



HENRY DAVIS YORK
LAWYERS

Financier Tripartite Deed

Rail Corporation New South Wales
ABN 59 325 778 353
Landlord

Venus Chatswood Pty Limited
ACN 166 430 379
Tenant

Commonwealth Bank of Australia
ACN 123 123 124
Financier

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KEY DETAILS

1 Date See Execution on page 12

2 Parties

Landlord
 Name **Rail Corporation New South Wales**
 Address ABN 59 325 778 353
 Level 20, 477 Pitt Street
 Sydney NSW 2000
 Attention General Manager Property
 Fax 02 9224 3988
 Email kevin.sykes2@transport.nsw.gov.au

Tenant
 Name **Venus Chatswood Pty Limited**
 ACN 166 430 379 in its personal capacity and its capacity
 as trustee for the Venus Chatswood Trust
 Address Level 17
 383 Kent Street
 Sydney NSW 2000
 Attention Elizabeth Jumikis
 Fax 02 9240 0300
 Email elizabeth.jumikis@galileofunds.com.au

Financier
 Name **Commonwealth Bank of Australia**
 ACN 123 123 124
 Address Level 22, Darling Park Tower 1
 201 Sussex Street
 Sydney NSW 2000
 Attention Garry Moody, Director Real Estate
 Fax 02 9118 4203
 Email garry.moody@cba.com.au

BACKGROUND

- A The Landlord and the Tenant are parties to the Lease.
- B The Financier has agreed to provide financial accommodation to the Tenant on terms agreed between the Financier and the Tenant.
- C As a condition to the provision of financial accommodation to the Tenant, the Financier requires that the Landlord and the Tenant enter into this document.

TERMS

1 Definitions and interpretation

1.1 Definitions

The following words have the following meanings in this document, unless the context requires otherwise.

Business Day means a day that is not a Saturday, Sunday or public or bank holiday in New South Wales.

Enforcement Action means any action taken by the Financier in exercising or purporting to exercise the rights, powers and remedies given to it under or in connection with the Financier Security, including appointing a Relevant Person.

Financier means the person so described in the Key Details.

Financier Security means, at any time, all the Financier's security over any of the Tenant, the Tenant's interest in the Lease or the Leased Premises at that time including:

- (a) the General Security Deed; and
- (b) the Mortgage of Lease.

General Security Deed means the general security deed dated on or about the date of this document granted in favour of the Financier by the Tenant.

Key Details means the section of this document headed Key Details.

Landlord means a reference to the person so described in the Key Details.

Lease means the lease dated on or about the date of this document between the Landlord and the Tenant in relation to the Leased Premises.

Leased Premises means the property comprised in certificate of title folio identifier 109/1094273.

Material Communications means any notice, request, demand, claim or other written communication between the Tenant and the Landlord (or their respective agents and representatives) in connection with the Lease and which relates to any actual or intended termination, cancellation, rescission or suspension of the Lease.

Mortgage of Lease means the real property mortgage of lease dated on or about the date of this document granted by the Tenant in favour of the Financier over the Tenant's interest in the Leased Premises.

Relevant Person means a receiver, receiver and manager, administrator, liquidator or similar person.

Tenant means the person so described in the Key Details.

Trust Deed means the trust deed dated 24 October 2013 between Venus Chatswood Pty Limited as trustee and Mark Sellars as settlor.

Venus Chatswood Trust means the trust known as the "Venus Chatswood Trust" and constituted by the Trust Deed.

1.2 Interpretation

The following apply in the interpretation of this document, unless the context requires otherwise.

- (a) A reference to this agreement, this deed, this document or a similar term means either the agreement set out in this document or the document itself, as the context requires.
- (b) A reference to any statute, regulation, rule or similar instrument includes any consolidations, amendments or re-enactments of it, any replacements of it, and any regulation or other statutory instrument issued under it.
- (c) A reference to the singular includes the plural number and vice versa.
- (d) A reference to a gender includes a reference to each gender.
- (e) A reference to a party means a person who is named as a party to this document.
- (f) Person includes a firm, corporation, body corporate, unincorporated association and a governmental authority.
- (g) A reference to a party or a person includes that party's or person's executors, legal personal representatives, successors, liquidators, administrators, trustees in bankruptcy and similar officers and, where permitted under this document, their substitutes and assigns.
- (h) An agreement on the part of, or in favour of, two or more persons binds or is for the benefit of them jointly and severally.
- (i) Includes means includes but without limitation.

- (j) Where a word or expression has a defined meaning, its other grammatical forms have a corresponding meaning.
- (k) A reference to doing something includes an omission, statement or undertaking (whether or not in writing) and includes executing a document.
- (l) A reference to a clause, schedule or annexure is a reference to a clause of, or a schedule or an annexure to this document.
- (m) A reference to time is to the time in the place where a thing is to be done, unless specified otherwise.
- (n) A heading is for reference only. It does not affect the meaning or interpretation of this document.

2 Inconsistency with Lease

The terms of this document will prevail to the extent of any inconsistency between a provision of this document and a provision of the Lease and compliance by the Landlord or the Tenant with a provision of this document will not constitute a breach of the Lease, despite anything to the contrary in the Lease.

3 Financier Security

3.1 Consent

The Landlord consents to the Financier Security and acknowledges and agrees that the creation of the Financier Security or the exercise of any powers under it will not constitute a default under the Lease.

3.2 Enforcement Action

Without limiting clause 6.1, the Landlord:

- (a) agrees that it will not terminate or rescind the Lease solely by reason of:
 - (i) the occurrence of any default under or in connection with the Financier Security; or
 - (ii) the fact that any Enforcement Action has been taken; and
- (b) acknowledges that, as a consequence of Enforcement Action taken by the Financier:
 - (i) the Financier or a Relevant Person or agent appointed by the Financier may seek to transfer or sell the Tenant's rights under the Lease to another person; or
 - (ii) the ownership or control of the Tenant may change,

and, in either case, the Landlord agrees not to terminate the Lease by reason only of such a transfer or change in ownership, provided that the Landlord is reasonably satisfied that the transferee of the Tenant's rights under the Lease or new owner of the Tenant, as the case may be, has the capacity to meet the obligations of the Tenant under the Lease.

3.3 Reliance

The Landlord acknowledges that the Financier is relying on this document in deciding to provide financial accommodation to the Tenant.

3.4 Notification by the Financier of enforcement action

The Financier agrees to notify the Landlord as soon as reasonably practicable after taking any action to enforce any of the Financier Securities. The Financier will not be liable for any loss suffered by the Landlord as a result only of any failure by the Financier to provide such notice to the Landlord in accordance with this clause.

4 Undertakings in relation to Lease

4.1 Compliance with Lease

The Tenant agrees, and the Landlord acknowledges that the Tenant has agreed with the Financier to comply on time with its obligations under or in connection with the Lease.

5 Information and access to Leased Premises

5.1 Material Communications

- (a) The Tenant must provide the Financier with copies of any Material Communications, at the same time as those communications are given to the Landlord or promptly after receipt by the Tenant.
- (b) The Landlord will use its reasonable endeavours to provide the Financier with copies of any Material Communications at the same time as those communications are given to the Tenant or promptly after receipt by the Landlord.

5.2 Access to Leased Premises

The Landlord and the Tenant acknowledge that the Financier, any Relevant Person, any officer of the Financier or any person authorised by the Financier or any Relevant Person may enter the Leased Premises with reasonable written notice and at reasonable times to inspect the Leased Premises and exercise any of the Financier's rights under or in connection with the Financier Security provided that that person complies with the Landlord's and the Tenant's (as applicable)

reasonable directions in relation to safety and security arrangements whilst at the Leased Premises.

6 Default under the Lease

6.1 Notice to Financier

The Landlord agrees that it will not exercise any right to terminate, cancel or rescind the Lease or suspend performance of its obligations under the Lease as a result of a default under or in connection with the Lease by the Tenant unless:

- (a) the Landlord has given the Financier notice of its intention to do so in accordance with clause 6.2(a) and has complied with its other obligations under clause 6.2(b); and
- (b) the Financier has not, within the relevant time period specified in clause 6.3:
 - (i) remedied the default in accordance with clause 6.3(a); or
 - (ii) paid monetary compensation or taken such other action in accordance with clause 6.3(b); or
 - (iii) given notice under, and remedied the default or paid monetary compensation or taken such other action in accordance with, clause 6.3(c).

6.2 Information and consultation

If the Landlord forms the opinion that the Tenant has defaulted under or in connection with the Lease and the Landlord intends to enforce or take some action to terminate, cancel or rescind this Lease as a result of that default, then before enforcing or taking such action the Landlord must:

- (a) serve written notice of its intention on the Financier, such notice to:
 - (i) specify the basis on which the Landlord considers that the Tenant has defaulted, providing reasonable details of the particular default;
 - (ii) specify if the default is capable of remedy and, if so, how in the reasonable opinion of the Landlord, the default can be remedied (whether by the performance of any remedial action or the payment of compensation);
 - (iii) specify if the default is not capable of remedy and, if so, whether the consequences of the default can be adequately compensated by the payment of money or some other action (with details of the monetary compensation or other action the Landlord reasonably considers adequate to compensate for the default); and
 - (iv) specify that such notice is provided to the Financier for the purposes of clause 6.2(a) of this document; and

- (b) if required by the Financier (at the Tenant's cost), answer any reasonable questions which they may ask to help them understand the nature or potential consequences of that default.

The parties agree that, in relation to any breach of clause 6.2(a) by the Landlord:

- (c) the Landlord must pay its own costs; and
- (d) the Tenant must pay the Financier's costs,

incurred in connection with the Landlord's failure to serve a notice under clause 6.2(a) and any related legal proceedings (subject to any order for costs in legal proceedings).

6.3 Financier's cure rights

The Financier or a Relevant Person may (but has no obligation), in the time specified for below or such longer period as may be agreed by the Financier and the Landlord:

- (a) where the Tenant is in default under the Lease and that default is capable of being remedied, remedy the default:
 - (i) where the default is a monetary default, within 15 Business Days from service of the notice in accordance with clause 6.2(a); or
 - (ii) where the default is a non-monetary default, within 20 Business Days from service of the notice in accordance with clause 6.2(a); or
- (b) where the Tenant is in default under the Lease and that default is not capable of being remedied, within 20 Business Days from service of the notice in accordance with clause 6.2(a), pay the monetary compensation or take such other action as the Landlord reasonably considers adequate to compensate for the default; or
- (c) within 20 Business Days from service of the notice in accordance with clause 6.2(a), give notice to the Landlord requiring the Landlord to continue to perform its obligations under or in connection with the Lease and stating that it:
 - (i) is assuming all of the obligations of the Tenant under the Lease; and
 - (ii) is, subject to clause 6.5, bound by the terms of the Lease as if it had originally been named as a party to it in lieu of the Tenant;and
 - (A) where the default is capable of being remedied, remedy the default; or
 - (B) where the default is not capable of being remedied pay the monetary compensation or take such other action as the

Landlord reasonably considers adequate to compensate for the default.

6.4 **Default remedied if cure rights exercised**

Where the Financier or a Relevant Person remedies a default as contemplated by clause 6.3(a), pays monetary compensation or takes such other action as contemplated by clause 6.3(b) or gives notice and remedies a default or pays monetary compensation or takes such other action as contemplated by clause 6.3(c), the Landlord must treat the Lease as if that default and associated right to terminate, cancel or rescind the Lease on the part of the Landlord had not arisen. This clause is without prejudice to any rights that the Landlord may have in respect of any other default under or in connection with the Lease.

6.5 **Financier's obligations if cure exercised**

The service of a notice by the Financier or a Relevant Person under clause 6.3(c) will not affect the Landlord's rights against the Tenant which relate to the period prior to the date of the notice.

6.6 **Landlord's termination rights**

For the avoidance of doubt, the parties acknowledge and agree that, if the Financier or a Relevant Person does not take any action contemplated by clause 6.3 within the relevant agreed time frame in or pursuant to clause 6.3 following a default by the Tenant under or in connection with the Lease, the failure by the Financier or a Relevant Person to do so will not affect in any way the Landlord's rights under the Lease to terminate, cancel or rescind the Lease or otherwise take action against the Tenant as a consequence of that default.

7 **Notices**

7.1 **Requirements**

Any notice given in connection with this document must be in writing and must be addressed to a party and either:

- (a) hand delivered to, or sent by post to, the party's registered office, principal place of business or any other address the party notifies for the service of notices;
- (b) sent by fax to any fax number the party notifies for the service of notices; or
- (c) sent by email to any email address the party notifies for the service of notices.

7.2 **When given**

A notice is taken to have been given:

- (a) in the case of being hand delivered, on the date on which it is delivered;

- (b) in the case of being sent by post, on the third (seventh if sent to an address in another country) day after the date of posting;
- (c) in the case of being sent by fax, at the time of dispatch as confirmed by a transmission report by the sending machine; and
- (d) in the case of delivery by email, at the time sent, unless the sender is notified, by a system or person involved in the delivery of the email, that the email was not successfully sent

but in the case where delivery or receipt is not on a Business Day or is sent or is later than 4pm (local time), it will be conclusively taken to have been received at the commencement of business on the next Business Day..

8 Costs

The Tenant must pay, or to the extent already paid by the Financier or the Landlord, reimburse the Financier or the Landlord (as the case may be) on demand for all reasonable costs, charges and expenses incurred directly or indirectly by the Financier or the Landlord (as the case may be) in connection with the preparation, negotiation and execution of this document including legal costs and expenses on a solicitor and own client basis or a full indemnity basis, whichever is the higher.

9 General

9.1 Variation

No provision of this document nor a right conferred by it can be varied except in writing signed by the parties.

9.2 Assignment

- (a) The Financier may:
 - (i) assign any of its rights under this document to:
 - (A) a related body corporate or an associated entity (as defined under the Corporations Act 2001 (Cth)); or
 - (B) another bank or financial institution whose reputation and credit rating is similar to that of the Financier's,

without the consent of any other party provided that it causes such an assignee to enter into a deed by which it undertakes to be bound by the provisions of this document to the same extent as the Financier; or

- (ii) assign any of its rights under this document to any other assignee provided that the Financier first obtains the written consent of the Landlord, which will not be withheld where the Financier:
 - (A) proves to the reasonable satisfaction of the Landlord, that the proposed assignee is a responsible business operator with sound financial management, resources and business reputation and is capable of performing the obligations of the Financier under this deed; and
 - (B) causes the proposed assignee to enter into a deed by which it undertakes to be bound by the provisions of this document to the same extent as the Financier.
- (b) Any other party may only assign its rights under this document or any part of it if it first obtains the written consent of each other party.
- (c) The Tenant must pay, or to the extent already paid by the Landlord, reimburse the Landlord on demand for all reasonable costs, charges and expenses incurred directly or indirectly by the Landlord in connection with considering any request for consent (where applicable) and the review, negotiation and execution of any deed entered into pursuant to clause 9.2(a).

9.3 Further assurance

At the reasonable request of the Financier, the Landlord (at the Tenant's cost) and the Tenant must do everything necessary, or reasonably required by the Financier, to give effect to this document and the transactions contemplated by this document.

9.4 Rights cumulative

A party's rights and remedies in connection with this document are cumulative and do not exclude or limit any other right or remedy.

9.5 Waiver

- (a) A party does not waive a right or remedy in connection with this document if it:
 - (i) fails to exercise its right or remedy;
 - (ii) only partially exercises the right or remedy; or
 - (iii) delays in exercising the right or remedy.
- (b) A party which exercises a single right or remedy or partially exercises a right or remedy maintains its right to:
 - (i) further exercise the right or remedy; or
 - (ii) exercise another right or remedy.

- (c) A waiver is effective only if in writing and signed by or on behalf of the party to be bound and is effective to the extent that the party giving it expressly states in writing.

9.6 Severability

If any part of this document is for any reason unenforceable, that part must be read down to the extent necessary to preserve its operation. If it cannot be read down, it must be severed.

9.7 Counterparts

If this document is signed in counterparts then:

- (a) each counterpart is an original; and
- (b) together they constitute one document.

9.8 Delivery and when binding

- (a) A party who has executed a counterpart of this document may deliver that counterpart to the other parties by posting it, by hand delivery or by forwarding a copy of the executed counterpart to them in portable document format (pdf) attached to an email, by fax or in any other format that the parties agree on in writing.
- (b) This document is binding when each party has had delivered it to one or more counterparts showing that all other parties have executed this document.

9.9 Governing law

This document is governed by the law in force in New South Wales and the parties submit to the non-exclusive jurisdiction of the courts of New South Wales.

EXECUTION

Executed as a deed on 19 February 2014

Landlord

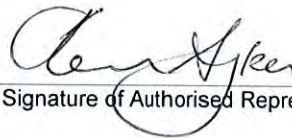
Executed for and on behalf of **Rail Corporation New South Wales** ABN 59 325 778 353 in the presence of:



Signature of Witness

VIN SINGH

Print name of Witness



Signature of Authorised Representative

KEVIN SYKES

Print name of Authorised Representative

Tenant

Signed, sealed and delivered by **Venus Chatswood Pty Limited** ACN 166 430 379 under Power of Attorney Book 4660 No. 366 in the presence of:



Signature of Witness

PAUL MARSHALL

Print name of Witness



Signature of Attorney

ELIZABETH JUMINAKIS

Print name of Attorney

Financier

Director Commonwealth Bank of Australia ACN 123 123 124 by its attorney who is ~~Chief~~ *Manager* for the time being at Sydney and who is the attorney mentioned and referred to in Power of Attorney registered in Land and Property Information Book ~~449~~ *449* No ~~351~~ *4651* No 555

Signed in my presence by *SHAYNE NICOL* of the Commonwealth Bank of Australia, ACN 123 123 124, the duly constituted Attorney of the said Bank who is personally known to me:

~~DAVID~~ *DL*

Signature of Witness

Shayne Nicol

Signature of Attorney

DAVID GILHAM

Name of Witness

AI431426

Form: 07L
Release: 4.4

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

Office of State Revenue use only

(A) TORRENS TITLE

Property leased
109/1094273

(B) LODGED BY

Document Collection Box 185H	Name, Address or DX, Telephone, and Customer Account Number if any Clayton Utz Lawyers DX 370 Sydney Tel: (02) 9353 4000	CODE L
	Reference: 21500355.167/109557864	

(C) LESSOR

RAIL CORPORATION NEW SOUTH WALES (ABN 25 765 807 817)

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

(D)

Encumbrances (if applicable):

(E) LESSEE

VENUS CHATSWOOD PTY LTD (ACN 166 430 379)

(F)

TENANCY:

- (G) 1. TERM 50 Years
 2. COMMENCING DATE 19 FEBRUARY 2014
 3. TERMINATING DATE 18 FEBRUARY 2064
 4. With an OPTION TO RENEW for a period of 1 x 15 years and 2 x 5 years set out in clause 17 of Annexure A
 5. With an OPTION TO PURCHASE set out in clause N.A. of N.A.
 6. Together with and reserving the RIGHTS set out in clause N.A. of N.A.
 7. Incorporates the provisions or additional material set out in ANNEXURE(S) A hereto.
 8. Incorporates the provisions set out in N.A.
 No. N.A.
 9. The RENT is set out in clause No. 3.1 of Annexure A.

eg.

[Handwritten signatures]

DATE 19 FEBRUARY 2014

(H) I certify that I am an eligible witness and that the lessor's attorney signed this dealing in my presence. [See note* below].

Certified correct for the purposes of the Real Property Act 1900 by the lessor's attorney who signed this dealing pursuant to the power of attorney specified.

Signature of witness:

Signature of attorney:

Name of witness: REFER TO ANNEXURE A
Address of witness:

Attorney's name:
Signing on behalf of:
Power of attorney-Book:
-No.:

I certify that I am an eligible witness and that the lessee's attorney signed this dealing in my presence. [See note* below].

Certified correct for the purposes of the Real Property Act 1900 by the lessee's attorney who signed this dealing pursuant to the power of attorney specified.

Signature of witness:

Signature of attorney:

Name of witness: REFER TO ANNEXURE A
Address of witness:

Attorney's name:
Signing on behalf of:
Power of attorney-Book:
-No.:

(I) STATUTORY DECLARATION*

I solemnly and sincerely declare that—

1. The time for the exercise of option to _____ 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 _____ 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 a 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 an identification document and the document I relied on was a _____ [Omit ID No.]

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.

Annexure "A" to the Lease between Rail Corporation New South Wales ABN 59 325 778 353 (as Landlord) and Venus Chatswood Pty Limited ACN 166 430 379 (as Tenant) dated 19 FEBRUARY 2014

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The Landlord and the Tenant agree as follows.

1. Definitions and interpretation

1.1 Definitions

In this lease:

"Acceptable Assignee" means a person who:

- (a) is solvent;
- (b) is of reasonable financial standing having regard to the obligations under this lease;
- (c) has demonstrated experience in successfully operating retail facilities comparable to the Premises; and
- (d) is the owner of the Retail Complex.

"Advertising Strip" means the area identified as such on Annexure "E".

"Authority" includes any governmental or semi-governmental or local government authority, administrative or judicial body or tribunal, department, commission, public authority, agency, Minister, statutory corporation or instrumentality (and includes the Landlord) and any private electricity, telecommunications, gas or other utility company having statutory rights in relation to the Premises.

"BBSY Rate" means the rate expressed as a percentage per annum (rounded up to four decimal places) which is the average of the bid rates shown at approximately 10.15 am on the Reuters Monitor System on the date on which the interest is first calculated and every 20 Business Days thereafter for a period of 20 Business Days.

"Breach Event" occurs if:

- (a) the Tenant repudiates this lease; or
- (b) the Tenant does not comply with an essential term of this lease; or
- (c) the Tenant does not comply with an obligation under this lease and:
 - (i) if the non-compliance can be remedied, it is not remedied within 30 Business Days (or such longer period as the Landlord determines in its absolute discretion but after having regard to any submissions made by the Tenant within that 30 Business Day period), after the earlier of:
 - A. if the Tenant is aware of the non-compliance, the non-compliance occurring; or
 - B. the Landlord asking the Tenant to remedy it; orin the case of an emergency, within such shorter period as is practicable; or
 - (ii) if the non-compliance cannot be remedied, the Tenant does not pay the Landlord such compensation as the Landlord reasonably requires within 30 Business Days after being notified of the amount of that compensation; or

- (d) any essential term of this lease is claimed to be wholly or partly void, voidable or unenforceable by the Tenant or by anyone on behalf of it.

"Building Management Committee" means the committee established pursuant to the Building Management Statement.

"Building Management Statement" means the building management statement registered on the title to the Land at the date of this lease as replaced by the Strata Management Statement from time to time.

"Business Day" means any day other than a Saturday, Sunday, public holidays in New South Wales or 27, 28, 29, 30 or 31 December.

"Bus Interchange" means the area identified as such on Annexure "E".

"Bus Interchange Road" means the road identified as such on Annexure "E", being part of the Non-Premises Obligations Areas.

"Commencing Date" means the date shown as "Commencing Date" on the lease form.

"Consumer Price Index" or "CPI" means the Sydney (All Groups) index published by the Australian Statistician or the index substituted for it by the Australian Statistician or, if neither of those indexes is available, an index nominated by the Landlord (acting reasonably).

"Contamination" has the meaning given to "Contamination" in the *Contaminated Land Management Act 1997* (NSW), but excludes Hazardous Substances.

"Costs" includes liability, damages, loss, costs, charges, expenses including those in connection with advisers, the Landlord's internal administrative costs and legal costs on a full indemnity basis, or solicitor and own client basis, whichever is the higher.

"Council" means Council of the City of Willoughby or its successor.

"Current CPI" means, for a Review Date, the Consumer Price Index number for the quarter ending immediately before that Review Date.

"DWR Connection Area" means the area indicated as such on the plan attached as Annexure "E".

"DWR Temporary Area" means the area indicated as such on the plan attached as Annexure "E".

"Default Notice" means a notice under clause 14.3.

"Draft Expert Agreement" means the agreement attached as Annexure "D".

"Easements" means the easements, positive and restrictive covenants registered on the title to the Land as at the Commencing Date (as may be modified from time to time by the Landlord in accordance with this lease).

"Environment" includes all aspects of the surroundings of human beings including:

- (a) the physical characteristics of those surroundings such as the land, the waters and the atmosphere;
- (b) the biological characteristics of those surroundings such as the animals, plants and other forms of life; and
- (c) the aesthetic characteristics of those surroundings such as their appearance, sounds, smells, tastes and textures.

"Event of Default" occurs if the Landlord notifies the Tenant that the Tenant has not remedied a Breach Event:

- (a) specified in a Default Notice in relation to the events referred to in paragraphs (b) or (c)(i) of the definition of Breach Event, within 6 months; or
- (b) specified in a Default Notice in relation to the events referred to in paragraph (c)(ii) of the definition of Breach Event, within 10 Business Days; or
- (c) specified in a Default Notice in relation to the events referred to in paragraphs (a) or (d) of the definition of Breach Event, within 5 Business Days,

after giving the Tenant a Default Notice under clause 14.3.

"Financier" means the entity providing financial accommodation to the Tenant secured against this lease.

"First Option Lease" means the lease granted under clause 17.1 and on terms contained in clause 17.2.

"Hazardous Substances" means any hazardous materials or substances found or located above ground or in any part of any structure which is below ground, including:

- (a) any form of organic or chemical matter whether solid, liquid or gas (including asbestos, toluene, polychlorine biphenyls, lead based paints, glues, solvents, cleaning agents, paints, water treatment chemicals and stone containing silica) that have the capacity to cause personal injury or death, damage to property, create a nuisance or in any way pollute or contaminate the Environment; and
- (b) without limiting paragraph (a), any material or substance which:
 - (i) is listed in the document entitled *List of Designated Hazardous Substances* [NOHSC: 10005 (1999)] published by the National Occupational Health and Safety Commission of the Commonwealth, as in force from time to time; or
 - (ii) fits the criteria for a hazardous substance set out in the document entitled *Approved Criteria for Classifying Hazardous Substances* [NOHSC:1008 (1999)] published by the National Occupational Health and Safety Commission of the Commonwealth, as in force from time to time.

"Improvements" mean all buildings, plant, equipment, fixtures, fittings, furniture, furnishings and other property in, or fixed to the Land, excluding the Services and the Tenant's Property.

"Land" means the land described in (A) on the lease form.

"Landlord" means the party shown as "Lessor" on the lease form.

"Landlord's Employees" means the Landlord's employees, officers, consultants, agents, contractors, invitees, or anyone in the control of the Landlord.

"Landlord's Outgoings Contribution" means \$300,000 per annum as increased under clause 4.5.

"Laws" means:

- (a) the common law; and

- (b) the requirements of all statutes, rules, ordinances, codes, regulations, proclamation, by laws or consents issued by Authorities,

present or future.

"Listed" means listed on the Australian Stock Exchange.

"Non-Premises Obligations" means the obligations set out in Annexure "C".

"Non-Premises Obligations Areas" means the areas identified as such on Annexure "E".

"OHS Act" means the *Occupational Health and Safety Act 2000* (NSW).

"OHS Regulation" means the *Occupational Health and Safety Regulation 2001* (NSW).

"Operations" include all activities, infrastructure and works related to the operation of railway passenger services and railway freight services and any transport services which is additional to or in substitution for any railway service.

"Payment Date" means the 1st day of a month.

"Permitted Use" means in relation to:

- (a) the Retail Space, all permissible retail uses and advertising and marketing activities associated with those retail uses except as provided for in this lease;
- (b) the Unpaid Concourse other than the Retail Space, use by the public and others in accordance with the Easements and provided the rights under the Easements are not unreasonably impeded, the operation of kiosks and portable or temporary retail outlets;
- (c) the Bus Interchange, other than the Retail Space, use as a public area and permissible retail uses, but primarily for a bus interchange with attendant shelters, signs, including advertising as provided for in this lease, and associated infrastructure; and
- (d) the Advertising Strip, use only for advertising purposes,

and as refined by clause 5.1.

"Plan" means the plan of subdivision DP1094273.

"Premises" means the Land and the Improvements.

"Previous CPI" means, in respect of a Review Date, the Consumer Price Index number for the quarter ending immediately before the immediately previous Review Date (or if there has not been a Review Date, the Commencing Date).

"Rail Corridor" means all land leased, owned or occupied by the Landlord and includes any easements or licences or any other legal or beneficial interest in land used in relation to the operation of the guided system for transportation of passengers or freight or both (whether or not passengers, freight or both are being transported) on a railway track and, as a minimum from fence-line to fence-line, or if there are no fences or other defining barriers or property boundaries, everywhere within 15 metres of the outermost rails.

"Rent" means \$500,000 per annum as increased under clause 3.3 and as changed under this lease.

"Retail Complex" means the retail complex erected on the Retail Complex Lot.

"Retail Complex Lot" means lot 105 in the Plan.

"Retail Outlet Opening Hours" means:

- (a) 08:00 hours to 17:30 hours on Mondays, Tuesdays, Wednesdays, Fridays and Saturdays;
- (b) 08:00 hours to 21:00 hours on Thursdays; and
- (c) 10:00 hours to 17:00 hours on Sundays.

"Retail Space" means the parts of Lot 109 shown in the Plan hatched, as amended under clause 7.4.

"Review Date" means each anniversary of the Commencing Date.

"Second Option Lease" means the lease granted under clause 17.1 on terms contained in clause 17.3.

"Services" means services running through or servicing the Premises including power, electricity, gas, water, sewerage, the lifts, escalators, communications services, fire sprinkler, fire control services air and air conditioning, public address systems and includes all plant and equipment, pipes, wires, cables, ducts and other conduits in connection with them, supplied by any Authority, the Landlord or any person the Tenant authorises.

"Strata Management Statement" means the strata management statement registered or to be registered on the title to the Land at the date of this lease.

"Structural Work" means:

- (a) repairing, maintaining or replacing the Premises' façade or any external or internal load bearing structures essential for the stability or strength of the Premises, including foundations, columns, walls, floors and beams;
- (b) repairs, maintenance and replacements necessary to keep the Premises structurally sound, weatherproof and water tight;
- (c) repairing, maintaining or replacing any Service or a substantial component of any Service;
- (d) repairing, maintaining or replacing any gas, electricity water, sewerage or drainage installations within the walls or floors of the Premises or under the Premises or in the Land;
- (e) resurfacing any tunnels, concourses, stairways, car parks, roads, paths and accessways; or
- (f) capital works as referred to in Division 43 of the *Income Tax Assessment Act 1997*.

"Taxes" means income, stamp, indirect or other taxes levies, imposts, deductions, charges, duties (including import duty), compulsory loans and withholdings (including financial institutions duty, debits tax or other taxes whether incurred by, payable by return or passed on to another person) together with interest thereon or penalties, if any, and charges, fees or other amounts made on, or in respect thereof.

"Tenant" means the party shown as "Lessee" on the lease form.

"Tenant's Construction Work" means any work that:

- (a) is carried out by or on behalf of the Tenant to the Premises (including work carried out by or on behalf of the Tenant as agent for the Landlord); and
- (b) would require the Landlord, as owner of the place of work, to appoint a principal contractor under clause 210 of the OHS Regulation.

"Tenant's Employees" means the Tenant's employees, officers, consultants, agents, contractors, invitees, licensees, subtenants and anyone in or on the Premises because of the Tenant's use and occupation of the Premises, or any of them.

"Tenant's Outgoings" means the total of all amounts incurred in connection with the Premises on account of:

- (a) rates, land tax (on the basis that the only land the Landlord owns is the Land);
- (b) other charges imposed by any Authority and levies under the *Parking Space Levy Act 1992*;
- (c) levies and other charges under strata or community schemes or similar legislation;
- (d) taxes (except income and capital gains tax), levies, duties, charges, imposts, withholding and deductions imposed by any Authority;
- (e) insurance premiums for building, contents and public liability;
- (f) management costs;
- (g) all levies and other amounts charged to the Landlord in respect of the Premises under the Building Management Statement, including sinking fund levies;
- (h) repair, replacement, maintenance renewal or decoration of any building structure, plant, equipment fixture, or fitting erected on the Premises including structural repairs and maintenance;
- (i) cleaning, caretaking and security control;
- (j) supplying (including charges for installation and connection), renting, operating, maintaining, servicing, repairing and replacing Services and upgrading Services to comply with Laws and all other rates, taxes, charges and impositions of any description imposed by any public utility, utility provider on an Authority for or in connection with the supply of any Service to the Premises, or otherwise payable by the owner or occupier of the Premises, whether or not imposed on the Landlord, the Tenant or the Premises;
- (k) all costs, contributions and fees of whatever description lawfully imposed by any Authority in connection with the Premises or the redevelopment of the Premises.

"Tenant's Property" means all plant, equipment, fixtures, fittings, furniture, furnishings and other property in, on or fixed to the Premises by the Tenant and not paid for or contributed to by the Landlord or the property the subject of clause 16 that is not Services.

"Term" means the period on the lease form beginning on the Commencing Date and ending on the Terminating Date.

"Terminating Date" means the date shown as the "Terminating Date" on the lease form.

"Third Option Lease" means the lease granted under clause 17.1 on terms contained in clause 17.4.

"Trust" means the CRI Chatswood Retail Trust constituted by the Trust Deed dated 23 December 2004.

"Trust Deed" means the trust deed constituting the Trust.

"Unpaid Concourse" means the area on the plan attached as Annexure E (excluding the Bus Interchange and the Advertising Strip) which is unhatched .

"Unpaid Concourse Operating Hours" means:

- (a) 05:00am to midnight, Sundays to Thursdays; and
- (b) 05:00am to 01:00am, Fridays and Saturdays.

"Voting Power" has the same meaning as in section 610 of the *Corporations Act 2001 (Cth)*.

1.2 Interpretation

In this lease:

- (a) headings are for convenience only and do not affect interpretation;

and unless the context indicates a contrary intention:

- (b) an obligation or a liability assumed by, or a right conferred on, 2 or more persons binds or benefits them jointly and severally;
- (c) **"person"** includes an individual, the estate of an individual, a corporation, an Authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (d) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation, and, in the case of a trustee, includes a substituted or an additional trustee;
- (e) a reference to a document (including this lease) is to that document as varied, novated, ratified or replaced from time to time;
- (f) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
- (g) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
- (h) a reference to a party, clause, schedule, exhibit, attachment or annexure is a reference to a party, clause, schedule, exhibit, attachment or annexure to or of this lease, and a reference to this lease includes all schedules, exhibits, attachments and annexures to it;
- (i) a reference to "lease form" is to the Land and Property Information NSW lease form that is part of this lease;
- (j) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (k) **"includes"** in any form is not a word of limitation; and

(l) a reference to "\$" or "dollar" is to Australian currency.

1.3 Exercise of powers

Nothing in this lease will be considered as fettering the proper exercise of discretion by any relevant State Minister, department, agency, statutory corporation or Authority.

1.4 No partnership

Nothing in this lease creates any agency, partnership, fiduciary relationship or trust between the parties.

1.5 Tenant's trust liability

If the Tenant is CRI Chatswood Pty Ltd ABN 17 112 281 151 (In Liquidation) (Receivers and Managers Appointed), notwithstanding clause 20.7 of the Trust Deed, which is hereby waived for the benefit of the Landlord, the Tenant is liable under this lease in its personal capacity and in its capacity as manager/trustee of the Trust, and every reference in this lease to any property, asset, undertaking, matter or thing held by or in any way relating to the Tenant will be construed as extending to and, unless the context indicates a contrary intention, binding on all such property, and every such asset, undertaking, matter or thing that at any time is held by, or relates to, the Tenant either in its personal capacity or as manager/trustee of the Trust.

2. Nature of Lease

2.1 Term of Lease

Subject to the provisions of this lease, the Landlord leases the Premises to the Tenant for the Term.

2.2 Nature of Tenancy

The Tenant:

- (a) without limiting clause 2.1, must pay all costs and expenses in relation to the Premises and the Landlord has no responsibility or obligation in that regard except as expressly provided to the contrary in this lease; and
- (b) takes and is subject to the same responsibilities and liabilities in regard to the Premises including in respect of:
 - (i) persons, property, costs, expenses and otherwise; and
 - (ii) capital or Structural Works, repairs and maintenance,which the Tenant would take and be subject to if the Tenant were the owner of the Premises except as expressly provided to the contrary in this lease,

and the provisions of this lease are to be read, interpreted and applied in the context of and incorporating those principles. The express provisions of this lease do not limit the scope of this clause 2.2.

2.3 DWR Connection Area

- (a) At any time commencing on the day which is 12 years after the Commencing Date, the Landlord may give the Tenant written notice that, 12 months after the date of the

notice, the Premises will be reduced by excising the DWR Connection Area and the DWR Temporary Area.

- (b) The Tenant must, at its expense:
- (i) execute and cause its Financiers and successor to execute documents and do everything else necessary or appropriate to bind the Tenant and its successors under this lease; and
 - (ii) use its best endeavours to cause relevant third parties to do likewise to bind every person intended to be bound under this lease.
- (c) The Landlord will re-subdivide the Land, if necessary, to reflect the excision of the DWR Connection Area and the DWR Temporary Area.
- (d) Once the DWR Temporary Area is no longer needed by the Landlord, the Landlord will enter into a lease of the DWR Temporary Area with the tenant on the same terms of this lease for the remainder of the Term but with the following changes:
- (i) the definition of Premises will be deleted and the following inserted in its place:

""Premises" means an area substantially similar to the DWR Temporary Area (as defined in the Retail Lease) and which is hatched in black on the plan attached to this lease as Annexure B. If necessary, this will be the whole of a lot in a subdivision plan."
 - (ii) Annexure B will be deleted and the plan of the Premises will be inserted in its place;
 - (iii) the definition of "Advertising Strip" will be deleted;
 - (iv) the definition of "Bus Interchange" will be deleted;
 - (v) the definition of "Bus Interchange Road" will be deleted;
 - (vi) the definition of "Consumer Price Index" will be deleted;
 - (vii) the definition of "Current CPI" will be deleted;
 - (viii) the definition of "DWR Connection Area" will be deleted;
 - (ix) the definition of "DWR Temporary Area" will be deleted;
 - (x) the definition of "Landlord's Outgoings Contribution" will be deleted;
 - (xi) the definition of "Non-Premises Obligations" will be deleted;
 - (xii) the definition of "Non-Premises Obligations Areas" will be deleted;
 - (xiii) the definition of "Permitted Use" will be deleted and the following inserted in its place:

""Permitted Use" means the Premises are to be used as a public area and permissible retail uses, but primarily for a bus interchange with attendant shelters, signs, including advertising as provided for in this lease, and associated infrastructure and as refined by clause 5.1";

- (xiv) the definition of "Previous CPI" will be deleted;
- (xv) the definition of Rent will be deleted and the following inserted in its place:

""**Rent**" means \$1.00 per annum.";
- (xvi) the definition of "Retail Outlet Opening Hours" will be deleted;
- (xvii) the definition of "Retail Space" will be deleted;
- (xviii) the definition of "Unpaid Concourse" will be deleted;
- (xix) the definition of "Unpaid Concourse Operating Hours" will be deleted;
- (xx) where else appearing, the words "Bus Interchange" will be deleted and the word "Premises" will be inserted in their place;
- (xxi) clause 2.3 will be deleted;
- (xxii) in clause 3.1 the words "equal monthly instalments in arrears on each Payment Date" will be deleted and the words "annually in advance upon request by the Landlord" will be inserted in their place;
- (xxiii) clauses 3.2, 3.3, 3.4, 4.4, 4.5, 4.6 and 5.7 will be deleted;
- (xxiv) the words "Unpaid Concourse and the" and "during the unpaid Concourse Operating Hours and" will be deleted from clause 5.8(a);
- (xxv) clause 5.8(b) will be deleted;
- (xxvi) in clause 7.3(b) the words ", if any," will be inserted after the words "public toilet facilities";
- (xxvii) clauses 7.4(a)(iii) and 7.4(b)(iii) and (v) will be deleted;
- (xxviii) clause 8.5 will be deleted;
- (xxix) clause 10.2 will be deleted and replaced with:

"Clause 10.2 of the Retail Lease will apply in relation to subleasing, licensing or concessions by the Tenant as if the area of the Premises comprises part of the area of the Retail Lease premises.";
- (xxx) clause 13.4(c)(i) will be deleted;
- (xxxi) clauses 17.2(a), 17.3(a) and 17.4(a) will be deleted;
- (xxxii) in clause 17.1(a), the words "in the Retail Lease" will be inserted after the word "notice" where first appearing and after the words "Third Option Lease";
- (xxxiii) the following clause 17.1(c) will be included:

"the Landlord and Tenant agree that by exercising an option to renew the Retail Lease, the Tenant is deemed to have exercised the same option to renew this lease.";

- (xxxiv) the words "within the Advertising Strip" in clause 19.2 (a) and the words "within the Advertising Strip and" where appearing twice in clause 19.2(b) will be deleted;
- (xxxv) the words "Unpaid Concourse and" will be deleted from clause 19.3(b) where twice appearing.
- (e) The Tenant must consent to registration of the subdivision plans referred to in paragraphs 2.3(c) and (d)(i), both in its capacity as Tenant under this lease and in its capacity as a Member under the Building Management Statement.

3. Rent

3.1 The Tenant must pay

The Tenant must pay the Rent by equal monthly instalments in arrears on each Payment Date to the place and in the manner as directed by the Landlord.

3.2 Instalments

If a rent instalment period is less than a month, the instalment for that period is calculated at a daily rate by multiplying the number of calendar days in the rent instalment period by the Rent divided by the number of calendar days in the relevant lease year.

3.3 Annual CPI increases in Rent

- (a) The Rent will be indexed to CPI with effect from each relevant Review Date determined in accordance with the following formula:

$$A = \frac{R \times C2}{C1}$$

where:

- A is the revised Rent;
- R is the Rent payable for the year immediately preceding the relevant Review Date;
- C1 is the Previous CPI; and
- C2 is the Current CPI.

3.4 Rent not to decrease

Notwithstanding anything contained in this lease, the Rent payable for any lease year, any extension thereof or holding over will in no case be less than the Rent payable for the year immediately prior to the relevant Review Date.

4. Payments other than Rent

4.1 Tenant's Outgoings

- (a) The Tenant must during the Term:

- (i) pay as and when they become due for payment all Tenant's Outgoings directly to the relevant person, the Building Management Committee or Authority; and
 - (ii) if required by the Landlord, produce to the Landlord the receipts for those payments within 28 days after the respective due dates for payment.
- (b) The Tenant must promptly pay any land tax and rates levied on the:
- (i) Tenant in respect to the Premises; and
 - (ii) Landlord in respect to the Premises, subject to the Landlord advising the Tenant of any land tax and rates levied on the Landlord (if any).
- (c) If the Tenant does not pay any Tenant's Outgoing in accordance with clause 4.1(a) the Landlord may, if it thinks fit, pay that Tenant's Outgoing and any amounts the Landlord pays may be recovered by it from the Tenant as if it was rent in arrears.

4.2 Reimbursement

The Tenant must repay to or reimburse the Landlord on demand any moneys paid by the Landlord in respect of any liability imposed on the Tenant under or because of this lease, despite any Law directly or indirectly imposing that liability on the Landlord.

4.3 Payment despite termination

The Tenant's Outgoings are payable by the Tenant despite the Term having expired or been determined before the Tenant's Outgoings for any particular part of the Term are capable of being calculated. In that case, the Landlord's reasonable estimate of the Tenant's Outgoings estimated at the date of expiry or determination is to be taken to be the actual Tenant's Outgoings payable by the Tenant pursuant to clause 4.1.

4.4 Landlord's Outgoings Contribution

- (a) The Landlord must pay to the Tenant the Landlord's Outgoings Contribution by equal monthly instalments in arrears on each Payment Date.
- (b) If a period is less than a month, the payment for that period is calculated at a daily rate by multiplying the number of calendar days in the period by the payment divided by the number of calendar days in the relevant lease year.

4.5 Annual CPI increases in Landlord's Outgoings Contributions

- (a) The Landlord's Outgoings Contribution will be indexed by CPI with effect from each relevant Review Date determined in accordance with the following formula:

$$B = \frac{O \times C2}{C1}$$

where:

- B is the revised Landlord's Outgoings Contribution;
- O is the Landlord's Outgoings Contribution payable for the year immediately preceding the relevant Review Date;
- C1 is the Previous CPI; and

C2 is the Current CPI,

and where, for the avoidance of doubt, C1 and C2 are the same as in clause 3.3.

4.6 Landlord's Outgoings Contributions Not to Decrease

Notwithstanding anything contained in this lease, the Landlord's Outgoings Contributions payable for any lease year, any extension thereof or holding over will in no case be less than the Landlord's Outgoings Contributions payable for the year immediately prior to the relevant Review Date.

4.7 Taxes

If a Law requires a party to withhold or deduct Taxes from a payment so that the other party would not actually receive for its own benefit on the due date the full amount provided for under this lease, then:

- (a) the amount payable is increased so that, after making that deduction and deductions applicable to additional amounts payable under this clause, the other party is entitled to receive the amount it would have received if no deductions had been required; and
- (b) the party must make the deductions; and
- (c) the party must pay the full amount deducted to the relevant authority in accordance with applicable law and deliver the original receipts (or other reasonable evidence of payments) to the other party.

4.8 GST

- (a) In this clause 4.8:

"Agreed Price" means the amount the Recipient is required to pay under any provision of this lease (except this clause 4.8) for a supply;

"Recipient" means a party who provides or is liable to provide consideration under this lease for a supply; and

"Supplier" means a party who makes a supply whether as agent or otherwise,

any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause;

a reference to something done (including a supply made) by a party includes a reference to something done by any entity through which that party acts;

and unless the context indicates a contrary intention:

- (i) a reference to a supply is to a supply under this lease;
- (ii) a reference to GST payable by the Supplier includes any GST payable by the representative member of any GST group of which the Supplier is a member; and
- (iii) words and phrases used that are also used in the *A New Tax System (Goods and Services Tax) Act 1999* have the same meaning as in that Act.

- (b) Despite the other provisions of this lease, if the Supplier is or becomes liable to pay GST in respect of any supply:
 - (i) the Agreed Price for that supply is exclusive of GST;
 - (ii) the Recipient must pay an additional amount to the Supplier equal to the amount of that GST at the same time and in the same way as the Recipient must pay the Agreed Price; and
 - (iii) the Supplier must issue a tax invoice to the Recipient in respect of that supply prior to the Recipient making a payment.
- (c) Any payment or reimbursement required to be made under this lease that is calculated by reference to a cost, expenses, or amount paid or incurred will be limited to the total cost, expense or amount less the amount of any input tax credit to which an entity is entitled for the acquisition to which the cost, expense or amount relates.
- (d) If the amount the Supplier recovers from the Recipient on account of GST on a supply under clause 4.8(b) differs for any reason from the amount of GST paid or payable by the Supplier on that supply, then the Recipient must pay to the Supplier on demand (or the Supplier must credit the Recipient with) the amount of that difference. If any adjustment event occurs in relation to a supply, the Supplier must give the Recipient an adjustment note within 10 Business Days after the date of the adjustment event.
- (e) If the Recipient does not comply with its obligations under this lease or with its obligations under the GST law in connection with this lease and because of this the Supplier becomes subject to penalties or interest for late payment of GST, then the Recipient must pay the Supplier on demand an amount equal to the amount of the penalties and interest.

4.9 Costs and expenses

In connection with this lease, the Tenant must:

- (a) promptly pay all stamp duty fines and penalties and registration fees for which the Tenant is primarily liable under the *Duties Act 1997* (NSW);
- (b) promptly pay for everything the Tenant must do under this lease unless this lease expressly says otherwise;

and the Landlord must pay for:

- (c) any interest fine or penalty imposed in relation to the stamping of this lease, as a result of the Landlord's default; and
- (d) the costs of obtaining the consent of the Landlord's mortgagees (if any) to this lease.

4.10 Tenant payments

The Tenant must make payments due under this lease:

- (a) without demand unless this lease says demand must be made;
- (b) without set-off, counter claim, withholding or deduction;
- (c) to the Landlord or as the Landlord reasonably directs; and

(d) by any method the Landlord reasonably requires.

4.11 Interest

If the Tenant or the Landlord do not pay an amount payable to the other under this lease when it is due, it must pay interest on that amount on demand, such interest to be calculated from the date following the date when the amount became due until the amount is paid in full. Interest is calculated on daily balances at the BBSY Rate plus 4% per annum and is capitalised on the last day of each month if unpaid.

4.12 Payments not affected

The Tenant's and Landlord's obligations to make payments under this lease for periods before expiry or termination of this lease are not affected by expiry or termination of this lease.

5. Permitted Use

5.1 Use

The Tenant may use the Premises for the Permitted Uses subject to:

- (a) the Tenant obtaining, at its cost, all approvals required for that use from all relevant Authorities;
- (b) that use complying with all Laws; and
- (c) clause 19.

5.2 No warranty as to use

The Landlord does not warrant that the Premises are suitable, or may be used, for any purpose. The Tenant represents and warrants that:

- (a) it has made its own appraisal of, and has satisfied itself in all respects in connection with, the suitability of the Premises for the Tenant's proposed use;
- (b) has had the opportunity to investigate, and has accepted this lease, with full knowledge of and subject to any prohibitions or restrictions applying to the Premises (including their use) under any Laws or Requirements;
- (c) is satisfied as to the nature, quality, condition and state of repair of the Premises;
- (d) is satisfied as to the use to which the Premises can be put; and
- (e) accepts the Premises as they are and subject to all defects (latent or patent) and all dilapidation and infestation.

5.3 Approvals

If a consent or approval of any Authority is required for a use permitted under clause 5.1, the Tenant must obtain that consent or approval at its own expense and may not by any act or omission cause such consent or approval to lapse or be revoked.

5.4 Securing of the Premises

The Tenant acknowledges that the Landlord is not responsible nor liable in any manner whatsoever for security of or within the Premises or in respect of any unauthorised entry to or misdemeanour within the Premises:

- (a) including any responsibility or liability for which the Landlord might otherwise be responsible or liable because of the wilful or negligent omission on the part of the Landlord or the Landlord's Employees; but
- (b) excluding any responsibility or liability for which the Landlord might otherwise be responsible or liable because of the wilful or negligent act of the Landlord or the Landlord's Employees;

and the Tenant further acknowledges and agrees that it will comply with the Landlord's security alert procedures and other security coordination issues as advised by the Landlord to the Tenant from time to time.

5.5 Supply failure

The Tenant agrees that the Landlord is not liable for, and releases the Landlord from, any liability, loss, injury, damage, cost or expense sustained by the Tenant or any other person at any time as a result of or arising in any way out of the interruption to or the failure of the Services enjoyed by the Tenant in conjunction with the Premises or this lease excluding any interruption or failure caused or contributed to by the wilful or negligent act of the Landlord or the Landlord's Employees.

5.6 No noxious use

The Tenant will not during the Term permit any illegal act, trade, business, occupation or calling to be exercised, carried on, permitted or suffered in or on the Premises at any time during the Term.

5.7 Centre Manager

The Tenant must engage a professional retail shopping centre manager approved by the Landlord, acting reasonably, to manage the operation and the subleasing of the Premises.

5.8 Hours of Operation

- (a) The Tenant undertakes that the Unpaid Concourse and the Bus Interchange will be open during the Unpaid Concourse Operating Hours and in accordance with the terms of the Easements.
- (b) The Tenant must ensure that the Retail Space is open for business and trading during the Retail Opening Hours and in accordance with the terms of the Easements.

6. Insurance and risk

6.1 Insurance by Tenant

The Tenant must maintain with its usual insurer from time to time an insurance policy covering public liability for the amount of \$20,000,000.00 (or such higher amount as considered appropriate by the Landlord from time to time).

6.2 Evidence of insurance

The Tenant must, on request, give the Landlord evidence of its insurance in the form of a certificate or letter issued by the Tenant's insurance managers or brokers.

6.3 Tenant's risk

- (a) The Tenant uses and occupies the Premises, and carries out all work in the Premises, at its own risk and, except as otherwise expressly stated in this lease, the Landlord is not responsible nor liable in any manner whatsoever for and the Tenant releases the Landlord from any liability for loss, damage, injury or death occurring in the Premises, including:
- (i) any maintenance, replacement or repair of the Premises;
 - (ii) security of or within the Premises or any unauthorised entry to or misdemeanour within the Premises;
 - (iii) any loss, damage, dilapidation, infestation, defect (latent or patent) or mechanical breakdown which may affect the Premises;
 - (iv) any interruption to or the failure of the Services or the condition, performance or existence or non-existence of Services; and
 - (v) the presence in or on the Premises of Contamination,
- except to the extent caused by the wilful or negligent act of the Landlord or the Landlord's Employees.
- (b) The Tenant may not terminate this lease or stop payments under this lease because of an interruption or failure in the supply of a Service or because of noise and vibration as a result of the Operations within the Rail Corridor or because of any other matter referred to in paragraph (a) above.

6.4 Release of Landlord

The Tenant releases the Landlord from any liability for loss, damage, injury or death occurring in the Premises, except to the extent that it is caused by wilful or negligent act of the Landlord, or the Landlord's Employees.

6.5 Indemnity by Tenant

The Tenant must indemnify the Landlord against any liability for Costs, damage, injury or death for which the Landlord is or may become liable in respect of, arising from or contributed to by:

- (a) any act or negligence on the part of the Tenant or the Tenant's Employees or others under its control in connection with this Lease or the Premises;
- (b) the Tenant's use or occupation of the Premises;
- (c) Services; and
- (d) any contamination on, in, or under the Premises however or whenever occurring after the Commencing Date but, subject to clause 6.6, not including contamination which occurs after the expiry or earlier determination of the Term,

except to the extent it is caused by the wilful or negligent act of the Landlord, or the Landlord's Employees.

6.6 Continuation of liability

The obligations of the Tenant under clauses 6.4 and 6.5 continue after the Terminating Date or other determination of this lease in respect of any act matter or thing happening before the Terminating Date or other determination of this lease.

7. Repair, maintenance, cleaning and Tenant's works

7.1 Easements and Building Management Statement

- (a) The Tenant must at all times observe and perform the obligations under all Easements, including any indemnities set out in the Easements, as if the Tenant were the registered proprietor of the Land.
- (b) The Tenant will be the Landlord's representative with respect to the Land on the Building Management Committee.
- (c) Subject to paragraph (d), the Tenant must at all time observe and perform the obligations allocated to the Landlord under the Building Management Statement with respect to the Land as if the Tenant were the registered proprietor of the Land.
- (d) The Landlord will comply with any obligation allocated to it under the Building Management Statement to perform Structural Works to the Land.
- (e) The Landlord and the Tenant agree that:
 - (i) the Landlord covenants with the Tenant to duly and punctually observe and perform its obligations under the Building Management Statement and the Easements and to enforce for the benefit of the Tenant, relevant obligations of other stratum owners contained in those documents; and
 - (ii) the Tenant agrees to be bound by the terms of the Building Management Statement to the extent it applies generally to tenants of premises within the Premises to which the Building Management Statement relates and which are not the obligations of the Landlord under this lease.

7.2 Repair

- (a) Without limiting clause 7.1, the Tenant must keep the Premises and the Services in good repair and condition, including but not limited to:
 - (i) all structural and capital maintenance, repair and replacement irrespective of how the necessity or desirability of such maintenance, replacement or repair arose; and
 - (ii) complying with relevant Authority's directions about rubbish removal and recycling.
- (b) Subject to paragraph 7.1(d), the Landlord is not responsible for any maintenance, replacement or repair of the Premises or the Services whatsoever.

7.3 Maintenance

Without limiting clauses 7.1 or 7.2, the Tenant must:

- (a) manage, clean and maintain the Premises to a standard commensurate to its use as required in this Lease and the Building Management Statement;

- (b) ensure that the public toilet facilities in the Premises are open and available for use by members of the public in accordance with the Easements; and
- (c) regularly maintain and clean the toilets referred to in paragraph (b).

7.4 Alterations

- (a) If the Tenant obtains and complies with the conditions of all necessary consents of all relevant authorities and complies with all Laws, it may:
 - (i) alter or refurbish any part of the Premises, excluding the carrying out of structural alterations;
 - (ii) alter, refurbish or replace any of the Tenant's external signage, and/or
 - (iii) reconfigure the boundaries of the Retail Space (so as to allow areas within the altered Retail Space to be subleased in accordance with clause 10.2),with the consent of the Landlord, not to be unreasonably withheld or delayed, subject to paragraph (b).
- (b) The Landlord must not withhold its consent under paragraph (a) if:
 - (i) the Tenant provides the Landlord with 20 Business Days notice of the proposed reconfiguration;
 - (ii) the Tenant provides the Landlord with drawings and specifications in respect thereof prepared by a consultant, architect or engineer approved by the Landlord (which approval will not be unreasonably withheld);
 - (iii) any altered configuration of the Retail Space is no less contiguous than the previous boundary of the Retail Space;
 - (iv) the operational area of the station is not impacted by the works carried to be carried out by the Lessee; and
 - (v) the reconfiguration within the Retail Space does not result in a material obstruction to passageways within the Retail Space.
- (c) The Tenant must carry out works (including those it is required to do under this clause 7) in:
 - (i) a proper and workmanlike manner;
 - (ii) accordance with any reasonable conditions imposed by the Landlord; and
 - (iii) a manner which minimises disturbance to others.
- (d) The Landlord must sign, as owner of the Land, any consent to lodgement of an application for an alteration which complies with this clause 7.4 to any Authority for consent referred to in this clause and must provide that signed consent to the Tenant within 10 Business Days of being requested to provide it.
- (e) The Rent payable by the Tenant under clause 3 of this lease and the Landlord's Outgoings payable under clause 4.4 will not be increased or decreased by reason of the Tenant exercising any of its rights under this clause 7.4.

7.5 Services

- (a) The Tenant must maintain, repair and replace Services including, but not limited to the services contained in the Easements benefiting the Premises and comply with the requirements of Authorities, all Laws and the Easements benefiting the Premises in connection with Services.
- (b) The Landlord and Tenant agree to discuss and agree in good faith a methodology for annual essential services review and certification to ensure that the operation and sufficiency of essential services and their relationship to the operational areas of the station can be assessed.

7.6 Occupational health and safety

- (a) The Landlord:
 - (i) authorises the Tenant to appoint a principal contractor on behalf of the Landlord for the purposes of the OHS Regulation for any Tenant's Construction Work; and
 - (ii) if the Tenant does not appoint a principal contractor on behalf of the Landlord for the purposes of the OHS Regulation for any Tenant's Construction Work before that work begins, appoints the Tenant as the principal contractor for the purposes of the OHS Regulation for that work.
- (b) If requested by the Tenant, the Landlord will appoint a principal contractor for the purposes of the OHS Regulation for any Tenant's Construction Work.
- (c) Subject to the Tenant's obligations under this lease, the Landlord authorises any principal contractor the Tenant appoints for any Tenant's Construction Work or the Tenant as principal contractor for that work, as the case may be, to exercise any authority of the Landlord that is necessary to discharge the responsibilities imposed on a principal contractor by Part 8 of the OHS Regulation for that work.
- (d) The appointment under clause 7.6(a) and the authority under clause 7.6(c) begin at the same time as the relevant Tenant's Construction Work begins and end at the same time as that work is completed.
- (e) The Tenant acknowledges that the principal contractor for any Tenant's Construction Work:
 - (i) is responsible for that work at all times from the time it begins until the time it is completed; and
 - (ii) must ensure that that work is carried out in accordance with the OHS Regulation and the OHS Act.
- (f) Subject to the Tenant's obligations under this lease, to the extent of any inconsistency or conflict between this clause 7.6 and any other clause in this lease, this clause 7.6 prevails.

8. Tenant's rights and additional obligations

8.1 Quiet enjoyment

The Landlord permits the Tenant to occupy and use the Premises without interruption or disturbance, except where otherwise allowed by this lease, the Building Management Statement or the Easements.

8.2 Residential Lots

In accordance with the Building Management Statement and the Easements, the Tenant:

- (a) acknowledges that the Landlord or others authorised by it may carry out works on land adjoining the Premises for the purposes of constructing residential tower buildings; and
- (b) will not make any objection, or claim for compensation under this lease in relation to the carrying out of any works or in relation to any noise, dust, vibration or other disturbance caused by any such works.

8.3 Not used

8.4 Additional obligations

- (a) The Tenant must:
 - (i) comply with all Laws and the requirements of Authorities in connection with the Premises and the Tenant's use and occupation of the Premises;
 - (ii) inform the Landlord of structural damage to the Premises as soon as the Tenant becomes aware of it;
 - (iii) use the Services only for their designated use;
 - (iv) observe the maximum load weights throughout the Premises;
 - (v) give the Landlord at least one 24 hour contact name, address and telephone number for the Landlord to use in emergencies and keep the Landlord informed of any changes to this information;
 - (vi) do everything the Landlord reasonably requires to enable a person having an estate or interest in the Premises superior to or concurrent with the Landlord's to exercise that person's or the Landlord's rights under this lease;
 - (vii) keep and maintain an up to date register of hazchem substances held on the Premises and give that register to the Landlord promptly after an entry to the register is made.
- (b) The Landlord and the Tenant must not do anything:
 - (i) that contaminates or pollutes the Land or any part of the Premises or the Environment in contravention of any Laws; or
 - (ii) that interferes with, obstructs access to, damages or overloads the Services or the Premises' other facilities.

- (c) The Tenant must not, without the Landlord's consent, keep or use inflammable, volatile or explosive materials in excess of normal retail quantities on the Premises, except where required for the purpose of the Tenant complying with its obligations under this lease.

8.5 Non-Premises Obligations

- (a) While the Landlord is the registered proprietor of the Non-Premises Obligations Areas during the Term, the Tenant must observe and perform the Non-Premises Obligations.
- (b) Subject to the Easements and the Building Management Statement, the Landlord agrees that the Tenant and the Tenant's Employees may access, at all times and by any reasonable means and bring equipment on to the Non-Premises Obligations Areas for the purpose of carrying out the Non-Premises Obligations.

8.6 Tenant's Employees

The Tenant must ensure that the Tenant's Employees comply, if appropriate, with the Tenant's obligations under this lease.

9. Landlord's additional rights and obligations

9.1 Right to enter

The Landlord may enter the Premises to see the state of repair of the Premises and to see if the Tenant is complying with its obligations under this lease if:

- (a) the Landlord first gives the Tenant reasonable written notice being not less than 48 hours (except in the case of an emergency);
- (b) any entry to the Premises is outside usual business operating hours where that is possible;
- (c) the Landlord is accompanied on inspections by a representative of the Tenant whom the Tenant must make available to the Landlord at the appointed time for that purpose;
- (d) in the case of works being carried out by the Landlord, those works are supervised by a person appointed by the Tenant at the cost of the Landlord;
- (e) the Landlord and the Landlord's Employees entering the Premises comply with the Tenant's security requirements; and
- (f) the Landlord causes as little disturbance or interference to the Tenant's use of the Premises and any business being carried out on the Premises as is reasonably possible in the circumstances and immediately repairs any damage caused to the Premises, or the property of any person who lawfully occupies the Premises.

9.2 Remedy of default by Tenant

- (a) The Landlord may give the Tenant written notice of any failure by the Tenant to carry out repair and maintenance which is the Tenant's obligations under this lease.
- (b) The Landlord may do anything which is the liability of the Tenant under this lease, but which the Tenant has failed to do within a reasonable time (which must be not less than 60 Business Days) after receiving written notice from the Landlord, but in

doing so the Landlord must comply with clause 9.1. The Tenant must promptly reimburse the Landlord's costs of doing so.

- (c) Notwithstanding clause 9.2(b), the Landlord may, without giving prior notice to the Tenant, enter the Premises and do anything which is the liability of the Tenant under this lease, in the case of an emergency.

10. Assignment and subletting

10.1 Consent required for assignment

- (a) The Tenant must not assign this lease without the prior written consent of the Landlord (not to be unreasonably withheld or delayed).
- (b) The Tenant must make a written request for the Landlord's consent to an assignment.
- (c) The Landlord may withhold consent only if:
 - (i) the Tenant is in default under this lease at the time that the Tenant requests the Landlord's consent under this clause 10.1; or
 - (ii) the proposed tenant fails to prove to the reasonable satisfaction of the Landlord that the proposed tenant is an Acceptable Assignee; or
 - (iii) the proposed tenant will not be the owner of the Retail Complex at the time the proposed assignment takes effect.
- (d) On or prior to any assignment of this lease:
 - (i) the Tenant must procure and deliver to the Landlord a covenant in favour of the Landlord by the proposed tenant to perform the Tenant's covenants and obligations contained in this lease as from the date of assignment; and
 - (ii) in relation to an assignment to an Acceptable Assignee, the Landlord must execute a covenant in favour of the Tenant whereby the Landlord releases the Tenant from and against all liability and obligations in respect of or in any way arising from this lease after the date of assignment.

10.2 Subletting

The Tenant:

- (a) subject to paragraph (b), is entitled, without the Landlord's consent, to grant sub-leases, licenses or concessions for parts of the Premises each which are of less than 30% of the Retail Space on such terms as the Tenant thinks fit;
- (b) is not entitled without the Landlord's consent, to grant a sub-lease, concurrent lease, licences or concessions for parts of the Premises to related parties, where the total area leased to the related parties would be greater than substantially all of the area of the Retail Space;
- (c) must obtain the Landlord's prior written consent to any grant of any sub-leases, licenses or concessions for parts of the Premises of more than 30% of the area of the Retail Space, such consent not to be unreasonably withheld or delayed (except where

the Tenant seeks to grant a long term sub-lease or concurrent sub-lease of substantially all of the Premises); and

- (d) must include in any sub-lease or sub-licence (and any agreement to sub-lease or sub-licence) any part of the Premises, a provision to the effect that the sub-tenant or sub-licensee must not do anything which would cause the Tenant to be in breach of its obligations under this lease.

10.3 Change in control

If the Tenant is a corporation, managed investment scheme or other body which is not Listed and there is a proposal that:

- (a) a person or group of persons cease to have Voting Power of at least 50% in the Tenant; or
- (b) a person or group of persons who on the date the Tenant became the Tenant did not have Voting Power of more than 50% in the Tenant, are to have Voting Power of more than 50% in the Tenant,

then clause 10.1 applies to the proposed change as if it were an assignment of the Tenant's interest in this lease.

11. Financing documents

11.1 Acknowledgement of financing

The Landlord acknowledges that:

- (a) the Tenant may obtain financial accommodation in connection with this lease; and
- (b) it may be a condition of any such financing that the Landlord enters into a financing agreement, and, perhaps, other agreements with the financier.

11.2 Negotiations

The Landlord agrees to be reasonable in negotiating the terms of the agreements referred to in clause 11.1 provided that:

- (a) there is no material derogation of the Landlord's rights under this lease;
- (b) the Tenant pays all costs, charges and expenses reasonably incurred by the Landlord in negotiating the terms of those agreements; and
- (c) the agreements or financing agreement referred to in clause 11.1 contain usually accepted terms required by a financier for a financing facility of a similar nature.

12. Destruction of or damage to Premises

12.1 Destruction of or damage to Land

If the Land is damaged or destroyed in whole or in part so as to render the Premises during the Term substantially unfit for use and occupation by the Tenant:

- (a) this lease may be terminated, without compensation, by the Tenant by giving not less than 7 days notice in writing to the Landlord, if and only if:

- (i) the Landlord notifies the Tenant in writing, within a reasonable time after that occurrence of that damage or destruction, that the Landlord considers the damage or destruction is such as to make its repair impracticable or undesirable; or
 - (ii) the Landlord has failed to repair the damage or destruction within a reasonable time after notice in writing from the Tenant requesting the Landlord to repair the damage or destruction;
- (b) any such termination will be without prejudice to the rights of either party to recover damages from the other party in respect of the damage or destruction, or the rights of either party in respect of any antecedent breach, matter or thing, including without limiting the generality of the foregoing, in respect of damage to the Land;
 - (c) nothing contained or implied in this lease will be deemed to impose any obligation on the Landlord to rebuild, reinstate, or make fit for occupation the Land; and
 - (d) on the happening of any such damage or destruction, the total yearly rent and any amount or a proportionate part of any amount payable to the Landlord in respect of Tenant's Outgoings reserved by this lease, according to the nature and extent of the damage sustained and the useability of the Land, will abate, and all or any remedies for the recovery of those amounts will be suspended until the Land has been rebuilt or reinstated or made fit for the occupation and use of the Tenant or until the lease is terminated pursuant to the provisions of clause 12.1(a).

12.2 Destruction of or damage to the Improvements

- (a) Unless the Lease is terminated under clause 12.1(a), if the Improvements are damaged or destroyed in whole or in part, the Tenant must expeditiously reinstate the Improvements substantially in accordance with their original design and specifications and for substantially the same uses, to the extent that moneys are paid out for such reinstatement pursuant to any insurance policy in respect of those Improvements.
- (b) If, due to changes in any Law, the Tenant cannot reinstate the Improvements to their original design, the Tenant must rebuild the Improvements to such different design and specifications as the Landlord may reasonably approve.
- (c) The Tenant is not entitled to:
 - (i) make any claim against the Landlord;
 - (ii) receive any refund of rent or construction costs approved in relation to the Improvements;
 - (iii) abate, set off or withhold any moneys; or
 - (iv) terminate this lease,

in relation to any Costs it incurs in the event of the Improvements being damaged or destroyed in whole or in part, except to the extent that it is caused by wilful or negligent act of the Landlord or the Landlord's Employees.

13. Land Issues

13.1 Sale by Landlord

The Landlord must not transfer its interest in the Premises without the prior written consent of the Tenant which must not be withheld if the Landlord transfers the Land subject to this lease and on the basis that the transferee covenants to the Tenant that it will comply with the Landlord's obligations under this lease.

13.2 Registration of lease

The Landlord must:

- (a) do all things necessary to have this lease registered promptly;
- (b) inform the Tenant promptly after this lease has been lodged for registration and at the same time deliver a stamped copy of the lease to the Tenant;
- (c) inform the Tenant promptly upon registration of this lease; and
- (d) within a reasonable time after its registration, provide the Tenant with the Tenant's original registered lease.

13.3 Easements and other rights

- (a) Subject to clause 13.1, the Landlord may dedicate or transfer land or grant rights, privileges or easements to or enter into any agreement with any person in relation to the Premises provided that such dedication, transfer, granting of rights or privileges, easements or agreements does not materially and adversely affect the Tenant's rights under this lease without the Tenant's written consent.
- (b) The Tenant must (at the Landlord's request and at the Landlord's cost) promptly execute any consents or other documents to enable the Landlord to exercise its rights under this clause.
- (c) The Tenant acknowledges that the Easements do not have a material and adverse effect on the Tenant's rights under this lease.

13.4 Subdivisions

The Landlord may subdivide the Land, without the Tenant's consent, if:

- (a) after the proposed subdivision, the Premises are substantially the same and the Tenant's use and occupation of the Premises is not materially and adversely affected;
- (b) the amounts payable by the Tenant under this lease are not greater after the proposed subdivision and the amounts payable by the Landlord under this lease are not less after the proposed subdivision; and
- (c) the arrangements after the proposed subdivision for:
 - (i) repair, maintenance, insurance and all other related management and operational matters affecting the Retail Space; and
 - (ii) the protection of and the enjoyment by the Tenant of the estate and interest of the Tenant under this lease,

have not been diminished so as to materially and adversely affect the Tenant's use and occupation of the Premises or the conduct of any business carried out on the Premises.

14. Default

14.1 Essential terms

The following obligations are essential terms of this lease:

- (a) the obligations to pay money under clauses 3 and 4; and
- (b) the obligations under clauses 1.3, 4, 5, 6, 7, 9, 10, 11 and 12.

14.2 Events of Default

- (a) The Tenant must ensure that no Event of Default occurs.
- (b) It is a default under this lease if an Event of Default occurs.
- (c) The Tenant must give notice to the Landlord of a breach of this lease by the Tenant, within 5 Business Days after a breach of this lease occurs, setting out full details of that breach.

14.3 Landlord to give notice of breach

- (a) If a Breach Event occurs, the Landlord may give the Tenant a notice specifying the Breach Event and requiring rectification.
- (b) If the Tenant does not remedy a Breach Event within the period required for that Breach Event to be remedied after service of the Default Notice, the Landlord may give the Tenant a notice stating that an Event of Default has occurred. The Landlord must give a copy of a notice given under this clause 14.3(b) to any financier with whom it has entered into a financing agreement at the same time it is given to the Tenant.
- (c) If an Event of Default occurs, the Landlord may not exercise its rights under clauses 14.4 or 14.5 if the Tenant remedies the Event of Default within 30 Business Days after it occurs.

14.4 Landlord may rectify

The Landlord may, but is not obliged to, remedy at any time (including entering upon the Premises for the purpose of doing so) any Breach Event or Event of Default and whenever the Landlord so elects all reasonable Costs incurred by the Landlord in remedying a Breach Event or an Event of Default must be paid by the Tenant to the Landlord on demand.

14.5 Landlord's right to terminate

- (a) In addition to its rights under clause 14.4, but subject to clause 14.3, the Landlord may, if an Event of Default occurs:
 - (i) terminate this lease by re-entering the Premises; or
 - (ii) terminate this lease by notice.

- (b) The Tenant agrees that the Landlord is not liable for, and releases the Landlord from, liability for loss arising from, including Costs incurred in connection with, anything done by the Landlord (acting reasonably) under this clause 14.5.

14.6 Damages for breach

The Tenant indemnifies the Landlord against any liability or loss arising from, and any Costs incurred in connection with:

- (a) a Breach Event; or
- (b) an Event of Default; or
- (c) any payment required to be made by the Tenant under this lease not being made on its due date; or
- (d) the Landlord rectifying the Tenant's breach of its obligations under this lease,

including Costs on account of funds borrowed, contracted for or used to fund any amount payable under this lease and including in each case legal costs and expenses on a full indemnity basis or solicitor and own client basis, whichever is the higher.

14.7 Indemnity

If an Event of Default occurs and as a consequence this lease is terminated, then the Tenant indemnifies the Landlord against any liability or loss arising from, and any costs, charges and expenses incurred:

- (a) in connection with the Landlord re-entering the Premises; and
- (b) because the Landlord will not receive the benefit of the Tenant performing its obligations under this lease from the date of that termination until the Terminating Date; and
- (c) in connection with anything else relating to that termination including in the Landlord attempting to mitigate its loss,

whether before or after termination of this lease including legal costs and expenses on a full indemnity basis or solicitor and own client basis, whichever is the higher but subject to rents likely to be received by the Landlord. The Landlord's rights under this clause 14.7 are in addition to its rights under clause 14.6.

14.8 Lease for Term

The benefit of the Tenant performing its obligations referred to in clause 14.7(a) is to be calculated on the assumption that this lease continues in force until the Terminating Date and, without limitation, having regard to the provisions in this lease relating to payments to be made under this lease.

14.9 No effect on indemnity

The indemnities under clauses 14.6 and 14.7 are not affected or limited, and the Landlord's entitlement to recover damages from the Tenant or any other person is not affected or limited, by:

- (a) the Landlord re-entering the Premises or otherwise terminating this lease; or
- (b) the Landlord accepting the Tenant's repudiation; or

- (c) the Tenant abandoning or vacating the Premises; or
- (d) the conduct of either party (or that of any officer, employee or agent of a party) constituting a surrender by operation of law.

14.10 Waiver

The Landlord and the Tenant agree that:

- (a) the Landlord's failure to enforce any breach of covenant on the part of the Tenant is not to be construed as a waiver of that breach, nor shall any custom or practice which may grow up between the parties in the course of administering this lease be construed to waive or to lessen the right of the Landlord to insist upon the performance by the Tenant of any term, covenant or condition hereof, or to exercise any rights given to the Landlord on account of any such default;
- (b) a waiver by the Landlord of a particular breach shall not be deemed to be a waiver of the same or any other subsequent breach or default; and
- (c) the demand of or subsequent acceptance of rent under this Lease by the Landlord will not constitute a waiver of any preceding breach by the Tenant of any term, covenant or condition of this lease, other than the failure of the Tenant to make the particular payment or payments of rental so accepted, regardless of the Landlord's knowledge of such preceding breach at the time of acceptance of such rent.

14.11 Tender after termination

Money tendered by the Tenant after the termination of this lease and accepted by the Landlord may be applied in the manner the Landlord decides.

14.12 Acceptance of money

The acceptance of rent or other money under this lease by the Landlord is not a waiver of a preceding breach or an acceptance of the repudiation of this lease by the Tenant. An attempt by the Landlord to mitigate its loss is not a surrender by operation of law or a waiver of the Tenant's breach or an acceptance of the Tenant's repudiation of this lease.

15. Holding over

If the Landlord has not granted the Tenant a new lease of the Premises and the Tenant continues to occupy the Premises after the Terminating Date with the Landlord's consent, the Tenant occupies the Premises under a six monthly tenancy:

- (a) that either party may terminate on 6 months notice ending on any day; and
- (b) is on the same terms (including as to payment of amounts under clause 3) as this lease (with any changes appropriate to a six monthly tenancy).

16. Tenant's obligations at end of lease

- (a) Within the period of 10 Business Days prior to the day the Tenant must leave the Premises, the Tenant must:
 - (i) leave the Premises in good and substantial repair as if its obligations under this lease had been complied with;

- (ii) subject to clause 16(b) and unless the Landlord advises the Tenant otherwise, remove the Tenant's Property from the Premises;
 - (iii) repair any damage to the Premises caused by the Tenant's Property being removed; and
 - (iv) leave the Premises structurally sound, safe, clean, tidy and free from rubbish.
- (b) If the Tenant:
- (i) does not remove the Tenant's Property in accordance with this clause 16; or
 - (ii) does not remove the Tenant's Property as a result of a request by the Landlord,
- then the Landlord may treat the Tenant's Property as abandoned, in which case the Tenant's Property become the property of the Landlord without compensation being paid to the Tenant, and the Landlord may:
- (iii) deal with the Tenant's Property in any way it sees fit; or
 - (iv) cause the Tenant's Property to be removed, destroyed or stored in such manner as the Landlord in its discretion deems fit at the risk and at the cost of the Tenant.
- (c) The Tenant will indemnify and hold indemnified the Landlord in respect of the destruction, removal or storage of the Tenant's Property and also in respect of claims, demands, losses, damages, proceedings, costs, charges and expenses which the Landlord may suffer or incur at the suit of any person other than the Tenant claiming an interest in the Tenant's Property.
- (d) The Landlord will be entitled to recover from the Tenant as a debt due and payable on demand any costs incurred by the Landlord as a result of the Landlord exercising its rights under clauses 16(b)(iii) and (iv).

17. Options to Renew

17.1 Landlord to grant

The Landlord must grant to the Tenant the First Option Lease, Second Option Lease or Third Option Lease for the relevant term if:

- (a) the Tenant gives the Landlord a notice that it wants the First Option Lease, Second Option Lease or Third Option Lease and the Landlord receives that notice in the period beginning on:
 - (i) a day that is 24 months before the Terminating Date; and
 - (ii) ending on a day that is 12 months before the Terminating Date; and
- (b) when the Tenant gives the notice and at the commencement of the First Option Lease, Second Option Lease or Third Option Lease the Tenant is not in breach of this lease.

17.2 Terms of First Option Lease

The First Option Lease is to be on the same terms as this lease is on at the Terminating Date except that:

- (a) the rent at the commencing date of the First Option Lease is to be determined in accordance with clauses 3.3 and 3.4;
- (b) the Term is 15 years, and the particulars of the Term, the Commencing Date and the Terminating Date in this lease are to be replaced having regard to the Term; and
- (c) this clause 17.2 is deleted from the new lease and replaced with "Not Used" and any reference to First Option Lease on the lease form and in the Annexure to the lease are deleted.

17.3 Terms of Second Option Lease

The Second Option Lease is to be on the same terms as this lease is on at the Terminating Date except that:

- (a) the rent at the commencing date of the Second Option Lease is to be determined in accordance with clauses 3.3 and 3.4;
- (b) the Term is 5 years, and the particulars of the Term, the Commencing Date and the Terminating Date in this lease are to be replaced having regard to the Term; and
- (c) this clause 17.3 is deleted from the new lease and replaced with "Not Used" and any reference to Second Option Lease on the lease form and in the Annexure to the lease are deleted.

17.4 Terms of Third Option Lease

The Third Option Lease is to be on the same terms as this lease is on at the Terminating Date except that:

- (a) the rent at the commencing date of the Third Option Lease is to be determined in accordance with clauses 3.3 and 3.4;
- (b) the Term is 5 years, and the particulars of the Term, the Commencing Date and the Terminating Date in this lease are to be replaced having regard to the Term; and
- (c) clause 17 is deleted from the new lease and replaced with "Not Used" and any reference to Third Option Lease on the lease form and in the Annexure to the lease are deleted.

18. Dispute resolution

18.1 First stage

If a dispute arises between the parties in relation to any matter under this lease except a question of law (including an interpretation of the clauses of this lease) the parties agree that they must use their best endeavours to resolve the dispute as follows:

- (a) any party seeking resolution of a dispute must give a notice to any other party in dispute and the parties' representatives must meet within 5 Business Days after that notice is given to attempt to resolve the dispute; and

- (b) if within a further 5 Business Days the dispute is not resolved or the parties do not meet as required by clause 18.1(a) then, the chief executive officers of the parties must meet and use their best endeavours to resolve the dispute within a further 5 Business Days after which period, if the dispute is not resolved or if the chief executive officers have not met, any party may refer the dispute for determination under clause 18.2.

18.2 Expert determination

The following applies in the case of any dispute referred for determination under this clause:

- (a) the dispute must be referred to a person agreed on by the parties but if the parties do not agree within 5 Business Days after the notice of dispute is given, then to a person appropriately qualified to deal with the dispute appointed at the request of any party by the President of the Law Society of New South Wales;
- (b) a person will be appropriately qualified for the purposes of this clause if he or she:
 - (i) has the requisite professional or academic qualifications;
 - (ii) is a principal or partner of a major firm in the Sydney CBD dealing with matters the subject of the dispute; and
 - (iii) has had not less than 10 years experience in dealing with matters the subject of the dispute;
- (c) the expert will:
 - (i) act as an expert and not as an arbitrator;
 - (ii) proceed in any manner he or she thinks fit;
 - (iii) conduct any investigation which he or she considers necessary to resolve the dispute or difference;
 - (iv) examine such documents, and interview such persons, as he or she may require;
 - (v) make such directions for the conduct of the determination as he or she considers necessary; and
 - (vi) be appointed substantially on the terms of the Draft Expert Agreement;
- (d) the expert must:
 - (i) disclose to the parties any interest he or she has in the outcome of the determination; and
 - (ii) not communicate with one party to the determination without the knowledge of the other;
- (e) each party will bear its own costs in respect of any expert determination;
- (f) unless otherwise agreed between the parties, the expert must notify the parties of his or her decision upon an expert determination conducted under this clause 18 within the time period specified under the Draft Expert Agreement;

- (g) the expert will not be liable to the parties arising out of, or in any way in connection with, the expert determination process, except in the case of fraud.

18.3 Running of time

Where it has been determined pursuant to clause 18.2 that actions taken by a party were not in compliance with its obligations under this lease, that party must thereupon take action which is in compliance with its obligations under this lease and any time limits applicable to any response to that action by another party shall apply as from the date such actions were taken in compliance with this lease.

19. Advertising and Vending Machines

19.1 Not Used

19.2 Advertising

- (a) Advertising signs (other than signs identifying the owner, centre or tenant or business information signs) are permitted to be erected within the Advertising Strip and on the backs and sides of any bus shelters, and in such other locations approved by the Landlord acting reasonably.
- (b) Any advertising signs must be approved by all relevant Authorities, if required.
 - (i) The Tenant is entitled to retain for its own account 90% of the revenue earned from the advertising signs it erects within the Advertising Strip and on the back and sides of any bus shelters; and
 - (ii) The Landlord is entitled to be paid by the Tenant 10% of the revenue earned from the advertising signs erected by the Tenant within the Advertising Strip and on the back and sides of any bus shelters.

19.3 Vending machines

- (a) Subject to clause 19.3(b), the Tenant will be entitled to install vending machines within the Premises and retain all of the revenue earned from such vending machines.
- (b) The Tenant must not install vending machines in the Unpaid Concourse and Bus Interchange if, in the opinion of the Landlord (acting reasonably), the installation of such vending machines will materially obstruct the passageways within the Unpaid Concourse and Bus Interchange (where relevant), or will present an unreasonable security or safety risk to the station.

20. Tenant's representations and warranties and Limitation of Liability

20.1 Tenant's representations and warranties

The Tenant warrants that:

- (a) it is duly registered and remains in existence;
- (b) the execution, delivery and performance of this lease does not violate its constitution or any law applying to it;

- (c) it has taken all corporate and other action required to enter into this lease and to authorise the execution and delivery of this lease and the satisfaction of its obligations under this lease;
- (d) this lease constitutes a valid and legally binding obligation of it in accordance with its terms;
- (e) the execution, delivery and performance of this lease does not violate any Law;
- (f) it does not have immunity from the jurisdiction of a court or from legal process (whether through service of notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise);
- (g) no litigation arbitration, mediation, conciliation, criminal or administrative proceedings are current, pending or, to its knowledge, threatened, which, if adversely determined, would or could have a material adverse effect on its business assets or financial condition which has not been advised in writing to the Landlord;

if relevant:

- (h) it has power to enter into this lease in its capacity as manager/trustee of the Trusts;
- (i) the Trusts have been validly created and are in existence at the date of this lease;
- (j) it has been validly appointed as manager of the Trusts and is presently the sole manager/trustee of the Trusts;
- (k) the Trusts are solely constituted by their relevant Trust Deeds, a true and up to date copy of which was provided to the Landlord or its agent before the date of this lease;
- (l) a date has not been declared under the Trust Deeds as the date on which the Trusts will be vested or come to an end;
- (m) no proceedings of any description have been or are likely to be commenced or threatened which could have a material adverse effect on the assets or financial position of the Trusts or the Tenant's management/trusteeship of the Trusts;
- (n) it has not done, or failed to do, any act whereby any of the assets of the Trusts have been acquired by any other person, no assets of the Trusts are presently registered in the name of any other person, and no person, other than the beneficiaries previously notified to the Landlord have acquired any right of any kind whether vested or contingent in any asset of the Trusts;
- (o) it is to the commercial benefit of the Trusts that the Tenant enters into this lease in its capacity as manager/trustee of the Trusts; and
- (p) as manager/trustee of the Trusts has valid rights of indemnity and exoneration against the assets of the Trusts, which rights are available for satisfaction of all liabilities and other obligations incurred by the Tenant under this lease.

20.2 Limitation of liability

- (a) Any provision of this lease which seeks to limit or exclude a liability of the Landlord or the Tenant, is to be construed as doing so only to the extent permitted by law.
- (b) Except as specified in clause 20.2(c) the liability or the obligations of the Tenant to the Landlord whether arising under or in connection with this lease or the performance or non performance thereof or anything incidental thereto, and whether

by way of indemnity, by statute (to the extent that it is possible to exclude such liability), in tort (for negligence or otherwise) or on any other basis in law or equity, notwithstanding any other provision of this lease:

- (i) does not include liability for loss of revenue, loss of capital, downtime costs, loss of financial opportunity or any indirect or consequential financial loss of the Landlord;
 - (ii) for the avoidance of doubt, does include liability for such loss of revenue, loss of capital, downtime costs, loss of financial opportunity or other indirect or consequential financial loss suffered by a third party where the Landlord is liable to any third party for any such loss; and
 - (iii) otherwise is limited to an aggregate total amount of \$10,000,000.00 (excluding GST).
- (c) Clause 20.2(b) does not apply to or limit any of the following liabilities and obligations of the Tenant:
- (i) the Tenant's liability for loss, damage and expense caused by the malicious or fraudulent acts of employees of the Tenant or its agents, whilst in the course of their employment;
 - (ii) any liability in respect of which:
 - A. the Tenant (or any other insured person) is actually paid an amount by insurers of policies of insurance, required to be maintained under this Lease, under or pursuant to those policies of insurance; or
 - B. the Tenant (or any other insured person) would have been paid an amount had the Tenant fully complied with this Lease and the terms and conditions of the policy of insurance and diligently pursued payment of the insurance claim.
- (d) Except as specified in clause 20.2(e) the liability or the obligations of the Landlord to the Tenant whether arising under or in connection with this lease or the performance or non performance thereof or anything incidental thereto, and whether by way of indemnity, by statute (to the extent that it is possible to exclude such liability), in tort (for negligence or otherwise) or on any other basis in law or equity, notwithstanding any other provision of this deed:
- (i) does not include liability for loss of revenue, loss of capital, downtime costs, loss of financial opportunity or any indirect or consequential financial loss of the Tenant;
 - (ii) for the avoidance of doubt, does include liability for such loss of revenue, loss of capital, downtime costs, loss of financial opportunity or other indirect or consequential financial loss suffered by a third party where the Tenant is liable to any third party for any such loss; and
 - (iii) otherwise is limited to an aggregate total amount of \$50,000,000.00 (excluding GST).

- (e) Clause 20.2(d) does not apply to or limit any of the following liabilities and obligations of the Landlord, including:
- (i) the Landlord's liability for loss, damage and expense caused by the malicious or fraudulent acts of employees of the Landlord, or its agents, whilst in the course of their employment;
 - (ii) any liability in respect of which:
 - A. the Landlord (or any other insured person) is actually paid an amount by insurers of policies of insurance, required to be maintained under this deed, under or pursuant to those policies of insurance; or
 - B. the Landlord (or any other insured person) would have been paid an amount had the Landlord fully complied with this lease and the terms and conditions of the policy of insurance and diligently pursued payment of the insurance claim.

21. General

21.1 Notices

All communications (including notices, consents, approvals, requests and demands) under or in connection with this lease:

- (a) must be in writing;
- (b) must be addressed as follows (or as otherwise notified by that party to each other party from time to time):

Landlord

Name: Rail Corporation New South Wales

Address: Level ~~6~~ 20
~~Western Gate Way~~ 477 Pitt Street
~~18 Lee Street~~ Sydney NSW 2000
~~Chippendale NSW 2008~~

Fax: X 9219 1260

For the attention of: X General Manager, Property

Tenant

Name: Venus Chatswood Pty Limited

Address: Level 9
 1 Alfred Street
 Sydney NSW 2000

Fax:

For the attention of: The Director;

- (c) must be signed by the party making the communication or (on its behalf) by the solicitor for, or any attorney, director, secretary, or authorised agent of, that party;
- (d) must be delivered or posted by prepaid post to the address, or sent by fax to the number, of the addressee, in accordance with clause 21.1(b); and
- (e) are taken to be received by the addressee:
 - (i) (in the case of prepaid post) on the third Business Day after the date of posting to an address within Australia, and on the fifth Business Day after the date of posting by airmail to an address outside Australia;
 - (ii) (in the case of fax) at the local time (in the place that the fax is received) that then equates to the time that fax is sent as shown on the transmission report produced by the machine from which that fax is sent confirming transmission of that fax in its entirety, unless that local time is outside normal business hours, when that communication is taken to be received at 9.00 am on the next Business Day; and
 - (iii) (in the case of delivery by hand) on delivery at the address of the addressee as provided in clause 21.1(b), unless that delivery is made outside normal business hours, when that communication is taken to be received at 9.00 am on the next Business Day.

21.2 Governing law

- (a) This lease is governed by and must be construed according to the law applying in New South Wales.
- (b) Any present or future legislation which operates to vary the obligations of the Tenant in connection with this lease with the result that the Landlord's rights, powers or remedies are adversely affected (including by way of delay or postponement) is excluded except to the extent that its exclusion is prohibited or rendered ineffective by law.

21.3 Jurisdiction

Each party irrevocably:

- (a) submits to the non-exclusive jurisdiction of the courts of New South Wales, and the courts competent to determine appeals from those courts, with respect to any proceedings which may be brought at any time relating to this lease; and
- (b) waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 21.3(a).

21.4 Amendments

This lease may only be varied by a deed executed by or on behalf of each party.

21.5 Waiver

- (a) Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power or remedy provided by law or under this lease by a party does not preclude, or operate as a waiver of, the exercise or

enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this lease.

- (b) A waiver or consent given by a party under this lease is only effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of a term of this lease operates as a waiver of another breach of that term or of a breach of any other term of this lease.

21.6 Counterparts

This lease may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes the lease of each party who has executed and delivered that counterpart.

21.7 Prior breaches

Rights in connection with a breach of this lease are not affected by termination or expiry of this lease.

21.8 Severance

If at any time any provision of this lease is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, that will not affect or impair:

- (a) the legality, validity or enforceability in that jurisdiction of any other provision of this lease; or
- (b) the legality, validity or enforceability under the law of any other jurisdiction of that or any other provision of this lease.

21.9 Statutory provisions

- (a) The covenants, powers and provisions implied in leases by sections 84, 84A, 85 and 86 of the *Conveyancing Act 1919* do not apply to this lease.
- (b) If any of the forms of words used in the first column of Part 2 of Schedule 4 to the *Conveyancing Act 1919* are used in this lease, they do not imply a covenant under section 86 of that Act.

21.10 Whole agreement

The provisions contained in this lease comprise the whole of the agreement between the parties in respect of the Premises. No other provisions, whether in respect of the Premises or otherwise, will be implied or arise between the parties by way of collateral or other agreement made by or on behalf of the parties on or before or after the execution of this lease.

21.11 Other costs and fees

The Landlord cannot require the Tenant to contribute to any costs, fees or expenses unless this lease specifically requires the Tenant to do so.

21.12 Indemnities continue

- (a) Each indemnity by a party in this lease is a continuing obligation, separate and independent from that party's other obligations and survives termination or expiry of this lease.

- (b) It is not necessary for a party to incur expenses or to make any payment before enforcing a right of indemnity conferred by this lease.

21.13 Further assurances

If asked by the Landlord, then the Tenant must, at its own expense:

- (a) execute and cause its successors to execute documents and do everything else necessary or appropriate to bind the Tenant and its successors under this lease; and
- (b) use its best endeavours to cause relevant third parties to do likewise to bind every person intended to be bound under this lease.

21.14 Consents

Each party must:

- (a) consider promptly any request by the other for the first party's consent or approval;
- (b) not unreasonably withhold its consent or approval, or impose any unreasonable conditions on its consent or approval; and
- (c) provide the other party with a written response to a request for consent or approval within 20 Business Days after the receipt of the request.

22. Environment

22.1 Definitions

In this clause 22:

"Activity" means any undertaking, development, work or use in, on, under the Premises, and includes (without limitation) the storage, transportation, leak, escape, removal, discharge, release or disposal of any substance, contaminant or waste in, on, under, over, to or from the Premises.

"Contamination" of land, air or water means the presence in, on or under that land, air or water of a substance (whether a solid, liquid, gas, odour, heat, sound, vibration or radiation) at a concentration above the concentration at which the substance is normally present in, on or under (respectively) land, air or water in the same locality, being a presence that presents a risk of harm to human health or any other aspect of the Environment, or could otherwise give rise to a risk of non-compliance or breach of any Environmental Law or Environmental Authorisation.

"Costs" means all actions, suits, claims, demands, causes of action, costs and expenses, legal, equitable, under statute and otherwise, and all other liabilities of any nature (whether or not the parties were or could have been aware of them).

"Environment" means components of the earth, including:

- (a) land, air and water; and
- (b) any layer of the atmosphere; and
- (c) any organic or inorganic matter and any living organism; and
- (d) human-made or modified structures and areas,

and includes interacting natural ecosystems that include components referred to in paragraphs (a)-(d).

"Environmental Authorisation" means a licence, consent, approval, permit, authorisation, certificate of registration or other concession issued by a Government Authority and any agreement, which is required, obtained or entered into in respect of the Land or any Activity pursuant to an Environmental Law.

"Environmental Condition" means, in relation to land, the condition of any aspect of the environment of that land, or of the area surrounding that land, including the presence of any substance (including but not limited to contamination) in, on, under, over, emanating from or migrating to or from that land or that area.

"Environmental Law" means a Law relating to the Environment, including but not limited to a Law relating to the use of land; planning; environmental assessment; the environmental heritage; water; water catchments; pollution of air, soil, ground water or water; noise; soil; chemicals; pesticides; hazardous substances; radioactive substances; the ozone layer; waste; dangerous goods; building regulation; the occupation of buildings; public health; environmental hazard; any aspect of protection of the Environment; or the enforcement or administration of any such Law.

"Government Authority" includes any governmental or semi-governmental or local government authority, administrative or judicial body or tribunal, department, commission, public authority, agency, Minister, officer, statutory corporation or instrumentality.

"Law" means the common law and the principles and doctrines of equity, any constitution or legislation in force from time to time within the Commonwealth of Australia or any State or Territory of the same, any rule, regulation, ordinance, by-law, rule, ruling, guideline, statutory instrument, decree, order, direction or notice made and in force from time to time under any such legislation, and any other similar measure (and the expressions "lawful" and "unlawful" shall be construed accordingly)."

"Released Matters" means:

- (a) non-compliance with any Environmental Authorisation relating to the Premises including, without limitation:
 - (i) Costs arising out of or in connection with remedying the non-compliance;
 - (ii) Costs arising out of or in connection with any legal proceedings which concern compliance with any Environmental Authorisation relating to the Premises;
 - (iii) Costs incurred by reason of any order made by a court in legal proceedings which concern compliance with any Environmental Authorisation relating to the Premises; and
 - (iv) Costs which arise as a consequence of any order made by a court in legal proceedings which concern compliance with any Environmental Authorisation relating to the Premises, whether or not such Costs are the direct subject of any such order;
- (b) the Environmental Condition of the Premises at the date of this Contract;
- (c) any direction, notice, or order given or made under an Environmental Law or Environmental Authorisation in respect of any Activity during the period of the Landlord's occupation of the Premises;

- (d) breach of an Environmental Law or Environmental Authorisation by the Landlord during the period of the Landlord's occupation of the Premises.

22.2 Release

The Tenant releases the Landlord from all Released Matters, and hereby indemnifies the Landlord against all existing or future Claims in respect of the Released Matters or in any way in connection with those matters by or on behalf of that party or any person claiming under or by virtue of that party.

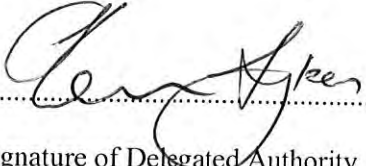
Handwritten signature or initials in black ink, consisting of several loops and strokes.

Executed as a deed.

Executed for and on behalf of **RAIL CORPORATION NEW SOUTH WALES** by its authorised officer in the presence of:

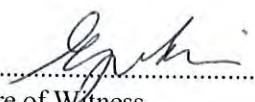

.....
Signature of Witness

VIN SINGH
.....
Name of Witness
Level 9, 477 Pitt Street
Sydney NSW 2000
.....
Address of Witness


.....
Signature of Delegated Authority

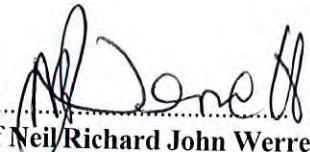
KEVIN STIKES
.....
Name of Delegated Authority

Executed on behalf of **VENUS CHATSWOOD PTY LIMITED (ACN 166 430 379)** by:


.....
Signature of Witness

ELIZABETH JIMKIS
.....
Name of Witness (print)

L9, 1 ALFRED ST SYDNEY
.....
Address of Witness (print)


.....
Signature of **Neil Richard John Werrett**
Sole Director and Secretary

Annexure B
Not used

Handwritten signature and initials in black ink, located at the bottom right of the page. The signature is a complex, cursive scribble, and the initials to its right appear to be 'DS'.

Annexure C
Non-Premises Obligations

The Tenant must, except to the extent that it is caused by wilful or negligent act of the Landlord, or the Landlord's Employees:

1. clean, maintain and repair (excluding structural or capital repair) the Non-Premises Obligations Areas (up to and including the ceiling of those areas);
2. ensure that the Non-Premises Obligations Areas are:
 - (a) closed and secured to the extent agreed by the parties at all times during which it is not open for use according to clause 5.8(b);
 - (b) kept in a clean and tidy condition, including:
 - (i) the removal of minor graffiti that can be removed by usual commercial cleaning methods;
 - (ii) cleaning of pedestrian pavement, street awnings and light fittings;
 - (iii) the removal of any regurgitation, expectoration, urination, defecation, blood or other human or animal substances from the paved areas and walls as soon as practicable of it appearing;
 - (iv) engaging employees or entering into a cleaning contract with a professional cleaning contractor to perform the required cleaning obligations;
 - (c) properly maintained and repaired to a standard commensurate with its use, including (if relevant):
 - (i) maintenance of lighting, including replacing blown light globes,
 - (ii) repair of vandalism which causes minor damage (including graffiti which can be removed by cleaning);
 - (iii) minor repairs and maintenance of pedestrian pavements;
 - (iv) repair of minor accidental damage and wear; and
 - (v) general minor maintenance as appropriate;
3. at its cost, rectify any minor damage to the Non-Premises Obligations Areas or any property within the Non-Premises Obligations Areas caused by any member of the public;
4. promptly take reasonable action to rectify any breakdowns of or damage to the lifts and escalators in the Non-Premises Obligations Area which occur during the Retail Outlet Operating Hours and Unpaid Concourse Operating Hours, such that the following response and repair times are achieved where reasonably possible:
 - lift or escalator stopped response time not exceeding 150 minutes from the time when the Tenant is first notified;
 - passenger trapped response time not exceeding 30 minutes from the time when the Tenant is first notified;
 - equipment repair time not exceeding 150 minutes from arrival of maintenance



persons on the site; and

- replacement or repair of broken glass or security film (if any) not exceeding 24 hours from the time when the Tenant is notified.



5. **THE EXPERT RELEASED**

The Expert is not liable to the Landlord and the Tenant jointly, or either of them separately, or to any third party for anything done or omitted by him or her under this Agreement.

The Landlord and the Tenant release and indemnify the Expert from and against any claims:

- (a) including (without limitation) negligence; but
- (b) excluding actual fraud,

in the course of discharging his or her obligations under this Agreement.

6. **EXPERT'S POWERS**

The Expert must in discharging his or her obligations under this Agreement:

- (a) act as an expert and not as an arbitrator;
- (b) proceed in such manner as the Expert thinks fit without being bound to observe the rules of natural justice or the rules of evidence;
- (c) take into consideration all documents, information and other written and oral material that the Landlord and the Tenant place before the Expert including documents, information and material relating to the facts the subject of the Dispute and to arguments and submissions upon the matters the subject of the Dispute;
- (d) not be expected or required to obtain or refer to any other documents, information or material but may do so if he or she so desires;
- (e) without giving reasons, make a decision in such form as he or she considers appropriate stating the determination of the Dispute; and
- (f) act with expedition with a view to making a decision within 30 Business Days and otherwise in accordance with clause 18 of the Lease.

7. **MEET WITH PARTIES**

If as part of the procedures under clause 4 the Expert meets with the Landlord and the Tenant:

- (a) the Landlord and the Tenant may be accompanied by their legal representatives; and
- (b) the Landlord and the Tenant agree to be bound by such procedural directions as may be given by the Expert both in preparation for, and during the course of, the meeting.

The parties agree that any such meeting or meetings are not in any way to be regarded as a formal hearing.

8. **DECISION BINDING**

Subject to clause 18 of the Lease, the Expert's determination of the Dispute is final and binding.

9. **REMUNERATION**

In consideration of the Expert performing his or her obligations under this Agreement, each of the Landlord and the Tenant will pay to the Expert one half of the Fee or such other amount as is agreed between the Landlord, Tenant and Expert.



10. **CONFIDENTIALITY**

The Expert must not at any time, without the consent of both the Landlord and the Tenant, disclose or suffer or permit his or her employees, consultants or agents to disclose to any person:

- (a) any details concerning the subject matter of the Dispute;
- (b) any of the contents of the Agreement for Lease, this Agreement or any other collateral or supplemental agreements or any of the commercial bases or any information relating to the negotiations concerning the same; or
- (c) any other information which may have come to the Expert's knowledge in the course of this Agreement including (without limitation) information concerning the operations, dealings, transactions, contracts, commercial or financial arrangements or affairs of the Landlord or the Tenant.

11. **NATURE OF EXPERT'S ROLE**

The Expert:

- (a) is to be independent from the Landlord and the Tenant; and
- (b) without limitation, warrants that he or she has no conflict of interest in acting under this Agreement.

Nothing in this Agreement will be deemed to make the Expert an agent, employee or partner of the Landlord or the Tenant.

The Expert must assume full responsibility and liability for the payment of all taxes due on moneys received by him or her under this Agreement.

12. **TERMINATION**

This Agreement may be terminated by either the Landlord or the Tenant in any of the following events:

- (a) the Expert being declared of unsound mind or mentally ill;
- (b) the Expert being declared bankrupt;
- (c) the Expert committing any proven act of dishonesty or, by wilful act or omission or by gross neglect, behaving in a fashion clearly prejudicial to the interests of the Landlord or the Tenant;
- (d) the Expert failing to observe and fulfil any of the substantive terms of this Agreement; or
- (e) the Expert being prevented by prolonged illness or incapacity from performing his or her obligations under this Agreement.

13. **NOTICES**

All notices to be given to the Expert under this Agreement will be deemed to be properly given if:

- (a) hand delivered to the Expert;



Executed by [
in the presence of:

]

Signature of Director

Signature of Secretary/other Director

Name of Director in full

Name of Secretary/other Director in full

The Common Seal of [Expert] was affixed in the
presence of:

Signature of Director

Signature of Secretary/other Director

Name of Director in full

Name of Secretary/other Director in full

Handwritten signatures in black ink, consisting of two distinct scribbled marks, one above the other.

Annexure E
Plan of Premises by RL



Lot 109 (Premises)



Retail Space



DWR Connection Area



DWR Temporary Area



Bus Interchange



Advertising Strip

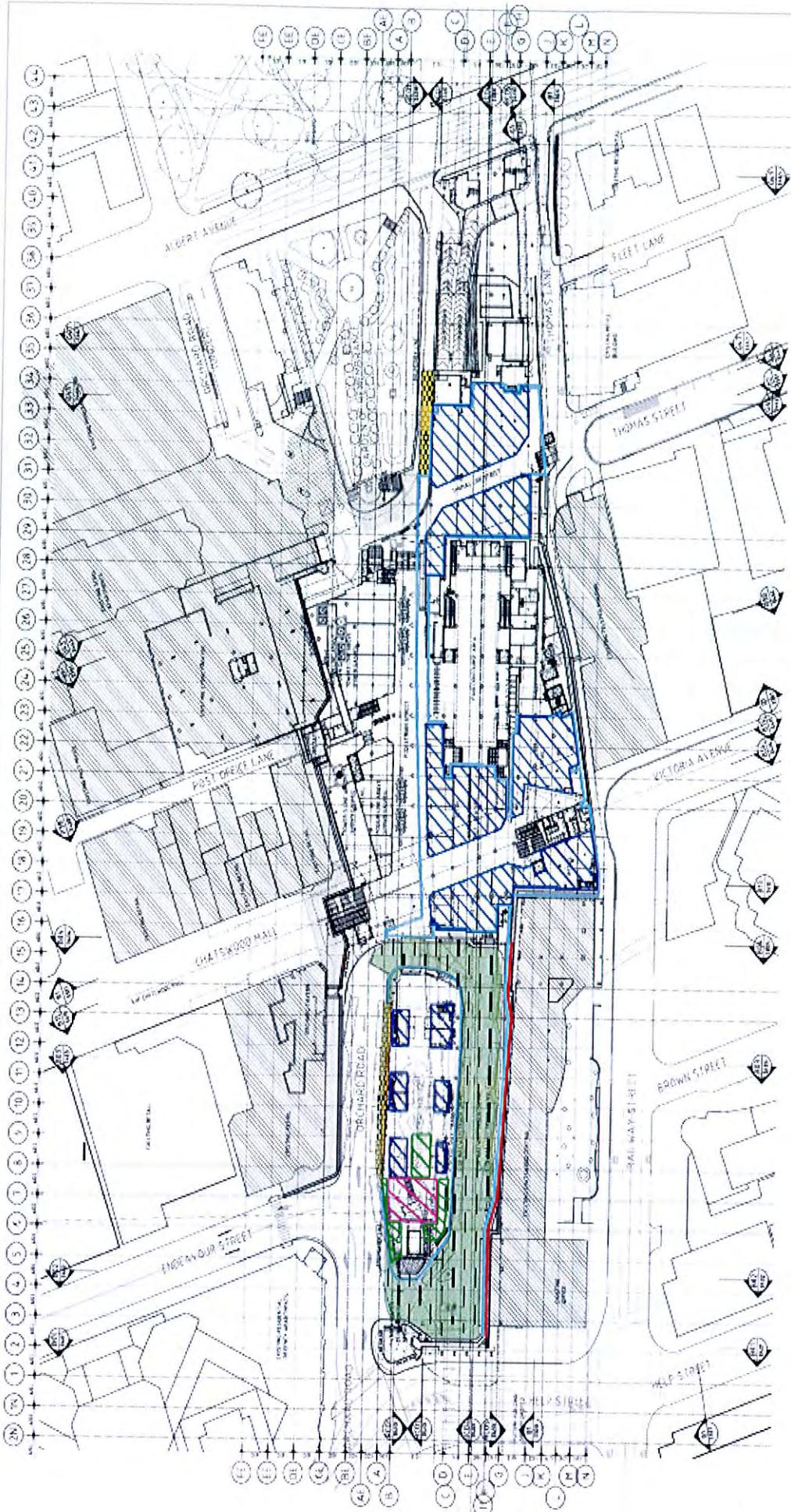


Non-Premises Obligation Area



Bus Interchange Road,
being part of the Non-Premises Obligation Area

Notation- Approximate Only -
For Lot 109 Boundary details, Refer to DP 1094273



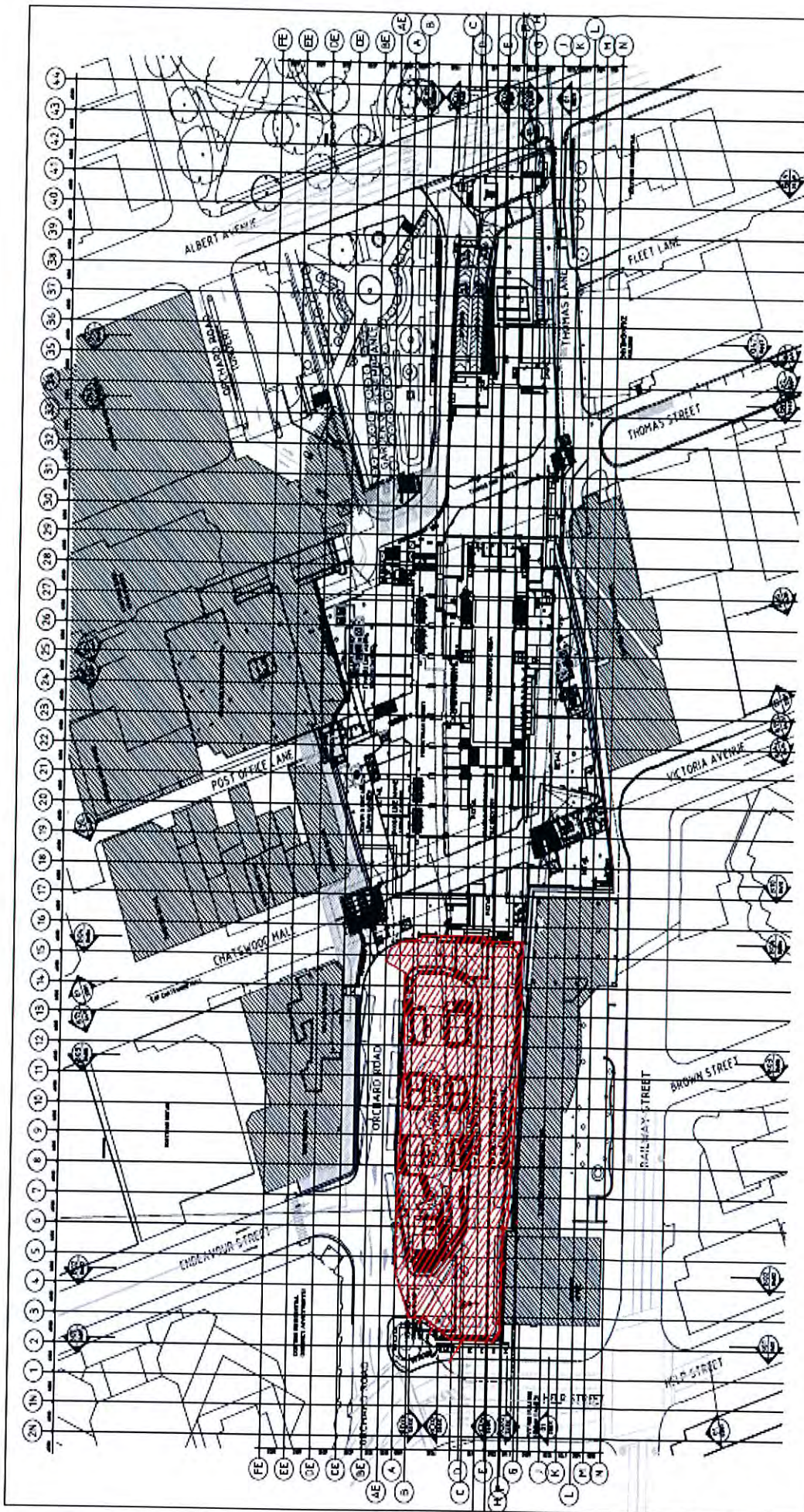
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 605 P. AV
 CONCORD - LEVEL
 11.06.18
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PLAN OF PREMISES
RL 94.0

LIVING SOLUTIONS
 170-19-23 / 0
 11.06.18

COXDesign Inc
 Level 3, 100 Victoria Street, North Sydney, NSW 1585
 Tel: 02 9389 1000 Fax: 02 9389 1001
 www.coxdesign.com.au

NO.	DATE	DESCRIPTION
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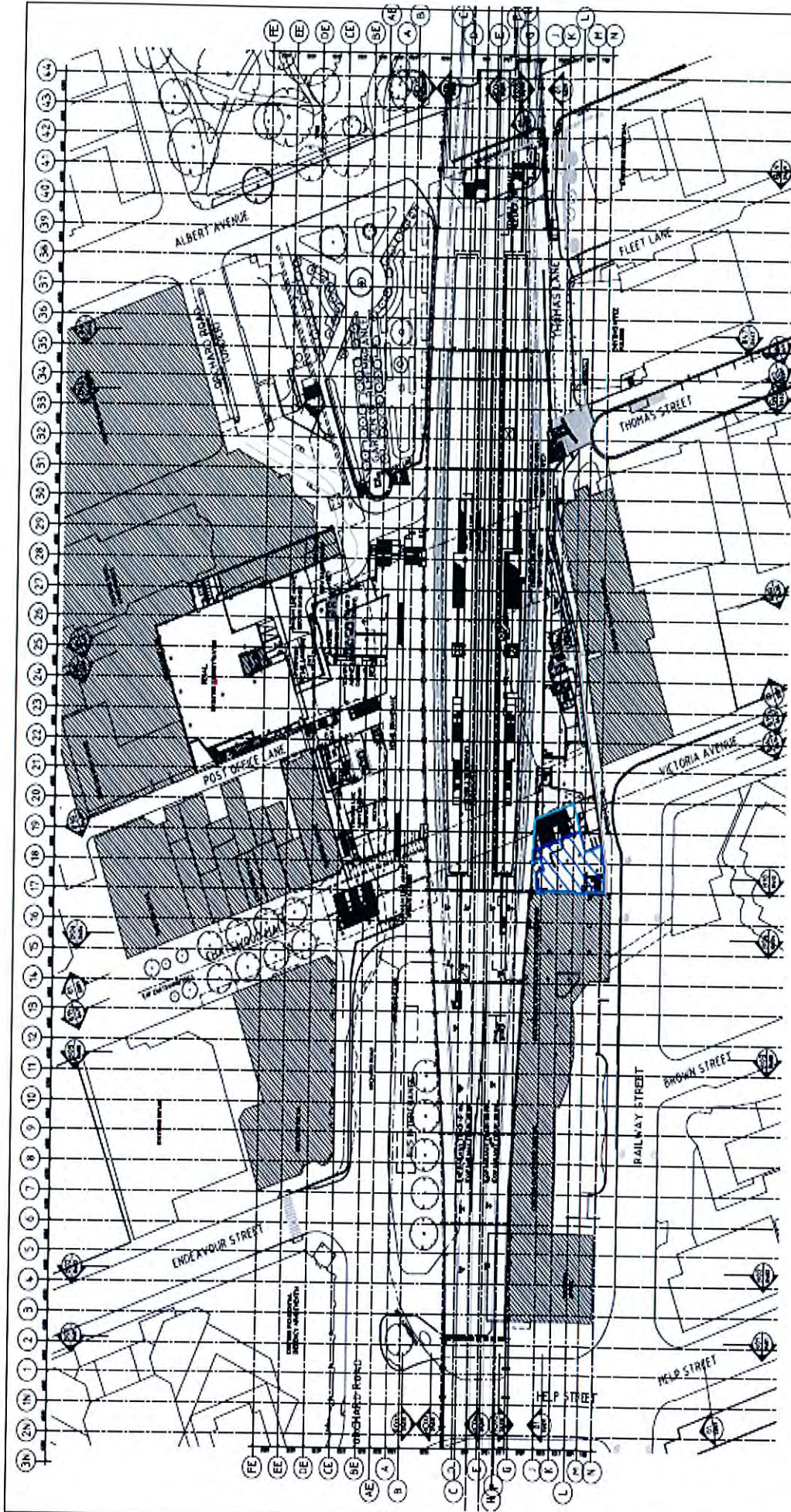


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DATE	FLOOR PLAN	
	CONTOUR - LEVEL	
	RL 14.000	
	AS BUILT	
	PLN-CTI-in-14-101 110	

<p>COXDesign Inc</p> <p>100-10000 14th Avenue, Suite 200 Richmond, BC V6V 1K9 Tel: 604-273-8888</p>	<p>DATE: 14/03/2014</p> <p>TIME: 10:00 AM</p> <p>SCALE: 1:100</p> <p>PROJECT: RAILWAY STATION</p> <p>CLIENT: TRANSIT BC</p>
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<p>NO.</p> <p>DATE</p> <p>DESCRIPTION</p>	<p>1</p> <p>14/03/2014</p> <p>ISSUED FOR PERMIT</p>
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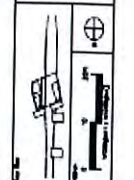


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 INTERMEDIATE - LEVEL
 BL 98.032
 AS BUILT
 PLOT: PLOT101-44-100 100



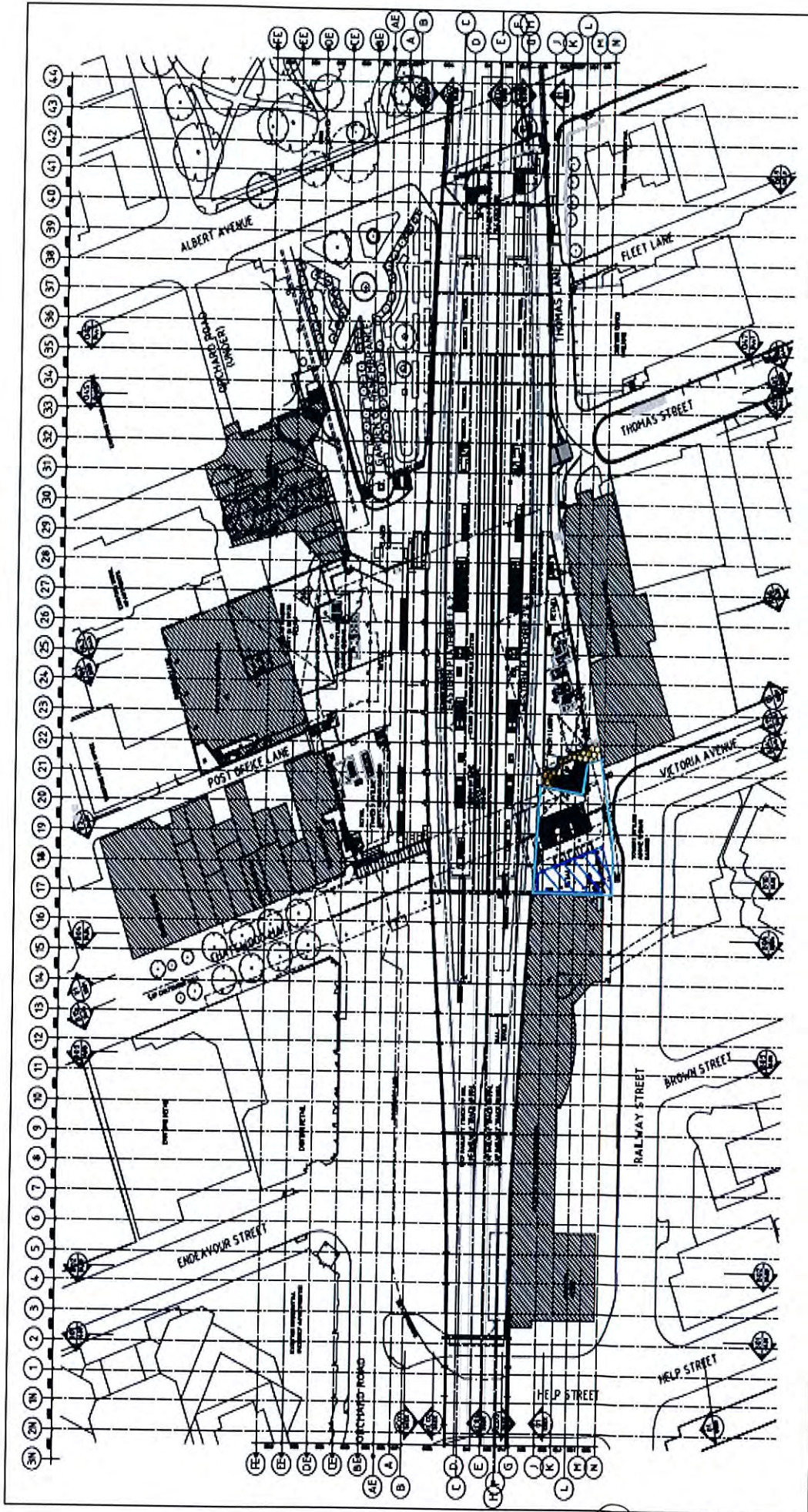
NO.	DESCRIPTION	DATE	BY	CHECKED

COXDesign Inc
 Level 2, 200 George Street, Sydney NSW 2000
 PO Box 100, Sydney NSW 2000
 Phone: +61 (0)2 9231 1000
 Fax: +61 (0)2 9231 1001



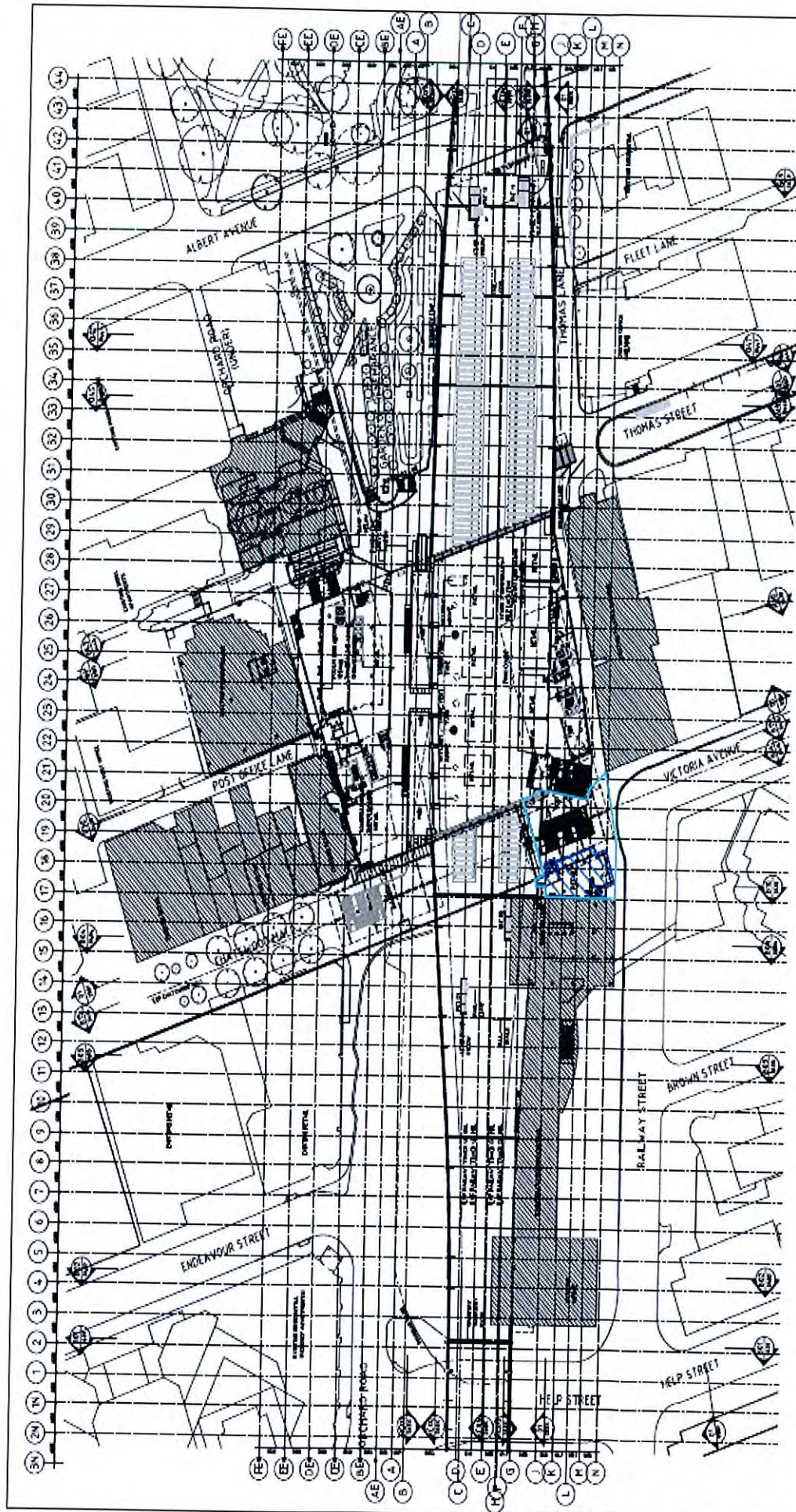
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Transport Infrastructure 																															
LAMPING DESIGN 																															
COX Design Inc Level 1, 100 University Avenue, Suite 1000 Toronto, Ontario M5G 1S7 Tel: 416-593-1100 Fax: 416-593-1101 www.coxdesign.com																															
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AS BUILT	
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COXdesign inc 17-15 GLEN STREET, GLEN WATSON QLD PT. BOX 270, JINDALBA QLD 4225	

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