
Deed of Release and Make Good

ISPT PTY LTD ACN 064 041 283
(Landlord)

Property NSW ABN 91 840 597 406
(Tenant)

Date: 12 ~~11~~ OCTOBER 2013

Deed of Release

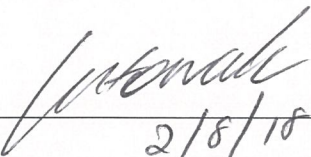
Commercial Terms Schedule

Term	Meaning of Term
Landlord	ISPT Pty Ltd (ACN 064 041 283) of Level 11, 8 Exhibition Street Melbourne VIC in its capacity as Trustee of the Industry Superannuation Property Trust No. 2 (ABN 70 014 228 200)
Tenant	Property NSW (ABN 91 840 597 406) of Level 4, 66 Harrington Street, THE ROCKS NSW 2000 (formerly known as Government Property NSW)
Lease	Parts of various leases of Folio Identifier 1/633690 comprising premises known as: Ground, Level 1, Level 2 (Part South Tower), Level 2 (Part North Wing), Level 4, Level 6 (part North Wing), Level 7, Level 8, Level 9, Level 10, Level 11, Level 12, Level 13, Level 17, Level 18 and Level 19, of 477 Pitt Street Sydney (as contained in registered leases AK385883, AK385885, AK385886, AK385887, AK385889, AK385890 and AK385891.
Land	Part Folio Identifier 1/633690 comprising premises known as: Level 1, Level 2 (Part South Tower), Level 2 (Part North Wing), Level 4, Level 6 (part North Wing), Level 7, Level 8, Level 9, Level 10, Level 11, Level 12, Level 13, Level 17, Level 18 and Level 19, of 477 Pitt Street Sydney.
Date of Deed	12 OCTOBER 2018

Terms

Recitals

- A. The Landlord leased the premises described in the Lease to the Tenant.
- B. The Leases have expired and the parties acknowledge that the Tenant has not exercised its right to the Option to Renew the Lease.
- C. The Tenant and Landlord have reached agreement as to the obligations generally arising at expiry of the Lease.
- D. The Landlord and Tenant wish to enter into this Deed to formalise their agreement.


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- F. The parties acknowledge that by statutory amendment, the Tenant's name changed from Government Property NSW to Property NSW from 26 October 2016 following the assent to the *Statute Law (Miscellaneous Provisions) Act (No 2) 2016*.

It is agreed

1. Interpretation

1.1. In this Deed, unless otherwise indicated by the context:

- (a) **Business Day** means a day that is not a Saturday, Sunday, public holiday or bank holiday in Sydney;
- (b) **GST** has the meaning given in A New Tax System (Goods and Services Tax) Act 1999 (Cth);
- (c) **Make Good Sum** means the total amount of **\$5,687,511.55** exclusive of GST. This sum has been calculated using the areas and rental rates set out in the following table:

Property NSW Makegood works - 477 Pitt Street Various Floors		Level	NLA m2	Rental per annum	Per Month
Total Area: 22,220.00		Ground (part south)	468.40	\$ 233,492.88	\$ 19,457.74
Makegood rate psm: \$ 152.00		Level 1	2,608.00	\$ 1,300,062.72	\$ 108,338.56
\$ 3,377,440.00		Level 2 (part South Tower)	1,088.00	\$ 542,357.52	\$ 45,196.46
		Level 6 (part North Wing)	756.40	\$ 368,154.96	\$ 30,679.58
		Level 7	2,067.50	\$ 1,019,177.28	\$ 84,931.44
		Level 8	2,438.60	\$ 1,202,111.64	\$ 100,175.97
		Level 9	2,499.00	\$ 1,245,727.32	\$ 103,810.61
Current monthly charges: \$ 924,028.62		Level 10	988.50	\$ 492,757.68	\$ 41,063.14
		Level 11	988.50	\$ 492,757.68	\$ 41,063.14
Downtime @ 2.5 months: \$ 2,310,071.55		Level 12	988.50	\$ 492,757.68	\$ 41,063.14
		Level 13	988.50	\$ 492,757.68	\$ 41,063.14
Total settlement figure \$ 5,687,511.55		Level 17	960.50	\$ 478,800.00	\$ 39,900.00
		Level 18	796.00	\$ 396,798.24	\$ 33,066.52
		Level 19	884.10	\$ 499,477.32	\$ 41,623.11
		Level 2 (part North Wing)	1,105.50	\$ 538,068.96	\$ 44,839.08
		Level 4	2,594.00	\$ 1,293,083.88	\$ 107,756.99
		TOTAL	22,220.00	\$ 11,088,343.44	\$ 924,028.62

1.2. In this Deed, unless otherwise indicated by the context:

- (a) words importing the singular include the plural and vice versa;
- (b) headings are for convenience only and do not affect interpretation of this Deed;
- (c) a reference to a clause, paragraph or schedule is a reference to a clause, paragraph or schedule of this Deed;

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- (d) where any word or phrase is given a defined meaning in this Deed, any part of speech or other grammatical form of that word or phrase has a corresponding meaning;
- (e) an expression importing a natural person includes a body corporate, partnership, joint venture, association or other legal entity;
- (f) a reference to a statute, statutory provision or regulation includes all amendments, consolidations or replacements thereof;
- (g) a reference to a party to a document includes that party's legal personal representatives, successors and permitted assigns;
- (h) a covenant or agreement on the part of or for the benefit of two or more persons binds or benefits them jointly and severally;
- (i) a reference to a body, whether statutory or not:
 - (i) which ceases to exist; or
 - (ii) whose powers or functions are transferred to another body,is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- (j) including and similar expressions are not words of limitation; and
- (k) each term specified in the Commercial Terms Schedule has the meaning specified for it in the Commercial Terms Schedule.

2. Tenant's obligation to vacate

- 2.1. The Tenant must on or before the relevant date set out in clause 2.2 vacate the Premises occupied under the Lease and return them to the Landlord in the condition described in clause 3.3.
- 2.2. The Tenant has or must vacate the premises on the following dates:

Level	Relevant Date
Ground (part south)	31 May 2018
Level 1 (part south tower)	31 May 2018
Level 2	31 May 2018
Level 6 (part north wing)	31 May 2018
Level 7	30 September 2018
Level 8	30 November 2018

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Level 9	31 August 2018
Level 10	31 May 2018
Level 11	31 May 2018
Level 12	31 May 2018
Level 13	31 May 2018
Level 17	8 June 2018
Level 18	31 May 2018
Level 19	31 July 2018
Level 1 (part north wing)	31 July 2018
Level 4	4 May 2018

3. Release

- 3.1. In consideration of the promises made in this Deed, and upon the later of execution hereof and the relevant date specified in clause 2.2, the Landlord agrees to release the Tenant from all of the Tenant's ongoing obligations under the relevant Lease, and will not make any further claim whatsoever, including without limitation, a claim for any loss of rent (incurred after the relevant date in clause 2.2), make good, reinstatement or removal of any Tenant's fixtures (other than as provided for under this Deed).
- 3.2. In consideration of the promises made in this Deed, and upon the later of execution hereof and the relevant date specified in clause 2.2, the Tenant agrees to release the Landlord forthwith from all of the Landlord's ongoing obligations under the relevant Lease and will not make any further claim whatsoever (incurred after the relevant date in clause 2.2).
- 3.3. The Landlord agrees to accept payment of the Make Good Sum by the Tenant in full and final settlement of the Tenant's make good obligations under the Lease and agrees that the Tenant will be obliged only to leave the premises in a safe, clean and tidy condition, free from any personal possessions and other loose items of Lessee's Property (as defined in the Lease) with rubbish removed but is not obliged to further make good the premises the subject of the Lease or to reinstate them.
- 3.4. The Tenant agrees to make the payment of the Make Good Sum **within thirty (30) days** of receipt of a valid Tax Invoice from the Landlord.
- 3.5. The payment of the Make Good Sum will be made by the occupant entity of the Leases which is Sydney Trains. Accordingly, the Landlord should make the Tax Invoice to: Sydney Trains (ABN: 38 284 779 682) – Attn: David Callahan, 18 Lee Street, Chippendale, 2008.
- 3.6. To avoid any doubt the parties acknowledge and agree that any unpaid rent, operating expenses, after hours air-conditioning or other expenses due to the Tenant's sole use of the Premises payable under the Lease and incurred during the Tenant's occupation of the Premises must be paid to the Landlord in addition to the Make Good Sum and should it be required, the parties agree to make any adjustments necessary to account for these costs.

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4. GST

- 4.1. Unless otherwise provided in this Deed, any moneys payable under this Deed have been calculated without regard to GST.
- 4.2. Any amount which is payable on account of GST as a consequence of any supply made under this Deed is to be paid to the party making the supply at the same time as payment is made for the relevant supply.

5. Costs and disbursements

Each party will pay the costs and expenses of and in connection to the preparation, negotiation and execution of this Deed.

6. Landlord's capacity and liability

- 6.1. This clause 6 applies at all times during which ISPT Pty Ltd (ACN 064 041 283) holds an interest in or owns the Property and survives the expiry or earlier termination of this lease.
- 6.2. In this clause:
 - (a) Asset includes any real or personal property or right of any kind;
 - (b) Trust means the Industry Superannuation Property Trust No. 1 (ABN 15 421 756 611);
- 6.3. The Landlord warrants and represents to the Tenant that:
 - (a) the Landlord is the only trustee of the Trust;
 - (b) as far as the Landlord is aware no action has been taken or has been proposed to remove the Landlord as trustee of the Trust;
 - (c) the Landlord has entered into this lease as trustee of the Trust; and
 - (d) the Landlord has the power and, to the extent necessary, is authorised to enter into this lease and to accept the obligations as trustee of the Trust.
- 6.4. The Tenant acknowledges that the Landlord:
 - (a) enters into this lease in its capacity as trustee of the Trust and not otherwise; and

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- (b) agrees to accept and perform the Obligations only in its capacity as trustee of the Trust.
- 6.5. Except to the extent that the Landlord's right of indemnity from the Assets of the Trust is reduced because of the fraud or breach of trust of the Landlord:
- (a) the Landlord is only liable to pay or satisfy any Obligation to the extent of its right of indemnity out of the Assets of the Trust;
 - (b) the Tenant may only enforce a right against the Landlord in respect of the non-performance of its Obligations to the extent of the Landlord's right of indemnity out of the Assets of the Trust;
 - (c) the Tenant waives its rights and releases the Landlord from all personal liability in respect of any loss which the Tenant may suffer or incur as a result of any non-performance by the Landlord of any obligation if and to the extent that liability cannot be satisfied out of the Assets of the Trust from which the Landlord is indemnified in respect of the non-performance of that Obligation.
 - (d) The fraud, breach of trust or any other act or omission by an attorney or agent of the Landlord or any other person appointed by the Landlord will not be nor be deemed to be the fraud or breach of trust of the Landlord for the purposes of this clause 6.

7. General provisions

Governing Law

- 7.1. This Deed is governed by the law in force in New South Wales and each party submits to the non-exclusive jurisdiction of the courts of that place.

Notices

- 7.2. A notice or other communication required or permitted to be given by one party to another must be in writing and:
- (a) delivered personally to the party; or
 - (b) sent by pre-paid mail to the address of the addressee specified in this Deed;
- 7.3. A notice or other communication is taken to have been given (unless otherwise proved):
- (a) in the case of delivery by hand, when delivered; or
 - (a) if mailed, on the second Business Day after posting.

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- 7.4. A party may change its address for service by giving notice of that change in writing to the other parties.

Waiver or variation

- 7.5. A party's failure or delay to exercise a power or right does not operate as a waiver of that power or right.
- 7.6. The exercise of a power or right does not preclude:
- (a) its future exercise; or
 - (b) the exercise of any other power or right.
- 7.7. The variation or waiver of a provision of this Deed or a party's consent to a departure from a provision by another party will be ineffective unless in writing executed by the parties.

Further assurance

- 7.8. Each party agrees that it will from time to time do all things (including executing all documents) necessary or desirable to give full effect to this Deed.

Whole agreement

- 7.9. In relation to the subject matter of this Deed:
- (a) this Deed is the whole agreement between the parties; and
 - (b) this Deed supersedes all oral and written communications by or on behalf of any of the parties.

No reliance on warranties and representations

- 7.10. In entering into this Deed, each party:
- (a) has not relied on any warranty or representation (whether oral or written) in relation to the subject matter of this Deed made by any person; and
 - (b) has relied entirely on its own enquiries in relation to the subject matter of this Deed.

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This clause does not apply to warranties and representations that this Deed expressly sets out.

Severance

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

No merger

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

Information disclosure and public access

- 7.13. The Landlord acknowledges that the Government Information (Public Access) Act 2009 (NSW) (**GIPA Act**) and Premier's Memoranda issued and in force from time to time may require the Tenant, in relation to government information and certain government contracts, to:
- (a) publish certain information about this Deed or the Lease on a register of government contracts on the government tenders website; and
 - (b) provide certain information about this Deed or the Lease in relation to an access application for government information made under Part 4 of the GIPA Act.
- 7.14. The Tenant will comply with the requirements of the GIPA Act when publishing and providing such information in accordance with the GIPA Act (including taking reasonable practical steps to consult with the Tenant before providing any person with access to information relating to the Tenant), in response to an access application under the GIPA Act.
- 7.15. If this Deed constitutes a government contract for services, and s121 of the GIPA Act applies, the Landlord must (at its own expense), within seven (7) days of receiving a written request by the Tenant, provide the Tenant with immediate access to the information, requested in the notice and required by the GIPA Act, that is contained in records held by the Landlord.


Deed of Release

Signing Page

Executed as a Deed.

Signed Sealed and Delivered for and on behalf of **ISPT Pty Ltd as Trustee for the Industry Superannuation Property Trust** by

DARYL BRANNING
Name of Attorney


Signature of Attorney

Under Power of Attorney dated:

By executing this document the Attorney states that the Attorney has received no notice of revocation of the Power of Attorney

Registered Book : 4550

No: 88

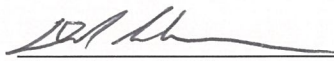
in the presence of:


Signature of Witness

JEREMY COLLINS
Full Name of Witness

8/11 EXHIBITION ST,
Address
MELB

Executed for and on behalf of **Property NSW** (ABN 91 840 597 406) by its delegate (but not so as to incur any personal liability) in the presence of:


Signature of Witness

David Solomon
Full Name of Witness

Lv 6, 66 Harrington St, The Rocks
Address


Signature of Authorised Delegate

ADAM HOWARTH
Full Name of Authorised Delegate

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Title