Licensee given herein the Licensor HEREBY GRANTS to the Licensee a licence (**Licence**) to:

(a) use the Licensed Area; and

(b) use the Common Areas in common with other users, on the terms and conditions set out in this Licence.

3. Term & Further Term

3.1 Term

The Licence shall continue in force and effect for the duration of the term set out in **Item 3** of the Schedule (**Term**).

3.2 Further Term

(1) The Licensee may, at least one month but not earlier than 6 months before the expiry of the Term, give the Licensor written notice requesting the Further Term (if any) specified in **Item 3** of the Schedule, provided that:

(a) the Licensee is not in default under this Licence; and

(b) all required consents and approvals (where applicable) have been obtained by the Licensee for continuation of the Permitted Use during the Further Term.

(2) The Licensor may, in its absolute discretion, grant or refuse the Further Term. The Licensor is not required to give any reason for its decision.

(3) If the Licensor agrees to grant the Further Term, the Further Term will be on the same terms as this Licence, subject to any changes reasonably required by the Licensor.

(4) The Licensee acknowledges that a request under this clause does not give the Licensee any right or entitlement to a Further Term unless the Licensor agrees to grant it in writing.

4. Holding Over

If the Licensee remains in occupation of the Licensed Area after the expiration of the Term without objection by the Licensor, the Licensee does so as a monthly Licensee of the Licensed Area at a fee equivalent to one twelfth of the Licence Fee for the period immediately preceding expiry of the Term and otherwise on the same terms and conditions of this Licence provided that all consents required under this Licence or at law have been obtained by the Licensee being in possession of the Licensed Area as a monthly tenant.

5. Permitted Hours of Use

For the duration of the Term of the Licence the Licensee shall be permitted to use the Licensed Area, but only during the permitted hours of use set out in **Item 4** of the Schedule (**Permitted Hours of Use**).

6. Licence fee & GST

The Licensee COVENANTS with the Licensor to pay the Licensor the licence fee referred to in **Item 5** of the Schedule (**Licence Fee**) from the commencement of the Term without any abatement or deduction whatsoever.

7. Use of Licensed Area

7.1 Permitted Use

The Licensee shall ensure that the Licensed Area is used only for the Permitted Use specified in **Item 6** of the Schedule.

7.2 No harm or stress

The Licensee must use best endeavours to not permit a person to do any act or thing which might result in excessive stress or harm to any part of the Licensed Area during times when the Licensee is using the Licensed Area.

7.3 No smoking

The Licensee must not suffer or permit a person to smoke inside any enclosed portion of a building in the Licensed Area.

7.4 Sale and consumption of alcohol

The Licensee will be permitted by the Licensor to manage the sales and consumption of alcohol in the Licensed Area in accordance with the terms of this agreement and any liquor licence granted to the Licensee by Racing Gaming and Liquor, subject to the written consent of the Licensor first being obtained.

7.5 Sale of Food

The Licensee shall only sell food within the Licensed Area in accordance with the *Food Act 2008* and any other relevant written laws that may be in force from time to time, subject to the written consent of the Licensor first being obtained.

7.6 No pollution

The Licensee must do all things necessary to prevent pollution or contamination of the Licensed Area by garbage, refuse, waste matter, oil and other pollutants and must remediate to the satisfaction of the Licensor any pollution or contamination of the Licensed Area or surrounding land caused by the Licensee or any Authorised Person.

8. Outgoings

(1) The Licensee shall pay punctually to the Licensor, or to such person as the Licensor may from time to time direct, all the following outgoings or charges, assessed or incurred in respect of the Licensed Area or payable by reason of the Licensee's use and occupation of the Licensed Area:

(a) local government rates, services and other charges, including but not limited to rubbish collection charges and the emergency services levy;

(b) telephone, electricity, gas and other power and light charges including but not limited to meter rents and the cost of installation of any meter, wiring or telephone connection AND where possible, the Licensee shall ensure that any accounts for all charges and outgoings in respect of telephone, electricity, gas and other power and light charges are taken out and issued in the name of the Licensee;

(c) land tax and metropolitan regional improvement tax on a single ownership basis;

(d) the costs of any cleaning and lighting of, supply of internal security and toilet requisites to, and maintenance and repair of the Licensed Area;

(e) premiums, excesses and other costs arising from the insurance obtained by the Licensor pursuant to **clause 17**; and

(f) any other consumption charge or cost, statutory impost or other obligation incurred or payable by reason of the Licensee's use and occupation of the Licensed Area.

(2) If the Licensed Area is not separately charged or assessed the Licensee will pay to the Licensor a proportionate part of any charges or assessments referred to in **clause 8(1)** being the proportion that the Licensed Area bears to the total area of the land or premises included in the charge or assessment.

9. Alterations

(1) The Licensee shall not:

(a) make or cause, suffer or permit to be placed upon the Licensed Area any improvements, alterations, buildings, structures or other fixtures, fittings or equipment of any kind whatsoever; or

(b) carry out any modifications or alterations whatsoever to the Licensed Area,

unless the Licensee has first obtained the prior written approval of the Licensor (which is granted at the absolute discretion of the Licensor and may be subject to such conditions as the Licensor deems fit) and all necessary approvals, licences and permits required by law have been obtained.

(2) Subject to the right of the Licensor to require removal of any alteration or addition pursuant to **clause 23(1)**, the Licensee AGREES with the Licensor that at the expiration or sooner determination of this Licence the ownership of any alterations, additions or improvements installed by the Licensee in or on the Licensed Area shall vest in the Licensor absolutely.

10. Entry and inspection of Licensed Area

The Licensee must permit the Licensor to enter the Licensed Area at any reasonable time during the Permitted Hours of Use to inspect and view the Licensed Area, to carry out any maintenance work or to rectify any breach of the conditions of this Licence.

11. Signs & advertising

The Licensee shall not affix or exhibit or permit to be affixed or exhibited in or upon any part of the Licensed Area any placard, signboard, neon sign or other advertisement unless the Licensee has first obtained the prior written approval of the Licensor (which is granted at the absolute discretion of the Licensor and may be subject to such conditions as the Licensor deems fit).

12. Compliance with statutes

The Licensee shall:

(a) comply promptly with all written laws from time to time in force relating to the Licensed Area;

(b) apply for, obtain and maintain in force all consents, approvals, authorities, licences and permits required under any written law for the Permitted Use to be undertaken on the Licensed Area;

(c) comply promptly with all orders, notices, requisitions or directions of any competent authority relating to the Licensee's use of the Licensed Area; and

(d) ensure that all obligations in regard to payment for copyright or licensing fees are paid to the appropriate person for all performances, exhibitions or displays held within the Licensed Area.

13. Maintenance and cleaning of Licensed Area

13.1 General Maintenance

(2) Subject to **clause 13.3**, **clause 13.4** and **Annexure 4**, the Licensee AGREES during the Term and for so long as the Licensee continues to use the Licensed Area to maintain, replace, repair, clean and keep the Licensed Area (which for the avoidance of doubt includes the Licensor's and Licensee's fixtures and fittings) clean and in good repair.

(3) Subject to **clause 13.4** and **Annexure 4**, in discharging the obligations imposed on the Licensee under this subclause, the Licensee shall where installing, maintaining, replacing or repairing:

(a) any electrical fittings and fixtures;

(b) any plumbing;

(c) any air-conditioning fittings and fixtures; and

(d) any gas fittings and fixtures, in or on the Licensed Area,

use only licensed trades persons, or such trades persons as may be approved by the Licensor and notified to the Licensee, which approval shall not be unreasonably withheld.

13.2 Cleaning

The Licensee must keep the Licensed Area clean, tidy and free from rubbish at all times. The Licensee shall pay any costs, fees or charges incurred for cleaning of the Licensed Area.

13.3 Reporting of maintenance issues

Without detracting from the obligations of the Licensee under **clause 13.1(2)**, the Licensee must report any maintenance issues arising during the Term in respect of any fixture, fitting, improvement or building on the Licensed Area to enable the Licensor to assess any potential claimsavailable under warranty.

13.4 Compliance with Maintenance Schedule

(2) The Licensee shall undertake at its own cost the maintenance tasks described in the column titled "Licensee arranges and pays" of the maintenance schedule annexed as **Annexure 4** (**Maintenance Schedule**).

(3) The Licensor may at its discretion and subject to budgetary constraints undertake the maintenance tasks described in the column entitled "Licensor arranges and pays" in the Maintenance Schedule.

(4) The Licensor shall undertake the maintenance tasks described in the column entitled "Licensor arranges Licensee pays" in the Maintenance Schedule and the Licensee shall pay the costs of the Licensor undertaking such tasks upon written demand being made by the Licensor to the Licensee.

13.5 Maintenance and Cleaning of Common Area

The parties acknowledge and agree that where the use of any portion of the Licensed Area is shared with other users, the obligations of the Licensee under **clause** Error! Reference source not found. and **clause** Error! Reference source not found. apply to the extent of the Licensee's use of the relevant portion of the Licensed Area and do not extend to maintenance or cleaning requirements arising from use of the Licensed Area by another user other than the Licensee.

14. Damage to Licensed Area or Common Areas

The Licensor and the Licensee AGREE that:

(a) it will be the responsibility of the Licensee to repair, rehabilitate and make good any damage to the Licensed Area or Common Areas, including but not limited to damage to any fixtures or fittings of the Licensor, caused by or arising out of or in relation to or incidental to the use of the Licensed Area by the Licensee or any Authorised Person or resulting from an act or omission of the Licensee or any Authorised Person;

(b) the Licensee shall be responsible for the cost of any of the repairs, rehabilitation or making good of damage referred to in sub-clause (a); and

(c) the Licensee must pay to the Licensor the costs of any repair, rehabilitation or making good of damage to the Licensed Area or Common Areas within 7 days of receipt of a written demand for such payment being made by the Licensor.

15. Not to cause nuisance

The Licensee must not and must not suffer or permit any Authorised Person to do or carry out on the Licensed Area anything which causes a nuisance, damage or disturbance to the Licensor, other users of the Land or Building or to owners or occupiers of adjoining properties.

16. Indemnity

16.1 Licensor indemnified

The Licensee indemnifies and must keep indemnified the Licensor and the Minister for Lands against any Loss or other liability resulting from:

(a) any damage to the Licensed Area, the Common Areas or other property; or

(b) the death of, illness of or injury to, any person**,**

to the extent caused or contributed to by:

(c) any breach of the Licence by the Licensee;

(d) the use or occupation of the Licensed Area by the Licensee or an Authorised Person;

(e) the use of the Common Areas by the Licensee or an Authorised Person;

(f) the Licensee's activities, operations, or business;

(g) any act, omission, negligence or default of the Licensee or an Authorised Person; or

(h) any danger created by the Licensee or an Authorised Person.

16.2 Release

(1) The Licensee:

(a) agrees to occupy and use the Licensed Area at the risk of the Licensee;

(b) releases to the full extent permitted by law the Licensor from:

(i) any liability which may arise in respect of any accident or damage to property or death or injury to, or illness of, any person, of any nature:

(A) in or near the Licensed Area; or

(B) in relation to the Licensee's activities, business or operations or any act or omission of the Licensee in any public place outside of the Licensed Area,

(ii) loss of or damage to fixtures or personal property of the Licensee;

except to the extent that such loss or damage is caused by the gross negligence of the Licensor or a breach of the provisions of this Licence by the Licensor.

(2) The obligations of the Licensee under this **clause 16** continue after the expiration or earlier determination of the Licence in respect of any act, deed, matter or thing occurring before the expiration or earlier determination of the Licence.

16.3 Licensor not liable

The Licensor shall not be liable for any Loss or other liability resulting from any accident, loss of life, injury, damage, malfunction or other event in, or affecting, the Licensed Area or the Common Areas unless, but only to the extent, caused by the gross negligence of the Licensor.

16.4 Indemnity Unaffected by Insurance

The Licensee's obligation to indemnify the Licensor under this Licence or at law is not affected by any insurance maintained by the Licensor in respect of the Licensed Area and the indemnity under **clause 16.1** is paramount.

17. Insurance

17.1 Insurance required

The Licensee must effect and maintain with insurers approved by the Licensor (noting the Licensor's and the Licensee's respective rights and interest in the Licensed Area) for the time being:

(a) adequate public liability insurance for a sum not less than twenty million dollars ($20,000,000) in respect of any one claim or such greater amount as the Licensor may from time to time reasonably require, for the duration of the Term for the use of the Licensed Area and Common Areas by the Licensee;

(b) insurance to cover the Licensee's fixtures, fittings, equipment and stock against loss or damage by fire, fusion, smoke, lightning, flood, storm, tempest, earthquake, sprinkler leakage, water damage and other usual risks against which a licensee can and does ordinarily insure for their full replacement value, and loss from theft or burglary; and

(c) adequate workers' compensation insurance in respect of all employees and volunteers of the Licensee employed or engaged in, about or from the Licensed Area.

17.2 Maintain insurance

The Licensee shall not cancel any policy of insurance referred to in **clause 17.1** and in the event of such cancellation this Licence shall terminate immediately and the Licensee shall have no claim against the Licensor for any loss suffered as a result of such termination.

17.3 Details and receipts

The Licensee shall produce copies of the certificates of currency or receipts confirming the currency of any policy or policies of insurance within seven (7) days of being provided with a written request by the Licensor to do so.

17.4 Not to void insurance

The Licensee agrees with the Licensor not to at any time during the Term, commit, or suffer to be done any act, matter or thing upon the Licensed Area whereby any insurance which may at any time have been effected in respect of the Licensed Area or any part thereof may be vitiated or rendered void or voidable.

17.5 Building insurance

The Licensor shall effect and keep effected policies of insurance in relation to any risk relating to the Licensor's ownership or interest in the Land and the Licensed Area including, without limitation, insurance for the Licensor's fixtures and fittings, and the Licensee will reimburse the Licensor for any premiums or other costs arising therefrom in accordance with **clause 8**.

18. No assignment without consent of Licensor

The Licensee agrees that it shall not encumber, assign, sub-licence or part with the possession or benefit of this Licence or the Licensed Area or any part of the Licensed Area without first obtaining the prior written consent of the Licensor and the Minister for Lands, which consent the Licensor may withhold in its absolute discretion.

19. Report to Licensor

The Licensee must immediately report to the Licensor:

(a) any act of vandalism which occurs on or near the Licensed Area;

(b) any occurrence or circumstances in or near the Licensed Area, of which it becomes aware, which might reasonably be expected to cause, in or on the Licensed Area, pollution of or damage to the environment; and

(c) all notices, orders and summonses received by the Licensee and which affect the Licensed Area and immediately give them to the Licensor.

20. Keys and access

20.1 No additional copies without approval

Unless otherwise approved by the Licensor in writing, the Licensee, where it has been provided with keys to the Licensed Area by the Licensor, must not have additional sets of keys copied or cut.

20.2 Notify the Licensor of lost keys

(1) The Licensee must notify the Licensor of any loss of keys immediately.

(2) To ensure all keys conform with the Licensor's master keys, the Licensor will arrange for replacement keys to be issued to the Licensee at the Licensee's cost.

20.3 No change of locks without approval

(1) The Licensee must not change any locks on any building in the Licensed Area, without the prior approval of the Licensor.

(2) If the locks are changed or added the Licensee must provide the Licensor with keys to access all areas of theLicensed Area.

20.4 Cost of re-entry

If the Licensor requires access to the Licensed Area pursuant to its powers under this Licence, and is unable to access the Licensed Area due to an unauthorised change or addition in locks, the Licensor may take all such measures to enter the Licensed Area and to re-secure the Licensed Area, and the Licensee will bear all costs associated with such measures.

21. No right of exclusive possession

(1) The Licensee acknowledges that this Licence is non-exclusive and does not convey any right of exclusive possession over the Licensed Area to the Licensee and the Licensee AGREES that it shall not interfere with the use of the Licensed Area by any other person authorised by the Licensor or otherwise entitled at law to access or use the Licensed Area.

(2) Notwithstanding subclause (1), the Licensor shall not unreasonably interfere nor permit any other person to unreasonably interfere with the Licensee's use of the Licensed Area as permitted by this Licence.

22. Default

22.1 Events of default

A default occurs if:

(a) any Amounts Payable remain unpaid for 14 days after a Notice has been given to the Licensee that an amount is outstanding;

(b) the Licensee is in breach of any of the Licensee's Obligations (other than an obligation to pay any Amounts Payable) for 14 days after a Notice has been given to the Licensee to rectify the breach or to pay compensation in money;

(c) where the Licensee is an association which is incorporated under the *Associations Incorporation Act 2015*, the association is wound up whether voluntarily or otherwise;

(d) where the Licensee is an association which is incorporated under the *Associations Incorporation Act 2015*, the Licensee passes a special resolution under the *Associations Incorporation Act 2015* altering its rules of association in a way that makes its objects or purposes inconsistent with the use permitted by this Licence;

(e) a mortgagee takes possession of the property of the Licensee under this Licence;

(f) any execution or similar process is made against the Licensed Area or the Licensee's property;

(g) the Licensed Area is vacated; or

(h) a person other than the Licensee or a permitted sublicensee or assignee is in occupation or possession of the Licensed Area or in receipt of rent and profits.

22.2 Forfeiture

On the occurrence of any of the events of default specified in **clause 22.1** the Licensor may:

(a) without notice or demand at any time enter the Licensed Area and on re-entry the Term will immediately determine; or

(b) by notice to the Licensee determine this Licence and from the date of giving such notice this Licence will be absolutely determined; and

(c) by notice to the Licensee elect to convert the unexpired portion of the Term into a licence from month to month when this Licence will be determined as from the giving of the notice and until the licence is determined the Licensee will hold the Licensed Area from the Licensor as a monthly licensee under **clause 4.**

but without affecting the right of action or other remedy which the Licensor has in respect of any other breach by the Licensee of the Licensee's Obligations or releasing the Licensee from liability in respect of the Licensee's Obligations.

22.3 Licensor may remedy Licensee's default

If the Licensee:

(a) fails or neglects to pay the Amounts Payable by the Licensee under this Licence; or

(b) does or fails to do anything which constitutes a breach of the Licensee's Obligations,

then, after the Licensor has given to the Licensee notice of the breach and the Licensee has failed to rectify the breach within a reasonable time, the Licensor may without affecting any right, remedy or power arising from that default pay the money due or do or cease the doing of the breach as if it were the Licensee and the Licensee must pay to the Licensor on demand the Licensor's cost and expenses of remedying each breach or default.

22.4 Acceptance of amount payable by Licensor

Demand for or acceptance of the Amounts Payable by the Licensor after an event of default has occurred will not affect the exercise by the Licensor of the rights and powers of the Licensor by the terms of the Licence or at law and will not operate as an election by the Licensor to exercise or not to exercise any right or power.

22.5 Essential terms

Each of the Licensee's Obligations in **clauses 6 (**Licence Fee and GST), **7** (Use), **8** (Outgoings), **13** (Maintenance**)**, **16** (Indemnity), **17** (Insurance) and **18** (Assignment) is an essential term of this Licence but this **clause 22** does not mean or imply that there are no other essential terms in this Licence.

22.6 Breach of essential terms

If the Licensee breaches an essential term of this Licence then, in addition to any other remedy or entitlement of the Licensor:

(a) the Licensee must compensate the Licensor for the loss or damage suffered by reason of the breach of that essential term;

(b) the Licensor will be entitled to recover damages against the Licensee in respect of the breach of an essential term; and

(c) the Licensee AGREES with the Licensor that if the Term is determined:

(i) for breach of an essential term or the acceptance by the Licensor of a repudiation of this Licence by the Licensee; or

(ii) following the failure by the Licensee to comply with any notice given to the Licensee to remedy any default,

the Licensee must pay to the Licensor on demand the total of the Amounts Payable under this Licence which would have been payable by the Licensee for the unexpired balance of the Term as if the Term had expired by lapse of time together with the losses incurred or reasonably expected to be incurred by the Licensor as a result of the early determination including but not limited to the costs of re-letting or attempting to re-let the Licensed Area;

(d) the Licensee agrees that the obligation set out in **clause 22.6(c)** will survive termination or any deemed surrender at law of the estate granted by this Licence; and

(e) the Licensor must take reasonable steps to mitigate its losses and endeavour to re-let the Licensed Area at a reasonable rent and on reasonable terms but the Licensor is not required to offer or accept rent or terms which are the same or similar to the rent or terms contained or implied in this Licence.

23. Restoration of Licensed Area

(1) Upon the expiration or sooner determination of this Licence, the Licensee shall:

(a) restore the Licensed Area to the condition in which it existed at the date of possession of the Licensed Area to the satisfaction of the Licensor; and

(b) remove from the Licensed Area:

(i) any alterations, additions or improvements to the Licensed Area installed by the Licensee, unless otherwise agreed by the Licensor in writing; and

(ii) any stock, equipment, chattels or other personal property of the Licensee.

(2) In the event the Licensee does not restore the Licensed Area to the satisfaction of the Licensor within one month of the expiration or sooner determination of this Licence the Licensor may:

(a) remove:

(i) any alterations, additions or improvements to the Licensed Area (where the removal of such alterations, additions or improvements was required by the Licensor under sub-clause (1)(b)); or

(ii) any stock, equipment, chattels or other personal property of the Licensee,

which shall vest in the Licensor absolutely and may be disposed of by the Licensor at its absolute discretion; and

(b) restore the Licensed Area to its satisfaction,

and the costs of carrying out such removal, restoration and disposal shall be a liquidated debt recoverable from the Licensee by the Licensor in a Court of competent jurisdiction.

24. Rights rest in contract only

The Licensee ACKNOWLEDGES that the rights hereby conferred rest in contract only and nothing herein contained or implied shall be construed as granting or shall be deemed to grant to the Licensee any estate or interest in the Licensed Area or any right of exclusive possession.

25. Yielding up at expiration of term

The Licensee AGREES with the Licensor that at the end or sooner termination of the Term of the Licence it shall yield up and leave the Licensed Area in a condition consistent with the provisions of this Licence.

26. No warranty

The Licensor gives no warranty:

(a) as to the suitability or otherwise of the Licensed Area for the Permitted Use; or

(b) that the Licensor will issue any consents, approvals, authorities, permits or licences required by the Licensee under any statute for its use of the Licensed Area.

27. No fetter

Notwithstanding any other provision of this Licence, the Licensee ACKNOWLEDGES that the Licensor is a local government established by the *Local Government Act 1995* (WA), and in that capacity, the Licensor may be obliged to determine applications for approvals having regard to statutes governing such applications including matters required to be taken into consideration and formal processes to be undertaken, and the Licensor shall not be taken to be in default under this Licence by performing its statutory obligations or exercising its statutory discretions, nor shall any provision of this Licence fetter the Licensor in performing its statutory obligations or exercising any discretion.

28. Notice

28.1 Form of Delivery

A Notice to a Party must be in writing and may be given or made:

(a) by delivery to the Party personally;

(b) by addressing it to the Party and leaving it at or posting it by prepaid post to the address of the Party appearing in this Licence or any other address nominated by a Party by Notice to the other; or

(c) by addressing it to the Party and emailing it to the email address appearing in this Licence or any other email address nominated by a Party by Notice to the other.

28.2 Service of Notice

A Notice to a Party is deemed to be given or made:

(a) if by personal delivery, when delivered;

(b) if by leaving the Notice at an address specified in **clause 28.1(b)**, at the time of leaving the Notice, provided the Notice is left during normal business hours;

(c) if by post to an address specified in **clause 28.1(b)**, on the fourth business day following the date of posting of the Notice; and

(d) if by email, when despatched by email to an email address specified in **clause 28.1(c)** of this Licence unless the time of dispatch is not on a business day or after 5 pm on a business day, in which case it will be deemed to be given or made on the next following business day.

28.3 Signing of Notice

A Notice to a Party may be signed:

(a) if given by an individual, by the person giving the Notice;

(b) if given by a corporation, by a director, secretary or manager of that corporation;

(c) if given by a local government, by the CEO or an authorised officer;

(d) if given by an association incorporated under the *Associations Incorporation Act 2015*, by any person authorised to do so by the board or committee of management of the association; or

(e) by a solicitor or other agent of the individual, corporation, local government or association giving the Notice.

29. Severance

If any part of this Licence is or becomes void or unenforceable, that part is or will be severed from this Licence to the intent that all parts that are not or do not become void or unenforceable remain in full force and effect and are unaffected by that severance.

30. Further assurance

The Parties must execute and do all acts and things necessary or desirable to implement and give full effect to the terms of this Licence.

31. Dispute resolution

31.1 Referral of Dispute: Phase 1

Except as otherwise provided, any dispute arising out of this Licence is to be referred in the first instance in writing to the Licensor's representative as nominated in writing by the Licensor from time to time (**Licensor's Representative**) who shall convene a meeting within 10 days or such other period of time as is agreed to by the parties between the Licensor's Representative and a representative of the Licensee for the purpose of resolving the dispute (**Original Meeting**).

31.2 Appointment of an Independent Mediator: Phase 2

In the event the dispute is not resolved in accordance with **clause 31.1**, then the parties must endeavour to settle any dispute in connection with the Licence by mediation. Such mediation is to be conducted by a mediator who is independent of the parties and appointed by agreement of the parties. If the parties fail to agree to an independent mediator, the dispute will progress straight to arbitration in accordance with **clause 31.3.**

31.3 Appointment of Arbitrator: Phase 3

In the event the dispute is not resolved in accordance with **clause 31.2** then the dispute shall be determined by a single arbitrator under the provisions of the *Commercial Arbitration Act 2012* (as amended from time to time) and the Parties may each be represented by a legal practitioner.

32. Damage or destruction of Licensed Area

32.1 Abatement of Amounts Payable

If the Licensed Area is at any time during the Term, without neglect or default of the Licensee, destroyed or damaged by fire or other risk covered by insurance so as to render the same unfit for the occupation

and use of the Licensee, then the Amounts Payable or a proportionate part thereof (according to the nature and extent of the damage) shall abate until the Licensed Area has been rebuilt or made fit for the occupation and use of the Licensee, at the absolute discretion of the Licensor.

32.2 Dispute as to Abatement of Amounts Payable

Any dispute arising in relation to the abatement of Amounts Payable pursuant to **clause 32.1** shall be referred to arbitration under the provisions of the *Commercial Arbitration Act 2012* and all Amounts Payable must be paid without any deduction or abatement until the date of the arbitrator's award whereupon the Licensor will refund to the Licensee any Amounts Payable which according to the award appear to have been overpaid.

32.3 Termination

In the event that the Licensed Area is damaged or destroyed by fire or any like casualty so as to render it unfit for use or occupation by the Licensee for a period in excess of one (1) month either party will have the option to be exercised by notice in writing delivered to the other party, to elect to cancel and terminate this Licence. The Term will terminate seven (7) days after such notice is given and the Licensee must then vacate the Licensed Area and surrender the same to the Licensor but such termination will be without prejudice to the Licensor's rights in respect of any antecedent breach of this Licence.

33. Goods and Services Tax

33.1 Licensee must pay

If GST is payable on the Basic Consideration or any part thereof or if the Licensor is liable to pay GST in connection with the licence of the Licensed Area or any goods, services or other Taxable Supply supplied under this Licence then, unless the Licensor is liable for the payment of a given Taxable Supply, as from the date of any such introduction or application:

(a) the Licensor may increase the Basic Consideration or the relevant part thereof by an amount which is equal to the GST Rate; and

(b) the Licensee shall pay the increased Basic Consideration on the due date for payment by the Licensee of the Basic Consideration.

33.2 Increase in GST

If, at any time, the GST Rate is increased, the Licensor may, in addition to the GST Rate, increase the Basic Consideration by the GST Adjustment Rate and such amount shall be payable in accordance with **clause 33.1**.

33.3 GST invoice

Where the Basic Consideration is to be increased to account for GST pursuant to **clause 33.2**, the Licensor shall in the month in which the Basic Consideration is to be paid, issue a Tax Invoice which enables the Licensee to submit a claim for a credit or refund of GST.

34. Variation

This Licence may be varied only by deed executed by the Parties subject to such consents as are required by this Licence or at law.

35. Payment of interest

Without affecting the rights, power and remedies of the Licensor under this Licence, the Licensee shall pay to the Licensor interest on demand on any Amounts Payable which are unpaid for 7 days computed from the due date for payment until payment is made and any interest payable under this paragraph will be charged at the Interest Rate.

36. Costs

The Licensee must pay to the Licensor on demand:

(a) any statutory duty or taxes payable on or in connection with this Licence;

(b) all costs, reasonable legal fees, disbursements and payments incurred by or for which the Licensor is liable in connection with or incidental to:

(i) the Amounts Payable or obtaining or attempting to obtain payment of the Amounts Payable under this Licence;

(ii) any breach of covenant by the Licensee or an Authorised Person;

(iii) the preparation and execution of this Licence; and

(iv) any work done at the Licensee's request which the Licensor is not responsible for under the terms of this Licence.

37. Governing law

This Licence is governed by and is to be interpreted in accordance with the laws of Western Australia and, where applicable, the laws of the Commonwealth of Australia.

38. Additional terms, covenants and conditions

Each of the terms, covenants and conditions specified in **Item 7** of the Schedule shall be deemed part of this Licence and shall be binding upon the Licensor and Licensee as if incorporated in the body of this Licence.

39. Interpretation

In this Licence, unless expressed to the contrary:

(a) Words importing:

(i) the singular include the plural;

(ii) the plural include the singular; and

(iii) any gender includes each gender;

(b) A reference to:

(i) a natural person includes a body corporate or local government;

(ii) a body corporate or local government includes a natural person;

(iii) a Party includes its legal personal representatives, successors and assigns and if a Party comprises two or more persons, the legal personal representatives, successors and assigns of each of those persons;

(iv) a statute includes an ordinance, code, award, local planning scheme, regulation, local law, by-law, requisition, order or other statutory instruments made under any of them and a reference to any of them, whether or not by name, includes any amendments to, re-enactments of or replacements of any of them from time to time in force;

(v) a right includes a benefit, remedy, discretion, authority or power;

(vi) an obligation includes a warranty or representation and a reference to a failure to observe or perform an obligation includes a breach of warranty or representation;

(vii) this Licence or provisions of this Licence or any other deed, agreement, instrument or contract includes a reference to:

(A) both express and implied provisions; and

(B) that other deed, agreement, instrument or contract as varied, supplemented, replaced or amended;

(viii) writing includes any mode of representing or reproducing words in tangible and permanently visible form and includes facsimile transmissions;

(ix) anything (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a group of things or persons is a reference to anyone or more of them; and

(c) a subparagraph, paragraph, subclause, clause, Item, Schedule or Annexure is a reference to, respectively, a subparagraph, paragraph, subclause, clause, Item, Schedule or Annexure of this Licence;

(d) The covenants and obligations on the part of the Licensee not to do or omit to do any act or thing include:

(i) covenants not to permit that act or thing to be done or omitted to be done by any officer, workmen, servants, agents, contractors, licensees, invitees, assignees or persons authorised by the Licensee; and

(ii) a covenant to take all reasonable steps to ensure that that act or thing is not done or omitted to be done;

(e) Except in the Schedule, headings do not affect the interpretation of this Licence;

(f) If a Party comprises two or more persons, the covenants and agreements on their part bind them and must be observed and performed by them jointly and each of them severally, and may be enforced against any one or more of them.

(g) The Schedule and Annexures (if any) form part of the Licence.

40. Definitions

In this Licence, unless otherwise required by the context or subject matter:

Amounts Payable means the Licence Fee and any other money payable by the Licensee under this Licence;

Authorised Person means an agent, employee, invitee or sub-licensee of the Licensee;

Basic Consideration means all consideration (whether in money or otherwise) to be paid or provided by the Licensee for any supply or use of the Licensed Area and any goods, services or other things provided by the Licensor under this Licence;

Building means the building situated on the Land, commonly referred to as 13 Mrs Trivetts Place, and coloured in blue on the plan annexed hereto as **Annexure 1**;

Building Opening Times means 8am – 4pm Monday – Friday and any other time in which access is approved by the Licensor;

Chief Executive Officer means the Chief Executive Officer of the Licensor or any person authorised to act on his behalf;

Commencement Date means the date on which the Term commences as specified in **Item 3** of the Schedule;

Common Areas means all those parts of the Land or Building not leased, licensed or intended to be leased or licensed to any tenant or licensee (other than as a common area), but intended for use by the tenants and licensees of the Land and their respective employees and visitors in common with each other;

Further Term means any further term specified in **Item 3** of the Schedule;

GST has the meaning that it bears in the GST Act;

GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any legislation substituted for, replacing or amending that Act;

GST Adjustment Rate means the amount of any increase in the rate of tax imposed by the GST Law;

GST Law has the meaning that it bears in section 195-1 of the GST Act;

GST Rate means 10%, or such other figure equal to the rate of tax imposed by the GST Law;

Interest Rate means the rate at the time the payment falls due being 2% greater than the Licensor's general overdraft rate on borrowings from its bankers on amounts not exceeding $100,000.00;

Land means the land described at **Item 1** of the Schedule;

Licence means this deed as supplemented, amended or varied from time to time;

Licensee's Obligations means the covenants, agreements and obligations set out or implied in this Licence or imposed by law to be performed by the Licensee;

Licence Fee means the fee specified in **Item 5** of the Schedule;

Licensed Area means the Licensed Area described in **Item 2** of the Schedule;

Loss means any loss, cost (including legal costs), expense, liability (whether arising in negligence or otherwise) or damage whether direct or indirect, present or future, ascertained, unascertained, actual, prospective or contingent or any fine or penalty;

Management Order means the management order made under section 46 of the *Land Administration Act 1997*, under which the Land was vested in the Licensor to be held for the purpose of 'Historical Buildings, Recreation and Community Services';

Notice means each notice, demand, consent or authority given or made to any person under this Licence;

Party means the Licensor or the Licensee according to the context;

Permitted Use means the use set out in **Item 6** of the Schedule;

Schedule means the Schedule to this Licence, unless otherwise stipulated;

Supply means a good or service or any other thing supplied by the Licensor under this Licence and includes but is not limited to a grant of a right to possession of the Licensed Area; and

Term means the term stipulated in **Item 3** of the Schedule and includes any Further Term, where the context permits.

Schedule

Item 1 Land

Lot 2051 on Deposited Plan 217075 being the whole of the land comprised in Certificate of Title Volume LR3037 Folio 511.

Item 2 Licensed Area

The entirety of the Building as depicted on the plans annexed hereto as **Annexure 1** and **Annexure 2**.

Item 3 Term and Further Term

Term

[**insert Term**] commencing on the [**insert date**] and expiring on [**insert date**].

Further Term

[**insert Term**] commencing on [**insert date**] and expiring on [**insert date**].

Item 4 Permitted Hours of Use

[**insert permitted hours**]

Item 5 Licence Fee

[**insert amount**]

Item 6 Permitted Use

[**insert Permitted Use**]

Item 7 Additional terms, covenants and conditions

1. Licensee's acknowledgements

The Licensee acknowledges and agrees:

(a) the Licensed Area is offered "as is";

(b) any fit out of the Licensed Area is to be undertaken by, and with all costs to be borne by the Licensee, subject to approval in accordance with **clause 9**;

(c) the Licensor is entitled to use parts of the Building for its own purposes, specifically noting that other tenants or licensees of the Building and Land are entitled to use the Common Areas.

2. Licensor's Maintenance Responsibilities

(1) The Licensor may at its discretion undertake any maintenance or repair works reasonably required from time to time on the Land. The Licensor will provide reasonable notice to

the Licensee prior to undertaking any works to the Licensed Area, Building or Land that may restrict access to the Licensed Area, except in the case of emergency.

(2) The Licensor may undertake:

(i) maintenance, repair and upkeep of the Building, Common Areas and any shared infrastructure, services, communications or utility lines and connections servicing the Licensed Area; and

(ii) maintenance work that is shared between the Licensed Area and other licensees or occupiers of the Building or Land,

however any particular maintenance items shall be undertaken at the discretion of the Licensor and are subject to budgetary constraints of the Licensor.

3. No gifts

Without detracting from any other provision of this Licence, the Licensee must not offer or give any gift to the Licensor, irrespective of value.

4. Fossil Fuel Advertising and Sponsorships

The Licensee acknowledges that in accordance with the City of Fremantle Fossil Fuel Advertising and Sponsorships Policy, the Licensor does not support the following –

(a) the advertising of or by companies involved in the production or supply of fossil fuels on property owned or managed by the Licensor; or

(b) advertising which specifically promotes fossil fuels on property owned or managed by the Licensor.

5. Confidentiality

(1) **Definition**

For the purposes of this clause:

"Confidential Information" means any information relating to the Licence, including but not limited to the provisions of the Licence.

(2) **Use of Confidential Information**

(a) To the extent permitted by law, both parties agree to keep the Confidential Information confidential and to use such information only for the purposes of performance of their respective obligations under this agreement.

(b) The obligations of confidentiality in paragraph (a) will not apply to information which:

(i) is generally available in the public domain except where such availability is as a result of a breach of this agreement; or

(ii) is required to be disclosed by an applicable law, including but not limited to the *Local Government Act 1995* or *Freedom of Information Act 1992*, or by court order.

(c) The obligations imposed under this clause will survive the termination of this Licence.

6. Redevelopment

(1) If at any time during the Term of the Licence the Licensor desires to:

(a) repair, alter, remove, reconstruct, develop or improve any part of the Licensed Area ("redevelopment"); or

(b) carry out works which will prevent access or safe access to the Licensed Area,

then, notwithstanding the fixed Term of the Licence,

(c) the Licensor may at any time terminate the Licence and the Term upon giving the Licensee not less than six (6) calendar months' notice in writing that shall state the date on which the Licence and the Term are to terminate; and

(d) upon such date ("the Date of Termination") the Licence and the Term and any right of extension of the Term shall absolutely cease and determine; and

(e) the Licensee shall then vacate, surrender and deliver up possession of the Licensed Area to the Licensor.

(2) After the Date of Termination the Licensee shall not be liable to the Licensor save as to any rights which may have accrued to the Licensor up to the Date of Termination.

(3) Sub-clause (2) shall not affect any obligation of the Licensee to pay any of the Licence Fee or other moneys for which the Licensee is liable under the Licence in respect of the period prior to the Date of Termination.

(4) No compensation or other consideration (including but not limited to relocation costs) shall be payable to or claimable by the Licensee from the Licensor for or arising out of early termination by the Licensor pursuant to this clause.

(5) A certificate signed by the Licensor shall be full and sufficient evidence of the fact that the Licensor desires to repair, alter, remove, reconstruct, redevelop or improve any part of the Licensed Area.

7. Parties to act in good faith

Each party agrees to act reasonably and in good faith throughout the term of the Licence and to not publicly disparage, denigrate or criticise the other party.

Signing page

EXECUTED by the parties as a Deed on the day of 2026

Executed by the **CITY OF FREMANTLE** pursuant to section 9.49A of the Local Government Act 1995:

Signature of Chief Executive Officer

Print Full Name

SIGNED by the said **[INSERT LICENSEE'S NAME]** in the presence of:

Signature of [INSERT LICENSEE'S NAME]

Witness Sign

Full Name of Witness

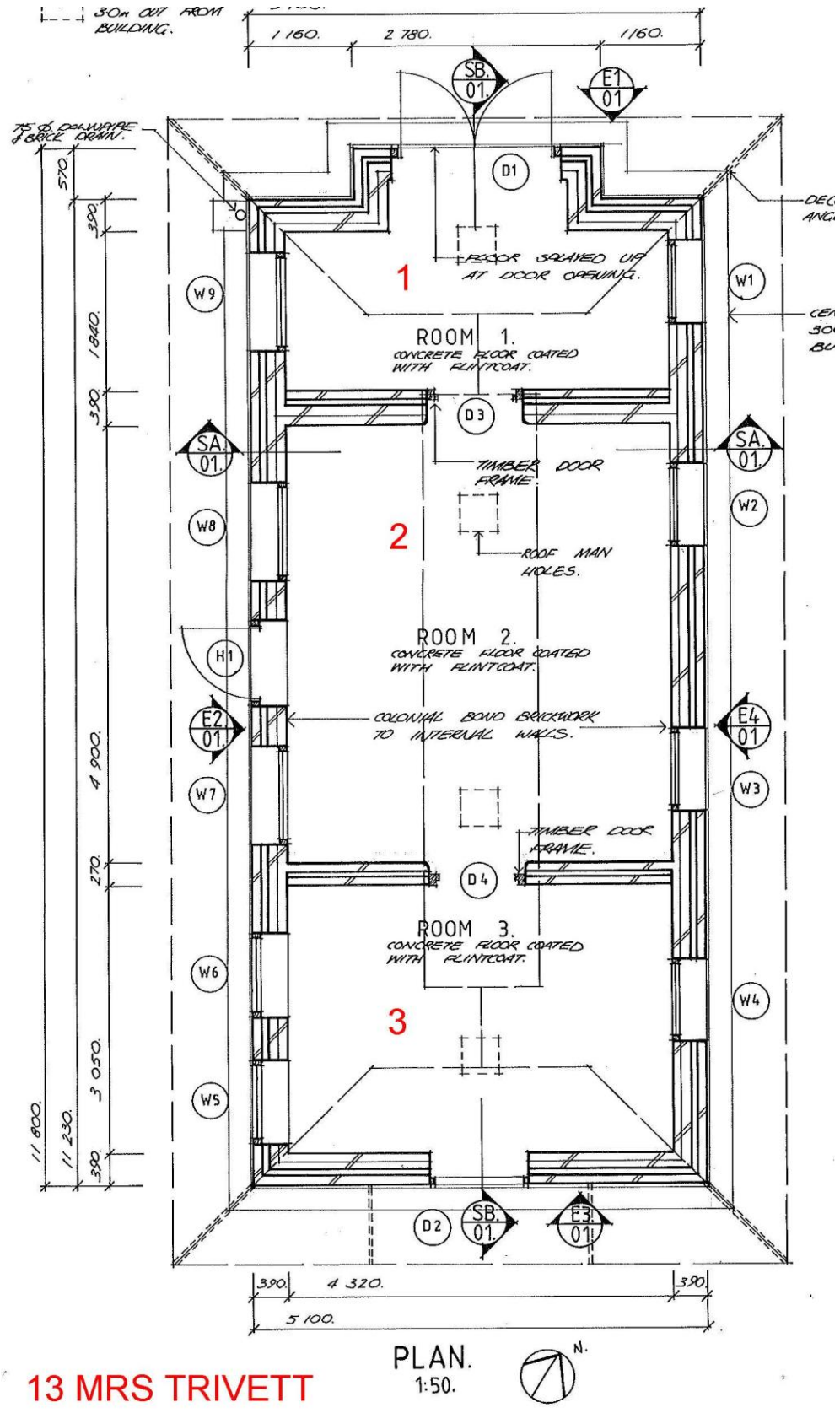
Address

Occupation

Annexure 1 – Plan of Building



Annexure 2 – Plan of Licensed Area



Annexure 3 – Minister for Lands' Approval

ANNEXURE 2 – MAINTENANCE SCHEDULE

Description	Frequency	Lessee arranges and pays	COF arranges and pays	COF arranges & Lessee pays
CLEANING & HYGIENE				
General cleaning of the premises - internal and external	As required	✓		
Cleaning Windows	Annual	✓		
Cleaning Carpets	Annual	✓		
Cleaning Hygiene (sanitary, nappy, air fresheners etc)	As required	✓		
Rubbish removal	As required	✓		
Cleaning Materials & consumables within premises	As required	✓		
Gutter cleaning	Monthly			✓
Graffiti removal	As required			✓
Building surroundings including paving and garden beds	As required			✓
PEST CONTROL				
Pest control - Scheduled servicing (rodent, bees, spiders, ants, pigeons etc) and treatments/control measures	6 Monthly	✓		
Termite inspection and treatments as required	Annual			✓
ROOF SAFETY *(Where applicable)*				
Inspection, servicing & certification	Annual			✓
Repairs and replacements	As required			✓
Damage &/or vandalism	As required			✓
GENERAL BUILDING REPAIRS				
Structural repairs	As required		✓	

Description	Frequency	Lessee arranges and pays	COF arranges and pays	COF arranges & Lessee pays
General minor repairs - Carpentry, electrical, plumbing, glazing, painting	As required			✓
Damage & vandalism attributable to Lessee use.	As required	✓		
Damage & vandalism - other	As required		✓	
Furniture/ Fitout/Fixtures	As required	✓		
Façade repairs and renewal	As required		✓	
Non-structural roofing (including but not limited to roof covering, gutters, eaves, fascias, vents, chimneys, skylights etc) maintenance and repairs	As required			✓
Renewal program - As determined by Lessor (COF) Asset Management Plans and approved budgets	As required		✓	
SIGNAGE				
Non Corporate City of Fremantle, includes statutory signage. Must be approved in writing by Lessor prior to installation				✓
Lessee signage and any non corporate Lessor signage - installation, maintenance and make good post removal	As required	✓		
Corporate Lessor signage - installation, maintenance and make good post removal	As required		✓	
LIFT (*Where applicable)*				
Inspection and servicing	3 monthly			✓
Breakdown repairs	As required			✓
Damage & vandalism	As required			✓
End of life replacement	As required		✓	
ELECTRICAL SERVICES *(Where applicable)*				
RCD Testing (including repairs if required)	6 monthly			✓

Description	Frequency	Lessee arranges and pays	COF arranges and pays	COF arranges & Lessee pays
Portable testing and tagging of appliances, excluding student appliances	12 monthly	✓		
Repairs/replacement arising from testing of appliances	As required	✓		
Repair/replacement of wiring	As required			✓
Repairs /replacement electrical fixtures and fittings, excluding HVAC	As required	✓		
SECURITY *(Where applicable)*				
Electrical security system /monitored alarm repairs and replacement	As required			✓
Keys, locks and security (swipe) cards	As required			✓
FIRE *(Where applicable)*				
portable and fixed fire extinguishing and suppression equipment inspection, testing and servicing	6 monthly			✓
Servicing, recharging, repair and replacement of portable and fixed fire extinguishing and suppression equipment	As required			✓
Emergency exit lighting inspection/testing,	6 monthly			✓
Fire alarm panel repairs and repair and replacement of emergency exit lighting	As required			✓
Installation of new or upgrade/update of existing fire safety systems in line with guidelines/legislation	As required		✓	
Fire alarm panel inspection	Monthly			✓

Description	Frequency	Lessee arranges and pays	COF arranges and pays	COF arranges & Lessee pays
HVAC (AIR CONDITIONING AND MECHANICAL SERVICES) ***(Where applicable)***				
Inspection, scheduled servicing and preventative maintenance	6 monthly			✓
Breakdown repairs or costs associated with maintenance (if undertaken by Lessee, Lessee must use Lessor contractor)	As required			✓
Damage & vandalism	As required			✓
End of life replacement	As required		✓	
PLUMBING ***(Where applicable)***				
Back flow prevention devices (water & fire) testing & certification to Water Corporation requirements)	12 monthly			✓
General repairs, replacement and maintenance including blockages	As required			✓
Grease arrestor pumping out (not applicable at commencement of lease)	As required			✓
ROLLER DOORS AND SHUTTERS ***(Where applicable)***				
Inspection & scheduled servicing	6 Monthly	✓		
Replacements, repairs and maintenance of roller doors/shutters and electronic components	As required	✓		
Damage & vandalism	As required	✓		
Notes:-Air conditioning units installed by tenant at tenant expense during a previous lease term				