

YOUR LOGO
HERE

DEED OF CHATTELS LEASE

BETWEEN

Company Pty Ltd ACN 111 222 333

AND

Other Company Pty Ltd ACN 333 222 111

DEED OF CHATTELS LEASE

MADE ____ DAY OF _____ 20__ .

BETWEEN: **Company Pty Ltd ACN 111 222 333** a company incorporated in NSW and having its registered office at 1 Sydney Street Sydney 2000 (the “Lessor”);

AND: **Other Company Pty Ltd ACN 333 222 111** a company incorporated in QLD and having its registered office at 1 Brisbane Street Brisbane 7000 (the “Lessee”).

RECITALS

- A.** The Lessor is the owner of all of the Chattels set out in the Annexure. The Lessor has agreed to lease the Chattels to the Lessee.
- B.** The Lessor has agreed to grant this lease of the Chattels to the Lessee for the purposes of conducting the Lessee’s Business.

THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1. Except where the context otherwise requires, these words and phrases have the following meanings:

“**Business**” means the business conducted by the Lessee which is more fully described in the Schedule.

“**Charge**” means any registered charge or other security over any of the Chattels.

“**Chattels**” means each and every item of furniture, computers, fittings, equipment, machinery, motor vehicles, parts, tools currently located at the Premises and including without limitation all of the Chattels and assets listed in the Annexure.

“**Claims**” means any claim, cause of action, suit, proceedings or demand of whatsoever kind or nature and howsoever arising which in any way relates to the conduct of the Business, the Chattels or the goodwill of the Business during the Term.

“**Commencement Date**” means the date upon which the Term of this Lease commences which shall be the later of the following dates:

- (i) the date upon which the last Consent is given; or
- (ii) such other date as the parties may at the time of execution of this Deed in writing agree to be the Commencement Date; or

(iii) the date of this Deed.

“Consent” means any consent, approval, authorisation or permit required to be given by any party or by any third party for any of the purposes of this Lease or to facilitate or allow the doing of anything under the terms of this Lease. Where the failure to obtain a consent prior to entering into this Lease would result in a party being in breach of any agreement or contract with the person, company or entity whose consent is required then for all the purposes of this definition, such consent is required to be given.

“Consumer Laws” means all Legislation, Regulations and Codes of Practice which at any time provide for or regulate the rights of consumers when dealing with the Lessee in the conduct of the Business or which impose obligations upon the Lessee in respect of the conduct of the Business. Without limitation these include where applicable the following:

- (a) the *Trade Practices Act* 1974 (Cth);
- (b) the *Fair Trading Act* of any State/Territory; and
- (c) any other Act or law of State or Territory that applies to transactions with consumers.

“Corporations Act” means the *Corporations Act* 2001 (Cth).

“CPI” means the Consumer Price Index for the capital city (All Groups) in the State/Territory where the Business is conducted as published by the Australian Bureau of Statistics. If the CPI no longer exists, it means an index that the President of the Institute of Chartered Accountants decides in writing reflects changes in the cost of living in the capital city of the State/Territory where the Business is conducted.

“Day” means any day in which banks are open for business and does not include weekends or public holidays.

“Deed” means this Deed of Lease.

“Encumber” means to create any Encumbrance.

“Encumbrance” means any mortgage, charge (whether fixed or floating), pledge, lien, lease, hypothecation, title retention or conditional sales agreements (which is conditional or is subject to any title retention provision), covenants, bills of sale, estates, claims, demands, hire or hire purchase agreements, option, restriction as to transfer, use or possession, subordination to any right of any other person and any other encumbrance, security, restriction or interest whatsoever.

“Environmental Laws” means all laws passed by any government regulating the environment which in any way apply to the Business.

“Environmental Authority” means every government authority of any State or Territory and includes any local government authority that regulates in any way environmental activities.

“Essential Term” means a term of this Lease which the parties agree is a fundamental condition, the breach of which by a party will entitle the other party to terminate this Lease.

“Event of Default” means any default or breach of the terms of this Lease by the Lessee of any of its covenants, obligations or undertakings as set out in this Lease and without limitation includes the “Events of Default” set out in Clause 15.

“GST” means any goods and services tax or other form of value added or consumption tax and includes GST as defined in Section 195-1 of the *New Tax System (Goods and Services Tax) Act 1999* (Cth).

“Holding Over” means the holding over period after the expiry of the Initial Term by the Lessee whereby the Lessee continues to conduct and be possessed of the Business, the goodwill of the Business and the Chattels with the Consent of the Lessor.

“Initial Term” means the period of 3 years commencing on the Commencement Date and expiring on the first anniversary thereof.

“Insurance” means all insurance policies which the Lessor requires the Lessee under this Lease to take out and maintain during the Term which includes but is not limited to the policies of insurance set out in Clause 13.

“Intellectual Property” means all intellectual property of whatsoever kind or nature used or which may be used in the conduct of the Business as at the Commencement Date and during the Term including all intellectual property created by the Lessee during the Term and used by it in the conduct of the Business. Without limiting the generality of the foregoing this includes all copyright in all documents of whatsoever kind or nature, all copyright in any other property in which the Law recognises copyright ownership, all trade marks, logos, trade names and designs (whether registered or unregistered), patents (whether granted or pending) and Confidential Information.

“Lease” means this lease of the Chattels.

“Legislation” means all Acts and statutes passed by any applicable government legislature, State or Federal.

“Local Authority” means the Municipal Council or Shire Council or any other local government authority and any regional State authority that has power to impose or regulate any activity that is conducted by the Lessee in the course of carrying on the Business during the Term.

“Month” means each calendar month during the Term.

“Monthly Payment Date” means the 7th (Seventh) day of each and every Month during the Term.

“Monthly Rent” means as at the Commencement Date the sum of \$5000 which is the rent payable to the Lessor by the Lessee on the Monthly Payment Date during the Term for the Lease of the Chattels. The Monthly Rent will be increased by any Monthly Rent Adjustment made during the Term.

“Monthly Rent Adjustments” means all additional amounts payable by the Lessee to the Lessor as Rent each Month as a consequence of any Notice of Adjustment.

“Notice of Adjustment” means a Notice given by the Lessor to the Lessee adjusting the Monthly Rent.

“OH&S” means all Occupational Health and Safety Legislation and Regulations.

“OH&S Authority” means in the applicable State or Territory the government authority or agency that is responsible for administering and enforcing OH&S Legislation in that State or Territory.

“Pollution” has the meaning given to it in the dictionary of any relevant Environmental Laws.

“Premises” means the property at 26 Barain Street Sydney NSW 2060 where the Lessor currently carries on the business and at which place the Chattels are presently located and at any time during the Term includes any other place or places where the Lessee conducts the Business.

“Regulations” means all regulations, by-laws and other rules made by any authority pursuant to any applicable Legislation.

“Term” means the Initial Term and any Holding Over.

1.2. Any reference to a party in this Lease is a reference to that party, its assignees and lawful successors in title.

1.3. Headings are included in this Deed for convenience only and do not affect the interpretation or construction of any clause.

1.4. Any reference to any Act, Statute, Regulation, Ordinance, By-Law, Rule or Code of Practice includes all amendments and all replacing or substituting provisions.

2. GRANT OF LEASE

2.1. **(Grant of Lease)** In consideration of the Lessee’s covenant to pay the Rent to the Lessor, the Lessor as the owner of the Chattels hereby leases the Chattels to the Lessee on the terms herein set out with effect from the Commencement Date for the

Term and the Lessee hereby agrees to lease from the Lessor the Chattels and accepts and takes from the Commencement Date exclusive possession of the Chattels from the Lessor to hold the same as Lessee under the terms of this Lease from the Commencement Date.

2.2. **(Term and terms and conditions)** This Lease shall continue from the Commencement Date until the expiry of the Term unless terminated prior thereto. The terms and conditions set out herein apply during the whole of the Term and will continue to apply thereafter and after the termination of the Lease where:

2.2.1. such terms and conditions are expressly stated to continue to apply;

2.2.2. such terms and conditions are capable of being construed as continuing to bind the parties or either party after the expiry of the Lease or its termination.

2.3. **(Precondition to Lease)** Notwithstanding anything elsewhere contained, the granting of the Lease of the Chattels is subject to the prior obtaining of all Consents including the Consents referred to in Clause 3.1. If any Consent is not granted within thirty (30) days of the date hereof then either party may by written notice to the other party terminate this Lease.

3. CONSENTS

3.1. **(Consent of Charge Holder)** Where the Chattels or any of them are the subject of a Charge, the parties shall do all things reasonably required by each other or by the Charge holder in order to facilitate the granting of the Consent of the Charge holder to the entering into of this Lease.

4. PAYMENT OF MONTHLY RENT

4.1. **(Monthly Rent)** The Lessee must pay the Lessor in each month of the Term on the Monthly Payment Date the Monthly Rent which shall be the rent payable by the Lessee to the Lessor for the leasing by the Lessee of the Chattels. The payment of the Monthly Rent on or by the Monthly Payment Date in each month is an Essential Term of this Lease.

4.2. **(Notice of Adjustment)** Where the Lessor acquires further Chattels which it is prepared to make available to the Lessee for use by the Lessee in the conduct of the Business and the Lessee agrees to take possession under the terms of this Lease of those further Chattels in the Business, then the Lessor may by giving Notice of Adjustment not less than fourteen (14) days prior to any Monthly Payment Date increase the Monthly Rent by an amount equal to One and a half percent (1.5%) of the purchase price of those further Chattels.

4.3. **(GST)** The Lessor will render a tax invoice that complies with GST each Month for the Monthly Rent. In addition to the Monthly Rent the Lessee must pay on the Monthly Payment Date in each Month during the Term the GST as set out in the tax invoice. The payment by the Lessee of GST as set out in the tax invoice is an Essential Term.

5. ACKNOWLEDGEMENTS BY THE LESSEE

5.1. **(Lessee has no Interest in the Chattels)** It is expressly acknowledged by the Lessee that the granting of this Lease does not confer upon the Lessee any interest either at law or in equity in the Chattels or in any of them apart from the Lessee's rights as a Lessee to use the Chattels in the conduct of the Business. The Lessee covenants with the Lessor that it will only use the Chattels in the proper and ordinary conduct of the Business.

5.2. **(Lessor is exclusive owner of the Chattels)** It is expressly acknowledged by the Lessee that the Lessor is the sole and exclusive owner of the Chattels.

6. COVENANTS AND UNDERTAKINGS BY THE LESSEE

During the currency of the Lease the Lessee covenants, undertakes and agrees with the Lessor as Essential Terms of this Lease that:

6.1. **(Not to carry on any other business)** The Lessee will not carry on any other business or have any interest in any other business other than the Business. The Lessee further covenants that all of its activities during the currency of the Lease will be activities carried on in the ordinary and proper course of conducting the Business;

6.2. **(Records)** The Lessee will keep proper and detailed records of all servicing and repairs carried out to Chattels. The Lessee will ensure that those records disclose all information which the Lessor requires and that the Lessor is given full and complete access to those records at all reasonable times. The Lessor is entitled to take and have copies of all such records;

6.3. **(Notice of Failure)** The Lessee will promptly give notice to the Lessor of any damage or breakdown in respect of any of the Chattels whereby they are rendered unable or unfit for their intended purpose or cease to be fit for their intended purpose;

6.4. **(To keep all Chattels safe)** The Lessee gives the following covenants to the Lessor:

6.4.1. the Lessee will ensure that all of the chattels are kept safe, properly secured and are only used for the purpose for which they are intended;

6.4.2. where practical the chattels which by their nature are used at the premises will always be kept on the premises;

- 6.4.3. the Lessee will ensure that all persons who use the chattels are suitably qualified, trained and will only use them in accordance with any applicable manufacturer's specifications (if any) for the use of those chattels as the case may be;
- 6.4.4. the Lessee will do all things reasonably possible to ensure that none of the chattels are placed in danger of destruction, loss or damage.
- 6.5. **(Only to use Chattels in the Business)** The Lessee will not itself use or allow any other person to use any of the Chattels except for the ordinary and proper conduct of the Business. The Lessee will not hire or contract out any of the Chattels except where such hiring or contracting out is part of the ordinary and usual course of the carrying on of the Business.
- 6.6. **(To maintain and repair Chattels)** The Lessee will at its own expense ensure that all of the Chattels that require maintenance and repair are regularly and properly maintained and repaired so as to keep them in good working order and condition and fit for their intended use throughout the Term. The Lessee will ensure that all Chattels that require regular servicing are regularly serviced at the Lessee's expense. The Lessee will pay for and be responsible for all spare parts required to maintain the Chattels.
- 6.7. **(To surrender the Chattels at expiry of Lease)** At the end of the Lease the Lessee will do all things necessary or reasonably required by the Lessor to surrender possession of the Chattels to the Lessor so that the Lessor can upon such surrender have the full benefit and capacity to use and enjoy the Chattels. For the purposes of this paragraph, the Lessee will ensure that the Lessor is given full access to the Premises and to all other places where the Chattels are located in order to take physical possession thereof.
- 6.8. **(To comply with all Legislation and Regulations)** The Lessee will in all its activities in using the Chattels ensure that it complies with all Legislation and Regulations applying to the use of those Chattels.
- 6.9. **(To report any damage to Chattels)** In the event of there being any loss, destruction or damage to the Chattels then the Lessee will promptly notify the Lessor to that effect providing full details of the loss, destruction and damage, and how, when and where it was caused.
- 6.10. **(To notify all Claims)** In the event of any Claim being made on the Lessee by any person and such Claim directly or indirectly relates to any act or omission on the part

of the Lessee in its use of the Chattels, the Lessee must promptly notify the Lessor of such Claim and provide in such notification full details of the Claim, the person making the Claim and all circumstances of which the Lessee is aware gave rise to the Claim.

- 6.11. **(Employees, Contractors and Agents of the Lessee)** The Lessee is responsible for all of the acts and omissions of its employees, contractors and agents and any act or omission on their part that would if done or not done by the Lessee will be deemed for all purposes to be done or not done by the Lessee and where applicable will be a breach by the Lessee of this Lease and/or an Event of Default on the part of the Lessee.
- 6.12. **(Proper Use)** The Lessee will ensure that all employees, contractors and agents of the Lessee who use or operate any of the Chattels are properly trained and competent to use the relevant Chattels and:
- 6.12.1. hold appropriate licences and certifications;
 - 6.12.2. are properly supervised in such use;
 - 6.12.3. properly use the relevant chattels in accordance with the manufacturers specifications.
- 6.13. **(Insurance)** The Lessee will throughout the Term take out such policies of insurance over the Chattels as the Lessor may direct. In respect of the Chattels, the policies of insurance must insure the interests of the Lessor as owner and the Lessee as user.
- 6.14. **(OH&S)** The Lessee will ensure that in using the Chattels it complies with all Legislation, Regulations and Codes of Practice relating to OH&S, the Lessee will promptly notify the Lessor of any OH&S Authority inspection, notifications or requirements and of any proceedings brought by any OH&S Authority against the Lessee alleging a breach of any OH&S Legislation.
- 6.15. **(No Encumbrance)** The Lessee covenants and agrees that it will not Encumber any part of the Chattels during the Term.
- 6.16. **(Compliance with Environmental Laws)** The Lessee covenants with the Lessor that it will in using the Chattels comply with the requirements of all Environmental Laws during the Term.
- 6.17. **(No Breach)** The Lessee will not do any act or thing or omit to do any act or thing which would or could or does cause the Lessor to be in breach of any Charge.

7. USE OF INTELLECTUAL PROPERTY

7.1. **(Lessee Covenants)** The Lessee covenants with the Lessor that during the Term and thereafter for so long as it has any of the Lessor's Intellectual Property in its possession:

7.1.1. **(Protection of Intellectual Property)** the Lessee will do all things reasonable in order to protect the Lessor's intellectual property and without limiting the generality thereof will if requested by the Lessor take all steps in order to renew and maintain all patents, licences, trade marks and other registrations that might require renewal;

7.1.2. **(Confidential Information)** the Lessee will ensure that any confidential information provided to it by the Lessor is not disclosed to any third party, that no third party is given access to the confidential information so provided and that such confidential information is only used for the proper purposes of and in the ordinary course of conducting the business;

7.1.3. **(Ownership of Intellectual Property)** the parties acknowledge and agree that all the Lessor's intellectual property is the absolute property of the Lessor and the Lessee's right to use it will immediately cease upon the expiry of this lease.

7.2. **(Registration of Intellectual Property)** The Lessee will from time to time during the Term and thereafter forthwith at the request of the Lessor but without payment of any royalty or other consideration therefore:

7.2.1. apply in the Lessor's name for letters patent, a registered design or other protection in any part of the world for any developments or inventions that arise in the conduct of the Business during the Term;

7.2.2. absolutely assign to the Lessor all of its rights to such developments or inventions, copyright and to all applications for Australian and foreign letters patent, registered design or other protection granted or to be granted in respect of such developments or inventions; and

7.2.3. deliver promptly to the Lessor (without charge to the Lessor but at its expense) such written instruments and do such other acts matters and things including giving testimony in support of inventorship as may be necessary in the opinion of the Lessor to obtain and maintain Australian and foreign letters patent, registered design, copyright or other protection as aforesaid and to vest in the Lessor the entire right and title thereto;

7.2.4. The Lessee hereby irrevocably appoints the Lessor as its attorney and in its name and on its behalf to execute all documents and do all acts matters and things which may be required to give effect to the provisions of this Clause and without limiting the generality of the foregoing:

- (i) to commence, institute, carry on, prosecute and defend applications, actions, suits and proceedings at law or otherwise;
- (ii) to pursue to judgment, decree, order, execution and on appeal or to settle, compromise, discontinue or abandon any such applications, actions, suits and proceedings;
- (iii) to engage solicitors, barristers, patent attorneys and other experts to do and perform any work which it may consider necessary or desirable in the circumstances;
- (iv) to appoint and remove at pleasure any substitute or substitutes as attorneys or agents under it; and
- (v) to delegate to such persons, companies or entities as it thinks fit all or any of the powers hereby granted and to revoke any such delegations at pleasure;

and allows and covenants to ratify and confirm all that the Lessor executes or does or causes to be executed or done in exercise of this power.

8. COVENANTS BY THE LESSOR

During the currency of the Lease and for so long as no Event of Default has occurred, the Lessor covenants with the Lessee as Essential Terms of this Lease that:

- 8.1. **(Quiet Enjoyment)** The Lessee will be entitled to the full and complete enjoyment of the Chattels without any interference thereto by the Lessor or any other person claiming by through or under the Lessor;
- 8.2. **(Consents)** The Lessor will use all reasonable commercial endeavours to obtain all necessary Consents to the granting of the Lease to the Lessee and to enable the Lessee to use the Chattels in the conduct of the Business;
- 8.3. **(Good Standing)** The Lessor is not in breach of any Charge.

9. INDEMNITIES BY THE LESSEE

The Lessee hereby indemnifies the Lessor and covenants to keep the Lessor indemnified against any and all losses, liabilities or expenses that the Lessor might incur where they arise from or are a consequence of any of the following:

- 9.1. **(The conduct of the Business)** The conduct by the Lessee of the Business or the use or misuse of the Chattels or any item of them; or

- 9.2. **(Event of Default)** Any act or omission on the part of the Lessee which is a breach of this Lease; or
- 9.3. **(Damage or Destruction of the Business or the Chattels)** Any event or circumstance whereby the Business or any Chattels are damaged, lost or destroyed or become incapable of being efficiently used for their intended purpose or of being used in accordance with their manufacturer's specifications as a result of negligence on the part of the Lessee, its employees, agents or contractors; or
- 9.4. **(Failure to deliver up)** Any failure or delay on the part of the Lessee in delivering up possession of the Chattels at the end of the Lease; or
- 9.5. **(Claims)** Any Claim made by any third party, customer or supplier of the Lessee against the Lessor that in any way is related to the Lessee's use of the Chattels; or
- 9.6. **(Enforcement)** All costs including legal costs that might be incurred by the Lessor in enforcing any of its rights under this Lease against the Lessee on a full indemnity basis.

10. ACCESS

- 10.1. **(Access to Premises)** The Lessor will have access to the Premises at all reasonable times to satisfy itself that the Business is being properly conducted in the ordinary course, that the Chattels are being properly used, maintained and kept safe and to satisfy itself as to the observance by the Lessee of all of its covenants as herein contained.
- 10.2. **(Access to Records)** The Lessor will have access at all reasonable times to all records relating to the Chattels to satisfy itself that use and maintenance of the Chattels are being properly recorded.

11. CAPACITY

- 11.1. **(Representations by the Parties)** The parties warrant and represent to each other that:
- 11.1.1. They are free to enter into this lease; and
- 11.1.2. They are not subject to any restriction which would or might prevent the full performance of their respective obligations under this lease;
- 11.1.3. All consents required in order to enter into this lease have been obtained.

12. COSTS AND STAMP DUTY

- 12.1. **(Costs)** The Lessee will bear and promptly pay all of the Lessor's costs and expenses in entering into this Lease and will pay all stamp duty including all fines for late payment in respect of the entering into of this Lease.

13. INSURANCE

13.1. **(Specific Insurance Policies)** The Lessee will take out in its name as Lessee and where appropriate in the name of the Lessor as owner and will maintain throughout the Term all of the following policies of Insurance:

- 13.1.1. Workers Compensation Insurance;
- 13.1.2. Public Liability Insurance;
- 13.1.3. Compulsory Third Party Insurance; and
- 13.1.4. Property Insurance over all the Chattels.

All such policies must fully cover any loss or liability that might occur as a result of the occurrence of an event insured against.

13.2. **(Other Insurance Policies)** The Lessor may from time to time require the Lessee to take out other policies of Insurance or to increase the amount of cover in order to fully protect the Lessor's interest in the Chattels. The Lessee must promptly take out such policies as so requested or increase the amount insurance cover as requested.

13.3. **(Copies of Insurance Policies)** The Lessee will provide to the Lessor copies of all of the policies of Insurance taken out by it pursuant to this Clause and will from time to time provide such evidence of renewal as the Lessor may reasonably require. Where any policy of Insurance is for a specific sum or to cover a specific risk then the Lessor may (but will not be obliged to) direct the Lessee as to the amount of such Insurance cover to be taken out and/or as to the specific risk to be covered.

14. NOTICES

14.1. **(In writing)** All Notices given pursuant to this Lease must be in writing, signed by an officer of the sender, addressed to the recipient at the address or facsimile number set out below or to such other address or facsimile number as a party may from time to time notify to the other:

(i) Company Pty Ltd
of: _____

Attention: _____

Facsimile N^o: _____

(ii) Other Company Pty Ltd
of: _____

Attention: _____

Facsimile N^o: _____

14.2. **(Proof and time of Service)** Without limiting any other means by which a party may be able to prove that a Notice has been served on another party, a Notice will be deemed to be duly served:

14.2.1. if served by hand on the date thereof when left at the address of the recipient;

14.2.2. if served by pre-paid post, it will be deemed served on the third (3rd) day after the date of posting (whether received or not); or

14.2.3. if served by facsimile, it will be deemed served on the day of serving the facsimile on the recipient. A transmission report generated by the facsimile machine of the sender will be conclusive evidence that the facsimile has been sent.

15. EVENTS OF DEFAULT

15.1. **(Default by the Lessee)** An Event of Default will occur without the need for the Lessor to provide notice to the Lessee immediately if:

15.1.1. the Lessee breaches any Essential Term; and/or

15.1.2. the Lessee breaches any other term of this Lease and fails to remedy the same within fourteen (14) days of being requested so to do by the Lessor; and/or

15.1.3. the Lessee is wound up, has an administrator appointed to it, a receiver appointed to any of its assets, enters into any arrangement, assignment or composition with any of its creditors or any of them or becomes insolvent; and/or

15.1.4. the Lessee ceases to carry on the Business; and/or

15.1.5. there is any material adverse change in the financial position of the Lessee; and/or

15.1.6. there is any effective change in the control of or ownership in the Lessee; and/or

15.1.7. the Lessee is held liable under any Claim for an amount exceeding One Hundred Thousand Dollars (\$100,000.00) and such judgment is not satisfied within twenty eight (28) days of it being entered; and/or

15.1.8. the Lessee is fined by any Court for any offence under any Legislation or Regulations in respect of any act or omission on its part in the carrying on of any activity involving the Business or in the course of conducting the Business; and/or

Initial: _____

- 15.1.9. fails to perform any undertaking, obligation or agreement relating to the Business and such failure is not capable of remedy within fourteen (14) days of being requested so to do by the Lessor; and/or
- 15.1.10. any warranty or representation by the Lessee to the Lessor is or becomes false, misleading or incorrect.
- 15.2. **(Default by the Lessor)** The Lessor will be in default under this Lease and will for all purposes have committed an Event of Default if:
- 15.2.1. the Lessor breaches any Essential Term; or
- 15.2.2. the Lessor breaches any other term of this Lease and fails to remedy the same within fourteen (14) days of being requested so to do by the Lessee;
- 15.2.3. the Lessor is wound up, has an administrator appointed to it, a receiver appointed to any of its assets or becomes insolvent;
- 15.2.4. the Lessor is held liable under any Claim for an amount exceeding Ten Thousand Dollars (\$10,000.00) and such judgment is not satisfied within twenty eight (28) days of it being entered;
- 15.2.5. the Lessor is fined by any Court for any offence under any Legislation or Regulations in respect of any act or omission on its part.
- 16. TERMINATION**
- 16.1. **(Expiry of Lease)** Upon the expiry of the Term this Lease will for all purposes be deemed to have terminated without the requirement on the part of the Lessor or the Lessee to give any further notice to the other.
- 16.2. **(Termination by the Lessor)** Upon the Lessee committing any Event of Default the Lessor may by giving written notice to the Lessee terminate this Lease.
- 16.3. **(Termination by the Lessee)** Upon the Lessor committing any Event of Default the Lessee may by giving written notice to the Lessor terminate this Lease.
- 17. CONSEQUENCES OF TERMINATION AND/OR EXPIRY OF THE LEASE**
- 17.1. **(Transfer back of the Chattels)** It is an Essential Term of this Lease that upon termination or expiry of the Lease by the Lessor the Lessee will immediately:
- 17.1.1. deliver up possession to the Lessor of the Chattels in good order and condition, fair wear and tear only excluded;
- 17.1.2. give access to the Lessor at all reasonable times and places including the Premises in order to take possession of the Chattels;
- 17.1.3. deliver up to the Lessor all records relating to the maintenance and servicing of all Chattels;

17.1.4. obtain all necessary Consents to ensure that upon such termination the Lessor has the full and complete enjoyment and benefit of the Chattels as and from the date of such termination.

17.2. **(Survival of Claims)** Upon termination of the Lease by either party, the other party will continue to be entitled to bring any Claims that it might have against the other party in respect of any Event of Default and any amount owed by one party to the other will continue to be owing and will become immediately due and payable as a debt then owing.

18. HOLDING OVER

18.1. **(Holding Over)** Upon the expiry of the Initial Term the Lessor may but is not obliged to allow the Lessee to continue to lease the Chattels under this Lease. Provided that either party may upon giving to the other not less than three (3) months prior notice terminate this Lease.

19. WHOLE AGREEMENT

19.1. **(Whole Agreement)** The terms of this Lease represent the entire terms of this Lease and all understandings, prior representations, arrangements or commitments that are not contained in this Lease have no effect whatsoever and do not bind the parties.

20. NO WAIVER

20.1. **(No Waiver)** No waiver by any party and no failure by a party not in default to require the other party literally to perform and comply with any provision, condition or requirement herein shall be deemed to be a waiver of strict and literal performance of and compliance with any other provision, condition or requirement of this Lease. A waiver by any party of any of its rights shall not be a waiver of or release of any of its other rights nor shall it entitle the other party to avoid strict compliance with every other provision, condition or requirement in the future nor shall any delay or omission of either party to exercise any right under this Lease give rise to a waiver or create any estoppel preventing any party from requiring strict performance of any obligation.

20.2. **(Waiver)** A waiver of any right or entitlement under this Lease must be in writing signed by the party purporting to waive such right or entitlement.

21. APPLICABLE LAW AND MEDIATION

21.1. **(Applicable Law)** This Lease shall be governed by and construed in accordance with the laws of NSW; and

- 21.2. **(Jurisdiction)** All Claims made by any party against the other in anyway arising out of this Lease will be heard in NSW and each of the parties hereby submits to the jurisdiction of those Courts.
- 21.3. **(Mediation)** In the event of a dispute arising between the parties in respect of any right or obligation under this Lease or in respect of any other matter or thing relating to the Chattels, then each party covenants with the other in good faith to take all steps necessary to attempt to mediate a resolution of the dispute.
- 21.4. **(Costs of Mediation)** Each party agrees that it will bear half the costs of the mediator and half the costs of the venue for the mediation. Otherwise each party bears its own costs including legal costs of preparing for and attending the mediation.
- 21.5. **(Appointment of Mediator)** Any party alleging a dispute will be entitled to nominate and appoint a mediator who is a retired judge of the NSW Supreme Court or of the Federal Court of Australia or is a barrister who has been admitted to practise in the State of NSW for a period of not less than ten (10) years.
- 21.6. **(Notice of Nomination and Appointment)** The Notice of nomination and appointment of mediator must be served on the other party and must set out:
- 21.6.1. the nature of the dispute;
 - 21.6.2. the appointed mediator, his/her address, telephone number, facsimile number and e-mail details (if any);
 - 21.6.3. the proposal for conducting the mediation setting out the date, time, place or venue.
- 22. NO MERGER**
- 22.1. **(No Merger)** None of the covenants, warranties, representations and undertakings herein contained shall be deemed in any way to merge in or be modified or discharged by the payment of any moneys, any Monthly Rent or by the giving of any Consent or any other act or thing done pursuant hereto with the intent that the parties will continue to be bound to the fullest extent contemplated by this Lease to all covenants, warranties, representations, undertakings and commitments herein all of which will continue to be and be always binding upon the parties hereto except where there is a contrary intention limiting those covenants, warranties, representations or undertakings clearly expressed and set out herein.
- 23. SEVERABILITY**
- 23.1. **(Survival of provisions)** If any of the provisions of this Lease are prohibited or unenforceable in NSW then to that extent only they shall have no force or effect

whatsoever and shall be deemed excised from this Lease without affecting or modifying any of the other rights and obligations of the parties.

24. POWER OF ATTORNEY

24.1. In order to secure the performance by the Lessee of its obligations to the Lessor under this Lease, the Lessee hereby irrevocably appoints the Lessor and every officer of the Lessor jointly and severally to be its attorney and in its name and on its behalf to exercise, sign and do all assurances, deeds, instruments, acts and things whatsoever which in the opinion of the Lessor is necessary or expedient that it execute, sign and do under the covenants and agreements contained in this Lease and generally to use its name in the exercise of all or any of the powers hereby or by statute or by the general law or otherwise conferred on the Lessor and the Lessee hereby ratifies and confirms all and whatsoever such attorney lawfully does or causes to be done under and by virtue of this power of attorney.

25. RELATIONSHIP BETWEEN THE PARTIES

25.1. Nothing in this Lease constitutes nor may be deemed to constitute a partnership or joint venture or agency arrangement between the parties or any of them.

25.2. The parties:

25.2.1. will deal with each other in good faith; and

25.2.2. will diligently observe and perform their respective obligations and commitments under this Lease.

SCHEDULE

Lessee's Business:

The installation of software in in the consumer market

SAMPLE ONLY
YOUR DOCUMENT WILL VARY DEPENDING ON THE ANSWERS YOU
PROVIDE THROUGH THE BUILDING PROCESS

EXECUTED AS A DEED by the parties on the day and year first mentioned.

SIGNED AS A DEED BY)
Company Pty Ltd)
ACN 111 222 333 pursuant to)
Section 127 of the *Corporations Act 2001*)
in the presence of:

Director

Print Name:

Signature of Witness
Print Name:

Director/Secretary

Print Name:

SIGNED AS A DEED BY)
Other Company Pty Ltd)
ACN 333 222 111 pursuant to)
Section 127 of the *Corporations Act 2001*)
in the presence of:

Director

Print Name:

Signature of Witness
Print Name:

Director/Secretary

Print Name:

SAMPLE ONLY
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ANNEXURE

Lessor's Chattels

26 Barain Street

Sydney

NSW 2060

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Initial: _____