Uniform Contract for Sale of Business

Part 1 Transaction summary

CONTRACT DATE			
COMPLETION DATE		Location	
BUSINESS NAME	Jindy Juice Bar	Business type	Juice bar
PREMISES	Shop 25, Nugget's Crossing Shopping Centre, 5 Snowy River Avenue, Jindabyne		
PRICE	☒ Going concern - GST free ☐ Taxable supply - Price includes GST		
Full deposit	~~☐ Invested~~ ~~☐ Released~~ ~~☐ Bond~~		
Price apportionment	Plant and equipment $	Goodwill	
Deposit holder	☒ Agent ☐ Vendor's practitioner ☐ Purchaser's practitioner		

VENDOR'S AGENT

Name	Kosciusko First National Real Estate	Phone	02 6457 2000	Fax	02 6457 1342
Address	Nugget's Crossing Shopping Centre, Shop 26 Kosciuszko Road Jindabyne, NSW 2627	Email	reception@kfn.com.au		

VENDOR		**PRACTITIONER – SOLICITOR / CONVEYANCER**			
Name	Jindy Juice Bar Pty Ltd	Name	Alpine Law		
		Address	Nugget's Crossing Suite 2, 13 Kalkite Street, Jindabyne NSW 2627 PO Box 1027, JINDABYNE NSW 2627 DX 23604 Jindabyne		
Address	Nugget's Crossing Shopping Centre, Shop 25/5 Snowy River Avenue, Jindabyne, New South Wales	Contact	Kylie Amanda Smith		
		Email	kylie@alpinelaw.com.au		
ACN/ABN	619 568 035	Phone	02 6181 0277	Fax	02 6181 0278
Covenantor	Peter Lukic of Shop 25, Nugget's Crossing Shopping Centre, 5 Snowy River Avenue, Jindabyne, NSW 2627				

PURCHASER		**PRACTITIONER – SOLICITOR / CONVEYANCER**			
Name		Name			
		Address			
Address		Contact			
		Email			
ACN/ABN		Phone		Fax	
Guarantor	of				

Signatures

A company executes under section 127 Corporations Act 2001 – Insert the name and office of signatories

Vendor signature/s	Covenantor signature/s	Purchaser signature/s	Guarantor signature/s

DRAFT

STOCK

Included in price	☐ Yes ☒ No
Maximum value	$3000
Stocktaker	

VENDOR ASSISTANCE

Before completion	5 days
After completion	5 days
Vendor assistance covenants	

GENERAL RESTRAINT

Restraint area	Kilometre radius from the premises	1.	
		2.	
		3.	
Restraint period	Calendar months after the completion date	1.	
		2.	
		3.	
Customer restraint	☐ Yes ☐ No		
Internet restraint	☐ Yes ☐ No		
Employee restraint	☐ Yes ☐ No		

LEASE DETAILS

Assignment	☒ Yes ☐ No		
New lease	☐ Yes ☐ No		
Terms of assigned lease			
Term	Two (2) years	Renewal option	N/A
Rent	30000	Rent reviews	Annual
Costs	Subject to legislation, purchaser to pay assignment of lease costs ☒ Yes ☐ No		
Guarantor			
Other security			
Terms different to current lease			

SUNDRY DETAILS

Contacts *Phone, email, social media, domain names*	Phone: 6456 1630 Fax: Mobile: Email: jindyjuicebar@gmail.com Domain: https://www.facebook.com/Jindy-Juice-Bar-762982737081263/

DRAFT

Intellectual property rights *Trade marks, copyright (e.g. operations manual and website content)*		
Plant and equipment *If insufficient space attach detail*	Item	Value
	OR ☒ See annexure B	
Excluded assets	See exclusion list at Annexure C	
Business contracts and arrangements	See Annexure D	
Leased equipment		
Hired equipment		
Franchise to be transferred	☐ Yes ☒ No	
Any additional deliverables		

EMPLOYEES

Employees *If insufficient space attach detail*	Name	Date commenced	FT/PT/Casual
	See special condition 62		

FINANCE

Lender	
Amount	
Finance conditions	
Term	
Guarantor	
Security	
Approval date	

Special conditions

See annexure A.

DRAFT

Uniform Contract for Sale of Business

Part 2 Terms and conditions

Any alterations to these terms and conditions are made in the transaction summary.
These terms and conditions remain in their copyright form without alteration.

Contents

1. Making of contract
2. Covenantor and guarantor
3. Sale and purchase
4. Price
5. Finance
6. GST
7. Title and risk
8. Continuation of business
9. Work orders
10. Vendor assistance
11. Access to records and copies
12. Completion
13. Stock
14. Adjustments
15. Creditors
16. Debtors
17. Transfer of premises lease
18. New lease
19. Transfer of franchise
20. Lease and hire agreements
21. Business agreements and arrangements
22. Employees
23. Superannuation
24. Restraint
25. Warranties of the vendor and covenantor
26. Warranties of the purchaser
27. Limits on warranties
28. Notice to complete
29. Guarantees
30. Ending of contract
31. Disputes
32. General
33. Notices
34. Interpretation and governing law

1. Making of contract

This contract is made only on exchange of identical counterparts signed by the parties. The parties agree that exchange may be effected electronically.

2. Covenantor and guarantor

The covenantor enters into this contract at the request of the guarantor in consideration of the purchaser entering into this contract.

The guarantor enters into this contract at the request of the covenantor in consideration of the vendor entering into this contract.

3. Sale and purchase

The vendor sells and the purchaser buys the business for the price.

4. Price

The purchaser must pay the deposit to the deposit holder as stakeholder on the making of this contract. If the deposit is paid by electronic funds transfer, payment is not made until the funds are cleared by the deposit holder's bank.

(a) Time for payment of the deposit is essential.

(b) The purchaser must pay the balance of the price by bank cheque or electronic funds transfer. If the balance of the price is paid by electronic funds transfer, payment is not made until the funds are cleared by the vendor's bank.

(c) In addition to the price, the purchaser shall pay interest on any part of the price, after adjustments, remaining unpaid from time to time from the date payment was due until payment is made, at the rate of interest up to

judgment prescribed from time to time by the rules of the Supreme Court for the jurisdiction that governs this contract.

(d) If this contract is lawfully terminated by the vendor, without prejudice to any other right the vendor may have, the purchaser forfeits the deposit to the vendor.

(e) The vendor and the purchaser agree the price is apportioned between the component parts of the business on the basis set out in the transaction summary.

5. Finance

(a) This clause applies if particulars as to finance are specified in the transaction summary.

(b) If the purchaser has not already done so prior to the contract date, the purchaser must immediately after this contract is made apply to the lender for the finance and diligently pursue such application including doing such things and providing such information as the lender requires to assess the finance application.

(c) If finance has not been approved on the finance conditions by the approval date, the vendor may end this contract.

(d) If finance has not been approved on the finance conditions by the approval date and the purchaser has fully complied with this clause, the purchaser may end this contract.

6. GST

(a) **Going concern**

This clause applies if going concern is specified in the transaction summary.

(i) Each party warrants that they are registered for GST.

(ii) The parties agree that the vendor's supply under this contract is the supply of a going concern under section 38–325 of the GST Act (A New Tax System (Goods and Services Tax) Act 1999) and that the supply is GST-free for the purposes of the GST Act.

(iii) The vendor must continue to carry on the enterprise until settlement.

(iv) If the vendor is served with a demand, assessment or other correspondence from the Australian Taxation Office indicating that a supply under this contract is not the supply of a going concern, then upon serving the purchaser with a copy of the demand assessment or correspondence and a tax invoice the purchaser shall pay the amount of the GST to the vendor.

(b) **A taxable supply**

The vendor must on or before settlement provide the purchaser with a tax invoice for any GST included in the price.

(c) **Said to be a taxable supply but not one**

If the sale is made as a taxable supply that subsequently proves not to be one then the vendor will repay to the purchaser any money paid on account of GST.

(d) **Adjustments**

If this contract requires a party to reimburse an expense or outgoing or make an adjustment in favour of the other party, the amount to be paid, reimbursed or adjusted will be the sum of:

(i) The amount of the expense or outgoing less any input tax credits in respect of the expense or outgoing to which the other party is entitled; plus

(ii) If the payment or reimbursement is subject to GST, an amount equal to that GST;

and the other party must provide a tax invoice.

7. Title and risk

(a) Title to and risk of the business until completion remains solely with the vendor and passes to the purchaser on and from completion.

(b) If any of the business assets are damaged, destroyed or otherwise affected before completion to a degree which, in the reasonable opinion of the purchaser, materially and adversely affects the ongoing conduct or profitability of the business, either party may immediately terminate this contract by notice in writing to the other.

(c) If the adverse effect is not such as to warrant termination or if neither party elects to terminate, an appropriate adjustment must be

made to the price to be agreed by the parties or failing agreement to be the average of two valuations, one obtained by each party.

8. Continuation of business

(a) Until completion the vendor must use its best endeavours to maintain the profitability and value of the business and, in particular, the vendor:

(i) Must conduct the business with due care and in accordance with normal and prudent practice having regard to the nature of the business and past practice and so as to comply with all applicable laws, regulations, ordinances and codes;

(ii) Must, subject to fair wear and tear in the ordinary course of business, maintain the business assets in the condition they were in at the contract date;

(iii) Must not terminate or alter any material contract or arrangement in relation to the business;

(iv) Must not, except in the usual conduct of the business, dispose of, agree to dispose of, encumber or grant an option over, or grant an interest in, any of the business assets; and

(v) Must not hire any new employee, terminate the employment of any employee or alter the terms of employment (including the terms of superannuation or any other benefit) of any employee.

(b) Where before completion an event occurs which has or may have a material effect on the profitability or value of the business, the vendor must, immediately upon it becoming aware of that event, give notice to the purchaser fully describing the event.

9. Work orders

(a) The vendor must, prior to completion, comply with any order, direction or notice given by a government authority before the contract date.

(b) The vendor must, prior to completion, comply with any order, direction or notice given by a government authority after the contract date that requires the expenditure of an amount less than 5% of the sale price.

(c) The vendor may, but is not required to, comply with any order, direction or notice given by a government authority after the contract date that requires the expenditure of an amount greater than 5% of the price. If the vendor does not comply with such order, direction or notice, the purchaser may end this contract.

10. Vendor assistance

(a) The vendor must give the purchaser, and any person who has the purchaser's written authority, reasonable access to the business during normal business hours and must do whatever is reasonably necessary to introduce the purchaser to customers and suppliers connected with the business and give the purchaser reasonable assistance and advice about running the business during the assistance period before completion.

(b) The vendor must give the purchaser any information in the possession or control of the vendor concerning matters relating to the business or its conduct, and if so requested attend the premises at an agreed time to assist the purchaser to gain knowledge concerning the business and its conduct and customers, and must provide operations consulting advice to the purchaser as needed from time to time during the assistance period following completion.

(c) Without limiting the generality of this clause, the vendor must perform the vendor assistance covenants.

11. Access to records and copies

(a) The vendor must ensure that the purchaser and its advisors are provided with access to the premises and the business records at all reasonable times before the completion date.

(b) In the exercise of these rights the purchaser may make copies of material examined, consult with the vendor's auditor or accountant and, subject to the prior consent of the vendor which may not be unreasonably withheld, consult with employees.

(c) Until completion, or in the event that the sale and purchase of the business is not completed, the purchaser, its agents, representatives, accountants and solicitors must keep strictly confidential all information supplied by the vendor, its agents and advisors.

12. Completion

(a) Completion must take place on the completion date at the location specified in the transaction summary.

(b) At completion, the vendor must deliver to the purchaser:

(i) Any additional deliverables;

(ii) ASIC secure transfer number;

(iii) Each business asset in the same condition as that asset was at the date of this contract subject only to fair wear and tear occurring in the normal course of business between the date of this contract and completion;

(iv) All good and saleable stock except excess stock specified by the purchaser pursuant to this contract;

(v) A discharge, in a form approved by the purchaser, of each encumbrance affecting a business asset;

(vi) Duly executed transfers of all business intellectual property assets and contacts in a form acceptable to the purchaser;

(vii) Assignments to the purchaser of all contracts relevant to the business including software licences, together with all required consents to such assignments;

(viii) Duly executed documents to enable the purchaser to apply for and obtain a transfer of all statutory licences to enable the purchaser to lawfully carry on the business after completion;

(ix) All business records relevant to the ongoing conduct of the business;

(x) A list setting out, with respect to each transferring employee, their date of commencement of employment, rates of remuneration, leave and other entitlements as at completion;

(xi) For each security interest in a business asset under the Personal Property Securities Act, an undertaking by the secured party to register a correction of the register within five business days of completion;

(xii) The written consents of the respective owners, lessors or mortgagees to the assignment of the equipment and premises leases in a form acceptable to the purchaser together with the original leases or agreements and duly executed assignments or transfers;

(xiii) Certificates of registration, duly executed notices of disposition and roadworthy certificates in respect of all motor vehicles sold or transferred pursuant to this contract;

(xiv) Such other notices, documents, instruments and assignments reasonably requested by the purchaser prior to completion, which are required to be executed or registered under any statute or otherwise, to enable the purchaser to take possession of the business assets or for the future conduct of the business;

(xv) Any other document or thing reasonably necessary to give full effect to this contract; and

(xvi) Transfers of the control to the purchaser of any deposit money held on trust for customers of the business.

(c) At completion, the purchaser must:

(i) Pay, as directed by the vendor, the balance of purchase money plus or minus the net amount of adjustments required to be made between the parties in accordance with this contract; and

(ii) Pay as directed by the vendor the value of the good and saleable stock sold.

13. Stock

(a) The vendor sells and the purchaser buys such of the good and saleable stock determined by this clause for the price determined by this clause.

(b) On or before completion, the vendor and the purchaser must carry out a physical stocktake of the good and saleable stock.

(c) The good and saleable stock must be valued as follows:

(i) For stock that is to be sold in the same form as it was acquired by the vendor – by estimating the sale price excluding GST reasonably obtainable for the stock and deducting the average gross profit on cost of goods achieved by the business over the preceding year;

(ii) For stock that is unfinished goods – by estimating the sale price excluding GST reasonably obtainable for the goods less their gross profit margin and multiplying that amount by the percentage of the process completed by the vendor; and

(iii) For stock that is intended to be used or consumed in the conduct of the business – the cost of goods excluding GST.

(d) Any dispute between the vendor and the purchaser relating to the quantity or value of the good and saleable stock must be determined by the stocktaker.

(e) If the value of the stock is greater than the maximum stock value, the purchaser may elect to specify that part of the stock in excess of the maximum stock value that is excluded from the sale.

14. Adjustments

(a) The vendor is entitled to the income and liable for the outgoings of the business up to but not including the completion date.

(b) The parties must make adjustments to the price, including for example:

(i) Revenue adjustment – any money paid to the vendor, whether by way of payment in advance for services, lay-by instalment, deposit, gift voucher purchase or otherwise for goods or services to be provided by the business after completion, must be adjusted in favour of the purchaser. If the vendor has not issued a tax invoice in respect of the payment, the adjustment must be for the whole amount of the payment. If the vendor has issued a tax invoice, the adjustment must be for the payment less the GST included in the invoice;

(ii) Outgoings adjustment – any periodic outgoings such as rent and utilities paid by the vendor in advance for goods or services to be provided to the business after completion must be adjusted in favour of the vendor on the amount paid by the vendor excluding GST.

15. Creditors

(a) The vendor must satisfy all creditors of the business as at completion.

(b) In the event the vendor fails for any reason to satisfy a creditor at completion, the vendor must satisfy that creditor on demand by the purchaser.

(c) The vendor indemnifies the purchaser against all claims by creditors relating to the conduct of the business prior to completion.

(d) This clause does not merge on completion.

16. Debtors

(a) The vendor may take such steps as it considers convenient to recover its book debts from its debtors, including taking legal proceedings.

(b) The purchaser is not required to take any steps to collect the vendor's book debts. However if a debtor makes a payment to the purchaser in respect of a book debt of the vendor, the purchaser must promptly account to the vendor for that payment.

(c) This clause does not merge on completion.

17. Transfer of premises lease

This clause applies if the transaction summary specifies this contract is subject to transfer of the premises lease.

(a) This contract is conditional on the vendor obtaining from the landlord by the completion date:

(i) Consent to transfer of the premises lease to the purchaser;

(ii) The release of the vendor of its obligations under the lease; and

(iii) The release of any guarantee or other security given for the lease.

(b) Either party may end this contract if:

(i) The landlord does not give each consent and release; and

(ii) The party ending this contract has in all respects complied with its obligations under this clause.

(c) The vendor must apply to the landlord for consent to transfer of the premises lease.

(d) The vendor must pay any costs or expenses to which the landlord is entitled whether by the terms of the lease or otherwise. Such costs may include costs relating to consideration of the purchaser as a tenant and negotiation of amendments to the lease provided the amendments relate to conditions of the landlord's consent to transfer that it is entitled by the lease or legislation to impose.

(e) The purchaser must promptly, when requested, provide to the landlord all such trade references and financial or other information requested by the landlord and necessary having regards to the terms of the lease and legislation, for the landlord to properly consider the purchaser as a tenant.

(f) For the purposes of this clause, the landlord will be taken to have consented to transfer of the lease even if:

(i) Such consent is not formally given but is implied by legislation or the terms of the lease; or

(ii) Its consent is subject to the purchaser's guarantor providing an unconditional guarantee of the lease, a security deposit or bank guarantee or other security no more onerous than the security for the lease provided by the vendor.

(g) For the purposes of this clause, the landlord shall not be taken to have given consent to transfer of the premises lease if the lease also requires consent of the landlord's mortgagee and that mortgagee has not given consent.

(h) The purchaser must give the form of transfer of lease to the vendor at least 10 days before completion.

18. New lease

This clause applies if the transaction summary specifies this contract is subject to the grant of a new lease of the premises by the landlord to the purchaser.

(a) This contract is conditional on the landlord granting to the purchaser a new lease of the premises from the completion date on terms similar to the terms of the lease to the vendor and incorporating the terms summarised in the transaction summary.

(b) Either party may end this contract if:

(i) The landlord does not grant the new lease; and

(ii) The party ending this contract has in all respects complied with its obligations under this clause.

(c) The purchaser must promptly, when requested, provide to the landlord all such trade references and financial or other information requested by the landlord and necessary, having regard to the terms of the lease and legislation, for the landlord to properly consider the purchaser as a tenant.

19. Transfer of franchise

This clause applies if the transaction summary specifies this contract is subject to transfer of the franchise agreement.

(a) This contract is conditional on the vendor obtaining from the franchisor by the completion date:

(i) Consent to transfer of the franchise agreement to the purchaser;

(ii) The release of the vendor of its obligations under the franchise agreement; and

(iii) The release of any guarantee or other security for the franchise agreement.

(b) Either party may end this contract if:

(i) The franchisor does not give such consent, and each release; and

(ii) The party ending this contract has in all respects complied with its obligations under this clause.

(c) The vendor must apply to the franchisor for consent to transfer the franchise agreement.

(d) The vendor must pay any costs or expenses to which the franchisor is entitled whether by the terms of the franchise agreement or otherwise. Such costs may include costs relating to consideration of the purchaser as a franchisee and negotiation of amendments to the franchise agreement provided the amendments relate to conditions of the franchisor's consent to transfer that it is entitled by the franchise agreement or legislation to impose.

(e) The purchaser must promptly, when requested, provide to the franchisor all such trade references and financial or other information requested by the franchisor and necessary, having regard to the terms of the franchise agreement and legislation, for the franchisor to properly consider the purchaser as a franchisee.

(f) For the purposes of this clause, the vendor will be taken to have received the franchisor's consent to transfer of the franchise agreement if:

(i) Such consent is implied by legislation or the terms of the franchise agreement; and/or

(ii) Its consent is subject to the purchaser's guarantor providing an unconditional guarantee of the franchise agreement, a security deposit or bank guarantee or other security no more onerous than the security for the franchise agreement provided by the vendor; and/or

(iii) The franchisor's consent is subject to conditions contemplated by the franchise agreement which may include entering into a franchise agreement on terms that are materially different to the franchise agreement.

(g) For the purposes of this clause, the franchisor shall be taken to have refused consent to assignment of the franchise agreement if the franchisor exercises a right to itself purchase the business or any of the business assets.

20. Lease and hire agreements

(a) The vendor must transfer to the purchaser and the purchaser must accept on completion the lease and hire agreements for the leased and hired equipment.

(b) Where the consent of the owner is required to effect the transfer the vendor must use its best endeavours to obtain such consent.

(c) The purchaser must promptly, when requested, provide to the owner all such trade references and financial or other information requested by the owner and necessary, having regard to the terms of the lease, rental or hire agreements and legislation, for the owner to properly consider the request for transfer of the agreements to the purchaser.

(d) For the purposes of this clause, the owner will be taken to have consented to transfer of the agreements if:

(i) Its consent is subject to the purchaser's guarantor providing an unconditional guarantee of the agreements, a security deposit or bank guarantee or other security no more onerous than the security for the agreements provided by the vendor; or

(ii) The owner requires the lease, rental or hire agreements be novated to the purchaser such that the purchaser enters into new agreements on substantially the same terms (including the provision of security) as the agreements between the owner and the vendor.

(e) If a lease, rental or hire agreement that is material to the business is not assigned with any necessary owner's consent by the completion date either party may end this contract provided that party has complied with this clause.

(f) If a lease, rental or hire agreement that is incidental to the business is not assigned with any necessary owner's consent by the completion date, the equipment the subject of the lease, rental or hire agreement is excluded from the sale and the vendor must on completion make an adjustment in favour of the purchaser. The amount of such adjustment is to be determined by a valuer and shall have regard to such matters as the valuer considers appropriate including the present value, the likely value at the end of the contract, the finance cost to the end of the contract, the terms of the contract and whether the equipment will become the property of the lessee/hirer at the end of the term and the present cost of replacing the equipment. The valuer shall be appointed by the parties by agreement and failing agreement by the president of the law society or institute for the jurisdiction that governs this contract.

(g) The vendor must neither end nor enter into any lease, rental or hire agreement in respect of the business between the contract date and completion, except with the prior written consent of the purchaser.

21. Business agreements and arrangements

(a) The vendor must assign and the purchaser must accept assignment on completion of all business agreements and arrangements.

(b) If the assignment to the purchaser of any business agreement or arrangement requires another party's consent, the vendor must with the cooperation of the purchaser use its best endeavours to procure such consent.

(c) The purchaser must provide to the vendor all information and sign all documents and do all things as is reasonably necessary to obtain such assignments.

(d) The vendor is responsible for complying with all obligations up to and including the completion date and the purchaser is responsible thereafter.

(e) Each party indemnifies the other against all claims or liabilities arising out of the non-performance of any obligations for which they are responsible arising in respect of each business agreement and arrangement.

(f) If a business agreement or arrangement that is material to the business is not assigned with any necessary owner's consent by the completion date either party may end this contract provided that party has complied with this clause.

22. Employees

(a) The vendor must, at least 14 days prior to completion, deliver to the purchaser all relevant particulars of each employee including date of commencement, applicable award, total remuneration including bonuses or profit sharing arrangements, rostered days off, superannuation contributions, accrued annual, personal/carer's and long service leave entitlements due to the employee as at the completion date.

(b) The purchaser must, at least seven days prior to completion, make an offer of employment to such of the employees it wishes to employ. Such offers must be with effect from and conditional on completion and on terms and conditions no less favourable than those on which each such employee is employed prior to completion.

(c) The purchaser must advise the vendor which employees have accepted the purchaser's offer of employment.

(d) The vendor must not do anything to discourage any employee from accepting employment with the purchaser.

(e) The vendor must, on and with effect from the close of business on the day prior to the completion date, terminate its employment of all of the transferring employees.

(f) On the completion date the vendor must pay to each employee who is not a transferring employee, or otherwise ceases work for the vendor, all amounts due to them as at the completion date.

(g) On the completion date the vendor must pay to the transferring employees all amounts owing and due to them as at the completion date in respect of wages, salaries, commissions, bonuses, allowances and other emoluments relating to services rendered prior to the completion date.

(h) At completion the vendor must allow an adjustment in favour of the purchaser of an amount equal to 70% of the sum of the following:

(i) Accrued long service leave in respect of each transferring employee multiplied by the relevant multiple from the following table:

Length of continuous service	Service in NSW	Service in VIC	Service in other states and territories
At least 5 years but less than 6	25%	100%	Nil
6 - 7 years	40%	100%	Nil
7 – 8 years	55%	100%	55%
8 – 9 years	70%	100%	70%
9 – 10 years	85%	100%	85%
10 + years	100%	100%	100%

(ii) All other entitlements not paid to the transferring employees by the vendor.

23. Superannuation

(a) On the completion date, the vendor must remit to the superannuation fund of each transferring employee all superannuation contributions accrued up to the completion date, whether superannuation guarantee, additional employer or salary sacrifice contributions.

(b) The vendor must remit the contributions on completion notwithstanding that legislation may permit the vendor to remit such contributions at a later date.

24. Restraint

(a) The vendor and the covenantor agree that they will not during any of the restraint periods:

(i) Within any of the restraint areas promote, carry on, assist with, participate in or otherwise be directly or indirectly concerned financially or otherwise with or involved in any business or activity which is the same as or substantially similar to, or competes with, the business or a material part of the business.

(ii) If customer restraint is selected in the transaction summary, in any capacity, approach or accept an approach from any person or entity that was during the year prior to completion, a customer of the business, with a view to supplying goods or services to that person or entity that are similar to or competitive with the goods or services supplied by the business.

(iii) If internet restraint is selected in the transaction summary, supply via the internet to any person or entity any goods or services that are similar to or competitive with the goods or services supplied by the business.

(iv) If employee restraint is selected in the transaction summary, canvass, induce, or encourage any person or entity who is an employee of the purchaser in the conduct of the business to leave the employment of the purchaser.

(b) The vendor and the covenantor undertake to the purchaser that neither the vendor nor the covenantor will at any time after completion use a business name, trademark or domain name substantially identical or deceptively similar to the business name, trademark or domain name of the business.

(c) The vendor and the covenantor acknowledge that the competition restraints to which they have agreed are reasonable and necessary to protect the business goodwill. The vendor and the covenantor further acknowledge that the business may be adversely affected if the vendor or the covenantor engages in conduct contrary to the restraints.

(d) If any of the separate and independent restraints are or become unenforceable for any reason, that restraint may be severed from this contract leaving each of the remaining restraints.

25. Warranties of the vendor and covenantor

The vendor and the covenantor warrant and represent to the purchaser as at the date of this contract and as at the completion date that the matters set out in this clause are to the knowledge of the vendor and covenantor true, complete and accurate:

(a) There are no unsatisfied judgments against the vendor.

(b) The vendor does not have any interest directly or indirectly in any company or business which is or is likely to be competitive with the business.

(c) The sale of the assets pursuant to this contract does not constitute a breach of any statutory, contractual or fiduciary obligation.

(d) The vendor is the sole legal and beneficial owner of the business and of all the business assets.

(e) The vendor has not disposed of, agreed to dispose of or granted any option to any person to purchase any of the business assets or any interest in any of the assets.

(f) The accounts disclosed by the vendor to the purchaser exhibit a true and fair view of the financial position and affairs of the business, are true and accurate to a material extent and are not affected by unusual, extraordinary or non-recurring items. If final accounts are annexed to this contract, this warranty is limited to those accounts and does not extend to any accounts provided by the vendor prior to making this contract.

(g) The vendor holds all material statutory licences, consents and authorisations necessary for the conduct of the business.

(h) The conduct of the business by the vendor does not contravene any laws in any material respect and no allegation of any contravention of any applicable laws is known to the vendor.

(i) All information concerning the business and the assets which the vendor or any of the vendor's representatives have furnished to the purchaser or the purchaser's representatives prior to the making of this contract is true, complete and accurate in all material respects and is not misleading or deceptive whether by inclusion or omission.

(j) As far as the vendor and the covenantor are aware, there are no claims by any employee, statutory authority or any other person relating to the business.

(k) There are no outstanding notices given or orders made by any statutory authority affecting the business and neither the vendor nor the covenantor are aware of any circumstances which may result in a notice being given or an order being made.

(l) Other than the excluded assets identified in the transaction summary, the assets are all of the assets used in the conduct of the business.

(m) The premises lease has not been amended.

(n) The premises are the only premises occupied or used by the vendor in the conduct of the business.

(o) The vendor has duly and punctually observed and performed its obligations under the premises lease, and is not in breach or liable to forfeiture or termination.

(p) The vendor has not received any notice from the lessor or any statutory authority affecting any right or interest under the premises lease.

(q) All stock, whether in hand, in transit or in bond, is of good and merchantable quality, fit for the purpose for which it is intended to be used and is capable of being sold or used in the ordinary course of the business, in accordance with the vendor's current price lists without rebate or allowance to a purchaser.

(r) The vendor has in relation to each employee:

(i) Complied in all material respects with its obligations under legislation, awards, registered agreements and employment agreements relevant to conditions of service;

(ii) Complied with each of its obligations under the Superannuation Industry (Supervision) Act 1993 in respect of superannuation guarantee, and if applicable, additional employer and/or salary sacrifice superannuation contributions;

(iii) Complied in all material respects with all statutory requirements as to workers compensation insurance;

(iv) Complied with each of its obligations in respect to withholding tax; and

(v) Complied in all material respects with the requirements of all work health and safety and occupational health and safety legislation.

(s) Each of the business contracts and arrangements is valid, binding and enforceable against the parties to it and no party is in default.

(t) The vendor is not aware of any grounds for rescission or avoidance or repudiation of any of the business contracts or arrangements.

(u) The vendor is not a party to any contract which may be terminated by any other party by reason of this contract or a change in the ownership of the business.

(v) As far as the vendor is aware, the vendor's use of the intellectual property rights and contacts does not breach the rights of any other person and no claims have been asserted challenging the vendor's intellectual property rights or contacts.

(w) The vendor is not aware of the use by any other person of any of the intellectual property or contact.

(x) There are no rights, benefits or arrangements used in or pertaining to the business the benefit of which will not effectively pass to the purchaser pursuant to this contract at completion.

(y) If the vendor is the trustee of a trust, the vendor:

(i) Is the only trustee;

(ii) Warrants that the trust deed discloses all of the terms of the trust;

(iii) Has the power under the trust deed to make this contract;

(iv) Warrants that it is not in material default under the trust deed; and

(v) Warrants that it has a right to be indemnified fully out of the trust assets in respect of all obligations and liabilities incurred by it under this contract.

(z) If the vendor is a company:

(i) The vendor is duly incorporated and has full corporate power to own the assets and to carry on the business;

(ii) The vendor has the power to enter into and perform this contract;

(iii) The vendor is solvent;

(iv) No receiver, administrator or liquidator has been appointed to the vendor;

(v) No proceedings have been commenced to wind up the vendor; and

(vi) No action has been taken or threatened to be taken to seize or take possession of any of the vendor's assets.

(aa) If the vendor is a natural person:

(i) The vendor is not bankrupt; and

(ii) No bankruptcy proceedings have been commenced against the vendor.

26. Warranties of the purchaser

The purchaser warrants that, at the date of this contract:

(a) The making of this contract has been properly authorised by all necessary corporate action of the purchaser;

(b) The purchaser has full corporate power and lawful authority to make this contract and perform its obligations under this contract; and

(c) This contract does not conflict with or result in a breach of its constitution or any legislation, court order, agreement or deed.

27. Limits on warranties

(a) The purchaser acknowledges that the vendor gives no warranty as to the condition, state of repair or fitness for purpose of the business assets.

(b) The warranties are given subject to the disclosures in:

(i) This contract;

(ii) Any other document which, or a copy of which, has been given to the purchaser before making this contract; and

(iii) Any other disclosure made by the vendor to the purchaser prior to making this contract.

(c) The purchaser may not claim that any facts disclosed in any of the documents specified in this clause renders any of the warranties untrue or misleading or causes them to be breached.

(d) The vendor is not liable to the purchaser for any claim for breach of the warranties unless the purchaser has given written notice to the vendor setting out specific details of the claim on or before the first anniversary of the completion date.

(e) The purchaser agrees that the total amount payable by the vendor in respect of all claims under this contract is no more than the amount of the price.

(f) In the event a demand is made of the purchaser by a third party which may result in a claim by the purchaser on the vendor for breach of a warranty under this contract, the purchaser must notify the vendor of the demand immediately on receipt and permit the vendor to participate in responding to and resolving the demand.

28. Notice to complete

(a) In the event of either party failing to complete this contract by the completion date, then the other party shall be entitled at any time thereafter to serve a notice to complete, requiring the failing party to complete within seven days from the date of service of the notice.

(b) For the purpose of this contract, such notice to complete shall be deemed both at law and in equity sufficient to make time of the essence of this contract.

29. Guarantees

(a) The covenantor guarantees to the purchaser the due and punctual performance of all of the vendor's obligations under, or in relation to, this contract.

(b) This guarantee is a continuing guarantee for the purpose of securing the whole of the guaranteed obligations notwithstanding any partial payment or performance. The purchaser's rights or remedies against the covenantor shall not be in any way prejudiced or adversely affected by any of the following:

(i) Any variation of this contract or any release given by the purchaser to the vendor;

(ii) Any time or other indulgence given by the purchaser to the vendor;

(iii) The death, incapacity, bankruptcy or winding up of the vendor or another covenantor;

(iv) Any assignment by the vendor of its rights under this contract; or

(v) The termination of this contract for any reason by the purchaser.

(c) The guarantor covenants with the vendor to guarantee:

(i) Payment of all sums of money, interest and damages (whether present, future, contingent, liquidated or unliquidated) for which the purchaser may now or later be liable to the vendor under this contract; and

(ii) Due and prompt observance and performance of all the purchaser's obligations under, or in relation to, this contract.

(d) This guarantee is a continuing guarantee for the purpose of securing the whole of the guaranteed obligations notwithstanding any partial payment or performance. The vendor's rights or remedies against the guarantor shall not be in any way prejudiced or adversely affected by any of the following:

(i) Any variation of this contract or any release given by the vendor to the purchaser;

(ii) Any time or other indulgence given by the vendor to the purchaser;

(iii) The death, incapacity, bankruptcy or winding up of the purchaser or another guarantor;

(iv) Any assignment by the purchaser of its rights under this contract;

(v) The termination of this contract for any reason by the vendor.

30. Ending of contract

In the event a party ends this contract pursuant to a right to do so expressed in this contract, the parties' obligations to complete shall end, the deposit shall be refunded and no party shall have a right of action against another party arising out of this contract.

31. Disputes

(a) If the purchaser fails to pay money owing under this contract the vendor may sue for the unpaid money immediately without first seeking mediation.

(b) A party may seek urgent interlocutory relief in relation to the actions of the other party under this contract without first seeking mediation.

(c) If a dispute arises out of or relates to this contract, including any dispute as to breach or termination of this contract, a party to the contract may not commence court proceedings relating to that dispute unless:

(i) The party claiming the dispute has arisen has given written notice to the other party specifying the nature of the dispute; and

(ii) The parties first endeavour in good faith to resolve the dispute expeditiously using mediation, applying the procedures and within the timeframes specified below.

(d) Upon the service of a dispute notice the parties must jointly agree on a mediator and the mediator's remuneration. If the parties fail to agree within five days of the service of the dispute notice or such other period agreed by the parties, either party may ask the president of the law society or institute for the jurisdiction that governs this contract to appoint a mediator on behalf of the parties and determine the mediator's remuneration.

(e) The parties must observe the instructions of the mediator about the conduct of the mediation and seek to resolve the dispute with the assistance of the mediator within 10 business days of the appointment of the mediator or such other period agreed by the parties. If the dispute is not resolved within that time then either party may commence court proceedings.

(f) The costs of the mediator will be borne equally by the parties.

32. General

(a) This contract may only be varied or replaced by a document duly executed by the parties.

(b) This contract contains the entire understanding between the parties. All previous contracts, representations, warranties, explanations and commitments, expressed or implied, are superseded by this contract.

(c) Each party must promptly execute and deliver all documents and take all other action necessary or desirable to effect, perfect or complete the transactions contemplated by this contract.

(d) Each party must pay its own legal costs and expenses in relation to the negotiation, preparation and execution of this contract and other documents referred to in it, unless expressly stated otherwise.

(e) The purchaser must pay any stamp duty on this contract and any document executed under it.

(f) A partial exercise or waiver of a right relating to this contract does not prevent any other exercise of that right or the exercise of any other right.

(g) No party will be liable for any loss or expenses incurred by another party caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right.

(h) A party must not sell, transfer, delegate, assign, licence, mortgage, charge or otherwise encumber any right or obligation under this contract to any person without the prior written consent of the other party to this contract which must not be unreasonably withheld.

(i) Each indemnity in this contract is a continuing obligation, separate and independent of the other obligations of the parties, and survives termination of this contract.

(j) It is not necessary for a party to incur an expense or make a payment before enforcing a right of indemnity conferred by this contract.

(k) The warranties, conditions, provisions, undertakings, agreements and continuing obligations in this contract do not merge on completion but, to the extent that they have not been fulfilled and satisfied or are capable of having effect, remain in full force and effect.

(l) If a provision in this contract is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable. If it is not possible to read down a provision, it is severable without affecting the validity or enforceability of the remaining part of that provision or the other provisions in this contract.

(m) This contract may be executed in any number of counterparts, all of which taken together constitute one instrument.

(n) The existence and terms of this contract and information provided in connection with this transaction are confidential and the parties must treat this information confidentially. They must not, and must ensure that any person who receives the information by the party's authority does not, until completion:

(i) Disclose any of the information in any form to anyone else; or

(ii) Use any of the information except to acquire or check information in connection with this contract or perform any of its obligations under this contract;

Unless:

(iii) The person who provides the information has first agreed in writing;

(iv) The information is disclosed to a professional advisor, banker or financial advisor of the party or to a person whose consent is required under this contract and that person undertakes to the person who provides the information not to disclose any of the information in any form to anyone else and only to use the information for the purposes of advising the party or financing the party or considering whether to give that consent, as the case may be;

(v) The law requires the disclosure or use; or

(vi) The information is available generally (but not if it is available generally only because a person has contravened a confidentiality obligation).

(o) If completion does not occur the party must return the information and all copies in any form, and ensure that any person who received the information by the party's authority returns the information and all copies in any form, to the person who provided the information. The obligations imposed by this clause survive the termination of this contract.

33. Notices

Communications between parties, as required by this contract , must be in writing and:

(a) Delivered personally; or

(b) Posted to their address specified in this contract, or as later notified by them, in which case it will be treated as having been received on the second business day after posting; or

(c) Faxed to the facsimile number of the party with acknowledgment of receipt received electronically by the sender, when it will be treated as received on the day of sending; or

(d) Sent by email to their email address, when it will be treated as received when it enters the recipient's information system.

34. Interpretation and governing law

(a) **Interpretation**

In the interpretation of this contract:

(i) This contract comprises these terms and conditions, the transaction summary and anything attached to the transaction summary;

(ii) In these terms and conditions, words and expressions that are defined in the transaction summary have the meaning given to them in the contract summary;

(iii) References to legislation or provisions of legislation include changes or re-enactments of the legislation and statutory instruments and regulations issued under the legislation;

(iv) Words denoting the singular include the plural and vice versa; words denoting individuals or persons include bodies corporate and vice versa; references to documents or agreements also mean those documents or agreements as changed, novated or replaced; and words denoting one gender include all genders;

(v) Parties must perform their obligations on the dates and times fixed by reference to the state or territory of the governing law;

(vi) Reference to an amount of money is a reference to the amount in the lawful currency of the Commonwealth of Australia;

(vii) If the day on or by which anything is to be done is a Saturday, a Sunday or a public holiday in the place in which it is to be done, then it must be done on the next business day.

(viii) References to a party are intended to bind their executors, administrators and permitted transferees;

(ix) Obligations under this contract affecting more than one party bind them jointly and each of them severally.

(b) **Governing law**

This contract is governed by the law of the state in which the principal place of business is situated and the parties submit to the non-exclusive jurisdiction of the courts of that state.

ANNEXURE A

ADDITIONAL CLAUSES FORMING PART OF THIS CONTRACT

VENDOR: **JINDY JUICE BAR PTY LTD ACN 619 568 035**
PURCHASER:
BUSINESS: **JINDY JUICE BAR**

---

36 TITLE, DOCUMENTS OF TITLE AND ANNEXURES TO CONTRACT

36.1 Annexed hereto and marked as follows are copies of the following:

Annexure A Special conditions

Annexure B Inventory and fittings & fixtures

Annexure C Excluded items

Annexure D Suppliers

Annexure E Proposed lease

Annexure F Registered memorandum AC935123R

Annexure G Registered business name

37 LIMITATION OF LIABILITY

37.1 The purchaser agrees that neither of the vendor's directors, employees, servants, agents, solicitors, consultants and the vendor's agent shall be personally liable in respect of the vendor's obligations or any liabilities under this contract. The purchaser hereby expressly releases these people from all and any liability that may arise (if any).

38 GOVERNING LAW AND JURISDICTION

38.1 This contract is governed by the laws of the state of New South Wales, Australia.

38.2 The parties irrevocably submit to the jurisdiction of the courts of New South Wales, Australia.

39 SEVERABILITY

39.1 Unenforceability of a provision of this contract does not affect the enforceability of any other provision.

40 INTERPRETATION

40.1 In this contract unless the contrary intention appears:

40.1.1 A reference to this contract or another instrument includes any variation or replacement of them;

40.1.2 A reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;

40.1.3 The singular includes the plural and vice versa;

40.1.4 Words implying a gender imply any gender;

40.1.5 Words implying a natural person imply a firm, a body corporate, an unincorporated association or an authority;

40.1.6 Reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and assigns;

40.1.7 An agreement, representation or warranty in favour of 2 or more persons is for the benefit of them jointly and severally;

40.1.8 An agreement, representation or warranty on the part of 2 or more persons is for the benefit of them jointly and severally;

40.1.9 If a period of time is specified to start form a certain day or the day of an act or an event, the period is to be calculated exclusive of that day;

40.1.10 A reference to a day is a reference to a period of time commencing at midnight and ending 24 hours later;

40.1.11 A reference to time is a reference to Sydney time;

40.1.12 A reference to any thing (including, without limitation, any amount) is a reference to the whole and each part of it and a reference to a group of persons is a reference to all of them collectively, to any two or more of them collectively and to each of them individually.

40.2 Headings are inserted for convenience and do not affect the interpretation of this contract.

40.3 Clauses 36 – 76 (inclusive) of this contract take priority over clauses 1 – 35 (inclusive) of this contract to the extent of any inconsistency

41 DEFINITIONS

41.1 The following definitions are used in these further provisions:

BUSINESS means the business and goodwill of a take away café conducted by the vendor at the premises and includes the assets

DOMAIN NAME means any domain name and any social media account relating to the business

LEASE means the lease between Nugget's Crossing Pty Limited and the vendor.

PLANT & EQUIPMENT means the plant, fixtures, fittings, equipment, chattels and effects of the vendor specified in the inventory at Annexure B

PREMISES means part of the land known as folio identifier 56/SP89432 (part) together with all of the structures on it and known as Jindy Juice Bar .

PRINTED CONDITIONS and STANDARD CONDITIONS means the clauses contained in the attached printed form of contract for sale of business ;

PPSA means the *Personal Property Securities Act* 2009 (Cth), as amended;

PPSR has the meaning given in the PPSA;

RECORDS means the documents in possession or control of vendor including:

i) procedure manuals and/or operational manuals for the plant and equipment (in hard copy and also where available in soft copy)
ii) recipes used in connection with the business
iii) supplier lists
iv) any available warrantee documents in respect of the plant and equipment
v) artwork templates including Stockli logo design, flag/ shirt artwork, front shop signage, and murals
vi) Digital file of advert/jingle

REGISTERED BUSINESS name means the business names registered with ASIC Annexure G

WEBSITE means the website located at the domain name, including all copyright in all software, images, text, pictures, photos and other material contained therein, it also means any social media platform, such as Facebook, Zomato, True Local, Trip Advisor

42 POSSESSION PENDING COMPLETION

42.1 Excepting as otherwise provided herein, the vendor will remain in possession of the said business and premises and will manage the same as a going concern until completion.

43 COMPLETION

43.1 The parties agree that completion of this contract will take place on or before _____.

43.2 The parties agree that completion cannot occur until the lessor has granted consent to the assignment and transfer of the lease.

44 NOTICE TO COMPLETE

44.1 If a party is in default hereunder and such default entitles the other party to issue a notice to complete then any such notice to complete shall be sufficient as to time if a period of fourteen (14) days after service is allowed for completion.

45 DELAY IN COMPLETION

45.1 If the purchaser shall not complete this purchase by the completion date, without default by the vendor, the purchaser shall pay to the vendor on completion, in addition to the balance purchase price and amount calculated at ten percent (8%) per annum interest on the purchase price, computed at a daily rate from the day immediately after the completion date to the day on which this sale shall be completed. This interest is a genuine pre-estimate for the liquidated damages and will

be deemed to be part of the balance of the purchase money due and payable on completion.

45.2 If the vendor issues a notice to complete to the purchaser, the purchaser shall pay to the vendor on settlement the sum of $285 inclusive of GST to compensate the vendor for additional legal costs incurred in relation to the issuing of such notice to complete.

46 DEATH, MENTAL ILLNESS, BANKRUPTCY

46.1 If a party (or if that party consists of two or more persons, any of those persons);

46.1.1 Dies; or

46.1.2 Is so intellectually, physically or psychologically disabled as to be, in the reasonable opinion of the other party, unable to complete this contract on time

then the other party may rescind by giving written notice to the first party's solicitor.

46.2 If a party (or if a party consists of two or more persons, any of those persons) is a body corporate and:

46.2.1 An application is made to a court for an order or an order is made that it be wound up;

46.2.2 An application is made to a court for an order appointing a liquidator or provisional liquidator in respect of it, or one of them is appointed, whether or not under an order;

46.2.3 A body corporate resolves to wind itself up, or otherwise dissolve itself, or gives notice of intention to do so, except to reconstruct or amalgamate while insolvent on terms approved by the other party or is otherwise wound up or dissolved;

46.2.4 A body corporate takes any step to obtain protection or is granted protection from its creditors, under any applicable legislation or an administrator is appointed to a body corporate.

then the other party may rescind by giving written notice to the first party's solicitor.

46.3 Notwithstanding the foregoing provisions of this clause, the purchaser may not rescind this contract if:

46.3.1 In connection with the property lease or the vendor (or both) a person holding a mortgage over the property lease or security from the vendor becomes a mortgagee in possession or appoints a receiver, receiver and manager, agent or similar functionary; or

46.3.2 In connection with the building contract for the construction of the building, a person holding a security from the vendor substitutes itself or a person appointed by itself for the vendor.

47 FOREIGN PERSON

47.1 The purchaser warrants to the vendor that it is not a "foreign corporation" or a "foreign person" for the purposes of the *Foreign Acquisition and Takeovers Act 1975* (Commonwealth) and that approval to the assignment of the property lease is not required pursuant to this Act.

47.2 Upon demand by the vendor, the purchaser shall produce to the vendor such evidence as is required by the vendor in satisfaction of the warranty contained in this clause.

47.3 In the event of a breach of warranty contained in this clause, the purchaser agrees to indemnify and compensate the vendor in respect of any loss, damage, penalty fine or legal costs, which may be incurred by the vendor as a consequence of such breach. This warranty and indemnity shall not merge on completion.

48 INTRODUCTION BY VENDOR'S AGENT

48.1 The purchaser warrants that it has not been introduced to the property or to the vendor by any estate agent or employee of another estate agent and agrees to indemnify and keep indemnified the vendor against all claims, actions, suits, demands, costs and expenses in relation to a breach of this warranty. This condition shall not merge upon completion.

48.2 The purchaser warrants that if there is no reference to an estate agent on the front page of this contract they were not introduced to the property or the vendor by an agent nor was any agent the effective cause of the sale of the property. This condition shall not merge upon completion.

49 NON MERGER

49.1 The parties acknowledge that the benefit of the provisions of this contract having application after completion continue to apply notwithstanding completion.

50 WARRANTY

50.1 The vendor covenants with and warrants to the purchaser that:

50.1.1 as at the date of this contract the vendor is not in breach or default of the property lease;

50.1.2 as at the date of this contract the vendor is not in breach or default of any service contracts and will not be in breach or default at completion;

50.1.3 at completion the purchaser will have full and unencumbered title, ownership and interest in the business and the assets sold in this contract other than the new stock dealt with in special condition;

50.1.4 as at the date of this contract there is no litigation, dispute or claim with any third party relating to the business and the assets;

50.1.5 as at the date of this contract the conduct of the business complies in all material respects with all applicable laws and regulations.

50.2 The purchaser agrees and warrants that:

50.2.1 The purchaser has not relied upon any warranty or representation made by the vendor or any other person on the vendor's behalf unless expressly stated herein.

50.2.2 The purchaser relies solely on its own enquiries relating to the premises.

50.3 The purchaser acknowledges that the vendor may enter into a contract for the purchase of a premises or other legal obligation in reliance on this contract and will

suffer damage if the purchaser does not proceed to completion. The purchaser warrants that it has, prior to entry into this contract, obtained finance for the purchase on reasonable terms or has the funds available for settlement on the completion date.

50.4 The purchaser warrants that it does not require the consent of the Commonwealth Treasurer pursuant to the *Foreign Acquisitions and Takeovers Act 1975* to carry out this purchase. In the event of there being a breach of this warranty, whether deliberately or otherwise the purchaser agrees to indemnify and to compensate the vendor in respect of any loss or damage that may be incurred by the vendor as a consequence of such breach.

50.5 The vendor warrants (and any other warranty previously expressed or implied from this contract, is expressly negatived) that:

50.5.1 on completion, other than as expressly provided herein, the property, business (including plant, and stock) will be the sole property of the vendor, free and clear from any mortgages, charges and encumbrances, or if there is any registered security interest under the PPSA, on completion the vendor shall provide the purchaser with a written undertaking to modify the registration details of that interest to show that the secured property is free from the security interest;

50.5.2 it will comply with any valid outstanding notice affecting or relating to the property, business or licence issued by any competent authority on or before the date of this contract.

50.5.3 it will honour any valid gift certificates, cards or vouchers issued by the business prior to completion for a period of six months following completion.

51 EXCLUSION OF WARRANTIES

51.1 The purchaser acknowledges that:

51.1.1 This contract constitutes the entire agreement between the vendor and the purchaser relating to the sale of the assets and the business and the assignment of the property lease;

51.1.2 The parties have not entered into and are not bound by any collateral or other agreement apart from this contract;

51.1.3 The parties are not bound by any warranty, representation, collateral agreement, or implied term, under the general law or imposed by legislation unless:

51.1.3.1 Such warranty, representation, agreement or term is contained in the express terms of this contract; or

51.1.3.2 It is an implied term or warranty imposed by statute which is mandatory and cannot be excluded by the parties' agreement.

51.1.4 The purchaser acknowledges that the purchaser, when entering into this contract, relied exclusively on the following matters independently of any statements, inducements or representations made by or on behalf of the vendor (including by any estate agent acting on behalf of the vendor):

51.1.4.1 The inspection of and investigations relating to the premises and business made by or on behalf of the purchaser;

51.1.4.2 The warranties and representations expressly contained in the contract;

51.1.4.3 The skill and judgement of the purchaser, its consultants and representatives; and

51.1.4.4 Opinions or advice obtained by the purchaser independently of the vendor or of the vendor's agents or employees.

52 GST

52.1 In this Clause "GST" refers to goods and services tax under a *New Tax System (Goods and Services Tax) Act 1999* ("GST Act") and the terms used have meanings as defined in the GST Act.

52.2 The vendor and the purchaser agree that the sale of the business in this contract is the supply of a "going concern."

52.3 The purchaser represents and warrants that as at the date of completion they will be registered or will be required to be registered under the GST Act.

52.4 The vendor agrees that they will carry on the conduct of the business as a going concern until the completion of this sale.

52.5 The parties entered into this contract on the basis that the supply is GST free and the consideration is exclusive of GST.

52.6 If for any reason this sale is not accepted by the commissioner of taxation as GST free then notwithstanding any other provision in this contract the following conditions shall apply:

52.6.1 The vendor shall deliver to the purchaser, as a precondition to such payment, a tax invoice in a form which complies with the GST Act and the regulations;

52.6.2 The purchaser agrees to pay the vendor, within 14 days after the vendor liability for GST on this sale is confirmed by correspondence or an assessment from the commissioner the amount of the GST including any additional penalty and interest;

52.6.3 The purchaser charges the premises with its liability to pay to the vendor the GST and agrees that until such time as the vendor has been paid the GST the vendor shall have an equitable interest in the premises.

52.7 The provisions of this clause shall not merge upon completion.

53 INCLUSIONS

53.1 Any items listed in the Inventory Annexure B are included in the sale (**the inclusions**).

53.2 The vendor makes no representations or warranties as to the state of repair or condition of the Inclusions and the purchaser accepts them in their state of repair and condition at the date of the contract.

53.3 The purchaser acknowledges that the vendor is not liable for any loss, or mechanical breakdown of, or any damage or fair wear and tear to the inclusions which occurs after the date of completion or if completion is delayed from such date that possession is given to the purchaser.

53.4 The purchaser cannot make a claim or requisition or rescind or terminate or delay completion because of the quality of the Inclusions.

54 EXCLUSIONS

54.1 Any items listed in the exclusions at Annexure C are excluded from the sale.

55 SERVICES

55.1 The vendor will cooperate to enable the purchaser to receive from the date of completion the benefit of all services to the business including the supply of electricity, gas, water, sewerage/drainage, removal of trade waste, telephone, internet access, and fax/telephone numbers. However, the actual ongoing commercial arrangements between the purchaser and the service providers are a matter solely for the suppliers and the purchasers.

56 ASSISTANCE AND TRAINING

56.1 The parties agree that the vendor will provide training to the purchaser for five days immediately prior to completion and for five days immediately following completion.

57 ASSETS AND UNDERTAKING

57.1 The vendor agrees to sell to the purchaser and the purchaser agrees to buy the business from the vendor conducted at the premises comprising the following assets (“assets”). All rights, interest and title in the assets will transfer from the vendor to the purchaser at completion (or otherwise as soon as possible after completion as specified in this contract):

57.1.1 The stock;

57.1.2 The goodwill of the business;

57.1.3 The business name Annexure G;

57.1.4 The plant & equipment itemised in the inventory at Annexure B;

57.1.5 Computer equipment and software used thereof or contained therein but only insofar as that equipment is identified on the inventory at Annexure B;

57.1.6 Telephone number, any website and email address for the business;

57.1.7 The records; and

57.1.8 All keys and codes required to gain access to the premises and use the assets sold under this agreement.

58 BUSINESS NAME AND INTELLECTUAL PROPERTY

58.1 The vendor warrants and the purchaser acknowledges that the vendor will do all things necessary, acting reasonably, to transfer phone numbers, the business name, the domain name, the website and related email addresses to the purchaser at completion (or otherwise as soon as possible after completion). The vendor must:

58.1.1 at or before completion, provide the purchaser with a signed and completed domain name transfer form in respect of the domain name; and

58.1.2 at or before completion, provide the purchaser with all passwords and codes necessary to operate and control the website.

58.2 The purchaser agrees to redirect all personal emails for the vendor, for a period of not less than six (6) calendar months, in accordance with a list of such email addresses as provided by the vendor.

58.3 As part of the price, the vendor sells and the purchaser purchases, all of the vendor's right, title and interest in the registered business name.

58.4 On completion, the vendor shall provide to the purchaser the ASIC Key in respect of the business name. Following completion, the purchaser will make its own enquiries with ASIC for the transfer of the registered business name to the purchaser.

59 POSSESSION OF BUSINESS

59.1 The vendor agrees to remain in possession of the business and to operate it as a going concern until completion.

59.2 The vendor agrees to give up possession of the business and the purchaser agrees to take possession of the business following completion.

59.3 On completion, the vendor will cause to be delivered to the purchaser the business records in respect of the business.

59.4 The parties expressly agree that all risk shall pass on completion of this contract.

60 ADJUSTMENTS

60.1 The vendor shall be entitled to the takings and profits of the business and shall pay or bear all charges and amounts due for gas, electricity, telephone service, fax or data service and all other outgoings in respect of the premises and the business, up to 11.58 pm on the day before the date of completion, on and from which date the purchaser shall be entitled to or shall pay or bear the same, respectively. Any necessary apportionment shall be made on completion. For the purposes of this clause, any service provided up to the time mentioned, but not yet charged for, shall be regarded as being takings of the business payable to the vendor.

60.2 The vendor shall be entitled to receive payments for all debts owing by third party debtors of the Vendor up to 11.58 pm on the day before the date of completion and the purchaser will promptly account to the vendor for all payments received by it from third parties debtors of the Vendor after completion. The purchaser also unconditionally undertakes to act as the vendor's agent for collection of any debts owing to the Vendor from third party debtors up to the time mentioned in the above clause and will provide all reasonable assistance and co-operation to the vendor for a

period of three (3) months following completion, in relation to any debts owing and payable to the vendor.

60.3 On or before the completion date, the vendor and purchaser shall (both acting reasonably) co-operate with each other in calculating the value of any ancillary adjustments to be made. For the purposes of this additional provision ancillary adjustments include but are not limited to any other goods or services provided by the business.

60.4 Any necessary apportionment of rent, rates, taxes, water and sewerage service and usage charges, trade waste charges, other outgoings including strata levies and other expenses of the business of a continuing, periodical or recurring nature, must be apportioned between the vendor and the purchaser and adjusted up to but excluding the completion date. Any payment or allowance shall be made on completion. Any amount for water, sewerage usage and trades waste charges for which an assessment has not been issued, shall be calculated by multiplying the number of unbilled days up to but excluding completion by the average charge per-day for usage for the last period for which an account issues.

60.5 The vendor must pay all amounts due up to but excluding the completion date in respect of the service contracts. From completion the purchaser shall be liable for amounts due. The parties shall make any allowance/payment in respect of service contracts, with the ancillary adjustments.

61 SERVICE CONTRACTS

61.1 The purchaser acknowledges that on or before the completion date, the vendor will be terminating any current service arrangements that it has with any service contract the term of which may have come to an end or about to come to an end (**Terminated Suppliers**). The purchaser shall make its own arrangements after completion to enter into a service contract with the Terminated Suppliers, if required by the purchaser.

61.2 In the event that the purchaser requires the vendor to novate any service contract, the vendor shall use all reasonable endeavours to require the supplier named in that contract to either novate (by way of novation agreement) or enter into a new service contract on the completion date. Completion shall not be conditional upon either the novation agreement being entering into, nor the entering into of any new or replacement service contract.

61.3 The purchaser hereby undertakes (subject to the consent of the supplier named in the particular service contract) to enter into a novation agreement with that supplier on the same terms and conditions as the novation agreement. The purchaser will be responsible for its own costs in respect of any preparation execution and enforcement of any novation agreement and will pay any costs of the supplier in respect of the novation agreement. It is a condition of any novation agreement that the supplier agrees to release the vendor from the service contract, on and from the date of completion.

61.4 In the event that the purchaser requires the vendor to terminate any service contract, then the vendor shall use all reasonable endeavours to terminate the same. Completion shall not be conditional upon the termination of any service contract.

61.5 The purchaser agrees to indemnify and keep indemnified the vendor in respect of any manner or thing arising out of the novation or termination of any service contract. For the purposes of this clause, novation of a service contract includes the entering into of a new service contract between the purchaser and the supplier, if required by the supplier. The indemnities given under this additional provision shall continue beyond the completion date.

61.6 The purchaser shall not be entitled to make any objection, requisition or claim for compensation if any service contract is not available to it upon completion, or in respect of any terms and conditions of any new or existing service contract.

61.7 The purchaser acknowledges that it has satisfied itself as to the terms and conditions of the service contracts. Within twenty-eight (28) days of the date of this contract, the purchaser shall notify the vendor in writing, as to which service contracts the purchaser requires to be either novated or terminated. The purchaser acknowledges that the vendor has made its best endeavours to locate as many service contracts as it can. However, the vendor shall not be liable if there is a service contract in existence not attached to this contract. The purchaser agrees that it shall not make any objection, requisition or claim for compensation in respect of any inaccurate or incomplete information provided in relation to the service contracts.

62 EMPLOYEES

62.1 The vendor warrants and represents that at completion the business will not have any employees. Clause 22 and 23 of the printed conditions are expressly deleted.

63 AUTHORITY TO CONTRACT

63.1 Where the purchaser is or includes a corporation the purchaser warrants and represents to the vendor, as an inducement to the vendor to enter into this contract and it is a condition of this contract that, at the date of this contract:

63.1.1 the execution and delivery of this contract has been properly authorised by all necessary corporate action of the purchaser;

63.1.2 the purchaser has full corporate powers and lawful authority to execute and deliver this contract and to consummate and perform or cause to be performed its obligations under this contract;

63.1.3 this contract constitutes a legal, valid binding obligation of the purchaser enforceable in accordance with its terms by appropriate legal remedy; and

63.1.4 this contract and completion do not conflict with or result in a breach of or default under any provision of its constitution.

64 ASSIGNMENT OF LEASE

64.1 At Annexure E is a copy of the proposed lease (**the lease**).

64.2 The vendor warrants that prior to completion of this contract they will register the lease at NSW LRS.

64.3 Following exchange of the contract the purchaser will expeditiously apply for assignment of the lease from the vendor to the purchaser, and the consent of the lessor. This application is to be made in accordance with clause 14 of the registered memorandum.

64.4 The purchaser agrees to pay the lessor’s fees associated with the transfer of the lease to the purchaser.

64.5 For the purposes of clause 14.5(c) of the registered memorandum the lessor discloses that its reasonable legal costs are $750 plus GST for professional fees plus disbursements.

64.6 The purchaser acknowledges that the lessor requires the purchaser to pay a bond of $_____ on or before completion.

65 STOCK

65.1 In addition to the property, licence and business, the vendor sells and the purchaser purchases the stock, on the following terms:

65.1.1 The value of the stock is to be determined by a stocktake to be made on the day before the completion date, by the parties.

65.1.2 The basis of valuing stock is:

65.1.2.1 food stock, upon reasonable estimate made by the vendor on the day before completion; and

65.1.2.2 all other stock - invoice cost price to vendor less discounts and rebates.

65.1.3 Any item of stock rejected by the purchaser as being not good and saleable, must be rejected at the time of stocktake and in respect of any item, the onus is on the purchaser to prove that it is not good and saleable. The parties shall be bound by the stocktaker's decision as to what is good and saleable.

65.1.4 The purchaser must pay to the vendor (by way of unendorsed bank cheque to the vendor) the amount due for stock on or before completion. In default of payment, the purchaser must pay to the vendor, in addition to and at the same time as, the amount due for stock, interest at the rate specified in clause 45 , on the amount due for stock calculated from the date of completion until the date of payment. The bank cheque for payment of stock shall be delivered to the vendor's solicitor by the due date.

66 NEW STOCK

66.1 The vendor and purchaser agree that if there is new stock held in the business premises where payment to suppliers is not due to after the date of completion, then the purchaser agree to make payment direct to the supplier for all stock held in the business premises with an invoice payment date on or after completion and the vendor and purchaser expressly agree that this new stock will not form part of the stock to be purchased from the vendor under this contract.

66.2 The vendor and purchaser agree that in the event any new stock that has not been paid for by the vendor is sold prior to completion the invoice price of that new stock will be included as an adjustment at completion in favour of the purchaser.

66.3 The vendor warrant that they have made full disclosure to the purchaser of any stock ordered for the business that has yet to be delivered or invoiced and the purchasers acknowledge receipt of that information. From the date of this contract any further ordering of any stock will only occur by express agreement between the vendor and purchaser.

67 RELEASE OF PERFECTED SECURITY INTERESTS

67.1 This clause applies if any personal property forms part of the business or is trading stock and in either case is subjected to a security interest and or perfected security interest under the Personal Properties Securities Act 2009, (“PPS Act”).

67.2 The Vendor guarantees that no trading stock that will be transferred to the purchaser shall be subject to a security interest. The only security interests registered as at the contract date is interests registered in favour of

_____

_____.

The Vendor warrants that these security interest holders shall be notified of the sale and any indebtedness to them repaid in full prior to Completion and requested for a PPS release.

67.3 Words and phrases used in this clause which are defined in the PPS Act have the same meaning in this clause.

67.4 The Vendor has disclosed the only PPS interests that he is aware of but undertake to do everything reasonable to enable the purchaser to ascertain whether there are any other security interests in any personal property forming part of the business or trading stock.

67.5 In as far as it may appear, or the purchaser is able to show that any further security interest in any personal property forming part of the business or trading stock came into existence prior to Completion the vendor shall be obliged to ensure that the purchaser receives one of the following documents-

67.5.1 a release (“the “PPS release”) from each secured party releasing the security interest in respect of the property or a confirmation of discharge of security interest certified in terms of section 156 of the PPS Act; or

67.5.2 a statement in accordance with section 275(1)(b) of the PPS Act setting out that the amount or obligation that is secured I nil at Completion; or

67.5.3 an approval or correction in accordance with section 275(1)(c) of the PPS Act indicating that, on completion, the personal property included in the contract is not or will not be property in which the security interest is granted if the security interest is to remain perfected despite completion; and

67.5.4 In the case of serial numbered goods a written undertaking from each secured party to register a financing change statement which reflects that document.

67.6 Normally, the purchaser must accept a PPS release that is in a form published by the Australian Banker’s Association, the Law Society of NSW or the Law Council of Australia.

67.7 If the vendor proposes to give the purchaser another form of PPS release the purchaser must accept that form unless it is reasonable to do so.

67.8 Any document to be delivered to the other party in terms of this clause must be provided on request.

68 ASSET & PRICE APPORTIONMENT

68.1 The vendor advises that the asset and price apportionment will be as follows:

Goodwill
Plant and equipment _____

_____

Inclusions and inventory

Ice Machine, Ice Bin, Filter

Zumec Juicer x 2

Cold Press Juice

Jugs x 17

Jug Washer

Hamilton Blenders x3

Juice Dispenser

Window replacement with Crimsafe mesh for Ventilation

Extra Exhaust System put into Ceiling

Electrical work/ extra switches, for new coffee machine etc

Plumbing for coffee machine

Aircon

Phone

Pos Register / Printer

Stools x 7

Stainless Steel Benches x9

Stainless Steel Wall Shelving x4

Stainless Steel Bench Shelving x2

Stainless Steel Racks x3

Stainless Steel sinks, Hand wash Basin, under sink shelving, Stainless Steel splashback

Rinse Spay Unit

1 door upright Fridges

2 door upright Fridges

1 door drink fridge

chest freezer large, chest freezer small, chest freezer med.:gelato freezer

Soap / Towle dispensers on wall

Soup Kettles x2

Potato Oven

Otto Bins x2

Microwave / Toaster (staff lunches)

odds as in broom, mops, utensils, magnetic knife board, cutting boards, electric orange peeler, juice jugs, ice cream scoops, containers, etc

Exclusions:

Coffee Machine / Grinder (on Loan from Canberra Coffee Company)

Snowy Mountains Cookies / Stand

Dinner`s Ready Meals / Freezer

SUPPLIERS

- Fruit Dude
- PFD
- Metro Ice
- Pure Gelato

Form: 07L
Release: 4.5
Licence: 01-05-028
Licensee: LEAP Legal Software Pty Limited
Firm name: Alpine Law

LEASE

New South Wales
Real Property Act 1900

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

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

STAMP DUTY Revenue NSW use only

(A) **TORRENS TITLE** Property leased
56/89432 part being Shop 25, Nugget's Crossing Shopping Centre, Kosciuszko Road, Jindabyne part being the premises known as Shop 25, Nugget's Crossing Shopping Centre, Kosciuszko Road, Jindabyne NSW 2627

(B) **LODGED BY**

Document Collection Box	Name, Address or DX, Telephone, and Customer Account Number if any Reference:	**CODE** **L**

(C) **LESSOR** NUGGET'S CROSSING PTY LTD ACN 002 960 170

The lessor leases to the lessee the property referred to above.

(D) Encumbrances (if applicable):

(E) **LESSEE** JINDY JUICE BAR PTY LTD ACN 619 568 035

(F) **TENANCY:**

(G)
1. **TERM** Two (2) years
2. **COMMENCING DATE** 1 June 2019
3. **TERMINATING DATE** 31 May 2021
4. With an **OPTION TO RENEW** for a period of N/A
5. With an **OPTION TO PURCHASE** set out in clause N/A of
6. Together with and reserving the **RIGHTS** set out in clause N/A of
7. Incorporates the provisions or additional material set out in **ANNEXURE(S)** A hereto.
8. Incorporates the provisions set out in **MEMORANDUM** filed pursuant to section 80A Real Property Act 1900 as No. AC935123R
9. The **RENT** is set out in item No. 2 of Annexure A

DATE

(H) Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the corporation named below by the authorised person(s) whose signature(s) appears(s) below pursuant to the authority specified.

Corporation: Nugget's Crossing Pty Ltd ACN 002 960 170
Authority: section 127 of the Corporations Act 2001
Signature of authorised person:

Name of authorised person: Alan Bruce Marshall
Office held: Director

Signature of authorised person:

Name of authorised person: Terry Raymond Pillidge
Office held: Secretary

Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the corporation named below by the authorised person(s) whose signature(s) appears(s) below pursuant to the authority specified.

Corporation: JINDY JUICE BAR PTY LTD ACN 619 568 035
Authority: section 127 of the Corporations Act 2001
Signature of authorised person:

Name of authorised person:
Office held:

Signature of authorised person:

Name of authorised person: Peter Lukic
Office held: Sole Director/Secretary

(I) **STATUTORY DECLARATION ***

I

solemnly and sincerely declare that—

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

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

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

in the presence of

☐ Justice of the Peace (J.P. Number:) ☐ Practising Solicitor

☐ Other qualified witness *[specify]*

who certifies the following matters concerning the making of this statutory declaration by the person who made it:

1. I saw the face of the person *OR* I did not see the face of the person because the person was wearing a face covering, but I am satisfied that the person had special justification for not removing the covering; and
2. I have known the person for at least 12 months *OR* I have confirmed the person's identity using the identification document and the document I relied on was a

Signature of witness:_____ Signature of applicant: _____

* As the services of a qualified witness cannot be provided at lodgment, the declaration should be signed and witnessed prior to lodgment. # If made outside NSW, cross out the witness certification. If made in NSW, cross out the text which does not apply.

*** s117 RP Act requires that you must have known the signatory for more than 12 months or have sighted identifying documentation.*

Lessor: Nugget's Crossing Pty Ltd ACN 002 960 170
Lessee: Jindy Juice Bar Pty Ltd ACN 619 568 035
This annexure comprises 1 page(s).

SCHEDULE

Item	Title	Clause in Registered Memorandum AC935123R	Detail
1	**Term**	1.1	Two (2) Years from 1 June 2019 to 31 May 2021
2	**Annual Base Rent**	4.1	$20,000.00 per annum plus GST to be paid in equal monthly instalments in advance on the first day of each month.
3	**Turnover Percentage**	5	Not applicable.
4	**Market Rent Review Dates**	6	Not applicable.
5	**CPI Review Dates**	7	Annual
6	**Fixed Annual Increase Dates**	8	Not applicable.
7	**Proportion of Outgoings and Payment of Utilities**	9	Body corporate/strata levies based on unit entitlement of and local government rates and charges based on invoice costs.
8	**Permitted Use of Premises**	10.1	Juice/Smoothie bar including the sale of yoghurt, soups and salads with minimum trading hours of 9am to 5pm Monday to Friday.
9	**Promotions Fund Contribution**	18.1	If required –Not to exceed 3% of lessees annual rent.
10	**Amount of Bank Guarantee or Security Deposit**	25	$5,000.00
11	**Guarantors**	26	Peter Lukic
12	**Option**	27	Not applicable

I certify that I am an eligible witness and that Peter Lukic signed this document in my presence.

Signature of witness

Signature of Peter Lukic

Name of witness

Form: 16LM
Licence: 01-05-090
Licensee: Last and Maxwell

MEMORANDUM

New South Wales
Section 80A Real Property Act 19

AC935123R

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

(A) **LODGED BY**	Delivery Box 35D	Name, Address or DX and Telephone MORRIS, HAYES & EDGAR DX 420 SYDNEY PH: 9232-2411 AS AGENTS FOR LAST + MAXWELL LLPN: 123005 B 327644 Reference (optional):	CODE LM MM
(B) **APPLICANT**	NUGGETS CROSSING PTY LIMITED ACN 002 960 170		

(C) The applicant requests the Registrar General to record this memorandum, comprising 25 pages including this page, which contains provisions deemed to be incorporated in any instrument which refers to it.

(D) i. For option to renew see clause 27

~~ii. For option to purchase see clause~~

(E) Signature of applicant or applicant's representative:

Name of signatory: Garry John Huggett

Capacity of signatory (if applicable): Solicitor

Date: 1 February 2007

FOR THE PROVISIONS CONTAINED IN THIS MEMORANDUM SEE ANNEXURE

All handwriting must be in block capitals.

1. Definitions and Interpretation

1.1. In this Lease, the following definitions apply:

"**The Act**" means the Retail Leases Act, 1994;

"**Bank**" means a bank authorized under the Banking Act, 1959;

"**The Centre**" means the centre known as Nuggets Crossing Shopping Centre together with such other parcels of land adjacent to the said land which may be acquired, leased or used by the Lessor and incorporated into and used primarily for the purpose of a shopping centre and/or the parking of motor vehicles (including Lessor's fixtures, fittings, plant and equipment) from time to time and other Common Areas and includes the Premises (where the context admits);

"The Council" means the Snowy River Shire Council

"**The Common Areas**" means those parts of the Land (including all car parking facilities) which are not restricted by the Lessor from common or public use and which are intended by the Lessor and are in fact used by tenants and/or the public as a common part of the Centre;

"**Lessee's Works**" means the works specified in **Item 13** of **the Schedule**;

"**Lessor's Works**" means the works specified in **Item 14** of **the Schedule**;

"**The Premises**" means that part of the Centre demised to the Lessee by virtue of the Lease and extending from under surface of the floor to the upper surface of the ceiling, and to the centre line of inter-tenancy walls, the exterior of shopfronts and the inner surface of all external structural furnishings plant machinery and equipment (if any) from time to time installed in the Premises and owned by the Lessor;

"**Price Index**" means the All Groups Consumer Price Index for Sydney published by the Australian Bureau of Statistics;

"The Land" means the whole of the land on which the Centre is located and extends to any nearby or neighbouring land (whether or not the Lessor has a legal or beneficial interest in that land) which is used for purposes such as public carparking in conjunction with the Centre.

"**The Term**" means the period referred to in **Item 1** of **the Schedule** commencing on the commencing on the commencement date as specified in this Lease.

1.2. In this Lease:

a) References to the Lessor and Lessee include, so far as is relevant, that party's successors, executors, administrators and permitted assigns and that party's employees, customers, contractors and invitees;

b) If more than one person or company is named by Lessee or Guarantor, then each such person or company is jointly and severally liable.

1.3. The covenants implied into leases by the Conveyancing Act are hereby excluded except to the extent that such covenants cannot be excluded or are repeated herein.

1.4. This Lease is a Deed even if it is not registered.

2. Term

2.1. The Lessor leases the Premises to the Lessee for the Term. If the Term plus any further term is less than 5 years, then this Lease is conditional upon the Lessee providing to the Lessor a certificate pursuant to Section 16(3) of the Act before the Lease is entered into.

2.2. If with the Lessor's consent the Lessee continues in possession of the Premises after the last day of the Term the Lessee holds over as a monthly tenant on the conditions contained in the Lease at the monthly annual base rent which was payable for the last month of the Term increased by 5% together with any monthly budgeted Turnover Rent and outgoings notified by the Lessor to the Lessee in writing.

2.3. If this Lease does not contain an option of renewal, then not less than six months and not more than twelve months before the last day of the Term, the Lessor must by written notice to the Lessee either:-

(a) offer to renew the Lease, on terms to be included in the notification; or

(b) advise that the Lessor does not propose to offer the Lessee a renewal or extension of the Lease.

2.4. a) If the Land or any part thereof has been mortgaged, this Lease is conditional on the Lessor obtaining the consent of the registered mortgagee.

b) The Lessor will use its best endeavours to obtain such consent and if required by the mortgagee, both the Lessor and Lessee will sign the form of mortgagee consent in terms required by the mortgagee.

3. Reservations and Grant

3.1. The Lessor grants to the Lessee the right:

a) To use the toilets, loading docks, garbage and trade waste facilities of the Centre in accordance with the Lessor's reasonable directions;

b) In common with all other persons authorised by the Lessor to use the Common Areas including the car park at all times when the Centre is open for business, but only in accordance with any parking provisions required by Council.

3.2. Subject to the Act and to the provisions of this Lease, the Lessor reserves the right to:

a) Regulate the use of the Common Areas;

b) Erect display booths, additional premises or other structures on the Common Areas;

c) Multideck or extend the car park;

d) Improve, extend or enlarge the Centre;

e) Run cables, pipes and other Centre or premises services and utilities through, under or over the Premises;

f) Enter the Premises at all reasonable times and upon giving 2 days prior notice in writing (except in the case of an emergency when no notice is required) to:

(i) View the state of repair;

(ii) Carry out installations, repairs, renovations or maintenance to the Centre or Premises or its services provided that as little inconvenience as possible is causes to the Lessee; and

(iii) Show the Premises to prospective buyers or mortgagees of the Centre or tenants of the Premises provided that no inconvenience is caused to the Lessee's business;

g) The sole and exclusive use of the roof and external walls of the Centre including the right to erect signs, display and advertising material thereon;

h) If the Lessor has given notice to the Lessee in accordance with clause 2.3 that it is not prepared to renew the Lease, then at any time during the last six months of the Term to erect and maintain upon the Premises a notice advertising their availability for reletting at the expiration of the Term.

3.3. The Lessee must permit any person having any estate or interest in the Premises superior to or concurrent with the Lessor to exercise the Lessor's or such other person's powers to enter and view the Premises and to carry out repairs, renovations, maintenance and other work and to exercise or perform their lawful rights or obligations.

3.4. The Lessor may impose rules and regulations ("Rules") for the good order and management of the Centre which bind the Lessee upon notification in writing provided that the Rules must not be inconsistent with the provisions of this Lease and, to the extent of any inconsistency, the Lease prevails.

3.5. The Lessor incurs no liability to the Lessee and the Lease continues to operate according to its terms if:

a) Any tenant ceases to trade in the Centre for any reason; or

b) The Lessee's business fails to perform in accordance with the Lessee's expectations; or

c) Any other tenant is introduced to the Centre, whether or not its business competes with the Lessee's business.

4. Rent

4.1. The Lessee must pay the annual base rent specified in **Item 2** of **the Schedule** (as increased from time to time in accordance with this Lease) to the Lessor or as it directs by equal calendar monthly instalments in advance on the first day of each month. If the Lease commences on a day which is not the first day of a month the first and last payments must be proportionate.

The first instalment is payable on the date which is one month after the commencement date.

4.2. All payments of rent must be made free of all deductions, set-off or counter claim.

4.3. If the Lessor is by force of law restrained from charging the Lessee for any one or more items of outgoings which were previously charged to the Lessee, the annual base rent is increased by an amount equal to the outgoings which the Lessor is restrained from charging, such amount to be calculated as if the restraint had not been imposed.

4.4. The Lessee must pay to the Lessor with each payment under this Lease an amount equal to the goods and services tax payable by the Lessor calculated by reference to that payment. The Lessor must issue a valid tax invoice as a precondition to the Lessor's entitlement to receive goods and services tax reimbursement from the Lessee.

5. Rent Based on Turnover

5.1 If **Item 3** of the **Schedule** has been completed, the provisions of clause 5 apply.

The expression:

(a) "Lessee's Sales" means all payments received by the Lessee from the sale of goods and/or the provision of services at or from the Premises whether by cash, credit, charge or instalment and on the basis that a sale or a charge on credit or by instalments is treated as if the Lessee received payment in full on the date of the transaction. For the purposes of this clause, if an order is placed at or from the Premises, or a sale in any way involves the presence of the customer on the Premises, or the use of a telephone or other device on the Premises, then the sale is deemed to have been made from the Premises. The Lessee's Sales do not include any transaction which is excluded by the Act;

(b) "Turnover Rent" means the amount by which the Lessee's Sales multiplied by the percentage specified in **Item 3** of the **Schedule** exceeds the annual base rent for each year of the Lease.

5.2 Prior to the commencement date of the Lease and thereafter at least one month before each anniversary of the commencement date of the Lease the Lessor must provide the Lessee with the Lessor's estimate of the Turnover Rent which will be payable for the year commencing on the next anniversary, such estimate to be based upon the Lessee's Sales for the previous year, where the figures are available.

5.3 The Lessee must pay the Lessor's estimate of the Turnover Rent to the Lessor by 12 equal instalments on each due date for the payment of the annual base rent.

5.4 The Lessee must deliver to the Lessor within seven days of the end of each month of the Term a statement of the Lessee's Sales for the previous month.

5.5 Within two months of each anniversary of the commencement date of the Lease the Lessee must provide the Lessor with a report in reasonable detail of the Lessee's Sales for the previous year. If required by the Lessor, the report must be prepared by a registered company auditor (within the meaning of the Corporations Law) in accordance with accounting standards (within the meaning of the Corporations Law). If the Lessee fails to provide a statement in accordance with the requirements of this clause or if the Lessor forms the reasonable opinion that the Lessee's Sales have been understated the Lessor may determine the Lessee's Sales based on twelve times the highest monthly Lessee's Sales or by its own audit. The Lessee must pay the cost of the Lessor's audit.

5.6 Any underpayment or overpayment of Turnover Rent must be adjusted on the next due date for the payment of the annual base rent following the ascertainment of the Lessee's Sales or, if the Term has ended, within one month of the end of the Term.

5.7 The Lessee must maintain a comprehensive sales recording system at the Premises approved of by the Lessor in which Lessee's Sales are duly and accurately recorded. The Lessee must maintain accurate records of Lessee's Sales for at least twelve months after the end of each year of the Term which the Lessor may inspect and audit at the Premises at any reasonable time or at some other place agreed between the parties.

5.8 All statements under this clause must be itemised in reasonable detail and certified by a director or secretary of the Lessee.

5.9 The Lessor must treat all information supplied by the Lessee under this clause as confidential in accordance with the requirements of the Act.

5.10 The Lessor may at the request of the Lessee agree to change the reference in this clause to "the anniversary of the commencement date of the Lease" to "30 June" provided that the Lessor is not financially disadvantaged.

6. Market Rent Review

6.1. If **Item 4** of **the Schedule** has been completed, the provisions of clause 6 apply.

6.2. The annual base rent is to be reviewed to the annual current market rent of the Premises on each of the dates specified in **Item 4** of **the Schedule** ("the Review Date").

6.3. The annual current market rent of the Premises is the amount agreed in writing between the parties and failing agreement by the date which is one month before the Review Dates, is the annual current market rent determined in accordance with the provisions of the Act

6.4. The determination of the valuer is final and binding upon the parties and the valuer acts as an expert, not as an arbitrator.

6.5. Pending the valuer's determination the Lessee must pay rent in accordance with the annual base rent of the Premises which applied immediately before the Review Date.

6.6. Upon receipt of the valuer's assessment the parties must adjust any underpayment of overpayment on the next due date for the payment of rent.

7. CPI Review

7.1. If **Item 5** of **the Schedule** has been completed, the provisions of clause 7 apply.

7.2. On each date specified in **Item 5** of **the Schedule**, the annual base rent increases by the same proportion as the Price Index published most recently before that anniversary has increased over the Price Index published most recently before the date of commencement of the Lease or previous date specified in **Item 5** of **the Schedule**, whichever is the later.

7.3. If the method of calculating the Price Index is altered (for instance by removing a component which formerly comprised part of the material for calculating the Index) then, if possible, the Price Index must be calculated as if that change had not occurred.

7.4. If the Price Index is discontinued or abolished or is altered such that the Lessor acting reasonably is not able to accurately assess changes in the cost of living by reference to that Index (in relation to which the opinion of the Lessor is conclusive) the annual base rent increases by 5% on each date specified in **Item 5** of the **Schedule**.

8. Fixed Annual Base Rent Increase

8.1. If **Item 6** of **the Schedule** has been completed, the provisions of clause 8 may apply.

8.2. On each date specified in **Item 6** of **the Schedule** the annual base rent increases by the percentage amount specified in **Item 6** of **the Schedule**.

9. Outgoings and Payment of Utilities

9.1. The Lessee must pay its proportion of the Lessor's annual outgoings specified in **Item 7** of **the Schedule**. The Lessee's proportion is that proportion which the lettable area of the Premises bears to the total of the lettable areas of the retail shops to which the outgoing is referrable.

9.2. The Lessor's annual outgoings means all outgoings paid or payable by the Lessor in managing and maintaining the Centre and the Land including, but without limiting the generality of this clause, the following items:

(a) Air conditioning and ventilation	(b) Building intelligence and emergency systems;
(c) Car parking;	(d) Electricity;
(e) Fire protection;	(f) Gas and oil;
(g) Land tax	(h) Management costs;

(i)	Pest control;	(j)	Public address/music;
(k)	Security	(l)	Signs;
(m)	Uniforms	(n)	Audit fees;
(o)	Cleaning	(p)	Child minding;
(q)	Energy and management systems;	(r)	Gardening
(s)	Insurance;	(t)	Lifts and escalators;
(u)	Municipal costs;	(v)	Provision for maintenance;
(w)	Repairs and maintenance;	(x)	Sewerage disposal and sullage;
(y)	Telephones (public);	(z)	Water and sewerage rates
(aa)	Strata levies.		

9.3. Prior to the commencement of the Lease and at least one month before 1 July in each year, the Lessor must furnish the Lessee with a budget in reasonably detail of the outgoings which the Lessor considers will be payable for that part of the year from the commencement date of the Lease until the next following 30 June or for the year commencing on 1 July in each year, as the case may be.

9.4. The Lessee must pay to the Lessor on the first day of each month an amount which is the monthly budgeted outgoings for the lessee in respect of the Premises except for the first and last payments which will be proportionate, if necessary.

9.5. Within one month of 31 December and 30 June in each year, the Lessor must have available for inspection by the Lessee a statement of the expenditure incurred by the Lessor on the variable outgoings listed in the disclosure statement for the previous six months.

9.6. Within three months of 30 June in each year the Lessor must provide the Lessee with an audited report of the Lessor's outgoings for the previous year. The report must comply with the requirements of the Act.

9.7. If for any reason the estimated outgoings received by the Lessor exceed the Lessee's proportion of the outgoings certified by the auditor, the amount of the excess must be refunded to the Lessee forthwith.

9.8. If for any reason the estimated outgoings were less than the Lessee's proportion of the outgoings certified by the auditor, the Lessee must pay the amount of the shortfall to the Lessor on the first day of the month which next follows the notification of the audit report to the Lessee.

9.9. The obligation to adjust the outgoings survives after the end of the Lease.

9.10. The Lessee shall pay all charges, rates and taxes for utility and other services connected, supplied or levied against the Premises including but not limited to:

(a) Council rates, land tax and water rates; and

(b) Electric light gas and power charges for electricity consumed by electrical equipment installed or used by the Lessee.

10. Use and Care of the Premises

10.1. (a) The Lessee must use the Premises for the purpose specified in **Item 8** of **the Schedule** and must not allow the Premises to be vacated, abandoned, or used for any other purpose.

(b) The Lessor does not warrant that the Premises are or will remain suitable or adequate for any of the purposes of the lessee and all warranties as to suitability and adequacy are expressly negatived and the right to conduct a business of the kind referred to in **Item 8** of **the Schedule** is not exclusive to the Lessee.

10.2. (a) The Lessee must obtain development consent for its use of the Premises and obtain and comply with all legal requirements in the fit out, partitioning, standard of finish and use of the Premises;

(b) The Lessee must obtain the written consent of the Lessor to the design, fit out and standard of finish and presentation of the Premises. The design, fit out and standard of finish of the Premises must not be changed without the Lessor's prior written consent.

10.3. The Lessee must keep the Premises clean, tidy and well illuminated at all times.

10.4. Other than as expressly permitted under this Lease, the Lessee must not place anything on the exterior surfaces of the Premises.

10.5. The Lessee must not interfere with any of the services which pass through under or over the Premises and must pay the cost of rectifying any damage caused to those services by it.

10.6. The Lessee must not bring any dangerous substances into the Centre or Premises and in addition must not:

(a) Breach any applicable fire safety regulations; or

(b) Do anything which would void the Lessor's insurance or cause the Lessor's premiums to be increased;

provided that the proper conduct of the permitted use by the Lessee is not a breach of this clause.

10.7. The Lessee must fully maintain, repair and keep the Premises including the Lessor's and Lessee's plant, fixtures and fittings in good and substantial repair, working order and condition provided that with the exception of plate glass and the Lessee's plant, fixtures and fittings:

(a) The Lessee is not obliged to effect any capital replacements;

(b) The Lessee's obligations do not extend to damage caused by fire, flood, lightning, storm, tempest, earthquake, explosion, riot, civil commotion, act of God or other similar event, or to reasonable wear and tear.

10.8. The Lessee must comply with any valid notice served upon it by the Lessor for the repair of the Premises and in default of compliance authorises the Lessor to carry out such work and to recover the cost thereof from the Lessee.

10.9. The Lessee must paint those parts of the Premises which were painted at the commencement of the Term when reasonably required by the Lessor, and in accordance with the Lessor's reasonable requirements, but not more frequently than once every thirty months.

10.10. The Lessee must:

(a) Keep the Premises free of dirt, rubbish, pests, rodents, termites and vermin;

(b) Only use designated areas for depositing rubbish and trade waste and, to the extent that the Lessor certifies that the Lessee's use of the designated facilities is excessive or

disproportionate, pay to the Lessor the cost of providing additional facilities or services;

(c) Not obstruct fire doors and other points of egress from the Premises or Centre;

(d) Other than for designated areas, not leave or deposit stock, rubbish or equipment on the Common Areas;

(e) Not spruik on the Common Areas nor operate or permit to be operated within the Premises any radio, television, loud speaker or other similar device that can be heard in the Common Areas or from other premises;

(f) Not commit any nuisance or annoyance at the Centre;

(g) Ensure that the stock deliveries:

(i) Do not interfere with the customers at the Centre;

(ii) Are effected in accordance with the reasonable requirements and direction of the Lessor;

(h) Not operate any electronic games or vending machines on the Premises without the prior written consent of the Lessor;

(i) Advise the Lessor (or where applicable its Managing Agent) of the private address and telephone number of the Lessee or if the Lessee is a corporation of the manager, secretary or other responsible person employed by the Lessee and keep the Lessor or its Managing Agent informed of any change of such address or telephone number;

(j) Not in any circumstances hold or permit to be held any auction sales in or about the Premises;

(k) Immediately replace any broken glass in the Premises;

(l) Keep and maintain the waste pipes drains and water closets within or servicing the Premises in a clean clear and operative condition and shall employ licensed tradesmen to clear any blockages which may occur to therein. In addition the Lessee shall regularly clean and service any grease trap provided for the use of the Premises;

10.11. The Lessee must promptly make good any damage caused by it to the Common Areas.

10.12. The Lessee must:

(a) Take out maintain and renew all licences permits consents and registration required for the carrying on of its business in the Premises and the failure to obtain any such consent shall not relieve the Lessee of its responsibility to pay rent and (except to the extent that the same may not be lawfully done by reason of the absence of such consent) otherwise to observe perform and fulfil its obligation hereunder; and

(b) Comply with the requirements of all government, municipal, health, fire and other like authorities in its use and occupation of the Premises provided that nothing in the clause imposes any obligation on the Lessee to perform any work of a structural nature unless arising from the nature of the Lessee's business or the number or sex of employees in the Premises.

10.13. (a) The Lessee must ensure that its employees at the Premises are familiar with the safety and emergence procedures which the Lessor is by law required to conduct.

(b) The Lessee must ensure that its employees at the Premises comply with all fire and other safety drills and procedure which the Lessor is by law required to conduct.

10.14. The Lessee must participate in any marketing program or sales campaign adopted for the Centre.

10.15. The Lessee must not display advertising and promotional material within the Premises which is visible from the Common Areas without obtaining the prior written consent of the Lessor.

10.16. The Lessee with prior written consent of the lessor may erect a sign on the Centre immediately above the Premises advertising its trade name provided that the Lessor may prescribe the size and style of the sign and the method of its affixation. The Lessee must pay all cost associated with the sign including the cost of making good the Centre on its removal.

10.17. The Lessee and its employees must comply with the reasonable direction and requirements of the Lessor in relation to the parking of the motor vehicles on the Common Areas. The Lessor may prohibit the Lessee (and the Lessee's employees and contractors) from parking motor vehicles in the Centre car park or may direct that the Lessee (and its employees and contractors) can only park motor vehicles in prescribed sections of the Centre car park. If the Lessor imposes such prohibition or restriction and the Lessee (or its employees or contractors) parks motor vehicles in the Centre car park in breach of the prohibition or restriction, the Lessee hereby authorises and directs the Lessor to clamp the wheels of any offending vehicles or to have the offending vehicles towed away or to take any other action the Lessor deems reasonably necessary to ensure that the Centre car park is available for parking by customers of the Centre and not obstructed by vehicles owned or operated by the Lessee, its employees or contractors. The Lessee hereby irrevocably indemnifies the Lessor from and against any cost, charge or expense reasonably incurred by the Lessor in connection with this clause.

10.18. Unless otherwise agreed between the Lessor and Lessee in writing the Lessee must open for business during the hours 9.00am to 5.00pm, Monday to Friday during the term of the Lease, public holidays excepted.

11. Lessee's Insurance and Indemnities

11.1. The Lessee must maintain the following policies of insurance:

(a) A public risk policy covering injury to person or property on the Premises for an amount of not less than $10,000,000 (or such other amount as the Lessor reasonably prescribes) arising out of any one single accident or event;

(b) A policy in respect of damage to and loss of tenant's fixtures, stock and merchandise in or upon the Premises or comprising part of the Premises;

(c) For workers compensation; and

(d) Plate glass for its replacement value.

11.2. All insurance policies must:

(a) Be produced to the Lessor for inspection prior to the first day of the Term and thereafter within two business days of demand (provided that demand cannot be made more often than once per annum);

(b) Be placed with a reputable and solvent insurer reasonably approved of by the Lessor; and

(c) Contain provision that the policy will not be amended or cancelled without 14 days prior notice in writing from the insurer to the Lessor.

11.3. The Lessee indemnifies the Lessor against all claims made on the Lessor which relate to the conduct by the Lessee of its use of the Premises. This indemnity extends (without limitation) to claims on the Lessor for injury caused by passive smoking on the Premises.

11.4. The Lessee must occupy, use and keep the Premises at the risk of the Lessee and releases the Lessor to the full extent permitted by law from all demands, liability and cost resulting from any loss, death, damage or injury occurring in, or caused by the Lessee's negligence or deliberate or wilful act in the use or occupation of, the Premises. The Lessee further agrees that in the absence of any negligence or deliberate or wilful act by the Lessor, the Lessor will have no responsibility or liability for any death or injury to person or any loss of or damage to fixtures or personal property of the Lessee or of any other person and the Lessee indemnifies the Lessor from and against all such claims.

12. Lessor's Covenants

12.1. The Lessor covenants with the Lessee that the Lessee paying the rent and other money payable under the Lease and performing the covenants on its part to be performed the Lessee may peacefully and quietly enjoy the Premises without any interruption from the Lessor.

12.2. The Lessor must maintain, repair, replace and keep the Centre in good order and condition. The Lessor is not liable to the Lessee for a breach of this clause because if temporary breakdowns or for interruptions to services of the Centre for maintenance or repair and unless the Lessor has failed to comply with this covenant within a reasonable time after written notice to comply has been given by the Lessor. The Lessee is not entitled to determine the Lease by reason of a breach by the Lessor of its obligations under this clause.

12.3. The Lessor must regularly and properly clean, wash and maintain the Common Areas to a high standard of cleanliness and finish.

13. Damage to the Centre

13.1. The provisions of the Act apply in a case of damage to the Premises and the Centre.

14. Assignment and Sub-Letting

14.1. The Lessee covenants not to assign this Lease except in accordance with the provisions contained in this clause.

14.2. If the Lessee desires to assign this Lease:

(a) The Lessee shall, before requesting the Lessor's consent, furnish the proposed assignee with a copy of any disclosure statement given to the Lessee in respect of the Lease, together with details of any changes that have occurred in respect of the information contained in that disclosure statement since it was given to the Lessee (being changes of which the Lessee is aware or could reasonably be expected to be aware). If the Lessee cannot provide the proposed assignee with a copy of the disclosure statement, the Lessee may require the Lessor to provide a copy of that disclosure statement, and if the Lessor is unable or unwilling to provide that copy within 14 days after the request, the Lessee need not comply with this paragraph;

(b) The Lessee shall request the Lessor's consent to the assignment of this Lease in writing and shall furnish with that request:-

(i) information regarding the financial resources and financial standing and the business experience and retailing skills of the proposed assignee;

(ii) particulars of the use of the leased premises intended by the proposed assignee;

(iii) confirmation that the Lessee has complied with paragraph (a) of this clause.

14.3 The Lessor:

(a) agrees to deal expeditiously with the Lessee's request for consent to assign this Lease;

(b) is entitled to require the Lessee to furnish to the Lessor:

(i) details of the Lessee's financial resources and retailing skills at the time of the request for consent;

(ii) such further information as the Lessor may reasonably require concerning the financial standing and business experience of the proposed assignee;

(c) is entitled to withhold consent to the assignment of this Lease in any of the following circumstances:-

(i) if the proposed assignee proposes to change the use to which the premises are put (unless the Lessor consents to the change of use in accordance with the provisions of this Lease);

(ii) if the proposed assignee has financial resources and retailing skills that are inferior to those of the Lessee;

(iii) if the Lessee has failed to comply with the provisions contained in this clause for requesting and obtaining consent to the assignment.

14.4 For the purposes of the Lessee making a request and the Lessor considering that request under this clause:-

(a) if the assignee is a corporation, the retailing skills of the assignee include the retailing skills of those of its directors who have actively participated in the assignee's business and intend to actively participate in the business in the leased premises;

(b) if the Lessor consents to a change of use by the assignee, the assignee's retailing skills for that use should be compared with the Lessee's retailing skills for the Lessee's use of the leased premises;

14.5 (a) The Lessor may require the assignee to execute an instrument in which the assignee will assume liability under the Lease for the residue of the Lease term;

(b) If the assignee is a corporation whose shares are not listed on an Australian stock exchange, the Lessor may require, as a condition of the Lessor's consent to the assignment, that [at least] two of its directors or shareholders (chosen by the Lessor) execute personal guarantees in respect of the payment of rent and the observance and performance of the Lease covenants by the assignee during the Lease Term;

(c) The Lessee will pay the Lessor's reasonable legal and other expenses of investigating the Lessee's application for consent and of preparing, executing, stamping and registering all the required instruments or dealings and the costs of obtaining the Mortgagee's consent.

14.6 If the Lessee has complied with the requirements of this clause, the Lessor shall indicate, within 28 days after the Lessee has made its request under paragraph 14.2 (b) and furnished any further details required under paragraph 14.3 (b), whether the Lessor consents or withholds consent. If the Lessor does not provide that indication within 42 days, it shall be taken to have consented to the assignment, subject to the conditions in paragraph 14.5.

14.7 The Lessor may refuse consent to subletting of the premises in its absolute discretion.

15. Relocation

15.1 The Lessor may relocate the Lessee and the provisions of the Act apply.

15.2 The Lessor agrees to pay the reasonable legal costs and disbursements of the Lessee in relation to the relocation but excluding stamp duty. (The Lessee is entitled to a refund of duty on the Lease to be surrendered).

16. Refurbishment

16.1 The Lessor may require the Lessee at its own cost to refurbish the Premises at any time after the first 30 months of the Term provided that the Lessee receives at least two month's notice in writing of the date by which the refurbishment must be commenced.

16.2 The Lessee must within one month of receipt of the notice from the Lessor provide the Lessor with professionally drawn plans and specifications for the refurbishment (which comply with the Lessor's reasonable requirements) and which must be approved by the Lessor and all relevant authorities.

16.3 The Lessee must commence the refurbishment within two weeks of receipt of all approvals and complete the work in a proper and tradesmanlike manner, in accordance with all approvals, within two months of the commencement.

16.4 The refurbishment of the Premises extends to and includes:

(a) new finishes to all internal walls;

(b) new floor coverings;

(c) new signs and lighting;

(d) new shop fixtures, fittings and shop front.

17. Repairs alterations and extensions

17.1. The Lessor may carry out such repairs, renovations, refurbishments and extensions or modifications to the Centre as and when it thinks fit, in relation to which the provisions of the Act apply.

18. Promotions Fund

18.1 The Lessee, if required by the Lessor, must pay to the Lessor on each due date for the payment of rent a Promotions Fund contribution which is equal to the amount specified in **Item 9** of **the Schedule.**

18.2 The Lessor must deposit the Promotions Fund contribution into a designated Trust Account and during the course of each year fully expend the Promotions Fund (subject to minor variations) in such promotions, advertising programs and other activities designed to publicise the Centre, as the Lessor in its absolute and unfettered discretion determines. Any money not expended must be retained in the Fund for expenditure

during the following year. All interest earned on the Fund must be credited to the Fund.

18.3 At least one month before every 30 June the Lessor must convene a meeting of all Lessees in the Centre and present a marketing plan giving details of the Lessor's proposed expenditure on advertising and promotion of the following year.

18.4 Within one month of 31 December and 30 June each year, the Lessor must have available for inspection by the Lessee, a statement of the expenditure incurred by the Lessor on the advertising and promotion of the Centre.

18.5 Within three months of 30 June in each year the Lessor must provide the Lessee with an audited report of the expenditure of the Promotions Fund on advertising and promotion of the Centre for the previous year. The report must comply with the requirements of the Act.

18.6 The amount of the annual contribution to the Promotions Fund increases in proportion to increases in the annual base rent.

19. Default

19.1. If:

(a) The Lessee fails to pay rent, outgoings or other money by the due date and such failure continues for ten business days following written notice by the Lessor to the Lessee of such failure; or

(b) The Lessee breaches any other obligation under the Lease or fails to perform any act which it is required to perform under the Lease and such breach or failure if capable of remedy is not remedied within the time specified by the Lessor for the breach or failure to be remedied; or

(c) Execution be levied against any of the assets of the Lessee; or

(d) The Lessee (not being a company) becomes bankrupt or assigns his estate or enters into a deed or arrangement or composition for the benefit of creditors; or

(e) (the Lessee being a company) either:

(i) goes into liquidation (other than voluntary liquidation for the purposes of reconstruction or reorganisation); or

(ii) is wound up or dissolved; or

(iii) enters into a scheme of arrangement with its creditors or any class thereof; or

(iv) is placed under official management; or

(v) a receiver or manager of any of its assets is appointed; or

(vi) an inspector or investigator is appointed pursuant to the Corporations Law;

then the Lessor may:

(i) determine the Lease by re-entry, by notice in writing or by any other action available to it;

(ii) By notice in writing to the Lessee convert the Term into a monthly tenancy as if the Lessee was holding over upon the expiration of the Term at the monthly rent current on receipt of the notice;

(iii) Take any action it considers necessary or desirable in order to give effect to its rights under this Lease;

(iv) Elect to treat the conduct or failure to perform as a repudiation of the Lease by the Lessee;

(v) Recover from the Lessee an amount equal to the damages or loss it sustains or may sustain thereby; and

(vi) Apply any bond or bank guarantee in reduction of the loss or damage suffered by it.

19.2. The Lessee must pay on demand all costs and expenses incurred by the Lessor in giving effect to its rights under this clause including legal costs on a solicitor and own client basis.

19.3. If the Lessor re-enters the Premises or otherwise determines the Lease or accepts a repudiation pursuant to its rights under this clause or otherwise, the Lessor (in addition to any other of its rights and remedies) is entitled to recover as damages from the Lessee the rent, outgoings and other money including legal and associated costs with obtaining and registering any surrender of the Lease, it could have expected to receive from the Lessee for the balance of the Term had the re-entry, determination or acceptance of repudiation not occurred, together with all of its costs incurred in re-letting or attempting to re-let the Premises, including legal and associated costs with obtaining and registering any surrender of the Lease but subject to the Lessor's obligation to mitigate its loss.

19.4. Acceptance by the Lessor of arrears of rent or other money or of any breach of the Lease by the Lessee does not constitute a waiver of the Lessor's rights.

19.5. If the Lessee fails to pay any money to the Lessor by the due date for payment the Lessee must pay to the Lessor interest thereon calculated on a daily basis from the due date for the payment until the date of actual payment at a rate of interest which is equal to the rate of interest charged by Westpac Banking Corporation on commercial overdraft accounts of $100,000.00 or more plus 2.0% from time to time.

19.6. If the Lessee fails to pay any money or charge as required under this lease or the Lessee fails to perform any covenant, the Lessor may, after giving notice to the Lessee and at its option as the agent of the Lessee, make any such payment, do any such act or thing and/or incur such cost or expense (including legal costs) as may be necessary to perform such covenant. Any amount paid or incurred pursuant to this clause shall constitute a liquidated debt due and payable by the Lessee to the Lessor and shall be paid by the Lessee to the Lessor on demand by the Lessor. No consent or waiver expressed or implied by the Lessor actions under this clause in relation to any breach of any covenant condition or duty of the Lessee shall be construed as a consent to waive any other breach of covenant condition or duty of the Lessee.

19.7. If the Lessor becomes entitled to re-enter and take possession of the Premises and determine this Lease, the Lessee:-

(a) shall execute and deliver to the Lessor a registrable Real Property Act form of surrender of lease within 14 days of determination; or

(b) hereby irrevocably appoints the Lessor to be the Attorney of the Lessee for the purpose of giving full effect to the power of re-entry, to procure the registration of a surrender of this Lease, to register this Power of Attorney and any other act, matter or thing which the Lessor deems necessary. Any act matter or thing done by the Attorney pursuant to this clause is hereby ratified and confirmed by the Lessee.

20. Termination and Make Good

20.1. (a) By the sooner of the last day of the Term or the earlier determination of the Lease the Lessee must at its own cost remove all of its stock, plant, equipment and tenant's fixtures and fittings form the Premises and make good the Premises to their condition at the commencement of the Term fair wear and tear, and damage caused by fire, flood, lightning, storm, tempest, earthquake, explosion, riot, civil commotion, act of God or other similar event excepted. If required by the Lessor, the Lessee must repaint the Premises to the standards reasonably required by the Lessor. The work involved must be conducted under the supervision of the Lessor's architect, if required by the Lessor.

(b) Paragraph (a) applies only to the extent that the Lessee effects any major modifications or alterations to the fitout existing at the commencing date or installs a new fitout to the Lessee's own specifications.

20.2. The Lessee must return all keys and security devices to the Premises to the Lessor by the last day of the Term.

20.3. If, following the determination of the Lease, any of the Lessee's stock, equipment, plant, fixtures or fittings are left at the Premises the Lessor may deal with that stock, equipment, plant, fixtures or fittings as it thinks fit as if it was the Lessor's own property without being liable to the Lessee in tort. The Lessee indemnifies the Lessor:

(a) From and against all loss, claims, expenses or damages which the Lessor sustains as a result of its reasonable actions pursuant to this clause; and

(b) In respect of any damage done to the Premises or to the Centre arising from the removal of the Lessee's plant, stock, equipment, fixtures and fittings by the Lessee, its employee's servants or contractors.

21. The name "Nuggets Crossing"

21.1. The Lessor reserves the right to change the name of the Centre PROVIDED THAT the Lessor shall not change the name arbitrarily or unreasonably AND PROVIDED THAT the Lessor shall first give three (3) months prior notice to the Lessee.

21.2. If the Lessee's business or trade name includes the words "Nuggets Crossing" or the name by which the Centre is known the Lessee shall upon determination of this Lease deregister such name and shall not for a period of three (3) years thereafter within a radius of eight kilometres from the Centre use any business or trade name which contains the words "Nuggets Crossing" or the name by which the Centre is known.

22. Car Park and Common Areas

22.1. The Lessee shall within seven days of any request furnish to the Lessor the descriptions and registration numbers of all motor vehicles owned and used by the Lessee in the conduct of its business in the Premises and also the descriptions and registration numbers of all motor vehicles owned by any of its employees who work in the Premises and shall notify the Lessor of any changes when the same shall occur.

22.2. The Lessee shall do all such acts as may be reasonable necessary to prevent its employees service suppliers and others over whom it may have control from obstructing in any manner the entrances exits and driveways in from and within the car park

22.3. The Lessee shall not obstruct or permit to be obstructed by its employees service suppliers and others over whom it may have control any part of the common areas (in particular the vestibules entrances passageways and stairways therein).

22.4. Notwithstanding anything herein contained or implied to the contrary the Lessor may at its discretion restrict access to the car park or any part or parts thereof and may close off all or any of the entrances or exits thereto and any of the driveways therein at any times other than the normal trading hours of the Centre and may also restrict access to all or any of the other parts of the Common Areas during the periods commencing not less than one hour after and concluding not less than one hour before the normal trading hours then prevailing in the Centre.

22.5. Notwithstanding anything contained or implied in this Lease to the contrary the Lessor may permit any person or organisation to hold any function or exhibition or display any merchandise or organise any entertainment or parade in any part or parts of the Common Areas at such times and upon such terms and conditions as the Lessor may in its discretion think fit PROVIDED THAT the Lessor shall take reasonable steps to minimise any interruption or inconvenience to the business of the Lessee.

23. Costs

23.1 The Lessee must pay the Lessor's disbursement costs concerning this Lease, including the cost of obtaining any Mortgagee consent (payable on delivery to the Lessor's Solicitor of the executed Lease) the stamp duty on this Lease (payable on delivery to the Lessor's Solicitor of the executed Lease) and the registration fee and any agent's fees for the registration of this Lease at Land and Property Information NSW (payable on delivery to the Lessor's Solicitor of the executed Lease).

23.2 The Lessee must pay, if the Lessee defaults, or surrenders the Lease early with the Lessor's approval, the Lessor's reasonable legal costs relating to the default or surrender of the lease

23.3 The Lessee must pay to the Lessor the reasonable cost to the Lessor of dealing with any application by the Lessee for the Lessor's consent under this Lease (whether or not it is given).

23.4 The Lessee must pay the Lessor's reasonable costs and expenses in connection with the preparation of the Lease but only that part of those costs and expenses which are permitted to be recovered by the Lessor under the *Retail Leases Act*.

24. Notices

24.1. The parties may serve notices in the manner prescribed by section 170 of the Conveyancing Act, 1919.

24.2. In addition:

(a) Until such time as the Lessor effects a re-entry or otherwise excludes the Lessee from the Premises the Lessor may serve notices on the Lessee by leaving them at the Premises on any day and at such times on which the Centre is open to the public for business an in that case service is deemed to have been effected on delivery;

(b) If the Lessor maintains a centre manager's office at the Centre the Lessee may serve notices on the Lessor by delivery to that office between the hours of 9.00am and 4.00 pm Monday to Friday (but excluding public holidays or days on which the office is not staffed);

(c) Notices may also be served by being sent by facsimile transmission to a facsimile maintained in New South Wales by either party and, if sent by facsimile, will be deemed served on completion of the transmission.

25. Security

25.1. As security for the performance of its obligations under the Lease the Lessee must afford to the Lessor either a bank guarantee or a cash security deposit for the amount specified in **Item 10** of **the Schedule**.

25.2. If the security comprises a bank guarantee:

(a) It must be issued by a Bank and be in terms to the Lessor's reasonable satisfaction;

(b) If the Lessee defaults under the Lease the Lessor may demand payment under the guarantee for so much as is necessary to remedy the default and to indemnify the Lessor for all loss it sustains as a consequence of the default;

(c) If the Lessor calls up any money under the guarantee the Lessee must within fourteen days of notice from the Lessor of the amount called up forward to the Lessor a guarantee in identical terms to the guarantee which was called up. Upon receipt of that guarantee the Lessor must return the previous guarantee to the Bank;

(d) The Lessor may require the Lessee to increase the amount of the Bank guarantee by the corresponding percentage increase in the annual base rent on each anniversary of the commencement date of the Lease.

25.3. If the security comprises a cash deposit:

(a) It must be invested by the Lessor with the NSW Government's Retail Bond Scheme within 20 business days of the Lessor receiving it from the Lessee;

(b) If the Lessee defaults under the Lease the Lessor may call up so much of the cash deposit as is necessary to remedy the default and to indemnify the Lessor for all loss it sustains as a consequence of the default;

(c) If part of the deposit is called up the Lessee must within seven days of receipt of notice from the Lessor specifying in reasonable detail the amount received, lodge further money with the Lessor (to be invested with the Retail Bond Scheme) to make up the security deposit to the original amount;

(d) The Lessor may require the Lessee to increase the amount of the security deposit by the corresponding percentage increase in the annual base rent on each anniversary of the commencement date of the Lease.

25.4. If the Lease is supported by guarantees (whether in addition to or instead of the security referred to above) then it is a condition of this Lease that such guarantees remain current and effectual for the whole of the Term.

26. Guarantee and Indemnity

26.1. The Guarantor(s) specified in **Item 11** of **the Schedule** acknowledges that the Lease has been granted to the Lessee at his or her request and in consideration of the grant covenants for himself, or herself, his or her executors, administrators, assigns and successors with the Lessor as follows:

(a) The Guarantor unconditionally guarantees to the Lessor the payment, when demanded from the Guarantor, of every sum of whatever nature payable by the Lessee to the Lessor pursuant to the Lease;

(b) If the Lessee fails to perform any of the covenants in the Lease the Guarantor indemnifies the Lessor from and against all actions, loss, claims, costs and damages arising out of any such non-performance.

26.2. This guarantee and indemnity remains in full force and effect notwithstanding termination, surrender or transfer of the Lease until such time as the Lessor receives in full all of the money and any costs it is entitled to receive under the terms of the Lease, even if the lease is not registered.

26.3. The guarantee and indemnity is not affected by any of the following:

(a) Any variation with or without the consent or knowledge of the Guarantor of any of the covenants of the Lease;

(b) Any breach of the obligations of the Lessee with or without the consent or knowledge of the Guarantor or the Lessor;

(c) The granting by the Lessor of any time, concession or indulgence to the Lessee for the performance of any of the Lessee's obligations;

(d) The insolvency or bankruptcy of the Lessee, or the appointment of a receiver manager or other "controller";

(e) The termination surrender or other determination of the Lease consequent upon a default by the Lessee;

(f) The assignment, sub-letting, transferring or parting with possession of the Premises by the Lessee;

(g) The absence of any notice to the Guarantor of default by the Lessee in respect of the Lease; or

(h) Any other circumstance or thing which but for this provision might determine or impair the operation of this guarantee and indemnity.

26.4. The liability of the Guarantor is not affected by any claim or right to set-off or cross-action which the Lessee may have or claim to have against the Lessor on any account nor is the Guarantor entitled to set-off against the Lessor.

26.5. The Guarantor acknowledges that the obligations of the Guarantor contained in this guarantee and indemnity extend to and include the payments and obligations for which the Lessee is liable under any equitable Lease or common law lease (or other form of tenure) in respect of the Premises between the Lessor and the Lessee.

27. Option of renewal

27.1. The Lessee is granted an option to renew the Lease for the further Term provided such Term is specified in **Item 12** of **the Schedule**.

27.2. Subject to clauses 27.3 and 27.4 the option may be exercised by notice in writing from the Lessee to the Lessor between six months and three months before the last day of the Term.

27.3. At any time between nine months and six months before the last day of the Term, the Lessee may by notice in writing to the Lessor request a determination of the annual current market rent of the Premises, provided that the Lessee is not entitled to make such request if the Lessor and Lessee have already agreed in writing what the annual rent of the Premises is to be from the commencement date of the Lease for the further Term.

27.4. If the Lessee makes such a request, the period within which the Lessee must exercise the option is extended so as to be the earlier of:

(a) 21 days after the Lessee receives notice in writing of such determination; and

(b) the last day of the Term.

27.5. The annual base rent for the first year of the further Term is the current annual market rent agreed in writing between the parties and failing such agreement is the annual current market rent determined in accordance with the provisions of the Act.

27.6. The further lease shall contain identical provisions as are contained in this Lease except:

(a) This option clause shall be deleted;

(b) i. The term will be amended to reflect the provisions of this clause;

ii. The annual base rent in **Item 2** of **the Schedule** will be amended to reflect the rent at the commencement of the new term calculated in accordance with this clause;

27.7. The determination of the valuer is final and binding upon the parties and the valuer acts as an expert, not as an arbitrator.

27.8. Pending the valuer's determination the Lessee must pay rent in accordance with the annual base rent of the Premises which applied immediately before the expiration of the Lease which contains this option of renewal.

27.9. Upon receipt of the valuer's assessment the parties must adjust any underpayment or overpayment on the next due date for the payment of rent.

28. Lessor's Works

28.1. If the Lessor agrees to do any Works on the premises then the Lessor must ensure that those Works are in accordance with **Item 14** of **the Schedule** and:

(a) Done in accordance with the approvals obtained for them; and

(b) Done in a proper and workmanlike manner.

28.2 If completion of the Lessor's Works is delayed by causes or agencies beyond the reasonable control of the Lessor the Lessee may not make any objection or claim against the Lessor because of the delay.

28.3 The Lessor may make any changes to the Lessor's Works that:

(a) It considers necessary or desirable if those changes do not reduce the facilities or services proposed to be provided to the Premises; or

(b) Are required by any authority,

and in this regard the Lessor shall not without the Lessee's consent (which consent will not be unreasonably withheld or delayed) make any changes that materially affect the:

(i) interior of the Premises;

(ii) size, shape and/or seating capacity of the Premises;

(iii) means, degree and/or position of customer access to and egress from the Premises;

(iv) proximity and availability of car parking servicing the Premises.

28.4 The Lessee may not rescind or terminate this Lease because:

(a) Changes are made to the Lessor's Works under clause 28.3; or

(b) The Lessor is doing works in the vicinity of the Premises; or

(c) There is an interruption to or failure in the supply of a service or a malfunction or breakdown of plant, machinery or equipment in the Premises.

28.5 Any work required to be undertaken by the Lessor at the Lessee's request shall be at the Lessee's cost and to be payable on demand to the Lessor if that work increases the cost of the Lessor's Works.

28.6 (a) The Lessor or the Project Manager will give the Lessee a Handover Notice at least seven (7) days prior to the anticipated Handover Date;

(b) The Handover Date will be the date the Project Manager certifies as the date that the Lessor's Works in respect of the Premises have reached the stage where the Lessee's Works can reasonably commence.

(c) Prior to handover, the Project Manager and the Lessee will agree a list of works (if any) in respect of the Premises which must be completed before the Premises are practically complete. The Lessor must attend to those works as soon as reasonably possible and, in any event, by not later than the Commencement Date.

29. Fitout Works by Lessee

29.1 Unless otherwise agreed on the day which the Lessee returns to the Lessor this lease duly executed by the Lessee the Lessor must give the Lessee and the Lessee's employees and agents access to the Premises to do the Fitout Works in accordance with **Item 13** of **the Schedule** during the hours in accordance of any development approval issued by local authorities.

29.2 In doing the Lessee's Works the Lessee must:

(a) Comply with all laws and the requirements of authorities and the Lessor's industrial relations and safety policy; and

(b) Ensure that the Lessee's Works are done:

(i) Promptly and within the Fitting Out Period; and

(ii) In a proper and workmanlike manner; and

(iii) By the contractors approved by the Lessor (such approval not to be unreasonably withheld); and

(iv) In accordance with the Lessee's Plans approved by the Lessor; and

(v) In accordance with any development approval which the Lessee is required to obtain from local authorities; and

(vi) In accordance with the Lessor's reasonable requirements and directions, and in accordance with clause 30 in respect of costs; and

(c) Ensure that:

(i) Doing the Lessee's Works;

(ii) Transporting material and equipment and other things over the Land; and

(iii) The Lessee's Works

Do not cause any disruption to the Centre; and

(d) Ensure that its contractors:

(i) Maintain the insurance required by law in respect of all persons employed in connection with the Lessee's Works; and

(ii) Maintain policies for:

1. Public liability insurance; and

2. Contractors' all risk insurance in respect of the Lessee's Works; and

(iii) Park their vehicles and store all required material and equipment and other things in accordance with the Lessor's reasonable direction as to location; and

(e) Comply with the reasonable requirements of the Lessor to enable the Lessor to give a notice under clause 29.4;

(f) Pay promptly all costs, charges and expenses in connection with the Lessee's Works including the costs of providing services to the Premises during the Fitting Out Period; and

(g) At its own cost remove all of its waste and rubbish from the Land and, if it fails to do so, the Lessee authorises the Lessor to remove such waste and rubbish and agrees to pay the reasonable cost incurred by the Lessor on demand.

29.3 In respect of the Insurances required by clause 29.2(d) the Lessee must:

(a) Give the Lessor evidence that it has complied with that clause 29.2(d) and ensure that its contractors do the same before taking possession of the Premises; and

(b) Notify the Lessor immediately if an insurance policy required by that clause 29.2(d) is cancelled or an event occurs which may allow a claim or affect rights under an insurance policy in connection with the Premises or property in them.

29.4 Promptly after the Lessee considers the Lessee's Works are completed, the Lessee must notify the Lessor so that the Lessor can inspect the Lessee's Works. If the Lessor gives a notice to the Lessee after the inspection that the Lessee's Works have been completed in accordance with the Lessee's Plans, any development approval and the Lessor's directions, then the Lessee's Works are taken to be completed on the day the Lessee receives that notice from the Lessor.

29.5 As soon as the Lessee's Works are completed the Lessee must:

(a) If applicable, obtain all certificates from relevant authorities that the works comply with all laws and requirements; and

(b) Remove all refuse in connection with the Lessee's Works from the Premises.

29.6 The Lessee must repair damage to the Premises or improvements on the Land arising in any way from the Lessee's Works, promptly after the damage is done.

29.7 Before the commencing date the Lessee may not use the Premises for any purpose other than to do the Fitout Works, stocking the Premises and making it ready for trading.

30 Goods and Services Tax

30.1 In this clause:

"GST" refers to the goods and services tax under A New Tax System (Goods and Services) Act 1999 ("GST Act") and the terms used have the meaning as defined in the GST Act.

30.2 It is agreed that rent and all other amounts agreed to be paid by the Lessee to the Lessor, being the consideration for the supply expressed in this Lease, do not include GST.

30.3 In respect of any liability of the Lessor for GST under this lease and the renewal or extension of this Lease including for rent, rates, outgoings, services or any consideration for any other taxable supply, the Lessee covenants to pay to the Lessor at the same time as any payment is made involving the Lessor in GST liability, the additional amount of GST, together with the payment to which it relates.

30.4 The Lessee's liability under clause 33.3 is to reimburse the full amount of GST, disregarding and excluding the Lessor's entitlement to input tax credits or other credits or reimbursements for GST.

30.5 In respect of each payment by the Lessee under clause 33.3, the Lessor agrees to deliver to the Lessee, as required under the GST Act, tax invoices in a form which complies with the GST Act, and the regulations, to enable the Lessee to claim input tax credits in respect of the taxable supply.

31. Completion of Lease

The Lessee irrevocably authorises the Lessor to insert the commencing date and terminating date of the lease and complete all necessary information required to complete the lease documentation.

SCHEDULE

ITEM 1 Term:
(Clause 1.1)

ITEM 2 Annual Base Rent:
(Clause 4.1)

ITEM 3 Turnover Percentage:
(Clause 5)

ITEM 4 Market Rent Review Dates:
(Clause 6)

ITEM 5 CPI Review Dates:
(Clause 7)

ITEM 6 Fixed Annual Base Rent Increase Dates:
(Clause 8)

ITEM 7 Proportion of Outgoings and Payment of Utilities:
(Clause 9)

ITEM 8 Permitted Use of Premises:
(Clause 10.1)

ITEM 9 Promotions Fund Contribution:
(Clause 18.1)

ITEM 10 Amount of Bank Guarantee or Security Deposit:
(Clause 25.1)

$ Bank Guarantee (Delete whichever
$ Security Deposit is inapplicable)

ITEM 11 Guarantors:
(Clause 26)

ITEM 12 Option:
(Clause 27)

ITEM 13 Lessee's Fitout Works:
(Clause 29)

ITEM 14 Lessor's Works
(Clause 28)

TABLE OF CONTENTS

Description | Page No

1. **Definitions and Interpretation** 2
2. **Term** 3
3. **Reservations and Grant** 3
4. **Rent** 4
5. **Rent Based on Turnover** 4
6. **Market Rent Review** 5
7. **CPI Review** 6
8. **Fixed Annual Base Rent Increase** 6
9. **Outgoings and Payment of Utilities** 6
10. **Use and Care of the Premises** 7
11. **Lessee's Insurance and Indemnities** 10
12. **Lessor's Covenants** 11
13. **Damage to the Centre** 11
14. **Assignment and Sub-Letting** 11
15. **Relocation** 13
16. **Refurbishment** 13
17. **Repairs alterations and extensions** 13
18. **Promotions Fund** 13
19. **Default** 14
20. **Termination and Make Good** 16
21. **The name "Nuggets Crossing"** 16
22. **Car Park and Common Areas** 16
23. **Costs** 17
24. **Notices** 17
25. **Security** 18
26. **Guarantee and Indemnity** 18
27. **Option of renewal** 19
28. **Lessor's Works** 20
29. **Fitout Works by Lessee** 21
30 **Goods and Services Tax** 22
31. **Completion of Lease** 23

SCHEDULE 24

ASIC
Australian Securities & Investments Commission

Business Name Details

Extracted from ASIC's database at AEST 08:37:42 on 26/08/2019

Business name:	Jindy Juice Bar
Status:	Registered
Registration date:	21/08/2019
Renewal date:	21/08/2022
Address for service of documents:	25 6 Kosciusko Rd Jindabyne NSW 2627
Principal place of business:	25 6 Kosciusko Rd Jindabyne NSW 2627
Holder(s) details:	Holder name: JINDY JUICE BAR PTY LTD Holder type: Body Corporate ABN: 97 619 568 035
Debtor representative(s):	not applicable
Notified successor(s):	not applicable
Regulator:	Australian Securities and Investments Commission