Annexure A

Retail Lot 1R Deed (“Deed”)

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Retail Lot 1R Deed (Owners Corporations)

Saint Moritz, 14 – 16 The Esplanade, St. Kilda, Victoria

Owners Corporation 1 Plan No. PS826420W

and

Owners Corporation 2 Plan No. PS826420W

and

Owners Corporation 5 Plan No. PS826420W

and

Owners Corporation 6 Plan No. PS826420W

and

14-16 The Esplanade by Gurner Pty Ltd
ACN 626 307 131

and

LIFE by Gurner Customer Service Pty Ltd
ACN 648 589 995

and

Barana (St Kilda) Investments Pty Ltd
ACN 160 116 076

Interstate offices
Canberra Sydney

Schedule

1.	**Date of this Deed:**	The day of
2.	**OC1:**	Owners Corporation 1 Plan No. PS826420W c/o The Knight, PO Box 678 Malvern, Victoria 3144 on behalf of the members of Owners Corporation 1 Plan No. PS826420W
3.	**OC2:**	Owners Corporation 2 Plan No. PS826420W c/o The Knight, PO Box 678 Malvern, Victoria 3144 on behalf of the members of Owners Corporation 2 Plan No. PS826420W
4.	**OC5:**	Owners Corporation 5 Plan No. PS826420W c/o The Knight, PO Box 678 Malvern, Victoria 3144 on behalf of the members of Owners Corporation 5 Plan No. PS826420W
5.	**OC6:**	Owners Corporation 6 Plan No. PS826420W c/o The Knight, PO Box 678 Malvern, Victoria 3144 on behalf of the members of Owners Corporation 6 Plan No. PS826420W
6.	**Developer:**	14-16 The Esplanade by Gurner Pty Ltd ACN 626 307 131 of Level 3, 10 River Street, South Yarra VIC 3141
7.	**LBGCS:**	LIFE by Gurner Customer Service Pty Ltd ACN 648 589 995 of Level 3, 10 River Street, South Yarra VIC 3141
8.	**Barana:**	Barana (St Kilda) Investments Pty Ltd ACN 160 116 076 of Level 3, 10 River Street, South Yarra VIC 3141

Retail Lot 1R Deed (Owners Corporations)

This Deed is made on the date specified in Item 1.

Parties

OC1

OC2

OC5

OC6

The Developer

LBGCS

Barana

Background

A. OC1, OC2, OC5 and OC6 have granted various leases and licences to the Developer and LBGCS over parts of the Common Property for various uses associated with the use of Retail Lot 1R.

B. In order to implement new arrangements for the use of Retail Lot 1R and to ensure the efficient operation of the Development, the Parties have agreed to:

1. cancel some of the leases and licences;

2. vary one of the licences;

3. confirm the validity of the remaining leases and licences; and

4. enter into new licences,

on the terms and conditions of this Deed.

C. Barana as the registered proprietor of Retail Lot 1R wishes to carry out the Internal Works and OC1 has agreed to the Internal Works.

The Parties Agree

1. Definitions

In this Deed, unless expressed or implied to the contrary:

Amenities Lease means the lease of amenities in Common Property No.5 between OC5 (as Landlord) and LBGCS (as Tenant) a copy of which is attached as Attachment 1.

Carriageway Licence means the carriageway licence between OC6 (as Licensor) and the Developer (as Licensee) dated 14 June 2022 a copy of which is attached as Attachment 2.

Claim means any claim, allegation, debt, cause of action, liability, proceeding or demand of any nature however it arises and whether it is present or future, fixed or unascertained, actual or contingent (whether or not the facts, matters or circumstances giving rise to that claim are known to that person or to any other person at the date of this Deed) and whether at law, in equity, under statute or otherwise and whether in respect of death, injury to person or damage to property.

Common Property means the common property on Plan of Subdivision PS826420W.

Commercial Kitchen Sub-lease means the sub-lease of part of the Amenities Lease between LBGCS (as Landlord) and DOC (as Tenant) dated 14 March 2024 a copy of which is attached as Attachment 3.

Date of this Deed means the date specified in Item 1.

Deed means this deed executed by the parties.

Developer means the party named in Item 6 and includes the Developer's successors and assigns and where it is consistent with the context includes the Developer's employees and agents.

Development means Saint Moritz, 14 – 16 The Esplanade, St Kilda, Victoria.

DOC means D.O.C St Kilda Pty Ltd ACN 673 501 221.

Loss means any damage, punitive damages, liability, Claim, obligation, duty, loss, charge, cost or expense (including legal expenses on a full indemnity basis and consultant's fees), interest, penalty, fine and tax, however it arises and whether it is present or future, fixed or unascertained, actual or contingent and whether in respect of death, injury to person or damage to property.

Item means an item in the Schedule.

Internal Works means the following works to be carried out within Retail Lot 1R in accordance with the Works and Storage Room Licence:

(a) creation of an entry to the toilet via the northern wall;

(b) enclosure of the northern area of the restaurant in the area of the new toilet door;

(c) creation of lockable storage in the northeast section of the restaurant;

(d) closure of the existing entry to the toilet;

(e) enclosure of the entry to the kitchen and the new storage area;

(f) removal of the existing partition walls; and

(g) installation of power outlets in the new storage area.

OC1 means the party named in Item 2.

OC2 means the party named in Item 3.

OC5 means the party named in Item 4.

OC6 means the party named in Item 5.

Retail Lot 1R means Lot 1R on Plan of Subdivision PS826420W.

Retail Services (Grease Trap) Licence means the grease trap licence between OC1 (as Licensor) and the Developer (as Licensee) dated 14 June 2022 a copy of which is attached as Attachment 4.

Schedule means the schedule at the front of this Deed.

Signage Licence means the signage licence between OC1 (as Licensor) and the Developer (as Licensee) dated 14 June 2022 as varied by the Variation of Licence, a copy of which is attached as Attachment 5.

Storage Room Licence means the storage room licence between OC5 (as Licensor) and the Developer (as Licensee) dated 14 June 2022 a copy of which is attached as Attachment 6.

Waste Room Licence means the waste room licence between OC2 (as Licensor) and the Developer (as Licensee) dated 14 June 2022 a copy of which is attached as Attachment 7.

Waste Room Vehicle Storage Licence means the waste room vehicle storage licence entered into between OC1 and OC5 (as Licensors) and the Developer (as Licensee) a copy of which is attached as Attachment 8.

Works and Storage Room Licence means the storage room licence between OC6 (as Licensor) and the Developer (as Licensee) a copy of which is attached as Attachment 9.

Variation of Signage Licence means the variation of the Signage Licence to be entered into by OC1 (as Licensor) and the Developer (as Licensee), a copy of which is attached as Attachment 10.

2. Cancellation of Carriageway Licence

The Developer and OC6 agree that the Carriageway Licence is cancelled on the date of this Deed.

3. Cancellation of Waste Room Licence

The Developer and OC2 agree that the Waste Room Licence is cancelled on the date of this Deed.

4. Cancellation of Storage Room Licence

The Developer and OC5 agree that the Storage Room Licence is cancelled on the date of this Deed.

5. Effect of Cancellation and Releases

On and from the applicable date of cancellation in clauses 2, 3 and 4:

5.1 the Developer forfeits all rights arising from or in connection with the Carriageway Licence, the Waste Room Licence and the Storage Room Licence;

5.2 any and all sub-licences granted under the Carriageway Licence, the Waste Room Licence and/ or the Storage Room Licence are automatically cancelled;

5.3 the Developer releases OC6 from all liability, Claims, charges, costs and expenses in connection with the Carriageway Licence;

5.4 OC6 releases the Developer from all liability, Claims, charges, costs and expenses in connection with the Carriageway Licence;

5.5 the Developer releases OC2 from all liability, Claims, charges, costs and expenses in connection with the Waste Room Licence;

5.6 OC2 releases the Developer from all liability, Claims, charges, costs and expenses in connection with the Waste Room Licence;

5.7 the Developer releases OC5 from all liability, Claims, charges, costs and expenses in connection with the Storage Room Licence; and

5.8 subject to an inspection of the licensed area under the Storage Room Licence and written confirmation by OC5 that the Developer is not in breach of the Storage Room Licence, OC5 releases the Developer from all liability, Claims, charges, costs and expenses in connection with the Storage Room Licence.

6. Variation of Signage Licence

6.1 The Developer and OC1 agrees that:

6.1.1 the Signage Licence is varied on and from the date of this Deed in accordance with the Variation of Signage Licence; and

6.1.2 they will enter into the Variation of Signage Licence on the date of this Deed.

7. Acknowledgement by OC1

7.1 OC1:

7.1.1 acknowledges and agrees that the:

(a) Retail Services (Grease Trap) Licence;

(b) Signage Licence; and

(c) Waste Room Vehicle Storage Licence,

are valid and legally binding on and enforceable against OC1; and

7.1.2 must not at any time challenge the validity of the:

(a) Retail Services (Grease Trap) Licence;

(b) Signage Licence; or

(c) Waste Room Vehicle Storage Licence

including threatening or commencing legal proceedings to have them terminated, varied or declared void, invalid or unenforceable except in relation to a breach of the relevant licence or any applicable law by the Developer.

7.2 This Deed may be pleaded as full and complete defence by the Developer to any Claim brought by OC1 relating to the validity or enforceability of the:

7.2.1 Waste Room Vehicle Storage Licence;

7.2.2 Retail Services (Grease Trap) Licence; or

7.2.3 Signage Licence.

7.3 The production of this Deed in any court constitutes a bar against the issue or continuation of legal proceedings against the Developer by OC1 in relation to the validity or enforceability of the:

7.3.1 Waste Room Vehicle Storage Licence;

7.3.2 Retail Services (Grease Trap) Licence; or

7.3.3 Signage Licence.

7.4 Except for the obligations of the Developer and LBGCS arising under this Deed, OC1 must not, and must use its reasonable endeavours to ensure that its members do not, interfere with, frustrate or otherwise impede, either directly or indirectly, the sale of Retail Lot 1R by Barana to a third party purchaser and the assignment of the Waste Room Vehicle Storage Licence, Retail Services (Grease Trap) Licence and Signage Licence by the Developer to that third party purchaser.

7.5 OC1 agrees to indemnify the Developer against any Loss arising from its breach of clause 7.1.2

7.6 OC1 agrees to indemnify Barana and the Developer against any Loss arising from its breach of clause 7.4.

8. Acknowledgement by OC5

8.1 OC5:

8.1.1 acknowledges and agrees that the:

(a) Amenities Lease; and

(b) Waste Room Vehicle Storage Licence,

are valid and legally binding and enforceable against OC5; and

8.1.2 must not at any time challenge the validity of the:

(a) Amenities Lease; and

(b) Waste Room Vehicle Storage Licence,

including threatening or commencing legal proceedings to have them terminated, varied or declared void, invalid or unenforceable except in relation to a breach of the relevant licence or any applicable law by the Developer.

8.2 This Deed may be pleaded as a full and complete defence by the Developer, to any Claim brought by OC5 relating to the validity or enforceability of the:

8.2.1 Amenities Lease; or

8.2.2 Waste Room Vehicle Storage Licence.

8.3 The production of this Deed in any court constitutes a bar against the issue or continuation of legal proceedings against the Developer or LBGCS (as applicable) in relation to the validity or enforceability of the:

8.3.1 Amenities Lease; or

8.3.2 Waste Room Vehicle Storage Licence.

8.4 Except for the obligations of the Developer and LBGCS arising under this Deed, OC5 must not and must use its reasonable endeavours to ensure that its members do not interfere with, frustrate or otherwise impede, either directly or indirectly with the Sale of Lot 1R by Barana to a third party purchaser and the assignment of the Waste Room Vehicle Storage Licence to that third party purchaser.

8.5 OC5 agrees to indemnify the Developer and LBGCS against any Loss arising from its breach of clause 8.1.2.

8.6 OC5 agrees to indemnify Barana and the Developer against any Loss arising from its breach of clause 8.4.

9. Acknowledgement by OC6

9.1 OC6:

9.1.1 acknowledges and agrees that the Works and Storage Room Licence is valid and legally binding on and enforceable against OC6; and

9.1.2 must not at any time challenge the validity of the Works and Storage Room Licence including threatening or commencing legal proceedings to have it terminated, varied or declared void, invalid or unenforceable except in relation to a breach of the Works and Storage Room Licence or any applicable law by the Developer.

9.2 This Deed may be pleaded as a full and complete defence by the Developer, to any Claim brought by the OC6 relating to the validity or enforceability of the Works and Storage Room Licence.

9.3 The production of this Deed in any court constitutes a bar against the issue or continuation of legal proceedings against the Developer in relation to the validity or enforceability of the Works and Storage Room Licence.

9.4 Except for the obligations of the Developer and LBGCS arising under this Deed, OC6 must not and must use its reasonable endeavours to ensure that its members do not interfere with, frustrate or otherwise impede, either directly or indirectly with the sale of Lot 1R by Barana to a third party purchaser and the assignment of the Works and Storage Licence to that third party purchaser.

9.5 OC6 agrees to indemnify the Developer against any Loss arising from its breach of clause 9.1.2.

9.6 OC6 agrees to indemnify Barana and the Developer against any Loss arising from its breach of clause 9.4.

10. Cancellation of Commercial Kitchen Sub-Lease

LBGCS must at its cost:

10.1.1 arrange the cancellation of the Commercial Kitchen Sub-Lease; and

10.1.2 give written notice to OC5 confirming the cancellation of the Commercial Kitchen Sub-Lease within 5 Business Days after the date of cancellation.

11. Internal Works

OC1 confirms it has consented to Barana carrying out the Internal Works.

12. Legal costs and expenses

The Developer must pay the legal costs and expenses of OC1, OC5 and OC6 in relation to the negotiation, preparation and finalisation of this Deed

13. Interpretation

13.1 **Joint and several**

If a party consists of more than one person, this Deed binds them jointly and each of them severally.

13.2 **Clauses and headings**

In this Deed:

13.2.1 a reference to a clause, schedule or appendix is a reference to a clause, schedule or appendix in or to this Deed; and

13.2.2 headings and sub-headings are inserted for ease of reference only and do not affect the interpretation of this Deed.

13.3 **Severance**

In this Deed:

13.3.1 if a provision is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable; and

13.3.2 if it is not possible to read down a provision as required in this clause, that provision is severable without affecting the validity or enforceability of the remaining part of that provision or the other provisions in this Deed.

13.4 **Number and gender**

In this Deed, a reference to:

13.4.1 the singular includes the plural and vice versa; and

13.4.2 a gender includes the other genders.

13.5 **Counterparts and Electronic Execution**

13.5.1 This Deed may be executed in counterparts, all of which taken together constitute one document.

13.5.2 The parties agree that this Deed may be executed electronically. The parties agree to be bound by this Deed, including if executed by electronic means.

Signing Page

Executed by the parties as a deed on the date specified in Item 1.

Executed as a deed by **14-16 The Esplanade by Gurner Pty Ltd ACN 626 307 131** in accordance with s 127(1) and s 127(3) of the *Corporations Act 2001*:)

.....
Signature of Sole Director and Sole Company Secretary

.....
Print full name

Executed as a deed by **LIFE by Gurner Customer Service Pty Ltd ACN 648 589 995** in accordance with s 127(1) and s 127(3) of the *Corporations Act 2001*:)

.....
Signature of Sole Director and Sole Company Secretary

.....
Print full name

Executed as a deed by **Barana (St Kilda) Investments Pty Ltd ACN 160 116 076** in accordance with s 127(1) and s 127(3) of the *Corporations Act 2001*:)

.....	.....
Signature of Director	Signature of Director/Company Secretary
.....	.....
Print full name	Print full name

Executed as a deed by Owners Corporation 1 Plan No. PS826420W
by persons who declare they are Lot Owners of separate lots and members of the Owners Corporation or by a director of a corporation that is a Lot Owner, in accordance with s 10 of the Owners Corporations Act 2006 (Vic) in accordance with a resolution dated :

Signature	Signature
Name (print full name)	Name (print full name)
Address	Address
Position: Lot Owner* / Director of Lot Owner* (*Delete whichever is inapplicable)	Position: Lot Owner* / Director of Lot Owner* (*Delete whichever is inapplicable)
Name of corporation that is a Lot Owner (If signed by a director)	Name of corporation that is a Lot Owner (If signed by a director)

Executed as a deed by **Owners Corporation 2 Plan No. PS826420W**
by persons who declare they are Lot Owners of separate lots and members of the Owners Corporation or by a director of a corporation that is a Lot Owner, in accordance with s 10 of the *Owners Corporations Act 2006* (Vic) in accordance with a resolution dated :

Signature	Signature
Name (print full name)	Name (print full name)
Address	Address
Position: Lot Owner* / Director of Lot Owner* (*Delete whichever is inapplicable)	Position: Lot Owner* / Director of Lot Owner* (*Delete whichever is inapplicable)
Name of corporation that is a Lot Owner (If signed by a director)	Name of corporation that is a Lot Owner (If signed by a director)

Executed as a deed by **Owners Corporation 5 Plan No. PS826420W**
by persons who declare they are Lot Owners of separate lots and members of the Owners Corporation or by a director of a corporation that is a Lot Owner, in accordance with s 10 of the *Owners Corporations Act 2006* (Vic) in accordance with a resolution dated :

Signature	Signature
Name (print full name)	Name (print full name)
Address	Address
Position: Lot Owner* / Director of Lot Owner* (*Delete whichever is inapplicable)	Position: Lot Owner* / Director of Lot Owner* (*Delete whichever is inapplicable)
Name of corporation that is a Lot Owner (If signed by a director)	Name of corporation that is a Lot Owner (If signed by a director)

Executed as a deed by **Owners Corporation 6 Plan No. PS826420W**
by persons who declare they are Lot Owners of separate lots and members of the Owners Corporation or by a director of a corporation that is a Lot Owner, in accordance with s 10 of the *Owners Corporations Act 2006* (Vic) in accordance with a resolution dated :

Signature	Signature
Name (print full name)	Name (print full name)
Address	Address
Position: Lot Owner* / Director of Lot Owner* (*Delete whichever is inapplicable)	Position: Lot Owner* / Director of Lot Owner* (*Delete whichever is inapplicable)
Name of corporation that is a Lot Owner (If signed by a director)	Name of corporation that is a Lot Owner (If signed by a director)

Attachment 1

Amenities Lease

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info@maddocks.com.au
www.maddocks.com.au

DX 259 Melbourne

Lease

Premises: Amenity Areas, Part of Common Property No. 5 on PS826420W, Saint Moritz, 14 – 16 The Esplanade, St Kilda, Victoria

Owners Corporation No. 5 PS826420W
and

LIFE By Saint Moritz Pty Ltd
ACN 648 589 995

Interstate offices
Canberra Sydney

Affiliated offices around the world through the Advoc network - www.advoc.com

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Schedule

Item 1.	**Landlord:** (Clause 1)	Owners Corporation No. 5 PS826420W, Saint Moritz, 14-16 The Esplanade, St Kilda, Victoria
Item 2.	**Tenant:** (Clause 1)	LIFE By Saint Moritz Pty Ltd ACN 648 589 995, of 8 Bowen Crescent, Melbourne VIC 3004
Item 3.	**Guarantor:**	Not Applicable
Item 4.	**Building:** (Clause 1)	Saint Moritz, 14 – 16 The Esplanade, St Kilda, Victoria
Item 5.	**Premises:** (Clause 1)	Those parts of the Building shown outlined in red on the plan attached to this Lease as Attachment 2 being parts of common property no. 5 on plan of subdivision number PS826420W, Saint Moritz, 14 – 16 The Esplanade, St Kilda, Victoria
Item 6.	**Commencement Date:** (Clause 1)	14 June 2022
Item 7.	**Expiry Date:** (Clause 1)	13 June 2027
Item 8.	**Term:** (Clauses 1 & 3.1)	Five (5) years
Item 9.	**Further Terms:** (Clauses 1 & 3.4)	Four (4) further terms of Five (5) years
Item 10.	**Last date for exercising the Option for the Further Term:** (Clause 3.4.1)	13 March 2027
Item 11.	**Rent :** (Clauses 1 & 4)	$1 plus GST per annum
Item 12.	**Market Rent Review Dates:**	Not Applicable
Item 13.	**CPI Adjustment Dates:**	Not Applicable
Item 14.	**Percentage Rent Increase Dates:**	Not Applicable
Item 15.	**Bank Guarantee:**	Not Applicable
Item 16.	**Permitted Use:** (Clauses 1 & 12.1)	Café, bar and function related services
Item 17.	**Trading Hours**	As required to comply with the Permitted Use

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Item 18.	**Special Conditions:** (Clauses 1 & 23.5)	See Attachment 1
Item 19.	**Does Act Apply:** (Clause 1)	Yes The Tenant will use the Premises wholly or predominantly for the sale or hire of goods by retail or the retail provision of services.

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Lease Signing Page

The Landlord leases the Premises to the Tenant subject to the terms contained in this Lease.

This Lease is executed as a deed on the 14th day of June 2022

Executed as a deed by **Owners Corporation No. 1** on **PS826420W** by a person who declares they are the sole Lot Owner and member of the Owners Corporation or by a director of a corporation that is a sole Lot Owner, in accordance with s 10 of the *Owners Corporations Act 2006* (Vic) in accordance with a resolution dated 7th June :

DocuSigned by:
Greg Shand
D9878C82F30C406...

Signature

Greg Shand

Name (print full name)

Address

Position: Director of sole Lot Owner

Barana (St Kilda) Investments Pty Ltd
ACN 160 116 076

Name of corporation that is the sole Lot Owner

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Executed as a deed by **Owners Corporation No. 5** on **PS826420W** by a person who declares they are the sole Lot Owner and member of the Owners Corporation or by a director of a corporation that is a sole Lot Owner, in accordance with s 10 of the *Owners Corporations Act 2006* (Vic) in accordance with a resolution dated 7th June :

DocuSigned by:
Greg Shand
D9878C82E30C406...

Signature

Greg Shand

Name (print full name)

3A Macquarie Street, Sydney NSW 2000

Address

Position: Director of sole Lot Owner

Barana (St Kilda) Investments Pty Ltd
ACN 160 116 076

Name of corporation that is the sole Lot Owner

Executed by **LIFE By Saint Moritz Pty Ltd**)
ACN 648 589 995 in accordance with s 127(1))
of the *Corporations Act 2001*:

DocuSigned by:
Tim Gurner
9EF5211C763442E...

Signature of Sole Director/Secretary

Tim

Print full name

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1. Definitions

In this Lease unless expressed or implied to the contrary:

Act means the *Retail Leases Act 2003* (Vic).

Associated Entity has the same meaning as under the Corporations Act 2001 (Cth).

Beneficiary means any beneficiary of the Dealing.

Building means the Building specified in Item 4.

Building Act means the *Building Act 1993* (Vic).

Building Management Agreement means the building management agreement between each of the owners corporations on the Plan and the Tenant in respect of the Building, dated on or around the date of this Lease.

Building Regulations means the *Building Regulations 2006* (Vic).

Business Name means 'Saint Moritz'.

Commencement Date means the date specified in Item 6.

Contamination includes any solid, liquid, gas, radiation or substance which makes or may make the condition of the Premises or groundwater beneath or part of the surrounding environment:

(a) unsafe, unfit or harmful for habitation by persons or animals; or

(b) unfit for any use permitted under any applicable planning scheme as amended from time to time

or which is defined as such in any Environmental Protection Legislation.

Deal and Dealing means any sub-contract, sub-lease, sub-licence, assignment, novation or transfer of this Lease.

Environmental Protection Legislation means any statute, regulation, code, proclamation, ministerial directive, ordinance, by law, planning policy or subordinate legislation, past, present or future, relating to pollutants and contaminants, use of land, human health and safety or protection of the environment.

Essential Safety Measure has the meaning given to that term in the Building Regulations.

Expiry Date means the date specified in Item 7.

Further Term means the further term(s) specified in Item 9.

Grease Trap means any grease trap servicing the Premises.

Hazardous Materials includes all hazardous substances and any pollutant or contaminant defined as such in (or for the purposes of) any Environmental Protection Legislation.

Insolvency Event means:

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(a) in the case of a natural person, if that person:

(i) becomes bankrupt;

(ii) assigns the person's estate; or

(iii) enters into a deed of arrangement or composition for the benefit of creditors.

(b) in the case of a corporation, if that corporation:

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

(ii) is wound up or dissolved or has an application made for its winding up or dissolution;

(iii) enters into a scheme or arrangement with or makes an assignment for the benefit of its creditors or any class or classes of them;

(iv) is placed under official management;

(v) has an agent in possession or a receiver and/or manager or an administrator appointed to the whole or any substantial part of its assets; or

(vi) has an inspector or investigator appointed under the *Corporations Act 2001* (Cth).

Item means an item in the Lease Particulars.

Landlord means the Landlord specified in Item 1 and includes the Landlord's successors and assigns and where it is consistent with the context includes the Landlord's employees and agents.

Landlord's Fixtures means all fittings, fixtures, and chattels contained in the Premises at the date the Premises is handed over to the Tenant or installed by the Landlord during the Term.

Lease means this lease and includes all annexures and schedules.

Lease Particulars means the schedule of Items specified on the page at the front of this Lease.

Lettable Area(s) means the lettable area of the Premises or the Building, as applicable, assessed for Rates and Taxes as determined by a surveyor engaged by the Landlord.

OHS Act means the *Occupational Health and Safety Act 2004* (Vic).

OHS Law means the OHS Act, the OHS Regulations, and any other occupational health and safety law, regulation or by-law that applies to work being carried out on the Premises.

OHS Regulations means the *Occupational Health and Safety Regulations* 2017 (Vic).

Owners Corporation means Owners Corporation 5 on Plan No. PS826420W.

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Owners Corporation Rules means the rules of Owners Corporation 5 on Plan No. PS826420W a copy of which is attached as Attachment 4 as may be amended from time to time.

Permitted Use means the use specified in Item 16.

Plan means plan of subdivision number PS826420W for the Building a copy of which is attached to the Lease as Attachment 2 and includes any amendments or alterations made to the Plan by the Landlord from time to time and any restriction noted on the Plan.

Premises means that part of the Building specified in Item 5 and includes the Landlord's Fixtures.

Principal Contractor means the position of principal contractor referred to in Chapter 5 of the OHS Regulations**.**

Related Entity means the same as detailed under the Corporations Act 2001 (Cth).

Rent means the amount specified in Item 11 as reviewed, adjusted or increased under this Lease.

Small Business Commissioner means the Small Business Commissioner referred to in the Act.

Special Conditions means the conditions (if any) referred to in Item 18.

Tenant means the Tenant specified in Item 2 and includes the Tenant's successors and assigns and where it is consistent with the context includes the Tenant's employees, contractors, agents, invitees and persons the Tenant allows in the Premises.

Tenant's Property means all property in the Premises including all fixtures and fittings owned or leased by the Tenant but excluding the Landlord's Fixtures.

Term means the term specified in Item 8 and includes any period of overholding.

Trading Hours means the hours for trade specified in Item 17 as varied by the Landlord from time to time (acting reasonably).

2. Negotiation and disclosure requirements

2.1 Negotiation for Lease

If the Act applies to this Lease, the Tenant acknowledges receiving from the Landlord:

2.1.1 a copy of the proposed lease; and

2.1.2 a copy of the information brochure about retail leases published by the Small Business Commissioner,

as soon as the Tenant entered into negotiations with the Landlord, or its agent in respect of this Lease.

2.2 Disclosure statement

If the Act applies to this Lease, the Tenant acknowledges having received from the Landlord:

2.2.1 a disclosure statement (in the form prescribed by the Act); and

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2.2.2 a copy of the proposed lease,

at least 14 days prior to the Tenant entering into this Lease.

3. Duration of the Lease

3.1 Term

This Lease is for the Term starting on the Commencement Date.

3.2 Commencement Date

The Commencement Date will be the date that the parties enter into this Lease.

3.3 Lease less than 5 years

3.3.1 If the Act applies to this Lease, and this Lease is for a term less than 5 years (including any further term) for the purposes of s 21 of the Act, the Tenant must:

(a) request the Small Business Commissioner to give the certification specified in s 21(5) of the Act (**Certification**) within 7 days of the Commencement Date;

(b) give to the Landlord the Certification within 7 days of receipt; and

(c) give to the Landlord a written notice waiving the application of s 21 of the Act to this Lease at the same time as providing the certificate to the Landlord.

3.3.2 The Tenant irrevocably appoints the Landlord as its attorney to:

(a) submit a request to the Small Business Commissioner for the Certification; and

(b) sign a written notice waiving s 21 of the Act.

3.4 Option for a Further Term

The Landlord will grant to the Tenant a new lease for the Further Term if the Tenant:

3.4.1 gives the Landlord written notice asking for a new lease, not earlier than 6 months or later than 3 months, before the end of the Term (the last date for exercising the option for the Further Term is specified in Item 10);

3.4.2 has remedied any breach of this Lease of which the Tenant has received written notice from the Landlord;

3.4.3 has not persistently defaulted under this Lease and the Landlord has given written notice of the defaults; and

3.4.4 complies with all reasonable requirements of the Landlord including where the Tenant is a corporation, procuring such directors of the Tenant as may be reasonably required by the Landlord to execute the guarantee contained in this Lease.

The new lease for the Further Term will commence on the day after this Lease ends and contain the same terms and conditions as this Lease but with either one less option for a

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Further Term or no option for a further term where the last option for the Further Term has been exercised.

3.5 Execution of new Lease for Further Term

The Tenant must:

3.5.1 execute the new lease for the Further Term; and

3.5.2 sign any disclosure statement provided by the Landlord to the Tenant,

and return the above to the Landlord within 14 days of receipt from the Landlord.

3.6 Holding over

If the Tenant continues to occupy the Premises after the Expiry Date with the Landlord's consent, except under a lease arising from the valid exercise of an option to renew, the following provisions will apply:

3.6.1 the Tenant will occupy the Premises as a monthly tenant at a total rental payable monthly in advance being an amount equal to one-twelfth of the aggregate of the Rent and any other money payable by the Tenant to the Landlord under this Lease as at the Expiry Date, the first of the monthly payments to be made on the day following the Expiry Date;

3.6.2 as far as applicable, the monthly tenancy will otherwise continue on the terms and conditions of this Lease;

3.6.3 the Rent or any part of it for the monthly tenancy may be reviewed whenever the Landlord determines it appropriate and any provisions in this Lease relating to calculation of, limitation on or right of review of the Rent or any part of it will not apply;

3.6.4 either party may terminate the monthly tenancy by giving to the other one month's notice to the other party expiring on any date; and

3.6.5 if the Tenant defaults in the performance of its obligations under the monthly tenancy, the Landlord may terminate the monthly tenancy by giving the Tenant 7 days notice.

4. Payment of Rent

The Tenant must pay the Rent (if demanded by the Landlord) to the Landlord by one off payment per annum on the Commencement Date and on each anniversary of the Commencement Date.

5. Outgoings

5.1 Rates and Taxes

The Landlord must pay for the Premises:

5.1.1 local government rates and charges;

5.1.2 water rates and charges, including water usage charges;

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5.1.3 sewerage and drainage rates and charges;

5.1.4 land tax; and

5.1.5 all other rates, taxes, charges and levies assessed in connection with the Premises (including Owners Corporation levies),

(together, the **Rates and Taxes**).

6. Other expenses

6.1 Services

The Landlord must pay for all services in connection with the Premises, including electricity, gas, water and telephone services.

6.2 Costs and duty

6.2.1 The Landlord must pay:

(a) the cost of any insurance premium to insure the Premises against damage or destruction;

(b) the cost of carrying out any repairs to the Landlord's Fixtures except to the extent that such repairs are required as a result of the act or omission of the Tenant; and

(c) the cost of obtaining its mortgagee's consent to this Lease (if required).

6.2.2 The Tenant must pay:

(a) the Landlord’s costs in considering the granting of any consent or approval under this Lease; and

(b) the Landlord's costs incurred as a result of a breach of this Lease by the Tenant.

7. GST

7.1 Definitions

In this clause:

7.1.1 words and expressions that are not defined in this Lease but which have a defined meaning in the GST Law have the same meaning as in the GST Law;

7.1.2 **GST Law** has the meaning given to that term in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

7.2 GST exclusive

Except as otherwise provided by this clause, all consideration payable under this Lease in relation to any supply is exclusive of GST.

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7.3 Increase in consideration

If GST is payable in respect of any supply made by a supplier under this Lease (**GST Amount**), the recipient will pay to the supplier an amount equal to the GST payable on the supply.

7.4 Payment of GST

Subject to clause 7.5 the recipient will pay the GST Amount at the same time and in the same manner as the consideration for the supply is to be provided under this Lease.

7.5 Tax invoice

The supplier must provide a tax invoice to the recipient before the supplier will be entitled to payment of the GST Amount under clause 7.4.

7.6 Reimbursements

If this Lease requires a party to reimburse an expense or outgoing of another party, the amount to be paid or reimbursed by the first party will be the sum of:

7.6.1 the amount of the expense or outgoing less any input tax credits in respect of the expense or outgoing to which the other party is entitled; and

7.6.2 if the payment or reimbursement is subject to GST, an amount equal to that GST.

7.7 Adjustment events

If an adjustment event occurs in relation to a taxable supply under this Lease:

7.7.1 the supplier must provide an adjustment note to the recipient within 7 days of becoming aware of the adjustment; and

7.7.2 any payment necessary to give effect to the adjustment must be made within 7 days after the date of receipt of the adjustment note.

8. Payment requirements

8.1 No deduction or right of set-off

The Tenant must pay all amounts due under this Lease to the Landlord (including the Rent and Rates and Taxes) without deduction or right of set-off.

8.2 Interest on late payments

The Tenant must pay to the Landlord on demand interest at the rate per annum equal to the current rate fixed under s 2 of the *Penalty Interest Rates Act 1983* (Vic) plus 2% per annum on any money payable by the Tenant under this Lease and remaining unpaid after the due date. Interest will be computed from the date on which such payment became due until the date any money payable by the Tenant is paid.

8.3 Payment after termination

The Tenant must:

8.3.1 make all payments due under this Lease; and

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8.3.2 provide all information to the Landlord under this Lease to calculate any such payments,

even if this Lease has ended.

8.4 Method of payment

The Tenant must make all payments under this Lease in such manner as the Landlord reasonably requires, which may include by direct debit.

9. Repairs, refurbishment and alterations

9.1 Condition report

The Tenant acknowledges and agrees that the condition report attached to this Lease in Attachment 3 reflects the true condition of the Premises as at the Commencement Date.

9.2 Repairs and maintenance

The Tenant must:

9.2.1 keep the Premises, the Grease Trap and the Tenant's Property clean and free from rubbish, store all rubbish in proper containers and have it regularly removed including regularly removing any fat, oil, grease and any other substance from the Grease Trap;

9.2.2 keep the Premises and the Grease Trap in the same condition as it was in at the date the Tenant first entered occupation of the Premises (fair wear and tear excepted) including repairing or replacing anything in the Premises (including all furnishings and floor coverings) which are damaged, worn or destroyed with items of at least the same quality;

9.2.3 if required paint and where appropriate paper, any parts of the Premises previously painted or papered whenever reasonably required by the Landlord but not more than once every five years;

9.2.4 maintain in working order the Grease Trap and all plumbing, drains, pipes and sewers exclusively servicing the Premises, to the extent that these facilities are not maintained by the Landlord;

9.2.5 pay the costs (if any) for the removal of waste and sewerage from the Premises;

9.2.6 if required treat in a proper and professional manner (including polishing or varnishing as appropriate) all surfaces of the Premises (including wood, tile and metal surfaces) with the appropriate materials approved by the Landlord when reasonably required by the Landlord but not more than once every five (5) years;

9.2.7 repair all defective lights, fluorescent tubes, windows, doors and locks in or exclusively servicing the Premises;

9.2.8 make good any damage caused to any adjacent property by the Tenant;

9.2.9 take all reasonable measures to ensure that any fair wear and tear to the Premises does not cause any loss or damage to the Premises, the Building, or any person; and

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9.2.10 give the Landlord prompt written notice of any material damage to the Premises or anything likely to be a risk to the Premises or any person in the Premises.

9.3 Equipment in Premises

The Tenant must:

9.3.1 repair and maintain the Landlord's Fixtures including airconditioning and heating equipment exclusively serving the Premises (but excluding expenses of a capital nature) in accordance with the Landlord's reasonable requirements; and

9.3.2 comply with the Landlord's reasonable requirements concerning the use of the Landlord's Fixtures, including airconditioning and heating equipment.

9.4 Alterations to Premises

The Tenant must ensure any alterations or works to the Premises, any services to the Premises or the Tenant's Property are carried out:

9.4.1 strictly in accordance with plans and specifications approved by the Landlord;

9.4.2 by qualified tradespersons approved by the Landlord;

9.4.3 to the Landlord's reasonable satisfaction and in accordance with the Landlord's reasonable requirements (including the Landlord's requirements as to the standard, type, quality, size and colour of any of the Tenant's Property);

9.4.4 under the supervision of the Landlord's architect or consultant; and

9.4.5 in accordance with all rules and requirements of any authorities having jurisdiction over the Premises.

The Tenant is not required to seek the Landlord's consent to making any alterations to the display of the Tenant's merchandise in the Premises.

9.5 Occupational health and safety

For the purposes of the OHS Law, the Tenant agrees that:

9.5.1 the Tenant has sole management and control of the Premises and has sole responsibility for ensuring that the Premises and the means of entering and leaving them are safe and without risks to health;

9.5.2 the Landlord appoints the Tenant as Principal Contractor in respect of any works to be carried out by the Tenant on the Premises to which an OHS Law applies;

9.5.3 the Tenant must carry out such works in accordance with the requirements of the OHS Law; and

9.5.4 the Landlord authorises the Tenant to exercise whatever authority is necessary for the Tenant to discharge the responsibilities of the appointment under clause 9.5.2.

9.6 Not interfere with services

The Tenant must not interfere, misuse or overload any services to the Premises, including electricity, gas and water.

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9.7 Defacing Premises

The Tenant must not deface or damage the Premises (including drilling holes in the Premises) except where approved by the Landlord in accordance with clause 9.4.

9.8 Failure to repair and maintain

If the Tenant does not carry out any repairs, maintenance or other works required under this Lease within 14 days of receiving written notice from the Landlord, the Landlord may enter the Premises to carry out such repairs, maintenance and works at any reasonable time after giving the Tenant reasonable notice. The cost of all such repairs, maintenance and works must be paid by the Tenant to the Landlord on demand.

10. Insurance

10.1 Insurance Cover

During the Term the Tenant must:

10.1.1 be insured in respect of potential liability, loss or damage arising at common law or under any statute in respect of:

(a) claims for property damage, personal injury and public liability for a sum of not less than $2 million per insurable event;

(b) the usual insured risks on an indemnity or replacement value basis of the Tenant's Property;

(c) professional indemnity relevant to the performance of the Tenant's obligations pursuant to this Lease for a sum of not less than $2 million per insurable event; and

(d) workers compensation or employers' liability insurance;

10.1.2 ensure the insurance notes the interest of the Landlord in the relevant policy;

10.1.3 maintain those insurances at all times for the duration of this Lease; and

10.1.4 at all times be responsible for complying with and abiding by the terms and conditions of the insurance arranged by it in accordance with this clause and for the payment of all excesses or other amounts which may be contained within the terms of such policies of insurance.

10.2 Reasonable Terms

Such insurance must be on such basis and on such terms reasonably required from time to time by the Landlord.

10.3 Evidence

The Tenant shall produce evidence on demand, to the satisfaction of the Landlord, of the insurance effected and maintained in accordance with this clause 10.

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11. Release, indemnity and compensation

11.1 Release

The Tenant uses and occupies the Premises at its own risk and releases the Landlord from all claims resulting from any damage, loss, death or injury in connection with the Premises except to the extent that such claims arise out of the Landlord's negligent act omission or default.

11.2 Indemnity

The Tenant must indemnify and hold harmless the Landlord against all claims resulting from any damage, loss, death or injury in connection with the Premises and the use and occupation of the Premises by the Tenant except to the extent that such claims arise out of the Landlord's negligent act omission or default

11.3 No compensation

The Landlord is not liable to the Tenant for any loss or damage incurred by the Tenant due to:

11.3.1 any damage to the Premises;

11.3.2 the failure of the Landlord's Fixtures or any plant and equipment (including air conditioning and escalators) to operate properly;

11.3.3 the interruption or damage to any services (including electricity, gas or water) to the Premises; or

11.3.4 the overflow or leakage of water in the Premises,

except to the extent to which the Landlord is liable where the Act applies.

12. Use of Premises

12.1 Permitted Use

12.1.1 The parties acknowledge and agree that the purpose for the Permitted Use is for the Tenant to provide café, bar and function related services to members of Owners Corporation No. 5 on PS826420W, and their invitees.

12.1.2 The Tenant must use the Premises for the Permitted Use and not use the Premises for any other purpose.

12.2 No warranty

The Tenant:

12.2.1 acknowledges that the Landlord does not represent that the Premises are suitable for the Permitted Use or that the Premises has the necessary approvals for the Permitted Use; and

12.2.2 must make its own enquiries as to the suitability of the Premises for the Permitted Use.

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12.3 Illegal purpose

The Tenant must not use the Premises for any illegal purpose or carry on an noxious or offensive activity on the Premises.

12.4 Trading Hours

12.4.1 The Tenant must:

(a) trade from the Premises during the Trading Hours (or such reduced hours within the Trading Hours that the Tenant reasonably determines to trade, having regard to the Tenant's business); and.

(b) not leave the Premises (including any part of the Premises) vacant or non-operational on any day that is not a public holiday, without the prior written consent of the Landlord (such consent not to be unreasonably withheld).

12.4.2 The Tenant acknowledges that the obligations under clause 12.4.1 will apply to any variation of the Trading Hours as varied pursuant to clause 12.4.3.

12.4.3 The Landlord may, acting reasonably, vary the Trading Hours by giving 30 days written notice to the Tenant except any variation to the Trading Hours must be in accordance with any law governing shop trading hours (if applicable).

13. Other obligations concerning the Premises

13.1 Conduct of Business from Premises

The Tenant must:

13.1.1 keep the Premises fully stocked; and

13.1.2 maintain the appearance of the Premises (including the display of stock) as first class retail premises.

13.2 Compliance with laws

The Tenant must comply with all laws and any requirements of any authority in connection with the Premises and the Tenant's use and occupation of the Premises, except the Tenant will not be required to carry out any structural works unless the need for such works arises from:

13.2.1 the negligent act or omission of the Tenant;

13.2.2 the failure by the Tenant to comply with its obligations under this Lease; or

13.2.3 the Tenant's use of the Premises.

13.3 Licences and permits

The Tenant must maintain all licences and permits required for the Tenant's use of the Premises and obtain the prior written consent of the Landlord before varying any licence or permit or applying for any new licence or permit.

13.4 Nuisance

The Tenant must not do anything in connection with the Premises which may:

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13.4.1 cause a nuisance or interfere with any other person; or

13.4.2 be dangerous or offensive in the Landlord's reasonable opinion.

13.5 Security

The Tenant must keep the Premises secure at all times when the Premises are not being used by the Tenant.

13.6 Signs

The Tenant must seek the prior written consent of the Landlord before displaying or affixing any signs, advertisements or notices to any part of the Premises where such signs, advertisements or notices are visible from outside the Premises, such consent not to be unreasonably withheld.

13.7 Business Name

13.7.1 The Landlord consents to the Tenant and/or a Related Entity registering and/or using the Business Name or such other name as approved and notified to the Landlord by the Tenant for the Term.

13.7.2 Upon the expiration or prior termination of this Lease the Landlord will promptly either terminate or relinquish its use of the Business Name incorporating the name of the Building.

13.8 Fire Drills

The Tenant must participate in any fire or emergency drills of which the Tenant receives at least 7 days notice from the Landlord.

13.9 No vending machines

The Tenant must not permit any vending or amusement machines in the Premises.

13.10 No auctions

The Tenant must not conduct any auctions or fire sales in the Premises.

13.11 No smoking

The Tenant must:

13.11.1 not permit any smoking in the Premises; and

13.11.2 display 'no smoking' signs in the Premises if requested by the Landlord.

13.12 Heavy objects and inflammable substances

The Tenant must not:

13.12.1 store any inflammable or explosive substances in the Premises unless required for the Permitted Use; or

13.12.2 store any heavy objects in the Premises or anything likely to damage the Premises.

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13.13 Heating, Cooling and Lighting

The Tenant must not install any heating, cooling or lighting in the Premises without obtaining the prior written consent of the Landlord (not to be unreasonably withheld).

13.14 Endanger Premises

The Tenant must not do or permit anything to be done in connection with the Premises or the Building which in the opinion of the Landlord may endanger the Premises or the Building or be a risk to any person or property.

13.15 Tenant's employees

The Tenant must use reasonable endeavours to ensure that the Tenant's employees, agents, contractors and invitees observe and comply with the Tenant's obligations under this Lease, where appropriate.

13.16 Environmental management

The Tenant must provide at the request of the Landlord information held by the Tenant relating to the environmental management of the Premises including electricity, gas and water use, recycling and disposal of paper and waste, and the materials used in the fitout of the Premises.

14. Tenant’s environmental obligations

14.1 Comply with Environmental Protection Legislation

The Tenant must, in its use of the Premises, comply with all Environmental Protection Legislation and any permit, approval, authority or licence issued pursuant to any Environmental Protection Legislation.

14.2 Not permit Contamination

The Tenant must not spill or deposit, or carry out any activities on the Premises which may cause any Contamination, or permit any Contamination to escape in any other way into or on the Premises, drainage or surrounding environment.

14.3 Notify of and clean up Contamination

If any Contamination is found in or near the Premises, or the existing Contamination is exacerbated during the Term, the Tenant must:

14.3.1 immediately notify the Landlord, the Environment Protection Authority and any other appropriate Authority;

14.3.2 clean up the Contamination and do everything necessary to minimise harm; and

14.3.3 promptly comply with any notice, order, direction or requirement of the Landlord and of any authority in relation to any such Contamination.

14.4 Indemnify the Landlord

In addition to any other indemnity in this Lease, the Tenant indemnifies the Landlord against all claims for damages, loss, injury or death caused by or arising out of or otherwise in respect of any Contamination being spilled, deposited or otherwise escaping into or on the Premises or a breach of this clause by the Tenant.

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14.5 Obtain reports, surveys or audits

The Tenant must immediately obtain any reports, surveys or audits which the Landlord may reasonably require to enable the Landlord to determine whether a breach of the terms of this clause has occurred. The Tenant will also pay the Landlord on demand the reasonable costs of any such report, survey or audit which the Landlord may obtain.

15. Dealing with interest in the Premises

15.1 Permission to Deal

15.1.1 The Tenant shall not be entitled to Deal with its interest in this Lease, unless it obtains the Landlord's consent.

15.1.2 Notwithstanding clause 15.1, the Tenant may Deal with its interest in this Lease without the consent of the Landlord:

(a) if the Beneficiary is a Related Entity of the Tenant; or

(b) to grant the sublease contemplated by clause 15.2.

15.2 Sublease to Saint Moritz Hospitality Group Pty Ltd

The Tenant is entitled to grant a sublease to Saint Moritz Hospitality Group Pty Ltd (or a Related Entity thereof) without the consent of the Landlord.

15.3 Consent of Landlord

15.3.1 The Landlord will not unreasonably, arbitrarily or capriciously refuse or delay giving its consent to any Dealing.

15.3.2 The Landlord will give its consent or refusal to any Dealing within thirty (30) days of the Tenant giving to the Landlord, all information reasonably necessary for the Landlord to give its consent and any refusal given by the Landlord must be accompanied by detailed reasons.

15.4 Consent Factors for Dealing

15.4.1 If the Tenant requests the Landlord to consent to a Dealing with its interest in this Lease, the Landlord must not unreasonably withhold its consent if:

(a) the Tenant provides reasonable evidence that the proposed Beneficiary is financially sound and reputable and capable of satisfactorily performing the Duties;

(b) the proposed Beneficiary executes in favour of the Landlord, a deed of covenant to comply with the terms of this Lease;

(c) the Tenant pays to the Landlord, all legal costs and costs of the Landlord reasonably incurred by the Landlord in giving its consent.

15.4.2 If the Tenant requests the Landlord to consent to a variation or extension of the Lease, the Landlord will, prior to considering its consent, be entitled to require all documents and information that are reasonable, normal, appropriate and relevant to the Landlord granting its consent.

15.5 Tenant a Company

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If the Tenant is a company (other than a publicly listed company or Associated Entity of a publicly listed company), any change or proposed change in shareholding which alters the effective control of the Tenant (whether occurring at one time or through a series or succession of transfers or issue of shares), shall be an assignment and therefore a Dealing.

15.6 Not a Dealing

Notwithstanding anything in this Lease the Tenant will be entitled to sublease or license its rights and obligations under this Lease to any person or entity in its absolute discretion without the consent of the Landlord and such sublease or licence shall not constitute a Dealing.

15.7 Release and Discharge

Upon a Dealing, the Tenant must be released and discharged from any further liability under this Lease but without prejudice to the rights and remedies of either party arising in respect of any matter or thing occurring prior to the date of the Dealing.

15.8 Not Binding

Any purported Dealing in contravention of the provisions of this clause 15 is not binding on the Landlord nor does it pass any interest to the purported Beneficiary.

15.9 Building Management Agreement

Despite anything in this clause 15, if the Tenant assigns or novates the Building Management Agreement to third party, the Tenant must assign or novate (as they case may be) this Lease to the same third party, simultaneous with that assignment or novation.

16. No Caveat

16.1 Not Lodge Caveat

The Tenant must not lodge a caveat on any title to the Premises.

16.2 Removal of Caveat

If the Tenant lodges a caveat on any title to the Premises, the Tenant appoints the Landlord as its attorney to do everything necessary to remove the caveat including executing and registering a withdrawal of caveat and the Tenant must reimburse to the Landlord any costs incurred by the Landlord under this clause.

17. Tenant's obligations at the end of this Lease

17.1 Tenant's obligations

At the end of this Lease, the Tenant must:

17.1.1 vacate the Premises and give them back to the Landlord in a condition consistent with the Tenant having complied with its obligations under this Lease;

17.1.2 remove the Tenant's Property (including all signs and lettering) and reinstate the Premises to the condition the Premises were in prior to the installation of the Tenant's Property including making good any damage caused by the removal of the Tenant's Property; and

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17.1.3 give to the Landlord all keys and other security devices for the purposes of obtaining access to the Premises.

17.2 Tenant's Property left in Premises

Anything left in the Premises after 7 days of the end of this Lease will be deemed to be abandoned by the Tenant and will become the property of the Landlord and may be removed by the Landlord at the Tenant's cost and at the Tenant's risk and the parties agree that this clause 17.2 is an agreement about the disposal of uncollected goods for the purposes of s 56(6) of the *Australian Consumer Law and Fair Trading Act 2012* (Vic).

18. Landlord's rights and obligations

18.1 Quiet enjoyment

The Landlord must not interfere with the Tenant's use and occupation of the Premises except as provided by this Lease.

18.2 Outgoings and insurance

The Landlord must:

18.2.1 pay all rates and taxes not payable by the Tenant; and

18.2.2 insure the Premises against damage or destruction.

18.3 Maintenance of plant and equipment

The Landlord will use its reasonable endeavours to maintain all plant and equipment under the Landlord's control in working order except to the extent that the Tenant is required to do so under this Lease.

18.4 Alterations to the improvements

The Landlord may carry out any works, alterations, renovation or refurbishment of the Building which may include extending or reducing the Building. Except where the Landlord determines that such works, alterations, renovation or refurbishment are required urgently, the Landlord must provide the Tenant 14 days written notice of such proposed works, alterations, renovation or refurbishment if the works, alterations, renovation or refurbishment will materially affect the Premises.

18.5 Entry by Landlord

The Landlord may enter the Premises at any reasonable time after giving the Tenant reasonable written notice, to:

18.5.1 inspect the condition of the Premises;

18.5.2 rectify any default by the Tenant under this Lease;

18.5.3 for a period of time no longer than it takes to assess the environmental management of the Premises, undertake an environmental inspection or accreditation or monitor the environmental management of the Premises, including energy and water use;

18.5.4 carry out any inspection, repairs, maintenance, works or alterations in the Premises which the Landlord decides to or is required to carry out by any law or authority.

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The Landlord must use all reasonable endeavours to cause as little disruption as possible to the Tenant's use of the Premises in exercising the Landlord's rights under this clause.

18.6 Emergency entry

The Landlord may enter the Premises at any time without giving notice to the Tenant in an emergency.

18.7 Landlord's consent

Unless otherwise provided for in this Lease, where the Landlord is required to give its consent under this Lease, the Landlord must act reasonably and may give or refuse its consent subject to such conditions as the Landlord may reasonably determine in its absolute discretion.

18.8 Landlord's Manager

The Landlord may appoint a manager to exercise the Landlord's rights and perform the Landlord's obligations under this Lease.

18.9 Passage of Services

The Landlord reserves to itself and others authorised by it the passage of air conditioning equipment, fire and sprinkler systems, pipes, services, ducts, cables, electrical wiring, water sewerage and drainage connections and any other services through, along, in or into the Premises and also access to and through the Premises at all reasonable times and at any time in the case of an emergency for the purpose of installing, maintaining or repairing any such equipment, systems, pipes, ducts, cables, wirings, connections and services.

18.10 Authority to complete blanks

The Owners Corporation is authorised to complete any blanks in this Lease as agreed to in writing with the Tenant.

19. Owners Corporations Rules

19.1 Tenant must obey Owners Corporation Rules

The Tenant must observe and comply with the Owners Corporation Rules. A breach of the Owners Corporation Rules is a breach of this Lease.

19.2 Lease prevails over Owners Corporation Rules

If any of the Owners Corporation Rules are inconsistent with the terms of this Lease, the terms of this Lease prevails to the extent of the inconsistency.

20. Termination of Lease

20.1 Re-entry

The Landlord may re-enter the Premises and terminate this Lease if:

20.1.1 an Insolvency Event occurs in relation to the Tenant; or.

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20.1.2 the Tenant breaches this Lease and does not remedy the breach within 14 days of receipt of written notice from the Landlord.

20.2 Damages following determination

If this Lease is terminated by the Landlord, the Tenant agrees to compensate the Landlord for any loss or damage the Landlord suffers arising in connection with the Tenant's breach of this Lease including the loss of the benefit of the Tenant performing its obligations under this Lease up to the Expiry Date.

20.3 Essential terms

The essential terms of this Lease are clauses 4, 5.1, 6.2, 7, 9.2, 9.3, 9.4, 10, 12.1, 12.3, 13, 14, 15 and 16. The breach of an essential term is a repudiation of this Lease.

20.4 No deemed termination

If the Tenant vacates the Premises, the Landlord will not be deemed to have terminated this Lease merely by the acceptance of keys from the Tenant, entry into the Premises for any purpose, or the showing of the Premises to prospective tenants or purchasers. This Lease will be deemed to continue until such time as the Landlord gives notice to the Tenant terminating this Lease, or otherwise agrees with the Tenant that this Lease is terminated.

21. Destruction or Damage of Building

21.1 Reduction in Rent

If the Building, or any part of the Building is destroyed or damaged to the extent that the Tenant cannot use or have access to the Premises (except if the Tenant causes or contributes to the destruction or damage, or the Landlord's insurer is not legally required to reinstate the Building because the Tenant caused or contributed to the destruction or damage) then the Landlord will reduce the Rent and other amounts due under this Lease by a reasonable amount depending upon the nature and extent of destruction or damage until the Tenant can use Premises.

21.2 Reinstatement of Premises

If the Premises or any part of the Premises are destroyed or damaged, the Landlord may, within 3 months from the date of such damage or destruction, give notice to the Tenant:

21.2.1 terminating this Lease, where the Landlord considers that the damage or destruction is such that repairing it is impracticable or undesirable; or

21.2.2 that the Landlord will commence reinstatement of the Premises to a condition where the Tenant can use or have access to the Premises.

The Landlord does not have to reinstate the Premises.

21.3 Tenant's Right of Termination

Where the Tenant has not caused or contributed to the damage or destruction of the Premises and the payment of the insurance for the Premises is not refused due to the act or default of the Tenant, the Tenant may give written notice to the Landlord terminating this Lease where the Landlord does not:

21.3.1 give notice to the Tenant pursuant to clause 21.2; or

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21.3.2 commence reinstatement within 6 months of the date of damage or destruction.

Upon termination of this Lease, each party is released from all further obligations under this Lease except nothing in this clause releases either party from any breach of this Lease arising prior to the date of termination.

21.4 Dispute Resolution

If a dispute arises under this clause about the amount of the Rent or other amounts payable by the Tenant, either party may ask the President of the Australian Property Institute (Victorian Division) to nominate a valuer to determine the dispute as an expert. The parties will be bound by the determination of the valuer and will share the fees of the valuer equally.

21.5 No Compensation

The Tenant acknowledges that if the Premises are destroyed or damaged, the Tenant is not entitled to receive any compensation from the Landlord, except this clause does not apply where the Act applies to this Lease.

22. Security Cards

22.1 Provision of Security Cards

The Landlord must provide to the Tenant security cards, keys or other means to obtain access to the Premises.

22.2 Payment for Security Cards

The Tenant must:

22.2.1 notify the Landlord as to the number of security cards or keys required by the Tenant;

22.2.2 pay to the Landlord the cost of the security cards or keys;

22.2.3 give written notice to the Landlord if a security card or key is lost or stolen; and

pay the cost of any replacement security card or key issued by the Landlord.

23. General

23.1 Notices

Any notice required to be served under this Lease must be in writing and must be served by post, e-mail or hand delivered to:

23.1.1 the Tenant at its address set out in this Lease, the Tenant's registered office address, the Premises, or the last known address of the Tenant; and

23.1.2 the Landlord at its address set out in this Lease or any other address notified in writing to the Tenant by the Landlord.

23.2 Time of service

A notice or other communication is deemed served:

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23.2.1 if served personally or left at the person's address, upon service;

23.2.2 if posted, 2 business days after posted;

23.2.3 if served by e-mail, subject to sub-clause 23.2.4, at the time the email is successfully transmitted; and

23.2.4 if received after 6.00 pm in the place of receipt or on a day which is not a business day, at 9.00 am on the next business day.

23.3 Entire understanding

This Lease and the disclosure statement (if any) contains the entire understanding between the parties as to the subject matter contained in it. All previous agreements, representations, warranties, explanations and commitments, expressed or implied, affecting this subject matter are superseded by this Lease and have no effect.

23.4 Waiver

If the Landlord accepts the Rent or any other monies under this Lease (before or after the end of this Lease) or does not exercise or delays exercising any of the Landlord's rights under this Lease, it will not be a waiver of the breach of this Lease by the Tenant or of the Landlord's rights under this Lease.

23.5 Special Conditions

This Lease is subject to the Special Conditions. The Special Conditions override any inconsistent provisions in this Lease.

24. Personal Property Securities Act

24.1 In this clause 24:

24.1.1 **Landlord PPS Property** means any item of property:

(a) in which the Landlord has an interest; and

(b) which is situated on the Premises at any time during the term of this Lease;

24.1.2 **PPS Act** means the *Personal Property Securities Act 2009* (Cth);

24.1.3 **Tenant PPS Property** means any item of property:

(a) in which the Tenant has rights;

(b) which is situated on the Premises at any time during the term of this Lease; and

(c) of which, whether before or after the end of the term of this Lease:

(i) the Landlord may require the Tenant to transfer ownership to the Landlord;

(ii) the Tenant is obliged to transfer ownership to the Landlord,

but does not include any Landlord PPS Property; and

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24.1.4 words and expressions that are not defined in this Lease but which have a defined meaning in the PPS Act have the same meaning as in the PPS Act.

24.2 The Tenant:

24.2.1 charges its right title and interest in all Tenant PPS Property in favour of the Landlord, as security for the performance of the Tenant's obligations under this Lease, including but not limited to the Tenant's obligations to transfer ownership in the whole or any part of the Tenant PPS Property to the Landlord at the expiry or termination of the Lease;

24.2.2 acknowledges and agrees that the charge granted by the Tenant under clause 24.2.1 constitutes the grant of a Security Interest which the Landlord is entitled to register under the PPS Act;

24.2.3 acknowledges and agrees that the grant of this Lease also constitutes the grant of a Security Interest in the Landlord PPS Property in favour of the Landlord, which interest the Landlord is entitled to register under the PPS Act as a Purchase Money Security Interest; and

24.2.4 must do all things required by the Landlord from time to time (including, without limitation, signing any documents required by the Landlord) to enable the Landlord to register its above Security Interests under the PPS Act, and to otherwise perfect its Security Interest in the Tenant PPS Property and the Landlord PPS Property so that the Landlord's Security Interests have priority over any other Security Interests under the PPS Act in relation to the Tenant PPS Property and the Landlord PPS Property.

24.3 The Tenant:

24.3.1 warrants that it has not granted a Security Interest in respect of any Landlord PPS Property on or prior to execution of this Lease that has not been previously disclosed to the Landlord in writing; and

24.3.2 agrees that it will not grant a Security Interest in respect of any Landlord PPS Property or Tenant PPS Property in favour of any person other that the Landlord without the Landlord's prior written consent, which consent may be granted or withheld in the Landlord's absolute discretion and on any conditions that the Landlord considers necessary or desirable at its absolute discretion.

24.4 The Tenant must indemnify and hold harmless the Landlord against all claims, damages or loss incurred by the Landlord as a consequence of any breach by the Tenant of this clause.

24.5 The Tenant acknowledges and agrees that:

24.5.1 it waives its right under the PPS Act to receive a copy of any 'verification statement' or 'financing charge statement' (as those terms are defined in the PPS Act); and

24.5.2 on the expiration or earlier termination of this Lease, the Tenant must sign (and procure any holder of a registered Security Interest to sign) any document that the Landlord considers necessary or desirable under or as a result of the PPS Act to release any registered Security Interests under the PPS Act in relation to the Tenant PPS Property and the Landlord PPS Property.

24.6 If this Lease is terminated by the Landlord as a consequence of a default by the Tenant under this Lease, without limitation to any other rights of the Landlord, the Landlord may take possession of the Tenant PPS Property by way of set off for any loss or damage the Landlord is entitled to recover in connection with the Tenant's breach of the Lease.

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24.7 This clause is an essential term of this Lease.

24.8 In the event of any inconsistency between this clause and any other provision of this Lease, the provisions of this clause will prevail and that other provision will be read down and interpreted accordingly.

25. Interpretation

25.1 Governing law and jurisdiction

This Lease is governed by and is to be construed in accordance with the laws of Victoria. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria and waives any right to object to proceedings being brought in those courts.

25.2 Persons

In this Lease, a reference to a person includes a firm, partnership, association, corporation or other corporate body.

25.3 Joint and several

If a party consists of more than 1 person, this Lease binds them jointly and each of them severally.

25.4 Legislation

In this Lease, a reference to a statute includes regulations under it and consolidations, amendments, re-enactments or replacements of any of them.

25.5 Clauses and headings

In this Lease:

25.5.1 a reference to a clause, schedule or annexure is a reference to a clause, schedule or annexure in or to this Lease; and

25.5.2 headings and sub-headings are inserted for ease of reference only and do not effect the interpretation of this Lease.

25.6 Severance

In this Lease:

25.6.1 if a provision is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable; and

25.6.2 if it is not possible to read down a provision as required in this clause, that provision is severable without affecting the validity or enforceability of the remaining part of that provision or the other provisions in this Lease.

25.7 Number and gender

In this Lease, a reference to:

25.7.1 the singular includes the plural and vice versa; and

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25.7.2 a gender includes the other genders.

25.8 No Relationship

No party to this Lease has the power to obligate or bind any other party. Nothing in this Lease will be construed or deemed to constitute a partnership, joint venture or employee, employer or representative relationship between the Landlord and the Tenant. Nothing in this Lease will be deemed to authorise or empower the Tenant to act as agent for or with the Landlord.

25.9 Exclusion of statutory provisions

The following statutory provisions are excluded from this Lease:

25.9.1 Section 144 of the *Property Law Act 1958* (Vic); and

25.9.2 Division 7 of the *Transfer of Land Act 1958* (Vic).

25.10 Owners Corporation No.1 Consent

Owners Corporation No.1 on the Plan consents, in its capacity as registered proprietor of the Common Property, to this Lease and will from time to time do all things (including executing all documents) necessary or desirable to give full effect to this Lease and any transactions contemplated by it.

25.11 Counterparts

This Lease may be executed in counterparts, all of which taken together constitute one document.

25.12 Electronic Execution

This Lease may be executed by electronic means. The parties agree to be bound by this document, including if executed by electronic means.

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Attachment 1

Special Conditions

1. Liquor Licence

1.1 The Landlord acknowledges that it is the Tenant's intention to grant a sublease of the Premises to Saint Moritz Hospitality Group Pty Ltd, and Saint Moritz Hospitality Group Pty Ltd will endeavour to obtain a licence or permit under the *Liquor Control Reform Act* 1998 (Vic) (**Licence or Permit**) in respect of the Premises, by the Commencement Date.

1.2 If the Licence or Permit in respect of the Premises is obtained by Saint Moritz Hospitality Group Pty Ltd and is subsequently cancelled, suspended, terminated or expires for any reason, the Tenant may terminate this Lease with immediate effect by giving notice in writing to the Landlord.

2. Option to Cancel after 12 Months

2.1 Despite anything else in this Lease, the Tenant may, at its absolute and unfettered discretion terminate this Lease with immediate effect, by giving notice in writing to the Landlord during the period commencing on the date that is 12 months after the Commencement Date, and ending on the date that is 14 months after the Commencement Date.

2.2 Upon termination of this Lease pursuant to special condition 2, each party is released from all further obligations under this Lease except nothing in this clause releases either party from any breach of this Lease arising prior to the date of termination.

3. Grease Trap Sub-Licence

3.1 For the purposes of this special condition 3:

3.1.1 **Grease Trap Sub-Licensed Area** means the area specified as the 'Licensed Area' in the licence attached at Attachment 5;

3.1.2 **Grease Trap Sub-Licence Permitted Use** means the use, repair, maintenance and emptying of the grease trap on the Grease Trap Sub-Licensed Area.

3.2 The Landlord grants and the Tenant accepts a sub-licence over the Grease Trap Sub-Licensed Area for the Grease Trap Sub-Licence Permitted Use for the Term (**Grease Trap Sub-Licence**).

3.3 The Grease Trap Sub-Licence is on the terms and conditions of the licence attached at Attachment 5 (as amended from time to time) as amended to apply to a sub-licence.

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Attachment 2

Plan of Premises

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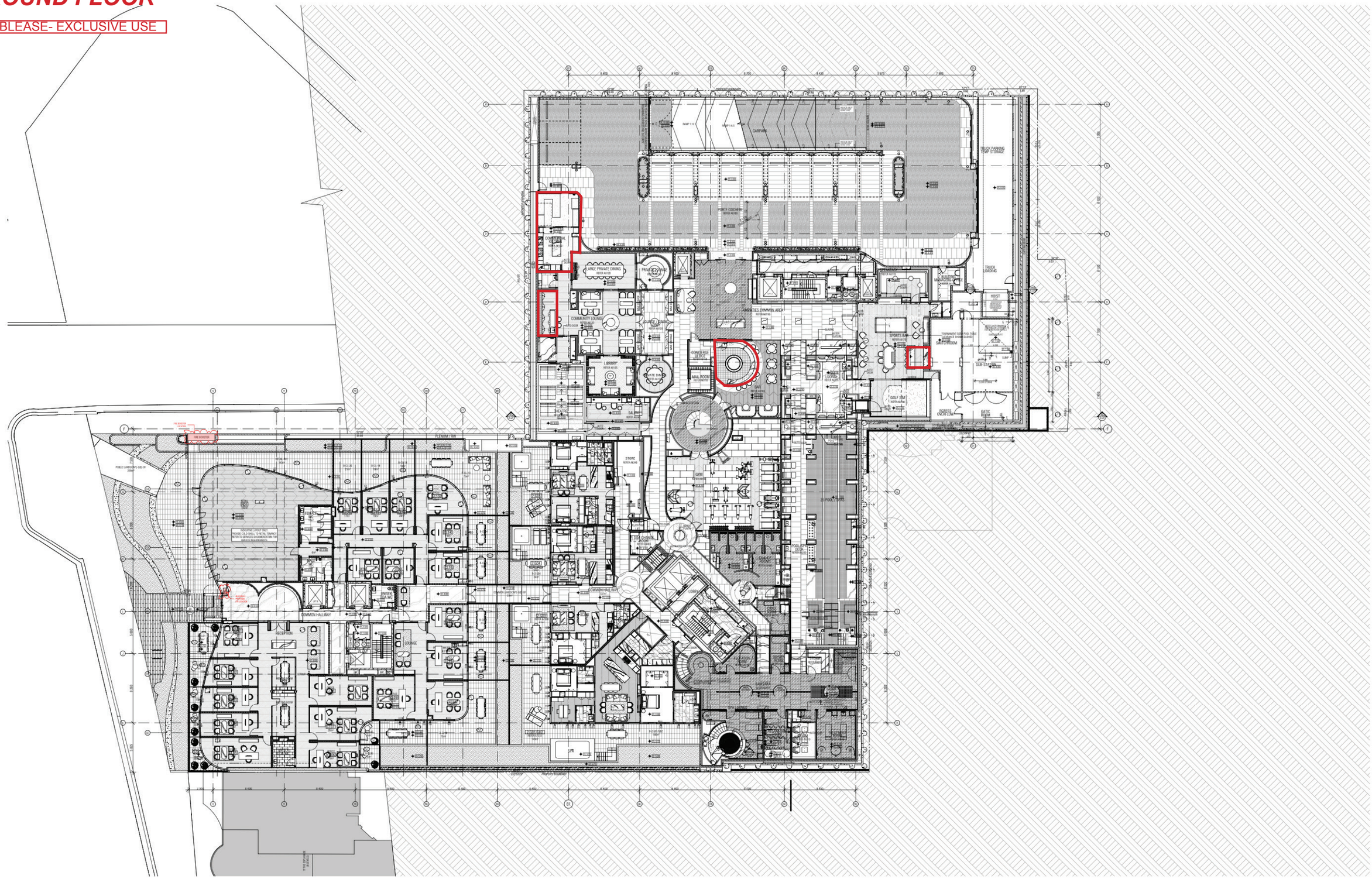
GROUND FLOOR

SUBLEASE- EXCLUSIVE USE



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Attachment 3

Condition Report

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Attachment 4

Owners Corporation Rules

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Department of Environment, Land, Water & Planning

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Status: Registered
Date and Time Lodged: 18/03/2022 02:40:35 PM
Responsible Subscriber: MADDOCKS
Customer Code: 17223H
Reference:

OWNERS CORPORATION NOTIFICATION OF MAKING RULES SECTION 27E(1) SUBDIVISION ACT 1988 (WHEN LODGED WITH PLAN)

Applicant(s):
BARANA (ST KILDA) INVESTMENTS PTY LTD (ACN/ARBN: 160116076)
168 WILLIAMS ROAD PRAHRAN VIC 3181

Plan Number:
PS826420W

Owners Corporation Number:
5

Proposed rules of the Owners Corporation:
Appended

Execution:
1. The Certifier has taken reasonable steps to verify the identity of the applicant or his, her or its administrator or attorney.
2. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
3. The Certifier has retained the evidence supporting this Registry Instrument or Document.
4. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Executed on behalf of BARANA (ST KILDA) INVESTMENTS PTY LTD

Secure Electronic Registries Victoria (SERV), Level 13, 697 Collins Street Docklands 3008
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Department of Environment, Land, Water & Planning

Electronic Instrument Statement

Signer Name CATHERINE MARINO
Signer Organisation MADDOCKS
Signer Role AUSTRALIAN LEGAL PRACTITIONER
Execution Date 16 March 2022

File Notes:
NIL

This is a representation of the digitally signed Electronic Instrument or Document certified by Land Use Victoria.

Statement End.

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DX 259 Melbourne

Date / /

Owners Corporation Rules

Saint Moritz, 14-16 The Esplanade, St Kilda, Victoria

Owners Corporation No. 5 on Plan of Subdivision PS826420W (Recreational Facilities)

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Owners Corporation Rules

Date / /

Notes

The Act and Regulations detail the powers of the Owners Corporation(s), the general duties of members, meetings and administration of the Owners Corporation(s), insurance and other miscellaneous matters. These Rules must be read in conjunction with the Act, Regulations and the model rules prescribed under the Regulations.

1. Definitions

In these rules:

Act means the *Owners Corporations Act* 2006 (Vic) as amended from time to time.

Authority means any government or any public, statutory, governmental, semi-governmental, local government, municipal or judicial body, entity or authority and includes a Minister of the Crown (in any right), and any person, body, entity or authority exercising a power pursuant to an Act of Parliament.

Building means all and any buildings, structures or improvements comprised in the Development.

Common Property means the land, the Building and any other improvements erected on 14-16 The Esplanade, St Kilda and designated as common property no.5 on the Plan.

Developer means 14-16 The Esplanade by Gurner Pty Ltd ACN 626 307 131 or a Related Entity responsible for the development of the Development and creation of Lots and includes the Developer's successors and assigns and where it is consistent with the context includes the Developer's employees, agents, builders, contractors, subcontractors and invitees.

Development means all the land and improvements comprised in the Plan and known as Saint Moritz, 14-16 The Esplanade, St Kilda.

Development Agreement means any agreement between the Developer and Owners Corporation or in relation to the Development, including any ancillary agreements between the Developer and the Owners Corporation such as development leases or other licences.

Director has the same meaning as it has in the *Fair Trading Act* 1999 (Vic).

Dispute means a dispute or other matter arising under the Act, Regulations or Rules including a dispute or matter relating to:

(a) the operation of the Owners Corporation;

(b) an alleged breach by a Member or Occupier of an obligation imposed on that person under the Act, Regulations or the Rules; or

(c) the exercise of a function by a Manager in respect of the Owners Corporation.

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Domestic Building Contract means any domestic building contract within the meaning of the *Domestic Building Contracts Act* 1995 (Vic) entered into by the Initial Owner.

Governmental Agency means any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.

Initial Owner has the same meaning as it has under the Act and where the context requires includes its successors and assigns.

Land means the whole of the land described in the Plan.

Lot means a lot shown on the Plan.

Maintenance Fund means a fund or part of a fund used for implementation of the Maintenance Plan (if any).

Maintenance Plan means a maintenance plan (if any) established and approved by the Owners Corporation as contemplated by the Act.

Manager means the person or entity appointed by the Owners Corporation as Manager of the Owners Corporation(s) or, where the context permits, the building manager, concierge or valet appointed by the Owners Corporation to assist it with the functions of the Owners Corporation contemplated by the Rules and where relevant includes the Manager's successors and assigns and where the context requires includes the Manager's officers, employees, agents, contractors, subcontractors and invitees.

Member means a member of the Owners Corporation by reason of being the owner of a Lot for the time being and where the context requires includes an Occupier or their invitees.

Occupier means the person or entity authorised by the Member to occupy the designated Lot as tenant or licensee and where the context requires includes the Occupier's invitees.

Owners Corporation means the Owner Corporation No. 5 on the Plan.

Plan means Plan of Subdivision No. PS826420W.

Private Club means facilities which may include a conservatory, bars, golf simulator, art gallery, lounges, dining facilities, library and cinema.

Recreational Facilities means the common facilities located on common property no. 5 of the Plan, which may include a Private Club, a Wellness Centre and Health Club, kids zone, salon, private dining areas, library, workshop and associated facilities to be created for the use and enjoyment of occupants of residential Lots within the Development.

Regulations means the *Owners Corporations Regulations* 2018 (Vic) as amended from time to time.

Related Entity has the same meaning given to that term in the *Corporations Act* 2001 (Cth).

Rule or **Rules** means these rules which are for the purpose of the control, management, administration, use or enjoyment of the Common Property or any Lot as amended from time to time.

Vendor means Barana (St Kilda) Investments Pty Ltd.

Wellness Centre and Health Club means facilities which may include a pool, gym, yoga studio, spas, sauna and treatment rooms.

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2. Interpretation

2.1 Unless the context otherwise requires:

2.1.1 headings are for convenience only;

2.1.2 words imparting the singular include the plural and vice versa;

2.1.3 expressions imparting a natural person includes any company, partnership, joint structure, association or other Owners Corporation and any governmental authority; and

2.1.4 a reference to a thing includes part of that thing.

2.2 The obligations and restrictions in these Rules must be read subject to the rights, grants or privileges that may be given to any person or entity by the Owners Corporation from time to time and to the extent of any inconsistency, such rights, grants or privileges, must prevail over these Rules in respect of the person or entity to whom they are given.

2.3 In these Rules:

2.3.1 if a provision is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable; and

2.3.2 if it is not possible to read down a provision as required in this Rule, that provision is severable without affecting the validity or enforceability of the remaining part of that Rule or the other Rule;

2.3.3 references to 'Owners Corporation' includes any person or body authorised to act on behalf of the Owners Corporation delegated any power or functions by the Owners Corporation or appointed by the Owners Corporation to assist in carrying out its functions, including without limitation the Manager, as the context permits.

2.4 In the event of a conflict between these Rules and any restriction on the Plan, the restriction will prevail.

2.5 In the event of a conflict between these Rules and the model rules prescribed under the Regulations, these Rules prevail.

2.6 In the event of a conflict between these Rules and the rules for Owners Corporation No. 1 on the Plan (**OC1**), the rules for OC1 will prevail.

3. Role and functions

3.1 The Owners Corporation is responsible for ensuring that appropriate rules, measures and procedures are established to govern issues common to the Members, including that the Common Property and/or a Lot are maintained for the benefit and enjoyment of all Members and Occupiers. The Owners Corporation exercises such responsibilities through enforcing the Rules and through holding regular committee meetings at which matters affecting the operation of the Common Property are resolved and advised to all Members.

3.2 The Owners Corporation must abide by the Rules, Act and Regulations, and in carrying out its functions and powers must act honestly and in good faith and exercise due care and diligence.

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3.3 These Rules are for the purpose of the control, management, administration, use or enjoyment of the Common Property or a Lot and represent the interests of Members and Occupiers. The Rules may be added to, amended or revoked:

3.3.1 if a resolution is passed after a ballot or poll is taken and 75% of the total lot entitlements of all the Lots are in favour of such addition, amendment or revocation; or

3.3.2 if a resolution is passed in any other case and 75% of the total votes for all the Lots are in favour of such addition, amendment or revocation (**Special Resolution**).

3.4 Under the Act and Regulations, the Owners Corporation is responsible for, amongst other things:

3.4.1 electing the Committee (if required);

3.4.2 establishing a Maintenance Plan and Fund;

3.4.3 establishing and maintaining an Owners Corporation Register;

3.4.4 taking out, maintaining and paying the premiums for insurance;

3.4.5 keeping proper accounts that cover the income, expenditure, assets and liabilities of the Owners Corporation and providing true reports of the financial situation of the Owners Corporation; and

3.4.6 preparing annual financial statements.

4. Provision of services

4.1 Each Member of the Owners Corporation agrees that the Owners Corporation will provide the following services:

4.1.1 the repair and maintenance of all Common Property including gardens, trees, paved areas and landscaping; and

4.1.2 any other service or facility provided by the Owners Corporation for the benefit of the Members.

4.2 A Member or an Occupier acknowledges that:

4.2.1 the Owners Corporation may share amongst the Members and Occupiers the costs of supply and maintenance (based on lot liability or other methodology determined by the Owners Corporation) of any gas facility or power facility required for heating or air conditioning or any variable refrigerant volume or variable refrigerant flow system (VRV) to the Lots affected by the Owners Corporation or any Common Property; and

4.2.2 where any Lot is not separately metered in relation to any service, including gas, electricity, water, heating, air conditioning and/or VRV, then the Occupier shall pay a proportion of such service and supply charges relating to same on a proportional rate by dividing the unit liability of that Lot by the total unit liability of all Lots serviced jointly or as otherwise determined by the Owners Corporation, acting reasonably.

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5. Use of a Lot

5.1 A Member must not:

5.1.1 create noise or behave in a manner that is likely to interfere with the peaceful enjoyment of the member of another Lot, or any person lawfully using the Common Property;

5.1.2 operate or permit to be operated on a Lot any device or electronic equipment which interferes with any domestic appliance lawfully in use on the Common Property, or another Lot; or

5.1.3 use the Lot for any purpose that may be illegal or injurious to the reputation of the premises comprised of the lots and the Common Property or which may cause a nuisance or hazard to any other member of a Lot.

6. Notification of Defects

A Member or Occupier of must promptly notify the Owners Corporation or the Manager on becoming aware of any damage to or defect in the Common Property or any personal property vested in the Owners Corporation.

7. Compensation to Owners Corporation

The Member or Occupier must compensate the Owners Corporation in respect of any damage to the Common Property or personal property vested in the Owners Corporation caused by that Member or Occupier or their respective tenants, licensees or invitees.

8. Pets and animals

8.1 A Member can keep any animal upon a Lot or the Common Property unless the Member has been given notice by the Owners Corporation to remove and keep removed such animal once the Owners Corporation has resolved that the animal is causing a nuisance.

8.2 A Member must ensure that any animal belonging to them does not urinate or defecate on Common Property including internal court yards. In the event any animal belonging to them does urinate or defecate on Common Property, the Member must immediately clean up the urine and/or faeces.

8.3 A Member must ensure that any animal belonging to them must be on a lead at all times when on the Common Property.

9. Use of appurtenances

9.1 A Member or Occupier must not use the water closet, conveniences or other water apparatus, including water pipes and drains for any other purpose than those which they were constructed and, must not sweep or deposit rubbish, baby wipes or other unsuitable substances therein. The Member indemnifies and keeps indemnified the Owners Corporation on a full indemnity basis for any costs or expenses resulting from any damage or blockage incurred by the Owners Corporation where the damage or blockage was caused by the Member, Occupier or their invitees.

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10. Use of Common Property

10.1 A Member or Occupier must not:

10.1.1 do or allow to be done anything on the Common Property which causes a nuisance to or interferes with its lawful use by the Owners Corporation or other Members;

10.1.2 do or permit anything which might cause structural damage to the Common Property;

10.1.3 interfere with the operation of any equipment installed on the Common Property without the prior written consent of the Owners Corporation;

10.1.4 interfere with any personal property vested in the Owners Corporation;

10.1.5 park or leave a vehicle or permit any vehicle to be parked or left upon the Common Property or in any place other than in a parking area specified for such purpose by the Owners Corporation;

10.1.6 paint, finish, drive nails or screws or the like into, or otherwise damage, alter or deface the Building or any other part of the Common Property including the external facade except with the consent in writing of the Owners Corporation;

10.1.7 when on Common Property (or if on any part of a Lot so as to be visible from another Lot or from Common Property), fail to be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to the Member or Occupier of another Lot or to any person lawfully using Common Property;

10.1.8 deposit or throw upon the Common Property any rubbish, dirt, dust or other material likely to interfere with the peaceful enjoyment of other Member or any person lawfully using the Common Property;

10.1.9 disregard any requirements made by the Owners Corporation relating to the use of any access keys and intercom system that may be provided as the means of access upon roadways created within the Common Property;

10.1.10 use or store on the Common Property any flammable chemical, liquid, gas or other flammable material other than chemicals, liquids, gases or other material used or intended to be used for normal and lawful domestic purposes or in the fuel tank of a motor vehicle;

10.1.11 hold or allow to be held any public auction on or near the Common Property;

10.1.12 directly instruct any contractors or workmen employed by the Owners Corporation unless so authorised;

10.1.13 except with the consent in writing of the Owners Corporation, use for their own purposes as a garden any portion of the Common Property;

10.1.14 smoke in the stairwells, lifts, foyers, and car park forming part of the Common Property or such other parts of the Common Property as the Owners Corporation or its Manager may determine from time to time.

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10.2 A Member or Occupier:

10.2.1 must notify the Owners Corporation or its Manager promptly when becoming aware of any damage to or defect in the Common Property or any personal property vested in the Owners Corporation;

10.2.2 must ensure that any guests or invitees of the Member or Occupier are accompanied at all times when on Common Property; and

10.2.3 acknowledges that the use of the Common Property is subject to any written agreements, leases or licences that the Owners Corporation may enter into relating to areas of the Common Property.

11. Lifts

A Member or Occupier must not and must ensure that the Occupier of a Member's Lot does not:

11.1 use the lifts for any other purpose other than to gain pedestrian access to his or her Lot as directed by the Owners Corporation;

11.2 hold the lift doors and/or prevent the doors of the lift closing for any period of time so as to interfere with the normal operation of other Occupiers' use of the lifts;

11.3 press the alarm or stop button except in an emergency situation;

11.4 press any button other than the one representing the floor or level that the lift is required to stop at; and

11.5 change any lift programming that gives preferential access to a Lot(s) within the Development.

12. Moving object on or through Common Property

12.1 The Owners Corporation may resolve that furniture or large objects are to be transported through or on the Common Property (whether in the Building or not) in a specified manner.

12.2 If the Owners Corporation has specified, by resolution, the manner in which furniture or large objects are to be transported, a Member or Occupier must not transport any furniture or large object through or on the Common Property except in accordance with that resolution.

12.3 When using the lifts to move goods or furniture a Member or Occupier must ensure that the walls, floor and ceiling of the lifts are adequately protected from damage.

12.4 If the Member or Occupier requires the use of a crane to move goods or furniture, the Member or Occupier must first notify (by giving at least 7 days' written notice) and obtain the consent of the Owners Corporation. The Member or Occupier must cooperate with and comply with any requirements of the Owners Corporation (acting reasonably) in order to facilitate the use of the crane and minimise disruption to other Members or Occupiers.

12.5 A Member or Occupier must not move any article of furniture or any other article likely to cause damage or obstruction through the Common Property without first notifying the Owners Corporation (by giving at least 7 days' written notice) to enable the lifts to be covered and ensure only one Member or Occupier is moving in at a time.

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12.6 Prior to moving any article of furniture or any other article likely to cause damage or destruction, the Manager or a representative of the Owners Corporation and the Member or Occupier will inspect the Common Property through which such article is to be moved to establish its state of repair. The Member or Occupier will be liable for any damage caused to the Common Property arising from the movement of the article.

13. Signage and windows

13.1 A Member is not permitted to display signs, advertising or notices on any Lot, including for the purpose of offering for sale or lease or letting any Lot or Common Property, without the consent of the Owners Corporation. Any sign that is erected must be of a standard that shall not detract from the overall appearance of the Development.

13.2 A Member is not permitted to display any advertising material, logos or sign writing to any external window, glazing or external solid face of a lot without the written consent of the Owners Corporation.

13.3 A Member must not allow any glazed portions of the Lot or Common Property to be tinted or otherwise treated with the intention of changing the visual characteristic of the Development.

14. Garbage disposal

A Member of a Lot must:

14.1 except where the Owners Corporation provides some other means of disposal of garbage, maintain within their Lot, or on such part of the Common Property as may be authorised by the Owners Corporation, a receptacle for garbage and to keep such receptacle in a clean and tidy condition and not visible to the public except on days designated for rubbish collection;

14.2 comply with all requirements of Governmental Agencies relating to the disposal of garbage;

14.3 ensure that rubbish is disposed of in accordance with the disposal facilities of the Building, and the rules/directions of the Owners Corporation from time to time (for example recyclables are placed in the recycle chute);

14.4 ensure that rubbish does not accumulate on their Lot, and that the health, hygiene and comfort of other Members is not adversely affected by their disposal of garbage;

14.5 ensure that rubbish is transported from their Lot to the designated garbage room on the Common Property in an appropriate watertight receptacle; and

14.6 pay or reimburse the Owners Corporation any costs incurred by the Owners Corporation as a result of the Member or Occupier's misuse of the garbage disposal facilities, or other breach of this rule 14.

15. Recreational Facilities

15.1 When using the Recreational Facilities a Member and an Occupier:

15.1.1 must ensure that unless otherwise stated, children below the age of 15 years are not in or around the Recreational Facilities unless accompanied by an adult Member or Occupier exercising effective control over them;

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15.1.2 must ensure that no guests are allowed in the Recreational Facilities, subject to prior approval of the Manager and subject to any conditions on entry determined by the Manager;

15.1.3 acknowledges that any request for exclusive use of the Recreational Facilities must be approved by the Manager in writing. Such approval by the Manager may be withheld by the Owners Corporation at its absolute discretion;

15.1.4 is responsible (at its cost) for any damage, cleaning or reinstatement costs incurred by the Owners Corporation or Manager as a result of its (or its guests) use of the Recreational Facilities;

15.1.5 must not smoke or make any undue noise in the Recreational Facilities without the consent of the Manager; and

15.1.6 must ensure that the Recreational Facilities are to be left in the same condition in which it was found.

15.2 Members and Occupiers acknowledge that some areas of the Recreational Facilities may need to be booked with the Manager ahead of use. The Manager may refuse the booking if the facility is not available.

15.3 Members and Occupiers acknowledge and agree that they may be required to pay a general usage charge for some areas of the Recreational Facilities and the cost of consumables used while using these areas, as determined by the Owners Corporation.

15.4 The Owners Corporation may make additional or separate rules relating to the use of all or part of the Recreational Facilities provided they are not inconsistent with these Rules. If breached, rules relating to the Recreational Facilities will constitute a breach of these Rules.

15.5 Subject to the requirements of the Owners Corporation and the Manager from time to time, with respect to the Private Club:

15.5.1 a bond may be required prior to use, and a cleaning fee may be applied after use, of areas within the Private Club;

15.5.2 any guests of Members or Occupiers must always be supervised by the Member or Occupier while within the Private Club;

15.5.3 alcohol is not to be taken into the Private Club without the prior consent of the Manager;

15.5.4 hours of use are as otherwise determined by the Manager (and displayed by sign) from time to time; and

15.5.5 the bar within the Private Club operates for Members or Occupiers, who must pay for any items consumed in the bar, either at the time of order/consumption, on leaving the bar, or by any other method as determined by the Manager;

15.6 With respect to the Wellness Centre and Health Club:

15.6.1 Without limiting rules 15.2 and 15.3, any cryotherapy, float tank, salt room and VIP Spa Room within the Wellness Centre and Health Club must be booked through the Manager. The Member or occupier must pay a general use charge and the costs of any consumables used whilst using these facilities, as determined by the Manager;

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15.6.2 children are not permitted to use the Wellness Centre and Health Club at any time, without the consent of the Manager;

15.6.3 glass objects, drinking glasses and sharp objects are not permitted in the Wellness Centre and Health Club;

15.6.4 alcohol and food are not allowed in the Wellness Centre and Health Club without the prior written consent of the Manager;

15.6.5 hours of use are as determined by the Manager from time to time;

15.6.6 suitable footwear must be worn to and from the Wellness Centre and Health Club;

15.6.7 all users of the Wellness Centre and Health Club do so at their own risk; and

15.6.8 the Member or Occupier must pay for the cost of any classes or treatments provided at the Wellness Centre and Health Club.

15.7 with respect to the gymnasium:

15.7.1 all users of the gymnasium within the wellness spa must carry a towel at all times.

15.7.2 users of the gymnasium must be professionally instructed on the equipment prior to the Owners Corporation granting access to the gymnasium area;

15.7.3 users of the gymnasium are not permitted to play music that is audible to other persons in the gymnasium; and

15.7.4 the Member or Occupier must pay for the cost of any classes or sessions provided at the gym, unless otherwise determined by the Manager.

15.8 With respect to the swimming pools and spas within the Wellness Centre and Health Club:

15.8.1 children under the age of 18 may use the swimming pool and spa areas only if supervised by an adult;

15.8.2 children under the age of 5 must be accompanied into the water and remain within arm's reach of an adult at all times;

15.8.3 for the hygiene of all users of the swimming pool and spa, all users must shower before entry;

15.8.4 running, ball playing, jumping, diving, noisy or hazardous activities are not permitted in the swimming pool and spa areas;

15.8.5 all users of the swimming pool area must dry off before leaving the Wellness Centre and Health Club area;

15.8.6 a Member or Occupier of a Lot and persons under their control must ensure that when in the swimming pool and spa areas, appropriate attire is worn at all times i.e. nude bathing is not permitted;

15.8.7 all users of the swimming pool do so at their own risk;

15.8.8 spitting or washing is not permitted in the swimming pool spas or swimming pool and spa areas; and

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15.8.9 the Member or Occupier must pay for the cost of any classes, sessions or lessons provided at the swimming pools, unless otherwise determined by the Manager.

15.9 With respect to the sauna and steam room(s) located within the Wellness Centre and Health Club:

15.9.1 Children under the age of 15 may not use the sauna and steam room(s);

15.9.2 for the hygiene of all users of the sauna and steam room(s), all users must shower before entry;

15.9.3 noisy or hazardous activities are not permitted in the sauna and steam room(s);

15.9.4 all users of the sauna and steam room(s) area must dry off before leaving the Wellness Centre and Health Club area;

15.9.5 a Member or Occupier of a Lot and persons under their control must ensure that when in the sauna and steam room(s), appropriate attire is worn at all times; and

15.9.6 spitting is not permitted in the sauna and steam room(s).

15.10 With respect to the cinema:

15.10.1 the cinema room is not be used for third party or commercial bookings;

15.10.2 all users of the cinema room will be bound by the relevant rules and regulations issued by the Owners Corporation and updated from time to time;

15.10.3 after each use the cinema room facility and area must be left in a clean and tidy state. Failure to leave the facilities in a clean and tidy state will result in additional cleaning charges to the relevant party which the Owners Corporation or Manager may recover as a debt from the responsible party. It is the responsibility of the Member or Occupier booking the use of the facilities to notify the Manager immediately if the area is found in an unsatisfactory condition prior to commencement of the booking.

15.11 With respect to the workshop:

15.11.1 children may not use the workshop;

15.11.2 all users of the workshop do so at their own risk;

15.11.3 all users of the workshop must undertake an induction for the workshop, prior to using the workshop, and sign any required documentation confirming they have undertaken the induction and understand the risks of use. The user must give the Manager at least 7 days' notice for the Manager to carry out the induction.

15.11.4 no alcohol is to be consumed in the workshop;

15.11.5 close-toed shoes are to be worn in the workshop at all times;

15.11.6 all tools are to be used in a safe manner in accordance with manufacturer's instructions, and with personal protective equipment worn. The Member or Occupier will be responsible for any damage caused by the incorrect or unsafe use of any tool;

15.11.7 no tool supplied by the Owners Corporation is to be removed from the workshop without the permission of the Owners Corporation, and the Member or Occupier

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will be responsible for the replacement cost of any tool removed from the workshop;

15.11.8 the Member and Occupier must keep the workshop in a clean and tidy manner, including putting away all tools and sweeping the floor at the end of each day after use; and

15.11.9 the Member or Occupier must pay for the cost of any classes, sessions or lessons provided at the workshop, unless otherwise determined by the Manager.

15.12 The Members and Occupiers agree that the Manager may close off one or more areas of the Recreational Facilities at its reasonable discretion, including to allow for the safe or desirable use of the Recreational Facilities, for the purposes of maintenance, works and the like.

16. Behaviour of Invitees

16.1 The duties and obligations imposed by these special rules upon a Member of a Lot must be observed not only by the Member but also by the guest, servants, employees, agents, children, invitees and licensees of the Member or the occupier of their Lot (Invitees).

16.2 A Member must take all reasonable steps to ensure that their Invitees do not behave in a manner likely to interfere with the peaceful enjoyment of any Member or occupier of another Lot or any person lawfully using the Common Property or which may result in damage to the Common Property.

16.3 A Member is liable to compensate the Owners Corporation for all damage to the Common Property or personal property vested in it caused by a breach of Rule 16.1 and 16.2.

16.4 Where the Owners Corporation expends money to make good damage caused by a breach of the Act, or of these rules by any Member or Invitees, the Owners Corporation can recover the amount so expended as a debt in action in any Court of competent jurisdiction from the Member of the Lot at the time when the breach occurred.

16.5 Rules 16.1 to 16.4 are intended to operate in addition to the requirements of the Act.

17. Owners Corporation fees

17.1 The Member must pay the fees set by the Owners Corporation to cover general administration and maintenance, insurance and other recurrent obligations quarterly in advance according to their lot entitlement.

17.2 The amount of the annual Owners Corporation fees which is payable by each Member will be established at each annual general meeting of the Owners Corporation.

17.3 Any special fees or charges levied by the Owners Corporation to cover extraordinary items of expenditure must be paid on the due date set by the Owners Corporation upon the levying of each special fee or charge.

18. Consent of Owners Corporation

A consent given by the Owners Corporation under these Rules will, if practicable, be revocable and may be given subject to conditions including, without limitation, a condition

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evidenced by a minute of a resolution that the member for the time being of the lot to which the consent or approval relates is responsible for compliance with the terms of the consent.

19. Enforcement of Domestic Building Contract

The Member agrees that for the purpose of its obligations under the Act:

19.1 the Members acknowledge and agree that reasonable steps to enforce any domestic building contract (within the meaning of the Domestic Building Contracts Act 1995) include:

19.1.1 the making of a demand in writing to the builder under any domestic building contract to comply with the terms of the domestic building contract and/or rectify any breach of the domestic building contract;

19.1.2 the exercise of any right under the domestic building contract to withhold any payment to the builder or have recourse to any security provided by the builder under the domestic building contract;

19.1.3 the settlement of any dispute under any domestic building contract between the original owner and the builder on terms acceptable to the original owner; and

19.1.4 any other enforcement action the Initial Owner considers appropriate in the circumstances; and

19.2 the Members agree to pay or reimburse the Initial Owner its portion of any enforcement relative to its lot liability.

20. Complaints and disputes

20.1 Any Dispute must be dealt with at first instance in accordance with this Rule 20.

20.2 A party to a Dispute must not initiate legal proceedings or complain to the Director in respect of the Dispute unless it has first complied with the dispute resolution procedure set out in this Rule 20.

20.3 The party making the complaint must in the first instance notify the Manager, or where the Manager is the subject of or involved in the Dispute, the Committee, of the Dispute in writing. The Manager must refer any complaint it receives to the Committee. Upon receipt of a complaint referred by the Manager or received directly from a Member or Occupier, the Committee will then decide (at its absolute discretion having regard to the nature and urgency of the Dispute) whether to:

20.3.1 arrange a meeting between the parties to resolve the Dispute; or

20.3.2 waive the requirement for the parties to meet.

20.4 Notwithstanding the course of action elected by the Committee under Rule 20.3, the parties must consult with one another in good faith and use their best endeavours to resolve the Dispute to the mutual satisfaction of both parties without resort to legal proceedings or other avenues of dispute resolution.

20.5 Without limiting the generality of this Rule 20, where no formal complaint is made by a Member or Occupier and the Owners Corporation otherwise becomes aware of a Dispute, the Owners Corporation (through the Manager or the Committee or otherwise) may decide (at its absolute discretion having regard to the nature and urgency of the Dispute) whether:

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20.5.1 arrange a meeting between the parties to resolve the Dispute; or

20.5.2 waive the requirement for the parties to meet.

20.6 If the parties are unable to resolve the Dispute within 30 days (or such other period as the Committee thinks fit) of the meeting arranged pursuant to Rule 20.3.1 or 20.5.2, the parties may revert to the dispute resolution mechanisms set out in the Act or other Law.

21. Cost of non-compliance

The Member or Occupier must indemnify and keep indemnified the Owners Corporation on a full indemnity basis against any action, demand, cost, liability or loss incurred by the Owners Corporation as a consequence of any default by the Member or Occupier in the performance or observance of any term, covenant or condition contained in these Rules, the Act or Regulations including, without limitation administrative costs, legal costs, the cost of any works performed to rectify any non compliance and the cost incurred by the Owners Corporation in recovering overdue charges from the Member or Occupier.

22. Charges imposed on Members and Occupiers

22.1 Any payments to the Owners Corporation imposed on a Member or Occupier under the Rules, Act or Regulations will (until paid) be a charge on the Lot.

22.2 The Member or Occupier must accept a certificate signed by the Manager or valid tax invoice issued by the Owners Corporation as prima facie proof of the costs and expenses incurred by the Owners Corporation relating to any charge payable by a Member or Occupier pursuant to these Rules and must not make any claim or dispute the amount specified therein.

22.3 The Member or Occupier must pay interest at the rate prescribed under the Penalty Interest Rates Act 1983 (Vic) on outstanding fees and charges set under the Rules, Act or Regulations until they are paid.

22.4 Any payments made for the purposes of these Rules, the Act or Regulations will be appropriated first in payment of any interest and any unpaid costs and expenses of the Owners Corporation and then be applied in repayment of the principal sum.

23. Rights of entry

23.1 Except in the case of an emergency (in which case no notice shall be required) upon seven (7) days' notice in writing, the Owners Corporation or the committee of the Owners Corporation and its servants, agents and contractors shall be permitted to inspect the interior of any Lot and test the electrical, gas or water installation or equipment therein and to trace and repair any leakage or defect in the said installations or equipment (at the expense of the Member or Occupier in cases where such leakage or defect is due to any act or default of the said Member or Occupier of his or her invitees). The committee of the Owners Corporation, in exercising this power shall ensure that its servants, agents and employees cause as little inconvenience to the Member or Occupier as is reasonable in the circumstances.

23.2 A Member or Occupier in occupation of a Lot must allow any person authorised by and on behalf of the Owners Corporation;

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23.2.1 to enter the Lot or a Building in order to have access to the exterior of the Building, and

23.2.2 to enter the Lot from the exterior of the Building via a balcony, terrace, window or other part of the Lot and to use that part of the Lot, to facilitate the repair and maintenance of and other works on Common Property including the structure of the Building and the exterior face of the Building and any service that is for the benefit of more than one Lot or the Common Property being areas of Common Property that would otherwise be difficult to access.

23.3 The Owners Corporation must give at least 7 calendar days' notice in writing to the Member or Occupier of a Lot or other Occupier of a Lot of an intention to enter:

23.3.1 unless the Member or Occupier agrees to a lesser time and where the Occupier is a tenant under a residential tenancy agreement the Occupier must be given the same notice as that required to be given by a landlord under Section 85 of the Residential Tenancies Act 1997;

23.3.2 entry to and use of the relevant part of the Lot must be between the hours of 8.00 am and 6.00pm on any day Monday to Friday; or

23.3.3 unless there is an emergency when no notice and no time restrictions apply, and then in such a manner as to cause as little interruption or inconvenience to the Occupier as is possible in the circumstances.

23.4 Members and Occupiers acknowledge and agree the access described by this rule 23 is expressly contemplated under section 12(2) of the Subdivision Act 1988 (Vic) and the Member or Occupier must not, either directly or indirectly frustrate, limit or impede the access contemplated by this rule.

24. Security

The Owners Corporation may make rules and regulations to ensure the security of the Development from intruders and otherwise with regard to the use and means of access to any roadways created upon the Common Property.

25. Contact

25.1 Each Member must advise the Manager of any out of normal business hours contact address, email and telephone number for their Lot and must promptly advise the Manager of any change in their address, email or telephone number.

25.2 Each Member must provide the Manager with an Australian address for service of notices. If a Member fails to provide an Australian address for service of notices, the Lot address will be deemed to be the proper address for service.

26. Restricted use of Common Property for fire control

26.1 The Owners Corporation may take measures to ensure the security, and to preserve the safety of the Common Property and the Lots affected by the Owners Corporation from fire or other hazards and without limitation may:

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26.1.1 close off any part of the Common Property not required for access to a Lot on either a temporary or permanent basis or otherwise restrict the access to or use by Members or Occupiers of any part of the Common Property;

26.1.2 permit, to the exclusion of Members and Occupiers, any designated part of Common Property to be used by any security person as a means of monitoring security and general safety of the Lots, either solely or in conjunction with other Lots;

26.1.3 restrict by means of key or other security device the access of the Members or Occupiers;

26.1.4 restrict by means of key or other security device the access of the Members or Occupiers of one level of the Lots to any other level of the Lots; and

26.1.5 cancel any security card issued where a Member is in arrears in payment of Owners Corporation levies in excess of two quarters.

26.2 A Member and Occupier of a Lot must abide by any actions taken by the Owners Corporation in accordance with these Rules and must meet all costs incurred by the Owners Corporation in relation to these Rules (or a breach of these Rules by the relevant Member or Occupier).

27. Fire

27.1 A Member or Occupier of a Lot must ensure compliance with all statutory and other requirements, including those of the Owners Corporation, relating to fire, fire safety and storage of bioethanol in respect of the Lot.

27.2 A Member or Occupier of a Lot must not use, interfere or tamper with any fire safety equipment except in the case of an emergency and must not obstruct any fire stairs or fire escape.

27.3 In the event that the Melbourne Fire Brigade is called out to the Building as a result of the activation of a false fire alarm, whether the activation of the fire alarm was caused by a willful, negligent, foreseeable, or unforeseeable action or inaction, and the cause of the alarm is found to originate from a Lot, the Member or Occupier of the Lot will be jointly and severally liable to pay any and all associated costs and charges connected to a false fire alarm.

27.4 A Member hereby agrees to indemnify the Owners Corporation for all costs and charges incurred by the Owners Corporation in connection to a false fire alarm call out and the Member may elect to pursue recovery from the Occupier. This rule is enforceable regardless of whether:

27.4.1 the Member or Occupier was directly, indirectly and /or negligently responsible for the cause of the fire alarm; and/or

27.4.2 the Member authorised either impliedly or expressly the actions of the Occupier which caused the false fire alarm.

27.5 A Member or Occupier of a Lot must ensure that all fire doors, exhaust systems and smoke detectors installed in a Lot are properly maintained and tested monthly and that back-up batteries relating to the smoke detectors are replaced whenever necessary.

27.6 Each Member or Occupier of a Lot must undertake a fire and safety induction for the Development, prior to their occupation of the Lot (Induction). Occupiers must give the

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Manager at least 14 days' notice for the Manager to carry out the Induction. The Manager may charge any Occupier of a Lot a fee of $1,000 plus GST for any Induction required by an Occupier with less than 14 days' notice. A Member or Occupier of a Lot may be denied access to the Building if an Induction is not undertaken.

28. Insurance

A Member or Occupier of a Lot must not without the prior written consent of the Owners Corporation do or permit anything to be done which may invalidate, suspend or increase the premium for any insurance policy effected by the Owners Corporation.

29. Security and Security Keys

29.1 A Member or Occupier of a Lot or persons thereon from time to time must not do or permit anything, which may prejudice the security or safety of the Common Property, or any person in or about the Development.

29.2 The Owners Corporation may charge a reasonable fee for any additional security key required by a Member or Occupier.

29.3 A Member must exercise a high degree of caution and responsibility in making a security key available for use by any Occupier and must use all reasonable endeavours including without limitation an appropriate stipulation in any lease or licence of a Lot to the Occupier to ensure the return of the security key to the Member or the Owners Corporation.

29.4 A Member or Occupier of a Lot in possession of a security key must not without written consent from the Owners Corporation duplicate the security key or permit it to be duplicated and must take all reasonable precautions to ensure that the security key is not lost or handed to any person other than any other Member or Occupier and is not disposed of otherwise than by returning it to the Member or the Owners Corporation.

29.5 A Member or Occupier of a Lot must promptly notify the Owners Corporation if a security key issued to them is lost or destroyed.

30. Rules Subject to Rights of the Developer

30.1 These Rules do not apply to and, are not enforceable against the Developer or its mortgagee or chargee or the Vendor or its mortgagee or chargee, for so long as any of the following apply:

30.1.1 the Developer or the Vendor and/or either of their equity partners (if any) or the Vendor is a Member or Occupier;

30.1.2 any mortgagee or chargee of the Developer or the Vendor has an interest in any Lot; or

30.1.3 the Developer or the Vendor and/or either of their equity partners (if any) or the Vendor is engaged in any action required to complete the Development,

where to do so would prevent, hinder, obstruct or in any way interfere with any works of any nature or description that the Developer their mortgagee or chargee or the Vendor their mortgagee or chargee may be engaged in or which may need to be carried out in order to

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complete construction of the Buildings and facilities comprised in the Plan or the Development.

30.2 Subject to Rule 30.4, the Developer and its equity partners (if any), its mortgagees and chargees and the Vendor and its equity partners (if any), its mortgagees and chargees must be and are by this Rule, authorised by each and every member of each and every Owners Corporation in the Plan and by each and every Owners Corporation in the Plan to:

30.2.1 erect such barriers, fences, hoardings, signs as it deems necessary to facilitate any works to be carried out in relation to the Development; and

30.2.2 take exclusive and sole possession of any parts of the Common Property as it may need to have exclusive possession of in order to carry out any works or activities in relation to the Development; and

30.2.3 exclude all and any Members or Occupiers from any parts of the Common Property as may be necessary in order to carry out any works in relation to the Development; and

30.2.4 erect for sale promotional advertising or other signs as the Developer may require on any part of the Common Property; and

30.2.5 grant rights to use or access through or over the Common Property to third parties on such terms and conditions as the Developer or its mortgagee or chargee thinks fit; and

30.2.6 limit or restrict access to certain areas of the Development including areas of the Common Property in order to expeditiously complete the Development; and

30.2.7 use whatever rights of way and/or points of egress and ingress to the Development as necessary to carry out any works and to block for whatever periods are necessary any rights of way or points of egress and ingress to the Development in order to carry out any works,

provided that the Developer or the Vendor and any third party authorised by either of them under this Rule or any party to which it assigns all or part of the benefits of its rights under this Rule, uses its best endeavours to minimise disturbance and inconvenience to others occupying or using the Common Property.

30.3 The Owners Corporation must, within 7 days of being requested by the Developer or its mortgagee or chargee or the Vendor or its mortgagee or chargee, sign whatever consents, authorities, permits or other such documents as may be required to enable the Developer or its mortgagee or chargee to complete the Development. A Member must not vote in favour of any motion for a resolution proposed for consideration by a general meeting of the Owners Corporation which would revoke this Rule 30 or contravene any right or reprieve afforded to the Developer under this Rule 30.

30.4 In case of any inconsistency between the Rules and the rights of the Developer and Vendor under any Development Agreement, the Developer's rights and the Vendor's rights under the Development Agreement will prevail and the Members, Occupiers and Owners Corporation must not seek to enforce the Rules against the Developer or Vendor where to do so would conflict with the Developer's Rights or the Vendor's rights under any such Development Agreement.

30.5 A Member or Occupier must comply with the terms of any Development Agreement between the Developer and the Owners Corporation that is disclosed to the Member or Occupier.

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30.6 Every Member hereby consents to and agrees to the Developer or the Vendor undertaking any or all of the rights of the Developer or the Vendor, as the context permits, set out in this Rule without any prevention or hindrance of such Member.

30.7 In exercising its rights under this Rule, the Developer and Vendor must act honestly and in good faith and with due care and diligence in the interests of the Owners Corporation and must have regard to the amenity of Members. The Developer and Vendor must only exercise their rights to the extent necessary for the genuine Development. The Developer and the Vendor must not exercise its rights under this Rule to arbitrarily exclude the Owners Corporation or the participation of Members.

31. Warranties & Novation or assignment of contracts

31.1 The Developer may at its discretion enter into time limited contracts to supply, service, clean, maintain and/or inspect building essentials services, other building services or functions, common areas of the Building, landscaping, or any other Common Property, and any other service or other contract deemed appropriate and necessary for the proper care and function of the Common Property.

31.2 The Developer must and the Owners Corporation(s) must accept, assignment or novation of the contracts referred to in Rule 31.1 at the first meeting of the Owners Corporation.

31.3 The Owners Corporation must maintain any contracts assigned or novated to it under this Rule to the end of its current term except where it is deemed that the contract is unreasonable or unnecessary or is replaced by a contract for similar services by the same service provider.

31.4 The Owners Corporation must comply with the terms of and properly manage any time or condition limited warranties for items, components or parts of the Common Property provided by subcontractors or suppliers so as to ensure they remain valid for the benefit of the Owners Corporation.

31.5 The Owners Corporation must ensure that it provides for or enters into contracts to provide for care, cleaning, maintenance and inspection of any item or component of Common Property to enable it to perform its obligations under the Law and these Rules upon the lapse of any subcontractor or supplier backed warranty or upon the end of any contract assigned or novated to it by the Developer.

31.6 All Members must contribute its proportion of the cost incurred by the Owners Corporation in complying with this Rule 31 relative to the lot liability on the Plan.

32. Signage & Other Licences

32.1 The Owners Corporation may grant the Developer:

32.1.1 a lease and licence including but not limited to for the provision of information technology infrastructure relating to broadband services and/or signage rights to the Development;

32.1.2 a licence to host festivals, parties or other celebratory or promotional events in the main lobby area, or other areas of the Common Property;

32.1.3 a licence to place and maintain sale signs, insignias, logos and other fixtures and fittings for marketing purposes on the Common Property; or

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32.1.4 allow the Developer's representatives and their invitees to conduct selling activities from a Lot, if not sold prior to completion, which will serve as a display unit,

provided the Developer uses its best endeavours to minimise disturbance and inconvenience to others Members' or Occupiers' use of the Common Property and at all times acts honestly and in good faith and with due care and diligence in the interests of the Owners Corporation.

32.2 A Member or Occupier of the Lot must not hinder or impede the Developer, its successors and assigns, from exercising its rights under any agreement entered into under this Rule.

32.3 The Owners Corporation(s) must procure all the necessary consents and resolutions to give effect to the matters set out in this Rule 32.

32.4 A Member must not vote in favour of any motion for a resolution proposed for consideration by a general meeting of the Owners Corporation(s) which would impede the powers of the Owners Corporation(s) under this Rule 32.

33. Bicycles

33.1 A Member or Occupier must not permit any bicycle to be stored on Common Property except in areas designated by the Owners Corporation or otherwise with its written consent.

33.2 Members or Occupiers must indemnify and keep indemnified the Owners Corporation on a full indemnity basis for the costs of repairing any damage to the Common Property arising out of bringing their bicycles on to any Lot (for example, corridors, lifts).

34. Commercial Kitchen, Staff Facilities and Amenities

A Member or an Occupier acknowledges that the commercial kitchen, staff amenities and staff facilities located on Common Property may not be accessed by Members, Occupiers or their guests, without the written consent of the Manager, which consent may be granted or rejected (or granted subject to conditions) at the Manager's discretion.

Attachment 2

Carriageway Licence

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Maddocks

Lawyers
Collins Square, Tower Two
Level 25, 727 Collins Street
Melbourne VIC 3008
Australia

Telephone 61 3 9258 3555
Facsimile 61 3 9258 3666

info@maddocks.com.au
www.maddocks.com.au

DX 259 Melbourne

Date 14 / 06 /2022

Carriageway Licence – 1R

Grand Esplanade Building, Saint Moritz, 14-16 The Esplanade, St Kilda, Victoria

Owners Corporation No. 6
on Plan of Subdivision PS826420W

and

14-16 The Esplanade by Gurner Pty Ltd
ACN 626 307 131

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Schedule

1.	**Date of this Licence:**	14th June 2022
2.	**Licensor:**	Owners Corporation No. 6 on Plan of Subdivision PS826420W, c/o The Knight, PO Box 678 Malvern, Victoria 3144.
3.	**Licensee:**	14-16 The Esplanade by Gurner Pty Ltd ACN 626 307 131 of 168 Williams Road, Prahran, VIC 3181
4.	**Licensed Area:**	the area shown shaded light blue that is located on the Common Property, on the plan at Annexure A.
5.	**Commencement Date**	14th June 2022
6.	**Term**	299 years
7.	**Licence Fee during the Term:**	$1 payable by a single instalment on the Commencement Date, if demanded.
8.	**Additional Clauses:**	Not applicable.

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Execution Page

EXECUTED by the parties on the date specified in Item 1.

Executed by **Owners Corporation No. 6** on **PS826420W** by a person who declares they are the sole Lot Owner and member of the Owners Corporation or by a director of a corporation that is a sole Lot Owner, in accordance with s 10 of the *Owners Corporations Act 2006* (Vic) in accordance with a resolution dated 7th June 2022 :

DocuSigned by:
Greg Shand
D9878C82E30C406...

Signature

Greg Shand

Name (print full name)

3A Macquarie Street, Sydney NSW 2000

Address

Position: Director of sole Lot Owner

Barana (St Kilda) Investments Pty Ltd
ACN 160 116 076

Name of corporation that is the sole Lot Owner

Executed by **14-16 The Esplanade by Gurner Pty Ltd ACN 626 307 131** in accordance with section 127(1) of the *Corporations Act* 2001:)
)
)
)

DocuSigned by:
Tim Gurner
9EF5211C763442E...

Signature of Sole Director/Secretary

Timothy Gurner

Print full name

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Licence

THIS LICENCE is made on the date specified in Item 1.

BETWEEN

The Licensor

AND

The Licensee

RECITAL

A. The Licensor has agreed to grant the Licensee a licence of the Licensed Area on the terms and conditions in this Licence.

THE PARTIES AGREE

1. Definitions

In this Licence, unless expressed or implied to the contrary:

Additional Clauses means the clauses (if any) specified in Item 8.

Adjustment has the same meaning given to that term in the GST Act.

Adjustment Note has the same meaning given to that term in the GST Act.

Commencement Date means the commencement date specified at Item 5 of the Schedule.

Common Property means the common property No. 6 on PS826420W.

Consideration means consideration payable under this Licence in return for a Taxable Supply, but does not include any amount on account of GST.

Development means Saint Moritz, 14-16 The Esplanade, St Kilda, Victoria.

GST Act means A New Tax System (Goods and Services Tax) Act 1999 (as amended).

GST has the same meaning given to that term in the GST Act.

Input Tax Credit has the same meaning given to that term in the GST Act, but also includes a reduced input tax credit under Division 70 and an adjusted input tax credit under Division 132 of the GST Act.

Item means an item in the Schedule.

Licensed Area means the area specified in Item 4.

Licence Fee means the amount specified in Item 7.

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Licensee means the Licensee specified in Item 3 and includes the Licensee's successors and assigns and where it is consistent with the context includes the Licensee's employees, agents, invitees and persons the Licensee allows to use the Licensed Area.

Licensor means the Licensor specified in Item 2 above and includes the Licensor's successors and assigns and where it is consistent with the context includes the Licensor's employees and agents.

Plan means the plan attached as Annexure A to this Licence.

Premises means Lot 1R on Plan of Subdivision PS826420W.

Owners Corporation Rules means the rules of Owners Corporation No 6 on Plan of Subdivision PS826420W as amended from time to time.

Recipient has the same meaning given to that term in the GST Act.

Supplier means the entity making a Supply to the Recipient.

Supply has the same meaning given to that term in the GST Act.

Tax Invoice has the same meaning given to that term in the GST Act.

Taxable Supply has the same meaning given to that term in the GST Act.

Taxes means a tax, levy, duty, impost, fee, deduction, withholding or charge, however described, imposed by legislation, (including stamp and transaction duty and any car parking levies) together with any related interest, penalty, fine or expense concerning any of them and the costs of challenging any of them.

Term means the Term specified in Item 6 of the Schedule.

2. Licence

2.1 The Licensor has exercised its powers under section 14 of the *Owners Corporations Act* 2006 to grant by special resolution a non-exclusive licence of the Licensed Area to the Licensee subject to the terms, covenants, conditions and restrictions contained in this Licence, for the Term starting on the Commencement Date.

2.2 The Licensee acknowledges and agrees that:

2.2.1 the Licensee is not entitled to exclusive occupation of the Licensed Area;

2.2.2 owners and occupiers of Chairman’s Lounge lots in the Development may use the Licensed Area to access their lot;

2.2.3 this Licence is non-exclusive, and the Licensor may grant additional licences of the Licensed Area to third parties within the Development, on terms and conditions similar to those contained in this Licence (**Additional Licences**);

2.2.4 in the event Additional Licences are granted by the Licensor, the use, maintenance and associated obligations for the Licensed Area described at clause 5 may be shared between the Licensee and licensees of the Additional Licences;

2.2.5 if a dispute arises between the Licensee and the licensee(s) under any Additional Licence in relation to the shared use, maintenance and associated obligations of

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the Licensed Area under clauses 5 and 6, the dispute must be referred to the Licensor to determine in its absolute discretion;

2.2.6 this Licence does not create any estate or interest in the Licensed Area, other than a contractual right;

2.2.7 this Licence does not constitute a lease at law and the Licensee will not claim before a court or tribunal that this Licence constitutes a lease at law; and

2.2.8 in the event that a court or tribunal determines that this Licence is a lease at law, the Licensor may, at its option, terminate this Licence by written notice to the Licensee.

3. Payments by the Licensee

3.1 Payment of Licence Fee

The Licensee must pay the Licence Fee to the Licensor on the Commencement Date and in the manner specified in Item 6.

3.2 Costs and Duty

The Licensee must pay to the Licensor within 7 days of demand:

3.2.1 all Taxes levied in respect of this Licence (if any), the Licensed Area or the rights granted to the Licensee under this Licence whether those Taxes are in force at or after the Commencement Date;

3.2.2 the operating costs incurred by the Licensor in connection with or as a result of this Licence, the Licensed Area or the rights granted to the Licensee under this Licence; and

3.2.3 the Licensor's costs (including charges on a solicitor-own client basis) incurred as a result of a breach of this Licence by the Licensee.

3.3 Interest on Late Payments

The Licensee must pay to the Licensor on demand interest at the rate per annum equal to the rate for the time being fixed under section 2 of the *Penalty Interest Rates Act* 1983 (Vic) on any money payable by the Licensee under this Licence and remaining unpaid for 14 days. Interest will be computed from the date on which such payment became due.

3.4 No Deduction or Right of Set-off

The Licensee must pay all amounts due under this Licence to the Licensor without deduction or right of set-off.

4. GST

4.1 GST Exclusive

Except as otherwise provided by this clause, all Consideration payable under this Licence in relation to any Supply is exclusive of GST.

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4.2 Increase in Consideration

To the extent that any Supply under this Licence constitutes a Taxable Supply, the Consideration payable by the Recipient to the Supplier will be increased by the applicable amount of GST (**GST Amount**), which shall be calculated by multiplying the amount upon which GST is payable by the prevailing rate of GST.

4.3 Payment of GST

Any GST Amount must be paid by the Recipient to the Supplier at the same time and in the same manner as the relevant Consideration is paid or given under this Licence, without any right of set-off or deduction (unless otherwise provided in this Licence).

4.4 Reimbursements

If this Licence requires the Recipient to pay, reimburse or contribute to any expense, loss or outgoing suffered or incurred by the Supplier (**Relevant Expense**), the amount which the Recipient must pay, reimburse or contribute will be the amount net of any Input Tax Credits to which the Supplier is entitled in respect of the Relevant Expense, together with any GST Amount if the payment, reimbursement or contribution constitutes a Taxable Supply by the Supplier to the Recipient.

4.5 Tax Invoice

The Supplier must provide to the Recipient a valid Tax Invoice at or prior to the time of payment of any GST Amount.

4.6 Adjustments & Adjustment Notes

To the extent that any Adjustment occurs in relation to a Taxable Supply, the Supplier must issue an Adjustment Note to the Recipient within 7 days of becoming aware of the Adjustment, and any payment necessary to give effect to such Adjustment must be made within 7 days after the date of receipt of the Adjustment Note.

5. Use of Licensed Areas

5.1 Use of Licensed Area

5.1.1 The Licensee may use the Licenced Area for the purpose of a carriageway, to allow it and its staff and suppliers access to and egress from the Premises.

5.1.2 The Licensee must not:

(a) use or allow anyone else to use the Licensed Area for any purpose other than the permitted uses described in clause 5.1.1; and

(b) place or allow to be placed anything on the Licensed Area; and

(c) allow patrons, guests or customers of the Premises to access the Licensed Area.

5.2 Nuisance

The Licensee must not do anything in connection with the Licensed Area which may cause a nuisance or interfere with any other person, including other users of the Licensed Area as contemplated by clause 2.2.

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5.3 Insurance

5.3.1 The Licensee must from the Commencement Date until the end of the Term effect and maintain a policy of insurance in the name of the Licensee noting the interests of the Licensor as an interested party in respect of liability for loss, injury or damage to any person or property whatsoever whether arising out of any act, omission, breach of duty or failure by the Licensor, the Licensee, the employees, agents and invitees of the Licensor or the Licensee or otherwise, on or in relation to the Licensed Area or the use of the Licensed Area by the Licensee in the sum of ten million dollars ($10,000,000) or such greater amount as the Licensor may reasonably nominate from time to time in order to effect a sufficient and proper cover in respect of any single accident or event.

5.3.2 The Licensee must from the Commencement Date until the end of the Term effect and maintain a policy of insurance in the name of the Licensee in respect of liability for the usual insured risks on an indemnity or replacement value basis of any Air Conditioning constructed or to be constructed pursuant to this Licence.

5.4 Licences and Permits

The Licensee must maintain all licences and permits required for the Licensee's use of the Licensed Area.

5.5 Signs

The Licensee must seek the prior written consent of the Licensor (which may be withheld at the Licensor's absolute discretion) before displaying or affixing any signs, advertisements or notices on or to any part of the Licensed Area.

5.6 Not Used

5.7 Heavy Equipment and Inflammable Substances

The Licensee must obtain the Licensor's prior written consent before bringing any heavy equipment or inflammable substances into the Licensed Area.

6. Repairs, alterations and Damage

6.1 Repairs and Maintenance

The Licensee must at its cost use reasonable endeavours to:

6.1.1 keep the Licensed Area clean, tidy and in good repair;

6.1.2 keep the Licensed Area clear and unobstructed to allow pedestrian access at all times to and from the Development;

6.1.3 keep the Licensed Area in the same condition as it was in at the date the Licensee first entered occupation of the Premises (fair wear and tear excepted) including repairing or replacing anything in the Licensed Area which is damaged, destroyed or deteriorated; and

6.1.4 remove waste and/or clean the Licensed Area.

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6.2 Failure to Repair and Maintain

If the Licensee does not carry out any repairs, maintenance or other works required under this Licence within 14 days of receiving written notice from the Licensor, the Licensor may enter the Licensed Area to carry out such repairs, maintenance and works at any reasonable time after giving the Licensee reasonable notice. The cost of all such repairs, maintenance and works must be paid by the Licensee to the Licensor on demand.

6.3 Alterations

The Licensee must not carry out any alterations on the Licensed Area.

6.4 Notice of Damage

The Licensee must give the Licensor prompt written notice of any material damage to the Licensed Area or anything likely to be a risk to the Licensed Area or any person in the Licensed Area.

7. Release and Indemnity

7.1 Release

The Licensee uses and occupies the Licensed Area at its own risk and releases the Licensor from all claims resulting from any damage, loss, death or injury in connection with the Licensed Area except to the extent that the Licensor is negligent.

7.2 Indemnity

The Licensee must indemnify and hold harmless the Licensor against all claims resulting from any damage, loss, death or injury in connection with the Licensed Area and the use of the Licensed Area by the Licensee except to the extent that the Licensor is negligent.

8. Assignment and Sub-Licensing

8.1 The Licensee must not assign, sublicense or part with possession with this Licence or its interest in the Licensed Area.

8.2 Despite clause 8.1, the Licensee may:

8.2.1 assign the Licence without the consent of the Licensor provided that:

(a) the assignee is, or is entitled to be registered proprietor of lot 1R on Plan of Subdivision PS826420W;

(b) the Licensee gives written notice to the Licensor of the details of the assignee and the assignment; and

(c) the assignee has properly executed a deed of assignment, which includes a condition by which the assignee covenants to comply with all obligations of the Licensee under this Licence;

8.2.2 sublicense its interest in the Licensed Area without the consent of the Licensor provided that:

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(a) the sublicensee is, or is entitled to be, the tenant of lot 1R on Plan of Subdivision PS826420W; and

(b) the Licensee gives written notice to the Licensor of the details of the sublicensee and the sublicense.

8.3 The Licensor must sign any and all things necessary to give effect to an assignment under clause 8.2 within 5 business days of the Licensee's request to do so.

8.4 If the registered proprietor of lot 1R on Plan of Subdivision PS826420W transfers the lot to a purchaser (**New Owner**), the Licensor must simultaneously assign this Licence to the New Owner in accordance with clause 8.2.1.

9. Licensor not Liable

The Licensor will not be liable to the Licensee if the Licensee cannot obtain access to the Licensed Area in circumstances either:

9.1 required for maintenance or repair; or

9.2 beyond the Licensor's reasonable control.

10. Right of Entry

The Licensee authorises the Licensor to enter the Licensed Area in the event of an emergency.

11. Licensee's Obligations at End of Licence

11.1 Licensee's Obligations

At the end of this Licence, the Licensee must give to the Licensor any security devices (if applicable) used by the Licensee to obtain access to the Licensed Area.

11.2 Licensee's Property Left in Licensed Area

Anything left in the Licensed Area at the end of this Licence will become the property of the Licensor and may be removed by the Licensor at the Licensee's cost and at the Licensee's risk.

12. Owners Corporation Rules

12.1 The Licensee must observe and comply with the Owners Corporation Rules.

12.2 A breach of the Owners Corporation Rules is a breach of this Licence.

12.3 Where there is any inconsistency between the terms of the Owners Corporation Rules and this Licence, the provisions of this Licence prevail.

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13. Termination of Licence

13.1 Re-entry

The Licensor may terminate this Licence if the Licensee breaches a material provision of this Licence and does not remedy the breach within 28 days of receipt of written notice from the Licensor specifying the material breach complained of.

13.2 Damages following Termination

If this Licence is terminated by the Licensor, the Licensee agrees to compensate the Licensor for any loss or damage the Licensor suffers in connection with the Licensee's breach of this Licence including the loss of the benefit of the Licensee performing its obligations under this Licence up to the expiration of the Term.

14. General

14.1 Notices

Any notice required to be served under this Licence must be in writing and must be served by post, facsimile transmission or hand delivered to:

14.1.1 the Licensee at its address set out in this Licence, the Licensee's registered office address or the last known address of the Licensee; and

14.1.2 the Licensor at its address set out in this Licence or any other address notified in writing to the Licensee by the Licensor.

14.2 Entire Understanding

This Licence contains the entire understanding between the parties as to the subject matter contained in it. All previous agreements, representations, warranties, explanations and commitments, expressed or implied, affecting this subject matter are superseded by this Licence and have no effect.

14.3 Waiver

If the Licensor accepts the Licence Fee or any other monies under this Licence (before or after the end of this Licence) or does not exercise or delays exercising any of the Licensor's rights under this Licence, it will not be a waiver of the breach of this Licence by the Licensee or of the Licensor's rights under this Licence.

14.4 Additional Clauses

This Licence is subject to the Additional Clauses. The Additional Clauses override any inconsistent provisions in this Licence.

15. Interpretation

15.1 Governing Law and Jurisdiction

This Licence is governed by and is to be construed in accordance with the laws of Victoria. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the

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Courts of Victoria and waives any right to object to proceedings being brought in those Courts.

15.2 Persons

In this Licence, a reference to a person includes a firm, partnership, association, corporation or other corporate body.

15.3 Joint and Several

If a party consists of more than one person, this Licence binds them jointly and each of them severally.

15.4 Legislation

In this Licence, a reference to a statute includes regulations under it and consolidations, amendments, re-enactments or replacements of any of them.

15.5 Clauses and Headings

In this Licence:

15.5.1 a reference to a clause, schedule or appendix is a reference to a clause, schedule or appendix in or to this Licence; and

15.5.2 headings and sub-headings are inserted for ease of reference only and do not effect the interpretation of this Licence.

15.6 Severance

In this Licence:

15.6.1 if a provision is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable; and

15.6.2 if it is not possible to read down a provision as required in this clause, that provision is severable without affecting the validity or enforceability of the remaining part of that provision or the other provisions in this Licence.

15.7 Number and Gender

In this Licence, a reference to:

15.7.1 the singular includes the plural and vice versa; and

15.7.2 a gender includes the other genders.

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Annexure A

Licensed Area

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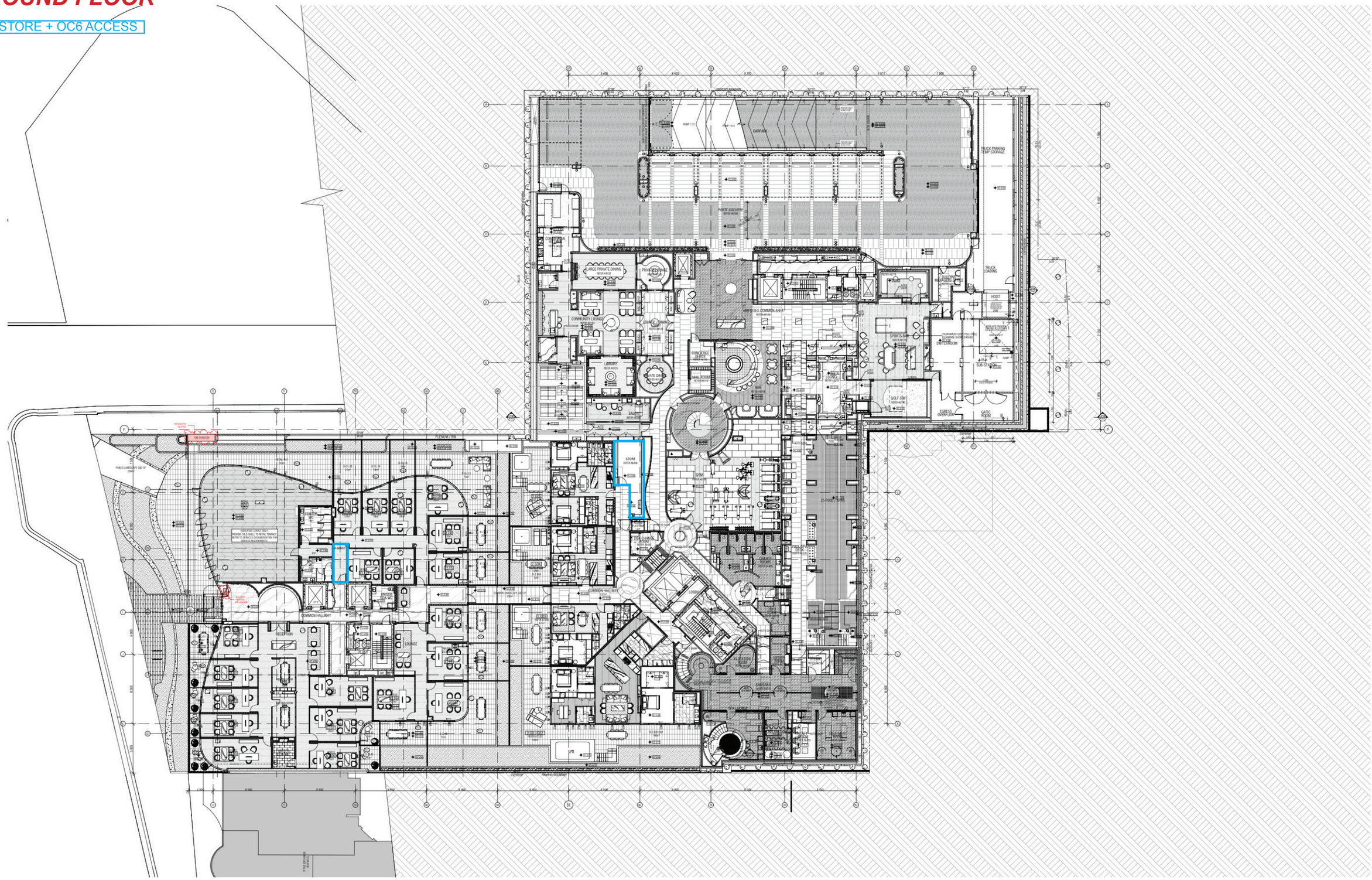
GROUND FLOOR

1R STORE + OC6 ACCESS



Attachment 3

Commercial Kitchen Sub-Lease

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Maddocks

Lawyers
Collins Square, Tower Two
Level 25, 727 Collins Street
Melbourne VIC 3008
Australia

Telephone 61 3 9258 3555
Facsimile 61 3 9258 3666

info@maddocks.com.au
www.maddocks.com.au

DX 259 Melbourne

Sub-Lease

Premises: Commercial Kitchen, Part of Common Property No. 5 on PS826420W, Saint Moritz, 14 – 16 The Esplanade, St Kilda, Victoria

LIFE By Saint Moritz Pty Ltd
ACN 648 589 995
and

D.O.C St Kilda Pty Ltd
ACN 673 501 221

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Schedule

1.	**Head Landlord:**	Owners Corporation No. 5 PS826420W, Saint Moritz, 14-16 The Esplanade, St Kilda, Victoria
2.	**Landlord:**	LIFE By Saint Moritz Pty Ltd ACN 648 589 995, of 8 Bowen Crescent, Melbourne VIC 3004
3.	**Sub-Tenant:**	D.O.C St Kilda Pty Ltd ACN 673 501 221 c/- The Practice, Level 10, 369 Royal Parade, Parkville VIC 3052
4.	**Sub-Tenant's Guarantor:**	Not applicable
5.	**Building:**	Saint Moritz, 14-16 The Esplanade, St Kilda, Victoria
6.	**Premises:**	Limited to that part of the Building shown outlined in red and annotated as 'Commercial Kitchen' on the plan attached to the Head Lease
7.	**Commencement Date:**	12 March 2024
8.	**Expiry Date:**	11 March 2029 , provided that the option for a Further Term is exercised in the Head Lease by the Landlord
9.	**Term:**	Five (5) years, provided that the option for a Further Term is exercised in the Head Lease by the Landlord
10.	**Further Terms:**	Two (2) further terms of Five (5) years, provided that the option(s) for Further Term(s) are exercised in the Head Lease by the Landlord
11.	**Last date for exercising the Option for the Further Term:**	11 December 2028 , being the date that is three (3) months prior to the Expiry Date
12.	**Rent:**	$1 plus GST per annum, if demanded
13.	**Market Rent Review Dates:**	Not Applicable
14.	**CPI Adjustment Dates:**	Not Applicable
15.	**Percentage Rent Increase Dates:**	Not Applicable
16.	**Bank Guarantee:**	Not Applicable
17.	**Permitted Use:**	back of house kitchen in support of the Sub-Tenant's lease of the 1R Premises under the 1R Lease
18.	**Special Conditions:**	See Attachment 1

19.	**Does Act Apply:**	No The Sub-Tenant will not use the Premises wholly or predominantly for the sale or hire of goods by retail or the retail provision of services.
20.	**Excluded Clauses**	Clauses 3, 7, 11, 12.4, 15, 20, 23, 25 and Special Condition 1 and Special Condition 2

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Maddocks

Sub-Lease

Dated 14 March 2024

This Sub-Lease is made on the date specified in the Sub-Lease Signing Page.

Parties

The Landlord

The Sub-Tenant

Background

A. The Head Landlord leased areas including the Premises to the Landlord pursuant to the Head Lease.

B. Under clause 15.6 of the Head Lease, the Landlord can sublease the whole or part of the area leased under the Head Lease, including the Premises, without the Head Landlord's consent.

C. The Landlord has agreed to Sub-Lease the Premises to the Sub-Tenant on the terms of this Sub-Lease.

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The Parties Agree

1. Definitions

In this Sub-Lease, unless expressed or implied to the contrary:

1R Lease means the lease of the 1R Premises between Barana (St Kilda) Investments Pty Ltd (as landlord) and the Sub-Tenant (as tenant) dated on or about the date of this Sub-Lease.

1R Premises means the land known as Lot 1R (including the car parks 3079C, 3080C and 3081C forming part of Lot 1R) on plan of subdivision number PS826420W, Saint Moritz, 14 – 16 The Esplanade, St Kilda, Victoria.

Act means the *Retail Leases Act 2003* (Vic).

Associated Entity has the same meaning as under the Corporations Act 2001 (Cth).

Beneficiary means any beneficiary of the Dealing.

Building means the Building specified in Item 5.

Building Act means the *Building Act 1993* (Vic).

Building Regulations means the *Building Regulations 2018* (Vic).

Business Name means 'Saint Moritz'.

Commencement Date means the date specified in Item 7.

Contamination includes any solid, liquid, gas, radiation or substance which makes or may make the condition of the Premises or groundwater beneath or part of the surrounding environment:

(a) unsafe, unfit or harmful for habitation by persons or animals; or

(b) unfit for any use permitted under any applicable planning scheme as amended from time to time,

or which is defined as such in any Environmental Protection Legislation.

Deal and Dealing means any sub-contract, sub-lease, sub-licence, assignment, novation or transfer of this Lease.

Environmental Protection Legislation means any statute, regulation, code, proclamation, ministerial directive, ordinance, by law, planning policy or subordinate legislation, past, present or future, relating to pollutants and contaminants, use of land, human health and safety or protection of the environment.

Essential Safety Measure has the meaning given to that term in the Building Regulations.

Excluded Clauses means those clauses of the Head Lease specified in Item 20 which are excluded from this Sub-Lease.

Expiry Date means the date specified in Item 8.

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Further Term means the further term(s) specified in Item 10.

Grease Trap means any grease trap servicing the Premises.

Hazardous Materials includes all hazardous substances and any pollutant or contaminant defined as such in (or for the purposes of) any Environmental Protection Legislation.

Head Landlord means the Head Landlord specified in Item 1 and includes the Head Landlord's successors and assigns and where it is consistent with the context includes the Head Landlord's employees and agents.

Head Lease means the lease between the Head Landlord and the Landlord, a copy of which is attached to this Sub-Lease as Attachment 2.

Insolvency Event means:

(a) in the case of a natural person, if that person:

(i) becomes bankrupt;

(ii) assigns the person's estate; or

(iii) enters into a deed of arrangement or composition for the benefit of creditors.

(b) in the case of a corporation, if that corporation:

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

(ii) is wound up or dissolved or has an application made for its winding up or dissolution;

(iii) enters into a scheme or arrangement with or makes an assignment for the benefit of its creditors or any class or classes of them;

(iv) is placed under official management;

(v) has an agent in possession or a receiver and/or manager or an administrator appointed to the whole or any substantial part of its assets; or

(vi) has an inspector or investigator appointed under the *Corporations Act 2001* (Cth).

Item means an item in the Sub-Lease Particulars.

Landlord means the Landlord specified in Item 2 and includes the Landlord's successors and assigns and where it is consistent with the context includes the Landlord's employees and agents.

Landlord's Fixtures means all fittings, fixtures, and chattels contained in the Premises at the date the Premises is handed over to the Sub-Tenant or installed by the Head Landlord or the Landlord during the Term.

Lettable Area(s) means the lettable area of the Premises or the Building, as applicable, assessed for Rates and Taxes as determined by a surveyor engaged by the Landlord.

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OHS Act means the *Occupational Health and Safety Act 2004* (Vic).

OHS Law means the OHS Act, the OHS Regulations, and any other occupational health and safety law, regulation or by-law that applies to work being carried out on the Premises.

OHS Regulations means the *Occupational Health and Safety Regulations* 2017 (Vic).

Owners Corporation means Owners Corporation 5 on Plan No. PS826420W.

Owners Corporation Rules means the rules of the Owners Corporation, a copy of which is attached as Attachment 3, as may be amended from time to time.

Permitted Use means the use specified in Item 17.

Plan means plan of subdivision number PS826420W for the Building a copy of which is attached to the Head Lease and includes any amendments or alterations made to the Plan by the Landlord from time to time and any restriction noted on the Plan.

Premises means that part of the Building specified in Item 6 and includes the Landlord's Fixtures.

Principal Contractor means the position of principal contractor referred to in Chapter 5 of the OHS Regulations**.**

Related Entity means the same as detailed under the Corporations Act 2001 (Cth).

Rent means the amount specified in Item 12 as reviewed, adjusted or increased under this Sub-Lease.

Small Business Commissioner means the Small Business Commissioner referred to in the Act.

Special Conditions means the conditions (if any) referred to in Item 18.

Sub-Lease means this sub-lease and includes all annexures and schedules.

Sub-Lease Particulars means the schedule of Items specified on the page at the front of this Sub-Lease.

Sub-Tenant means the Sub-Tenant specified in Item 3 and includes the Sub-Tenant’s successors and assigns and where it is consistent with the context includes the Sub-Tenant's employees, contractors, agents, invitees and persons the Sub-Tenant allows in the Premises.

Sub-Tenant's Property means all property in the Premises including all fixtures and fittings owned or leased by the Sub-Tenant but excluding the Landlord's Fixtures.

Term means the term specified in Item 9 and includes any period of overholding.

2. Negotiation and disclosure requirements

2.1 Negotiation for Lease

If the Act applies to this Sub-Lease, the Sub-Tenant acknowledges receiving from the Landlord:

2.1.1 a copy of the proposed sub-lease; and

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2.1.2 a copy of the information brochure about retail leases published by the Small Business Commissioner,

as soon as the Sub-Tenant entered into negotiations with the Landlord, or its agent in respect of this Sub-Lease.

2.2 Disclosure statement

If the Act applies to this Sub-Lease, the Sub-Tenant acknowledges having received from the Landlord:

2.2.1 a disclosure statement (in the form prescribed by the Act); and

2.2.2 a copy of the proposed sub-lease,

at least 14 days prior to the Sub-Tenant entering into this Sub-Lease.

3. Sub-Lease

3.1 Grant of Sub-Lease

The Landlord grants the Sub-Tenant and the Sub-Tenant accepts a Sub-Lease to use the Premises for the Term starting on the Commencement Date.

3.2 Authority to complete blanks

The Landlord is authorised to complete any blanks in this Sub-Lease as agreed to in writing by the Sub-Tenant.

3.3 Option for a Further Term

The Landlord will grant to the Sub-Tenant a new sub-lease for the Further Term if the Sub-Tenant:

3.3.1 gives the Landlord written notice asking for a new sub-lease, not earlier than 6 months or later than 3 months, before the end of the Term (the last date for exercising the option for the Further Term is specified in Item 11);

3.3.2 has remedied any breach of this Sub-Lease of which the Sub-Tenant has received written notice from the Landlord;

3.3.3 has not persistently defaulted under this Sub-Lease and the Landlord has given written notice of the defaults; and

3.3.4 complies with all reasonable requirements of the Landlord including where the Sub-Tenant is a corporation, procuring such directors of the Sub-Tenant as may be reasonably required by the Landlord to execute the guarantee contained in this Sub-Lease.

The new sub-lease for the Further Term will commence on the day after this Sub-Lease ends and contain the same terms and conditions as this Sub-Lease but with either one less option for a Further Term or no option for a further term where the last option for the Further Term has been exercised.

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3.4 Execution of new sub-lease for Further Term

The Sub-Tenant must execute the new sub-lease for the Further Term and return it to the Landlord within 14 days of receipt from the Landlord.

3.5 Holding Over

If the Sub-Tenant continues to occupy the Premises after the Expiry Date with the Landlord's consent, except under a sub-lease arising from the valid exercise of an option to renew, the following provisions will apply:

3.5.1 the Sub-Tenant will occupy the Premises as a monthly Sub-Tenant at a total rental payable monthly in advance being an amount equal to one-twelfth of the aggregate of the Rent and any other money payable by the Sub-Tenant to the Landlord under this Lease as at the Expiry Date, the first of the monthly payments to be made on the day following the Expiry Date;

3.5.2 as far as applicable, the monthly tenancy will otherwise continue on the terms and conditions of this Sub-Lease;

3.5.3 the Rent or any part of it for the monthly tenancy may be reviewed whenever the Landlord determines it appropriate and any provisions in this Lease relating to calculation of, limitation on or right of review of the Rent or any part of it will not apply;

3.5.4 either party may terminate the monthly tenancy by giving to the other one month's notice to the other party expiring on any date; and

3.5.5 if the Sub-Tenant defaults in the performance of its obligations under the monthly tenancy, the Landlord may terminate the monthly tenancy by giving the Sub-Tenant 7 days notice.

4. Terms of Sub-Lease

4.1 This Sub-Lease contains the same clauses as the Head Lease to the extent that they are applicable to the Premises except:

4.1.1 a reference to the:

(a) Head Landlord in the Head Lease is substituted with the Landlord in this Sub-Lease; and

(b) Landlord in the Head Lease is substituted for the ‘Sub-Tenant’ in this Sub-Lease;

(c) the Landlord is not required to perform the Head Landlord's obligations under the Head Lease to the extent that those obligations are required to be performed by the Head Landlord; and

4.1.2 the Excluded Clauses are not incorporated into this Sub-Lease.

4.2 Where there is any inconsistency between the terms of the Head Lease and the Sub-Lease, the provisions of the Sub-Lease prevail.

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5. Sub-Tenant's obligations

5.1 Comply with Terms of Head Lease

The Sub-Tenant must;

5.1.1 comply with any directions of the Head Landlord or the Landlord in connection with the use of the Premises; and

5.1.2 observe and perform all of the Landlord's obligations in the Head Lease to the extent that such obligations are applicable to the Premises.

5.2 Payment of Rent

The Sub-Tenant must pay the Rent to the Landlord in the manner specified in clause 4 of the Head Lease.

5.3 Risk

The Sub-Tenant agrees to access, occupy and use the Premises at the Sub-Tenant's sole risk.

5.4 Notices

The Sub-Tenant must give notice to the Head Landlord and the Landlord where such notice is required to be given to the Landlord pursuant to this Sub-Lease.

5.5 Rights of Inspection

The Sub-Tenant must permit the Head Landlord and the Landlord to exercise any rights conferred on the Landlord in this Sub-Lease, including the right to enter and inspect the Premises.

5.6 Indemnity

The Sub-Tenant must indemnify and hold harmless all parties to this Sub-Lease against all claims resulting from any damage, loss, death or injury in connection with:

5.6.1 the Premises and the use and occupation of the Premises by the Sub-Tenant; or

5.6.2 any breach of this Sub-Lease by the Sub-Tenant.

5.7 Costs and Duty

The Sub-Tenant must pay to the Landlord within 7 days of demand:

5.7.1 the Landlord's reasonable costs in giving any consent or approval under this Sub-Lease; and

5.7.2 the Landlord's costs (including charges on a solicitor-own client basis) incurred as a result of a breach of this Sub-Lease by the Sub-Tenant.

5.8 No Deduction or Right of Set-off

The Sub-Tenant must pay all amounts due under this Sub-Lease to the Landlord without deduction or right of set-off.

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6. Termination of Sub-Lease

6.1 The parties acknowledge that the Head Lease:

6.1.1 is for an initial term of five years, which commenced prior to the Commencement Date; and

6.1.2 provides that the Head Landlord (as landlord) grants the Landlord (as tenant) an option to lease the Premises for further terms, as set out in the Head Lease.

6.2 Despite anything to the contrary in this Sub-Lease, this Sub-Lease will automatically terminate if the Head Lease ends for any reason (including but not limited to Landlord not exercising an option for any further term under the Head Lease).

6.3 For the purposes of clause 6.2 above, if the Landlord does not exercise an option for a further term under the Head Lease, the date of termination of this Sub-Lease will be the day prior to the day that the Head Lease expires.

6.4 The Landlord may terminate this Sub-Lease if:

6.4.1 an Insolvency Event occurs in relation to the Sub-Tenant or any Sub-Tenant's Guarantor; or

6.4.2 the Sub-Tenant breaches this Sub-Lease and does not remedy the breach within 14 days of receipt of written notice from the Landlord.

6.5 No deemed termination

If the Sub-Tenant vacates the Premises, the Landlord will not be deemed to have terminated this Lease merely by the acceptance of keys from the Sub-Tenant, entry into the Premises for any purpose, or the showing of the Premises to prospective tenants or purchasers. This Sub-Lease will be deemed to continue until such time as the Landlord gives notice to the Sub-Tenant terminating this Sub-Lease, or otherwise agrees with the Sub-Tenant that this Sub-Lease is terminated.

7. Release, indemnity and compensation

7.1 Release

The Sub-Tenant uses and occupies the Premises at its own risk and releases the Head Landlord and Landlord from all claims resulting from any damage, loss, death or injury in connection with the Premises except to the extent that such claims arise out of the Head Landlord and/or Landlord's negligent act omission or default, as the case may be.

7.2 Indemnity

The Tenant must indemnify and hold harmless the Head Landlord and the Landlord against all claims resulting from any damage, loss, death or injury in connection with the Premises and the use and occupation of the Premises by the Sub-Tenant except to the extent that such claims arise out of the Head Landlord’s and/or the Landlord's negligent act omission or default, as the case may be.

7.3 No compensation

The Head Landlord and the Landlord is not liable to the Sub-Tenant for any loss or damage incurred by the Sub-Tenant due to:

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7.3.1 any damage to the Premises;

7.3.2 the failure of the Landlord's Fixtures or any plant and equipment (including air conditioning and escalators) to operate properly;

7.3.3 the interruption or damage to any services (including electricity, gas or water) to the Premises; or

7.3.4 the overflow or leakage of water in the Premises,

except to the extent to which the Landlord is liable where the Act applies.

8. Landlord not Released

The Landlord must continue to perform and observe its obligations under the Head Lease and is not released from those obligations by this Sub-Lease.

9. GST

9.1 Definitions

In this clause:

9.1.1 words and expressions that are not defined in this Lease but which have a defined meaning in the GST Law have the same meaning as in the GST Law;

9.1.2 **GST Law** has the meaning given to that term in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

9.2 GST exclusive

Except as otherwise provided by this clause, all consideration payable under this Sub-Lease in relation to any supply is exclusive of GST.

9.3 Increase in consideration

If GST is payable in respect of any supply made by a supplier under this Sub-Lease (**GST Amount**), the recipient will pay to the supplier an amount equal to the GST payable on the supply.

9.4 Payment of GST

Subject to clause 9.5 the recipient will pay the GST Amount at the same time and in the same manner as the consideration for the supply is to be provided under this Sub-Lease.

9.5 Tax invoice

The supplier must provide a tax invoice to the recipient before the supplier will be entitled to payment of the GST Amount under clause 9.4.

9.6 Reimbursements

If this Lease requires a party to reimburse an expense or outgoing of another party, the amount to be paid or reimbursed by the first party will be the sum of:

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9.6.1 the amount of the expense or outgoing less any input tax credits in respect of the expense or outgoing to which the other party is entitled; and

9.6.2 if the payment or reimbursement is subject to GST, an amount equal to that GST.

9.7 Adjustment events

If an adjustment event occurs in relation to a taxable supply under this Sub-Lease:

9.7.1 the supplier must provide an adjustment note to the recipient within 7 days of becoming aware of the adjustment; and

9.7.2 any payment necessary to give effect to the adjustment must be made within 7 days after the date of receipt of the adjustment note.

10. Guarantor

10.1 Liability of Guarantor

In consideration of the Landlord granting this Sub-Lease to the Sub-Tenant at the request of the Sub-Tenant's Guarantor, the Sub-Tenant's Guarantor:

10.1.1 guarantees that the Sub-Tenant will strictly observe and perform its obligations under this Sub-Lease including during any further term;

10.1.2 must pay on demand any amount which the Landlord is entitled to recover from the Sub-Tenant and for any money for any loss suffered by the Landlord due to a breach of this Sub-Lease by the Sub-Tenant; and

10.1.3 indemnifies the Landlord against all loss suffered by the Landlord as a result of the Landlord having entered into this Sub-Lease including as a result of a breach of this Sub-Lease by the Sub-Tenant or this Sub-Lease being unenforceable against the Sub-Tenant.

10.2 Extension of Liability

The Sub-Tenant's Guarantor is liable even if:

10.2.1 the Landlord grants to the Sub-Tenant or a Sub-Tenant's Guarantor any indulgence or extension of time;

10.2.2 this Sub-Lease is assigned, varied or ends for any reason whatsoever;

10.2.3 any Sub-Tenant's Guarantor does not sign this Sub-Lease; and

10.2.4 the Landlord decides not to sue the Sub-Tenant or any other Sub-Tenant's Guarantor.

10.3 Not Enforce Claim Against Sub-Tenant

The Guarantor must:

10.3.1 not seek to recover any money from the Sub-Tenant until the Landlord has been paid all moneys owing from the Sub-Tenant under this Sub-Lease;

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10.3.2 not prove in the bankruptcy or winding up of the Sub-Tenant unless the Landlord has been paid all moneys owing to the Landlord by the Sub-Tenant under this Sub-Lease; and

10.3.3 pay to the Landlord any money which the Landlord has been unable to retain as a preferential payment received from the Sub-Tenant.

10.4 No compensation

The Sub-Tenant acknowledges that if the Premises is destroyed or damaged, the Sub-Tenant is not entitled to receive any compensation from the Landlord.

11. General

11.1 Notices

Any notice required to be served under this Sub-Lease must be in writing and must be served by post, email or hand delivered to:

11.1.1 the Sub-Tenant at its address set out in this Sub-Lease, the Sub-Tenant's registered office address or the last known address of the Sub-Tenant; and

11.1.2 the Landlord at its address set out in this Sub-Lease or any other address notified in writing to the Sub-Tenant by the Landlord.

11.2 Entire understanding

This Sub-Lease contains the entire understanding between the parties as to the subject matter contained in it. All previous agreements, representations, warranties, explanations and commitments, expressed or implied, affecting this subject matter are superseded by this Sub-Lease and have no effect.

11.3 Waiver

If the Landlord accepts the Rent or any other monies under this Sub-Lease (before or after the end of this Sub-Lease) or does not exercise or delays exercising any of the Landlord's rights under this Sub-Lease, it will not be a waiver of the breach of this Sub-Lease by the Sub-Tenant or of the Landlord's rights under this Sub-Lease.

11.4 Additional Clauses

This Sub-Lease is subject to the Additional Clauses. The Additional Clauses override any inconsistent provisions in this Sub-Lease.

11.5 Counterparts

This Sub-Lease may be executed in counterparts, all of which taken together constitute one document.

11.6 Electronic Execution

This Sub-Lease may be executed by electronic means. The parties agree to be bound by this document, including if executed by electronic means.

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12. Interpretation

12.1 Governing law and jurisdiction

This Sub-Lease is governed by and is to be construed in accordance with the laws of Victoria. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Courts of Victoria and waives any right to object to proceedings being brought in those Courts.

12.2 Persons

In this Sub-Lease, a reference to a person includes a firm, partnership, association, corporation or other corporate body.

12.3 Joint and several

If a party consists of more than 1 person, this Sub-Lease binds them jointly and each of them severally.

12.4 Legislation

In this Sub-Lease, a reference to a statute includes regulations under it and consolidations, amendments, re-enactments or replacements of any of them.

12.5 Clauses and headings

In this Sub-Lease:

12.5.1 a reference to a clause, schedule or appendix is a reference to a clause, schedule or appendix in or to this Sub-Lease; and

12.5.2 headings and sub-headings are inserted for ease of reference only and do not affect the interpretation of this Sub-Lease.

12.6 Severance

In this Sub-Lease:

12.6.1 if a provision is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable; and

12.6.2 if it is not possible to read down a provision as required in this clause, that provision is severable without affecting the validity or enforceability of the remaining part of that provision or the other provisions in this Sub-Lease.

12.7 No Relationship

No party to this Sub-Lease has the power to obligate or bind any other party. Nothing in this Lease will be construed or deemed to constitute a partnership, joint venture or employee, employer or representative relationship between the Landlord and the Sub-Tenant. Nothing in this Sub-Lease will be deemed to authorise or empower the Sub-Tenant to act as agent for or with the Landlord.

12.8 Number and gender

In this Sub-Lease, a reference to:

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12.8.1 the singular includes the plural and vice versa; and

12.8.2 a gender includes the other genders.

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Sub-Lease Signing Page

The Landlord sub-leases the Premises to the Sub-Tenant subject to the terms contained in this Sub-Lease.

This Lease is executed as a deed on the 14th day of March 2024

Executed by **LIFE By Saint Moritz Pty Ltd**)
ACN 648 589 995 in accordance with s 127(1))
of the *Corporations Act 2001*:

DocuSigned by:
Nick McKechnie
9A3BB0A5A5D04CE...
Signature of Sole Director/Secretary

Nick McKechnie
Print full name

Executed as a deed by **D.O.C St Kilda Pty Ltd**)
ACN 673 501 221 in accordance with s 127(1))
and s 127(3) of the *Corporations Act 2001*:

DocuSigned by:
Michelangelo Costanzo
F22111AC2DDC4ED...
Signature of Director

Michelangelo Costanzo
Print full name

DocuSigned by:
E0C71C964639418...
Signature of Director/Company Secretary

Vince Marchionno
Print full name

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Attachment 1

Additional Clauses

1. Interdependency with 1R Lease

This Sub-Lease and the 1R Lease are interdependent. To this effect:

1.1 a default by the Sub-Tenant under the 1R Lease is a default by the Sub-Tenant under this Sub-Lease; and

1.2 this Sub-Lease will automatically terminate if the 1R Lease ends for any reason.

2. Dealing

2.1 Sub-Tenant's Rights

2.1.1 The Sub-Tenant must not Deal with this Sub-Lease or its interest in the Premises unless it obtains the Landlord's prior written consent, which may be granted or withheld, or granted subject to conditions, at the Landlord's absolute discretion.

2.1.2 Despite Additional Clause 2.1.1, the Sub-Tenant may assign this Sub-Lease without the consent of the Landlord in accordance with Additional Clause 2.1.3.

2.1.3 In the case of an assignment of this Sub-Lease, the Sub-Tenant:

(a) may only assign the whole of this Sub-Lease;

(b) may only assign this Sub-Lease to an assignee to which the 1R Lease is simultaneously assigned;

(c) must execute and procure the assignee to execute an assignment of lease on terms acceptable to the Sub-Tenant acting reasonably which includes a condition by which the Sub-Tenant (as assignor) releases the Landlord from any claims arising under or in connection with the Sub-Lease after the date of assignment and a condition by which the assignee covenants to comply with all obligations of the Sub-Tenant under this Sub-Lease; and

(d) must notify the Landlord of the assignment and the details of the assignee.

2.1.4 If the Sub-Tenant assigns the 1R Lease to an assignee (**New Assignee**), it must simultaneously assign this Sub-Lease to the New Assignee in accordance with Additional Clause 2.1.3.

3. Grease Trap Sub-sub Licence

3.1 For the purposes of this Additional Clause 3:

3.1.1 **Grease Trap Sub-Licensed Area** means the area specified as the 'Licensed Area' in the licence attached at Attachment 4;

3.1.2 **Grease Trap Sub-Licence Permitted Use** means the use, repair, maintenance and emptying of the grease trap on the Grease Trap Sub-Licensed Area.

3.2 The Landlord and the Sub-Tenant acknowledge that the Head Landlord granted the Landlord a sub-licence over the Grease Trap Sub-Licensed Area for the Grease Trap Sub-Licence Permitted Use under the special conditions of the Head Lease.

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3.3 The Landlord grants and the Sub-Tenant accepts a sub-sub-licence over the Grease Trap Sub-Licensed Area for the Grease Trap Sub-Licence Permitted Use for the Term (**Grease Trap Sub-sub-Licence**).

3.4 The Grease Trap Sub-sub-Licence is on the terms and conditions of the licence attached at Attachment 4 (as amended from time to time) as amended to apply to a sub-sub-licence.

4. Access to Premises for Residents

4.1 The Sub-Tenant must make the Premises available to owners and occupiers of apartments within the Building at all reasonable times, following any request from an owner or occupier with at least 48 hours' written notice to the Sub-Tenant.

4.2 The Sub-Tenant must not use the Premises during the times contemplated by additional clause 4.1.

4.3 The Sub-Tenant must provide the owners or occupiers of apartments within the Building with any specific passes or security codes required for them to access the Premises.

5. **Access to 1R Premises**

For access from the 1R Premises to the Premises, the Sub-Tenant must use the lift closest to the 1R Premises to access basement level B1, and then use the Pacific House lifts to access the Premises (and vice-versa for access to the 1R Premises from the Premises).

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Attachment 2

Copy of Head Lease

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Maddocks

Lawyers
Collins Square, Tower Two
Level 25, 727 Collins Street
Melbourne VIC 3008
Australia

Telephone 61 3 9258 3555
Facsimile 61 3 9258 3666

info@maddocks.com.au
www.maddocks.com.au

DX 259 Melbourne

Lease

Premises: Amenity Areas, Part of Common Property No. 5 on PS826420W, Saint Moritz, 14 – 16 The Esplanade, St Kilda, Victoria

Owners Corporation No. 5 PS826420W
and

LIFE By Saint Moritz Pty Ltd
ACN 648 589 995

Interstate offices
Canberra Sydney

Affiliated offices around the world through the Advoc network - www.advoc.com

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Schedule

Item 1.	**Landlord:** (Clause 1)	Owners Corporation No. 5 PS826420W, Saint Moritz, 14-16 The Esplanade, St Kilda, Victoria
Item 2.	**Tenant:** (Clause 1)	LIFE By Saint Moritz Pty Ltd ACN 648 589 995, of 8 Bowen Crescent, Melbourne VIC 3004
Item 3.	**Guarantor:**	Not Applicable
Item 4.	**Building:** (Clause 1)	Saint Moritz, 14 – 16 The Esplanade, St Kilda, Victoria
Item 5.	**Premises:** (Clause 1)	Those parts of the Building shown outlined in red on the plan attached to this Lease as Attachment 2 being parts of common property no. 5 on plan of subdivision number PS826420W, Saint Moritz, 14 – 16 The Esplanade, St Kilda, Victoria
Item 6.	**Commencement Date:** (Clause 1)	14 June 2022
Item 7.	**Expiry Date:** (Clause 1)	13 June 2027
Item 8.	**Term:** (Clauses 1 & 3.1)	Five (5) years
Item 9.	**Further Terms:** (Clauses 1 & 3.4)	Four (4) further terms of Five (5) years
Item 10.	**Last date for exercising the Option for the Further Term:** (Clause 3.4.1)	13 March 2027
Item 11.	**Rent :** (Clauses 1 & 4)	$1 plus GST per annum
Item 12.	**Market Rent Review Dates:**	Not Applicable
Item 13.	**CPI Adjustment Dates:**	Not Applicable
Item 14.	**Percentage Rent Increase Dates:**	Not Applicable
Item 15.	**Bank Guarantee:**	Not Applicable
Item 16.	**Permitted Use:** (Clauses 1 & 12.1)	Café, bar and function related services
Item 17.	**Trading Hours**	As required to comply with the Permitted Use

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Item 18.	**Special Conditions:** (Clauses 1 & 23.5)	See Attachment 1
Item 19.	**Does Act Apply:** (Clause 1)	Yes The Tenant will use the Premises wholly or predominantly for the sale or hire of goods by retail or the retail provision of services.

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Lease Signing Page

The Landlord leases the Premises to the Tenant subject to the terms contained in this Lease.

This Lease is executed as a deed on the 14th day of June 2022

Executed as a deed by **Owners Corporation No. 1** on **PS826420W** by a person who declares they are the sole Lot Owner and member of the Owners Corporation or by a director of a corporation that is a sole Lot Owner, in accordance with s 10 of the *Owners Corporations Act 2006* (Vic) in accordance with a resolution dated :

DocuSigned by:
Greg Shand
D9878C82F30C406...

Signature

Greg Shand

Name (print full name)

Address

Position: Director of sole Lot Owner

Barana (St Kilda) Investments Pty Ltd
ACN 160 116 076

Name of corporation that is the sole Lot Owner

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Executed as a deed by **Owners Corporation No. 5** on **PS826420W** by a person who declares they are the sole Lot Owner and member of the Owners Corporation or by a director of a corporation that is a sole Lot Owner, in accordance with s 10 of the *Owners Corporations Act 2006* (Vic) in accordance with a resolution dated :

DocuSigned by:
Greg Shand
D9878C82F30C406...

Signature

Greg Shand

Name (print full name)

3A Macquarie Street, Sydney NSW 2000

Address

Position: Director of sole Lot Owner

Barana (St Kilda) Investments Pty Ltd
ACN 160 116 076

Name of corporation that is the sole Lot Owner

Executed by **LIFE By Saint Moritz Pty Ltd**)
ACN 648 589 995 in accordance with s 127(1))
of the *Corporations Act 2001*:

DocuSigned by:
Tim Gurner
9EF5211C783442E...

Signature of Sole Director/Secretary

.....

Print full name

DocuSign Envelope ID: 3475FC68-28E9-41B8-A3B4-996D0A3AD4F0

1. Definitions

In this Lease unless expressed or implied to the contrary:

Act means the *Retail Leases Act 2003* (Vic).

Associated Entity has the same meaning as under the Corporations Act 2001 (Cth).

Beneficiary means any beneficiary of the Dealing.

Building means the Building specified in Item 4.

Building Act means the *Building Act 1993* (Vic).

Building Management Agreement means the building management agreement between each of the owners corporations on the Plan and the Tenant in respect of the Building, dated on or around the date of this Lease.

Building Regulations means the *Building Regulations 2006* (Vic).

Business Name means 'Saint Moritz'.

Commencement Date means the date specified in Item 6.

Contamination includes any solid, liquid, gas, radiation or substance which makes or may make the condition of the Premises or groundwater beneath or part of the surrounding environment:

(a) unsafe, unfit or harmful for habitation by persons or animals; or

(b) unfit for any use permitted under any applicable planning scheme as amended from time to time

or which is defined as such in any Environmental Protection Legislation.

Deal and Dealing means any sub-contract, sub-lease, sub-licence, assignment, novation or transfer of this Lease.

Environmental Protection Legislation means any statute, regulation, code, proclamation, ministerial directive, ordinance, by law, planning policy or subordinate legislation, past, present or future, relating to pollutants and contaminants, use of land, human health and safety or protection of the environment.

Essential Safety Measure has the meaning given to that term in the Building Regulations.

Expiry Date means the date specified in Item 7.

Further Term means the further term(s) specified in Item 9.

Grease Trap means any grease trap servicing the Premises.

Hazardous Materials includes all hazardous substances and any pollutant or contaminant defined as such in (or for the purposes of) any Environmental Protection Legislation.

Insolvency Event means:

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(a) in the case of a natural person, if that person:

(i) becomes bankrupt;

(ii) assigns the person's estate; or

(iii) enters into a deed of arrangement or composition for the benefit of creditors.

(b) in the case of a corporation, if that corporation:

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

(ii) is wound up or dissolved or has an application made for its winding up or dissolution;

(iii) enters into a scheme or arrangement with or makes an assignment for the benefit of its creditors or any class or classes of them;

(iv) is placed under official management;

(v) has an agent in possession or a receiver and/or manager or an administrator appointed to the whole or any substantial part of its assets; or

(vi) has an inspector or investigator appointed under the *Corporations Act 2001* (Cth).

Item means an item in the Lease Particulars.

Landlord means the Landlord specified in Item 1 and includes the Landlord's successors and assigns and where it is consistent with the context includes the Landlord's employees and agents.

Landlord's Fixtures means all fittings, fixtures, and chattels contained in the Premises at the date the Premises is handed over to the Tenant or installed by the Landlord during the Term.

Lease means this lease and includes all annexures and schedules.

Lease Particulars means the schedule of Items specified on the page at the front of this Lease.

Lettable Area(s) means the lettable area of the Premises or the Building, as applicable, assessed for Rates and Taxes as determined by a surveyor engaged by the Landlord.

OHS Act means the *Occupational Health and Safety Act 2004* (Vic).

OHS Law means the OHS Act, the OHS Regulations, and any other occupational health and safety law, regulation or by-law that applies to work being carried out on the Premises.

OHS Regulations means the *Occupational Health and Safety Regulations* 2017 (Vic).

Owners Corporation means Owners Corporation 5 on Plan No. PS826420W.

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Owners Corporation Rules means the rules of Owners Corporation 5 on Plan No. PS826420W a copy of which is attached as Attachment 4 as may be amended from time to time.

Permitted Use means the use specified in Item 16.

Plan means plan of subdivision number PS826420W for the Building a copy of which is attached to the Lease as Attachment 2 and includes any amendments or alterations made to the Plan by the Landlord from time to time and any restriction noted on the Plan.

Premises means that part of the Building specified in Item 5 and includes the Landlord's Fixtures.

Principal Contractor means the position of principal contractor referred to in Chapter 5 of the OHS Regulations**.**

Related Entity means the same as detailed under the Corporations Act 2001 (Cth).

Rent means the amount specified in Item 11 as reviewed, adjusted or increased under this Lease.

Small Business Commissioner means the Small Business Commissioner referred to in the Act.

Special Conditions means the conditions (if any) referred to in Item 18.

Tenant means the Tenant specified in Item 2 and includes the Tenant's successors and assigns and where it is consistent with the context includes the Tenant's employees, contractors, agents, invitees and persons the Tenant allows in the Premises.

Tenant's Property means all property in the Premises including all fixtures and fittings owned or leased by the Tenant but excluding the Landlord's Fixtures.

Term means the term specified in Item 8 and includes any period of overholding.

Trading Hours means the hours for trade specified in Item 17 as varied by the Landlord from time to time (acting reasonably).

2. Negotiation and disclosure requirements

2.1 Negotiation for Lease

If the Act applies to this Lease, the Tenant acknowledges receiving from the Landlord:

2.1.1 a copy of the proposed lease; and

2.1.2 a copy of the information brochure about retail leases published by the Small Business Commissioner,

as soon as the Tenant entered into negotiations with the Landlord, or its agent in respect of this Lease.

2.2 Disclosure statement

If the Act applies to this Lease, the Tenant acknowledges having received from the Landlord:

2.2.1 a disclosure statement (in the form prescribed by the Act); and

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2.2.2 a copy of the proposed lease,

at least 14 days prior to the Tenant entering into this Lease.

3. Duration of the Lease

3.1 Term

This Lease is for the Term starting on the Commencement Date.

3.2 Commencement Date

The Commencement Date will be the date that the parties enter into this Lease.

3.3 Lease less than 5 years

3.3.1 If the Act applies to this Lease, and this Lease is for a term less than 5 years (including any further term) for the purposes of s 21 of the Act, the Tenant must:

(a) request the Small Business Commissioner to give the certification specified in s 21(5) of the Act (**Certification**) within 7 days of the Commencement Date;

(b) give to the Landlord the Certification within 7 days of receipt; and

(c) give to the Landlord a written notice waiving the application of s 21 of the Act to this Lease at the same time as providing the certificate to the Landlord.

3.3.2 The Tenant irrevocably appoints the Landlord as its attorney to:

(a) submit a request to the Small Business Commissioner for the Certification; and

(b) sign a written notice waiving s 21 of the Act.

3.4 Option for a Further Term

The Landlord will grant to the Tenant a new lease for the Further Term if the Tenant:

3.4.1 gives the Landlord written notice asking for a new lease, not earlier than 6 months or later than 3 months, before the end of the Term (the last date for exercising the option for the Further Term is specified in Item 10);

3.4.2 has remedied any breach of this Lease of which the Tenant has received written notice from the Landlord;

3.4.3 has not persistently defaulted under this Lease and the Landlord has given written notice of the defaults; and

3.4.4 complies with all reasonable requirements of the Landlord including where the Tenant is a corporation, procuring such directors of the Tenant as may be reasonably required by the Landlord to execute the guarantee contained in this Lease.

The new lease for the Further Term will commence on the day after this Lease ends and contain the same terms and conditions as this Lease but with either one less option for a

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Further Term or no option for a further term where the last option for the Further Term has been exercised.

3.5 Execution of new Lease for Further Term

The Tenant must:

3.5.1 execute the new lease for the Further Term; and

3.5.2 sign any disclosure statement provided by the Landlord to the Tenant,

and return the above to the Landlord within 14 days of receipt from the Landlord.

3.6 Holding over

If the Tenant continues to occupy the Premises after the Expiry Date with the Landlord's consent, except under a lease arising from the valid exercise of an option to renew, the following provisions will apply:

3.6.1 the Tenant will occupy the Premises as a monthly tenant at a total rental payable monthly in advance being an amount equal to one-twelfth of the aggregate of the Rent and any other money payable by the Tenant to the Landlord under this Lease as at the Expiry Date, the first of the monthly payments to be made on the day following the Expiry Date;

3.6.2 as far as applicable, the monthly tenancy will otherwise continue on the terms and conditions of this Lease;

3.6.3 the Rent or any part of it for the monthly tenancy may be reviewed whenever the Landlord determines it appropriate and any provisions in this Lease relating to calculation of, limitation on or right of review of the Rent or any part of it will not apply;

3.6.4 either party may terminate the monthly tenancy by giving to the other one month's notice to the other party expiring on any date; and

3.6.5 if the Tenant defaults in the performance of its obligations under the monthly tenancy, the Landlord may terminate the monthly tenancy by giving the Tenant 7 days notice.

4. Payment of Rent

The Tenant must pay the Rent (if demanded by the Landlord) to the Landlord by one off payment per annum on the Commencement Date and on each anniversary of the Commencement Date.

5. Outgoings

5.1 Rates and Taxes

The Landlord must pay for the Premises:

5.1.1 local government rates and charges;

5.1.2 water rates and charges, including water usage charges;

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5.1.3 sewerage and drainage rates and charges;

5.1.4 land tax; and

5.1.5 all other rates, taxes, charges and levies assessed in connection with the Premises (including Owners Corporation levies),

(together, the **Rates and Taxes**).

6. Other expenses

6.1 Services

The Landlord must pay for all services in connection with the Premises, including electricity, gas, water and telephone services.

6.2 Costs and duty

6.2.1 The Landlord must pay:

(a) the cost of any insurance premium to insure the Premises against damage or destruction;

(b) the cost of carrying out any repairs to the Landlord's Fixtures except to the extent that such repairs are required as a result of the act or omission of the Tenant; and

(c) the cost of obtaining its mortgagee's consent to this Lease (if required).

6.2.2 The Tenant must pay:

(a) the Landlord's costs in considering the granting of any consent or approval under this Lease; and

(b) the Landlord's costs incurred as a result of a breach of this Lease by the Tenant.

7. GST

7.1 Definitions

In this clause:

7.1.1 words and expressions that are not defined in this Lease but which have a defined meaning in the GST Law have the same meaning as in the GST Law;

7.1.2 **GST Law** has the meaning given to that term in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

7.2 GST exclusive

Except as otherwise provided by this clause, all consideration payable under this Lease in relation to any supply is exclusive of GST.

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7.3 Increase in consideration

If GST is payable in respect of any supply made by a supplier under this Lease (**GST Amount**), the recipient will pay to the supplier an amount equal to the GST payable on the supply.

7.4 Payment of GST

Subject to clause 7.5 the recipient will pay the GST Amount at the same time and in the same manner as the consideration for the supply is to be provided under this Lease.

7.5 Tax invoice

The supplier must provide a tax invoice to the recipient before the supplier will be entitled to payment of the GST Amount under clause 7.4.

7.6 Reimbursements

If this Lease requires a party to reimburse an expense or outgoing of another party, the amount to be paid or reimbursed by the first party will be the sum of:

7.6.1 the amount of the expense or outgoing less any input tax credits in respect of the expense or outgoing to which the other party is entitled; and

7.6.2 if the payment or reimbursement is subject to GST, an amount equal to that GST.

7.7 Adjustment events

If an adjustment event occurs in relation to a taxable supply under this Lease:

7.7.1 the supplier must provide an adjustment note to the recipient within 7 days of becoming aware of the adjustment; and

7.7.2 any payment necessary to give effect to the adjustment must be made within 7 days after the date of receipt of the adjustment note.

8. Payment requirements

8.1 No deduction or right of set-off

The Tenant must pay all amounts due under this Lease to the Landlord (including the Rent and Rates and Taxes) without deduction or right of set-off.

8.2 Interest on late payments

The Tenant must pay to the Landlord on demand interest at the rate per annum equal to the current rate fixed under s 2 of the *Penalty Interest Rates Act 1983* (Vic) plus 2% per annum on any money payable by the Tenant under this Lease and remaining unpaid after the due date. Interest will be computed from the date on which such payment became due until the date any money payable by the Tenant is paid.

8.3 Payment after termination

The Tenant must:

8.3.1 make all payments due under this Lease; and

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8.3.2 provide all information to the Landlord under this Lease to calculate any such payments,

even if this Lease has ended.

8.4 Method of payment

The Tenant must make all payments under this Lease in such manner as the Landlord reasonably requires, which may include by direct debit.

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9. Repairs, refurbishment and alterations

9.1 Condition report

The Tenant acknowledges and agrees that the condition report attached to this Lease in Attachment 3 reflects the true condition of the Premises as at the Commencement Date.

9.2 Repairs and maintenance

The Tenant must:

9.2.1 keep the Premises, the Grease Trap and the Tenant's Property clean and free from rubbish, store all rubbish in proper containers and have it regularly removed including regularly removing any fat, oil, grease and any other substance from the Grease Trap;

9.2.2 keep the Premises and the Grease Trap in the same condition as it was in at the date the Tenant first entered occupation of the Premises (fair wear and tear excepted) including repairing or replacing anything in the Premises (including all furnishings and floor coverings) which are damaged, worn or destroyed with items of at least the same quality;

9.2.3 if required paint and where appropriate paper, any parts of the Premises previously painted or papered whenever reasonably required by the Landlord but not more than once every five years;

9.2.4 maintain in working order the Grease Trap and all plumbing, drains, pipes and sewers exclusively servicing the Premises, to the extent that these facilities are not maintained by the Landlord;

9.2.5 pay the costs (if any) for the removal of waste and sewerage from the Premises;

9.2.6 if required treat in a proper and professional manner (including polishing or varnishing as appropriate) all surfaces of the Premises (including wood, tile and metal surfaces) with the appropriate materials approved by the Landlord when reasonably required by the Landlord but not more than once every five (5) years;

9.2.7 repair all defective lights, fluorescent tubes, windows, doors and locks in or exclusively servicing the Premises;

9.2.8 make good any damage caused to any adjacent property by the Tenant;

9.2.9 take all reasonable measures to ensure that any fair wear and tear to the Premises does not cause any loss or damage to the Premises, the Building, or any person; and

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9.2.10 give the Landlord prompt written notice of any material damage to the Premises or anything likely to be a risk to the Premises or any person in the Premises.

9.3 Equipment in Premises

The Tenant must:

9.3.1 repair and maintain the Landlord's Fixtures including airconditioning and heating equipment exclusively serving the Premises (but excluding expenses of a capital nature) in accordance with the Landlord's reasonable requirements; and

9.3.2 comply with the Landlord's reasonable requirements concerning the use of the Landlord's Fixtures, including airconditioning and heating equipment.

9.4 Alterations to Premises

The Tenant must ensure any alterations or works to the Premises, any services to the Premises or the Tenant's Property are carried out:

9.4.1 strictly in accordance with plans and specifications approved by the Landlord;

9.4.2 by qualified tradespersons approved by the Landlord;

9.4.3 to the Landlord's reasonable satisfaction and in accordance with the Landlord's reasonable requirements (including the Landlord's requirements as to the standard, type, quality, size and colour of any of the Tenant's Property);

9.4.4 under the supervision of the Landlord's architect or consultant; and

9.4.5 in accordance with all rules and requirements of any authorities having jurisdiction over the Premises.

The Tenant is not required to seek the Landlord's consent to making any alterations to the display of the Tenant's merchandise in the Premises.

9.5 Occupational health and safety

For the purposes of the OHS Law, the Tenant agrees that:

9.5.1 the Tenant has sole management and control of the Premises and has sole responsibility for ensuring that the Premises and the means of entering and leaving them are safe and without risks to health;

9.5.2 the Landlord appoints the Tenant as Principal Contractor in respect of any works to be carried out by the Tenant on the Premises to which an OHS Law applies;

9.5.3 the Tenant must carry out such works in accordance with the requirements of the OHS Law; and

9.5.4 the Landlord authorises the Tenant to exercise whatever authority is necessary for the Tenant to discharge the responsibilities of the appointment under clause 9.5.2.

9.6 Not interfere with services

The Tenant must not interfere, misuse or overload any services to the Premises, including electricity, gas and water.

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9.7 Defacing Premises

The Tenant must not deface or damage the Premises (including drilling holes in the Premises) except where approved by the Landlord in accordance with clause 9.4.

9.8 Failure to repair and maintain

If the Tenant does not carry out any repairs, maintenance or other works required under this Lease within 14 days of receiving written notice from the Landlord, the Landlord may enter the Premises to carry out such repairs, maintenance and works at any reasonable time after giving the Tenant reasonable notice. The cost of all such repairs, maintenance and works must be paid by the Tenant to the Landlord on demand.

10. Insurance

10.1 Insurance Cover

During the Term the Tenant must:

10.1.1 be insured in respect of potential liability, loss or damage arising at common law or under any statute in respect of:

(a) claims for property damage, personal injury and public liability for a sum of not less than $2 million per insurable event;

(b) the usual insured risks on an indemnity or replacement value basis of the Tenant's Property;

(c) professional indemnity relevant to the performance of the Tenant's obligations pursuant to this Lease for a sum of not less than $2 million per insurable event; and

(d) workers compensation or employers' liability insurance;

10.1.2 ensure the insurance notes the interest of the Landlord in the relevant policy;

10.1.3 maintain those insurances at all times for the duration of this Lease; and

10.1.4 at all times be responsible for complying with and abiding by the terms and conditions of the insurance arranged by it in accordance with this clause and for the payment of all excesses or other amounts which may be contained within the terms of such policies of insurance.

10.2 Reasonable Terms

Such insurance must be on such basis and on such terms reasonably required from time to time by the Landlord.

10.3 Evidence

The Tenant shall produce evidence on demand, to the satisfaction of the Landlord, of the insurance effected and maintained in accordance with this clause 10.

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11. Release, indemnity and compensation

11.1 Release

The Tenant uses and occupies the Premises at its own risk and releases the Landlord from all claims resulting from any damage, loss, death or injury in connection with the Premises except to the extent that such claims arise out of the Landlord's negligent act omission or default.

11.2 Indemnity

The Tenant must indemnify and hold harmless the Landlord against all claims resulting from any damage, loss, death or injury in connection with the Premises and the use and occupation of the Premises by the Tenant except to the extent that such claims arise out of the Landlord's negligent act omission or default

11.3 No compensation

The Landlord is not liable to the Tenant for any loss or damage incurred by the Tenant due to:

11.3.1 any damage to the Premises;

11.3.2 the failure of the Landlord's Fixtures or any plant and equipment (including air conditioning and escalators) to operate properly;

11.3.3 the interruption or damage to any services (including electricity, gas or water) to the Premises; or

11.3.4 the overflow or leakage of water in the Premises,

except to the extent to which the Landlord is liable where the Act applies.

12. Use of Premises

12.1 Permitted Use

12.1.1 The parties acknowledge and agree that the purpose for the Permitted Use is for the Tenant to provide café, bar and function related services to members of Owners Corporation No. 5 on PS826420W, and their invitees.

12.1.2 The Tenant must use the Premises for the Permitted Use and not use the Premises for any other purpose.

12.2 No warranty

The Tenant:

12.2.1 acknowledges that the Landlord does not represent that the Premises are suitable for the Permitted Use or that the Premises has the necessary approvals for the Permitted Use; and

12.2.2 must make its own enquiries as to the suitability of the Premises for the Permitted Use.

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12.3 Illegal purpose

The Tenant must not use the Premises for any illegal purpose or carry on an noxious or offensive activity on the Premises.

12.4 Trading Hours

12.4.1 The Tenant must:

(a) trade from the Premises during the Trading Hours (or such reduced hours within the Trading Hours that the Tenant reasonably determines to trade, having regard to the Tenant's business); and.

(b) not leave the Premises (including any part of the Premises) vacant or non-operational on any day that is not a public holiday, without the prior written consent of the Landlord (such consent not to be unreasonably withheld).

12.4.2 The Tenant acknowledges that the obligations under clause 12.4.1 will apply to any variation of the Trading Hours as varied pursuant to clause 12.4.3.

12.4.3 The Landlord may, acting reasonably, vary the Trading Hours by giving 30 days written notice to the Tenant except any variation to the Trading Hours must be in accordance with any law governing shop trading hours (if applicable).

13. Other obligations concerning the Premises

13.1 Conduct of Business from Premises

The Tenant must:

13.1.1 keep the Premises fully stocked; and

13.1.2 maintain the appearance of the Premises (including the display of stock) as first class retail premises.

13.2 Compliance with laws

The Tenant must comply with all laws and any requirements of any authority in connection with the Premises and the Tenant's use and occupation of the Premises, except the Tenant will not be required to carry out any structural works unless the need for such works arises from:

13.2.1 the negligent act or omission of the Tenant;

13.2.2 the failure by the Tenant to comply with its obligations under this Lease; or

13.2.3 the Tenant's use of the Premises.

13.3 Licences and permits

The Tenant must maintain all licences and permits required for the Tenant's use of the Premises and obtain the prior written consent of the Landlord before varying any licence or permit or applying for any new licence or permit.

13.4 Nuisance

The Tenant must not do anything in connection with the Premises which may:

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13.4.1 cause a nuisance or interfere with any other person; or

13.4.2 be dangerous or offensive in the Landlord's reasonable opinion.

13.5 Security

The Tenant must keep the Premises secure at all times when the Premises are not being used by the Tenant.

13.6 Signs

The Tenant must seek the prior written consent of the Landlord before displaying or affixing any signs, advertisements or notices to any part of the Premises where such signs, advertisements or notices are visible from outside the Premises, such consent not to be unreasonably withheld.

13.7 Business Name

13.7.1 The Landlord consents to the Tenant and/or a Related Entity registering and/or using the Business Name or such other name as approved and notified to the Landlord by the Tenant for the Term.

13.7.2 Upon the expiration or prior termination of this Lease the Landlord will promptly either terminate or relinquish its use of the Business Name incorporating the name of the Building.

13.8 Fire Drills

The Tenant must participate in any fire or emergency drills of which the Tenant receives at least 7 days notice from the Landlord.

13.9 No vending machines

The Tenant must not permit any vending or amusement machines in the Premises.

13.10 No auctions

The Tenant must not conduct any auctions or fire sales in the Premises.

13.11 No smoking

The Tenant must:

13.11.1 not permit any smoking in the Premises; and

13.11.2 display 'no smoking' signs in the Premises if requested by the Landlord.

13.12 Heavy objects and inflammable substances

The Tenant must not:

13.12.1 store any inflammable or explosive substances in the Premises unless required for the Permitted Use; or

13.12.2 store any heavy objects in the Premises or anything likely to damage the Premises.

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13.13 Heating, Cooling and Lighting

The Tenant must not install any heating, cooling or lighting in the Premises without obtaining the prior written consent of the Landlord (not to be unreasonably withheld).

13.14 Endanger Premises

The Tenant must not do or permit anything to be done in connection with the Premises or the Building which in the opinion of the Landlord may endanger the Premises or the Building or be a risk to any person or property.

13.15 Tenant's employees

The Tenant must use reasonable endeavours to ensure that the Tenant's employees, agents, contractors and invitees observe and comply with the Tenant's obligations under this Lease, where appropriate.

13.16 Environmental management

The Tenant must provide at the request of the Landlord information held by the Tenant relating to the environmental management of the Premises including electricity, gas and water use, recycling and disposal of paper and waste, and the materials used in the fitout of the Premises.

14. Tenant's environmental obligations

14.1 Comply with Environmental Protection Legislation

The Tenant must, in its use of the Premises, comply with all Environmental Protection Legislation and any permit, approval, authority or licence issued pursuant to any Environmental Protection Legislation.

14.2 Not permit Contamination

The Tenant must not spill or deposit, or carry out any activities on the Premises which may cause any Contamination, or permit any Contamination to escape in any other way into or on the Premises, drainage or surrounding environment.

14.3 Notify of and clean up Contamination

If any Contamination is found in or near the Premises, or the existing Contamination is exacerbated during the Term, the Tenant must:

14.3.1 immediately notify the Landlord, the Environment Protection Authority and any other appropriate Authority;

14.3.2 clean up the Contamination and do everything necessary to minimise harm; and

14.3.3 promptly comply with any notice, order, direction or requirement of the Landlord and of any authority in relation to any such Contamination.

14.4 Indemnify the Landlord

In addition to any other indemnity in this Lease, the Tenant indemnifies the Landlord against all claims for damages, loss, injury or death caused by or arising out of or otherwise in respect of any Contamination being spilled, deposited or otherwise escaping into or on the Premises or a breach of this clause by the Tenant.

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14.5 Obtain reports, surveys or audits

The Tenant must immediately obtain any reports, surveys or audits which the Landlord may reasonably require to enable the Landlord to determine whether a breach of the terms of this clause has occurred. The Tenant will also pay the Landlord on demand the reasonable costs of any such report, survey or audit which the Landlord may obtain.

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15. Dealing with interest in the Premises

15.1 Permission to Deal

15.1.1 The Tenant shall not be entitled to Deal with its interest in this Lease, unless it obtains the Landlord's consent.

15.1.2 Notwithstanding clause 15.1, the Tenant may Deal with its interest in this Lease without the consent of the Landlord:

(a) if the Beneficiary is a Related Entity of the Tenant; or

(b) to grant the sublease contemplated by clause 15.2.

15.2 Sublease to Saint Moritz Hospitality Group Pty Ltd

The Tenant is entitled to grant a sublease to Saint Moritz Hospitality Group Pty Ltd (or a Related Entity thereof) without the consent of the Landlord.

15.3 Consent of Landlord

15.3.1 The Landlord will not unreasonably, arbitrarily or capriciously refuse or delay giving its consent to any Dealing.

15.3.2 The Landlord will give its consent or refusal to any Dealing within thirty (30) days of the Tenant giving to the Landlord, all information reasonably necessary for the Landlord to give its consent and any refusal given by the Landlord must be accompanied by detailed reasons.

15.4 Consent Factors for Dealing

15.4.1 If the Tenant requests the Landlord to consent to a Dealing with its interest in this Lease, the Landlord must not unreasonably withhold its consent if:

(a) the Tenant provides reasonable evidence that the proposed Beneficiary is financially sound and reputable and capable of satisfactorily performing the Duties;

(b) the proposed Beneficiary executes in favour of the Landlord, a deed of covenant to comply with the terms of this Lease;

(c) the Tenant pays to the Landlord, all legal costs and costs of the Landlord reasonably incurred by the Landlord in giving its consent.

15.4.2 If the Tenant requests the Landlord to consent to a variation or extension of the Lease, the Landlord will, prior to considering its consent, be entitled to require all documents and information that are reasonable, normal, appropriate and relevant to the Landlord granting its consent.

15.5 Tenant a Company

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If the Tenant is a company (other than a publicly listed company or Associated Entity of a publicly listed company), any change or proposed change in shareholding which alters the effective control of the Tenant (whether occurring at one time or through a series or succession of transfers or issue of shares), shall be an assignment and therefore a Dealing.

15.6 Not a Dealing

Notwithstanding anything in this Lease the Tenant will be entitled to sublease or license its rights and obligations under this Lease to any person or entity in its absolute discretion without the consent of the Landlord and such sublease or licence shall not constitute a Dealing.

15.7 Release and Discharge

Upon a Dealing, the Tenant must be released and discharged from any further liability under this Lease but without prejudice to the rights and remedies of either party arising in respect of any matter or thing occurring prior to the date of the Dealing.

15.8 Not Binding

Any purported Dealing in contravention of the provisions of this clause 15 is not binding on the Landlord nor does it pass any interest to the purported Beneficiary.

15.9 Building Management Agreement

Despite anything in this clause 15, if the Tenant assigns or novates the Building Management Agreement to third party, the Tenant must assign or novate (as they case may be) this Lease to the same third party, simultaneous with that assignment or novation.

16. No Caveat

16.1 Not Lodge Caveat

The Tenant must not lodge a caveat on any title to the Premises.

16.2 Removal of Caveat

If the Tenant lodges a caveat on any title to the Premises, the Tenant appoints the Landlord as its attorney to do everything necessary to remove the caveat including executing and registering a withdrawal of caveat and the Tenant must reimburse to the Landlord any costs incurred by the Landlord under this clause.

17. Tenant's obligations at the end of this Lease

17.1 Tenant's obligations

At the end of this Lease, the Tenant must:

17.1.1 vacate the Premises and give them back to the Landlord in a condition consistent with the Tenant having complied with its obligations under this Lease;

17.1.2 remove the Tenant's Property (including all signs and lettering) and reinstate the Premises to the condition the Premises were in prior to the installation of the Tenant's Property including making good any damage caused by the removal of the Tenant's Property; and

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17.1.3 give to the Landlord all keys and other security devices for the purposes of obtaining access to the Premises.

17.2 Tenant's Property left in Premises

Anything left in the Premises after 7 days of the end of this Lease will be deemed to be abandoned by the Tenant and will become the property of the Landlord and may be removed by the Landlord at the Tenant's cost and at the Tenant's risk and the parties agree that this clause 17.2 is an agreement about the disposal of uncollected goods for the purposes of s 56(6) of the *Australian Consumer Law and Fair Trading Act 2012* (Vic).

18. Landlord's rights and obligations

18.1 Quiet enjoyment

The Landlord must not interfere with the Tenant's use and occupation of the Premises except as provided by this Lease.

18.2 Outgoings and insurance

The Landlord must:

18.2.1 pay all rates and taxes not payable by the Tenant; and

18.2.2 insure the Premises against damage or destruction.

18.3 Maintenance of plant and equipment

The Landlord will use its reasonable endeavours to maintain all plant and equipment under the Landlord's control in working order except to the extent that the Tenant is required to do so under this Lease.

18.4 Alterations to the improvements

The Landlord may carry out any works, alterations, renovation or refurbishment of the Building which may include extending or reducing the Building. Except where the Landlord determines that such works, alterations, renovation or refurbishment are required urgently, the Landlord must provide the Tenant 14 days written notice of such proposed works, alterations, renovation or refurbishment if the works, alterations, renovation or refurbishment will materially affect the Premises.

18.5 Entry by Landlord

The Landlord may enter the Premises at any reasonable time after giving the Tenant reasonable written notice, to:

18.5.1 inspect the condition of the Premises;

18.5.2 rectify any default by the Tenant under this Lease;

18.5.3 for a period of time no longer than it takes to assess the environmental management of the Premises, undertake an environmental inspection or accreditation or monitor the environmental management of the Premises, including energy and water use;

18.5.4 carry out any inspection, repairs, maintenance, works or alterations in the Premises which the Landlord decides to or is required to carry out by any law or authority.

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The Landlord must use all reasonable endeavours to cause as little disruption as possible to the Tenant's use of the Premises in exercising the Landlord's rights under this clause.

18.6 Emergency entry

The Landlord may enter the Premises at any time without giving notice to the Tenant in an emergency.

18.7 Landlord's consent

Unless otherwise provided for in this Lease, where the Landlord is required to give its consent under this Lease, the Landlord must act reasonably and may give or refuse its consent subject to such conditions as the Landlord may reasonably determine in its absolute discretion.

18.8 Landlord's Manager

The Landlord may appoint a manager to exercise the Landlord's rights and perform the Landlord's obligations under this Lease.

18.9 Passage of Services

The Landlord reserves to itself and others authorised by it the passage of air conditioning equipment, fire and sprinkler systems, pipes, services, ducts, cables, electrical wiring, water sewerage and drainage connections and any other services through, along, in or into the Premises and also access to and through the Premises at all reasonable times and at any time in the case of an emergency for the purpose of installing, maintaining or repairing any such equipment, systems, pipes, ducts, cables, wirings, connections and services.

18.10 Authority to complete blanks

The Owners Corporation is authorised to complete any blanks in this Lease as agreed to in writing with the Tenant.

19. Owners Corporations Rules

19.1 Tenant must obey Owners Corporation Rules

The Tenant must observe and comply with the Owners Corporation Rules. A breach of the Owners Corporation Rules is a breach of this Lease.

19.2 Lease prevails over Owners Corporation Rules

If any of the Owners Corporation Rules are inconsistent with the terms of this Lease, the terms of this Lease prevails to the extent of the inconsistency.

20. Termination of Lease

20.1 Re-entry

The Landlord may re-enter the Premises and terminate this Lease if:

20.1.1 an Insolvency Event occurs in relation to the Tenant; or.

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20.1.2 the Tenant breaches this Lease and does not remedy the breach within 14 days of receipt of written notice from the Landlord.

20.2 Damages following determination

If this Lease is terminated by the Landlord, the Tenant agrees to compensate the Landlord for any loss or damage the Landlord suffers arising in connection with the Tenant's breach of this Lease including the loss of the benefit of the Tenant performing its obligations under this Lease up to the Expiry Date.

20.3 Essential terms

The essential terms of this Lease are clauses 4, 5.1, 6.2, 7, 9.2, 9.3, 9.4, 10, 12.1, 12.3, 13, 14, 15 and 16. The breach of an essential term is a repudiation of this Lease.

20.4 No deemed termination

If the Tenant vacates the Premises, the Landlord will not be deemed to have terminated this Lease merely by the acceptance of keys from the Tenant, entry into the Premises for any purpose, or the showing of the Premises to prospective tenants or purchasers. This Lease will be deemed to continue until such time as the Landlord gives notice to the Tenant terminating this Lease, or otherwise agrees with the Tenant that this Lease is terminated.

21. Destruction or Damage of Building

21.1 Reduction in Rent

If the Building, or any part of the Building is destroyed or damaged to the extent that the Tenant cannot use or have access to the Premises (except if the Tenant causes or contributes to the destruction or damage, or the Landlord's insurer is not legally required to reinstate the Building because the Tenant caused or contributed to the destruction or damage) then the Landlord will reduce the Rent and other amounts due under this Lease by a reasonable amount depending upon the nature and extent of destruction or damage until the Tenant can use Premises.

21.2 Reinstatement of Premises

If the Premises or any part of the Premises are destroyed or damaged, the Landlord may, within 3 months from the date of such damage or destruction, give notice to the Tenant:

21.2.1 terminating this Lease, where the Landlord considers that the damage or destruction is such that repairing it is impracticable or undesirable; or

21.2.2 that the Landlord will commence reinstatement of the Premises to a condition where the Tenant can use or have access to the Premises.

The Landlord does not have to reinstate the Premises.

21.3 Tenant's Right of Termination

Where the Tenant has not caused or contributed to the damage or destruction of the Premises and the payment of the insurance for the Premises is not refused due to the act or default of the Tenant, the Tenant may give written notice to the Landlord terminating this Lease where the Landlord does not:

21.3.1 give notice to the Tenant pursuant to clause 21.2; or

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21.3.2 commence reinstatement within 6 months of the date of damage or destruction.

Upon termination of this Lease, each party is released from all further obligations under this Lease except nothing in this clause releases either party from any breach of this Lease arising prior to the date of termination.

21.4 Dispute Resolution

If a dispute arises under this clause about the amount of the Rent or other amounts payable by the Tenant, either party may ask the President of the Australian Property Institute (Victorian Division) to nominate a valuer to determine the dispute as an expert. The parties will be bound by the determination of the valuer and will share the fees of the valuer equally.

21.5 No Compensation

The Tenant acknowledges that if the Premises are destroyed or damaged, the Tenant is not entitled to receive any compensation from the Landlord, except this clause does not apply where the Act applies to this Lease.

22. Security Cards

22.1 Provision of Security Cards

The Landlord must provide to the Tenant security cards, keys or other means to obtain access to the Premises.

22.2 Payment for Security Cards

The Tenant must:

22.2.1 notify the Landlord as to the number of security cards or keys required by the Tenant;

22.2.2 pay to the Landlord the cost of the security cards or keys;

22.2.3 give written notice to the Landlord if a security card or key is lost or stolen; and

pay the cost of any replacement security card or key issued by the Landlord.

23. General

23.1 Notices

Any notice required to be served under this Lease must be in writing and must be served by post, e-mail or hand delivered to:

23.1.1 the Tenant at its address set out in this Lease, the Tenant's registered office address, the Premises, or the last known address of the Tenant; and

23.1.2 the Landlord at its address set out in this Lease or any other address notified in writing to the Tenant by the Landlord.

23.2 Time of service

A notice or other communication is deemed served:

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23.2.1 if served personally or left at the person's address, upon service;

23.2.2 if posted, 2 business days after posted;

23.2.3 if served by e-mail, subject to sub-clause 23.2.4, at the time the email is successfully transmitted; and

23.2.4 if received after 6.00 pm in the place of receipt or on a day which is not a business day, at 9.00 am on the next business day.

23.3 Entire understanding

This Lease and the disclosure statement (if any) contains the entire understanding between the parties as to the subject matter contained in it. All previous agreements, representations, warranties, explanations and commitments, expressed or implied, affecting this subject matter are superseded by this Lease and have no effect.

23.4 Waiver

If the Landlord accepts the Rent or any other monies under this Lease (before or after the end of this Lease) or does not exercise or delays exercising any of the Landlord's rights under this Lease, it will not be a waiver of the breach of this Lease by the Tenant or of the Landlord's rights under this Lease.

23.5 Special Conditions

This Lease is subject to the Special Conditions. The Special Conditions override any inconsistent provisions in this Lease.

24. Personal Property Securities Act

24.1 In this clause 24:

24.1.1 **Landlord PPS Property** means any item of property:

(a) in which the Landlord has an interest; and

(b) which is situated on the Premises at any time during the term of this Lease;

24.1.2 **PPS Act** means the *Personal Property Securities Act 2009* (Cth);

24.1.3 **Tenant PPS Property** means any item of property:

(a) in which the Tenant has rights;

(b) which is situated on the Premises at any time during the term of this Lease; and

(c) of which, whether before or after the end of the term of this Lease:

(i) the Landlord may require the Tenant to transfer ownership to the Landlord;

(ii) the Tenant is obliged to transfer ownership to the Landlord,

but does not include any Landlord PPS Property; and

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24.1.4 words and expressions that are not defined in this Lease but which have a defined meaning in the PPS Act have the same meaning as in the PPS Act.

24.2 The Tenant:

24.2.1 charges its right title and interest in all Tenant PPS Property in favour of the Landlord, as security for the performance of the Tenant's obligations under this Lease, including but not limited to the Tenant's obligations to transfer ownership in the whole or any part of the Tenant PPS Property to the Landlord at the expiry or termination of the Lease;

24.2.2 acknowledges and agrees that the charge granted by the Tenant under clause 24.2.1 constitutes the grant of a Security Interest which the Landlord is entitled to register under the PPS Act;

24.2.3 acknowledges and agrees that the grant of this Lease also constitutes the grant of a Security Interest in the Landlord PPS Property in favour of the Landlord, which interest the Landlord is entitled to register under the PPS Act as a Purchase Money Security Interest; and

24.2.4 must do all things required by the Landlord from time to time (including, without limitation, signing any documents required by the Landlord) to enable the Landlord to register its above Security Interests under the PPS Act, and to otherwise perfect its Security Interest in the Tenant PPS Property and the Landlord PPS Property so that the Landlord's Security Interests have priority over any other Security Interests under the PPS Act in relation to the Tenant PPS Property and the Landlord PPS Property.

24.3 The Tenant:

24.3.1 warrants that it has not granted a Security Interest in respect of any Landlord PPS Property on or prior to execution of this Lease that has not been previously disclosed to the Landlord in writing; and

24.3.2 agrees that it will not grant a Security Interest in respect of any Landlord PPS Property or Tenant PPS Property in favour of any person other that the Landlord without the Landlord's prior written consent, which consent may be granted or withheld in the Landlord's absolute discretion and on any conditions that the Landlord considers necessary or desirable at its absolute discretion.

24.4 The Tenant must indemnify and hold harmless the Landlord against all claims, damages or loss incurred by the Landlord as a consequence of any breach by the Tenant of this clause.

24.5 The Tenant acknowledges and agrees that:

24.5.1 it waives its right under the PPS Act to receive a copy of any 'verification statement' or 'financing charge statement' (as those terms are defined in the PPS Act); and

24.5.2 on the expiration or earlier termination of this Lease, the Tenant must sign (and procure any holder of a registered Security Interest to sign) any document that the Landlord considers necessary or desirable under or as a result of the PPS Act to release any registered Security Interests under the PPS Act in relation to the Tenant PPS Property and the Landlord PPS Property.

24.6 If this Lease is terminated by the Landlord as a consequence of a default by the Tenant under this Lease, without limitation to any other rights of the Landlord, the Landlord may take possession of the Tenant PPS Property by way of set off for any loss or damage the Landlord is entitled to recover in connection with the Tenant's breach of the Lease.

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24.7 This clause is an essential term of this Lease.

24.8 In the event of any inconsistency between this clause and any other provision of this Lease, the provisions of this clause will prevail and that other provision will be read down and interpreted accordingly.

25. Interpretation

25.1 Governing law and jurisdiction

This Lease is governed by and is to be construed in accordance with the laws of Victoria. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria and waives any right to object to proceedings being brought in those courts.

25.2 Persons

In this Lease, a reference to a person includes a firm, partnership, association, corporation or other corporate body.

25.3 Joint and several

If a party consists of more than 1 person, this Lease binds them jointly and each of them severally.

25.4 Legislation

In this Lease, a reference to a statute includes regulations under it and consolidations, amendments, re-enactments or replacements of any of them.

25.5 Clauses and headings

In this Lease:

25.5.1 a reference to a clause, schedule or annexure is a reference to a clause, schedule or annexure in or to this Lease; and

25.5.2 headings and sub-headings are inserted for ease of reference only and do not effect the interpretation of this Lease.

25.6 Severance

In this Lease:

25.6.1 if a provision is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable; and

25.6.2 if it is not possible to read down a provision as required in this clause, that provision is severable without affecting the validity or enforceability of the remaining part of that provision or the other provisions in this Lease.

25.7 Number and gender

In this Lease, a reference to:

25.7.1 the singular includes the plural and vice versa; and

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25.7.2 a gender includes the other genders.

25.8 No Relationship

No party to this Lease has the power to obligate or bind any other party. Nothing in this Lease will be construed or deemed to constitute a partnership, joint venture or employee, employer or representative relationship between the Landlord and the Tenant. Nothing in this Lease will be deemed to authorise or empower the Tenant to act as agent for or with the Landlord.

25.9 Exclusion of statutory provisions

The following statutory provisions are excluded from this Lease:

25.9.1 Section 144 of the *Property Law Act 1958* (Vic); and

25.9.2 Division 7 of the *Transfer of Land Act 1958* (Vic).

25.10 Owners Corporation No.1 Consent

Owners Corporation No.1 on the Plan consents, in its capacity as registered proprietor of the Common Property, to this Lease and will from time to time do all things (including executing all documents) necessary or desirable to give full effect to this Lease and any transactions contemplated by it.

25.11 Counterparts

This Lease may be executed in counterparts, all of which taken together constitute one document.

25.12 Electronic Execution

This Lease may be executed by electronic means. The parties agree to be bound by this document, including if executed by electronic means.

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Attachment 1

Special Conditions

1. Liquor Licence

1.1 The Landlord acknowledges that it is the Tenant's intention to grant a sublease of the Premises to Saint Moritz Hospitality Group Pty Ltd, and Saint Moritz Hospitality Group Pty Ltd will endeavour to obtain a licence or permit under the *Liquor Control Reform Act* 1998 (Vic) (**Licence or Permit**) in respect of the Premises, by the Commencement Date.

1.2 If the Licence or Permit in respect of the Premises is obtained by Saint Moritz Hospitality Group Pty Ltd and is subsequently cancelled, suspended, terminated or expires for any reason, the Tenant may terminate this Lease with immediate effect by giving notice in writing to the Landlord.

2. Option to Cancel after 12 Months

2.1 Despite anything else in this Lease, the Tenant may, at its absolute and unfettered discretion terminate this Lease with immediate effect, by giving notice in writing to the Landlord during the period commencing on the date that is 12 months after the Commencement Date, and ending on the date that is 14 months after the Commencement Date.

2.2 Upon termination of this Lease pursuant to special condition 2, each party is released from all further obligations under this Lease except nothing in this clause releases either party from any breach of this Lease arising prior to the date of termination.

3. Grease Trap Sub-Licence

3.1 For the purposes of this special condition 3:

3.1.1 **Grease Trap Sub-Licensed Area** means the area specified as the 'Licensed Area' in the licence attached at Attachment 5;

3.1.2 **Grease Trap Sub-Licence Permitted Use** means the use, repair, maintenance and emptying of the grease trap on the Grease Trap Sub-Licensed Area.

3.2 The Landlord grants and the Tenant accepts a sub-licence over the Grease Trap Sub-Licensed Area for the Grease Trap Sub-Licence Permitted Use for the Term (**Grease Trap Sub-Licence**).

3.3 The Grease Trap Sub-Licence is on the terms and conditions of the licence attached at Attachment 5 (as amended from time to time) as amended to apply to a sub-licence.

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Attachment 2

Plan of Premises

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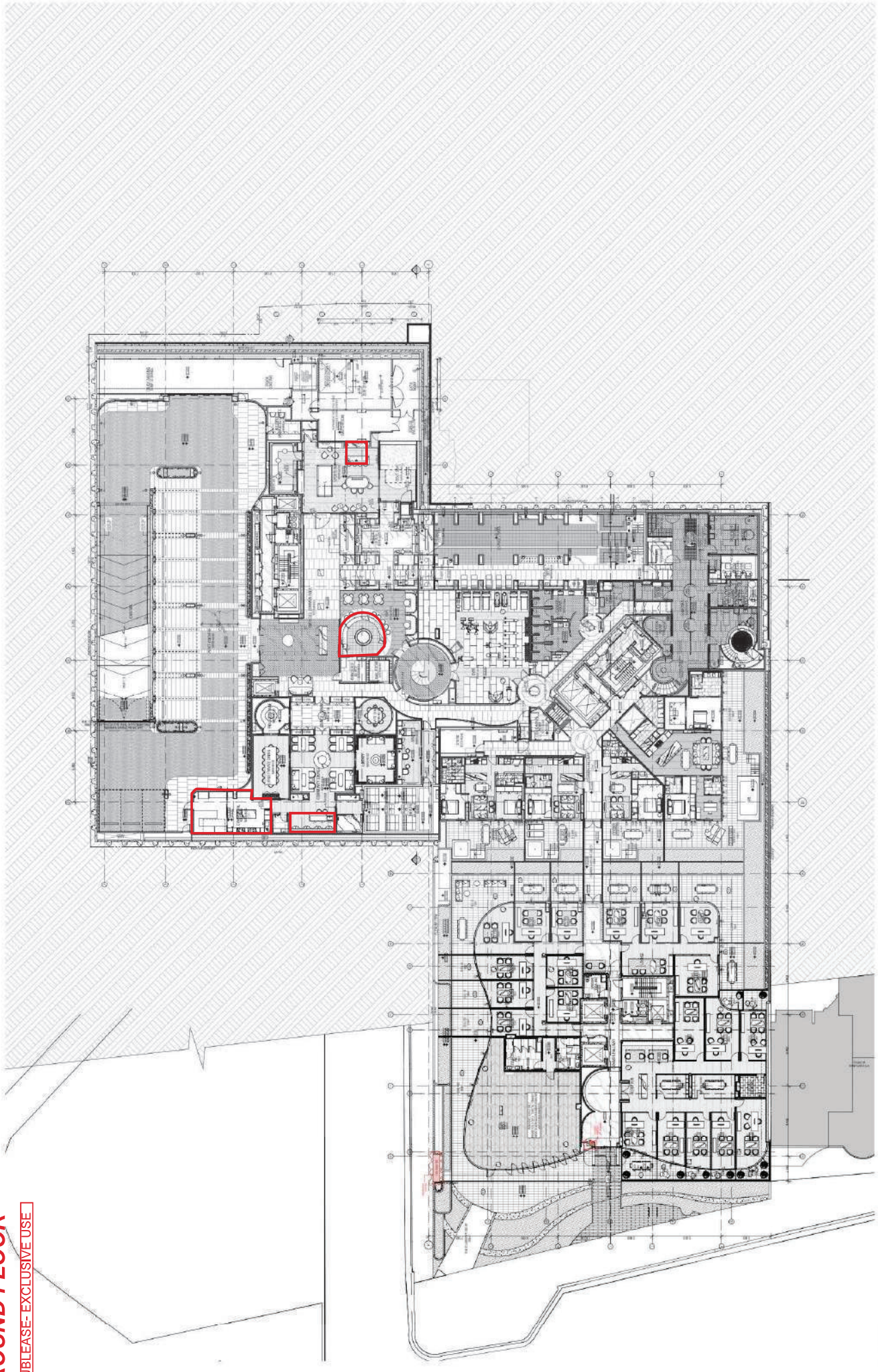

GROUND FLOOR

SUBLEASE- EXCLUSIVE USE

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Attachment 3

Condition Report

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Attachment 4

Owners Corporation Rules

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Department of Environment, Land, Water & Planning

Electronic Instrument Statement

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Reference:

OWNERS CORPORATION NOTIFICATION OF MAKING RULES SECTION 27E(1) SUBDIVISION ACT 1988 (WHEN LODGED WITH PLAN)

Applicant(s):
BARANA (ST KILDA) INVESTMENTS PTY LTD (ACN/ARBN: 160116076)
168 WILLIAMS ROAD PRAHRAN VIC 3181

Plan Number:
PS826420W

Owners Corporation Number:
5

Proposed rules of the Owners Corporation:
Appended

Execution:
1. The Certifier has taken reasonable steps to verify the identity of the applicant or his, her or its administrator or attorney.
2. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
3. The Certifier has retained the evidence supporting this Registry Instrument or Document.
4. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Executed on behalf of BARANA (ST KILDA) INVESTMENTS PTY LTD

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Department of Environment, Land, Water & Planning

Electronic Instrument Statement

Signer Name CATHERINE MARINO
Signer Organisation MADDOCKS
Signer Role AUSTRALIAN LEGAL PRACTITIONER
Execution Date 16 March 2022

File Notes:
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This is a representation of the digitally signed Electronic Instrument or Document certified by Land Use Victoria.

Statement End.

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DX 259 Melbourne

Date / /

Owners Corporation Rules

Saint Moritz, 14-16 The Esplanade, St Kilda, Victoria

Owners Corporation No. 5 on Plan of Subdivision PS826420W (Recreational Facilities)

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Owners Corporation Rules

Date / /

Notes

The Act and Regulations detail the powers of the Owners Corporation(s), the general duties of members, meetings and administration of the Owners Corporation(s), insurance and other miscellaneous matters. These Rules must be read in conjunction with the Act, Regulations and the model rules prescribed under the Regulations.

1. Definitions

In these rules:

Act means the *Owners Corporations Act* 2006 (Vic) as amended from time to time.

Authority means any government or any public, statutory, governmental, semi-governmental, local government, municipal or judicial body, entity or authority and includes a Minister of the Crown (in any right), and any person, body, entity or authority exercising a power pursuant to an Act of Parliament.

Building means all and any buildings, structures or improvements comprised in the Development.

Common Property means the land, the Building and any other improvements erected on 14-16 The Esplanade, St Kilda and designated as common property no.5 on the Plan.

Developer means 14-16 The Esplanade by Gurner Pty Ltd ACN 626 307 131 or a Related Entity responsible for the development of the Development and creation of Lots and includes the Developer's successors and assigns and where it is consistent with the context includes the Developer's employees, agents, builders, contractors, subcontractors and invitees.

Development means all the land and improvements comprised in the Plan and known as Saint Moritz, 14-16 The Esplanade, St Kilda.

Development Agreement means any agreement between the Developer and Owners Corporation or in relation to the Development, including any ancillary agreements between the Developer and the Owners Corporation such as development leases or other licences.

Director has the same meaning as it has in the *Fair Trading Act* 1999 (Vic).

Dispute means a dispute or other matter arising under the Act, Regulations or Rules including a dispute or matter relating to:

(a) the operation of the Owners Corporation;

(b) an alleged breach by a Member or Occupier of an obligation imposed on that person under the Act, Regulations or the Rules; or

(c) the exercise of a function by a Manager in respect of the Owners Corporation.

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Domestic Building Contract means any domestic building contract within the meaning of the *Domestic Building Contracts Act* 1995 (Vic) entered into by the Initial Owner.

Governmental Agency means any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.

Initial Owner has the same meaning as it has under the Act and where the context requires includes its successors and assigns.

Land means the whole of the land described in the Plan.

Lot means a lot shown on the Plan.

Maintenance Fund means a fund or part of a fund used for implementation of the Maintenance Plan (if any).

Maintenance Plan means a maintenance plan (if any) established and approved by the Owners Corporation as contemplated by the Act.

Manager means the person or entity appointed by the Owners Corporation as Manager of the Owners Corporation(s) or, where the context permits, the building manager, concierge or valet appointed by the Owners Corporation to assist it with the functions of the Owners Corporation contemplated by the Rules and where relevant includes the Manager's successors and assigns and where the context requires includes the Manager's officers, employees, agents, contractors, subcontractors and invitees.

Member means a member of the Owners Corporation by reason of being the owner of a Lot for the time being and where the context requires includes an Occupier or their invitees.

Occupier means the person or entity authorised by the Member to occupy the designated Lot as tenant or licensee and where the context requires includes the Occupier's invitees.

Owners Corporation means the Owner Corporation No. 5 on the Plan.

Plan means Plan of Subdivision No. PS826420W.

Private Club means facilities which may include a conservatory, bars, golf simulator, art gallery, lounges, dining facilities, library and cinema.

Recreational Facilities means the common facilities located on common property no. 5 of the Plan, which may include a Private Club, a Wellness Centre and Health Club, kids zone, salon, private dining areas, library, workshop and associated facilities to be created for the use and enjoyment of occupants of residential Lots within the Development.

Regulations means the *Owners Corporations Regulations* 2018 (Vic) as amended from time to time.

Related Entity has the same meaning given to that term in the *Corporations Act* 2001 (Cth).

Rule or **Rules** means these rules which are for the purpose of the control, management, administration, use or enjoyment of the Common Property or any Lot as amended from time to time.

Vendor means Barana (St Kilda) Investments Pty Ltd.

Wellness Centre and Health Club means facilities which may include a pool, gym, yoga studio, spas, sauna and treatment rooms.

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2. Interpretation

2.1 Unless the context otherwise requires:

2.1.1 headings are for convenience only;

2.1.2 words imparting the singular include the plural and vice versa;

2.1.3 expressions imparting a natural person includes any company, partnership, joint structure, association or other Owners Corporation and any governmental authority; and

2.1.4 a reference to a thing includes part of that thing.

2.2 The obligations and restrictions in these Rules must be read subject to the rights, grants or privileges that may be given to any person or entity by the Owners Corporation from time to time and to the extent of any inconsistency, such rights, grants or privileges, must prevail over these Rules in respect of the person or entity to whom they are given.

2.3 In these Rules:

2.3.1 if a provision is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable; and

2.3.2 if it is not possible to read down a provision as required in this Rule, that provision is severable without affecting the validity or enforceability of the remaining part of that Rule or the other Rule;

2.3.3 references to 'Owners Corporation' includes any person or body authorised to act on behalf of the Owners Corporation delegated any power or functions by the Owners Corporation or appointed by the Owners Corporation to assist in carrying out its functions, including without limitation the Manager, as the context permits.

2.4 In the event of a conflict between these Rules and any restriction on the Plan, the restriction will prevail.

2.5 In the event of a conflict between these Rules and the model rules prescribed under the Regulations, these Rules prevail.

2.6 In the event of a conflict between these Rules and the rules for Owners Corporation No. 1 on the Plan (**OC1**), the rules for OC1 will prevail.

3. Role and functions

3.1 The Owners Corporation is responsible for ensuring that appropriate rules, measures and procedures are established to govern issues common to the Members, including that the Common Property and/or a Lot are maintained for the benefit and enjoyment of all Members and Occupiers. The Owners Corporation exercises such responsibilities through enforcing the Rules and through holding regular committee meetings at which matters affecting the operation of the Common Property are resolved and advised to all Members.

3.2 The Owners Corporation must abide by the Rules, Act and Regulations, and in carrying out its functions and powers must act honestly and in good faith and exercise due care and diligence.

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3.3 These Rules are for the purpose of the control, management, administration, use or enjoyment of the Common Property or a Lot and represent the interests of Members and Occupiers. The Rules may be added to, amended or revoked:

3.3.1 if a resolution is passed after a ballot or poll is taken and 75% of the total lot entitlements of all the Lots are in favour of such addition, amendment or revocation; or

3.3.2 if a resolution is passed in any other case and 75% of the total votes for all the Lots are in favour of such addition, amendment or revocation (**Special Resolution**).

3.4 Under the Act and Regulations, the Owners Corporation is responsible for, amongst other things:

3.4.1 electing the Committee (if required);

3.4.2 establishing a Maintenance Plan and Fund;

3.4.3 establishing and maintaining an Owners Corporation Register;

3.4.4 taking out, maintaining and paying the premiums for insurance;

3.4.5 keeping proper accounts that cover the income, expenditure, assets and liabilities of the Owners Corporation and providing true reports of the financial situation of the Owners Corporation; and

3.4.6 preparing annual financial statements.

4. Provision of services

4.1 Each Member of the Owners Corporation agrees that the Owners Corporation will provide the following services:

4.1.1 the repair and maintenance of all Common Property including gardens, trees, paved areas and landscaping; and

4.1.2 any other service or facility provided by the Owners Corporation for the benefit of the Members.

4.2 A Member or an Occupier acknowledges that:

4.2.1 the Owners Corporation may share amongst the Members and Occupiers the costs of supply and maintenance (based on lot liability or other methodology determined by the Owners Corporation) of any gas facility or power facility required for heating or air conditioning or any variable refrigerant volume or variable refrigerant flow system (VRV) to the Lots affected by the Owners Corporation or any Common Property; and

4.2.2 where any Lot is not separately metered in relation to any service, including gas, electricity, water, heating, air conditioning and/or VRV, then the Occupier shall pay a proportion of such service and supply charges relating to same on a proportional rate by dividing the unit liability of that Lot by the total unit liability of all Lots serviced jointly or as otherwise determined by the Owners Corporation, acting reasonably.

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5. Use of a Lot

5.1 A Member must not:

5.1.1 create noise or behave in a manner that is likely to interfere with the peaceful enjoyment of the member of another Lot, or any person lawfully using the Common Property;

5.1.2 operate or permit to be operated on a Lot any device or electronic equipment which interferes with any domestic appliance lawfully in use on the Common Property, or another Lot; or

5.1.3 use the Lot for any purpose that may be illegal or injurious to the reputation of the premises comprised of the lots and the Common Property or which may cause a nuisance or hazard to any other member of a Lot.

6. Notification of Defects

A Member or Occupier of must promptly notify the Owners Corporation or the Manager on becoming aware of any damage to or defect in the Common Property or any personal property vested in the Owners Corporation.

7. Compensation to Owners Corporation

The Member or Occupier must compensate the Owners Corporation in respect of any damage to the Common Property or personal property vested in the Owners Corporation caused by that Member or Occupier or their respective tenants, licensees or invitees.

8. Pets and animals

8.1 A Member can keep any animal upon a Lot or the Common Property unless the Member has been given notice by the Owners Corporation to remove and keep removed such animal once the Owners Corporation has resolved that the animal is causing a nuisance.

8.2 A Member must ensure that any animal belonging to them does not urinate or defecate on Common Property including internal court yards. In the event any animal belonging to them does urinate or defecate on Common Property, the Member must immediately clean up the urine and/or faeces.

8.3 A Member must ensure that any animal belonging to them must be on a lead at all times when on the Common Property.

9. Use of appurtenances

9.1 A Member or Occupier must not use the water closet, conveniences or other water apparatus, including water pipes and drains for any other purpose than those which they were constructed and, must not sweep or deposit rubbish, baby wipes or other unsuitable substances therein. The Member indemnifies and keeps indemnified the Owners Corporation on a full indemnity basis for any costs or expenses resulting from any damage or blockage incurred by the Owners Corporation where the damage or blockage was caused by the Member, Occupier or their invitees.

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10. Use of Common Property

10.1 A Member or Occupier must not:

10.1.1 do or allow to be done anything on the Common Property which causes a nuisance to or interferes with its lawful use by the Owners Corporation or other Members;

10.1.2 do or permit anything which might cause structural damage to the Common Property;

10.1.3 interfere with the operation of any equipment installed on the Common Property without the prior written consent of the Owners Corporation;

10.1.4 interfere with any personal property vested in the Owners Corporation;

10.1.5 park or leave a vehicle or permit any vehicle to be parked or left upon the Common Property or in any place other than in a parking area specified for such purpose by the Owners Corporation;

10.1.6 paint, finish, drive nails or screws or the like into, or otherwise damage, alter or deface the Building or any other part of the Common Property including the external facade except with the consent in writing of the Owners Corporation;

10.1.7 when on Common Property (or if on any part of a Lot so as to be visible from another Lot or from Common Property), fail to be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to the Member or Occupier of another Lot or to any person lawfully using Common Property;

10.1.8 deposit or throw upon the Common Property any rubbish, dirt, dust or other material likely to interfere with the peaceful enjoyment of other Member or any person lawfully using the Common Property;

10.1.9 disregard any requirements made by the Owners Corporation relating to the use of any access keys and intercom system that may be provided as the means of access upon roadways created within the Common Property;

10.1.10 use or store on the Common Property any flammable chemical, liquid, gas or other flammable material other than chemicals, liquids, gases or other material used or intended to be used for normal and lawful domestic purposes or in the fuel tank of a motor vehicle;

10.1.11 hold or allow to be held any public auction on or near the Common Property;

10.1.12 directly instruct any contractors or workmen employed by the Owners Corporation unless so authorised;

10.1.13 except with the consent in writing of the Owners Corporation, use for their own purposes as a garden any portion of the Common Property;

10.1.14 smoke in the stairwells, lifts, foyers, and car park forming part of the Common Property or such other parts of the Common Property as the Owners Corporation or its Manager may determine from time to time.

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10.2 A Member or Occupier:

10.2.1 must notify the Owners Corporation or its Manager promptly when becoming aware of any damage to or defect in the Common Property or any personal property vested in the Owners Corporation;

10.2.2 must ensure that any guests or invitees of the Member or Occupier are accompanied at all times when on Common Property; and

10.2.3 acknowledges that the use of the Common Property is subject to any written agreements, leases or licences that the Owners Corporation may enter into relating to areas of the Common Property.

11. Lifts

A Member or Occupier must not and must ensure that the Occupier of a Member's Lot does not:

11.1 use the lifts for any other purpose other than to gain pedestrian access to his or her Lot as directed by the Owners Corporation;

11.2 hold the lift doors and/or prevent the doors of the lift closing for any period of time so as to interfere with the normal operation of other Occupiers' use of the lifts;

11.3 press the alarm or stop button except in an emergency situation;

11.4 press any button other than the one representing the floor or level that the lift is required to stop at; and

11.5 change any lift programming that gives preferential access to a Lot(s) within the Development.

12. Moving object on or through Common Property

12.1 The Owners Corporation may resolve that furniture or large objects are to be transported through or on the Common Property (whether in the Building or not) in a specified manner.

12.2 If the Owners Corporation has specified, by resolution, the manner in which furniture or large objects are to be transported, a Member or Occupier must not transport any furniture or large object through or on the Common Property except in accordance with that resolution.

12.3 When using the lifts to move goods or furniture a Member or Occupier must ensure that the walls, floor and ceiling of the lifts are adequately protected from damage.

12.4 If the Member or Occupier requires the use of a crane to move goods or furniture, the Member or Occupier must first notify (by giving at least 7 days' written notice) and obtain the consent of the Owners Corporation. The Member or Occupier must cooperate with and comply with any requirements of the Owners Corporation (acting reasonably) in order to facilitate the use of the crane and minimise disruption to other Members or Occupiers.

12.5 A Member or Occupier must not move any article of furniture or any other article likely to cause damage or obstruction through the Common Property without first notifying the Owners Corporation (by giving at least 7 days' written notice) to enable the lifts to be covered and ensure only one Member or Occupier is moving in at a time.

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12.6 Prior to moving any article of furniture or any other article likely to cause damage or destruction, the Manager or a representative of the Owners Corporation and the Member or Occupier will inspect the Common Property through which such article is to be moved to establish its state of repair. The Member or Occupier will be liable for any damage caused to the Common Property arising from the movement of the article.

13. Signage and windows

13.1 A Member is not permitted to display signs, advertising or notices on any Lot, including for the purpose of offering for sale or lease or letting any Lot or Common Property, without the consent of the Owners Corporation. Any sign that is erected must be of a standard that shall not detract from the overall appearance of the Development.

13.2 A Member is not permitted to display any advertising material, logos or sign writing to any external window, glazing or external solid face of a lot without the written consent of the Owners Corporation.

13.3 A Member must not allow any glazed portions of the Lot or Common Property to be tinted or otherwise treated with the intention of changing the visual characteristic of the Development.

14. Garbage disposal

A Member of a Lot must:

14.1 except where the Owners Corporation provides some other means of disposal of garbage, maintain within their Lot, or on such part of the Common Property as may be authorised by the Owners Corporation, a receptacle for garbage and to keep such receptacle in a clean and tidy condition and not visible to the public except on days designated for rubbish collection;

14.2 comply with all requirements of Governmental Agencies relating to the disposal of garbage;

14.3 ensure that rubbish is disposed of in accordance with the disposal facilities of the Building, and the rules/directions of the Owners Corporation from time to time (for example recyclables are placed in the recycle chute);

14.4 ensure that rubbish does not accumulate on their Lot, and that the health, hygiene and comfort of other Members is not adversely affected by their disposal of garbage;

14.5 ensure that rubbish is transported from their Lot to the designated garbage room on the Common Property in an appropriate watertight receptacle; and

14.6 pay or reimburse the Owners Corporation any costs incurred by the Owners Corporation as a result of the Member or Occupier's misuse of the garbage disposal facilities, or other breach of this rule 14.

15. Recreational Facilities

15.1 When using the Recreational Facilities a Member and an Occupier:

15.1.1 must ensure that unless otherwise stated, children below the age of 15 years are not in or around the Recreational Facilities unless accompanied by an adult Member or Occupier exercising effective control over them;

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15.1.2 must ensure that no guests are allowed in the Recreational Facilities, subject to prior approval of the Manager and subject to any conditions on entry determined by the Manager;

15.1.3 acknowledges that any request for exclusive use of the Recreational Facilities must be approved by the Manager in writing. Such approval by the Manager may be withheld by the Owners Corporation at its absolute discretion;

15.1.4 is responsible (at its cost) for any damage, cleaning or reinstatement costs incurred by the Owners Corporation or Manager as a result of its (or its guests) use of the Recreational Facilities;

15.1.5 must not smoke or make any undue noise in the Recreational Facilities without the consent of the Manager; and

15.1.6 must ensure that the Recreational Facilities are to be left in the same condition in which it was found.

15.2 Members and Occupiers acknowledge that some areas of the Recreational Facilities may need to be booked with the Manager ahead of use. The Manager may refuse the booking if the facility is not available.

15.3 Members and Occupiers acknowledge and agree that they may be required to pay a general usage charge for some areas of the Recreational Facilities and the cost of consumables used while using these areas, as determined by the Owners Corporation.

15.4 The Owners Corporation may make additional or separate rules relating to the use of all or part of the Recreational Facilities provided they are not inconsistent with these Rules. If breached, rules relating to the Recreational Facilities will constitute a breach of these Rules.

15.5 Subject to the requirements of the Owners Corporation and the Manager from time to time, with respect to the Private Club:

15.5.1 a bond may be required prior to use, and a cleaning fee may be applied after use, of areas within the Private Club;

15.5.2 any guests of Members or Occupiers must always be supervised by the Member or Occupier while within the Private Club;

15.5.3 alcohol is not to be taken into the Private Club without the prior consent of the Manager;

15.5.4 hours of use are as otherwise determined by the Manager (and displayed by sign) from time to time; and

15.5.5 the bar within the Private Club operates for Members or Occupiers, who must pay for any items consumed in the bar, either at the time of order/consumption, on leaving the bar, or by any other method as determined by the Manager;

15.6 With respect to the Wellness Centre and Health Club:

15.6.1 Without limiting rules 15.2 and 15.3, any cryotherapy, float tank, salt room and VIP Spa Room within the Wellness Centre and Health Club must be booked through the Manager. The Member or occupier must pay a general use charge and the costs of any consumables used whilst using these facilities, as determined by the Manager;

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15.6.2 children are not permitted to use the Wellness Centre and Health Club at any time, without the consent of the Manager;

15.6.3 glass objects, drinking glasses and sharp objects are not permitted in the Wellness Centre and Health Club;

15.6.4 alcohol and food are not allowed in the Wellness Centre and Health Club without the prior written consent of the Manager;

15.6.5 hours of use are as determined by the Manager from time to time;

15.6.6 suitable footwear must be worn to and from the Wellness Centre and Health Club;

15.6.7 all users of the Wellness Centre and Health Club do so at their own risk; and

15.6.8 the Member or Occupier must pay for the cost of any classes or treatments provided at the Wellness Centre and Health Club.

15.7 with respect to the gymnasium:

15.7.1 all users of the gymnasium within the wellness spa must carry a towel at all times.

15.7.2 users of the gymnasium must be professionally instructed on the equipment prior to the Owners Corporation granting access to the gymnasium area;

15.7.3 users of the gymnasium are not permitted to play music that is audible to other persons in the gymnasium; and

15.7.4 the Member or Occupier must pay for the cost of any classes or sessions provided at the gym, unless otherwise determined by the Manager.

15.8 With respect to the swimming pools and spas within the Wellness Centre and Health Club:

15.8.1 children under the age of 18 may use the swimming pool and spa areas only if supervised by an adult;

15.8.2 children under the age of 5 must be accompanied into the water and remain within arm's reach of an adult at all times;

15.8.3 for the hygiene of all users of the swimming pool and spa, all users must shower before entry;

15.8.4 running, ball playing, jumping, diving, noisy or hazardous activities are not permitted in the swimming pool and spa areas;

15.8.5 all users of the swimming pool area must dry off before leaving the Wellness Centre and Health Club area;

15.8.6 a Member or Occupier of a Lot and persons under their control must ensure that when in the swimming pool and spa areas, appropriate attire is worn at all times i.e. nude bathing is not permitted;

15.8.7 all users of the swimming pool do so at their own risk;

15.8.8 spitting or washing is not permitted in the swimming pool spas or swimming pool and spa areas; and

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15.8.9 the Member or Occupier must pay for the cost of any classes, sessions or lessons provided at the swimming pools, unless otherwise determined by the Manager.

15.9 With respect to the sauna and steam room(s) located within the Wellness Centre and Health Club:

15.9.1 Children under the age of 15 may not use the sauna and steam room(s);

15.9.2 for the hygiene of all users of the sauna and steam room(s), all users must shower before entry;

15.9.3 noisy or hazardous activities are not permitted in the sauna and steam room(s);

15.9.4 all users of the sauna and steam room(s) area must dry off before leaving the Wellness Centre and Health Club area;

15.9.5 a Member or Occupier of a Lot and persons under their control must ensure that when in the sauna and steam room(s), appropriate attire is worn at all times; and

15.9.6 spitting is not permitted in the sauna and steam room(s).

15.10 With respect to the cinema:

15.10.1 the cinema room is not be used for third party or commercial bookings;

15.10.2 all users of the cinema room will be bound by the relevant rules and regulations issued by the Owners Corporation and updated from time to time;

15.10.3 after each use the cinema room facility and area must be left in a clean and tidy state. Failure to leave the facilities in a clean and tidy state will result in additional cleaning charges to the relevant party which the Owners Corporation or Manager may recover as a debt from the responsible party. It is the responsibility of the Member or Occupier booking the use of the facilities to notify the Manager immediately if the area is found in an unsatisfactory condition prior to commencement of the booking.

15.11 With respect to the workshop:

15.11.1 children may not use the workshop;

15.11.2 all users of the workshop do so at their own risk;

15.11.3 all users of the workshop must undertake an induction for the workshop, prior to using the workshop, and sign any required documentation confirming they have undertaken the induction and understand the risks of use. The user must give the Manager at least 7 days' notice for the Manager to carry out the induction.

15.11.4 no alcohol is to be consumed in the workshop;

15.11.5 close-toed shoes are to be worn in the workshop at all times;

15.11.6 all tools are to be used in a safe manner in accordance with manufacturer's instructions, and with personal protective equipment worn. The Member or Occupier will be responsible for any damage caused by the incorrect or unsafe use of any tool;

15.11.7 no tool supplied by the Owners Corporation is to be removed from the workshop without the permission of the Owners Corporation, and the Member or Occupier

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will be responsible for the replacement cost of any tool removed from the workshop;

15.11.8 the Member and Occupier must keep the workshop in a clean and tidy manner, including putting away all tools and sweeping the floor at the end of each day after use; and

15.11.9 the Member or Occupier must pay for the cost of any classes, sessions or lessons provided at the workshop, unless otherwise determined by the Manager.

15.12 The Members and Occupiers agree that the Manager may close off one or more areas of the Recreational Facilities at its reasonable discretion, including to allow for the safe or desirable use of the Recreational Facilities, for the purposes of maintenance, works and the like.

16. Behaviour of Invitees

16.1 The duties and obligations imposed by these special rules upon a Member of a Lot must be observed not only by the Member but also by the guest, servants, employees, agents, children, invitees and licensees of the Member or the occupier of their Lot (Invitees).

16.2 A Member must take all reasonable steps to ensure that their Invitees do not behave in a manner likely to interfere with the peaceful enjoyment of any Member or occupier of another Lot or any person lawfully using the Common Property or which may result in damage to the Common Property.

16.3 A Member is liable to compensate the Owners Corporation for all damage to the Common Property or personal property vested in it caused by a breach of Rule 16.1 and 16.2.

16.4 Where the Owners Corporation expends money to make good damage caused by a breach of the Act, or of these rules by any Member or Invitees, the Owners Corporation can recover the amount so expended as a debt in action in any Court of competent jurisdiction from the Member of the Lot at the time when the breach occurred.

16.5 Rules 16.1 to 16.4 are intended to operate in addition to the requirements of the Act.

17. Owners Corporation fees

17.1 The Member must pay the fees set by the Owners Corporation to cover general administration and maintenance, insurance and other recurrent obligations quarterly in advance according to their lot entitlement.

17.2 The amount of the annual Owners Corporation fees which is payable by each Member will be established at each annual general meeting of the Owners Corporation.

17.3 Any special fees or charges levied by the Owners Corporation to cover extraordinary items of expenditure must be paid on the due date set by the Owners Corporation upon the levying of each special fee or charge.

18. Consent of Owners Corporation

A consent given by the Owners Corporation under these Rules will, if practicable, be revocable and may be given subject to conditions including, without limitation, a condition

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evidenced by a minute of a resolution that the member for the time being of the lot to which the consent or approval relates is responsible for compliance with the terms of the consent.

19. Enforcement of Domestic Building Contract

The Member agrees that for the purpose of its obligations under the Act:

19.1 the Members acknowledge and agree that reasonable steps to enforce any domestic building contract (within the meaning of the Domestic Building Contracts Act 1995) include:

19.1.1 the making of a demand in writing to the builder under any domestic building contract to comply with the terms of the domestic building contract and/or rectify any breach of the domestic building contract;

19.1.2 the exercise of any right under the domestic building contract to withhold any payment to the builder or have recourse to any security provided by the builder under the domestic building contract;

19.1.3 the settlement of any dispute under any domestic building contract between the original owner and the builder on terms acceptable to the original owner; and

19.1.4 any other enforcement action the Initial Owner considers appropriate in the circumstances; and

19.2 the Members agree to pay or reimburse the Initial Owner its portion of any enforcement relative to its lot liability.

20. Complaints and disputes

20.1 Any Dispute must be dealt with at first instance in accordance with this Rule 20.

20.2 A party to a Dispute must not initiate legal proceedings or complain to the Director in respect of the Dispute unless it has first complied with the dispute resolution procedure set out in this Rule 20.

20.3 The party making the complaint must in the first instance notify the Manager, or where the Manager is the subject of or involved in the Dispute, the Committee, of the Dispute in writing. The Manager must refer any complaint it receives to the Committee. Upon receipt of a complaint referred by the Manager or received directly from a Member or Occupier, the Committee will then decide (at its absolute discretion having regard to the nature and urgency of the Dispute) whether to:

20.3.1 arrange a meeting between the parties to resolve the Dispute; or

20.3.2 waive the requirement for the parties to meet.

20.4 Notwithstanding the course of action elected by the Committee under Rule 20.3, the parties must consult with one another in good faith and use their best endeavours to resolve the Dispute to the mutual satisfaction of both parties without resort to legal proceedings or other avenues of dispute resolution.

20.5 Without limiting the generality of this Rule 20, where no formal complaint is made by a Member or Occupier and the Owners Corporation otherwise becomes aware of a Dispute, the Owners Corporation (through the Manager or the Committee or otherwise) may decide (at its absolute discretion having regard to the nature and urgency of the Dispute) whether:

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20.5.1 arrange a meeting between the parties to resolve the Dispute; or

20.5.2 waive the requirement for the parties to meet.

20.6 If the parties are unable to resolve the Dispute within 30 days (or such other period as the Committee thinks fit) of the meeting arranged pursuant to Rule 20.3.1 or 20.5.2, the parties may revert to the dispute resolution mechanisms set out in the Act or other Law.

21. Cost of non-compliance

The Member or Occupier must indemnify and keep indemnified the Owners Corporation on a full indemnity basis against any action, demand, cost, liability or loss incurred by the Owners Corporation as a consequence of any default by the Member or Occupier in the performance or observance of any term, covenant or condition contained in these Rules, the Act or Regulations including, without limitation administrative costs, legal costs, the cost of any works performed to rectify any non compliance and the cost incurred by the Owners Corporation in recovering overdue charges from the Member or Occupier.

22. Charges imposed on Members and Occupiers

22.1 Any payments to the Owners Corporation imposed on a Member or Occupier under the Rules, Act or Regulations will (until paid) be a charge on the Lot.

22.2 The Member or Occupier must accept a certificate signed by the Manager or valid tax invoice issued by the Owners Corporation as prima facie proof of the costs and expenses incurred by the Owners Corporation relating to any charge payable by a Member or Occupier pursuant to these Rules and must not make any claim or dispute the amount specified therein.

22.3 The Member or Occupier must pay interest at the rate prescribed under the Penalty Interest Rates Act 1983 (Vic) on outstanding fees and charges set under the Rules, Act or Regulations until they are paid.

22.4 Any payments made for the purposes of these Rules, the Act or Regulations will be appropriated first in payment of any interest and any unpaid costs and expenses of the Owners Corporation and then be applied in repayment of the principal sum.

23. Rights of entry

23.1 Except in the case of an emergency (in which case no notice shall be required) upon seven (7) days' notice in writing, the Owners Corporation or the committee of the Owners Corporation and its servants, agents and contractors shall be permitted to inspect the interior of any Lot and test the electrical, gas or water installation or equipment therein and to trace and repair any leakage or defect in the said installations or equipment (at the expense of the Member or Occupier in cases where such leakage or defect is due to any act or default of the said Member or Occupier of his or her invitees). The committee of the Owners Corporation, in exercising this power shall ensure that its servants, agents and employees cause as little inconvenience to the Member or Occupier as is reasonable in the circumstances.

23.2 A Member or Occupier in occupation of a Lot must allow any person authorised by and on behalf of the Owners Corporation;

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23.2.1 to enter the Lot or a Building in order to have access to the exterior of the Building, and

23.2.2 to enter the Lot from the exterior of the Building via a balcony, terrace, window or other part of the Lot and to use that part of the Lot, to facilitate the repair and maintenance of and other works on Common Property including the structure of the Building and the exterior face of the Building and any service that is for the benefit of more than one Lot or the Common Property being areas of Common Property that would otherwise be difficult to access.

23.3 The Owners Corporation must give at least 7 calendar days' notice in writing to the Member or Occupier of a Lot or other Occupier of a Lot of an intention to enter:

23.3.1 unless the Member or Occupier agrees to a lesser time and where the Occupier is a tenant under a residential tenancy agreement the Occupier must be given the same notice as that required to be given by a landlord under Section 85 of the Residential Tenancies Act 1997;

23.3.2 entry to and use of the relevant part of the Lot must be between the hours of 8.00 am and 6.00pm on any day Monday to Friday; or

23.3.3 unless there is an emergency when no notice and no time restrictions apply, and then in such a manner as to cause as little interruption or inconvenience to the Occupier as is possible in the circumstances.

23.4 Members and Occupiers acknowledge and agree the access described by this rule 23 is expressly contemplated under section 12(2) of the Subdivision Act 1988 (Vic) and the Member or Occupier must not, either directly or indirectly frustrate, limit or impede the access contemplated by this rule.

24. Security

The Owners Corporation may make rules and regulations to ensure the security of the Development from intruders and otherwise with regard to the use and means of access to any roadways created upon the Common Property.

25. Contact

25.1 Each Member must advise the Manager of any out of normal business hours contact address, email and telephone number for their Lot and must promptly advise the Manager of any change in their address, email or telephone number.

25.2 Each Member must provide the Manager with an Australian address for service of notices. If a Member fails to provide an Australian address for service of notices, the Lot address will be deemed to be the proper address for service.

26. Restricted use of Common Property for fire control

26.1 The Owners Corporation may take measures to ensure the security, and to preserve the safety of the Common Property and the Lots affected by the Owners Corporation from fire or other hazards and without limitation may:

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26.1.1 close off any part of the Common Property not required for access to a Lot on either a temporary or permanent basis or otherwise restrict the access to or use by Members or Occupiers of any part of the Common Property;

26.1.2 permit, to the exclusion of Members and Occupiers, any designated part of Common Property to be used by any security person as a means of monitoring security and general safety of the Lots, either solely or in conjunction with other Lots;

26.1.3 restrict by means of key or other security device the access of the Members or Occupiers;

26.1.4 restrict by means of key or other security device the access of the Members or Occupiers of one level of the Lots to any other level of the Lots; and

26.1.5 cancel any security card issued where a Member is in arrears in payment of Owners Corporation levies in excess of two quarters.

26.2 A Member and Occupier of a Lot must abide by any actions taken by the Owners Corporation in accordance with these Rules and must meet all costs incurred by the Owners Corporation in relation to these Rules (or a breach of these Rules by the relevant Member or Occupier).

27. Fire

27.1 A Member or Occupier of a Lot must ensure compliance with all statutory and other requirements, including those of the Owners Corporation, relating to fire, fire safety and storage of bioethanol in respect of the Lot.

27.2 A Member or Occupier of a Lot must not use, interfere or tamper with any fire safety equipment except in the case of an emergency and must not obstruct any fire stairs or fire escape.

27.3 In the event that the Melbourne Fire Brigade is called out to the Building as a result of the activation of a false fire alarm, whether the activation of the fire alarm was caused by a willful, negligent, foreseeable, or unforeseeable action or inaction, and the cause of the alarm is found to originate from a Lot, the Member or Occupier of the Lot will be jointly and severally liable to pay any and all associated costs and charges connected to a false fire alarm.

27.4 A Member hereby agrees to indemnify the Owners Corporation for all costs and charges incurred by the Owners Corporation in connection to a false fire alarm call out and the Member may elect to pursue recovery from the Occupier. This rule is enforceable regardless of whether:

27.4.1 the Member or Occupier was directly, indirectly and /or negligently responsible for the cause of the fire alarm; and/or

27.4.2 the Member authorised either impliedly or expressly the actions of the Occupier which caused the false fire alarm.

27.5 A Member or Occupier of a Lot must ensure that all fire doors, exhaust systems and smoke detectors installed in a Lot are properly maintained and tested monthly and that back-up batteries relating to the smoke detectors are replaced whenever necessary.

27.6 Each Member or Occupier of a Lot must undertake a fire and safety induction for the Development, prior to their occupation of the Lot (Induction). Occupiers must give the

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Manager at least 14 days' notice for the Manager to carry out the Induction. The Manager may charge any Occupier of a Lot a fee of $1,000 plus GST for any Induction required by an Occupier with less than 14 days' notice. A Member or Occupier of a Lot may be denied access to the Building if an Induction is not undertaken.

28. Insurance

A Member or Occupier of a Lot must not without the prior written consent of the Owners Corporation do or permit anything to be done which may invalidate, suspend or increase the premium for any insurance policy effected by the Owners Corporation.

29. Security and Security Keys

29.1 A Member or Occupier of a Lot or persons thereon from time to time must not do or permit anything, which may prejudice the security or safety of the Common Property, or any person in or about the Development.

29.2 The Owners Corporation may charge a reasonable fee for any additional security key required by a Member or Occupier.

29.3 A Member must exercise a high degree of caution and responsibility in making a security key available for use by any Occupier and must use all reasonable endeavours including without limitation an appropriate stipulation in any lease or licence of a Lot to the Occupier to ensure the return of the security key to the Member or the Owners Corporation.

29.4 A Member or Occupier of a Lot in possession of a security key must not without written consent from the Owners Corporation duplicate the security key or permit it to be duplicated and must take all reasonable precautions to ensure that the security key is not lost or handed to any person other than any other Member or Occupier and is not disposed of otherwise than by returning it to the Member or the Owners Corporation.

29.5 A Member or Occupier of a Lot must promptly notify the Owners Corporation if a security key issued to them is lost or destroyed.

30. Rules Subject to Rights of the Developer

30.1 These Rules do not apply to and, are not enforceable against the Developer or its mortgagee or chargee or the Vendor or its mortgagee or chargee, for so long as any of the following apply:

30.1.1 the Developer or the Vendor and/or either of their equity partners (if any) or the Vendor is a Member or Occupier;

30.1.2 any mortgagee or chargee of the Developer or the Vendor has an interest in any Lot; or

30.1.3 the Developer or the Vendor and/or either of their equity partners (if any) or the Vendor is engaged in any action required to complete the Development,

where to do so would prevent, hinder, obstruct or in any way interfere with any works of any nature or description that the Developer their mortgagee or chargee or the Vendor their mortgagee or chargee may be engaged in or which may need to be carried out in order to

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complete construction of the Buildings and facilities comprised in the Plan or the Development.

30.2 Subject to Rule 30.4, the Developer and its equity partners (if any), its mortgagees and chargees and the Vendor and its equity partners (if any), its mortgagees and chargees must be and are by this Rule, authorised by each and every member of each and every Owners Corporation in the Plan and by each and every Owners Corporation in the Plan to:

30.2.1 erect such barriers, fences, hoardings, signs as it deems necessary to facilitate any works to be carried out in relation to the Development; and

30.2.2 take exclusive and sole possession of any parts of the Common Property as it may need to have exclusive possession of in order to carry out any works or activities in relation to the Development; and

30.2.3 exclude all and any Members or Occupiers from any parts of the Common Property as may be necessary in order to carry out any works in relation to the Development; and

30.2.4 erect for sale promotional advertising or other signs as the Developer may require on any part of the Common Property; and

30.2.5 grant rights to use or access through or over the Common Property to third parties on such terms and conditions as the Developer or its mortgagee or chargee thinks fit; and

30.2.6 limit or restrict access to certain areas of the Development including areas of the Common Property in order to expeditiously complete the Development; and

30.2.7 use whatever rights of way and/or points of egress and ingress to the Development as necessary to carry out any works and to block for whatever periods are necessary any rights of way or points of egress and ingress to the Development in order to carry out any works,

provided that the Developer or the Vendor and any third party authorised by either of them under this Rule or any party to which it assigns all or part of the benefits of its rights under this Rule, uses its best endeavours to minimise disturbance and inconvenience to others occupying or using the Common Property.

30.3 The Owners Corporation must, within 7 days of being requested by the Developer or its mortgagee or chargee or the Vendor or its mortgagee or chargee, sign whatever consents, authorities, permits or other such documents as may be required to enable the Developer or its mortgagee or chargee to complete the Development. A Member must not vote in favour of any motion for a resolution proposed for consideration by a general meeting of the Owners Corporation which would revoke this Rule 30 or contravene any right or reprieve afforded to the Developer under this Rule 30.

30.4 In case of any inconsistency between the Rules and the rights of the Developer and Vendor under any Development Agreement, the Developer's rights and the Vendor's rights under the Development Agreement will prevail and the Members, Occupiers and Owners Corporation must not seek to enforce the Rules against the Developer or Vendor where to do so would conflict with the Developer's Rights or the Vendor's rights under any such Development Agreement.

30.5 A Member or Occupier must comply with the terms of any Development Agreement between the Developer and the Owners Corporation that is disclosed to the Member or Occupier.

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30.6 Every Member hereby consents to and agrees to the Developer or the Vendor undertaking any or all of the rights of the Developer or the Vendor, as the context permits, set out in this Rule without any prevention or hindrance of such Member.

30.7 In exercising its rights under this Rule, the Developer and Vendor must act honestly and in good faith and with due care and diligence in the interests of the Owners Corporation and must have regard to the amenity of Members. The Developer and Vendor must only exercise their rights to the extent necessary for the genuine Development. The Developer and the Vendor must not exercise its rights under this Rule to arbitrarily exclude the Owners Corporation or the participation of Members.

31. Warranties & Novation or assignment of contracts

31.1 The Developer may at its discretion enter into time limited contracts to supply, service, clean, maintain and/or inspect building essentials services, other building services or functions, common areas of the Building, landscaping, or any other Common Property, and any other service or other contract deemed appropriate and necessary for the proper care and function of the Common Property.

31.2 The Developer must and the Owners Corporation(s) must accept, assignment or novation of the contracts referred to in Rule 31.1 at the first meeting of the Owners Corporation.

31.3 The Owners Corporation must maintain any contracts assigned or novated to it under this Rule to the end of its current term except where it is deemed that the contract is unreasonable or unnecessary or is replaced by a contract for similar services by the same service provider.

31.4 The Owners Corporation must comply with the terms of and properly manage any time or condition limited warranties for items, components or parts of the Common Property provided by subcontractors or suppliers so as to ensure they remain valid for the benefit of the Owners Corporation.

31.5 The Owners Corporation must ensure that it provides for or enters into contracts to provide for care, cleaning, maintenance and inspection of any item or component of Common Property to enable it to perform its obligations under the Law and these Rules upon the lapse of any subcontractor or supplier backed warranty or upon the end of any contract assigned or novated to it by the Developer.

31.6 All Members must contribute its proportion of the cost incurred by the Owners Corporation in complying with this Rule 31 relative to the lot liability on the Plan.

32. Signage & Other Licences

32.1 The Owners Corporation may grant the Developer:

32.1.1 a lease and licence including but not limited to for the provision of information technology infrastructure relating to broadband services and/or signage rights to the Development;

32.1.2 a licence to host festivals, parties or other celebratory or promotional events in the main lobby area, or other areas of the Common Property;

32.1.3 a licence to place and maintain sale signs, insignias, logos and other fixtures and fittings for marketing purposes on the Common Property; or

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32.1.4 allow the Developer's representatives and their invitees to conduct selling activities from a Lot, if not sold prior to completion, which will serve as a display unit,

provided the Developer uses its best endeavours to minimise disturbance and inconvenience to others Members' or Occupiers' use of the Common Property and at all times acts honestly and in good faith and with due care and diligence in the interests of the Owners Corporation.

32.2 A Member or Occupier of the Lot must not hinder or impede the Developer, its successors and assigns, from exercising its rights under any agreement entered into under this Rule.

32.3 The Owners Corporation(s) must procure all the necessary consents and resolutions to give effect to the matters set out in this Rule 32.

32.4 A Member must not vote in favour of any motion for a resolution proposed for consideration by a general meeting of the Owners Corporation(s) which would impede the powers of the Owners Corporation(s) under this Rule 32.

33. Bicycles

33.1 A Member or Occupier must not permit any bicycle to be stored on Common Property except in areas designated by the Owners Corporation or otherwise with its written consent.

33.2 Members or Occupiers must indemnify and keep indemnified the Owners Corporation on a full indemnity basis for the costs of repairing any damage to the Common Property arising out of bringing their bicycles on to any Lot (for example, corridors, lifts).

34. Commercial Kitchen, Staff Facilities and Amenities

A Member or an Occupier acknowledges that the commercial kitchen, staff amenities and staff facilities located on Common Property may not be accessed by Members, Occupiers or their guests, without the written consent of the Manager, which consent may be granted or rejected (or granted subject to conditions) at the Manager's discretion.

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Attachment 5

Grease Trap Licence

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Maddocks

Lawyers
Collins Square, Tower 2
Level 25, 727 Collins Street
Melbourne Victoria 3008 Australia

Telephone 61 3 9258 3555
Facsimile 61 3 9258 3666

info@maddocks.com.au
www.maddocks.com.au

Date 14/06/2022

Retail Services (Grease Trap) Licence

Commercial Kitchen, Saint Moritz, 14-16 The Esplanade, St Kilda

Owners Corporation No. 1
on Plan of Subdivision PS826420W

and

Owners Corporation No. 5
on Plan of Subdivision PS826420W

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Schedule

1.	**Date of this Licence:**	The 14th of June 2022
2.	**Licensor:**	Owners Corporation No. 1 on Plan of Subdivision PS826420W, c / The Knight, PO Box 678 Malvern, Victoria 3144 on behalf of the members of Owners Corporation No. 1 on PS826420W.
3.	**Licensee:**	Owners Corporation No. 5 on Plan of Subdivision PS826420W, c / The Knight, PO Box 678 Malvern, Victoria 3144 on behalf of the members of Owners Corporation No. 5 on PS826420W.
4.	**Licensed Area:**	The area shaded green and notated as 'Commercial Kitchen GIT Location' on the Grease Trap Area Plan located on Basement level 3, Building 3 of the Development and being part of Common Property No.1 on Plan of Subdivision PS826420W.
5.	**Commencement Date**	The 14th of June 2022
6.	**Term**	299 years
7.	**Licence Fee during the Term:**	$1 payable by a single instalment on the Commencement Date, if demanded.
8.	**Additional Clauses:**	Not applicable.

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Execution Page

EXECUTED by the parties on the date specified in Item 1.

Executed by **Owners Corporation No. 1** on **PS826420W** by a person who declares they are the sole Lot Owner and member of the Owners Corporation or by a director of a corporation that is a sole Lot Owner, in accordance with s 10 of the *Owners Corporations Act 2006* (Vic) in accordance with a resolution dated 7th June :

DocuSigned by:
Greg Shand
D9878C82F30C406...

Signature

Greg Shand

Name (print full name)

3A Macquarie Street, Sydney NSW 2000

Address

Position: Director of sole Lot Owner

Barana (St Kilda) Investments Pty Ltd
ACN 160 116 076

Name of corporation that is the sole Lot Owner

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Executed by **Owners Corporation No. 5** on **PS826420W** by a person who declares they are the sole Lot Owner and member of the Owners Corporation or by a director of a corporation that is a sole Lot Owner, in accordance with s 10 of the *Owners Corporations Act 2006* (Vic) in accordance with a resolution dated 7th June :

DocuSigned by:
Greg Shand
D9878C82F30C406...

Signature

Greg Shand

Name (print full name)

3A Macquarie Street, Sydney NSW 2000

Address

Position: Director of sole Lot Owner

Barana (St Kilda) Investments Pty Ltd
ACN 160 116 076

Name of corporation that is the sole Lot Owner

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Licence

THIS LICENCE is made on the date specified in Item 1.

BETWEEN

The Licensor

AND

The Licensee

RECITAL

A. The Licensor has agreed to grant the Licensee a licence of the Licensed Area on the terms and conditions in this Licence.

THE PARTIES AGREE

1. Definitions

In this Licence, unless expressed or implied to the contrary:

Additional Clauses means the clauses (if any) specified in Item 8.

Adjustment has the same meaning given to that term in the GST Act.

Adjustment Note has the same meaning given to that term in the GST Act.

Commencement Date means the commencement date specified at Item 5 of the Schedule.

Common Property means the common property No. 1 on PS826420W.

Consideration means consideration payable under this Licence in return for a Taxable Supply, but does not include any amount on account of GST.

Development means Saint Moritz, 14-16 The Esplanade, St Kilda VIC 3182.

Grease Trap means the grease trap servicing the Premises.

Grease Trap Area means that part of the Licensed Area containing the Grease Trap.

Grease Trap Area Plan means the plan showing the Grease Trap Area, a copy of which is attached at Annexure A.

GST Act means A New Tax System (Goods and Services Tax) Act 1999 (as amended).

GST has the same meaning given to that term in the GST Act.

Input Tax Credit has the same meaning given to that term in the GST Act, but also includes a reduced input tax credit under Division 70 and an adjusted input tax credit under Division 132 of the GST Act.

Item means an item in the Schedule.

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Licensed Area means the area specified in Item 4 delineated and shaded on the relevant plan attached as an annexure to this Licence.

Licence Fee means the amount specified in Item 7.

Licensee means the Licensee specified in Item 3 and includes the Licensee's successors and assigns and where it is consistent with the context includes the Licensee's employees, agents, invitees and persons the Licensee allows to use the Licensed Area.

Licensor means the Licensor specified in Item 2 above and includes the Licensor's successors and assigns and where it is consistent with the context includes the Licensor's employees and agents.

Premises means the commercial kitchen forming part of Common Property No. 5 on Plan of Subdivision PS826420W.

Owners Corporation Rules means the rules of Owners Corporation No 1 on Plan of Subdivision PS826420W set out in Annexure B, as amended from time to time.

Recipient has the same meaning given to that term in the GST Act.

Supplier means the entity making a Supply to the Recipient.

Supply has the same meaning given to that term in the GST Act.

Tax Invoice has the same meaning given to that term in the GST Act.

Taxable Supply has the same meaning given to that term in the GST Act.

Taxes means a tax, levy, duty, impost, fee, deduction, withholding or charge, however described, imposed by legislation, (including stamp and transaction duty and any car parking levies) together with any related interest, penalty, fine or expense concerning any of them and the costs of challenging any of them.

Term means the Term specified in Item 6 of the Schedule.

2. Licence

2.1 The Licensor has exercised its powers under section 14 of the *Owners Corporations Act* 2006 to grant by special resolution a non-exclusive licence of the Licensed Area to the Licensee subject to the terms, covenants, conditions and restrictions contained in this Licence, for the Term starting on the Commencement Date.

2.2 The Licensee acknowledges and agrees that:

2.2.1 this Licence is non-exclusive, and the Licensor may grant additional licences of the Licensed Area to the owners of other lots within the Development requiring use of the Grease Trap, on terms and conditions similar to those contained in this Licence (**Additional Licence**);

2.2.2 the use, maintenance and associated obligations for the Licensed Area described at clause 5 are shared between the Licensee and licensees of the Additional Licence; and

2.2.3 if a dispute arises between the Licensee and the licensee(s) under the Additional Licence in relation to the shared use, maintenance and associated obligations of

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the Licensed Area under clauses 5 and 6, the dispute must be referred to the Licensor to determine in its absolute discretion.

3. Payments by the Licensee

3.1 Payment of Licence Fee

The Licensee must pay the Licence Fee to the Licensor on the Commencement Date and in the manner specified in Item 6.

3.2 Costs and Duty

The Licensee must pay to the Licensor within 7 days of demand:

3.2.1 all Taxes levied in respect of this Licence, the Licensed Area or the rights granted to the Licensee under this Licence whether those Taxes are in force at or after the Commencement Date;

3.2.2 the operating costs incurred by the Licensor in connection with or as a result of this Licence, the Licensed Area or the rights granted to the Licensee under this Licence; and

3.2.3 the Licensor's costs (including charges on a solicitor-own client basis) incurred as a result of a breach of this Licence by the Licensee.

3.3 Interest on Late Payments

The Licensee must pay to the Licensor on demand interest at the rate per annum equal to the rate for the time being fixed under section 2 of the *Penalty Interest Rates Act* 1983 (Vic) on any money payable by the Licensee under this Licence and remaining unpaid for 14 days. Interest will be computed from the date on which such payment became due.

3.4 No Deduction or Right of Set-off

The Licensee must pay all amounts due under this Licence to the Licensor without deduction or right of set-off.

4. GST

4.1 GST Exclusive

Except as otherwise provided by this clause, all Consideration payable under this Licence in relation to any Supply is exclusive of GST.

4.2 Increase in Consideration

To the extent that any Supply under this Licence constitutes a Taxable Supply, the Consideration payable by the Recipient to the Supplier will be increased by the applicable amount of GST (**GST Amount**), which shall be calculated by multiplying the amount upon which GST is payable by the prevailing rate of GST.

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4.3 Payment of GST

Any GST Amount must be paid by the Recipient to the Supplier at the same time and in the same manner as the relevant Consideration is paid or given under this Licence, without any right of set-off or deduction (unless otherwise provided in this Licence).

4.4 Reimbursements

If this Licence requires the Recipient to pay, reimburse or contribute to any expense, loss or outgoing suffered or incurred by the Supplier (**Relevant Expense**), the amount which the Recipient must pay, reimburse or contribute will be the amount net of any Input Tax Credits to which the Supplier is entitled in respect of the Relevant Expense, together with any GST Amount if the payment, reimbursement or contribution constitutes a Taxable Supply by the Supplier to the Recipient.

4.5 Tax Invoice

The Supplier must provide to the Recipient a valid Tax Invoice at or prior to the time of payment of any GST Amount.

4.6 Adjustments & Adjustment Notes

To the extent that any Adjustment occurs in relation to a Taxable Supply, the Supplier must issue an Adjustment Note to the Recipient within 7 days of becoming aware of the Adjustment, and any payment necessary to give effect to such Adjustment must be made within 7 days after the date of receipt of the Adjustment Note.

5. Use of Licensed Areas

5.1 Use of Licensed Area

5.1.1 The Licensee may use the Licensed Area for the purpose of the use, repair, maintenance and emptying of the Grease Trap on the terms and conditions relevant to the applicable use as set out in Schedule 1.

5.1.2 The Licensee must not:

(a) use or allow anyone else to use the Licensed Area for any purpose other than the permitted uses described in clause 5; and

(b) place or allow to be placed on the Licensed Area anything which is or may become an annoyance, nuisance, grievance or disturbance to anyone in the Development or any owners or occupier of any adjacent premises.

5.2 Nuisance

The Licensee must not do anything in connection with the Licensed Area which may cause a nuisance or interfere with any other person, including other users of the Licensed Area as contemplated by clause 2.2.

5.3 Insurance

5.3.1 The Licensee must from the Commencement Date until the end of the Term effect and maintain a policy of insurance in the name of the Licensee noting the interests of the Licensor as an interested party in respect of liability for loss, injury or damage to any person or property whatsoever whether arising out of any act, omission, breach of duty or failure by the Licensor, the Licensee, the employees,

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agents and invitees of the Licensor or the Licensee or otherwise, on or in relation to the Licensed Area or the use of the Licensed Area by the Licensee in the sum of ten million dollars ($10,000,000) or such greater amount as the Licensor may reasonably nominate from time to time in order to effect a sufficient and proper cover in respect of any single accident or event.

5.3.2 The Licensee must from the Commencement Date until the end of the Term effect and maintain a policy of insurance in the name of the Licensee in respect of liability for the usual insured risks on an indemnity or replacement value basis of any Air Conditioning constructed or to be constructed pursuant to this Licence.

6. Maintenance repairs and alterations of Grease Trap

6.1 The Licensee must, at its own cost and expense, keep and maintain the Grease Trap in good and substantial condition and repair and replace faulty or damaged parts. The Licensor may at any time inspect the Grease Trap and if any work as reasonably determined by the Licensor is required to be carried out on the Grease Trap that work shall be carried out expeditiously by the Licensee at its own cost. Should the Licensee fail to maintain the Grease Trap in good and substantial condition and repair, the Licensor or its agents may at the cost of the Licensee effect such maintenance and repair in order to comply with this clause.

6.2 The Licensee must be responsible for all costs and charges associated with and incurred in the operation of the Grease Trap.

6.3 The Licensee and its agents, contractors, invitees, consultants and employees approved by Licensor may have all necessary egress and egress to the Licensed Areas for the purposes of effecting repairs to or maintenance of the Grease Trap or removing or replacing the Grease Trap.

6.4 The Licensee must repair any damage to the Licensed Area caused by want of care, misuse or abuse or otherwise on the part of the Licensee or any of its agents, contractors, invitees, consultants or employees in exercising the Licensee's right under the Licence to install, keep and maintain the Grease Trap or arising from the Licensee's failure to comply with the terms of this Grease Trap.

6.5 The Licensor and its agents, contractors, invitees, consultants and employees may upon reasonable notice inspect the state of repair of the Licensed Area and serve upon the Licensee a notice in writing requiring it to repair any defect.

7. Release and Indemnity

7.1 Release

The Licensee uses and occupies the Licensed Area at its own risk and releases the Licensor from all claims resulting from any damage, loss, death or injury in connection with the Licensed Area except to the extent that the Licensor is negligent.

7.2 Indemnity

The Licensee must indemnify and hold harmless the Licensor against all claims resulting from any damage, loss, death or injury in connection with the Licensed Area and the use of the Licensed Area by the Licensee except to the extent that the Licensor is negligent.

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8. Assignment and Sub-Licensing

8.1 The Licensee must not assign, sublicense or part with possession with this Licence or its interest in the Licensed Area.

8.2 Despite clause 8.1, the Licensee may sublicense its interest in the Licensed Area without the consent of the Licensor provided that:

8.2.1 the sublicensee is, or is entitled to be, the tenant of the Premises; and

8.2.2 the Licensee gives written notice to the Licensor of the details of the sublicensee and the sublicense.

9. Licensor not Liable

The Licensor will not be liable to the Licensee if the Licensee cannot obtain access to the Licensed Area in circumstances either:

9.1 required for maintenance or repair; or

9.2 beyond the Licensor's reasonable control.

10. Right of Entry

The Licensee authorises the Licensor to enter the Licensed Area in the event of an emergency.

11. Licensee's Obligations at End of Licence

11.1 Licensee's Obligations

At the end of this Licence, the Licensee must give to the Licensor any security devices (if applicable) used by the Licensee to obtain access to the Licensed Area.

11.2 Licensee's Property Left in Licensed Area

Anything left in the Licensed Area at the end of this Licence will become the property of the Licensor and may be removed by the Licensor at the Licensee's cost and at the Licensee's risk.

12. Owners Corporation Rules

12.1 The Licensee must observe and comply with the Owners Corporation Rules.

12.2 A breach of the Owners Corporation Rules is a breach of this Licence.

12.3 Where there is any inconsistency between the terms of the Owners Corporation Rules and this Licence, the provisions of this Licence prevail.

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13. Termination of Licence

13.1 Re-entry

The Licensor may terminate this Licence if the Licensee breaches a material provision of this Licence and does not remedy the breach within 28 days of receipt of written notice from the Licensor specifying the material breach complained of.

13.2 Damages following Termination

If this Licence is terminated by the Licensor, the Licensee agrees to compensate the Licensor for any loss or damage the Licensor suffers in connection with the Licensee's breach of this Licence including the loss of the benefit of the Licensee performing its obligations under this Licence up to the expiration of the Term.

14. General

14.1 Notices

Any notice required to be served under this Licence must be in writing and must be served by post, email or hand delivered to:

14.1.1 the Licensee at its address set out in this Licence, the Licensee's registered office address or the last known address of the Licensee; and

14.1.2 the Licensor at its address set out in this Licence or any other address notified in writing to the Licensee by the Licensor.

14.2 Entire Understanding

This Licence contains the entire understanding between the parties as to the subject matter contained in it. All previous agreements, representations, warranties, explanations and commitments, expressed or implied, affecting this subject matter are superseded by this Licence and have no effect.

14.3 Waiver

If the Licensor accepts the Licence Fee or any other monies under this Licence (before or after the end of this Licence) or does not exercise or delays exercising any of the Licensor's rights under this Licence, it will not be a waiver of the breach of this Licence by the Licensee or of the Licensor's rights under this Licence.

14.4 Additional Clauses

This Licence is subject to the Additional Clauses. The Additional Clauses override any inconsistent provisions in this Licence.

14.5 Electronic Execution

Each party consents to the signing of this Licence by electronic means. The parties agree to be legally bound by the Licence signed in this way.

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15. Interpretation

15.1 Governing Law and Jurisdiction

This Licence is governed by and is to be construed in accordance with the laws of Victoria. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Courts of Victoria and waives any right to object to proceedings being brought in those Courts.

15.2 Persons

In this Licence, a reference to a person includes a firm, partnership, association, corporation or other corporate body.

15.3 Joint and Several

If a party consists of more than one person, this Licence binds them jointly and each of them severally.

15.4 Legislation

In this Licence, a reference to a statute includes regulations under it and consolidations, amendments, re-enactments or replacements of any of them.

15.5 Clauses and Headings

In this Licence:

15.5.1 a reference to a clause, schedule or appendix is a reference to a clause, schedule or appendix in or to this Licence; and

15.5.2 headings and sub-headings are inserted for ease of reference only and do not effect the interpretation of this Licence.

15.6 Severance

In this Licence:

15.6.1 if a provision is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable; and

15.6.2 if it is not possible to read down a provision as required in this clause, that provision is severable without affecting the validity or enforceability of the remaining part of that provision or the other provisions in this Licence.

15.7 Number and Gender

In this Licence, a reference to:

15.7.1 the singular includes the plural and vice versa; and

15.7.2 a gender includes the other genders.

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1. Grease Trap

1.1 Use of Grease Trap Area

The Licensee must:

1.1.1 only use the Grease Trap for the purposes for which they are intended and for no other purposes;

1.1.2 ensure that the Grease Trap is/are maintained and cleaned at all times; and

1.1.3 if the Licensee enters into a contract for the maintaining, cleaning and emptying of the Grease Trap it must, if requested by the Licensor, provide a copy of that contract to the Licensor.

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Annexure A

Grease Trap Plan

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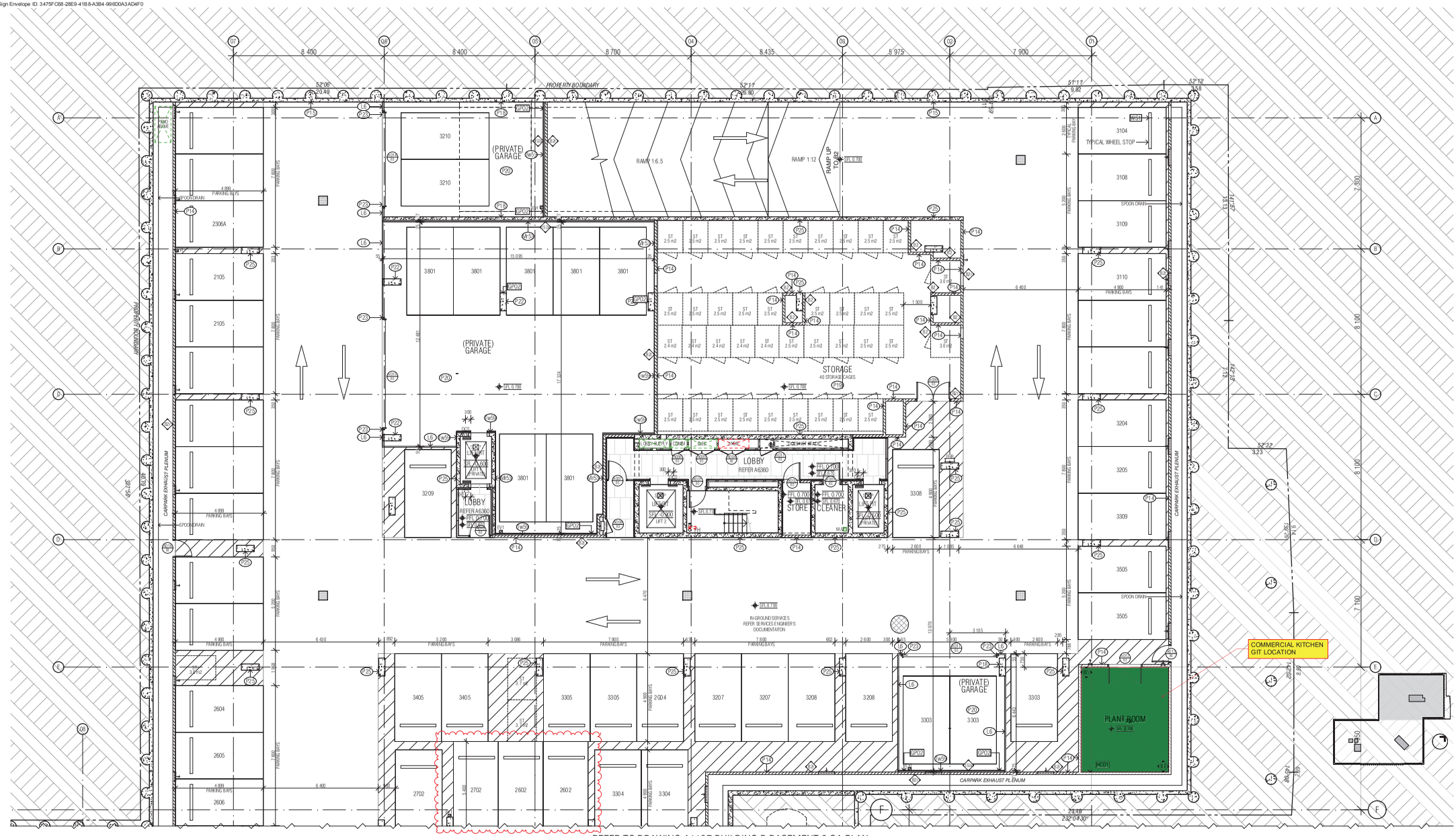

REFER TO DRAWING A1197 BUILDING B BASEMENT 3 GA PLAN

GENERAL LEGEND

WALL HATCHES
EXISTING WALL
INSITU CONCRETE
PRECAST CONCRETE
MASONRY
FIRE RATED STUD WALL

WALL TYPE TAG (REFER A0050 FOR WALL TYPE LEGEND)
FINISH TAG (REFER *SCHEDULES 01.02 EXTERNAL/INTERNAL FINISHES AND ASSEMBLIES SCHEDULE*)
FIXTURE/FITTING TAG (*REFER SCHEDULE 03 FIXTURES AND FITTINGS SCHEDULE*)
DOOR TAG (*REFER SCHEDULE 04 DOOR SCHEDULE*)
LEVELS: SFL = STRUCTURAL FLOOR LEVEL
NGL = NATURAL GROUND LEVEL
PL = FINISHED PAVING LEVEL. FFL = FINISHED FLOOR LEVEL.

APARTMENT TAG LEGEND
APARTMENT TYPE
APARTMENT NUMBER
1:50 DETAIL DRAWING
APARTMENT NSA
FIRE HOSE REEL
FIRE HYDRANT
SIPHONIC ROOF OUTLET
SIPHONIC OVERFLOW

FW OUTLETS: FW ETC = FLOOR WASTE, RO = ROOF OUTLET, TG = TRENCH GRATE, PFW = PLANTER FLOOR WASTE. REFER SPECIFICATION FOR TYPES AND HYDRAULIC DWG'S
DP DP1/DP2 ETC = DOWNPIPE. REFER SPECIFICATION FOR TYPES AND HYDRAULIC DWG'S
SPT SPOUT
OF BALCONY OVERFLOW
FL FLUSH RECESSED WALL LIGHT
WL SURFACE MOUNTED LIGHT
PL PAVING LIGHT

SERVICES RISERS
SERVICES RISERS
MECH PENETRATION/ZONE
HYDR. PENETRATION/ZONE
ELECT PENETRATION/ZONE
FIRE PENETRATION/ZONE
ROOF SUMP / STORMWATER SUMP
REFUSE CHUTE/WASTE

ST / PRESS -STAIR PRESSURE
S/F -SECURITY/ FIRE
-STACK RISERS:
SS = SOIL STACK
NG = NAT. GAS
TW = TRADE WASTE.
SW = STORMWATER

NOTE: VENT RISERS AND MISCELLANEOUS SERVICE PIPEWORK NOT INDICATED. REFER SERVICES FOR FULL EXTENT OF RISERS

GLAZING LEGEND
AS AWNING SASH
TA TRIPLE AWNING SASH
SG SPANDREL GLASS - FULL HEIGHT
EG EXHAUST GRILLE - OVER SPANDREL
SD SLIDING DOOR / WINDOW
SW SWING DOOR
FG FIXED GLASS
SLIDE DOOR SASH (SINGLE ARROW FOR EACH LEAF)

WINDOW MARKER [W00-01] BREAK UP. LIKE THIS:
W = WINDOW SYSTEM (W = Window Wall, C = Curtain Wall, B = Balustrade)
00 = GROUND FLOOR LEVEL 01 = WINDOW NUMBER
EXTENT OF CURVED GLASS
EXTENT OF ACID ETCHED GLASS

EXTENT OF HELIOSCREENS TBC

EXTERNAL WATERPROOF GPO
EXTERNAL GAS POINT
TACTILE INDICATORS

CAR PARKING
BICYCLE PARKING
LEVEL (B1 OR OTHER) VEHICLE PARKING SPACE NUMBER
LINE MARKING PAINT FINISH
BOL BOLLARD

JOINERY TYPES
(REFER TO SCHEDULE 02 - Part 2 for additional information on room finishes or specifications)
FR FRIDGE UNIT
P PANTRY UNIT
OV OVEN/PANTRY UNIT
L LINEN UNIT

JOINT TYPES
CJ CONTROL JOINT
PJ PRECAST JOINT
EJ TILE EXPANSION JOINT

NOTES:
1. ALL COLUMNS SHOWN ARE INDICATIVE. ORIENTATION AND CONFIGURATION TO BE CONFIRMED BY STRUCTURAL ENGINEER AND ARE SUBJECT TO CLIENT SIGN OFF.
2. REFER TO GURNER IESC DOCUMENT FOR FLOOR AND WALL FINISHES.

IBM Server: BIMCLOUD21 - BIM cloud Basic for ARCHICAD 21/19056 14-16 Esplanade St Kilda/18056 SM_General

REVISION

04	ISSUED FOR CONSTRUCTION	SJ	25.02.2020
05	ISSUED FOR CONSTRUCTION	MC	27.02.2020
06	ISSUED FOR TRAFFIC AND SERVICES REVIEW	RL	11.03.2020
07	ISSUE FOR COORDINATION AND PREPARATION OF SERVICES SHOP DRAWINGS	RL	15.04.2020
A	ISSUED FOR THE PREPARATION OF SERVICES SHOP DRAWINGS	RL	22.05.2020
B	ISSUED FOR THE PREPARATION OF SERVICES SHOP DRAWINGS	RL	29.05.2020
C	ISSUED FOR DOOR REVIEW	AM	29.06.2020
D	FIRE EGRESS AMENDMENT	TJ	07.07.2020

REVISION

E	BLOCKWORK SET-OUT UPDATE	TJ	01.09.2020
F	GENERAL UPDATE	AM	25.09.2020
G	BLOCKWORK MECH PENDS UPDATED (CREMA-TRANSMIT-001598 & 001621)	MC	15.10.2020
H	SPEEDPANEL AMENDMENTS (ACONEX CREMA-DA-002314)	TJ	30.10.2020
I	PRIVATE GARAGE UPDATE	TJ	22.02.2021
J	GARAGE UPDATES	MC	07.03.2021
K	WALL FINISH UPDATE	MC	15.06.2021
L	ACONEX CREMA-DA-004719	TJ	15.09.2021

QUALITY ASSURANCE (FK IS A CERTIFIED COMPANY TO ISO 9001-2015)

THIS PROJECT IS SUBJECT TO THE FK QUALITY ASSURANCE SYSTEM

■	SCHEMATIC DESIGN REVIEW FOR THIS PROJECT IS COMPLETE.	DATE OF REVIEW: 26.11.2018
■	DESIGN DEVELOPMENT REVIEW FOR THIS PROJECT IS COMPLETE.	DATE OF REVIEW: 20.05.2019
■	TENDER DOCUMENTATION REVIEW OF THIS PROJECT IS COMPLETE.	DATE OF REVIEW: 20.05.2019
■	CONSTRUCTION DOCUMENTATION REVIEW OF THIS PROJECT IS COMPLETE.	DATE OF REVIEW: 05.09.2021

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PROJECT
SAINT MORITZ
14-16 THE ESPLANADE
ST KILDA VIC 3182

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DRAWN	DATE	CHECKED	PLOT DATE	JOB NO.	SCALE
TJ	15.09.2021	MC	15.09.2021	18056	1:100@A1

DRAWING TITLE BUILDING A BASEMENT 3 GA PLAN

ISSUE PURPOSE FOR CONSTRUCTION

REV. L

DRAWING NO. A1097

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Annexure B

Owners Corporation Rules

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www.maddocks.com.au

DX 259 Melbourne

Date / /

Owners Corporation Rules

Saint Moritz, 14-16 The Esplanade, St Kilda, Victoria

Owners Corporation No. 1 on Plan of Subdivision PS826420W

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Owners Corporation Rules

Date / /

Notes

The Act and Regulations detail the powers of the Owners Corporation(s), the general duties of members, meetings and administration of the Owners Corporation(s), insurance and other miscellaneous matters. These Rules must be read in conjunction with the Act, Regulations and the model rules prescribed under the Regulations.

1. Definitions

In these rules:

Act means the *Owners Corporations Act* 2006 (Vic) as amended from time to time.

Authority means any government or any public, statutory, governmental, semi-governmental, local government, municipal or judicial body, entity or authority and includes a Minister of the Crown (in any right), and any person, body, entity or authority exercising a power pursuant to an Act of Parliament.

Bicycle Store means the bicycle store common facilities located on the Common Property.

Building Works means all design, building and construction works including the construction, erection, fixing, installation or otherwise or any item not originally included with or part of a Lot or Common Property.

Building means all and any buildings, structures or improvements comprised in the Development.

Common Property means the land, the Building and any other improvements erected on 14-16 The Esplanade, St Kilda and designated as common property no. 1 on the Plan.

Developer means 14-16 The Esplanade by Gurner Pty Ltd ACN 626 307 131 or a Related Entity responsible for the development of the Development and creation of Lots and includes the Developer's successors and assigns and where it is consistent with the context includes the Developer's employees, agents, builders, contractors, subcontractors and invitees.

Development means all the land and improvements comprised in the Plan and known as Saint Moritz, 14-16 The Esplanade, St Kilda.

Development Agreement means any agreement between the Developer and Owners Corporation or in relation to the Development, including any ancillary agreements between the Developer and the Owners Corporation such as development leases or other licences.

Director has the same meaning as it has in the *Fair Trading Act* 1999 (Vic).

Dispute means a dispute or other matter arising under the Act, Regulations or Rules including a dispute or matter relating to:

(a) the operation of the Owners Corporation;

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(b) an alleged breach by a Member or Occupier of an obligation imposed on that person under the Act, Regulations or the Rules; or

(c) the exercise of a function by a Manager in respect of the Owners Corporation.

Dog and Car Wash Facilities means the dog and car wash common facilities located on the Common Property.

Domestic Building Contract means any domestic building contract within the meaning of the *Domestic Building Contracts Act* 1995 (Vic) entered into by the Initial Owner.

Governmental Agency means any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.

Initial Owner has the same meaning as it has under the Act and where the context requires includes its successors and assigns.

Land means the whole of the land described in the Plan.

Lot means a lot shown on the Plan.

Maintenance Fund means a fund or part of a fund used for implementation of the Maintenance Plan (if any).

Maintenance Plan means a maintenance plan (if any) established and approved by the Owners Corporation as contemplated by the Act.

Manager means the person or entity appointed by the Owners Corporation as Manager of the Owners Corporation(s) or, where the context permits, the building manager, concierge or valet appointed by the Owners Corporation to assist it with the functions of the Owners Corporation contemplated by the Rules and where relevant includes the Manager's successors and assigns and where the context requires includes the Manager's officers, employees, agents, contractors, subcontractors and invitees.

Member means a member of the Owners Corporation by reason of being the owner of a Lot for the time being and where the context requires includes an Occupier or their invitees.

Occupier means the person or entity authorised by the Member to occupy the designated Lot as tenant or licensee and where the context requires includes the Occupier's invitees.

Owners Corporation means the Owner Corporation No. 1 on the Plan.

Plan means Plan of Subdivision No. PS826420W.

Regulations means the *Owners Corporations Regulations* 2018 (Vic) as amended from time to time.

Related Entity has the same meaning given to that term in the *Corporations Act* 2001 (Cth).

Retail Lot means a Lot for Retail Purposes.

Retail Purposes means use for a restaurant, café, retail use or other commercial purpose, subject to any approvals required by an Authority.

Rule or **Rules** means these rules which are for the purpose of the control, management, administration, use or enjoyment of the Common Property or any Lot as amended from time to time.

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Vendor means Barana (St Kilda) Investments Pty Ltd.

2. Interpretation

2.1 Unless the context otherwise requires:

2.1.1 headings are for convenience only;

2.1.2 words imparting the singular include the plural and vice versa;

2.1.3 expressions imparting a natural person includes any company, partnership, joint structure, association or other Owners Corporation and any governmental authority; and

2.1.4 a reference to a thing includes part of that thing.

2.2 The obligations and restrictions in these Rules must be read subject to the rights, grants or privileges that may be given to any person or entity by the Owners Corporation from time to time and to the extent of any inconsistency, such rights, grants or privileges, must prevail over these Rules in respect of the person or entity to whom they are given.

2.3 In these Rules:

2.3.1 if a provision is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable; and

2.3.2 if it is not possible to read down a provision as required in this Rule, that provision is severable without affecting the validity or enforceability of the remaining part of that Rule or the other Rule;

2.3.3 references to 'Owners Corporation' includes any person or body authorised to act on behalf of the Owners Corporation delegated any power or functions by the Owners Corporation or appointed by the Owners Corporation to assist in carrying out its functions, including without limitation the Manager, as the context permits.

2.4 In the event of a conflict between these Rules and any restriction on the Plan, the restriction will prevail.

2.5 In the event of a conflict between these Rules and the model rules prescribed under the Regulations, these Rules prevail.

3. Role and functions

3.1 The Owners Corporation is responsible for ensuring that appropriate rules, measures and procedures are established to govern issues common to the Members, including that the Common Property and/or a Lot are maintained for the benefit and enjoyment of all Members and Occupiers. The Owners Corporation exercises such responsibilities through enforcing the Rules and through holding regular committee meetings at which matters affecting the operation of the Common Property are resolved and advised to all Members.

3.2 The Owners Corporation must abide by the Rules, Act and Regulations, and in carrying out its functions and powers must act honestly and in good faith and exercise due care and diligence.

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3.3 These Rules are for the purpose of the control, management, administration, use or enjoyment of the Common Property or a Lot and represent the interests of Members and Occupiers. The Rules may be added to, amended or revoked:

3.3.1 if a resolution is passed after a ballot or poll is taken and 75% of the total lot entitlements of all the Lots are in favour of such addition, amendment or revocation; or

3.3.2 if a resolution is passed in any other case and 75% of the total votes for all the Lots are in favour of such addition, amendment or revocation (**Special Resolution**).

3.4 Under the Act and Regulations, the Owners Corporation is responsible for, amongst other things:

3.4.1 electing the Committee (if required);

3.4.2 establishing a Maintenance Plan and Fund;

3.4.3 establishing and maintaining an Owners Corporation Register;

3.4.4 taking out, maintaining and paying the premiums for insurance;

3.4.5 keeping proper accounts that cover the income, expenditure, assets and liabilities of the Owners Corporation and providing true reports of the financial situation of the Owners Corporation; and

3.4.6 preparing annual financial statements.

4. Provision of services

4.1 Each Member of the Owners Corporation agrees that the Owners Corporation will provide the following services:

4.1.1 the repair and maintenance of all Common Property including gardens, trees, paved areas and landscaping; and

4.1.2 any other service or facility provided by the Owners Corporation for the benefit of the Members.

4.2 A Member or an Occupier acknowledges that:

4.2.1 the Owners Corporation may share amongst the Members and Occupiers the costs of supply and maintenance (based on lot liability or other methodology determined by the Owners Corporation) of any gas facility or power facility required for heating or air conditioning or any variable refrigerant volume or variable refrigerant flow system (VRV) to the Lots affected by the Owners Corporation or any Common Property; and

4.2.2 where any Lot is not separately metered in relation to any service, including gas, electricity, water, heating, air conditioning and/or VRV, then the Occupier shall pay a proportion of such service and supply charges relating to same on a proportional rate by dividing the unit liability of that Lot by the total unit liability of all Lots serviced jointly or as otherwise determined by the Owners Corporation, acting reasonably.

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5. Use of a Lot

5.1 A Member must not:

5.1.1 create noise or behave in a manner that is likely to interfere with the peaceful enjoyment of the member of another Lot, or any person lawfully using the Common Property;

5.1.2 operate or permit to be operated on a Lot any device or electronic equipment which interferes with any domestic appliance lawfully in use on the Common Property, or another Lot;

5.1.3 use or store on the Lot any flammable chemical, liquid, gas or other flammable material other than chemicals, liquids, gases or other material used or intended to be used for normal and lawful domestic purposes or in the fuel tank of a motor vehicle;

5.1.4 use that part of a Lot designed for use as a car parking space for any other purpose without the prior written consent of the Owners Corporation;

5.1.5 use that part of a Lot designed for use as storage for any other purpose without the prior written consent of the Owners Corporation;

5.1.6 use that part of a Lot designed for use as wine storage for any other purpose without the prior written consent of the Owners Corporation;

5.1.7 use that part of a Lot designed for use as a VIP locker for any other purpose than storage without the prior written consent of the Owners Corporation;

5.1.8 carry out or cause to be carried out on a Lot, road or any other land in the vicinity of a Lot, any dismantling, assembly, repairs or restorations of vehicles unless carried out in an area screened from public view; and

5.1.9 use the Lot for any purpose that may be illegal or injurious to the reputation of the premises comprised of the lots and the Common Property or which may cause a nuisance or hazard to any other member of a Lot.

5.2 Each Member must:

5.2.1 maintain their Lot and must ensure that their Lot is so kept and maintained as not to be offensive in appearance nor a fire or health hazard to other Members; and

5.2.2 comply with all laws relating to the Lot including, without limitation, any requirement, notices and orders of any governmental authority.

6. Notification of Defects

A Member or Occupier of must promptly notify the Owners Corporation or the Manager on becoming aware of any damage to or defect in the Common Property or any personal property vested in the Owners Corporation.

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7. Compensation to Owners Corporation

The Member or Occupier must compensate the Owners Corporation in respect of any damage to the Common Property or personal property vested in the Owners Corporation caused by that Member or Occupier or their respective tenants, licensees or invitees.

8. Pets and animals

8.1 A Member can keep any animal upon a Lot or the Common Property unless the Member has been given notice by the Owners Corporation to remove and keep removed such animal once the Owners Corporation has resolved that the animal is causing a nuisance.

8.2 A Member must ensure that any animal belonging to them does not urinate or defecate on Common Property including internal court yards. In the event any animal belonging to them does urinate or defecate on Common Property, the Member must immediately clean up the urine and/or faeces.

8.3 A Member must ensure that any animal belonging to them must be on a lead at all times when on the Common Property.

9. Cleaning and maintenance of a Lot

9.1 A Member or Occupier must keep its Lot (including any car park, storage cage, wine storage lot or VIP locker utilised by the Member or Occupier) clean and in good repair.

9.2 A Member or Occupier must ensure that the external blinds or screens forming part of the Lot are regularly maintained and kept clean at all times. Failure to clean or maintain the external blinds or screens on a regular basis will cause the Owners Corporation to maintain the blinds or screens at a cost to the Member.

9.3 A Member or Occupier must ensure that all landscaped areas and pools/spas visible from Common Property or which adversely affect the outward appearance or state of repair of the Lot or the use and enjoyment of the Lots or Common Property by other Members or Occupiers are maintained to a standard commensurate with the standard of maintenance of Common Property landscaped areas or as reasonably directed by the Owners Corporation or its Manager. Failure to comply with this rule will cause the Owners Corporation to landscape areas or clean pools/spas visible from Common Property at a cost to the Member.

9.4 Without limiting rule 9.3, a Member or Occupier must ensure that any palm trees situated on their Lot are regularly maintained, including trimming fronds away from the glazing line of the Building.

10. Blinds, Windows and Awnings

10.1 A Member or Occupier may only install window furnishings which are:

10.1.1 blockout roller blinds:

(a) the colour of the blockout backing facing the window is charcoal grey or any other similar colour approved by the Owners Corporation in writing; and

(b) on a ceiling mounted track; or

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10.1.2 sheer roller blinds:

(a) the colour of the sheer backing facing the window is charcoal grey or any other similar colour approved by the Owners Corporation in writing; and

(b) on a ceiling mounted track; or

10.1.3 blockout curtains:

(a) the colour of the blockout backing facing the window is charcoal grey or any other similar colour approved by the Owners Corporation in writing;

(b) full height drop without decorative pelmets or valances; and

(c) on ceiling mounted track; or

10.1.4 sheer curtains:

(a) the colour is white or any other similar colour approved by the Owners Corporation in writing;

(b) full height drop without decorative permits or valances; and

(c) on ceiling mounted track.

10.2 The Member or Occupier is responsible for any costs and expenses associated with the window furnishings, including without limitation the cost of the window furnishings and any installation costs.

10.3 A Member or Occupier must install and maintain internal window furnishings on their Lot, at their own cost, in a manner so as to ensure efficient operation of the heating/cooling system of the Lot.

10.4 A Member or Occupier must not allow any glazed portions of the Lot or the Common Property that surrounds the Lot to be tinted or similar treated.

10.5 A Member or Occupier must not install or allow to be installed any:

10.5.1 external blinds or awnings; or

10.5.2 internal window furnishings visible from the outside of the Lot (other than as allowed under this Rule),

without prior approval from the Owners Corporation in writing.

10.6 Timber plantation style solid shutters, venetian blinds, pleated blinds and similar horizontal appearance to venetians, vertical blinds and highly ornate fabric blinds or any finish are not permitted.

11. Building Works

11.1 A Member must not undertake any Building Works, including the alteration or modification to the external façade of a Lot, the removal or replacement of floor coverings or materials, fixing or having fixed any electrical, audio visual, or communication device or equipment (for example, plasma or LCD televisions or speakers) within or about or relating to their Lot which may effect the acoustic performance of any inter-tenancy wall, floor or ceiling, without:

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11.1.1 the prior written approval of the Owners Corporation; and

11.1.2 providing at least 28 days' notice of the Building Works to each horizontal and vertical neighbour.

11.2 Before commencing any Building Works, a Member must:

11.2.1 submit to the Owners Corporation for approval plans and specifications of any proposed Building Works;

11.2.2 obtain, for any Building Works proposal submitted for approval, certification by a qualified acoustics engineer that the works when completed will meet the Building Code of Australia minimum requirements for sound attenuation;

11.2.3 receive written approval from the Owners Corporation to proceed with those specified Building Works;

11.2.4 obtain and supply copies to the Manager of all requisite permits, approvals and consents under all relevant Laws;

11.2.5 pay costs to the Owners Corporation where a building contractor or consultant may be engaged to advise the Owners Corporation on the proposed Building Works even if consent is not given;

11.2.6 cause to be effected and maintained during the period of the Building Works a contractor's all risk insurance policy;

11.2.7 deliver a copy of the contractor's all risk insurance policy and certificate of currency to the Owners Corporation which notes the interests of the Owners Corporation.

11.3 A Member or Occupier must ensure that any contractor engaged to perform approved Building Work on their Lot complies with the reasonable directions of the Owners Corporation concerning the method of building operations, means of access, use of the Common Property, on-site management, building protection and hours of work. The Member or Occupier must also supervise the carrying out of such Building Works and ensure that the following conditions are met:

11.3.1 the Building Works are undertaken in:

(a) accordance with the requirements of the *Occupational Health and Safety Act* 2004 (Vic) and the *Occupational Health and Safety Regulations* 2017 (Vic), as amended or replaced from time to time; and

(b) a reasonable manner so as to minimise any nuisance, annoyance, disturbance and inconvenience to other Members or Occupiers;

11.3.2 building materials are not stacked or stored in Common Property;

11.3.3 scaffolding is not erected on the Common Property or the exterior of the Building, without the prior written approval of the Owners Corporation;

11.3.4 construction work complies with all Laws of the relevant Authorities;

11.3.5 construction vehicles and construction worker's vehicles are not brought into, or parked on the Common Property except by prior arrangement with the Owners Corporation;

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11.3.6 the exterior and Common Property of the Building is at all times be maintained in a clean and tidy state;

11.3.7 suitable floor, wall and other protections is installed in the Common Property before any building materials are taken through those parts of the Common Property; and

11.3.8 all contractors and tradesmen use only the basement, lifts, lobby and areas designated by the Manager when working in the Lot.

11.4 Where a Member or Occupier commissions Building Work in accordance with Rule 11.3, a representative of the Owners Corporation and the Member or Occupier must inspect the part of the Common Property which will be affected by the Building Works (for example, the area through which building materials will be transported) prior to commencing the Building Work to establish the state of repair of the Common Property and again after the Building Work has been completed to determine if any damage has been caused to the Common Property.

11.5 A Member or Occupier must promptly make good all damage to and dirtying of the Building, the Common Property, the services thereof or any fixtures and fittings and finishes which are caused by any Building Works. If the Member or Occupier fails to do so the Owners Corporation may in its absolute discretion make good the damage and dirtying at the Member's or Occupier's expenses. The Member or Occupier must indemnify and keep indemnified the Owners Corporation for all costs and liabilities incurred by the Owners Corporation in so making good the damage or dirtying caused by the Building Work. The Owners Corporation may at their absolute discretion demand from the Member or Occupier a performance bond in relation to the cleaning or repair of the Common Property to guarantee their performance under this Rule.

11.6 Before commencing any Building Works, a Member or Occupier must ensure that the walls, floor and ceiling of the lifts are adequately protected from damage.

12. Use of appurtenances

12.1 A Member or Occupier must not use the water closet, conveniences or other water apparatus, including water pipes and drains for any other purpose than those which they were constructed and, must not sweep or deposit rubbish, baby wipes or other unsuitable substances therein. The Member indemnifies and keeps indemnified the Owners Corporation on a full indemnity basis for any costs or expenses resulting from any damage or blockage incurred by the Owners Corporation where the damage or blockage was caused by the Member, Occupier or their invitees.

13. Fittings

13.1 A Member or Occupier must:

13.1.1 not modify any VRV, air-conditioning, heating or ventilation system or associated ducting servicing that services the Member's Lot without the prior consent of the Owners Corporation;

13.1.2 not install in a Lot a floor safe, a safe, or any other item exceeding 100kg in weight without a written consent of the Owners Corporation and before submitting to the Owners Corporation a structural engineering report in respect to the proposed installation; and

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13.1.3 ensure that all floor space within a Lot is covered or otherwise treated to an extent sufficient to prevent the transmission from the floor space of the Lot noise likely to disturb the peaceful enjoyment of the Member or Occupier of another Lot.

13.2 A Member or Occupier must not affix or have affixed to any Common Property wall, floor or ceiling any electrical, audio visual or communication device or equipment without the prior written consent of the Owners Corporation including but not limited to plasma or LCD televisions or speakers.

14. Use of Common Property

14.1 A Member or Occupier must not:

14.1.1 do or allow to be done anything on the Common Property which causes a nuisance to or interferes with its lawful use by the Owners Corporation or other Members;

14.1.2 do or permit anything which might cause structural damage to the Common Property;

14.1.3 interfere with the operation of any equipment installed on the Common Property without the prior written consent of the Owners Corporation;

14.1.4 interfere with any personal property vested in the Owners Corporation;

14.1.5 park or leave a vehicle or permit any vehicle to be parked or left upon the Common Property or in any place other than in a parking area specified for such purpose by the Owners Corporation;

14.1.6 paint, finish, drive nails or screws or the like into, or otherwise damage, alter or deface the Building or any other part of the Common Property including the external facade except with the consent in writing of the Owners Corporation;

14.1.7 when on Common Property (or if on any part of a Lot so as to be visible from another Lot or from Common Property), fail to be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to the Member or Occupier of another Lot or to any person lawfully using Common Property;

14.1.8 deposit or throw upon the Common Property any rubbish, dirt, dust or other material likely to interfere with the peaceful enjoyment of other Member or any person lawfully using the Common Property;

14.1.9 disregard any requirements made by the Owners Corporation relating to the use of any access keys and intercom system that may be provided as the means of access upon roadways created within the Common Property;

14.1.10 use or store on the Common Property any flammable chemical, liquid, gas or other flammable material other than chemicals, liquids, gases or other material used or intended to be used for normal and lawful domestic purposes or in the fuel tank of a motor vehicle;

14.1.11 hold or allow to be held any public auction on or near the Common Property;

14.1.12 directly instruct any contractors or workmen employed by the Owners Corporation unless so authorised;

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14.1.13 except with the consent in writing of the Owners Corporation, use for their own purposes as a garden any portion of the Common Property; and

14.1.14 smoke in the stairwells, lifts, foyers, and car park forming part of the Common Property or any other part of the Common Property.

14.2 A Member or Occupier:

14.2.1 must notify the Owners Corporation or its Manager promptly when becoming aware of any damage to or defect in the Common Property or any personal property vested in the Owners Corporation;

14.2.2 must ensure that any guests or invitees of the Member or Occupier are accompanied at all times when on Common Property; and

14.2.3 acknowledges that the use of the Common Property is subject to any written agreements, leases or licences that the Owners Corporation may enter into relating to areas of the Common Property.

15. Lifts

15.1 A Member or Occupier must not and must ensure that the Occupier of a Member's Lot does not:

15.1.1 use the lifts for any other purpose other than to gain pedestrian access to his or her Lot as directed by the Owners Corporation;

15.1.2 hold the lift doors and/or prevent the doors of the lift closing for any period of time so as to interfere with the normal operation of other Occupiers' use of the lifts;

15.1.3 press the alarm or stop button except in an emergency situation;

15.1.4 press any button other than the one representing the floor or level that the lift is required to stop at; and

15.1.5 change any lift programming that gives preferential access to a Lot(s) within the Development.

15.2 Retail Lot occupants are not permitted to utilise the residential lifts to transport any goods.

16. Parking

16.1 Only motor vehicles and motorbikes are permitted to be located in a car space or garage allocated to a Lot and a Lot's allocated car space or garage can only be used for the storage of motor vehicles and motorbikes and not for the storage of any other items.

16.2 Members and Occupiers must park only in the car space allocated to the Lot and not in any other carparking space allocated to another Lot or any carparking spaces allocated for the use of visitors to the Development.

16.3 If a Member or Occupier of a Lot has more vehicles than the car spaces allocated to that Lot, any additional vehicles must be parked outside the Development.

16.4 Members must not close in any carparking space allocated to the Lot to make a private garage-style carparking space without the prior written approval of the Owners Corporation.

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16.5 Visitors parking provided on any Common Property (if any) is reserved for casual visitors to Lots, and is restricted to a maximum 1 hour parking time. Members and Occupiers must ensure that visitors parking is not used by long term visitors for more than 1 hour at a time without the prior consent of the Owners Corporation.

16.6 The Owners Corporation has the power to:

16.6.1 impose a speed limit for driving in Common Property;

16.6.2 impose reasonable restrictions on the use of Common Property, driveways and parking areas;

16.6.3 install speed humps and other traffic control devices on Common Property; and

16.6.4 install signs in relation to parking to control driving on Common Property.

16.7 A Member or Occupier of a Lot must comply at all times with the speed limits, restrictions, parking and traffic signs imposed or installed by the Owners Corporation or the Manager.

16.8 A Member of Occupier of a Lot must not park or leave a vehicle or other similar object on Common Property so as to obstruct any driveway or entrance to a Lot, or in any place other than in parking areas specified by the Owners Corporation or the Manager from time to time and must observe any parking directions given orally or published by the Manager from time to time in respect of parking.

16.9 A Member or Occupier of a Lot must not:

16.9.1 obstruct a driveway or entrance to a Lot or any other road in the Common Property;

16.9.2 allow parking spaces to be purchased by or leased to non residents/non Occupiers; or

16.9.3 allow parking spaces to be used for anything other than for the parking of vehicles, trailers or similar.

16.10 The Owners Corporation or Manager may remove any offending vehicles, trailers or motorbikes which are parked on the Common Property or in any carparking spaces in breach of these Rules.

16.11 A Member or Occupier must ensure its car parking space(s) are free of oil, petrol and like substances. The Owners Corporation may clean any car parking space which is excessively stained by oil, petrol or a like substance at the Member's or Occupier's expense if after providing 14 days notice the Member or Occupier has failed to clean the excessive staining. The Owners Corporation may authorise a person to enter the relevant Lot or Building on its behalf to carrying out cleaning of car spaces in accordance with this Rule.

17. Bicycles

17.1 A Member or Occupier must not permit any bicycle to be stored on Common Property except in areas designated by the Owners Corporation or otherwise with its written consent.

17.2 Members or Occupiers must indemnify and keep indemnified the Owners Corporation on a full indemnity basis for the costs of repairing any damage to the Common Property arising out of bringing their bicycles on to any Lot (for example, corridors, lifts).

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18. Bicycle Store

18.1 When using the Bicycle Store, a Member and an Occupier:

18.1.1 must ensure that unless otherwise stated, children below the age of 15 years are not in or around the Bicycle Store unless accompanied by an adult Member or Occupier exercising effective control over them;

18.1.2 must ensure that no guests are allowed in the Bicycle Store, subject to prior approval of the Manager and subject to any conditions on entry determined by the Manager;

18.1.3 is responsible (at its cost) for any damage, cleaning or reinstatement costs incurred by the Owners Corporation or Manager as a result of its (or its guests) use of the Bicycle Store;

18.1.4 must not smoke or make any undue noise in the Bicycle Store;

18.1.5 must ensure that the Bicycle Store is left in the same condition in which it was found;

18.1.6 use the Bicycle Store at their own risk; and

18.1.7 must not use the Bicycle Store for any purpose other than storing their bicycle.

18.2 The Members and Occupiers agree that:

18.2.1 the Manager may close off one or more areas of the Bicycle Store at its reasonable discretion, including to allow for the safe or desirable use of the Bicycle Store, for the purposes of maintenance, works and the like;

18.2.2 the Owners Corporation may make additional or separate rules relating to the use of the Bicycle Store provided they are not inconsistent with these Rules. If breached, rules relating to the Bicycle Store will constitute a breach of these Rules.

19. Moving object on or through Common Property

19.1 The Owners Corporation may resolve that furniture or large objects are to be transported through or on the Common Property (whether in the Building or not) in a specified manner.

19.2 If the Owners Corporation has specified, by resolution, the manner in which furniture or large objects are to be transported, a Member or Occupier must not transport any furniture or large object through or on the Common Property except in accordance with that resolution.

19.3 When using the lifts to move goods or furniture a Member or Occupier must ensure that the walls, floor and ceiling of the lifts are adequately protected from damage.

19.4 If the Member or Occupier requires the use of a crane to move goods or furniture, the Member or Occupier must first notify (by giving at least 7 days' written notice) and obtain the consent of the Owners Corporation. The Member or Occupier must cooperate with and comply with any requirements of the Owners Corporation (acting reasonably) in order to facilitate the use of the crane and minimise disruption to other Members or Occupiers.

19.5 A Member or Occupier must not move any article of furniture or any other article likely to cause damage or obstruction through the Common Property without first notifying the

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Owners Corporation (by giving at least 7 days' written notice) to enable the lifts to be covered and ensure only one Member or Occupier is moving in at a time.

19.6 Prior to moving any article of furniture or any other article likely to cause damage or destruction, the Manager or a representative of the Owners Corporation and the Member or Occupier will inspect the Common Property through which such article is to be moved to establish its state of repair. The Member or Occupier will be liable for any damage caused to the Common Property arising from the movement of the article.

20. Signage and windows

20.1 A Member is not permitted to display signs, advertising or notices on any Lot, including for the purpose of offering for sale or lease or letting any Lot or Common Property, without the consent of the Owners Corporation. Any sign that is erected must be of a standard that shall not detract from the overall appearance of the Development.

20.2 A Member is not permitted to display any advertising material, logos or sign writing to any external window, glazing or external solid face of a lot without the written consent of the Owners Corporation.

20.3 A Member must not allow any glazed portions of the Lot or Common Property to be tinted or otherwise treated with the intention of changing the visual characteristic of the Development.

21. Mail

21.1 Members and Occupiers must keep their mail box regularly cleared to avoid overflowing of mail, leaflets, circulars, pamphlets, newspapers, advertising material or other objects whatsoever at any one time, whether solicited or not, and must arrange for all such required clearance by other persons should a Member or Occupier be absent for any reason for any period of time to avoid such overflowing. This requirement may be waived upon request made to the Owners Corporation in writing not less than seven days prior to the date or dates for which such waiver is required.

21.2 Where large parcels do not fit into a mail box, Members and Occupiers consent to the Manager holding such parcels on their behalf, until collected by the Member or Occupier.

22. Garbage disposal

A Member of a Lot must:

22.1 except where the Owners Corporation provides some other means of disposal of garbage, maintain within their Lot, or on such part of the Common Property as may be authorised by the Owners Corporation, a receptacle for garbage and to keep such receptacle in a clean and tidy condition and not visible to the public except on days designated for rubbish collection;

22.2 comply with all requirements of Governmental Agencies relating to the disposal of garbage;

22.3 ensure that rubbish is disposed of in accordance with the disposal facilities of the Building, and the rules/directions of the Owners Corporation from time to time (for example recyclables are placed in the recycle chute);

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22.4 consult with and seek approval from the Owners Corporation in respect of the disposal of large articles to ensure that they are disposed of appropriately;

22.5 ensure that rubbish does not accumulate on their Lot, and that the health, hygiene and comfort of other Members is not adversely affected by their disposal of garbage;

22.6 ensure that rubbish is transported from their Lot to the designated garbage room on the Common Property in an appropriate watertight receptacle; and

22.7 pay or reimburse the Owners Corporation any costs incurred by the Owners Corporation as a result of the Member or Occupier's misuse of the garbage disposal facilities, or other breach of this rule 22.

23. Restrictions – trade or business

23.1 The Member or Occupier must not use or permit others from using that Lot or any part of the Common Property for any trade, business or other retail use without the express written consent of the Owners Corporation unless that Lot is a Retail Lot.

23.2 If authorised to do so by the Owners Corporation, the Member or Occupier of any Lot may carry on a trade, business or other retail use from the relevant Lot, provided:

23.2.1 the planning scheme of the relevant Authority governing the use of that Lot permits the trade, business or other commercial use to be carried on from the Lot; and

23.2.2 any requirements in respect of the trade, business or other commercial use stipulated by any relevant Authority from time to time are complied with; and

23.2.3 the trade, business or other commercial use can be carried on and is carried on without causing undue nuisance or, creating a greater security risk to the Members and Occupiers of other Lots.

24. Commercial area

24.1 Without limiting any other rule, the proprietor or occupier of a Retail Lot used for Retail Purposes must:

24.1.1 ensure that rubbish is disposed of in the bins provided in the Building by the Owners Corporation at the end of each day of business, in a discrete manner via the basement, or in any other location or manner advised by the Owners Corporation as may be necessary or desirable;

24.1.2 avoid unnecessary noise when filling bins;

24.1.3 ensure lids on bins are securely closed after taking rubbish to the bins;

24.1.4 ensure all cardboard and paper waste is cut up or folded and neatly contained in bins;

24.1.5 otherwise comply with rule 22;

24.1.6 comply with all health, noise and other regulations in carrying on the business from the Lot;

24.1.7 any mechanical fluing must be charcoal filtered or equivalent;

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24.1.8 small utility deliveries are to be between 5:30am – 6:00pm Monday to Friday and 6:30am – 6:00pm Saturdays & Sundays;

24.1.9 large deliveries are to be between 8:00am – 6:00pm Monday to Sunday;

24.1.10 not permit electronic gaming machines;

24.1.11 make all reasonable attempts to address/treat any odours that emanate from the Lot; and

24.1.12 ensure that all wall, floor and ceiling linings and treatments are acoustically treated where required by the Owners Corporation or Manager.

24.2 Nothing herein will prevent or prohibit any owner or Occupier of a Retail Lot from carrying on its reasonable business operations within a Retail Lot and to apply for, and obtain, any planning permit, liquor licence, or any other legislative consent or permit which the owner of any Retail Lot may apply for, provided that all times the proprietor or occupier of any such Retail Lot:

24.2.1 operates lawfully;

24.2.2 obtains each and every permit, liquor licence or other consent required; and

24.2.3 operates within the terms of any such liquor licence, permit or consent.

24.3 The owner or Occupier of any Retail Lot will be responsible for all costs associated with the cleaning, repairs and maintenance of the areas licensed to them. The licensees will be responsible for ensuring that these areas are kept in a pristine condition at all times.

24.4 Any owner or Occupier of a Retail Lot will be entitled to reasonable access at all times for invitees and customers through those parts of the Common Property necessary for usual business practice.

24.5 The Owners Corporation(s) will not hinder access to the Retail Lots via the main front entry except when they are required to undertake routine maintenance of these areas.

24.6 Rule 20 does not apply to a Lot used for Retail Purposes.

25. Behaviour of Invitees

25.1 The duties and obligations imposed by these special rules upon a Member of a Lot must be observed not only by the Member but also by the guest, servants, employees, agents, children, invitees and licensees of the Member or the occupier of their Lot (Invitees).

25.2 A Member must take all reasonable steps to ensure that their Invitees do not behave in a manner likely to interfere with the peaceful enjoyment of any Member or occupier of another Lot or of any person lawfully using the Common Property or which may result in damage to any Common Property.

25.3 A Member is liable to compensate the Owners Corporation for all damage to the Common Property or personal property vested in it caused by a breach of Rule 25.1 and 25.2.

25.4 Where the Owners Corporation expends money to make good damage caused by a breach of the Act, or of these rules by any Member or Invitees, the Owners Corporation can recover the amount so expended as a debt in action in any Court of competent jurisdiction from the Member of the Lot at the time when the breach occurred.

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25.5 Rules 25.1 to 25.4 are intended to operate in addition to the requirements of the Act.

26. Owners Corporation fees

26.1 The Member must pay the fees set by the Owners Corporation to cover general administration and maintenance, insurance and other recurrent obligations quarterly in advance according to their lot liability.

26.2 The amount of the annual Owners Corporation fees which is payable by each Member will be established at each annual general meeting of the Owners Corporation.

26.3 Any special fees or charges levied by the Owners Corporation to cover extraordinary items of expenditure must be paid on the due date set by the Owners Corporation upon the levying of each special fee or charge.

27. Consent of Owners Corporation

A consent given by the Owners Corporation under these Rules will, if practicable, be revocable and may be given subject to conditions including, without limitation, a condition evidenced by a minute of a resolution that the member for the time being of the lot to which the consent or approval relates is responsible for compliance with the terms of the consent.

28. Enforcement of Domestic Building Contract

The Member agrees that for the purpose of its obligations under the Act:

28.1 the Members acknowledge and agree that reasonable steps to enforce any domestic building contract (within the meaning of the Domestic Building Contracts Act 1995) include:

28.1.1 the making of a demand in writing to the builder under any domestic building contract to comply with the terms of the domestic building contract and/or rectify any breach of the domestic building contract;

28.1.2 the exercise of any right under the domestic building contract to withhold any payment to the builder or have recourse to any security provided by the builder under the domestic building contract;

28.1.3 the settlement of any dispute under any domestic building contract between the original owner and the builder on terms acceptable to the original owner; and

28.1.4 any other enforcement action the Initial Owner considers appropriate in the circumstances; and

28.2 the Members agree to pay or reimburse the Initial Owner its portion of any enforcement relative to its lot liability.

29. Complaints and disputes

29.1 Any Dispute must be dealt with at first instance in accordance with this Rule 29.

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29.2 A party to a Dispute must not initiate legal proceedings or complain to the Director in respect of the Dispute unless it has first complied with the dispute resolution procedure set out in this Rule 29.

29.3 The party making the complaint must in the first instance notify the Manager, or where the Manager is the subject of or involved in the Dispute, the Committee, of the Dispute in writing. The Manager must refer any complaint it receives to the Committee. Upon receipt of a complaint referred by the Manager or received directly from a Member or Occupier, the Committee will then decide (at its absolute discretion having regard to the nature and urgency of the Dispute) whether to:

29.3.1 arrange a meeting between the parties to resolve the Dispute; or

29.3.2 waive the requirement for the parties to meet.

29.4 Notwithstanding the course of action elected by the Committee under Rule 29.3, the parties must consult with one another in good faith and use their best endeavours to resolve the Dispute to the mutual satisfaction of both parties without resort to legal proceedings or other avenues of dispute resolution.

29.5 Without limiting the generality of this Rule 29, where no formal complaint is made by a Member or Occupier and the Owners Corporation otherwise becomes aware of a Dispute, the Owners Corporation (through the Manager or the Committee or otherwise) may decide (at its absolute discretion having regard to the nature and urgency of the Dispute) whether:

29.5.1 arrange a meeting between the parties to resolve the Dispute; or

29.5.2 waive the requirement for the parties to meet.

29.6 If the parties are unable to resolve the Dispute within 30 days (or such other period as the Committee thinks fit) of the meeting arranged pursuant to Rule 29.3.1 or 29.5.2, the parties may revert to the dispute resolution mechanisms set out in the Act or other Law.

30. Cost of non-compliance

The Member or Occupier must indemnify and keep indemnified the Owners Corporation on a full indemnity basis against any action, demand, cost, liability or loss incurred by the Owners Corporation as a consequence of any default by the Member or Occupier in the performance or observance of any term, covenant or condition contained in these Rules, the Act or Regulations including, without limitation administrative costs, legal costs, the cost of any works performed to rectify any non compliance and the cost incurred by the Owners Corporation in recovering overdue charges from the Member or Occupier.

31. Charges imposed on Members and Occupiers

31.1 Any payments to the Owners Corporation imposed on a Member or Occupier under the Rules, Act or Regulations will (until paid) be a charge on the Lot.

31.2 The Member or Occupier must accept a certificate signed by the Manager or valid tax invoice issued by the Owners Corporation as prima facie proof of the costs and expenses incurred by the Owners Corporation relating to any charge payable by a Member or Occupier pursuant to these Rules and must not make any claim or dispute the amount specified therein.

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31.3 The Member or Occupier must pay interest at the rate prescribed under the Penalty Interest Rates Act 1983 (Vic) on outstanding fees and charges set under the Rules, Act or Regulations until they are paid.

31.4 Any payments made for the purposes of these Rules, the Act or Regulations will be appropriated first in payment of any interest and any unpaid costs and expenses of the Owners Corporation and then be applied in repayment of the principal sum.

32. Rights of entry

32.1 Except in the case of an emergency (in which case no notice shall be required) upon seven (7) days' notice in writing, the Owners Corporation or the committee of the Owners Corporation and its servants, agents and contractors shall be permitted to inspect the interior of any Lot and test the electrical, gas or water installation or equipment therein and to trace and repair any leakage or defect in the said installations or equipment (at the expense of the Member or Occupier in cases where such leakage or defect is due to any act or default of the said Member or Occupier of his or her invitees). The committee of the Owners Corporation, in exercising this power shall ensure that its servants, agents and employees cause as little inconvenience to the Member or Occupier as is reasonable in the circumstances.

32.2 A Member or Occupier in occupation of a Lot must allow any person authorised by and on behalf of the Owners Corporation;

32.2.1 to enter the Lot or a Building in order to have access to the exterior of the Building, and

32.2.2 to enter the Lot from the exterior of the Building via a balcony, terrace, window or other part of the Lot and to use that part of the Lot, to facilitate the repair and maintenance of and other works on Common Property including the structure of the Building and the exterior face of the Building and any service that is for the benefit of more than one Lot or the Common Property being areas of Common Property that would otherwise be difficult to access.

32.3 The Owners Corporation must give at least 7 calendar days' notice in writing to the Member or Occupier of a Lot or other Occupier of a Lot of an intention to enter:

32.3.1 unless the Member or Occupier agrees to a lesser time and where the Occupier is a tenant under a residential tenancy agreement the Occupier must be given the same notice as that required to be given by a landlord under Section 85 of the Residential Tenancies Act 1997;

32.3.2 entry to and use of the relevant part of the Lot must be between the hours of 8.00 am and 6.00pm on any day Monday to Friday; or

32.3.3 unless there is an emergency when no notice and no time restrictions apply, and then in such a manner as to cause as little interruption or inconvenience to the Occupier as is possible in the circumstances.

32.4 Members and Occupiers acknowledge and agree the access described by this rule 32 is expressly contemplated under section 12(2) of the Subdivision Act 1988 (Vic) and the Member or Occupier must not, either directly or indirectly frustrate, limit or impede the access contemplated by this rule.

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33. Security

The Owners Corporation may make rules and regulations to ensure the security of the Development from intruders and otherwise with regard to the use and means of access to any roadways created upon the Common Property.

34. Contact

34.1 Each Member must advise the Manager of any out of normal business hours contact address, email and telephone number for their Lot and must promptly advise the Manager of any change in their address, email or telephone number.

34.2 Each Member must provide the Manager with an Australian address for service of notices. If a Member fails to provide an Australian address for service of notices, the Lot address will be deemed to be the proper address for service.

35. Restricted use of Common Property for fire control

35.1 The Owners Corporation may take measures to ensure the security, and to preserve the safety of the Common Property and the Lots affected by the Owners Corporation from fire or other hazards and without limitation may:

35.1.1 close off any part of the Common Property not required for access to a Lot on either a temporary or permanent basis or otherwise restrict the access to or use by Members or Occupiers of any part of the Common Property;

35.1.2 permit, to the exclusion of Members and Occupiers, any designated part of Common Property to be used by any security person as a means of monitoring security and general safety of the Lots, either solely or in conjunction with other Lots;

35.1.3 restrict by means of key or other security device the access of the Members or Occupiers;

35.1.4 restrict by means of key or other security device the access of the Members or Occupiers of one level of the Lots to any other level of the Lots; and

35.1.5 cancel any security card issued where a Member is in arrears in payment of Owners Corporation levies in excess of two quarters.

35.2 A Member and Occupier of a Lot must abide by any actions taken by the Owners Corporation in accordance with these Rules and must meet all costs incurred by the Owners Corporation in relation to these Rules (or a breach of these Rules by the relevant Member or Occupier).

36. Fire

36.1 A Member or Occupier of a Lot must ensure compliance with all statutory and other requirements, including those of the Owners Corporation, relating to fire, fire safety and the storage of bioethanol in respect of the Lot.

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36.2 A Member or Occupier of a Lot must not use, interfere or tamper with any fire safety equipment except in the case of an emergency and must not obstruct any fire stairs or fire escape.

36.3 In the event that the Melbourne Fire Brigade is called out to the Building as a result of the activation of a false fire alarm, whether the activation of the fire alarm was caused by a willful, negligent, foreseeable, or unforeseeable action or inaction, and the cause of the alarm is found to originate from a Lot, the Member or Occupier of the Lot will be jointly and severally liable to pay any and all associated costs and charges connected to a false fire alarm.

36.4 A Member hereby agrees to indemnify the Owners Corporation for all costs and charges incurred by the Owners Corporation in connection to a false fire alarm call out and the Member may elect to pursue recovery from the Occupier. This rule is enforceable regardless of whether:

36.4.1 the Member or Occupier was directly, indirectly and /or negligently responsible for the cause of the fire alarm; and/or

36.4.2 the Member authorised either impliedly or expressly the actions of the Occupier which caused the false fire alarm.

36.5 A Member or Occupier of a Lot must ensure that all fire doors, exhaust systems and smoke detectors installed in a Lot are properly maintained and tested monthly and that back-up batteries relating to the smoke detectors are replaced whenever necessary.

36.6 Each Member or Occupier of a Lot must undertake a fire and safety induction for the Development, prior to their occupation of the Lot (Induction). Occupiers must give the Manager at least 14 days' notice for the Manager to carry out the Induction. The Manager may charge any Occupier of a Lot a fee of $1,000 plus GST for any Induction required by an Occupier with less than 14 days' notice. A Member or Occupier of a Lot may be denied access to the Building if an Induction is not undertaken.

37. Insurance

A Member or Occupier of a Lot must not without the prior written consent of the Owners Corporation do or permit anything to be done which may invalidate, suspend or increase the premium for any insurance policy effected by the Owners Corporation.

38. Security and Security Keys

38.1 A Member or Occupier of a Lot or persons thereon from time to time must not do or permit anything, which may prejudice the security or safety of the Common Property, or any person in or about the Development.

38.2 The Owners Corporation may charge a reasonable fee for any additional security key required by a Member or Occupier.

38.3 A Member must exercise a high degree of caution and responsibility in making a security key available for use by any Occupier and must use all reasonable endeavours including without limitation an appropriate stipulation in any lease or licence of a Lot to the Occupier to ensure the return of the security key to the Member or the Owners Corporation.

38.4 A Member or Occupier of a Lot in possession of a security key must not without written consent from the Owners Corporation duplicate the security key or permit it to be duplicated

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and must take all reasonable precautions to ensure that the security key is not lost or handed to any person other than any other Member or Occupier and is not disposed of otherwise than by returning it to the Member or the Owners Corporation.

38.5 A Member or Occupier of a Lot must promptly notify the Owners Corporation if a security key issued to them is lost or destroyed.

39. Rules Subject to Rights of the Developer

39.1 These Rules do not apply to and, are not enforceable against the Developer or its mortgagee or chargee or the Vendor or its mortgagee or chargee, for so long as any of the following apply:

39.1.1 the Developer or the Vendor and/or either of their equity partners (if any) or the Vendor is a Member or Occupier;

39.1.2 any mortgagee or chargee of the Developer or the Vendor has an interest in any Lot; or

39.1.3 the Developer or the Vendor and/or either of their equity partners (if any) or the Vendor is engaged in any action required to complete the Development,

where to do so would prevent, hinder, obstruct or in any way interfere with any works of any nature or description that the Developer their mortgagee or chargee or the Vendor their mortgagee or chargee may be engaged in or which may need to be carried out in order to complete construction of the Buildings and facilities comprised in the Plan or the Development.

39.2 Subject to Rule 39.4, the Developer and its equity partners (if any), its mortgagees and chargees and the Vendor and its equity partners (if any), its mortgagees and chargees must be and are by this Rule, authorised by each and every member of each and every Owners Corporation in the Plan and by each and every Owners Corporation in the Plan to:

39.2.1 erect such barriers, fences, hoardings, signs as it deems necessary to facilitate any works to be carried out in relation to the Development; and

39.2.2 take exclusive and sole possession of any parts of the Common Property as it may need to have exclusive possession of in order to carry out any works or activities in relation to the Development; and

39.2.3 exclude all and any Members or Occupiers from any parts of the Common Property as may be necessary in order to carry out any works in relation to the Development; and

39.2.4 erect for sale promotional advertising or other signs as the Developer may require on any part of the Common Property; and

39.2.5 grant rights to use or access through or over the Common Property to third parties on such terms and conditions as the Developer or its mortgagee or chargee thinks fit; and

39.2.6 limit or restrict access to certain areas of the Development including areas of the Common Property in order to expeditiously complete the Development; and

39.2.7 use whatever rights of way and/or points of egress and ingress to the Development as necessary to carry out any works and to block for whatever periods are

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necessary any rights of way or points of egress and ingress to the Development in order to carry out any works,

provided that the Developer or the Vendor and any third party authorised by either of them under this Rule or any party to which it assigns all or part of the benefits of its rights under this Rule, uses its best endeavours to minimise disturbance and inconvenience to others occupying or using the Common Property.

39.3 The Owners Corporation must, within 7 days of being requested by the Developer or its mortgagee or chargee or the Vendor or its mortgagee or chargee, sign whatever consents, authorities, permits or other such documents as may be required to enable the Developer or its mortgagee or chargee to complete the Development. A Member must not vote in favour of any motion for a resolution proposed for consideration by a general meeting of the Owners Corporation which would revoke this Rule 39 or contravene any right or reprieve afforded to the Developer under this Rule 39.

39.4 In case of any inconsistency between the Rules and the rights of the Developer and Vendor under any Development Agreement, the Developer's rights and the Vendor's rights under the Development Agreement will prevail and the Members, Occupiers and Owners Corporation must not seek to enforce the Rules against the Developer or Vendor where to do so would conflict with the Developer's Rights or the Vendor's rights under any such Development Agreement.

39.5 A Member or Occupier must comply with the terms of any Development Agreement between the Developer and the Owners Corporation that is disclosed to the Member or Occupier.

39.6 Every Member hereby consents to and agrees to the Developer or the Vendor undertaking any or all of the rights of the Developer or the Vendor, as the context permits, set out in this Rule without any prevention or hindrance of such Member.

39.7 In exercising its rights under this Rule, the Developer and Vendor must act honestly and in good faith and with due care and diligence in the interests of the Owners Corporation and must have regard to the amenity of Members. The Developer and Vendor must only exercise their rights to the extent necessary for the genuine Development. The Developer and the Vendor must not exercise its rights under this Rule to arbitrarily exclude the Owners Corporation or the participation of Members.

40. Warranties & Novation or assignment of contracts

40.1 The Developer may at its discretion enter into time limited contracts to supply, service, clean, maintain and/or inspect building essentials services, other building services or functions, common areas of the Building, landscaping, or any other Common Property, and any other service or other contract deemed appropriate and necessary for the proper care and function of the Common Property.

40.2 The Developer must and the Owners Corporation(s) must accept, assignment or novation of the contracts referred to in Rule 40.1 at the first meeting of the Owners Corporation.

40.3 The Owners Corporation must maintain any contracts assigned or novated to it under this Rule to the end of its current term except where it is deemed that the contract is unreasonable or unnecessary or is replaced by a contract for similar services by the same service provider.

40.4 The Owners Corporation must comply with the terms of and properly manage any time or condition limited warranties for items, components or parts of the Common Property provided by subcontractors or suppliers so as to ensure they remain valid for the benefit of the Owners Corporation.

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40.5 The Owners Corporation must ensure that it provides for or enters into contracts to provide for care, cleaning, maintenance and inspection of any item or component of Common Property to enable it to perform its obligations under the Law and these Rules upon the lapse of any subcontractor or supplier backed warranty or upon the end of any contract assigned or novated to it by the Developer.

40.6 All Members must contribute its proportion of the cost incurred by the Owners Corporation in complying with this Rule 40 relative to the lot liability on the Plan.

41. Signage & Other Licences

41.1 The Owners Corporation may grant the Developer:

41.1.1 a lease and licence including but not limited to for the provision of information technology infrastructure relating to broadband services and/or signage rights to the Development;

41.1.2 a licence to host festivals, parties or other celebratory or promotional events in the main lobby area, or other areas of the Common Property;

41.1.3 a licence to place and maintain sale signs, insignias, logos and other fixtures and fittings for marketing purposes on the Common Property; or

41.1.4 allow the Developer's representatives and their invitees to conduct selling activities from a Lot, if not sold prior to completion, which will serve as a display unit,

provided the Developer uses its best endeavours to minimise disturbance and inconvenience to others Members' or Occupiers' use of the Common Property and at all times acts honestly and in good faith and with due care and diligence in the interests of the Owners Corporation.

41.2 A Member or Occupier of the Lot must not hinder or impede the Developer, its successors and assigns, from exercising its rights under any agreement entered into under this Rule.

41.3 The Owners Corporation(s) must procure all the necessary consents and resolutions to give effect to the matters set out in this Rule 41.

41.4 A Member must not vote in favour of any motion for a resolution proposed for consideration by a general meeting of the Owners Corporation(s) which would impede the powers of the Owners Corporation(s) under this Rule 41.

42. Electric Car Charging Station

A Member or Occupier of a Lot using an electric car charging station on Common Property must abide by the following rules:

42.1.1 the first car at the charging station has priority;

42.1.2 cars must only be parked in the bay while charging and for a time period not exceeding 12 hours;

42.1.3 once charging is complete, the car must be moved out of the bay as soon as possible;

42.1.4 Rules 42.1.2 and 42.1.3 do not apply to an electric car charging station located on a column which forms part of the Common Property and which is situated between

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two or more Lots and intended for the private use of the Member or Occupier of those Lots. For the avoidance of doubt all other clauses of this Rule 42 continue to apply.

42.1.5 charging equipment must be left in the same manner it was found;

42.1.6 a Member or Occupier is not able to use a charging station when the charging station is being maintained, repaired, replaced or in the instance of unexpected circumstances or emergency events;

42.1.7 a Member or Occupier must not park in another Member or Occupier's car park to charge their vehicle;

42.1.8 Members and Occupiers indemnify and release the Owners Corporation from and against any loss or cost due to the Member or Occupier's failure to observe rule 42.1.6.

42.1.9 a Member or Occupier must ensure that any vehicle is removed from a charging station when requested by the Owners Corporation for any scheduled, unexpected or emergency maintenance, repair or replacement of a charging station.

42.1.10 the Owners Corporation is not liable for, and the Member and Occupier of a Lot releases and indemnifies the Owners Corporation from and against the failure of the charging station due to maintenance, repair or replacement in the ordinary course or due to unexpected or emergency circumstances events;

42.1.11 each Member and Occupier must reimburse the Owners Corporation as and when required by it for all loss, damage or cost incurred by the Owners Corporation because of any damage to a charging station caused by the Member, the Occupier, the guest of a Member or Occupier and any third party; to the extent that the loss, damage or cost is not recoverable from the Owners Corporation's insurer; and

42.1.12 the Owners Corporation may from time to time provide rules requiring users of car charging stations (located both on Common Property and in a Lot) to pay for the use of the car charging stations, which may include the costs of supplying the electricity to the Common Property or Lot.

43. Urban Art

A Member or Occupier must not damage, destroy, alter, modify or otherwise tamper with any urban art installations in the Development.

44. Dog and Car Wash Facilities

44.1 When using the Dog and Car Wash Facilities a Member and an Occupier:

44.1.1 must ensure that unless otherwise stated, children below the age of 15 years are not in or around the Dog and Car Wash Facilities unless accompanied by an adult Member or Occupier exercising effective control over them;

44.1.2 must ensure that no guests are allowed in the Dog and Car Wash Facilities, subject to prior approval of the Manager and subject to any conditions on entry determined by the Manager;

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44.1.3 is responsible (at its cost) for any damage, cleaning or reinstatement costs incurred by the Owners Corporation or Manager as a result of its use of the Dog and Car Wash Facilities;

44.1.4 must not smoke or make any undue noise in the Dog and Car Wash Facilities; and

44.1.5 must ensure that the Dog and Car Wash Facilities are to be left in the same condition in which it was found.

44.2 Members and Occupiers acknowledge that some areas of the Dog and Car Wash Facilities may need to be booked with the Manager ahead of use. The Manager may refuse the booking if the facility is not available.

44.3 Members and Occupiers acknowledge and agree that they may be required to pay a general usage charge for some areas of the Dog and Car Wash Facilities and the cost of consumables used while using these areas, as determined by the Owners Corporation.

44.4 The Owners Corporation may make additional or separate rules relating to the use of all or part of the Dog and Car Wash Facilities provided they are not inconsistent with these Rules. If breached, rules relating to the Dog and Car Wash Facilities will constitute a breach of these Rules.

44.5 With respect to the car wash specifically, Members or Occupiers using the car wash:

44.5.1 do so at their own risk;

44.5.2 must not use the car wash facilities for any purpose other than washing their car or motorbike; and

44.5.3 must leave the facilities in a clean and tidy state after the car wash is complete.

44.6 With respect to the dog wash specifically:

44.6.1 dogs must be on a leash or in a carrier when bathing;

44.6.2 the wash tubs must be washed thoroughly after each use;

44.6.3 dogs are to be towel dried prior to using the blow dryer;

44.6.4 a Member or Occupier must notify the Manager immediately if there is an issue with the dog wash requiring attention;

44.6.5 restraints provided in the tubs must be utilized to prevent dogs from jumping out;

44.6.6 Members and Occupiers must not leave a dog unattended at any given time;

44.6.7 Members and Occupiers must use leave the dog wash facility in a clean and tidy state after use.

44.7 The Members and Occupiers agree that the Manager may close off one or more areas of the Dog and Car Wash Facilities at its reasonable discretion, including to allow for the safe or desirable use of the Dog and Car Wash Facilities, for the purposes of maintenance, works and the like.

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45. Valet Service

45.1 If the Owner's Corporation provides a valet service for residential Lots with a car space, each Member or Occupier of a residential Lot that owns a car space must pay the Owners Corporation as and when required by the Owners Corporation a fee per car parking space equal to the total of the following costs divided by the number of car spaces allocated to residential Lots:

45.1.1 all operational costs required to provide the valet service, including insurance and wages; and

45.1.2 a management fee as determined by the Owners Corporation; and

45.1.3 any Goods and Services Tax on the above amounts.

45.2 Each Member of a residential Lot with a car space must pay the above amounts even if they do not use the valet service.

45.3 The Members and Occupiers acknowledge and agree that the Owners Corporation may calculate the costs, contributions and liabilities detailed above and require payment in any way it considers reasonable, and a Member or Occupier must not challenge such a calculation.

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Attachment 3

Owners Corporation Rules

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Department of Environment, Land, Water & Planning

Electronic Instrument Statement

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OWNERS CORPORATION NOTIFICATION OF MAKING RULES SECTION 27E(1) SUBDIVISION ACT 1988 (WHEN LODGED WITH PLAN)

Applicant(s):
BARANA (ST KILDA) INVESTMENTS PTY LTD (ACN/ARBN: 160116076)
168 WILLIAMS ROAD PRAHRAN VIC 3181

Plan Number:
PS826420W

Owners Corporation Number:
5

Proposed rules of the Owners Corporation:
Appended

Execution:
1. The Certifier has taken reasonable steps to verify the identity of the applicant or his, her or its administrator or attorney.
2. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
3. The Certifier has retained the evidence supporting this Registry Instrument or Document.
4. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Executed on behalf of BARANA (ST KILDA) INVESTMENTS PTY LTD

Secure Electronic Registries Victoria (SERV), Level 13, 697 Collins Street Docklands 3008
Locked bag 20005, Melbourne 3001, DX 210189
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Department of Environment, Land, Water & Planning

Electronic Instrument Statement

Signer Name CATHERINE MARINO
Signer Organisation MADDOCKS
Signer Role AUSTRALIAN LEGAL PRACTITIONER
Execution Date 16 March 2022

File Notes:
NIL

This is a representation of the digitally signed Electronic Instrument or Document certified by Land Use Victoria.

Statement End.

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Date / /

Owners Corporation Rules

Saint Moritz, 14-16 The Esplanade, St Kilda, Victoria

Owners Corporation No. 5 on Plan of Subdivision PS826420W (Recreational Facilities)

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Owners Corporation Rules

Date / /

Notes

The Act and Regulations detail the powers of the Owners Corporation(s), the general duties of members, meetings and administration of the Owners Corporation(s), insurance and other miscellaneous matters. These Rules must be read in conjunction with the Act, Regulations and the model rules prescribed under the Regulations.

1. Definitions

In these rules:

Act means the *Owners Corporations Act* 2006 (Vic) as amended from time to time.

Authority means any government or any public, statutory, governmental, semi-governmental, local government, municipal or judicial body, entity or authority and includes a Minister of the Crown (in any right), and any person, body, entity or authority exercising a power pursuant to an Act of Parliament.

Building means all and any buildings, structures or improvements comprised in the Development.

Common Property means the land, the Building and any other improvements erected on 14-16 The Esplanade, St Kilda and designated as common property no.5 on the Plan.

Developer means 14-16 The Esplanade by Gurner Pty Ltd ACN 626 307 131 or a Related Entity responsible for the development of the Development and creation of Lots and includes the Developer's successors and assigns and where it is consistent with the context includes the Developer's employees, agents, builders, contractors, subcontractors and invitees.

Development means all the land and improvements comprised in the Plan and known as Saint Moritz, 14-16 The Esplanade, St Kilda.

Development Agreement means any agreement between the Developer and Owners Corporation or in relation to the Development, including any ancillary agreements between the Developer and the Owners Corporation such as development leases or other licences.

Director has the same meaning as it has in the *Fair Trading Act* 1999 (Vic).

Dispute means a dispute or other matter arising under the Act, Regulations or Rules including a dispute or matter relating to:

(a) the operation of the Owners Corporation;

(b) an alleged breach by a Member or Occupier of an obligation imposed on that person under the Act, Regulations or the Rules; or

(c) the exercise of a function by a Manager in respect of the Owners Corporation.

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Domestic Building Contract means any domestic building contract within the meaning of the *Domestic Building Contracts Act* 1995 (Vic) entered into by the Initial Owner.

Governmental Agency means any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.

Initial Owner has the same meaning as it has under the Act and where the context requires includes its successors and assigns.

Land means the whole of the land described in the Plan.

Lot means a lot shown on the Plan.

Maintenance Fund means a fund or part of a fund used for implementation of the Maintenance Plan (if any).

Maintenance Plan means a maintenance plan (if any) established and approved by the Owners Corporation as contemplated by the Act.

Manager means the person or entity appointed by the Owners Corporation as Manager of the Owners Corporation(s) or, where the context permits, the building manager, concierge or valet appointed by the Owners Corporation to assist it with the functions of the Owners Corporation contemplated by the Rules and where relevant includes the Manager's successors and assigns and where the context requires includes the Manager's officers, employees, agents, contractors, subcontractors and invitees.

Member means a member of the Owners Corporation by reason of being the owner of a Lot for the time being and where the context requires includes an Occupier or their invitees.

Occupier means the person or entity authorised by the Member to occupy the designated Lot as tenant or licensee and where the context requires includes the Occupier's invitees.

Owners Corporation means the Owner Corporation No. 5 on the Plan.

Plan means Plan of Subdivision No. PS826420W.

Private Club means facilities which may include a conservatory, bars, golf simulator, art gallery, lounges, dining facilities, library and cinema.

Recreational Facilities means the common facilities located on common property no. 5 of the Plan, which may include a Private Club, a Wellness Centre and Health Club, kids zone, salon, private dining areas, library, workshop and associated facilities to be created for the use and enjoyment of occupants of residential Lots within the Development.

Regulations means the *Owners Corporations Regulations* 2018 (Vic) as amended from time to time.

Related Entity has the same meaning given to that term in the *Corporations Act* 2001 (Cth).

Rule or **Rules** means these rules which are for the purpose of the control, management, administration, use or enjoyment of the Common Property or any Lot as amended from time to time.

Vendor means Barana (St Kilda) Investments Pty Ltd.

Wellness Centre and Health Club means facilities which may include a pool, gym, yoga studio, spas, sauna and treatment rooms.

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2. Interpretation

2.1 Unless the context otherwise requires:

2.1.1 headings are for convenience only;

2.1.2 words imparting the singular include the plural and vice versa;

2.1.3 expressions imparting a natural person includes any company, partnership, joint structure, association or other Owners Corporation and any governmental authority; and

2.1.4 a reference to a thing includes part of that thing.

2.2 The obligations and restrictions in these Rules must be read subject to the rights, grants or privileges that may be given to any person or entity by the Owners Corporation from time to time and to the extent of any inconsistency, such rights, grants or privileges, must prevail over these Rules in respect of the person or entity to whom they are given.

2.3 In these Rules:

2.3.1 if a provision is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable; and

2.3.2 if it is not possible to read down a provision as required in this Rule, that provision is severable without affecting the validity or enforceability of the remaining part of that Rule or the other Rule;

2.3.3 references to 'Owners Corporation' includes any person or body authorised to act on behalf of the Owners Corporation delegated any power or functions by the Owners Corporation or appointed by the Owners Corporation to assist in carrying out its functions, including without limitation the Manager, as the context permits.

2.4 In the event of a conflict between these Rules and any restriction on the Plan, the restriction will prevail.

2.5 In the event of a conflict between these Rules and the model rules prescribed under the Regulations, these Rules prevail.

2.6 In the event of a conflict between these Rules and the rules for Owners Corporation No. 1 on the Plan (**OC1**), the rules for OC1 will prevail.

3. Role and functions

3.1 The Owners Corporation is responsible for ensuring that appropriate rules, measures and procedures are established to govern issues common to the Members, including that the Common Property and/or a Lot are maintained for the benefit and enjoyment of all Members and Occupiers. The Owners Corporation exercises such responsibilities through enforcing the Rules and through holding regular committee meetings at which matters affecting the operation of the Common Property are resolved and advised to all Members.

3.2 The Owners Corporation must abide by the Rules, Act and Regulations, and in carrying out its functions and powers must act honestly and in good faith and exercise due care and diligence.

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3.3 These Rules are for the purpose of the control, management, administration, use or enjoyment of the Common Property or a Lot and represent the interests of Members and Occupiers. The Rules may be added to, amended or revoked:

3.3.1 if a resolution is passed after a ballot or poll is taken and 75% of the total lot entitlements of all the Lots are in favour of such addition, amendment or revocation; or

3.3.2 if a resolution is passed in any other case and 75% of the total votes for all the Lots are in favour of such addition, amendment or revocation (**Special Resolution**).

3.4 Under the Act and Regulations, the Owners Corporation is responsible for, amongst other things:

3.4.1 electing the Committee (if required);

3.4.2 establishing a Maintenance Plan and Fund;

3.4.3 establishing and maintaining an Owners Corporation Register;

3.4.4 taking out, maintaining and paying the premiums for insurance;

3.4.5 keeping proper accounts that cover the income, expenditure, assets and liabilities of the Owners Corporation and providing true reports of the financial situation of the Owners Corporation; and

3.4.6 preparing annual financial statements.

4. Provision of services

4.1 Each Member of the Owners Corporation agrees that the Owners Corporation will provide the following services:

4.1.1 the repair and maintenance of all Common Property including gardens, trees, paved areas and landscaping; and

4.1.2 any other service or facility provided by the Owners Corporation for the benefit of the Members.

4.2 A Member or an Occupier acknowledges that:

4.2.1 the Owners Corporation may share amongst the Members and Occupiers the costs of supply and maintenance (based on lot liability or other methodology determined by the Owners Corporation) of any gas facility or power facility required for heating or air conditioning or any variable refrigerant volume or variable refrigerant flow system (VRV) to the Lots affected by the Owners Corporation or any Common Property; and

4.2.2 where any Lot is not separately metered in relation to any service, including gas, electricity, water, heating, air conditioning and/or VRV, then the Occupier shall pay a proportion of such service and supply charges relating to same on a proportional rate by dividing the unit liability of that Lot by the total unit liability of all Lots serviced jointly or as otherwise determined by the Owners Corporation, acting reasonably.

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5. Use of a Lot

5.1 A Member must not:

5.1.1 create noise or behave in a manner that is likely to interfere with the peaceful enjoyment of the member of another Lot, or any person lawfully using the Common Property;

5.1.2 operate or permit to be operated on a Lot any device or electronic equipment which interferes with any domestic appliance lawfully in use on the Common Property, or another Lot; or

5.1.3 use the Lot for any purpose that may be illegal or injurious to the reputation of the premises comprised of the lots and the Common Property or which may cause a nuisance or hazard to any other member of a Lot.

6. Notification of Defects

A Member or Occupier of must promptly notify the Owners Corporation or the Manager on becoming aware of any damage to or defect in the Common Property or any personal property vested in the Owners Corporation.

7. Compensation to Owners Corporation

The Member or Occupier must compensate the Owners Corporation in respect of any damage to the Common Property or personal property vested in the Owners Corporation caused by that Member or Occupier or their respective tenants, licensees or invitees.

8. Pets and animals

8.1 A Member can keep any animal upon a Lot or the Common Property unless the Member has been given notice by the Owners Corporation to remove and keep removed such animal once the Owners Corporation has resolved that the animal is causing a nuisance.

8.2 A Member must ensure that any animal belonging to them does not urinate or defecate on Common Property including internal court yards. In the event any animal belonging to them does urinate or defecate on Common Property, the Member must immediately clean up the urine and/or faeces.

8.3 A Member must ensure that any animal belonging to them must be on a lead at all times when on the Common Property.

9. Use of appurtenances

9.1 A Member or Occupier must not use the water closet, conveniences or other water apparatus, including water pipes and drains for any other purpose than those which they were constructed and, must not sweep or deposit rubbish, baby wipes or other unsuitable substances therein. The Member indemnifies and keeps indemnified the Owners Corporation on a full indemnity basis for any costs or expenses resulting from any damage or blockage incurred by the Owners Corporation where the damage or blockage was caused by the Member, Occupier or their invitees.

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10. Use of Common Property

10.1 A Member or Occupier must not:

10.1.1 do or allow to be done anything on the Common Property which causes a nuisance to or interferes with its lawful use by the Owners Corporation or other Members;

10.1.2 do or permit anything which might cause structural damage to the Common Property;

10.1.3 interfere with the operation of any equipment installed on the Common Property without the prior written consent of the Owners Corporation;

10.1.4 interfere with any personal property vested in the Owners Corporation;

10.1.5 park or leave a vehicle or permit any vehicle to be parked or left upon the Common Property or in any place other than in a parking area specified for such purpose by the Owners Corporation;

10.1.6 paint, finish, drive nails or screws or the like into, or otherwise damage, alter or deface the Building or any other part of the Common Property including the external facade except with the consent in writing of the Owners Corporation;

10.1.7 when on Common Property (or if on any part of a Lot so as to be visible from another Lot or from Common Property), fail to be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to the Member or Occupier of another Lot or to any person lawfully using Common Property;

10.1.8 deposit or throw upon the Common Property any rubbish, dirt, dust or other material likely to interfere with the peaceful enjoyment of other Member or any person lawfully using the Common Property;

10.1.9 disregard any requirements made by the Owners Corporation relating to the use of any access keys and intercom system that may be provided as the means of access upon roadways created within the Common Property;

10.1.10 use or store on the Common Property any flammable chemical, liquid, gas or other flammable material other than chemicals, liquids, gases or other material used or intended to be used for normal and lawful domestic purposes or in the fuel tank of a motor vehicle;

10.1.11 hold or allow to be held any public auction on or near the Common Property;

10.1.12 directly instruct any contractors or workmen employed by the Owners Corporation unless so authorised;

10.1.13 except with the consent in writing of the Owners Corporation, use for their own purposes as a garden any portion of the Common Property;

10.1.14 smoke in the stairwells, lifts, foyers, and car park forming part of the Common Property or such other parts of the Common Property as the Owners Corporation or its Manager may determine from time to time.

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10.2 A Member or Occupier:

10.2.1 must notify the Owners Corporation or its Manager promptly when becoming aware of any damage to or defect in the Common Property or any personal property vested in the Owners Corporation;

10.2.2 must ensure that any guests or invitees of the Member or Occupier are accompanied at all times when on Common Property; and

10.2.3 acknowledges that the use of the Common Property is subject to any written agreements, leases or licences that the Owners Corporation may enter into relating to areas of the Common Property.

11. Lifts

A Member or Occupier must not and must ensure that the Occupier of a Member's Lot does not:

11.1 use the lifts for any other purpose other than to gain pedestrian access to his or her Lot as directed by the Owners Corporation;

11.2 hold the lift doors and/or prevent the doors of the lift closing for any period of time so as to interfere with the normal operation of other Occupiers' use of the lifts;

11.3 press the alarm or stop button except in an emergency situation;

11.4 press any button other than the one representing the floor or level that the lift is required to stop at; and

11.5 change any lift programming that gives preferential access to a Lot(s) within the Development.

12. Moving object on or through Common Property

12.1 The Owners Corporation may resolve that furniture or large objects are to be transported through or on the Common Property (whether in the Building or not) in a specified manner.

12.2 If the Owners Corporation has specified, by resolution, the manner in which furniture or large objects are to be transported, a Member or Occupier must not transport any furniture or large object through or on the Common Property except in accordance with that resolution.

12.3 When using the lifts to move goods or furniture a Member or Occupier must ensure that the walls, floor and ceiling of the lifts are adequately protected from damage.

12.4 If the Member or Occupier requires the use of a crane to move goods or furniture, the Member or Occupier must first notify (by giving at least 7 days' written notice) and obtain the consent of the Owners Corporation. The Member or Occupier must cooperate with and comply with any requirements of the Owners Corporation (acting reasonably) in order to facilitate the use of the crane and minimise disruption to other Members or Occupiers.

12.5 A Member or Occupier must not move any article of furniture or any other article likely to cause damage or obstruction through the Common Property without first notifying the Owners Corporation (by giving at least 7 days' written notice) to enable the lifts to be covered and ensure only one Member or Occupier is moving in at a time.

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12.6 Prior to moving any article of furniture or any other article likely to cause damage or destruction, the Manager or a representative of the Owners Corporation and the Member or Occupier will inspect the Common Property through which such article is to be moved to establish its state of repair. The Member or Occupier will be liable for any damage caused to the Common Property arising from the movement of the article.

13. Signage and windows

13.1 A Member is not permitted to display signs, advertising or notices on any Lot, including for the purpose of offering for sale or lease or letting any Lot or Common Property, without the consent of the Owners Corporation. Any sign that is erected must be of a standard that shall not detract from the overall appearance of the Development.

13.2 A Member is not permitted to display any advertising material, logos or sign writing to any external window, glazing or external solid face of a lot without the written consent of the Owners Corporation.

13.3 A Member must not allow any glazed portions of the Lot or Common Property to be tinted or otherwise treated with the intention of changing the visual characteristic of the Development.

14. Garbage disposal

A Member of a Lot must:

14.1 except where the Owners Corporation provides some other means of disposal of garbage, maintain within their Lot, or on such part of the Common Property as may be authorised by the Owners Corporation, a receptacle for garbage and to keep such receptacle in a clean and tidy condition and not visible to the public except on days designated for rubbish collection;

14.2 comply with all requirements of Governmental Agencies relating to the disposal of garbage;

14.3 ensure that rubbish is disposed of in accordance with the disposal facilities of the Building, and the rules/directions of the Owners Corporation from time to time (for example recyclables are placed in the recycle chute);

14.4 ensure that rubbish does not accumulate on their Lot, and that the health, hygiene and comfort of other Members is not adversely affected by their disposal of garbage;

14.5 ensure that rubbish is transported from their Lot to the designated garbage room on the Common Property in an appropriate watertight receptacle; and

14.6 pay or reimburse the Owners Corporation any costs incurred by the Owners Corporation as a result of the Member or Occupier's misuse of the garbage disposal facilities, or other breach of this rule 14.

15. Recreational Facilities

15.1 When using the Recreational Facilities a Member and an Occupier:

15.1.1 must ensure that unless otherwise stated, children below the age of 15 years are not in or around the Recreational Facilities unless accompanied by an adult Member or Occupier exercising effective control over them;

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15.1.2 must ensure that no guests are allowed in the Recreational Facilities, subject to prior approval of the Manager and subject to any conditions on entry determined by the Manager;

15.1.3 acknowledges that any request for exclusive use of the Recreational Facilities must be approved by the Manager in writing. Such approval by the Manager may be withheld by the Owners Corporation at its absolute discretion;

15.1.4 is responsible (at its cost) for any damage, cleaning or reinstatement costs incurred by the Owners Corporation or Manager as a result of its (or its guests) use of the Recreational Facilities;

15.1.5 must not smoke or make any undue noise in the Recreational Facilities without the consent of the Manager; and

15.1.6 must ensure that the Recreational Facilities are to be left in the same condition in which it was found.

15.2 Members and Occupiers acknowledge that some areas of the Recreational Facilities may need to be booked with the Manager ahead of use. The Manager may refuse the booking if the facility is not available.

15.3 Members and Occupiers acknowledge and agree that they may be required to pay a general usage charge for some areas of the Recreational Facilities and the cost of consumables used while using these areas, as determined by the Owners Corporation.

15.4 The Owners Corporation may make additional or separate rules relating to the use of all or part of the Recreational Facilities provided they are not inconsistent with these Rules. If breached, rules relating to the Recreational Facilities will constitute a breach of these Rules.

15.5 Subject to the requirements of the Owners Corporation and the Manager from time to time, with respect to the Private Club:

15.5.1 a bond may be required prior to use, and a cleaning fee may be applied after use, of areas within the Private Club;

15.5.2 any guests of Members or Occupiers must always be supervised by the Member or Occupier while within the Private Club;

15.5.3 alcohol is not to be taken into the Private Club without the prior consent of the Manager;

15.5.4 hours of use are as otherwise determined by the Manager (and displayed by sign) from time to time; and

15.5.5 the bar within the Private Club operates for Members or Occupiers, who must pay for any items consumed in the bar, either at the time of order/consumption, on leaving the bar, or by any other method as determined by the Manager;

15.6 With respect to the Wellness Centre and Health Club:

15.6.1 Without limiting rules 15.2 and 15.3, any cryotherapy, float tank, salt room and VIP Spa Room within the Wellness Centre and Health Club must be booked through the Manager. The Member or occupier must pay a general use charge and the costs of any consumables used whilst using these facilities, as determined by the Manager;

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15.6.2 children are not permitted to use the Wellness Centre and Health Club at any time, without the consent of the Manager;

15.6.3 glass objects, drinking glasses and sharp objects are not permitted in the Wellness Centre and Health Club;

15.6.4 alcohol and food are not allowed in the Wellness Centre and Health Club without the prior written consent of the Manager;

15.6.5 hours of use are as determined by the Manager from time to time;

15.6.6 suitable footwear must be worn to and from the Wellness Centre and Health Club;

15.6.7 all users of the Wellness Centre and Health Club do so at their own risk; and

15.6.8 the Member or Occupier must pay for the cost of any classes or treatments provided at the Wellness Centre and Health Club.

15.7 with respect to the gymnasium:

15.7.1 all users of the gymnasium within the wellness spa must carry a towel at all times.

15.7.2 users of the gymnasium must be professionally instructed on the equipment prior to the Owners Corporation granting access to the gymnasium area;

15.7.3 users of the gymnasium are not permitted to play music that is audible to other persons in the gymnasium; and

15.7.4 the Member or Occupier must pay for the cost of any classes or sessions provided at the gym, unless otherwise determined by the Manager.

15.8 With respect to the swimming pools and spas within the Wellness Centre and Health Club:

15.8.1 children under the age of 18 may use the swimming pool and spa areas only if supervised by an adult;

15.8.2 children under the age of 5 must be accompanied into the water and remain within arm's reach of an adult at all times;

15.8.3 for the hygiene of all users of the swimming pool and spa, all users must shower before entry;

15.8.4 running, ball playing, jumping, diving, noisy or hazardous activities are not permitted in the swimming pool and spa areas;

15.8.5 all users of the swimming pool area must dry off before leaving the Wellness Centre and Health Club area;

15.8.6 a Member or Occupier of a Lot and persons under their control must ensure that when in the swimming pool and spa areas, appropriate attire is worn at all times i.e. nude bathing is not permitted;

15.8.7 all users of the swimming pool do so at their own risk;

15.8.8 spitting or washing is not permitted in the swimming pool spas or swimming pool and spa areas; and

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15.8.9 the Member or Occupier must pay for the cost of any classes, sessions or lessons provided at the swimming pools, unless otherwise determined by the Manager.

15.9 With respect to the sauna and steam room(s) located within the Wellness Centre and Health Club:

15.9.1 Children under the age of 15 may not use the sauna and steam room(s);

15.9.2 for the hygiene of all users of the sauna and steam room(s), all users must shower before entry;

15.9.3 noisy or hazardous activities are not permitted in the sauna and steam room(s);

15.9.4 all users of the sauna and steam room(s) area must dry off before leaving the Wellness Centre and Health Club area;

15.9.5 a Member or Occupier of a Lot and persons under their control must ensure that when in the sauna and steam room(s), appropriate attire is worn at all times; and

15.9.6 spitting is not permitted in the sauna and steam room(s).

15.10 With respect to the cinema:

15.10.1 the cinema room is not be used for third party or commercial bookings;

15.10.2 all users of the cinema room will be bound by the relevant rules and regulations issued by the Owners Corporation and updated from time to time;

15.10.3 after each use the cinema room facility and area must be left in a clean and tidy state. Failure to leave the facilities in a clean and tidy state will result in additional cleaning charges to the relevant party which the Owners Corporation or Manager may recover as a debt from the responsible party. It is the responsibility of the Member or Occupier booking the use of the facilities to notify the Manager immediately if the area is found in an unsatisfactory condition prior to commencement of the booking.

15.11 With respect to the workshop:

15.11.1 children may not use the workshop;

15.11.2 all users of the workshop do so at their own risk;

15.11.3 all users of the workshop must undertake an induction for the workshop, prior to using the workshop, and sign any required documentation confirming they have undertaken the induction and understand the risks of use. The user must give the Manager at least 7 days' notice for the Manager to carry out the induction.

15.11.4 no alcohol is to be consumed in the workshop;

15.11.5 close-toed shoes are to be worn in the workshop at all times;

15.11.6 all tools are to be used in a safe manner in accordance with manufacturer's instructions, and with personal protective equipment worn. The Member or Occupier will be responsible for any damage caused by the incorrect or unsafe use of any tool;

15.11.7 no tool supplied by the Owners Corporation is to be removed from the workshop without the permission of the Owners Corporation, and the Member or Occupier

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will be responsible for the replacement cost of any tool removed from the workshop;

15.11.8 the Member and Occupier must keep the workshop in a clean and tidy manner, including putting away all tools and sweeping the floor at the end of each day after use; and

15.11.9 the Member or Occupier must pay for the cost of any classes, sessions or lessons provided at the workshop, unless otherwise determined by the Manager.

15.12 The Members and Occupiers agree that the Manager may close off one or more areas of the Recreational Facilities at its reasonable discretion, including to allow for the safe or desirable use of the Recreational Facilities, for the purposes of maintenance, works and the like.

16. Behaviour of Invitees

16.1 The duties and obligations imposed by these special rules upon a Member of a Lot must be observed not only by the Member but also by the guest, servants, employees, agents, children, invitees and licensees of the Member or the occupier of their Lot (Invitees).

16.2 A Member must take all reasonable steps to ensure that their Invitees do not behave in a manner likely to interfere with the peaceful enjoyment of any Member or occupier of another Lot or any person lawfully using the Common Property or which may result in damage to the Common Property.

16.3 A Member is liable to compensate the Owners Corporation for all damage to the Common Property or personal property vested in it caused by a breach of Rule 16.1 and 16.2.

16.4 Where the Owners Corporation expends money to make good damage caused by a breach of the Act, or of these rules by any Member or Invitees, the Owners Corporation can recover the amount so expended as a debt in action in any Court of competent jurisdiction from the Member of the Lot at the time when the breach occurred.

16.5 Rules 16.1 to 16.4 are intended to operate in addition to the requirements of the Act.

17. Owners Corporation fees

17.1 The Member must pay the fees set by the Owners Corporation to cover general administration and maintenance, insurance and other recurrent obligations quarterly in advance according to their lot entitlement.

17.2 The amount of the annual Owners Corporation fees which is payable by each Member will be established at each annual general meeting of the Owners Corporation.

17.3 Any special fees or charges levied by the Owners Corporation to cover extraordinary items of expenditure must be paid on the due date set by the Owners Corporation upon the levying of each special fee or charge.

18. Consent of Owners Corporation

A consent given by the Owners Corporation under these Rules will, if practicable, be revocable and may be given subject to conditions including, without limitation, a condition

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evidenced by a minute of a resolution that the member for the time being of the lot to which the consent or approval relates is responsible for compliance with the terms of the consent.

19. Enforcement of Domestic Building Contract

The Member agrees that for the purpose of its obligations under the Act:

19.1 the Members acknowledge and agree that reasonable steps to enforce any domestic building contract (within the meaning of the Domestic Building Contracts Act 1995) include:

19.1.1 the making of a demand in writing to the builder under any domestic building contract to comply with the terms of the domestic building contract and/or rectify any breach of the domestic building contract;

19.1.2 the exercise of any right under the domestic building contract to withhold any payment to the builder or have recourse to any security provided by the builder under the domestic building contract;

19.1.3 the settlement of any dispute under any domestic building contract between the original owner and the builder on terms acceptable to the original owner; and

19.1.4 any other enforcement action the Initial Owner considers appropriate in the circumstances; and

19.2 the Members agree to pay or reimburse the Initial Owner its portion of any enforcement relative to its lot liability.

20. Complaints and disputes

20.1 Any Dispute must be dealt with at first instance in accordance with this Rule 20.

20.2 A party to a Dispute must not initiate legal proceedings or complain to the Director in respect of the Dispute unless it has first complied with the dispute resolution procedure set out in this Rule 20.

20.3 The party making the complaint must in the first instance notify the Manager, or where the Manager is the subject of or involved in the Dispute, the Committee, of the Dispute in writing. The Manager must refer any complaint it receives to the Committee. Upon receipt of a complaint referred by the Manager or received directly from a Member or Occupier, the Committee will then decide (at its absolute discretion having regard to the nature and urgency of the Dispute) whether to:

20.3.1 arrange a meeting between the parties to resolve the Dispute; or

20.3.2 waive the requirement for the parties to meet.

20.4 Notwithstanding the course of action elected by the Committee under Rule 20.3, the parties must consult with one another in good faith and use their best endeavours to resolve the Dispute to the mutual satisfaction of both parties without resort to legal proceedings or other avenues of dispute resolution.

20.5 Without limiting the generality of this Rule 20, where no formal complaint is made by a Member or Occupier and the Owners Corporation otherwise becomes aware of a Dispute, the Owners Corporation (through the Manager or the Committee or otherwise) may decide (at its absolute discretion having regard to the nature and urgency of the Dispute) whether:

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20.5.1 arrange a meeting between the parties to resolve the Dispute; or

20.5.2 waive the requirement for the parties to meet.

20.6 If the parties are unable to resolve the Dispute within 30 days (or such other period as the Committee thinks fit) of the meeting arranged pursuant to Rule 20.3.1 or 20.5.2, the parties may revert to the dispute resolution mechanisms set out in the Act or other Law.

21. Cost of non-compliance

The Member or Occupier must indemnify and keep indemnified the Owners Corporation on a full indemnity basis against any action, demand, cost, liability or loss incurred by the Owners Corporation as a consequence of any default by the Member or Occupier in the performance or observance of any term, covenant or condition contained in these Rules, the Act or Regulations including, without limitation administrative costs, legal costs, the cost of any works performed to rectify any non compliance and the cost incurred by the Owners Corporation in recovering overdue charges from the Member or Occupier.

22. Charges imposed on Members and Occupiers

22.1 Any payments to the Owners Corporation imposed on a Member or Occupier under the Rules, Act or Regulations will (until paid) be a charge on the Lot.

22.2 The Member or Occupier must accept a certificate signed by the Manager or valid tax invoice issued by the Owners Corporation as prima facie proof of the costs and expenses incurred by the Owners Corporation relating to any charge payable by a Member or Occupier pursuant to these Rules and must not make any claim or dispute the amount specified therein.

22.3 The Member or Occupier must pay interest at the rate prescribed under the Penalty Interest Rates Act 1983 (Vic) on outstanding fees and charges set under the Rules, Act or Regulations until they are paid.

22.4 Any payments made for the purposes of these Rules, the Act or Regulations will be appropriated first in payment of any interest and any unpaid costs and expenses of the Owners Corporation and then be applied in repayment of the principal sum.

23. Rights of entry

23.1 Except in the case of an emergency (in which case no notice shall be required) upon seven (7) days' notice in writing, the Owners Corporation or the committee of the Owners Corporation and its servants, agents and contractors shall be permitted to inspect the interior of any Lot and test the electrical, gas or water installation or equipment therein and to trace and repair any leakage or defect in the said installations or equipment (at the expense of the Member or Occupier in cases where such leakage or defect is due to any act or default of the said Member or Occupier of his or her invitees). The committee of the Owners Corporation, in exercising this power shall ensure that its servants, agents and employees cause as little inconvenience to the Member or Occupier as is reasonable in the circumstances.

23.2 A Member or Occupier in occupation of a Lot must allow any person authorised by and on behalf of the Owners Corporation;

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23.2.1 to enter the Lot or a Building in order to have access to the exterior of the Building, and

23.2.2 to enter the Lot from the exterior of the Building via a balcony, terrace, window or other part of the Lot and to use that part of the Lot, to facilitate the repair and maintenance of and other works on Common Property including the structure of the Building and the exterior face of the Building and any service that is for the benefit of more than one Lot or the Common Property being areas of Common Property that would otherwise be difficult to access.

23.3 The Owners Corporation must give at least 7 calendar days' notice in writing to the Member or Occupier of a Lot or other Occupier of a Lot of an intention to enter:

23.3.1 unless the Member or Occupier agrees to a lesser time and where the Occupier is a tenant under a residential tenancy agreement the Occupier must be given the same notice as that required to be given by a landlord under Section 85 of the Residential Tenancies Act 1997;

23.3.2 entry to and use of the relevant part of the Lot must be between the hours of 8.00 am and 6.00pm on any day Monday to Friday; or

23.3.3 unless there is an emergency when no notice and no time restrictions apply, and then in such a manner as to cause as little interruption or inconvenience to the Occupier as is possible in the circumstances.

23.4 Members and Occupiers acknowledge and agree the access described by this rule 23 is expressly contemplated under section 12(2) of the Subdivision Act 1988 (Vic) and the Member or Occupier must not, either directly or indirectly frustrate, limit or impede the access contemplated by this rule.

24. Security

The Owners Corporation may make rules and regulations to ensure the security of the Development from intruders and otherwise with regard to the use and means of access to any roadways created upon the Common Property.

25. Contact

25.1 Each Member must advise the Manager of any out of normal business hours contact address, email and telephone number for their Lot and must promptly advise the Manager of any change in their address, email or telephone number.

25.2 Each Member must provide the Manager with an Australian address for service of notices. If a Member fails to provide an Australian address for service of notices, the Lot address will be deemed to be the proper address for service.

26. Restricted use of Common Property for fire control

26.1 The Owners Corporation may take measures to ensure the security, and to preserve the safety of the Common Property and the Lots affected by the Owners Corporation from fire or other hazards and without limitation may:

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26.1.1 close off any part of the Common Property not required for access to a Lot on either a temporary or permanent basis or otherwise restrict the access to or use by Members or Occupiers of any part of the Common Property;

26.1.2 permit, to the exclusion of Members and Occupiers, any designated part of Common Property to be used by any security person as a means of monitoring security and general safety of the Lots, either solely or in conjunction with other Lots;

26.1.3 restrict by means of key or other security device the access of the Members or Occupiers;

26.1.4 restrict by means of key or other security device the access of the Members or Occupiers of one level of the Lots to any other level of the Lots; and

26.1.5 cancel any security card issued where a Member is in arrears in payment of Owners Corporation levies in excess of two quarters.

26.2 A Member and Occupier of a Lot must abide by any actions taken by the Owners Corporation in accordance with these Rules and must meet all costs incurred by the Owners Corporation in relation to these Rules (or a breach of these Rules by the relevant Member or Occupier).

27. Fire

27.1 A Member or Occupier of a Lot must ensure compliance with all statutory and other requirements, including those of the Owners Corporation, relating to fire, fire safety and storage of bioethanol in respect of the Lot.

27.2 A Member or Occupier of a Lot must not use, interfere or tamper with any fire safety equipment except in the case of an emergency and must not obstruct any fire stairs or fire escape.

27.3 In the event that the Melbourne Fire Brigade is called out to the Building as a result of the activation of a false fire alarm, whether the activation of the fire alarm was caused by a willful, negligent, foreseeable, or unforeseeable action or inaction, and the cause of the alarm is found to originate from a Lot, the Member or Occupier of the Lot will be jointly and severally liable to pay any and all associated costs and charges connected to a false fire alarm.

27.4 A Member hereby agrees to indemnify the Owners Corporation for all costs and charges incurred by the Owners Corporation in connection to a false fire alarm call out and the Member may elect to pursue recovery from the Occupier. This rule is enforceable regardless of whether:

27.4.1 the Member or Occupier was directly, indirectly and /or negligently responsible for the cause of the fire alarm; and/or

27.4.2 the Member authorised either impliedly or expressly the actions of the Occupier which caused the false fire alarm.

27.5 A Member or Occupier of a Lot must ensure that all fire doors, exhaust systems and smoke detectors installed in a Lot are properly maintained and tested monthly and that back-up batteries relating to the smoke detectors are replaced whenever necessary.

27.6 Each Member or Occupier of a Lot must undertake a fire and safety induction for the Development, prior to their occupation of the Lot (Induction). Occupiers must give the

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Manager at least 14 days' notice for the Manager to carry out the Induction. The Manager may charge any Occupier of a Lot a fee of $1,000 plus GST for any Induction required by an Occupier with less than 14 days' notice. A Member or Occupier of a Lot may be denied access to the Building if an Induction is not undertaken.

28. Insurance

A Member or Occupier of a Lot must not without the prior written consent of the Owners Corporation do or permit anything to be done which may invalidate, suspend or increase the premium for any insurance policy effected by the Owners Corporation.

29. Security and Security Keys

29.1 A Member or Occupier of a Lot or persons thereon from time to time must not do or permit anything, which may prejudice the security or safety of the Common Property, or any person in or about the Development.

29.2 The Owners Corporation may charge a reasonable fee for any additional security key required by a Member or Occupier.

29.3 A Member must exercise a high degree of caution and responsibility in making a security key available for use by any Occupier and must use all reasonable endeavours including without limitation an appropriate stipulation in any lease or licence of a Lot to the Occupier to ensure the return of the security key to the Member or the Owners Corporation.

29.4 A Member or Occupier of a Lot in possession of a security key must not without written consent from the Owners Corporation duplicate the security key or permit it to be duplicated and must take all reasonable precautions to ensure that the security key is not lost or handed to any person other than any other Member or Occupier and is not disposed of otherwise than by returning it to the Member or the Owners Corporation.

29.5 A Member or Occupier of a Lot must promptly notify the Owners Corporation if a security key issued to them is lost or destroyed.

30. Rules Subject to Rights of the Developer

30.1 These Rules do not apply to and, are not enforceable against the Developer or its mortgagee or chargee or the Vendor or its mortgagee or chargee, for so long as any of the following apply:

30.1.1 the Developer or the Vendor and/or either of their equity partners (if any) or the Vendor is a Member or Occupier;

30.1.2 any mortgagee or chargee of the Developer or the Vendor has an interest in any Lot; or

30.1.3 the Developer or the Vendor and/or either of their equity partners (if any) or the Vendor is engaged in any action required to complete the Development,

where to do so would prevent, hinder, obstruct or in any way interfere with any works of any nature or description that the Developer their mortgagee or chargee or the Vendor their mortgagee or chargee may be engaged in or which may need to be carried out in order to

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complete construction of the Buildings and facilities comprised in the Plan or the Development.

30.2 Subject to Rule 30.4, the Developer and its equity partners (if any), its mortgagees and chargees and the Vendor and its equity partners (if any), its mortgagees and chargees must be and are by this Rule, authorised by each and every member of each and every Owners Corporation in the Plan and by each and every Owners Corporation in the Plan to:

30.2.1 erect such barriers, fences, hoardings, signs as it deems necessary to facilitate any works to be carried out in relation to the Development; and

30.2.2 take exclusive and sole possession of any parts of the Common Property as it may need to have exclusive possession of in order to carry out any works or activities in relation to the Development; and

30.2.3 exclude all and any Members or Occupiers from any parts of the Common Property as may be necessary in order to carry out any works in relation to the Development; and

30.2.4 erect for sale promotional advertising or other signs as the Developer may require on any part of the Common Property; and

30.2.5 grant rights to use or access through or over the Common Property to third parties on such terms and conditions as the Developer or its mortgagee or chargee thinks fit; and

30.2.6 limit or restrict access to certain areas of the Development including areas of the Common Property in order to expeditiously complete the Development; and

30.2.7 use whatever rights of way and/or points of egress and ingress to the Development as necessary to carry out any works and to block for whatever periods are necessary any rights of way or points of egress and ingress to the Development in order to carry out any works,

provided that the Developer or the Vendor and any third party authorised by either of them under this Rule or any party to which it assigns all or part of the benefits of its rights under this Rule, uses its best endeavours to minimise disturbance and inconvenience to others occupying or using the Common Property.

30.3 The Owners Corporation must, within 7 days of being requested by the Developer or its mortgagee or chargee or the Vendor or its mortgagee or chargee, sign whatever consents, authorities, permits or other such documents as may be required to enable the Developer or its mortgagee or chargee to complete the Development. A Member must not vote in favour of any motion for a resolution proposed for consideration by a general meeting of the Owners Corporation which would revoke this Rule 30 or contravene any right or reprieve afforded to the Developer under this Rule 30.

30.4 In case of any inconsistency between the Rules and the rights of the Developer and Vendor under any Development Agreement, the Developer's rights and the Vendor's rights under the Development Agreement will prevail and the Members, Occupiers and Owners Corporation must not seek to enforce the Rules against the Developer or Vendor where to do so would conflict with the Developer's Rights or the Vendor's rights under any such Development Agreement.

30.5 A Member or Occupier must comply with the terms of any Development Agreement between the Developer and the Owners Corporation that is disclosed to the Member or Occupier.

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30.6 Every Member hereby consents to and agrees to the Developer or the Vendor undertaking any or all of the rights of the Developer or the Vendor, as the context permits, set out in this Rule without any prevention or hindrance of such Member.

30.7 In exercising its rights under this Rule, the Developer and Vendor must act honestly and in good faith and with due care and diligence in the interests of the Owners Corporation and must have regard to the amenity of Members. The Developer and Vendor must only exercise their rights to the extent necessary for the genuine Development. The Developer and the Vendor must not exercise its rights under this Rule to arbitrarily exclude the Owners Corporation or the participation of Members.

31. Warranties & Novation or assignment of contracts

31.1 The Developer may at its discretion enter into time limited contracts to supply, service, clean, maintain and/or inspect building essentials services, other building services or functions, common areas of the Building, landscaping, or any other Common Property, and any other service or other contract deemed appropriate and necessary for the proper care and function of the Common Property.

31.2 The Developer must and the Owners Corporation(s) must accept, assignment or novation of the contracts referred to in Rule 31.1 at the first meeting of the Owners Corporation.

31.3 The Owners Corporation must maintain any contracts assigned or novated to it under this Rule to the end of its current term except where it is deemed that the contract is unreasonable or unnecessary or is replaced by a contract for similar services by the same service provider.

31.4 The Owners Corporation must comply with the terms of and properly manage any time or condition limited warranties for items, components or parts of the Common Property provided by subcontractors or suppliers so as to ensure they remain valid for the benefit of the Owners Corporation.

31.5 The Owners Corporation must ensure that it provides for or enters into contracts to provide for care, cleaning, maintenance and inspection of any item or component of Common Property to enable it to perform its obligations under the Law and these Rules upon the lapse of any subcontractor or supplier backed warranty or upon the end of any contract assigned or novated to it by the Developer.

31.6 All Members must contribute its proportion of the cost incurred by the Owners Corporation in complying with this Rule 31 relative to the lot liability on the Plan.

32. Signage & Other Licences

32.1 The Owners Corporation may grant the Developer:

32.1.1 a lease and licence including but not limited to for the provision of information technology infrastructure relating to broadband services and/or signage rights to the Development;

32.1.2 a licence to host festivals, parties or other celebratory or promotional events in the main lobby area, or other areas of the Common Property;

32.1.3 a licence to place and maintain sale signs, insignias, logos and other fixtures and fittings for marketing purposes on the Common Property; or

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32.1.4 allow the Developer's representatives and their invitees to conduct selling activities from a Lot, if not sold prior to completion, which will serve as a display unit,

provided the Developer uses its best endeavours to minimise disturbance and inconvenience to others Members' or Occupiers' use of the Common Property and at all times acts honestly and in good faith and with due care and diligence in the interests of the Owners Corporation.

32.2 A Member or Occupier of the Lot must not hinder or impede the Developer, its successors and assigns, from exercising its rights under any agreement entered into under this Rule.

32.3 The Owners Corporation(s) must procure all the necessary consents and resolutions to give effect to the matters set out in this Rule 32.

32.4 A Member must not vote in favour of any motion for a resolution proposed for consideration by a general meeting of the Owners Corporation(s) which would impede the powers of the Owners Corporation(s) under this Rule 32.

33. Bicycles

33.1 A Member or Occupier must not permit any bicycle to be stored on Common Property except in areas designated by the Owners Corporation or otherwise with its written consent.

33.2 Members or Occupiers must indemnify and keep indemnified the Owners Corporation on a full indemnity basis for the costs of repairing any damage to the Common Property arising out of bringing their bicycles on to any Lot (for example, corridors, lifts).

34. Commercial Kitchen, Staff Facilities and Amenities

A Member or an Occupier acknowledges that the commercial kitchen, staff amenities and staff facilities located on Common Property may not be accessed by Members, Occupiers or their guests, without the written consent of the Manager, which consent may be granted or rejected (or granted subject to conditions) at the Manager's discretion.

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Attachment 4

Grease Trap Licence

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Maddocks

Lawyers
Collins Square, Tower 2
Level 25, 727 Collins Street
Melbourne Victoria 3008 Australia

Telephone 61 3 9258 3555
Facsimile 61 3 9258 3666

info@maddocks.com.au
www.maddocks.com.au

Date 14/06/2022

Retail Services (Grease Trap) Licence

Commercial Kitchen, Saint Moritz, 14-16 The Esplanade, St Kilda

Owners Corporation No. 1
on Plan of Subdivision PS826420W

and

Owners Corporation No. 5
on Plan of Subdivision PS826420W

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Schedule

1.	**Date of this Licence:**	The 14th of June 2022
2.	**Licensor:**	Owners Corporation No. 1 on Plan of Subdivision PS826420W, c / The Knight, PO Box 678 Malvern, Victoria 3144 on behalf of the members of Owners Corporation No. 1 on PS826420W.
3.	**Licensee:**	Owners Corporation No. 5 on Plan of Subdivision PS826420W, c / The Knight, PO Box 678 Malvern, Victoria 3144 on behalf of the members of Owners Corporation No. 5 on PS826420W.
4.	**Licensed Area:**	The area shaded green and notated as 'Commercial Kitchen GIT Location' on the Grease Trap Area Plan located on Basement level 3, Building 3 of the Development and being part of Common Property No.1 on Plan of Subdivision PS826420W.
5.	**Commencement Date**	The 14th of June 2022
6.	**Term**	299 years
7.	**Licence Fee during the Term:**	$1 payable by a single instalment on the Commencement Date, if demanded.
8.	**Additional Clauses:**	Not applicable.

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Execution Page

EXECUTED by the parties on the date specified in Item 1.

Executed by **Owners Corporation No. 1** on **PS826420W** by a person who declares they are the sole Lot Owner and member of the Owners Corporation or by a director of a corporation that is a sole Lot Owner, in accordance with s 10 of the *Owners Corporations Act 2006* (Vic) in accordance with a resolution dated 7th June :

DocuSigned by:
Greg Shand
D9878C82F30C406...

Signature

Greg Shand

Name (print full name)

3A Macquarie Street, Sydney NSW 2000

Address

Position: Director of sole Lot Owner

Barana (St Kilda) Investments Pty Ltd
ACN 160 116 076

Name of corporation that is the sole Lot Owner

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Executed by **Owners Corporation No. 5** on **PS826420W** by a person who declares they are the sole Lot Owner and member of the Owners Corporation or by a director of a corporation that is a sole Lot Owner, in accordance with s 10 of the *Owners Corporations Act 2006* (Vic) in accordance with a resolution dated 7th June :

DocuSigned by:
Greg Shand
D9878C82F30C406...

Signature

Greg Shand

Name (print full name)

3A Macquarie Street, Sydney NSW 2000

Address

Position: Director of sole Lot Owner

Barana (St Kilda) Investments Pty Ltd
ACN 160 116 076

Name of corporation that is the sole Lot Owner

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Licence

THIS LICENCE is made on the date specified in Item 1.

BETWEEN

The Licensor

AND

The Licensee

RECITAL

A. The Licensor has agreed to grant the Licensee a licence of the Licensed Area on the terms and conditions in this Licence.

THE PARTIES AGREE

1. Definitions

In this Licence, unless expressed or implied to the contrary:

Additional Clauses means the clauses (if any) specified in Item 8.

Adjustment has the same meaning given to that term in the GST Act.

Adjustment Note has the same meaning given to that term in the GST Act.

Commencement Date means the commencement date specified at Item 5 of the Schedule.

Common Property means the common property No. 1 on PS826420W.

Consideration means consideration payable under this Licence in return for a Taxable Supply, but does not include any amount on account of GST.

Development means Saint Moritz, 14-16 The Esplanade, St Kilda VIC 3182.

Grease Trap means the grease trap servicing the Premises.

Grease Trap Area means that part of the Licensed Area containing the Grease Trap.

Grease Trap Area Plan means the plan showing the Grease Trap Area, a copy of which is attached at Annexure A.

GST Act means A New Tax System (Goods and Services Tax) Act 1999 (as amended).

GST has the same meaning given to that term in the GST Act.

Input Tax Credit has the same meaning given to that term in the GST Act, but also includes a reduced input tax credit under Division 70 and an adjusted input tax credit under Division 132 of the GST Act.

Item means an item in the Schedule.

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Licensed Area means the area specified in Item 4 delineated and shaded on the relevant plan attached as an annexure to this Licence.

Licence Fee means the amount specified in Item 7.

Licensee means the Licensee specified in Item 3 and includes the Licensee's successors and assigns and where it is consistent with the context includes the Licensee's employees, agents, invitees and persons the Licensee allows to use the Licensed Area.

Licensor means the Licensor specified in Item 2 above and includes the Licensor's successors and assigns and where it is consistent with the context includes the Licensor's employees and agents.

Premises means the commercial kitchen forming part of Common Property No. 5 on Plan of Subdivision PS826420W.

Owners Corporation Rules means the rules of Owners Corporation No 1 on Plan of Subdivision PS826420W set out in Annexure B, as amended from time to time.

Recipient has the same meaning given to that term in the GST Act.

Supplier means the entity making a Supply to the Recipient.

Supply has the same meaning given to that term in the GST Act.

Tax Invoice has the same meaning given to that term in the GST Act.

Taxable Supply has the same meaning given to that term in the GST Act.

Taxes means a tax, levy, duty, impost, fee, deduction, withholding or charge, however described, imposed by legislation, (including stamp and transaction duty and any car parking levies) together with any related interest, penalty, fine or expense concerning any of them and the costs of challenging any of them.

Term means the Term specified in Item 6 of the Schedule.

2. Licence

2.1 The Licensor has exercised its powers under section 14 of the *Owners Corporations Act* 2006 to grant by special resolution a non-exclusive licence of the Licensed Area to the Licensee subject to the terms, covenants, conditions and restrictions contained in this Licence, for the Term starting on the Commencement Date.

2.2 The Licensee acknowledges and agrees that:

2.2.1 this Licence is non-exclusive, and the Licensor may grant additional licences of the Licensed Area to the owners of other lots within the Development requiring use of the Grease Trap, on terms and conditions similar to those contained in this Licence (**Additional Licence**);

2.2.2 the use, maintenance and associated obligations for the Licensed Area described at clause 5 are shared between the Licensee and licensees of the Additional Licence; and

2.2.3 if a dispute arises between the Licensee and the licensee(s) under the Additional Licence in relation to the shared use, maintenance and associated obligations of

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the Licensed Area under clauses 5 and 6, the dispute must be referred to the Licensor to determine in its absolute discretion.

3. Payments by the Licensee

3.1 Payment of Licence Fee

The Licensee must pay the Licence Fee to the Licensor on the Commencement Date and in the manner specified in Item 6.

3.2 Costs and Duty

The Licensee must pay to the Licensor within 7 days of demand:

3.2.1 all Taxes levied in respect of this Licence, the Licensed Area or the rights granted to the Licensee under this Licence whether those Taxes are in force at or after the Commencement Date;

3.2.2 the operating costs incurred by the Licensor in connection with or as a result of this Licence, the Licensed Area or the rights granted to the Licensee under this Licence; and

3.2.3 the Licensor's costs (including charges on a solicitor-own client basis) incurred as a result of a breach of this Licence by the Licensee.

3.3 Interest on Late Payments

The Licensee must pay to the Licensor on demand interest at the rate per annum equal to the rate for the time being fixed under section 2 of the *Penalty Interest Rates Act* 1983 (Vic) on any money payable by the Licensee under this Licence and remaining unpaid for 14 days. Interest will be computed from the date on which such payment became due.

3.4 No Deduction or Right of Set-off

The Licensee must pay all amounts due under this Licence to the Licensor without deduction or right of set-off.

4. GST

4.1 GST Exclusive

Except as otherwise provided by this clause, all Consideration payable under this Licence in relation to any Supply is exclusive of GST.

4.2 Increase in Consideration

To the extent that any Supply under this Licence constitutes a Taxable Supply, the Consideration payable by the Recipient to the Supplier will be increased by the applicable amount of GST (**GST Amount**), which shall be calculated by multiplying the amount upon which GST is payable by the prevailing rate of GST.

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4.3 Payment of GST

Any GST Amount must be paid by the Recipient to the Supplier at the same time and in the same manner as the relevant Consideration is paid or given under this Licence, without any right of set-off or deduction (unless otherwise provided in this Licence).

4.4 Reimbursements

If this Licence requires the Recipient to pay, reimburse or contribute to any expense, loss or outgoing suffered or incurred by the Supplier (**Relevant Expense**), the amount which the Recipient must pay, reimburse or contribute will be the amount net of any Input Tax Credits to which the Supplier is entitled in respect of the Relevant Expense, together with any GST Amount if the payment, reimbursement or contribution constitutes a Taxable Supply by the Supplier to the Recipient.

4.5 Tax Invoice

The Supplier must provide to the Recipient a valid Tax Invoice at or prior to the time of payment of any GST Amount.

4.6 Adjustments & Adjustment Notes

To the extent that any Adjustment occurs in relation to a Taxable Supply, the Supplier must issue an Adjustment Note to the Recipient within 7 days of becoming aware of the Adjustment, and any payment necessary to give effect to such Adjustment must be made within 7 days after the date of receipt of the Adjustment Note.

5. Use of Licensed Areas

5.1 Use of Licensed Area

5.1.1 The Licensee may use the Licensed Area for the purpose of the use, repair, maintenance and emptying of the Grease Trap on the terms and conditions relevant to the applicable use as set out in Schedule 1.

5.1.2 The Licensee must not:

(a) use or allow anyone else to use the Licensed Area for any purpose other than the permitted uses described in clause 5; and

(b) place or allow to be placed on the Licensed Area anything which is or may become an annoyance, nuisance, grievance or disturbance to anyone in the Development or any owners or occupier of any adjacent premises.

5.2 Nuisance

The Licensee must not do anything in connection with the Licensed Area which may cause a nuisance or interfere with any other person, including other users of the Licensed Area as contemplated by clause 2.2.

5.3 Insurance

5.3.1 The Licensee must from the Commencement Date until the end of the Term effect and maintain a policy of insurance in the name of the Licensee noting the interests of the Licensor as an interested party in respect of liability for loss, injury or damage to any person or property whatsoever whether arising out of any act, omission, breach of duty or failure by the Licensor, the Licensee, the employees,

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agents and invitees of the Licensor or the Licensee or otherwise, on or in relation to the Licensed Area or the use of the Licensed Area by the Licensee in the sum of ten million dollars ($10,000,000) or such greater amount as the Licensor may reasonably nominate from time to time in order to effect a sufficient and proper cover in respect of any single accident or event.

5.3.2 The Licensee must from the Commencement Date until the end of the Term effect and maintain a policy of insurance in the name of the Licensee in respect of liability for the usual insured risks on an indemnity or replacement value basis of any Air Conditioning constructed or to be constructed pursuant to this Licence.

6. Maintenance repairs and alterations of Grease Trap

6.1 The Licensee must, at its own cost and expense, keep and maintain the Grease Trap in good and substantial condition and repair and replace faulty or damaged parts. The Licensor may at any time inspect the Grease Trap and if any work as reasonably determined by the Licensor is required to be carried out on the Grease Trap that work shall be carried out expeditiously by the Licensee at its own cost. Should the Licensee fail to maintain the Grease Trap in good and substantial condition and repair, the Licensor or its agents may at the cost of the Licensee effect such maintenance and repair in order to comply with this clause.

6.2 The Licensee must be responsible for all costs and charges associated with and incurred in the operation of the Grease Trap.

6.3 The Licensee and its agents, contractors, invitees, consultants and employees approved by Licensor may have all necessary egress and egress to the Licensed Areas for the purposes of effecting repairs to or maintenance of the Grease Trap or removing or replacing the Grease Trap.

6.4 The Licensee must repair any damage to the Licensed Area caused by want of care, misuse or abuse or otherwise on the part of the Licensee or any of its agents, contractors, invitees, consultants or employees in exercising the Licensee's right under the Licence to install, keep and maintain the Grease Trap or arising from the Licensee's failure to comply with the terms of this Grease Trap.

6.5 The Licensor and its agents, contractors, invitees, consultants and employees may upon reasonable notice inspect the state of repair of the Licensed Area and serve upon the Licensee a notice in writing requiring it to repair any defect.

7. Release and Indemnity

7.1 Release

The Licensee uses and occupies the Licensed Area at its own risk and releases the Licensor from all claims resulting from any damage, loss, death or injury in connection with the Licensed Area except to the extent that the Licensor is negligent.

7.2 Indemnity

The Licensee must indemnify and hold harmless the Licensor against all claims resulting from any damage, loss, death or injury in connection with the Licensed Area and the use of the Licensed Area by the Licensee except to the extent that the Licensor is negligent.

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8. Assignment and Sub-Licensing

8.1 The Licensee must not assign, sublicense or part with possession with this Licence or its interest in the Licensed Area.

8.2 Despite clause 8.1, the Licensee may sublicense its interest in the Licensed Area without the consent of the Licensor provided that:

8.2.1 the sublicensee is, or is entitled to be, the tenant of the Premises; and

8.2.2 the Licensee gives written notice to the Licensor of the details of the sublicensee and the sublicense.

9. Licensor not Liable

The Licensor will not be liable to the Licensee if the Licensee cannot obtain access to the Licensed Area in circumstances either:

9.1 required for maintenance or repair; or

9.2 beyond the Licensor's reasonable control.

10. Right of Entry

The Licensee authorises the Licensor to enter the Licensed Area in the event of an emergency.

11. Licensee's Obligations at End of Licence

11.1 Licensee's Obligations

At the end of this Licence, the Licensee must give to the Licensor any security devices (if applicable) used by the Licensee to obtain access to the Licensed Area.

11.2 Licensee's Property Left in Licensed Area

Anything left in the Licensed Area at the end of this Licence will become the property of the Licensor and may be removed by the Licensor at the Licensee's cost and at the Licensee's risk.

12. Owners Corporation Rules

12.1 The Licensee must observe and comply with the Owners Corporation Rules.

12.2 A breach of the Owners Corporation Rules is a breach of this Licence.

12.3 Where there is any inconsistency between the terms of the Owners Corporation Rules and this Licence, the provisions of this Licence prevail.

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13. Termination of Licence

13.1 Re-entry

The Licensor may terminate this Licence if the Licensee breaches a material provision of this Licence and does not remedy the breach within 28 days of receipt of written notice from the Licensor specifying the material breach complained of.

13.2 Damages following Termination

If this Licence is terminated by the Licensor, the Licensee agrees to compensate the Licensor for any loss or damage the Licensor suffers in connection with the Licensee's breach of this Licence including the loss of the benefit of the Licensee performing its obligations under this Licence up to the expiration of the Term.

14. General

14.1 Notices

Any notice required to be served under this Licence must be in writing and must be served by post, email or hand delivered to:

14.1.1 the Licensee at its address set out in this Licence, the Licensee's registered office address or the last known address of the Licensee; and

14.1.2 the Licensor at its address set out in this Licence or any other address notified in writing to the Licensee by the Licensor.

14.2 Entire Understanding

This Licence contains the entire understanding between the parties as to the subject matter contained in it. All previous agreements, representations, warranties, explanations and commitments, expressed or implied, affecting this subject matter are superseded by this Licence and have no effect.

14.3 Waiver

If the Licensor accepts the Licence Fee or any other monies under this Licence (before or after the end of this Licence) or does not exercise or delays exercising any of the Licensor's rights under this Licence, it will not be a waiver of the breach of this Licence by the Licensee or of the Licensor's rights under this Licence.

14.4 Additional Clauses

This Licence is subject to the Additional Clauses. The Additional Clauses override any inconsistent provisions in this Licence.

14.5 Electronic Execution

Each party consents to the signing of this Licence by electronic means. The parties agree to be legally bound by the Licence signed in this way.

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15. Interpretation

15.1 Governing Law and Jurisdiction

This Licence is governed by and is to be construed in accordance with the laws of Victoria. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Courts of Victoria and waives any right to object to proceedings being brought in those Courts.

15.2 Persons

In this Licence, a reference to a person includes a firm, partnership, association, corporation or other corporate body.

15.3 Joint and Several

If a party consists of more than one person, this Licence binds them jointly and each of them severally.

15.4 Legislation

In this Licence, a reference to a statute includes regulations under it and consolidations, amendments, re-enactments or replacements of any of them.

15.5 Clauses and Headings

In this Licence:

15.5.1 a reference to a clause, schedule or appendix is a reference to a clause, schedule or appendix in or to this Licence; and

15.5.2 headings and sub-headings are inserted for ease of reference only and do not effect the interpretation of this Licence.

15.6 Severance

In this Licence:

15.6.1 if a provision is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable; and

15.6.2 if it is not possible to read down a provision as required in this clause, that provision is severable without affecting the validity or enforceability of the remaining part of that provision or the other provisions in this Licence.

15.7 Number and Gender

In this Licence, a reference to:

15.7.1 the singular includes the plural and vice versa; and

15.7.2 a gender includes the other genders.

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1. Grease Trap

1.1 Use of Grease Trap Area

The Licensee must:

1.1.1 only use the Grease Trap for the purposes for which they are intended and for no other purposes;

1.1.2 ensure that the Grease Trap is/are maintained and cleaned at all times; and

1.1.3 if the Licensee enters into a contract for the maintaining, cleaning and emptying of the Grease Trap it must, if requested by the Licensor, provide a copy of that contract to the Licensor.

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Annexure A

Grease Trap Plan

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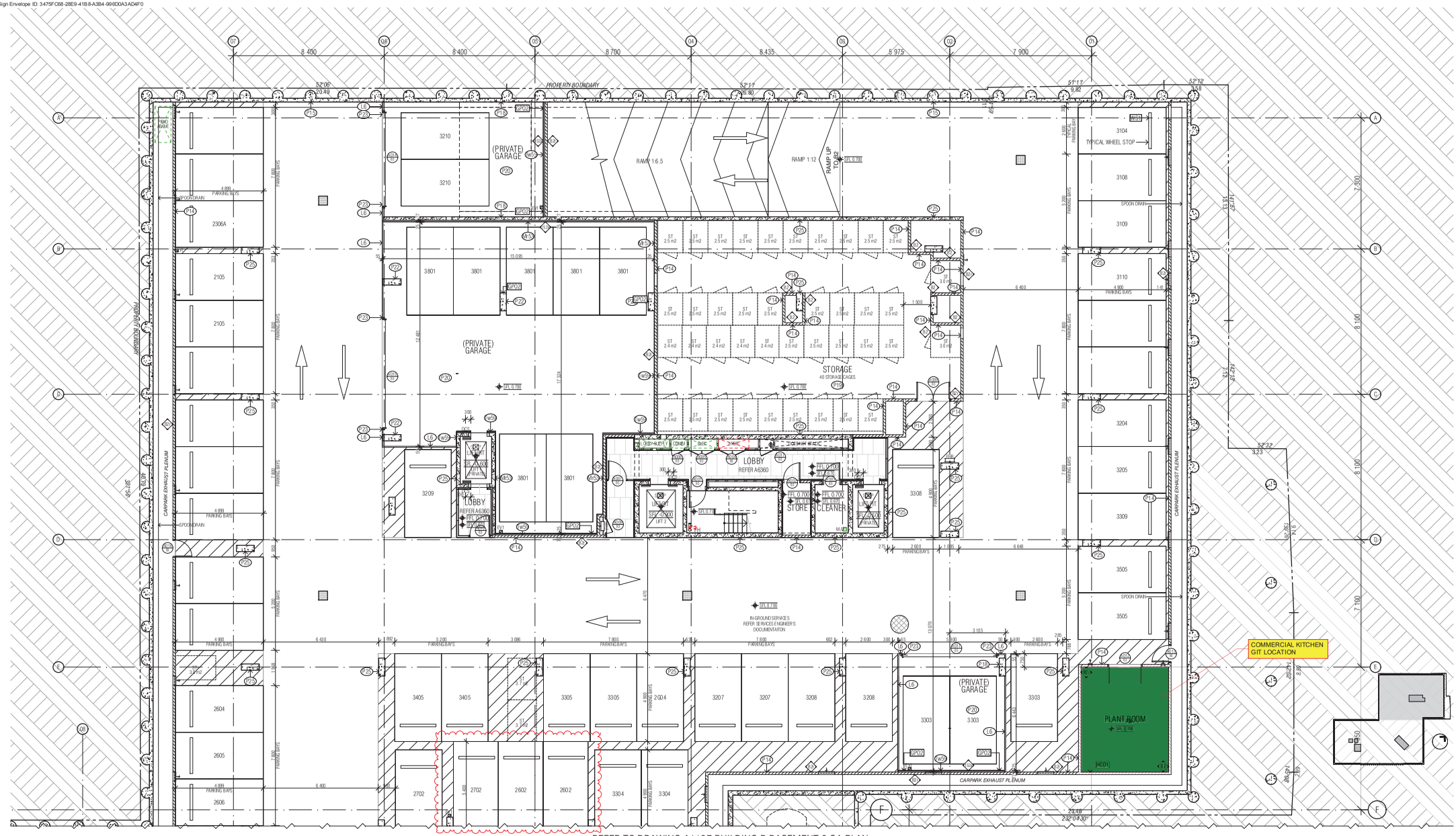

REFER TO DRAWING A1197 BUILDING B BASEMENT 3 GA PLAN

GENERAL LEGEND

WALL HATCHES
EXISTING WALL
INSITU CONCRETE
PRECAST CONCRETE
MASONRY
FIRE RATED STUD WALL

WALL TYPE TAG (REFER A0050 FOR WALL TYPE LEGEND)
FINISH TAG (REFER *SCHEDULES 01.02 EXTERNAL/INTERNAL FINISHES AND ASSEMBLIES SCHEDULE*)
FIXTURE/FITTING TAG (*REFER SCHEDULE 03 FIXTURES AND FITTINGS SCHEDULE*)
DOOR TAG (*REFER SCHEDULE 04 DOOR SCHEDULE*)
LEVELS: SFL = STRUCTURAL FLOOR LEVEL
NGL = NATURAL GROUND LEVEL
PL = FINISHED PAVING LEVEL. FFL = FINISHED FLOOR LEVEL.

APARTMENT TAG LEGEND
APARTMENT TYPE
APARTMENT NUMBER
1:50 DETAIL DRAWING
APARTMENT NSA
FIRE HOSE REEL
FIRE HYDRANT
SIPHONIC ROOF OUTLET
SIPHONIC OVERFLOW

FW OUTLETS: FW ETC = FLOOR WASTE, RO = ROOF OUTLET, TG = TRENCH GRATE, PFW = PLANTER FLOOR WASTE. REFER SPECIFICATION FOR TYPES AND HYDRAULIC DWG'S
DP DP1/DP2 ETC = DOWNPIPE. REFER SPECIFICATION FOR TYPES AND HYDRAULIC DWG'S
SPT SPOUT
OF BALCONY OVERFLOW
FL FLUSH RECESSED WALL LIGHT
WL SURFACE MOUNTED LIGHT
PL PAVING LIGHT

SERVICES RISERS
SERVICES RISERS
MECH PENETRATION/ZONE
HYDR. PENETRATION/ZONE
ELECT PENETRATION/ZONE
FIRE PENETRATION/ZONE
ROOF SUMP / STORMWATER SUMP
REFUSE CHUTE/WASTE

ST / PRESS -STAIR PRESSURE
S/F -SECURITY/ FIRE
-STACK RISERS:
SS = SOIL STACK
NG = NAT. GAS
TW = TRADE WASTE.
SW = STORMWATER

NOTE: VENT RISERS AND MISCELLANEOUS SERVICE PIPEWORK NOT INDICATED. REFER SERVICES FOR FULL EXTENT OF RISERS

GLAZING LEGEND
AS AWNING SASH
TA TRIPLE AWNING SASH
SG SPANDREL GLASS - FULL HEIGHT
EG EXHAUST GRILLE - OVER SPANDREL
SD SLIDING DOOR / WINDOW
SW SWING DOOR
FG FIXED GLASS
SLIDE DOOR SASH (SINGLE ARROW FOR EACH LEAF)

WINDOW MARKER [W00-01] BREAK UP. LIKE THIS:
W = WINDOW SYSTEM (W = Window Wall, C = Curtain Wall, B = Balustrade)
00 = GROUND FLOOR LEVEL 01 = WINDOW NUMBER
EXTENT OF CURVED GLASS
EXTENT OF ACID ETCHED GLASS

EXTENT OF HELIOSCREENS TBC

EXTERNAL WATERPROOF GPO
EXTERNAL GAS POINT
TACTILE INDICATORS

CAR PARKING
BICYCLE PARKING
LEVEL (B1 OR OTHER) VEHICLE PARKING SPACE NUMBER
LINE MARKING PAINT FINISH
BOL BOLLARD

JOINERY TYPES
(REFER TO SCHEDULE 02 - Part 2 for additional information on room finishes or specifications)
FR FRIDGE UNIT
P PANTRY UNIT
OV OVEN/PANTRY UNIT
L LINEN UNIT

JOINT TYPES
CJ CONTROL JOINT
PJ PRECAST JOINT
EJ TILE EXPANSION JOINT

NOTES:
1. ALL COLUMNS SHOWN ARE INDICATIVE. ORIENTATION AND CONFIGURATION TO BE CONFIRMED BY STRUCTURAL ENGINEER AND ARE SUBJECT TO CLIENT SIGN OFF.
2. REFER TO GURNER IESC DOCUMENT FOR FLOOR AND WALL FINISHES.

IBM Server: BIMCLOUD21 - BIM cloud Basic for ARCHICAD 21/19056 14-16 Esplanade St Kilda/18056 SM_General

REVISION

04	ISSUED FOR CONSTRUCTION	SJ	25.02.2020
05	ISSUED FOR CONSTRUCTION	MC	27.02.2020
06	ISSUED FOR TRAFFIC AND SERVICES REVIEW	RL	11.03.2020
07	ISSUE FOR COORDINATION AND PREPARATION OF SERVICES SHOP DRAWINGS	RL	15.04.2020
A	ISSUED FOR THE PREPARATION OF SERVICES SHOP DRAWINGS	RL	22.05.2020
B	ISSUED FOR THE PREPARATION OF SERVICES SHOP DRAWINGS	RL	29.05.2020
C	ISSUED FOR DOOR REVIEW	AM	29.06.2020
D	FIRE EGRESS AMENDMENT	TJ	07.07.2020

REVISION

E	BLOCKWORK SET-OUT UPDATE	TJ	01.09.2020
F	GENERAL UPDATE	AM	25.09.2020
G	BLOCKWORK MECH PENDS UPDATED (CREMA-TRANSMIT-001598 & 001621)	MC	15.10.2020
H	SPEEDPANEL AMENDMENTS (ACONEX CREMA-DA-002314)	TJ	30.10.2020
I	PRIVATE GARAGE UPDATE	TJ	22.02.2021
J	GARAGE UPDATES	MC	07.03.2021
K	WALL FINISH UPDATE	MC	15.06.2021
L	ACONEX CREMA-DA-004719	TJ	15.09.2021

QUALITY ASSURANCE (FK IS A CERTIFIED COMPANY TO ISO 9001-2015)

THIS PROJECT IS SUBJECT TO THE FK QUALITY ASSURANCE SYSTEM

■	SCHEMATIC DESIGN REVIEW FOR THIS PROJECT IS COMPLETE.	DATE OF REVIEW: 26.11.2018
■	DESIGN DEVELOPMENT REVIEW FOR THIS PROJECT IS COMPLETE.	DATE OF REVIEW: 20.05.2019
■	TENDER DOCUMENTATION REVIEW OF THIS PROJECT IS COMPLETE.	DATE OF REVIEW: 20.05.2019
■	CONSTRUCTION DOCUMENTATION REVIEW OF THIS PROJECT IS COMPLETE.	DATE OF REVIEW: 05.09.2021

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PROJECT
SAINT MORITZ
14-16 THE ESPLANADE
ST KILDA VIC 3182

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DRAWN	DATE	CHECKED	PLOT DATE	JOB NO.	SCALE
TJ	15.09.2021	MC	15.09.2021	18056	1:100@A1

DRAWING TITLE BUILDING A BASEMENT 3 GA PLAN

ISSUE PURPOSE FOR CONSTRUCTION

REV. L

DRAWING NO. A1097

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Annexure B

Owners Corporation Rules

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DX 259 Melbourne

Date / /

Owners Corporation Rules

Saint Moritz, 14-16 The Esplanade, St Kilda, Victoria

Owners Corporation No. 1 on Plan of Subdivision PS826420W

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Owners Corporation Rules

Date / /

Notes

The Act and Regulations detail the powers of the Owners Corporation(s), the general duties of members, meetings and administration of the Owners Corporation(s), insurance and other miscellaneous matters. These Rules must be read in conjunction with the Act, Regulations and the model rules prescribed under the Regulations.

1. Definitions

In these rules:

Act means the *Owners Corporations Act* 2006 (Vic) as amended from time to time.

Authority means any government or any public, statutory, governmental, semi-governmental, local government, municipal or judicial body, entity or authority and includes a Minister of the Crown (in any right), and any person, body, entity or authority exercising a power pursuant to an Act of Parliament.

Bicycle Store means the bicycle store common facilities located on the Common Property.

Building Works means all design, building and construction works including the construction, erection, fixing, installation or otherwise or any item not originally included with or part of a Lot or Common Property.

Building means all and any buildings, structures or improvements comprised in the Development.

Common Property means the land, the Building and any other improvements erected on 14-16 The Esplanade, St Kilda and designated as common property no. 1 on the Plan.

Developer means 14-16 The Esplanade by Gurner Pty Ltd ACN 626 307 131 or a Related Entity responsible for the development of the Development and creation of Lots and includes the Developer's successors and assigns and where it is consistent with the context includes the Developer's employees, agents, builders, contractors, subcontractors and invitees.

Development means all the land and improvements comprised in the Plan and known as Saint Moritz, 14-16 The Esplanade, St Kilda.

Development Agreement means any agreement between the Developer and Owners Corporation or in relation to the Development, including any ancillary agreements between the Developer and the Owners Corporation such as development leases or other licences.

Director has the same meaning as it has in the *Fair Trading Act* 1999 (Vic).

Dispute means a dispute or other matter arising under the Act, Regulations or Rules including a dispute or matter relating to:

(a) the operation of the Owners Corporation;

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(b) an alleged breach by a Member or Occupier of an obligation imposed on that person under the Act, Regulations or the Rules; or

(c) the exercise of a function by a Manager in respect of the Owners Corporation.

Dog and Car Wash Facilities means the dog and car wash common facilities located on the Common Property.

Domestic Building Contract means any domestic building contract within the meaning of the *Domestic Building Contracts Act* 1995 (Vic) entered into by the Initial Owner.

Governmental Agency means any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.

Initial Owner has the same meaning as it has under the Act and where the context requires includes its successors and assigns.

Land means the whole of the land described in the Plan.

Lot means a lot shown on the Plan.

Maintenance Fund means a fund or part of a fund used for implementation of the Maintenance Plan (if any).

Maintenance Plan means a maintenance plan (if any) established and approved by the Owners Corporation as contemplated by the Act.

Manager means the person or entity appointed by the Owners Corporation as Manager of the Owners Corporation(s) or, where the context permits, the building manager, concierge or valet appointed by the Owners Corporation to assist it with the functions of the Owners Corporation contemplated by the Rules and where relevant includes the Manager's successors and assigns and where the context requires includes the Manager's officers, employees, agents, contractors, subcontractors and invitees.

Member means a member of the Owners Corporation by reason of being the owner of a Lot for the time being and where the context requires includes an Occupier or their invitees.

Occupier means the person or entity authorised by the Member to occupy the designated Lot as tenant or licensee and where the context requires includes the Occupier's invitees.

Owners Corporation means the Owner Corporation No. 1 on the Plan.

Plan means Plan of Subdivision No. PS826420W.

Regulations means the *Owners Corporations Regulations* 2018 (Vic) as amended from time to time.

Related Entity has the same meaning given to that term in the *Corporations Act* 2001 (Cth).

Retail Lot means a Lot for Retail Purposes.

Retail Purposes means use for a restaurant, café, retail use or other commercial purpose, subject to any approvals required by an Authority.

Rule or **Rules** means these rules which are for the purpose of the control, management, administration, use or enjoyment of the Common Property or any Lot as amended from time to time.

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Vendor means Barana (St Kilda) Investments Pty Ltd.

2. Interpretation

2.1 Unless the context otherwise requires:

2.1.1 headings are for convenience only;

2.1.2 words imparting the singular include the plural and vice versa;

2.1.3 expressions imparting a natural person includes any company, partnership, joint structure, association or other Owners Corporation and any governmental authority; and

2.1.4 a reference to a thing includes part of that thing.

2.2 The obligations and restrictions in these Rules must be read subject to the rights, grants or privileges that may be given to any person or entity by the Owners Corporation from time to time and to the extent of any inconsistency, such rights, grants or privileges, must prevail over these Rules in respect of the person or entity to whom they are given.

2.3 In these Rules:

2.3.1 if a provision is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable; and

2.3.2 if it is not possible to read down a provision as required in this Rule, that provision is severable without affecting the validity or enforceability of the remaining part of that Rule or the other Rule;

2.3.3 references to 'Owners Corporation' includes any person or body authorised to act on behalf of the Owners Corporation delegated any power or functions by the Owners Corporation or appointed by the Owners Corporation to assist in carrying out its functions, including without limitation the Manager, as the context permits.

2.4 In the event of a conflict between these Rules and any restriction on the Plan, the restriction will prevail.

2.5 In the event of a conflict between these Rules and the model rules prescribed under the Regulations, these Rules prevail.

3. Role and functions

3.1 The Owners Corporation is responsible for ensuring that appropriate rules, measures and procedures are established to govern issues common to the Members, including that the Common Property and/or a Lot are maintained for the benefit and enjoyment of all Members and Occupiers. The Owners Corporation exercises such responsibilities through enforcing the Rules and through holding regular committee meetings at which matters affecting the operation of the Common Property are resolved and advised to all Members.

3.2 The Owners Corporation must abide by the Rules, Act and Regulations, and in carrying out its functions and powers must act honestly and in good faith and exercise due care and diligence.

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3.3 These Rules are for the purpose of the control, management, administration, use or enjoyment of the Common Property or a Lot and represent the interests of Members and Occupiers. The Rules may be added to, amended or revoked:

3.3.1 if a resolution is passed after a ballot or poll is taken and 75% of the total lot entitlements of all the Lots are in favour of such addition, amendment or revocation; or

3.3.2 if a resolution is passed in any other case and 75% of the total votes for all the Lots are in favour of such addition, amendment or revocation (**Special Resolution**).

3.4 Under the Act and Regulations, the Owners Corporation is responsible for, amongst other things:

3.4.1 electing the Committee (if required);

3.4.2 establishing a Maintenance Plan and Fund;

3.4.3 establishing and maintaining an Owners Corporation Register;

3.4.4 taking out, maintaining and paying the premiums for insurance;

3.4.5 keeping proper accounts that cover the income, expenditure, assets and liabilities of the Owners Corporation and providing true reports of the financial situation of the Owners Corporation; and

3.4.6 preparing annual financial statements.

4. Provision of services

4.1 Each Member of the Owners Corporation agrees that the Owners Corporation will provide the following services:

4.1.1 the repair and maintenance of all Common Property including gardens, trees, paved areas and landscaping; and

4.1.2 any other service or facility provided by the Owners Corporation for the benefit of the Members.

4.2 A Member or an Occupier acknowledges that:

4.2.1 the Owners Corporation may share amongst the Members and Occupiers the costs of supply and maintenance (based on lot liability or other methodology determined by the Owners Corporation) of any gas facility or power facility required for heating or air conditioning or any variable refrigerant volume or variable refrigerant flow system (VRV) to the Lots affected by the Owners Corporation or any Common Property; and

4.2.2 where any Lot is not separately metered in relation to any service, including gas, electricity, water, heating, air conditioning and/or VRV, then the Occupier shall pay a proportion of such service and supply charges relating to same on a proportional rate by dividing the unit liability of that Lot by the total unit liability of all Lots serviced jointly or as otherwise determined by the Owners Corporation, acting reasonably.

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5. Use of a Lot

5.1 A Member must not:

5.1.1 create noise or behave in a manner that is likely to interfere with the peaceful enjoyment of the member of another Lot, or any person lawfully using the Common Property;

5.1.2 operate or permit to be operated on a Lot any device or electronic equipment which interferes with any domestic appliance lawfully in use on the Common Property, or another Lot;

5.1.3 use or store on the Lot any flammable chemical, liquid, gas or other flammable material other than chemicals, liquids, gases or other material used or intended to be used for normal and lawful domestic purposes or in the fuel tank of a motor vehicle;

5.1.4 use that part of a Lot designed for use as a car parking space for any other purpose without the prior written consent of the Owners Corporation;

5.1.5 use that part of a Lot designed for use as storage for any other purpose without the prior written consent of the Owners Corporation;

5.1.6 use that part of a Lot designed for use as wine storage for any other purpose without the prior written consent of the Owners Corporation;

5.1.7 use that part of a Lot designed for use as a VIP locker for any other purpose than storage without the prior written consent of the Owners Corporation;

5.1.8 carry out or cause to be carried out on a Lot, road or any other land in the vicinity of a Lot, any dismantling, assembly, repairs or restorations of vehicles unless carried out in an area screened from public view; and

5.1.9 use the Lot for any purpose that may be illegal or injurious to the reputation of the premises comprised of the lots and the Common Property or which may cause a nuisance or hazard to any other member of a Lot.

5.2 Each Member must:

5.2.1 maintain their Lot and must ensure that their Lot is so kept and maintained as not to be offensive in appearance nor a fire or health hazard to other Members; and

5.2.2 comply with all laws relating to the Lot including, without limitation, any requirement, notices and orders of any governmental authority.

6. Notification of Defects

A Member or Occupier of must promptly notify the Owners Corporation or the Manager on becoming aware of any damage to or defect in the Common Property or any personal property vested in the Owners Corporation.

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7. Compensation to Owners Corporation

The Member or Occupier must compensate the Owners Corporation in respect of any damage to the Common Property or personal property vested in the Owners Corporation caused by that Member or Occupier or their respective tenants, licensees or invitees.

8. Pets and animals

8.1 A Member can keep any animal upon a Lot or the Common Property unless the Member has been given notice by the Owners Corporation to remove and keep removed such animal once the Owners Corporation has resolved that the animal is causing a nuisance.

8.2 A Member must ensure that any animal belonging to them does not urinate or defecate on Common Property including internal court yards. In the event any animal belonging to them does urinate or defecate on Common Property, the Member must immediately clean up the urine and/or faeces.

8.3 A Member must ensure that any animal belonging to them must be on a lead at all times when on the Common Property.

9. Cleaning and maintenance of a Lot

9.1 A Member or Occupier must keep its Lot (including any car park, storage cage, wine storage lot or VIP locker utilised by the Member or Occupier) clean and in good repair.

9.2 A Member or Occupier must ensure that the external blinds or screens forming part of the Lot are regularly maintained and kept clean at all times. Failure to clean or maintain the external blinds or screens on a regular basis will cause the Owners Corporation to maintain the blinds or screens at a cost to the Member.

9.3 A Member or Occupier must ensure that all landscaped areas and pools/spas visible from Common Property or which adversely affect the outward appearance or state of repair of the Lot or the use and enjoyment of the Lots or Common Property by other Members or Occupiers are maintained to a standard commensurate with the standard of maintenance of Common Property landscaped areas or as reasonably directed by the Owners Corporation or its Manager. Failure to comply with this rule will cause the Owners Corporation to landscape areas or clean pools/spas visible from Common Property at a cost to the Member.

9.4 Without limiting rule 9.3, a Member or Occupier must ensure that any palm trees situated on their Lot are regularly maintained, including trimming fronds away from the glazing line of the Building.

10. Blinds, Windows and Awnings

10.1 A Member or Occupier may only install window furnishings which are:

10.1.1 blockout roller blinds:

(a) the colour of the blockout backing facing the window is charcoal grey or any other similar colour approved by the Owners Corporation in writing; and

(b) on a ceiling mounted track; or

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10.1.2 sheer roller blinds:

(a) the colour of the sheer backing facing the window is charcoal grey or any other similar colour approved by the Owners Corporation in writing; and

(b) on a ceiling mounted track; or

10.1.3 blockout curtains:

(a) the colour of the blockout backing facing the window is charcoal grey or any other similar colour approved by the Owners Corporation in writing;

(b) full height drop without decorative pelmets or valances; and

(c) on ceiling mounted track; or

10.1.4 sheer curtains:

(a) the colour is white or any other similar colour approved by the Owners Corporation in writing;

(b) full height drop without decorative permits or valances; and

(c) on ceiling mounted track.

10.2 The Member or Occupier is responsible for any costs and expenses associated with the window furnishings, including without limitation the cost of the window furnishings and any installation costs.

10.3 A Member or Occupier must install and maintain internal window furnishings on their Lot, at their own cost, in a manner so as to ensure efficient operation of the heating/cooling system of the Lot.

10.4 A Member or Occupier must not allow any glazed portions of the Lot or the Common Property that surrounds the Lot to be tinted or similar treated.

10.5 A Member or Occupier must not install or allow to be installed any:

10.5.1 external blinds or awnings; or

10.5.2 internal window furnishings visible from the outside of the Lot (other than as allowed under this Rule),

without prior approval from the Owners Corporation in writing.

10.6 Timber plantation style solid shutters, venetian blinds, pleated blinds and similar horizontal appearance to venetians, vertical blinds and highly ornate fabric blinds or any finish are not permitted.

11. Building Works

11.1 A Member must not undertake any Building Works, including the alteration or modification to the external façade of a Lot, the removal or replacement of floor coverings or materials, fixing or having fixed any electrical, audio visual, or communication device or equipment (for example, plasma or LCD televisions or speakers) within or about or relating to their Lot which may effect the acoustic performance of any inter-tenancy wall, floor or ceiling, without:

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11.1.1 the prior written approval of the Owners Corporation; and

11.1.2 providing at least 28 days' notice of the Building Works to each horizontal and vertical neighbour.

11.2 Before commencing any Building Works, a Member must:

11.2.1 submit to the Owners Corporation for approval plans and specifications of any proposed Building Works;

11.2.2 obtain, for any Building Works proposal submitted for approval, certification by a qualified acoustics engineer that the works when completed will meet the Building Code of Australia minimum requirements for sound attenuation;

11.2.3 receive written approval from the Owners Corporation to proceed with those specified Building Works;

11.2.4 obtain and supply copies to the Manager of all requisite permits, approvals and consents under all relevant Laws;

11.2.5 pay costs to the Owners Corporation where a building contractor or consultant may be engaged to advise the Owners Corporation on the proposed Building Works even if consent is not given;

11.2.6 cause to be effected and maintained during the period of the Building Works a contractor's all risk insurance policy;

11.2.7 deliver a copy of the contractor's all risk insurance policy and certificate of currency to the Owners Corporation which notes the interests of the Owners Corporation.

11.3 A Member or Occupier must ensure that any contractor engaged to perform approved Building Work on their Lot complies with the reasonable directions of the Owners Corporation concerning the method of building operations, means of access, use of the Common Property, on-site management, building protection and hours of work. The Member or Occupier must also supervise the carrying out of such Building Works and ensure that the following conditions are met:

11.3.1 the Building Works are undertaken in:

(a) accordance with the requirements of the *Occupational Health and Safety Act* 2004 (Vic) and the *Occupational Health and Safety Regulations* 2017 (Vic), as amended or replaced from time to time; and

(b) a reasonable manner so as to minimise any nuisance, annoyance, disturbance and inconvenience to other Members or Occupiers;

11.3.2 building materials are not stacked or stored in Common Property;

11.3.3 scaffolding is not erected on the Common Property or the exterior of the Building, without the prior written approval of the Owners Corporation;

11.3.4 construction work complies with all Laws of the relevant Authorities;

11.3.5 construction vehicles and construction worker's vehicles are not brought into, or parked on the Common Property except by prior arrangement with the Owners Corporation;

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11.3.6 the exterior and Common Property of the Building is at all times be maintained in a clean and tidy state;

11.3.7 suitable floor, wall and other protections is installed in the Common Property before any building materials are taken through those parts of the Common Property; and

11.3.8 all contractors and tradesmen use only the basement, lifts, lobby and areas designated by the Manager when working in the Lot.

11.4 Where a Member or Occupier commissions Building Work in accordance with Rule 11.3, a representative of the Owners Corporation and the Member or Occupier must inspect the part of the Common Property which will be affected by the Building Works (for example, the area through which building materials will be transported) prior to commencing the Building Work to establish the state of repair of the Common Property and again after the Building Work has been completed to determine if any damage has been caused to the Common Property.

11.5 A Member or Occupier must promptly make good all damage to and dirtying of the Building, the Common Property, the services thereof or any fixtures and fittings and finishes which are caused by any Building Works. If the Member or Occupier fails to do so the Owners Corporation may in its absolute discretion make good the damage and dirtying at the Member's or Occupier's expenses. The Member or Occupier must indemnify and keep indemnified the Owners Corporation for all costs and liabilities incurred by the Owners Corporation in so making good the damage or dirtying caused by the Building Work. The Owners Corporation may at their absolute discretion demand from the Member or Occupier a performance bond in relation to the cleaning or repair of the Common Property to guarantee their performance under this Rule.

11.6 Before commencing any Building Works, a Member or Occupier must ensure that the walls, floor and ceiling of the lifts are adequately protected from damage.

12. Use of appurtenances

12.1 A Member or Occupier must not use the water closet, conveniences or other water apparatus, including water pipes and drains for any other purpose than those which they were constructed and, must not sweep or deposit rubbish, baby wipes or other unsuitable substances therein. The Member indemnifies and keeps indemnified the Owners Corporation on a full indemnity basis for any costs or expenses resulting from any damage or blockage incurred by the Owners Corporation where the damage or blockage was caused by the Member, Occupier or their invitees.

13. Fittings

13.1 A Member or Occupier must:

13.1.1 not modify any VRV, air-conditioning, heating or ventilation system or associated ducting servicing that services the Member's Lot without the prior consent of the Owners Corporation;

13.1.2 not install in a Lot a floor safe, a safe, or any other item exceeding 100kg in weight without a written consent of the Owners Corporation and before submitting to the Owners Corporation a structural engineering report in respect to the proposed installation; and

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13.1.3 ensure that all floor space within a Lot is covered or otherwise treated to an extent sufficient to prevent the transmission from the floor space of the Lot noise likely to disturb the peaceful enjoyment of the Member or Occupier of another Lot.

13.2 A Member or Occupier must not affix or have affixed to any Common Property wall, floor or ceiling any electrical, audio visual or communication device or equipment without the prior written consent of the Owners Corporation including but not limited to plasma or LCD televisions or speakers.

14. Use of Common Property

14.1 A Member or Occupier must not:

14.1.1 do or allow to be done anything on the Common Property which causes a nuisance to or interferes with its lawful use by the Owners Corporation or other Members;

14.1.2 do or permit anything which might cause structural damage to the Common Property;

14.1.3 interfere with the operation of any equipment installed on the Common Property without the prior written consent of the Owners Corporation;

14.1.4 interfere with any personal property vested in the Owners Corporation;

14.1.5 park or leave a vehicle or permit any vehicle to be parked or left upon the Common Property or in any place other than in a parking area specified for such purpose by the Owners Corporation;

14.1.6 paint, finish, drive nails or screws or the like into, or otherwise damage, alter or deface the Building or any other part of the Common Property including the external facade except with the consent in writing of the Owners Corporation;

14.1.7 when on Common Property (or if on any part of a Lot so as to be visible from another Lot or from Common Property), fail to be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to the Member or Occupier of another Lot or to any person lawfully using Common Property;

14.1.8 deposit or throw upon the Common Property any rubbish, dirt, dust or other material likely to interfere with the peaceful enjoyment of other Member or any person lawfully using the Common Property;

14.1.9 disregard any requirements made by the Owners Corporation relating to the use of any access keys and intercom system that may be provided as the means of access upon roadways created within the Common Property;

14.1.10 use or store on the Common Property any flammable chemical, liquid, gas or other flammable material other than chemicals, liquids, gases or other material used or intended to be used for normal and lawful domestic purposes or in the fuel tank of a motor vehicle;

14.1.11 hold or allow to be held any public auction on or near the Common Property;

14.1.12 directly instruct any contractors or workmen employed by the Owners Corporation unless so authorised;

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14.1.13 except with the consent in writing of the Owners Corporation, use for their own purposes as a garden any portion of the Common Property; and

14.1.14 smoke in the stairwells, lifts, foyers, and car park forming part of the Common Property or any other part of the Common Property.

14.2 A Member or Occupier:

14.2.1 must notify the Owners Corporation or its Manager promptly when becoming aware of any damage to or defect in the Common Property or any personal property vested in the Owners Corporation;

14.2.2 must ensure that any guests or invitees of the Member or Occupier are accompanied at all times when on Common Property; and

14.2.3 acknowledges that the use of the Common Property is subject to any written agreements, leases or licences that the Owners Corporation may enter into relating to areas of the Common Property.

15. Lifts

15.1 A Member or Occupier must not and must ensure that the Occupier of a Member's Lot does not:

15.1.1 use the lifts for any other purpose other than to gain pedestrian access to his or her Lot as directed by the Owners Corporation;

15.1.2 hold the lift doors and/or prevent the doors of the lift closing for any period of time so as to interfere with the normal operation of other Occupiers' use of the lifts;

15.1.3 press the alarm or stop button except in an emergency situation;

15.1.4 press any button other than the one representing the floor or level that the lift is required to stop at; and

15.1.5 change any lift programming that gives preferential access to a Lot(s) within the Development.

15.2 Retail Lot occupants are not permitted to utilise the residential lifts to transport any goods.

16. Parking

16.1 Only motor vehicles and motorbikes are permitted to be located in a car space or garage allocated to a Lot and a Lot's allocated car space or garage can only be used for the storage of motor vehicles and motorbikes and not for the storage of any other items.

16.2 Members and Occupiers must park only in the car space allocated to the Lot and not in any other carparking space allocated to another Lot or any carparking spaces allocated for the use of visitors to the Development.

16.3 If a Member or Occupier of a Lot has more vehicles than the car spaces allocated to that Lot, any additional vehicles must be parked outside the Development.

16.4 Members must not close in any carparking space allocated to the Lot to make a private garage-style carparking space without the prior written approval of the Owners Corporation.

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16.5 Visitors parking provided on any Common Property (if any) is reserved for casual visitors to Lots, and is restricted to a maximum 1 hour parking time. Members and Occupiers must ensure that visitors parking is not used by long term visitors for more than 1 hour at a time without the prior consent of the Owners Corporation.

16.6 The Owners Corporation has the power to:

16.6.1 impose a speed limit for driving in Common Property;

16.6.2 impose reasonable restrictions on the use of Common Property, driveways and parking areas;

16.6.3 install speed humps and other traffic control devices on Common Property; and

16.6.4 install signs in relation to parking to control driving on Common Property.

16.7 A Member or Occupier of a Lot must comply at all times with the speed limits, restrictions, parking and traffic signs imposed or installed by the Owners Corporation or the Manager.

16.8 A Member of Occupier of a Lot must not park or leave a vehicle or other similar object on Common Property so as to obstruct any driveway or entrance to a Lot, or in any place other than in parking areas specified by the Owners Corporation or the Manager from time to time and must observe any parking directions given orally or published by the Manager from time to time in respect of parking.

16.9 A Member or Occupier of a Lot must not:

16.9.1 obstruct a driveway or entrance to a Lot or any other road in the Common Property;

16.9.2 allow parking spaces to be purchased by or leased to non residents/non Occupiers; or

16.9.3 allow parking spaces to be used for anything other than for the parking of vehicles, trailers or similar.

16.10 The Owners Corporation or Manager may remove any offending vehicles, trailers or motorbikes which are parked on the Common Property or in any carparking spaces in breach of these Rules.

16.11 A Member or Occupier must ensure its car parking space(s) are free of oil, petrol and like substances. The Owners Corporation may clean any car parking space which is excessively stained by oil, petrol or a like substance at the Member's or Occupier's expense if after providing 14 days notice the Member or Occupier has failed to clean the excessive staining. The Owners Corporation may authorise a person to enter the relevant Lot or Building on its behalf to carrying out cleaning of car spaces in accordance with this Rule.

17. Bicycles

17.1 A Member or Occupier must not permit any bicycle to be stored on Common Property except in areas designated by the Owners Corporation or otherwise with its written consent.

17.2 Members or Occupiers must indemnify and keep indemnified the Owners Corporation on a full indemnity basis for the costs of repairing any damage to the Common Property arising out of bringing their bicycles on to any Lot (for example, corridors, lifts).

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18. Bicycle Store

18.1 When using the Bicycle Store, a Member and an Occupier:

18.1.1 must ensure that unless otherwise stated, children below the age of 15 years are not in or around the Bicycle Store unless accompanied by an adult Member or Occupier exercising effective control over them;

18.1.2 must ensure that no guests are allowed in the Bicycle Store, subject to prior approval of the Manager and subject to any conditions on entry determined by the Manager;

18.1.3 is responsible (at its cost) for any damage, cleaning or reinstatement costs incurred by the Owners Corporation or Manager as a result of its (or its guests) use of the Bicycle Store;

18.1.4 must not smoke or make any undue noise in the Bicycle Store;

18.1.5 must ensure that the Bicycle Store is left in the same condition in which it was found;

18.1.6 use the Bicycle Store at their own risk; and

18.1.7 must not use the Bicycle Store for any purpose other than storing their bicycle.

18.2 The Members and Occupiers agree that:

18.2.1 the Manager may close off one or more areas of the Bicycle Store at its reasonable discretion, including to allow for the safe or desirable use of the Bicycle Store, for the purposes of maintenance, works and the like;

18.2.2 the Owners Corporation may make additional or separate rules relating to the use of the Bicycle Store provided they are not inconsistent with these Rules. If breached, rules relating to the Bicycle Store will constitute a breach of these Rules.

19. Moving object on or through Common Property

19.1 The Owners Corporation may resolve that furniture or large objects are to be transported through or on the Common Property (whether in the Building or not) in a specified manner.

19.2 If the Owners Corporation has specified, by resolution, the manner in which furniture or large objects are to be transported, a Member or Occupier must not transport any furniture or large object through or on the Common Property except in accordance with that resolution.

19.3 When using the lifts to move goods or furniture a Member or Occupier must ensure that the walls, floor and ceiling of the lifts are adequately protected from damage.

19.4 If the Member or Occupier requires the use of a crane to move goods or furniture, the Member or Occupier must first notify (by giving at least 7 days' written notice) and obtain the consent of the Owners Corporation. The Member or Occupier must cooperate with and comply with any requirements of the Owners Corporation (acting reasonably) in order to facilitate the use of the crane and minimise disruption to other Members or Occupiers.

19.5 A Member or Occupier must not move any article of furniture or any other article likely to cause damage or obstruction through the Common Property without first notifying the

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Owners Corporation (by giving at least 7 days' written notice) to enable the lifts to be covered and ensure only one Member or Occupier is moving in at a time.

19.6 Prior to moving any article of furniture or any other article likely to cause damage or destruction, the Manager or a representative of the Owners Corporation and the Member or Occupier will inspect the Common Property through which such article is to be moved to establish its state of repair. The Member or Occupier will be liable for any damage caused to the Common Property arising from the movement of the article.

20. Signage and windows

20.1 A Member is not permitted to display signs, advertising or notices on any Lot, including for the purpose of offering for sale or lease or letting any Lot or Common Property, without the consent of the Owners Corporation. Any sign that is erected must be of a standard that shall not detract from the overall appearance of the Development.

20.2 A Member is not permitted to display any advertising material, logos or sign writing to any external window, glazing or external solid face of a lot without the written consent of the Owners Corporation.

20.3 A Member must not allow any glazed portions of the Lot or Common Property to be tinted or otherwise treated with the intention of changing the visual characteristic of the Development.

21. Mail

21.1 Members and Occupiers must keep their mail box regularly cleared to avoid overflowing of mail, leaflets, circulars, pamphlets, newspapers, advertising material or other objects whatsoever at any one time, whether solicited or not, and must arrange for all such required clearance by other persons should a Member or Occupier be absent for any reason for any period of time to avoid such overflowing. This requirement may be waived upon request made to the Owners Corporation in writing not less than seven days prior to the date or dates for which such waiver is required.

21.2 Where large parcels do not fit into a mail box, Members and Occupiers consent to the Manager holding such parcels on their behalf, until collected by the Member or Occupier.

22. Garbage disposal

A Member of a Lot must:

22.1 except where the Owners Corporation provides some other means of disposal of garbage, maintain within their Lot, or on such part of the Common Property as may be authorised by the Owners Corporation, a receptacle for garbage and to keep such receptacle in a clean and tidy condition and not visible to the public except on days designated for rubbish collection;

22.2 comply with all requirements of Governmental Agencies relating to the disposal of garbage;

22.3 ensure that rubbish is disposed of in accordance with the disposal facilities of the Building, and the rules/directions of the Owners Corporation from time to time (for example recyclables are placed in the recycle chute);

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22.4 consult with and seek approval from the Owners Corporation in respect of the disposal of large articles to ensure that they are disposed of appropriately;

22.5 ensure that rubbish does not accumulate on their Lot, and that the health, hygiene and comfort of other Members is not adversely affected by their disposal of garbage;

22.6 ensure that rubbish is transported from their Lot to the designated garbage room on the Common Property in an appropriate watertight receptacle; and

22.7 pay or reimburse the Owners Corporation any costs incurred by the Owners Corporation as a result of the Member or Occupier's misuse of the garbage disposal facilities, or other breach of this rule 22.

23. Restrictions – trade or business

23.1 The Member or Occupier must not use or permit others from using that Lot or any part of the Common Property for any trade, business or other retail use without the express written consent of the Owners Corporation unless that Lot is a Retail Lot.

23.2 If authorised to do so by the Owners Corporation, the Member or Occupier of any Lot may carry on a trade, business or other retail use from the relevant Lot, provided:

23.2.1 the planning scheme of the relevant Authority governing the use of that Lot permits the trade, business or other commercial use to be carried on from the Lot; and

23.2.2 any requirements in respect of the trade, business or other commercial use stipulated by any relevant Authority from time to time are complied with; and

23.2.3 the trade, business or other commercial use can be carried on and is carried on without causing undue nuisance or, creating a greater security risk to the Members and Occupiers of other Lots.

24. Commercial area

24.1 Without limiting any other rule, the proprietor or occupier of a Retail Lot used for Retail Purposes must:

24.1.1 ensure that rubbish is disposed of in the bins provided in the Building by the Owners Corporation at the end of each day of business, in a discrete manner via the basement, or in any other location or manner advised by the Owners Corporation as may be necessary or desirable;

24.1.2 avoid unnecessary noise when filling bins;

24.1.3 ensure lids on bins are securely closed after taking rubbish to the bins;

24.1.4 ensure all cardboard and paper waste is cut up or folded and neatly contained in bins;

24.1.5 otherwise comply with rule 22;

24.1.6 comply with all health, noise and other regulations in carrying on the business from the Lot;

24.1.7 any mechanical fluing must be charcoal filtered or equivalent;

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24.1.8 small utility deliveries are to be between 5:30am – 6:00pm Monday to Friday and 6:30am – 6:00pm Saturdays & Sundays;

24.1.9 large deliveries are to be between 8:00am – 6:00pm Monday to Sunday;

24.1.10 not permit electronic gaming machines;

24.1.11 make all reasonable attempts to address/treat any odours that emanate from the Lot; and

24.1.12 ensure that all wall, floor and ceiling linings and treatments are acoustically treated where required by the Owners Corporation or Manager.

24.2 Nothing herein will prevent or prohibit any owner or Occupier of a Retail Lot from carrying on its reasonable business operations within a Retail Lot and to apply for, and obtain, any planning permit, liquor licence, or any other legislative consent or permit which the owner of any Retail Lot may apply for, provided that all times the proprietor or occupier of any such Retail Lot:

24.2.1 operates lawfully;

24.2.2 obtains each and every permit, liquor licence or other consent required; and

24.2.3 operates within the terms of any such liquor licence, permit or consent.

24.3 The owner or Occupier of any Retail Lot will be responsible for all costs associated with the cleaning, repairs and maintenance of the areas licensed to them. The licensees will be responsible for ensuring that these areas are kept in a pristine condition at all times.

24.4 Any owner or Occupier of a Retail Lot will be entitled to reasonable access at all times for invitees and customers through those parts of the Common Property necessary for usual business practice.

24.5 The Owners Corporation(s) will not hinder access to the Retail Lots via the main front entry except when they are required to undertake routine maintenance of these areas.

24.6 Rule 20 does not apply to a Lot used for Retail Purposes.

25. Behaviour of Invitees

25.1 The duties and obligations imposed by these special rules upon a Member of a Lot must be observed not only by the Member but also by the guest, servants, employees, agents, children, invitees and licensees of the Member or the occupier of their Lot (Invitees).

25.2 A Member must take all reasonable steps to ensure that their Invitees do not behave in a manner likely to interfere with the peaceful enjoyment of any Member or occupier of another Lot or of any person lawfully using the Common Property or which may result in damage to any Common Property.

25.3 A Member is liable to compensate the Owners Corporation for all damage to the Common Property or personal property vested in it caused by a breach of Rule 25.1 and 25.2.

25.4 Where the Owners Corporation expends money to make good damage caused by a breach of the Act, or of these rules by any Member or Invitees, the Owners Corporation can recover the amount so expended as a debt in action in any Court of competent jurisdiction from the Member of the Lot at the time when the breach occurred.

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25.5 Rules 25.1 to 25.4 are intended to operate in addition to the requirements of the Act.

26. Owners Corporation fees

26.1 The Member must pay the fees set by the Owners Corporation to cover general administration and maintenance, insurance and other recurrent obligations quarterly in advance according to their lot liability.

26.2 The amount of the annual Owners Corporation fees which is payable by each Member will be established at each annual general meeting of the Owners Corporation.

26.3 Any special fees or charges levied by the Owners Corporation to cover extraordinary items of expenditure must be paid on the due date set by the Owners Corporation upon the levying of each special fee or charge.

27. Consent of Owners Corporation

A consent given by the Owners Corporation under these Rules will, if practicable, be revocable and may be given subject to conditions including, without limitation, a condition evidenced by a minute of a resolution that the member for the time being of the lot to which the consent or approval relates is responsible for compliance with the terms of the consent.

28. Enforcement of Domestic Building Contract

The Member agrees that for the purpose of its obligations under the Act:

28.1 the Members acknowledge and agree that reasonable steps to enforce any domestic building contract (within the meaning of the Domestic Building Contracts Act 1995) include:

28.1.1 the making of a demand in writing to the builder under any domestic building contract to comply with the terms of the domestic building contract and/or rectify any breach of the domestic building contract;

28.1.2 the exercise of any right under the domestic building contract to withhold any payment to the builder or have recourse to any security provided by the builder under the domestic building contract;

28.1.3 the settlement of any dispute under any domestic building contract between the original owner and the builder on terms acceptable to the original owner; and

28.1.4 any other enforcement action the Initial Owner considers appropriate in the circumstances; and

28.2 the Members agree to pay or reimburse the Initial Owner its portion of any enforcement relative to its lot liability.

29. Complaints and disputes

29.1 Any Dispute must be dealt with at first instance in accordance with this Rule 29.

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29.2 A party to a Dispute must not initiate legal proceedings or complain to the Director in respect of the Dispute unless it has first complied with the dispute resolution procedure set out in this Rule 29.

29.3 The party making the complaint must in the first instance notify the Manager, or where the Manager is the subject of or involved in the Dispute, the Committee, of the Dispute in writing. The Manager must refer any complaint it receives to the Committee. Upon receipt of a complaint referred by the Manager or received directly from a Member or Occupier, the Committee will then decide (at its absolute discretion having regard to the nature and urgency of the Dispute) whether to:

29.3.1 arrange a meeting between the parties to resolve the Dispute; or

29.3.2 waive the requirement for the parties to meet.

29.4 Notwithstanding the course of action elected by the Committee under Rule 29.3, the parties must consult with one another in good faith and use their best endeavours to resolve the Dispute to the mutual satisfaction of both parties without resort to legal proceedings or other avenues of dispute resolution.

29.5 Without limiting the generality of this Rule 29, where no formal complaint is made by a Member or Occupier and the Owners Corporation otherwise becomes aware of a Dispute, the Owners Corporation (through the Manager or the Committee or otherwise) may decide (at its absolute discretion having regard to the nature and urgency of the Dispute) whether:

29.5.1 arrange a meeting between the parties to resolve the Dispute; or

29.5.2 waive the requirement for the parties to meet.

29.6 If the parties are unable to resolve the Dispute within 30 days (or such other period as the Committee thinks fit) of the meeting arranged pursuant to Rule 29.3.1 or 29.5.2, the parties may revert to the dispute resolution mechanisms set out in the Act or other Law.

30. Cost of non-compliance

The Member or Occupier must indemnify and keep indemnified the Owners Corporation on a full indemnity basis against any action, demand, cost, liability or loss incurred by the Owners Corporation as a consequence of any default by the Member or Occupier in the performance or observance of any term, covenant or condition contained in these Rules, the Act or Regulations including, without limitation administrative costs, legal costs, the cost of any works performed to rectify any non compliance and the cost incurred by the Owners Corporation in recovering overdue charges from the Member or Occupier.

31. Charges imposed on Members and Occupiers

31.1 Any payments to the Owners Corporation imposed on a Member or Occupier under the Rules, Act or Regulations will (until paid) be a charge on the Lot.

31.2 The Member or Occupier must accept a certificate signed by the Manager or valid tax invoice issued by the Owners Corporation as prima facie proof of the costs and expenses incurred by the Owners Corporation relating to any charge payable by a Member or Occupier pursuant to these Rules and must not make any claim or dispute the amount specified therein.

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31.3 The Member or Occupier must pay interest at the rate prescribed under the Penalty Interest Rates Act 1983 (Vic) on outstanding fees and charges set under the Rules, Act or Regulations until they are paid.

31.4 Any payments made for the purposes of these Rules, the Act or Regulations will be appropriated first in payment of any interest and any unpaid costs and expenses of the Owners Corporation and then be applied in repayment of the principal sum.

32. Rights of entry

32.1 Except in the case of an emergency (in which case no notice shall be required) upon seven (7) days' notice in writing, the Owners Corporation or the committee of the Owners Corporation and its servants, agents and contractors shall be permitted to inspect the interior of any Lot and test the electrical, gas or water installation or equipment therein and to trace and repair any leakage or defect in the said installations or equipment (at the expense of the Member or Occupier in cases where such leakage or defect is due to any act or default of the said Member or Occupier of his or her invitees). The committee of the Owners Corporation, in exercising this power shall ensure that its servants, agents and employees cause as little inconvenience to the Member or Occupier as is reasonable in the circumstances.

32.2 A Member or Occupier in occupation of a Lot must allow any person authorised by and on behalf of the Owners Corporation;

32.2.1 to enter the Lot or a Building in order to have access to the exterior of the Building, and

32.2.2 to enter the Lot from the exterior of the Building via a balcony, terrace, window or other part of the Lot and to use that part of the Lot, to facilitate the repair and maintenance of and other works on Common Property including the structure of the Building and the exterior face of the Building and any service that is for the benefit of more than one Lot or the Common Property being areas of Common Property that would otherwise be difficult to access.

32.3 The Owners Corporation must give at least 7 calendar days' notice in writing to the Member or Occupier of a Lot or other Occupier of a Lot of an intention to enter:

32.3.1 unless the Member or Occupier agrees to a lesser time and where the Occupier is a tenant under a residential tenancy agreement the Occupier must be given the same notice as that required to be given by a landlord under Section 85 of the Residential Tenancies Act 1997;

32.3.2 entry to and use of the relevant part of the Lot must be between the hours of 8.00 am and 6.00pm on any day Monday to Friday; or

32.3.3 unless there is an emergency when no notice and no time restrictions apply, and then in such a manner as to cause as little interruption or inconvenience to the Occupier as is possible in the circumstances.

32.4 Members and Occupiers acknowledge and agree the access described by this rule 32 is expressly contemplated under section 12(2) of the Subdivision Act 1988 (Vic) and the Member or Occupier must not, either directly or indirectly frustrate, limit or impede the access contemplated by this rule.

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33. Security

The Owners Corporation may make rules and regulations to ensure the security of the Development from intruders and otherwise with regard to the use and means of access to any roadways created upon the Common Property.

34. Contact

34.1 Each Member must advise the Manager of any out of normal business hours contact address, email and telephone number for their Lot and must promptly advise the Manager of any change in their address, email or telephone number.

34.2 Each Member must provide the Manager with an Australian address for service of notices. If a Member fails to provide an Australian address for service of notices, the Lot address will be deemed to be the proper address for service.

35. Restricted use of Common Property for fire control

35.1 The Owners Corporation may take measures to ensure the security, and to preserve the safety of the Common Property and the Lots affected by the Owners Corporation from fire or other hazards and without limitation may:

35.1.1 close off any part of the Common Property not required for access to a Lot on either a temporary or permanent basis or otherwise restrict the access to or use by Members or Occupiers of any part of the Common Property;

35.1.2 permit, to the exclusion of Members and Occupiers, any designated part of Common Property to be used by any security person as a means of monitoring security and general safety of the Lots, either solely or in conjunction with other Lots;

35.1.3 restrict by means of key or other security device the access of the Members or Occupiers;

35.1.4 restrict by means of key or other security device the access of the Members or Occupiers of one level of the Lots to any other level of the Lots; and

35.1.5 cancel any security card issued where a Member is in arrears in payment of Owners Corporation levies in excess of two quarters.

35.2 A Member and Occupier of a Lot must abide by any actions taken by the Owners Corporation in accordance with these Rules and must meet all costs incurred by the Owners Corporation in relation to these Rules (or a breach of these Rules by the relevant Member or Occupier).

36. Fire

36.1 A Member or Occupier of a Lot must ensure compliance with all statutory and other requirements, including those of the Owners Corporation, relating to fire, fire safety and the storage of bioethanol in respect of the Lot.

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36.2 A Member or Occupier of a Lot must not use, interfere or tamper with any fire safety equipment except in the case of an emergency and must not obstruct any fire stairs or fire escape.

36.3 In the event that the Melbourne Fire Brigade is called out to the Building as a result of the activation of a false fire alarm, whether the activation of the fire alarm was caused by a willful, negligent, foreseeable, or unforeseeable action or inaction, and the cause of the alarm is found to originate from a Lot, the Member or Occupier of the Lot will be jointly and severally liable to pay any and all associated costs and charges connected to a false fire alarm.

36.4 A Member hereby agrees to indemnify the Owners Corporation for all costs and charges incurred by the Owners Corporation in connection to a false fire alarm call out and the Member may elect to pursue recovery from the Occupier. This rule is enforceable regardless of whether:

36.4.1 the Member or Occupier was directly, indirectly and /or negligently responsible for the cause of the fire alarm; and/or

36.4.2 the Member authorised either impliedly or expressly the actions of the Occupier which caused the false fire alarm.

36.5 A Member or Occupier of a Lot must ensure that all fire doors, exhaust systems and smoke detectors installed in a Lot are properly maintained and tested monthly and that back-up batteries relating to the smoke detectors are replaced whenever necessary.

36.6 Each Member or Occupier of a Lot must undertake a fire and safety induction for the Development, prior to their occupation of the Lot (Induction). Occupiers must give the Manager at least 14 days' notice for the Manager to carry out the Induction. The Manager may charge any Occupier of a Lot a fee of $1,000 plus GST for any Induction required by an Occupier with less than 14 days' notice. A Member or Occupier of a Lot may be denied access to the Building if an Induction is not undertaken.

37. Insurance

A Member or Occupier of a Lot must not without the prior written consent of the Owners Corporation do or permit anything to be done which may invalidate, suspend or increase the premium for any insurance policy effected by the Owners Corporation.

38. Security and Security Keys

38.1 A Member or Occupier of a Lot or persons thereon from time to time must not do or permit anything, which may prejudice the security or safety of the Common Property, or any person in or about the Development.

38.2 The Owners Corporation may charge a reasonable fee for any additional security key required by a Member or Occupier.

38.3 A Member must exercise a high degree of caution and responsibility in making a security key available for use by any Occupier and must use all reasonable endeavours including without limitation an appropriate stipulation in any lease or licence of a Lot to the Occupier to ensure the return of the security key to the Member or the Owners Corporation.

38.4 A Member or Occupier of a Lot in possession of a security key must not without written consent from the Owners Corporation duplicate the security key or permit it to be duplicated

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and must take all reasonable precautions to ensure that the security key is not lost or handed to any person other than any other Member or Occupier and is not disposed of otherwise than by returning it to the Member or the Owners Corporation.

38.5 A Member or Occupier of a Lot must promptly notify the Owners Corporation if a security key issued to them is lost or destroyed.

39. Rules Subject to Rights of the Developer

39.1 These Rules do not apply to and, are not enforceable against the Developer or its mortgagee or chargee or the Vendor or its mortgagee or chargee, for so long as any of the following apply:

39.1.1 the Developer or the Vendor and/or either of their equity partners (if any) or the Vendor is a Member or Occupier;

39.1.2 any mortgagee or chargee of the Developer or the Vendor has an interest in any Lot; or

39.1.3 the Developer or the Vendor and/or either of their equity partners (if any) or the Vendor is engaged in any action required to complete the Development,

where to do so would prevent, hinder, obstruct or in any way interfere with any works of any nature or description that the Developer their mortgagee or chargee or the Vendor their mortgagee or chargee may be engaged in or which may need to be carried out in order to complete construction of the Buildings and facilities comprised in the Plan or the Development.

39.2 Subject to Rule 39.4, the Developer and its equity partners (if any), its mortgagees and chargees and the Vendor and its equity partners (if any), its mortgagees and chargees must be and are by this Rule, authorised by each and every member of each and every Owners Corporation in the Plan and by each and every Owners Corporation in the Plan to:

39.2.1 erect such barriers, fences, hoardings, signs as it deems necessary to facilitate any works to be carried out in relation to the Development; and

39.2.2 take exclusive and sole possession of any parts of the Common Property as it may need to have exclusive possession of in order to carry out any works or activities in relation to the Development; and

39.2.3 exclude all and any Members or Occupiers from any parts of the Common Property as may be necessary in order to carry out any works in relation to the Development; and

39.2.4 erect for sale promotional advertising or other signs as the Developer may require on any part of the Common Property; and

39.2.5 grant rights to use or access through or over the Common Property to third parties on such terms and conditions as the Developer or its mortgagee or chargee thinks fit; and

39.2.6 limit or restrict access to certain areas of the Development including areas of the Common Property in order to expeditiously complete the Development; and

39.2.7 use whatever rights of way and/or points of egress and ingress to the Development as necessary to carry out any works and to block for whatever periods are

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necessary any rights of way or points of egress and ingress to the Development in order to carry out any works,

provided that the Developer or the Vendor and any third party authorised by either of them under this Rule or any party to which it assigns all or part of the benefits of its rights under this Rule, uses its best endeavours to minimise disturbance and inconvenience to others occupying or using the Common Property.

39.3 The Owners Corporation must, within 7 days of being requested by the Developer or its mortgagee or chargee or the Vendor or its mortgagee or chargee, sign whatever consents, authorities, permits or other such documents as may be required to enable the Developer or its mortgagee or chargee to complete the Development. A Member must not vote in favour of any motion for a resolution proposed for consideration by a general meeting of the Owners Corporation which would revoke this Rule 39 or contravene any right or reprieve afforded to the Developer under this Rule 39.

39.4 In case of any inconsistency between the Rules and the rights of the Developer and Vendor under any Development Agreement, the Developer's rights and the Vendor's rights under the Development Agreement will prevail and the Members, Occupiers and Owners Corporation must not seek to enforce the Rules against the Developer or Vendor where to do so would conflict with the Developer's Rights or the Vendor's rights under any such Development Agreement.

39.5 A Member or Occupier must comply with the terms of any Development Agreement between the Developer and the Owners Corporation that is disclosed to the Member or Occupier.

39.6 Every Member hereby consents to and agrees to the Developer or the Vendor undertaking any or all of the rights of the Developer or the Vendor, as the context permits, set out in this Rule without any prevention or hindrance of such Member.

39.7 In exercising its rights under this Rule, the Developer and Vendor must act honestly and in good faith and with due care and diligence in the interests of the Owners Corporation and must have regard to the amenity of Members. The Developer and Vendor must only exercise their rights to the extent necessary for the genuine Development. The Developer and the Vendor must not exercise its rights under this Rule to arbitrarily exclude the Owners Corporation or the participation of Members.

40. Warranties & Novation or assignment of contracts

40.1 The Developer may at its discretion enter into time limited contracts to supply, service, clean, maintain and/or inspect building essentials services, other building services or functions, common areas of the Building, landscaping, or any other Common Property, and any other service or other contract deemed appropriate and necessary for the proper care and function of the Common Property.

40.2 The Developer must and the Owners Corporation(s) must accept, assignment or novation of the contracts referred to in Rule 40.1 at the first meeting of the Owners Corporation.

40.3 The Owners Corporation must maintain any contracts assigned or novated to it under this Rule to the end of its current term except where it is deemed that the contract is unreasonable or unnecessary or is replaced by a contract for similar services by the same service provider.

40.4 The Owners Corporation must comply with the terms of and properly manage any time or condition limited warranties for items, components or parts of the Common Property provided by subcontractors or suppliers so as to ensure they remain valid for the benefit of the Owners Corporation.

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40.5 The Owners Corporation must ensure that it provides for or enters into contracts to provide for care, cleaning, maintenance and inspection of any item or component of Common Property to enable it to perform its obligations under the Law and these Rules upon the lapse of any subcontractor or supplier backed warranty or upon the end of any contract assigned or novated to it by the Developer.

40.6 All Members must contribute its proportion of the cost incurred by the Owners Corporation in complying with this Rule 40 relative to the lot liability on the Plan.

41. Signage & Other Licences

41.1 The Owners Corporation may grant the Developer:

41.1.1 a lease and licence including but not limited to for the provision of information technology infrastructure relating to broadband services and/or signage rights to the Development;

41.1.2 a licence to host festivals, parties or other celebratory or promotional events in the main lobby area, or other areas of the Common Property;

41.1.3 a licence to place and maintain sale signs, insignias, logos and other fixtures and fittings for marketing purposes on the Common Property; or

41.1.4 allow the Developer's representatives and their invitees to conduct selling activities from a Lot, if not sold prior to completion, which will serve as a display unit,

provided the Developer uses its best endeavours to minimise disturbance and inconvenience to others Members' or Occupiers' use of the Common Property and at all times acts honestly and in good faith and with due care and diligence in the interests of the Owners Corporation.

41.2 A Member or Occupier of the Lot must not hinder or impede the Developer, its successors and assigns, from exercising its rights under any agreement entered into under this Rule.

41.3 The Owners Corporation(s) must procure all the necessary consents and resolutions to give effect to the matters set out in this Rule 41.

41.4 A Member must not vote in favour of any motion for a resolution proposed for consideration by a general meeting of the Owners Corporation(s) which would impede the powers of the Owners Corporation(s) under this Rule 41.

42. Electric Car Charging Station

A Member or Occupier of a Lot using an electric car charging station on Common Property must abide by the following rules:

42.1.1 the first car at the charging station has priority;

42.1.2 cars must only be parked in the bay while charging and for a time period not exceeding 12 hours;

42.1.3 once charging is complete, the car must be moved out of the bay as soon as possible;

42.1.4 Rules 42.1.2 and 42.1.3 do not apply to an electric car charging station located on a column which forms part of the Common Property and which is situated between

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two or more Lots and intended for the private use of the Member or Occupier of those Lots. For the avoidance of doubt all other clauses of this Rule 42 continue to apply.

42.1.5 charging equipment must be left in the same manner it was found;

42.1.6 a Member or Occupier is not able to use a charging station when the charging station is being maintained, repaired, replaced or in the instance of unexpected circumstances or emergency events;

42.1.7 a Member or Occupier must not park in another Member or Occupier's car park to charge their vehicle;

42.1.8 Members and Occupiers indemnify and release the Owners Corporation from and against any loss or cost due to the Member or Occupier's failure to observe rule 42.1.6.

42.1.9 a Member or Occupier must ensure that any vehicle is removed from a charging station when requested by the Owners Corporation for any scheduled, unexpected or emergency maintenance, repair or replacement of a charging station.

42.1.10 the Owners Corporation is not liable for, and the Member and Occupier of a Lot releases and indemnifies the Owners Corporation from and against the failure of the charging station due to maintenance, repair or replacement in the ordinary course or due to unexpected or emergency circumstances events;

42.1.11 each Member and Occupier must reimburse the Owners Corporation as and when required by it for all loss, damage or cost incurred by the Owners Corporation because of any damage to a charging station caused by the Member, the Occupier, the guest of a Member or Occupier and any third party; to the extent that the loss, damage or cost is not recoverable from the Owners Corporation's insurer; and

42.1.12 the Owners Corporation may from time to time provide rules requiring users of car charging stations (located both on Common Property and in a Lot) to pay for the use of the car charging stations, which may include the costs of supplying the electricity to the Common Property or Lot.

43. Urban Art

A Member or Occupier must not damage, destroy, alter, modify or otherwise tamper with any urban art installations in the Development.

44. Dog and Car Wash Facilities

44.1 When using the Dog and Car Wash Facilities a Member and an Occupier:

44.1.1 must ensure that unless otherwise stated, children below the age of 15 years are not in or around the Dog and Car Wash Facilities unless accompanied by an adult Member or Occupier exercising effective control over them;

44.1.2 must ensure that no guests are allowed in the Dog and Car Wash Facilities, subject to prior approval of the Manager and subject to any conditions on entry determined by the Manager;

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44.1.3 is responsible (at its cost) for any damage, cleaning or reinstatement costs incurred by the Owners Corporation or Manager as a result of its use of the Dog and Car Wash Facilities;

44.1.4 must not smoke or make any undue noise in the Dog and Car Wash Facilities; and

44.1.5 must ensure that the Dog and Car Wash Facilities are to be left in the same condition in which it was found.

44.2 Members and Occupiers acknowledge that some areas of the Dog and Car Wash Facilities may need to be booked with the Manager ahead of use. The Manager may refuse the booking if the facility is not available.

44.3 Members and Occupiers acknowledge and agree that they may be required to pay a general usage charge for some areas of the Dog and Car Wash Facilities and the cost of consumables used while using these areas, as determined by the Owners Corporation.

44.4 The Owners Corporation may make additional or separate rules relating to the use of all or part of the Dog and Car Wash Facilities provided they are not inconsistent with these Rules. If breached, rules relating to the Dog and Car Wash Facilities will constitute a breach of these Rules.

44.5 With respect to the car wash specifically, Members or Occupiers using the car wash:

44.5.1 do so at their own risk;

44.5.2 must not use the car wash facilities for any purpose other than washing their car or motorbike; and

44.5.3 must leave the facilities in a clean and tidy state after the car wash is complete.

44.6 With respect to the dog wash specifically:

44.6.1 dogs must be on a leash or in a carrier when bathing;

44.6.2 the wash tubs must be washed thoroughly after each use;

44.6.3 dogs are to be towel dried prior to using the blow dryer;

44.6.4 a Member or Occupier must notify the Manager immediately if there is an issue with the dog wash requiring attention;

44.6.5 restraints provided in the tubs must be utilized to prevent dogs from jumping out;

44.6.6 Members and Occupiers must not leave a dog unattended at any given time;

44.6.7 Members and Occupiers must use leave the dog wash facility in a clean and tidy state after use.

44.7 The Members and Occupiers agree that the Manager may close off one or more areas of the Dog and Car Wash Facilities at its reasonable discretion, including to allow for the safe or desirable use of the Dog and Car Wash Facilities, for the purposes of maintenance, works and the like.

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45. Valet Service

45.1 If the Owner's Corporation provides a valet service for residential Lots with a car space, each Member or Occupier of a residential Lot that owns a car space must pay the Owners Corporation as and when required by the Owners Corporation a fee per car parking space equal to the total of the following costs divided by the number of car spaces allocated to residential Lots:

45.1.1 all operational costs required to provide the valet service, including insurance and wages; and

45.1.2 a management fee as determined by the Owners Corporation; and

45.1.3 any Goods and Services Tax on the above amounts.

45.2 Each Member of a residential Lot with a car space must pay the above amounts even if they do not use the valet service.

45.3 The Members and Occupiers acknowledge and agree that the Owners Corporation may calculate the costs, contributions and liabilities detailed above and require payment in any way it considers reasonable, and a Member or Occupier must not challenge such a calculation.

Attachment 4

Retail Services (Grease Trap) Licence

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Maddocks

Lawyers
Collins Square, Tower 2
Level 25, 727 Collins Street
Melbourne Victoria 3008 Australia

Telephone 61 3 9258 3555
Facsimile 61 3 9258 3666

info@maddocks.com.au
www.maddocks.com.au

Date 14/06/2022

Retail Services (Grease Trap) Licence

Commercial Kitchen, Saint Moritz, 14-16 The Esplanade, St Kilda

Owners Corporation No. 1
on Plan of Subdivision PS826420W

and

Owners Corporation No. 5
on Plan of Subdivision PS826420W

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Schedule

1.	**Date of this Licence:**	The 14th of June 2022
2.	**Licensor:**	Owners Corporation No. 1 on Plan of Subdivision PS826420W, c / The Knight, PO Box 678 Malvern, Victoria 3144 on behalf of the members of Owners Corporation No. 1 on PS826420W.
3.	**Licensee:**	Owners Corporation No. 5 on Plan of Subdivision PS826420W, c / The Knight, PO Box 678 Malvern, Victoria 3144 on behalf of the members of Owners Corporation No. 5 on PS826420W.
4.	**Licensed Area:**	The area shaded green and notated as 'Commercial Kitchen GIT Location' on the Grease Trap Area Plan located on Basement level 3, Building 3 of the Development and being part of Common Property No.1 on Plan of Subdivision PS826420W.
5.	**Commencement Date**	The 14th of June 2022
6.	**Term**	299 years
7.	**Licence Fee during the Term:**	$1 payable by a single instalment on the Commencement Date, if demanded.
8.	**Additional Clauses:**	Not applicable.

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Execution Page

EXECUTED by the parties on the date specified in Item 1.

Executed by **Owners Corporation No. 1** on **PS826420W** by a person who declares they are the sole Lot Owner and member of the Owners Corporation or by a director of a corporation that is a sole Lot Owner, in accordance with s 10 of the *Owners Corporations Act 2006* (Vic) in accordance with a resolution dated 7th June :

DocuSigned by:

Greg Shand

D9878C82F30C406...

Signature

Greg Shand

Name (print full name)

3A Macquarie Street, Sydney NSW 2000

Address

Position: Director of sole Lot Owner

Barana (St Kilda) Investments Pty Ltd
ACN 160 116 076

Name of corporation that is the sole Lot Owner

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Executed by **Owners Corporation No. 5** on **PS826420W** by a person who declares they are the sole Lot Owner and member of the Owners Corporation or by a director of a corporation that is a sole Lot Owner, in accordance with s 10 of the *Owners Corporations Act 2006* (Vic) in accordance with a resolution dated 7th June :

DocuSigned by:
Greg Shand
D9878C82F30C406...

Signature

Greg Shand

Name (print full name)

3A Macquarie Street, Sydney NSW 2000

Address

Position: Director of sole Lot Owner

Barana (St Kilda) Investments Pty Ltd
ACN 160 116 076

Name of corporation that is the sole Lot Owner

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Licence

THIS LICENCE is made on the date specified in Item 1.

BETWEEN

The Licensor

AND

The Licensee

RECITAL

A. The Licensor has agreed to grant the Licensee a licence of the Licensed Area on the terms and conditions in this Licence.

THE PARTIES AGREE

1. Definitions

In this Licence, unless expressed or implied to the contrary:

Additional Clauses means the clauses (if any) specified in Item 8.

Adjustment has the same meaning given to that term in the GST Act.

Adjustment Note has the same meaning given to that term in the GST Act.

Commencement Date means the commencement date specified at Item 5 of the Schedule.

Common Property means the common property No. 1 on PS826420W.

Consideration means consideration payable under this Licence in return for a Taxable Supply, but does not include any amount on account of GST.

Development means Saint Moritz, 14-16 The Esplanade, St Kilda VIC 3182.

Grease Trap means the grease trap servicing the Premises.

Grease Trap Area means that part of the Licensed Area containing the Grease Trap.

Grease Trap Area Plan means the plan showing the Grease Trap Area, a copy of which is attached at Annexure A.

GST Act means A New Tax System (Goods and Services Tax) Act 1999 (as amended).

GST has the same meaning given to that term in the GST Act.

Input Tax Credit has the same meaning given to that term in the GST Act, but also includes a reduced input tax credit under Division 70 and an adjusted input tax credit under Division 132 of the GST Act.

Item means an item in the Schedule.

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Licensed Area means the area specified in Item 4 delineated and shaded on the relevant plan attached as an annexure to this Licence.

Licence Fee means the amount specified in Item 7.

Licensee means the Licensee specified in Item 3 and includes the Licensee's successors and assigns and where it is consistent with the context includes the Licensee's employees, agents, invitees and persons the Licensee allows to use the Licensed Area.

Licensor means the Licensor specified in Item 2 above and includes the Licensor's successors and assigns and where it is consistent with the context includes the Licensor's employees and agents.

Premises means the commercial kitchen forming part of Common Property No. 5 on Plan of Subdivision PS826420W.

Owners Corporation Rules means the rules of Owners Corporation No 1 on Plan of Subdivision PS826420W set out in Annexure B, as amended from time to time.

Recipient has the same meaning given to that term in the GST Act.

Supplier means the entity making a Supply to the Recipient.

Supply has the same meaning given to that term in the GST Act.

Tax Invoice has the same meaning given to that term in the GST Act.

Taxable Supply has the same meaning given to that term in the GST Act.

Taxes means a tax, levy, duty, impost, fee, deduction, withholding or charge, however described, imposed by legislation, (including stamp and transaction duty and any car parking levies) together with any related interest, penalty, fine or expense concerning any of them and the costs of challenging any of them.

Term means the Term specified in Item 6 of the Schedule.

2. Licence

2.1 The Licensor has exercised its powers under section 14 of the *Owners Corporations Act* 2006 to grant by special resolution a non-exclusive licence of the Licensed Area to the Licensee subject to the terms, covenants, conditions and restrictions contained in this Licence, for the Term starting on the Commencement Date.

2.2 The Licensee acknowledges and agrees that:

2.2.1 this Licence is non-exclusive, and the Licensor may grant additional licences of the Licensed Area to the owners of other lots within the Development requiring use of the Grease Trap, on terms and conditions similar to those contained in this Licence (**Additional Licence**);

2.2.2 the use, maintenance and associated obligations for the Licensed Area described at clause 5 are shared between the Licensee and licensees of the Additional Licence; and

2.2.3 if a dispute arises between the Licensee and the licensee(s) under the Additional Licence in relation to the shared use, maintenance and associated obligations of

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the Licensed Area under clauses 5 and 6, the dispute must be referred to the Licensor to determine in its absolute discretion.

3. Payments by the Licensee

3.1 Payment of Licence Fee

The Licensee must pay the Licence Fee to the Licensor on the Commencement Date and in the manner specified in Item 6.

3.2 Costs and Duty

The Licensee must pay to the Licensor within 7 days of demand:

3.2.1 all Taxes levied in respect of this Licence, the Licensed Area or the rights granted to the Licensee under this Licence whether those Taxes are in force at or after the Commencement Date;

3.2.2 the operating costs incurred by the Licensor in connection with or as a result of this Licence, the Licensed Area or the rights granted to the Licensee under this Licence; and

3.2.3 the Licensor's costs (including charges on a solicitor-own client basis) incurred as a result of a breach of this Licence by the Licensee.

3.3 Interest on Late Payments

The Licensee must pay to the Licensor on demand interest at the rate per annum equal to the rate for the time being fixed under section 2 of the *Penalty Interest Rates Act* 1983 (Vic) on any money payable by the Licensee under this Licence and remaining unpaid for 14 days. Interest will be computed from the date on which such payment became due.

3.4 No Deduction or Right of Set-off

The Licensee must pay all amounts due under this Licence to the Licensor without deduction or right of set-off.

4. GST

4.1 GST Exclusive

Except as otherwise provided by this clause, all Consideration payable under this Licence in relation to any Supply is exclusive of GST.

4.2 Increase in Consideration

To the extent that any Supply under this Licence constitutes a Taxable Supply, the Consideration payable by the Recipient to the Supplier will be increased by the applicable amount of GST (**GST Amount**), which shall be calculated by multiplying the amount upon which GST is payable by the prevailing rate of GST.

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4.3 Payment of GST

Any GST Amount must be paid by the Recipient to the Supplier at the same time and in the same manner as the relevant Consideration is paid or given under this Licence, without any right of set-off or deduction (unless otherwise provided in this Licence).

4.4 Reimbursements

If this Licence requires the Recipient to pay, reimburse or contribute to any expense, loss or outgoing suffered or incurred by the Supplier (**Relevant Expense**), the amount which the Recipient must pay, reimburse or contribute will be the amount net of any Input Tax Credits to which the Supplier is entitled in respect of the Relevant Expense, together with any GST Amount if the payment, reimbursement or contribution constitutes a Taxable Supply by the Supplier to the Recipient.

4.5 Tax Invoice

The Supplier must provide to the Recipient a valid Tax Invoice at or prior to the time of payment of any GST Amount.

4.6 Adjustments & Adjustment Notes

To the extent that any Adjustment occurs in relation to a Taxable Supply, the Supplier must issue an Adjustment Note to the Recipient within 7 days of becoming aware of the Adjustment, and any payment necessary to give effect to such Adjustment must be made within 7 days after the date of receipt of the Adjustment Note.

5. Use of Licensed Areas

5.1 Use of Licensed Area

5.1.1 The Licensee may use the Licensed Area for the purpose of the use, repair, maintenance and emptying of the Grease Trap on the terms and conditions relevant to the applicable use as set out in Schedule 1.

5.1.2 The Licensee must not:

(a) use or allow anyone else to use the Licensed Area for any purpose other than the permitted uses described in clause 5; and

(b) place or allow to be placed on the Licensed Area anything which is or may become an annoyance, nuisance, grievance or disturbance to anyone in the Development or any owners or occupier of any adjacent premises.

5.2 Nuisance

The Licensee must not do anything in connection with the Licensed Area which may cause a nuisance or interfere with any other person, including other users of the Licensed Area as contemplated by clause 2.2.

5.3 Insurance

5.3.1 The Licensee must from the Commencement Date until the end of the Term effect and maintain a policy of insurance in the name of the Licensee noting the interests of the Licensor as an interested party in respect of liability for loss, injury or damage to any person or property whatsoever whether arising out of any act, omission, breach of duty or failure by the Licensor, the Licensee, the employees,

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agents and invitees of the Licensor or the Licensee or otherwise, on or in relation to the Licensed Area or the use of the Licensed Area by the Licensee in the sum of ten million dollars ($10,000,000) or such greater amount as the Licensor may reasonably nominate from time to time in order to effect a sufficient and proper cover in respect of any single accident or event.

5.3.2 The Licensee must from the Commencement Date until the end of the Term effect and maintain a policy of insurance in the name of the Licensee in respect of liability for the usual insured risks on an indemnity or replacement value basis of any Air Conditioning constructed or to be constructed pursuant to this Licence.

6. Maintenance repairs and alterations of Grease Trap

6.1 The Licensee must, at its own cost and expense, keep and maintain the Grease Trap in good and substantial condition and repair and replace faulty or damaged parts. The Licensor may at any time inspect the Grease Trap and if any work as reasonably determined by the Licensor is required to be carried out on the Grease Trap that work shall be carried out expeditiously by the Licensee at its own cost. Should the Licensee fail to maintain the Grease Trap in good and substantial condition and repair, the Licensor or its agents may at the cost of the Licensee effect such maintenance and repair in order to comply with this clause.

6.2 The Licensee must be responsible for all costs and charges associated with and incurred in the operation of the Grease Trap.

6.3 The Licensee and its agents, contractors, invitees, consultants and employees approved by Licensor may have all necessary egress and egress to the Licensed Areas for the purposes of effecting repairs to or maintenance of the Grease Trap or removing or replacing the Grease Trap.

6.4 The Licensee must repair any damage to the Licensed Area caused by want of care, misuse or abuse or otherwise on the part of the Licensee or any of its agents, contractors, invitees, consultants or employees in exercising the Licensee's right under the Licence to install, keep and maintain the Grease Trap or arising from the Licensee's failure to comply with the terms of this Grease Trap.

6.5 The Licensor and its agents, contractors, invitees, consultants and employees may upon reasonable notice inspect the state of repair of the Licensed Area and serve upon the Licensee a notice in writing requiring it to repair any defect.

7. Release and Indemnity

7.1 Release

The Licensee uses and occupies the Licensed Area at its own risk and releases the Licensor from all claims resulting from any damage, loss, death or injury in connection with the Licensed Area except to the extent that the Licensor is negligent.

7.2 Indemnity

The Licensee must indemnify and hold harmless the Licensor against all claims resulting from any damage, loss, death or injury in connection with the Licensed Area and the use of the Licensed Area by the Licensee except to the extent that the Licensor is negligent.

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8. Assignment and Sub-Licensing

8.1 The Licensee must not assign, sublicense or part with possession with this Licence or its interest in the Licensed Area.

8.2 Despite clause 8.1, the Licensee may sublicense its interest in the Licensed Area without the consent of the Licensor provided that:

8.2.1 the sublicensee is, or is entitled to be, the tenant of the Premises; and

8.2.2 the Licensee gives written notice to the Licensor of the details of the sublicensee and the sublicense.

9. Licensor not Liable

The Licensor will not be liable to the Licensee if the Licensee cannot obtain access to the Licensed Area in circumstances either:

9.1 required for maintenance or repair; or

9.2 beyond the Licensor's reasonable control.

10. Right of Entry

The Licensee authorises the Licensor to enter the Licensed Area in the event of an emergency.

11. Licensee's Obligations at End of Licence

11.1 Licensee's Obligations

At the end of this Licence, the Licensee must give to the Licensor any security devices (if applicable) used by the Licensee to obtain access to the Licensed Area.

11.2 Licensee's Property Left in Licensed Area

Anything left in the Licensed Area at the end of this Licence will become the property of the Licensor and may be removed by the Licensor at the Licensee's cost and at the Licensee's risk.

12. Owners Corporation Rules

12.1 The Licensee must observe and comply with the Owners Corporation Rules.

12.2 A breach of the Owners Corporation Rules is a breach of this Licence.

12.3 Where there is any inconsistency between the terms of the Owners Corporation Rules and this Licence, the provisions of this Licence prevail.

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13. Termination of Licence

13.1 Re-entry

The Licensor may terminate this Licence if the Licensee breaches a material provision of this Licence and does not remedy the breach within 28 days of receipt of written notice from the Licensor specifying the material breach complained of.

13.2 Damages following Termination

If this Licence is terminated by the Licensor, the Licensee agrees to compensate the Licensor for any loss or damage the Licensor suffers in connection with the Licensee's breach of this Licence including the loss of the benefit of the Licensee performing its obligations under this Licence up to the expiration of the Term.

14. General

14.1 Notices

Any notice required to be served under this Licence must be in writing and must be served by post, email or hand delivered to:

14.1.1 the Licensee at its address set out in this Licence, the Licensee's registered office address or the last known address of the Licensee; and

14.1.2 the Licensor at its address set out in this Licence or any other address notified in writing to the Licensee by the Licensor.

14.2 Entire Understanding

This Licence contains the entire understanding between the parties as to the subject matter contained in it. All previous agreements, representations, warranties, explanations and commitments, expressed or implied, affecting this subject matter are superseded by this Licence and have no effect.

14.3 Waiver

If the Licensor accepts the Licence Fee or any other monies under this Licence (before or after the end of this Licence) or does not exercise or delays exercising any of the Licensor's rights under this Licence, it will not be a waiver of the breach of this Licence by the Licensee or of the Licensor's rights under this Licence.

14.4 Additional Clauses

This Licence is subject to the Additional Clauses. The Additional Clauses override any inconsistent provisions in this Licence.

14.5 Electronic Execution

Each party consents to the signing of this Licence by electronic means. The parties agree to be legally bound by the Licence signed in this way.

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15. Interpretation

15.1 Governing Law and Jurisdiction

This Licence is governed by and is to be construed in accordance with the laws of Victoria. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Courts of Victoria and waives any right to object to proceedings being brought in those Courts.

15.2 Persons

In this Licence, a reference to a person includes a firm, partnership, association, corporation or other corporate body.

15.3 Joint and Several

If a party consists of more than one person, this Licence binds them jointly and each of them severally.

15.4 Legislation

In this Licence, a reference to a statute includes regulations under it and consolidations, amendments, re-enactments or replacements of any of them.

15.5 Clauses and Headings

In this Licence:

15.5.1 a reference to a clause, schedule or appendix is a reference to a clause, schedule or appendix in or to this Licence; and

15.5.2 headings and sub-headings are inserted for ease of reference only and do not effect the interpretation of this Licence.

15.6 Severance

In this Licence:

15.6.1 if a provision is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable; and

15.6.2 if it is not possible to read down a provision as required in this clause, that provision is severable without affecting the validity or enforceability of the remaining part of that provision or the other provisions in this Licence.

15.7 Number and Gender

In this Licence, a reference to:

15.7.1 the singular includes the plural and vice versa; and

15.7.2 a gender includes the other genders.

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1. Grease Trap

1.1 Use of Grease Trap Area

The Licensee must:

1.1.1 only use the Grease Trap for the purposes for which they are intended and for no other purposes;

1.1.2 ensure that the Grease Trap is/are maintained and cleaned at all times; and

1.1.3 if the Licensee enters into a contract for the maintaining, cleaning and emptying of the Grease Trap it must, if requested by the Licensor, provide a copy of that contract to the Licensor.

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Annexure A

Grease Trap Plan

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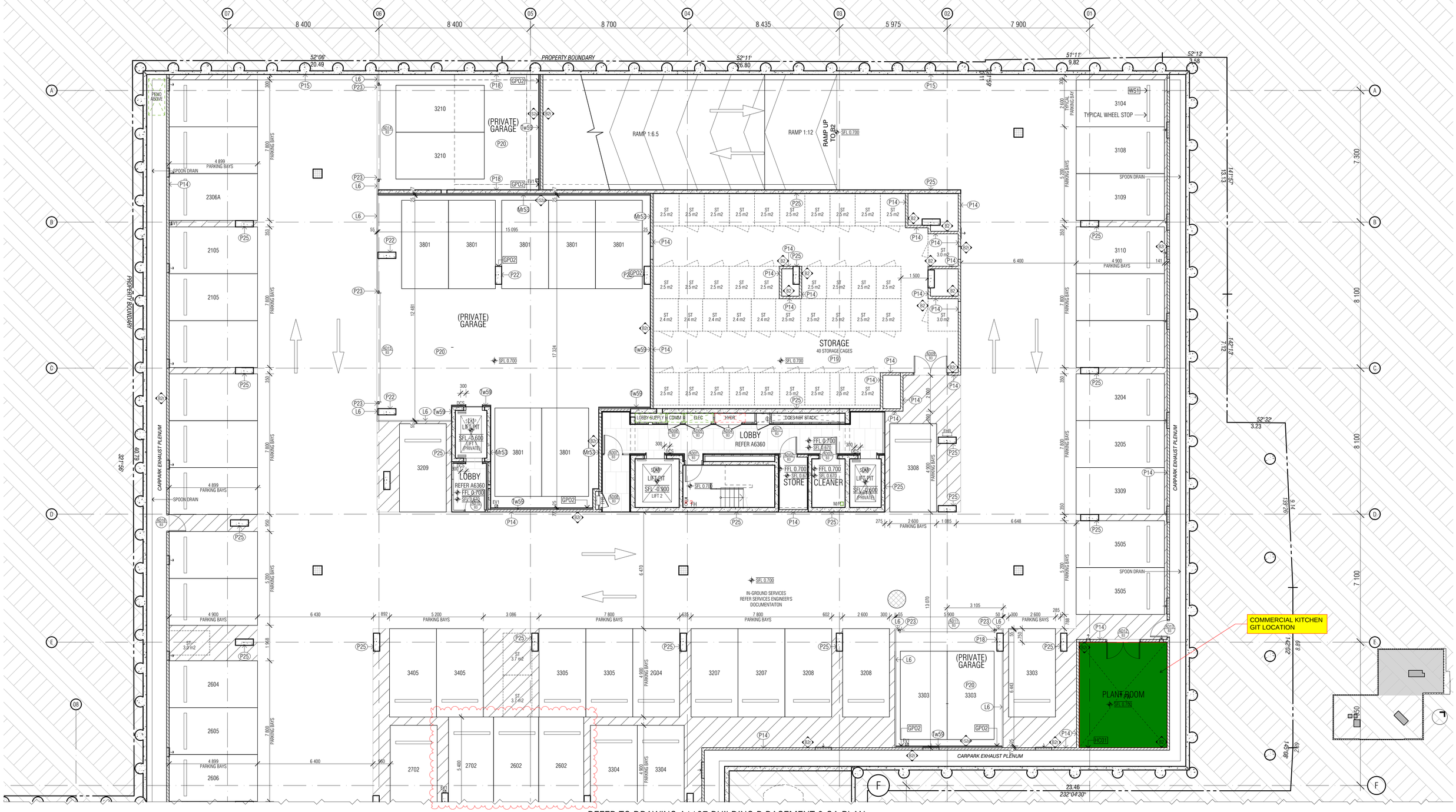

REFER TO DRAWING A1197 BUILDING B BASEMENT 3 GA PLAN

GENERAL LEGEND

WALL HATCHES
EXISTING WALL
INSITU CONCRETE
PRECAST CONCRETE
MASONRY
FIRE RATED STUD WALL

C1 WALL TYPE TAG (REFER A0050 FOR WALL TYPE LEGEND)
P1 FINISH TAG (REFER *SCHEDULES 01/02 EXTERNAL/INTERNAL FINISHES AND ASSEMBLIES SCHEDULE*)
TR1 FIXTURE/FITTING TAG (REFER *SCHEDULE 03 FIXTURES AND FITTINGS SCHEDULE*)
DOOR LEVEL/APT / DOOR NUMBER — GF / D01 DOOR TAG (REFER *SCHEDULE 04 DOOR SCHEDULE*)
SFL -28.600 LEVELS; SFL = STRUCTURAL FLOOR LEVEL, NGL = NATURAL GROUND LEVEL, PL = FINISHED PAVING LEVEL, FFL = FINISHED FLOOR LEVEL

APARTMENT TAG LEGEND
1BR → APARTMENT TYPE
101 → APARTMENT NUMBER
REFER A7000 → 1:50 DETAIL DRAWING
4 m2 → APARTMENT NSA

FHR FIRE HOSE REEL
FH FIRE HYDRANT
SRO SIPHONIC ROOF OUTLET
SOF SIPHONIC OVERFLOW

FW OUTLETS: FW ETC = FLOOR WASTE, RO = ROOF OUTLET, TG = TRENCH GRATE, PFW = PLANTER FLOOR WASTE. REFER SPECIFICATION FOR TYPES AND HYDRAULIC DWG'S
DP DP1/DP2 ETC = DOWNPIPE. REFER SPECIFICATION FOR TYPES AND HYDRAULIC DWG'S
SPT SPOUT
OF BALCONY OVERFLOW
WL FLUSH RECESSED WALL LIGHT
WL SURFACE MOUNTED LIGHT
PL PAVING LIGHT

SERVICES RISERS
SERVICES PENO
SERVICES ZONE
MECH PENETRATION/ZONE
HYDR. PENETRATION/ZONE
ELECT PENETRATION/ZONE
FIRE PENETRATION/ZONE
ROOF SUMP / STORMWATER SUMP
REFUSE CHUTE/WASTE

ST / PRESS -STAIR PRESSURE
S/F -SECURITY/ FIRE
-STACK RISERS:
SS = SOIL STACK
NG = NAT. GAS
TW = TRADE WASTE,
SW = STORMWATER

NOTE:
VENT RISERS AND MISCELLANEOUS SERVICE PIPEWORK NOT INDICATED. REFER SERVICES FOR FULL EXTENT OF RISERS

GLAZING LEGEND
AS AWNING SASH
TA TRIPLE AWNING SASH
SG SPANDREL GLASS - FULL HEIGHT
EG EXHAUST GRILLE - OVER SPANDREL
SD SLIDING DOOR / WINDOW
SW SWING DOOR
FG FIXED GLASS
SLIDE DOOR SASH (SINGLE ARROW FOR EACH LEAF)

WINDOW MARKER [W00-01] BREAK UP LIKE THIS:
W = WINDOW SYSTEM (W = Window Wall, C = Curtain Wall, B = Balustrade)
00 = GROUND FLOOR LEVEL 01 = WINDOW NUMBER
EXTENT OF CURVED GLASS
EXTENT OF ACID ETCHED GLASS

GP GS EXTERNAL WATERPROOF GPO
EXTERNAL GAS POINT
TACTILE INDICATORS
EXTENT OF HELIOSCREENS TBC

CAR PARKING
BICYCLE PARKING
B1.02 LEVEL (B1 OR OTHER) VEHICLE PARKING SPACE NUMBER
LINE MARKING PAINT FINISH
BOL BOLLARD

JOINERY TYPES
(REFER TO SCHEDULE 02 - Part 2 for additional information on room finishes or specifications)
FR FRIDGE UNIT
P PANTRY UNIT
OV OVEN/PANTRY UNIT
L LINEN UNIT

JOINT TYPES
CJ CONTROL JOINT
PJ PRECAST JOINT
EJ TILE EXPANSION JOINT

NOTES:
1. ALL COLUMNS SHOWN ARE INDICATIVE. OREINTATION AND CONFIGURATION TO BE CONFIRMED BY STRUCTURAL ENGINEER AND ARE SUBJECT TO CLIENT SIGN OFF.
2. REFER TO GURNER IESC DOCUMENT FOR FLOOR AND WALL FINISHES.

BIM Server: BIMCLOUD21 - BIMcloud Basic for ARCHICAD 21/18056 14-16 Esplanade St Kilda/18056 SM_General

REVISION

04	ISSUED FOR CONSTRUCTION	SI	25.02.2020
05	ISSUED FOR CONSTRUCTION	MC	27.02.2020
06	ISSUED FOR TRAFFIC AND SERVICES REVIEW	RL	11.03.2020
07	ISSUE FOR COORDINATION AND PREPARATION OF SERVICES SHOP DRAWINGS	RL	15.04.2020
A	ISSUED FOR THE PREPARATION OF SERVICES SHOP DRAWINGS	RL	22.05.2020
B	ISSUED FOR THE PREPARATION OF SERVICES SHOP DRAWINGS	RL	29.05.2020
C	ISSUED FOR DOOR REVIEW	AM	29.06.2020
D	FIRE EGRESS AMENDMENT	TJ	07.07.2020

REVISION

E	BLOCKWORK SET-OUT UPDATE	TJ	01.09.2020
F	GENERAL UPDATE	AM	25.09.2020
G	BLOCKWORK MECH PENOS UPDATED (CREMA-TRANSMIT-001598 & 001621)	MC	15.10.2020
H	SPEEDPANEL AMENDMENTS (ACONEX CREMA-DA-002314)	TJ	30.10.2020
I	PRIVATE GARAGE UPDATE	TJ	22.02.2021
J	GARAGE UPDATES	MC	07.03.2021
K	WALL FINISH UPDATE	MC	15.06.2021
> L	ACONEX CREMA-DA-004719	TJ	15.09.2021

QUALITY ASSURANCE (FK IS A CERTIFIED COMPANY TO ISO 9001-2015)

THIS PROJECT IS SUBJECT TO THE FK QUALITY ASSURANCE SYSTEM

- ■ SCHEMATIC DESIGN REVIEW FOR THIS PROJECT IS COMPLETE. DATE OF REVIEW: 26.11.2018
- ■ DESIGN DEVELOPMENT REVIEW FOR THIS PROJECT IS COMPLETE. DATE OF REVIEW: 20.05.2019
- ■ TENDER DOCUMENTATION REVIEW FOR THIS PROJECT IS COMPLETE. DATE OF REVIEW: 20.05.2019
- ■ CONSTRUCTION DOCUMENTATION REVIEW FOR THIS PROJECT IS COMPLETE. DATE OF REVIEW: 05.09.2021

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PROJECT
SAINT MORITZ
14-16 THE ESPLANADE
ST KILDA VIC 3182

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FENDER KATSALIDIS (AUST) PTY LTD ACN 092 943 032

DRAWN	DATE	CHECKED	PLOT DATE	JOB NO.	SCALE
TJ	15.09.2021	MC	15.09.2021	18056	1:100@A1

DRAWING TITLE BUILDING A BASEMENT 3 GA PLAN

ISSUE PURPOSE FOR CONSTRUCTION

REV. L

DRAWING NO. A1097

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Annexure B

Owners Corporation Rules

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DX 259 Melbourne

Date / /

Owners Corporation Rules

Saint Moritz, 14-16 The Esplanade, St Kilda, Victoria

Owners Corporation No. 1 on Plan of Subdivision PS826420W

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Owners Corporation Rules

Date / /

Notes

The Act and Regulations detail the powers of the Owners Corporation(s), the general duties of members, meetings and administration of the Owners Corporation(s), insurance and other miscellaneous matters. These Rules must be read in conjunction with the Act, Regulations and the model rules prescribed under the Regulations.

1. Definitions

In these rules:

Act means the *Owners Corporations Act* 2006 (Vic) as amended from time to time.

Authority means any government or any public, statutory, governmental, semi-governmental, local government, municipal or judicial body, entity or authority and includes a Minister of the Crown (in any right), and any person, body, entity or authority exercising a power pursuant to an Act of Parliament.

Bicycle Store means the bicycle store common facilities located on the Common Property.

Building Works means all design, building and construction works including the construction, erection, fixing, installation or otherwise or any item not originally included with or part of a Lot or Common Property.

Building means all and any buildings, structures or improvements comprised in the Development.

Common Property means the land, the Building and any other improvements erected on 14-16 The Esplanade, St Kilda and designated as common property no. 1 on the Plan.

Developer means 14-16 The Esplanade by Gurner Pty Ltd ACN 626 307 131 or a Related Entity responsible for the development of the Development and creation of Lots and includes the Developer's successors and assigns and where it is consistent with the context includes the Developer's employees, agents, builders, contractors, subcontractors and invitees.

Development means all the land and improvements comprised in the Plan and known as Saint Moritz, 14-16 The Esplanade, St Kilda.

Development Agreement means any agreement between the Developer and Owners Corporation or in relation to the Development, including any ancillary agreements between the Developer and the Owners Corporation such as development leases or other licences.

Director has the same meaning as it has in the *Fair Trading Act* 1999 (Vic).

Dispute means a dispute or other matter arising under the Act, Regulations or Rules including a dispute or matter relating to:

(a) the operation of the Owners Corporation;

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(b) an alleged breach by a Member or Occupier of an obligation imposed on that person under the Act, Regulations or the Rules; or

(c) the exercise of a function by a Manager in respect of the Owners Corporation.

Dog and Car Wash Facilities means the dog and car wash common facilities located on the Common Property.

Domestic Building Contract means any domestic building contract within the meaning of the *Domestic Building Contracts Act* 1995 (Vic) entered into by the Initial Owner.

Governmental Agency means any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.

Initial Owner has the same meaning as it has under the Act and where the context requires includes its successors and assigns.

Land means the whole of the land described in the Plan.

Lot means a lot shown on the Plan.

Maintenance Fund means a fund or part of a fund used for implementation of the Maintenance Plan (if any).

Maintenance Plan means a maintenance plan (if any) established and approved by the Owners Corporation as contemplated by the Act.

Manager means the person or entity appointed by the Owners Corporation as Manager of the Owners Corporation(s) or, where the context permits, the building manager, concierge or valet appointed by the Owners Corporation to assist it with the functions of the Owners Corporation contemplated by the Rules and where relevant includes the Manager's successors and assigns and where the context requires includes the Manager's officers, employees, agents, contractors, subcontractors and invitees.

Member means a member of the Owners Corporation by reason of being the owner of a Lot for the time being and where the context requires includes an Occupier or their invitees.

Occupier means the person or entity authorised by the Member to occupy the designated Lot as tenant or licensee and where the context requires includes the Occupier's invitees.

Owners Corporation means the Owner Corporation No. 1 on the Plan.

Plan means Plan of Subdivision No. PS826420W.

Regulations means the *Owners Corporations Regulations* 2018 (Vic) as amended from time to time.

Related Entity has the same meaning given to that term in the *Corporations Act* 2001 (Cth).

Retail Lot means a Lot for Retail Purposes.

Retail Purposes means use for a restaurant, café, retail use or other commercial purpose, subject to any approvals required by an Authority.

Rule or **Rules** means these rules which are for the purpose of the control, management, administration, use or enjoyment of the Common Property or any Lot as amended from time to time.

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Vendor means Barana (St Kilda) Investments Pty Ltd.

2. Interpretation

2.1 Unless the context otherwise requires:

2.1.1 headings are for convenience only;

2.1.2 words imparting the singular include the plural and vice versa;

2.1.3 expressions imparting a natural person includes any company, partnership, joint structure, association or other Owners Corporation and any governmental authority; and

2.1.4 a reference to a thing includes part of that thing.

2.2 The obligations and restrictions in these Rules must be read subject to the rights, grants or privileges that may be given to any person or entity by the Owners Corporation from time to time and to the extent of any inconsistency, such rights, grants or privileges, must prevail over these Rules in respect of the person or entity to whom they are given.

2.3 In these Rules:

2.3.1 if a provision is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable; and

2.3.2 if it is not possible to read down a provision as required in this Rule, that provision is severable without affecting the validity or enforceability of the remaining part of that Rule or the other Rule;

2.3.3 references to 'Owners Corporation' includes any person or body authorised to act on behalf of the Owners Corporation delegated any power or functions by the Owners Corporation or appointed by the Owners Corporation to assist in carrying out its functions, including without limitation the Manager, as the context permits.

2.4 In the event of a conflict between these Rules and any restriction on the Plan, the restriction will prevail.

2.5 In the event of a conflict between these Rules and the model rules prescribed under the Regulations, these Rules prevail.

3. Role and functions

3.1 The Owners Corporation is responsible for ensuring that appropriate rules, measures and procedures are established to govern issues common to the Members, including that the Common Property and/or a Lot are maintained for the benefit and enjoyment of all Members and Occupiers. The Owners Corporation exercises such responsibilities through enforcing the Rules and through holding regular committee meetings at which matters affecting the operation of the Common Property are resolved and advised to all Members.

3.2 The Owners Corporation must abide by the Rules, Act and Regulations, and in carrying out its functions and powers must act honestly and in good faith and exercise due care and diligence.

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3.3 These Rules are for the purpose of the control, management, administration, use or enjoyment of the Common Property or a Lot and represent the interests of Members and Occupiers. The Rules may be added to, amended or revoked:

3.3.1 if a resolution is passed after a ballot or poll is taken and 75% of the total lot entitlements of all the Lots are in favour of such addition, amendment or revocation; or

3.3.2 if a resolution is passed in any other case and 75% of the total votes for all the Lots are in favour of such addition, amendment or revocation (**Special Resolution**).

3.4 Under the Act and Regulations, the Owners Corporation is responsible for, amongst other things:

3.4.1 electing the Committee (if required);

3.4.2 establishing a Maintenance Plan and Fund;

3.4.3 establishing and maintaining an Owners Corporation Register;

3.4.4 taking out, maintaining and paying the premiums for insurance;

3.4.5 keeping proper accounts that cover the income, expenditure, assets and liabilities of the Owners Corporation and providing true reports of the financial situation of the Owners Corporation; and

3.4.6 preparing annual financial statements.

4. Provision of services

4.1 Each Member of the Owners Corporation agrees that the Owners Corporation will provide the following services:

4.1.1 the repair and maintenance of all Common Property including gardens, trees, paved areas and landscaping; and

4.1.2 any other service or facility provided by the Owners Corporation for the benefit of the Members.

4.2 A Member or an Occupier acknowledges that:

4.2.1 the Owners Corporation may share amongst the Members and Occupiers the costs of supply and maintenance (based on lot liability or other methodology determined by the Owners Corporation) of any gas facility or power facility required for heating or air conditioning or any variable refrigerant volume or variable refrigerant flow system (VRV) to the Lots affected by the Owners Corporation or any Common Property; and

4.2.2 where any Lot is not separately metered in relation to any service, including gas, electricity, water, heating, air conditioning and/or VRV, then the Occupier shall pay a proportion of such service and supply charges relating to same on a proportional rate by dividing the unit liability of that Lot by the total unit liability of all Lots serviced jointly or as otherwise determined by the Owners Corporation, acting reasonably.

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5. Use of a Lot

5.1 A Member must not:

5.1.1 create noise or behave in a manner that is likely to interfere with the peaceful enjoyment of the member of another Lot, or any person lawfully using the Common Property;

5.1.2 operate or permit to be operated on a Lot any device or electronic equipment which interferes with any domestic appliance lawfully in use on the Common Property, or another Lot;

5.1.3 use or store on the Lot any flammable chemical, liquid, gas or other flammable material other than chemicals, liquids, gases or other material used or intended to be used for normal and lawful domestic purposes or in the fuel tank of a motor vehicle;

5.1.4 use that part of a Lot designed for use as a car parking space for any other purpose without the prior written consent of the Owners Corporation;

5.1.5 use that part of a Lot designed for use as storage for any other purpose without the prior written consent of the Owners Corporation;

5.1.6 use that part of a Lot designed for use as wine storage for any other purpose without the prior written consent of the Owners Corporation;

5.1.7 use that part of a Lot designed for use as a VIP locker for any other purpose than storage without the prior written consent of the Owners Corporation;

5.1.8 carry out or cause to be carried out on a Lot, road or any other land in the vicinity of a Lot, any dismantling, assembly, repairs or restorations of vehicles unless carried out in an area screened from public view; and

5.1.9 use the Lot for any purpose that may be illegal or injurious to the reputation of the premises comprised of the lots and the Common Property or which may cause a nuisance or hazard to any other member of a Lot.

5.2 Each Member must:

5.2.1 maintain their Lot and must ensure that their Lot is so kept and maintained as not to be offensive in appearance nor a fire or health hazard to other Members; and

5.2.2 comply with all laws relating to the Lot including, without limitation, any requirement, notices and orders of any governmental authority.

6. Notification of Defects

A Member or Occupier of must promptly notify the Owners Corporation or the Manager on becoming aware of any damage to or defect in the Common Property or any personal property vested in the Owners Corporation.

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7. Compensation to Owners Corporation

The Member or Occupier must compensate the Owners Corporation in respect of any damage to the Common Property or personal property vested in the Owners Corporation caused by that Member or Occupier or their respective tenants, licensees or invitees.

8. Pets and animals

8.1 A Member can keep any animal upon a Lot or the Common Property unless the Member has been given notice by the Owners Corporation to remove and keep removed such animal once the Owners Corporation has resolved that the animal is causing a nuisance.

8.2 A Member must ensure that any animal belonging to them does not urinate or defecate on Common Property including internal court yards. In the event any animal belonging to them does urinate or defecate on Common Property, the Member must immediately clean up the urine and/or faeces.

8.3 A Member must ensure that any animal belonging to them must be on a lead at all times when on the Common Property.

9. Cleaning and maintenance of a Lot

9.1 A Member or Occupier must keep its Lot (including any car park, storage cage, wine storage lot or VIP locker utilised by the Member or Occupier) clean and in good repair.

9.2 A Member or Occupier must ensure that the external blinds or screens forming part of the Lot are regularly maintained and kept clean at all times. Failure to clean or maintain the external blinds or screens on a regular basis will cause the Owners Corporation to maintain the blinds or screens at a cost to the Member.

9.3 A Member or Occupier must ensure that all landscaped areas and pools/spas visible from Common Property or which adversely affect the outward appearance or state of repair of the Lot or the use and enjoyment of the Lots or Common Property by other Members or Occupiers are maintained to a standard commensurate with the standard of maintenance of Common Property landscaped areas or as reasonably directed by the Owners Corporation or its Manager. Failure to comply with this rule will cause the Owners Corporation to landscape areas or clean pools/spas visible from Common Property at a cost to the Member.

9.4 Without limiting rule 9.3, a Member or Occupier must ensure that any palm trees situated on their Lot are regularly maintained, including trimming fronds away from the glazing line of the Building.

10. Blinds, Windows and Awnings

10.1 A Member or Occupier may only install window furnishings which are:

10.1.1 blockout roller blinds:

(a) the colour of the blockout backing facing the window is charcoal grey or any other similar colour approved by the Owners Corporation in writing; and

(b) on a ceiling mounted track; or

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10.1.2 sheer roller blinds:

(a) the colour of the sheer backing facing the window is charcoal grey or any other similar colour approved by the Owners Corporation in writing; and

(b) on a ceiling mounted track; or

10.1.3 blockout curtains:

(a) the colour of the blockout backing facing the window is charcoal grey or any other similar colour approved by the Owners Corporation in writing;

(b) full height drop without decorative pelmets or valances; and

(c) on ceiling mounted track; or

10.1.4 sheer curtains:

(a) the colour is white or any other similar colour approved by the Owners Corporation in writing;

(b) full height drop without decorative permits or valances; and

(c) on ceiling mounted track.

10.2 The Member or Occupier is responsible for any costs and expenses associated with the window furnishings, including without limitation the cost of the window furnishings and any installation costs.

10.3 A Member or Occupier must install and maintain internal window furnishings on their Lot, at their own cost, in a manner so as to ensure efficient operation of the heating/cooling system of the Lot.

10.4 A Member or Occupier must not allow any glazed portions of the Lot or the Common Property that surrounds the Lot to be tinted or similar treated.

10.5 A Member or Occupier must not install or allow to be installed any:

10.5.1 external blinds or awnings; or

10.5.2 internal window furnishings visible from the outside of the Lot (other than as allowed under this Rule),

without prior approval from the Owners Corporation in writing.

10.6 Timber plantation style solid shutters, venetian blinds, pleated blinds and similar horizontal appearance to venetians, vertical blinds and highly ornate fabric blinds or any finish are not permitted.

11. Building Works

11.1 A Member must not undertake any Building Works, including the alteration or modification to the external façade of a Lot, the removal or replacement of floor coverings or materials, fixing or having fixed any electrical, audio visual, or communication device or equipment (for example, plasma or LCD televisions or speakers) within or about or relating to their Lot which may effect the acoustic performance of any inter-tenancy wall, floor or ceiling, without:

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11.1.1 the prior written approval of the Owners Corporation; and

11.1.2 providing at least 28 days' notice of the Building Works to each horizontal and vertical neighbour.

11.2 Before commencing any Building Works, a Member must:

11.2.1 submit to the Owners Corporation for approval plans and specifications of any proposed Building Works;

11.2.2 obtain, for any Building Works proposal submitted for approval, certification by a qualified acoustics engineer that the works when completed will meet the Building Code of Australia minimum requirements for sound attenuation;

11.2.3 receive written approval from the Owners Corporation to proceed with those specified Building Works;

11.2.4 obtain and supply copies to the Manager of all requisite permits, approvals and consents under all relevant Laws;

11.2.5 pay costs to the Owners Corporation where a building contractor or consultant may be engaged to advise the Owners Corporation on the proposed Building Works even if consent is not given;

11.2.6 cause to be effected and maintained during the period of the Building Works a contractor's all risk insurance policy;

11.2.7 deliver a copy of the contractor's all risk insurance policy and certificate of currency to the Owners Corporation which notes the interests of the Owners Corporation.

11.3 A Member or Occupier must ensure that any contractor engaged to perform approved Building Work on their Lot complies with the reasonable directions of the Owners Corporation concerning the method of building operations, means of access, use of the Common Property, on-site management, building protection and hours of work. The Member or Occupier must also supervise the carrying out of such Building Works and ensure that the following conditions are met:

11.3.1 the Building Works are undertaken in:

(a) accordance with the requirements of the *Occupational Health and Safety Act* 2004 (Vic) and the *Occupational Health and Safety Regulations* 2017 (Vic), as amended or replaced from time to time; and

(b) a reasonable manner so as to minimise any nuisance, annoyance, disturbance and inconvenience to other Members or Occupiers;

11.3.2 building materials are not stacked or stored in Common Property;

11.3.3 scaffolding is not erected on the Common Property or the exterior of the Building, without the prior written approval of the Owners Corporation;

11.3.4 construction work complies with all Laws of the relevant Authorities;

11.3.5 construction vehicles and construction worker's vehicles are not brought into, or parked on the Common Property except by prior arrangement with the Owners Corporation;

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11.3.6 the exterior and Common Property of the Building is at all times be maintained in a clean and tidy state;

11.3.7 suitable floor, wall and other protections is installed in the Common Property before any building materials are taken through those parts of the Common Property; and

11.3.8 all contractors and tradesmen use only the basement, lifts, lobby and areas designated by the Manager when working in the Lot.

11.4 Where a Member or Occupier commissions Building Work in accordance with Rule 11.3, a representative of the Owners Corporation and the Member or Occupier must inspect the part of the Common Property which will be affected by the Building Works (for example, the area through which building materials will be transported) prior to commencing the Building Work to establish the state of repair of the Common Property and again after the Building Work has been completed to determine if any damage has been caused to the Common Property.

11.5 A Member or Occupier must promptly make good all damage to and dirtying of the Building, the Common Property, the services thereof or any fixtures and fittings and finishes which are caused by any Building Works. If the Member or Occupier fails to do so the Owners Corporation may in its absolute discretion make good the damage and dirtying at the Member's or Occupier's expenses. The Member or Occupier must indemnify and keep indemnified the Owners Corporation for all costs and liabilities incurred by the Owners Corporation in so making good the damage or dirtying caused by the Building Work. The Owners Corporation may at their absolute discretion demand from the Member or Occupier a performance bond in relation to the cleaning or repair of the Common Property to guarantee their performance under this Rule.

11.6 Before commencing any Building Works, a Member or Occupier must ensure that the walls, floor and ceiling of the lifts are adequately protected from damage.

12. Use of appurtenances

12.1 A Member or Occupier must not use the water closet, conveniences or other water apparatus, including water pipes and drains for any other purpose than those which they were constructed and, must not sweep or deposit rubbish, baby wipes or other unsuitable substances therein. The Member indemnifies and keeps indemnified the Owners Corporation on a full indemnity basis for any costs or expenses resulting from any damage or blockage incurred by the Owners Corporation where the damage or blockage was caused by the Member, Occupier or their invitees.

13. Fittings

13.1 A Member or Occupier must:

13.1.1 not modify any VRV, air-conditioning, heating or ventilation system or associated ducting servicing that services the Member's Lot without the prior consent of the Owners Corporation;

13.1.2 not install in a Lot a floor safe, a safe, or any other item exceeding 100kg in weight without a written consent of the Owners Corporation and before submitting to the Owners Corporation a structural engineering report in respect to the proposed installation; and

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13.1.3 ensure that all floor space within a Lot is covered or otherwise treated to an extent sufficient to prevent the transmission from the floor space of the Lot noise likely to disturb the peaceful enjoyment of the Member or Occupier of another Lot.

13.2 A Member or Occupier must not affix or have affixed to any Common Property wall, floor or ceiling any electrical, audio visual or communication device or equipment without the prior written consent of the Owners Corporation including but not limited to plasma or LCD televisions or speakers.

14. Use of Common Property

14.1 A Member or Occupier must not:

14.1.1 do or allow to be done anything on the Common Property which causes a nuisance to or interferes with its lawful use by the Owners Corporation or other Members;

14.1.2 do or permit anything which might cause structural damage to the Common Property;

14.1.3 interfere with the operation of any equipment installed on the Common Property without the prior written consent of the Owners Corporation;

14.1.4 interfere with any personal property vested in the Owners Corporation;

14.1.5 park or leave a vehicle or permit any vehicle to be parked or left upon the Common Property or in any place other than in a parking area specified for such purpose by the Owners Corporation;

14.1.6 paint, finish, drive nails or screws or the like into, or otherwise damage, alter or deface the Building or any other part of the Common Property including the external facade except with the consent in writing of the Owners Corporation;

14.1.7 when on Common Property (or if on any part of a Lot so as to be visible from another Lot or from Common Property), fail to be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to the Member or Occupier of another Lot or to any person lawfully using Common Property;

14.1.8 deposit or throw upon the Common Property any rubbish, dirt, dust or other material likely to interfere with the peaceful enjoyment of other Member or any person lawfully using the Common Property;

14.1.9 disregard any requirements made by the Owners Corporation relating to the use of any access keys and intercom system that may be provided as the means of access upon roadways created within the Common Property;

14.1.10 use or store on the Common Property any flammable chemical, liquid, gas or other flammable material other than chemicals, liquids, gases or other material used or intended to be used for normal and lawful domestic purposes or in the fuel tank of a motor vehicle;

14.1.11 hold or allow to be held any public auction on or near the Common Property;

14.1.12 directly instruct any contractors or workmen employed by the Owners Corporation unless so authorised;

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14.1.13 except with the consent in writing of the Owners Corporation, use for their own purposes as a garden any portion of the Common Property; and

14.1.14 smoke in the stairwells, lifts, foyers, and car park forming part of the Common Property or any other part of the Common Property.

14.2 A Member or Occupier:

14.2.1 must notify the Owners Corporation or its Manager promptly when becoming aware of any damage to or defect in the Common Property or any personal property vested in the Owners Corporation;

14.2.2 must ensure that any guests or invitees of the Member or Occupier are accompanied at all times when on Common Property; and

14.2.3 acknowledges that the use of the Common Property is subject to any written agreements, leases or licences that the Owners Corporation may enter into relating to areas of the Common Property.

15. Lifts

15.1 A Member or Occupier must not and must ensure that the Occupier of a Member's Lot does not:

15.1.1 use the lifts for any other purpose other than to gain pedestrian access to his or her Lot as directed by the Owners Corporation;

15.1.2 hold the lift doors and/or prevent the doors of the lift closing for any period of time so as to interfere with the normal operation of other Occupiers' use of the lifts;

15.1.3 press the alarm or stop button except in an emergency situation;

15.1.4 press any button other than the one representing the floor or level that the lift is required to stop at; and

15.1.5 change any lift programming that gives preferential access to a Lot(s) within the Development.

15.2 Retail Lot occupants are not permitted to utilise the residential lifts to transport any goods.

16. Parking

16.1 Only motor vehicles and motorbikes are permitted to be located in a car space or garage allocated to a Lot and a Lot's allocated car space or garage can only be used for the storage of motor vehicles and motorbikes and not for the storage of any other items.

16.2 Members and Occupiers must park only in the car space allocated to the Lot and not in any other carparking space allocated to another Lot or any carparking spaces allocated for the use of visitors to the Development.

16.3 If a Member or Occupier of a Lot has more vehicles than the car spaces allocated to that Lot, any additional vehicles must be parked outside the Development.

16.4 Members must not close in any carparking space allocated to the Lot to make a private garage-style carparking space without the prior written approval of the Owners Corporation.

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16.5 Visitors parking provided on any Common Property (if any) is reserved for casual visitors to Lots, and is restricted to a maximum 1 hour parking time. Members and Occupiers must ensure that visitors parking is not used by long term visitors for more than 1 hour at a time without the prior consent of the Owners Corporation.

16.6 The Owners Corporation has the power to:

16.6.1 impose a speed limit for driving in Common Property;

16.6.2 impose reasonable restrictions on the use of Common Property, driveways and parking areas;

16.6.3 install speed humps and other traffic control devices on Common Property; and

16.6.4 install signs in relation to parking to control driving on Common Property.

16.7 A Member or Occupier of a Lot must comply at all times with the speed limits, restrictions, parking and traffic signs imposed or installed by the Owners Corporation or the Manager.

16.8 A Member of Occupier of a Lot must not park or leave a vehicle or other similar object on Common Property so as to obstruct any driveway or entrance to a Lot, or in any place other than in parking areas specified by the Owners Corporation or the Manager from time to time and must observe any parking directions given orally or published by the Manager from time to time in respect of parking.

16.9 A Member or Occupier of a Lot must not:

16.9.1 obstruct a driveway or entrance to a Lot or any other road in the Common Property;

16.9.2 allow parking spaces to be purchased by or leased to non residents/non Occupiers; or

16.9.3 allow parking spaces to be used for anything other than for the parking of vehicles, trailers or similar.

16.10 The Owners Corporation or Manager may remove any offending vehicles, trailers or motorbikes which are parked on the Common Property or in any carparking spaces in breach of these Rules.

16.11 A Member or Occupier must ensure its car parking space(s) are free of oil, petrol and like substances. The Owners Corporation may clean any car parking space which is excessively stained by oil, petrol or a like substance at the Member's or Occupier's expense if after providing 14 days notice the Member or Occupier has failed to clean the excessive staining. The Owners Corporation may authorise a person to enter the relevant Lot or Building on its behalf to carrying out cleaning of car spaces in accordance with this Rule.

17. Bicycles

17.1 A Member or Occupier must not permit any bicycle to be stored on Common Property except in areas designated by the Owners Corporation or otherwise with its written consent.

17.2 Members or Occupiers must indemnify and keep indemnified the Owners Corporation on a full indemnity basis for the costs of repairing any damage to the Common Property arising out of bringing their bicycles on to any Lot (for example, corridors, lifts).

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18. Bicycle Store

18.1 When using the Bicycle Store, a Member and an Occupier:

18.1.1 must ensure that unless otherwise stated, children below the age of 15 years are not in or around the Bicycle Store unless accompanied by an adult Member or Occupier exercising effective control over them;

18.1.2 must ensure that no guests are allowed in the Bicycle Store, subject to prior approval of the Manager and subject to any conditions on entry determined by the Manager;

18.1.3 is responsible (at its cost) for any damage, cleaning or reinstatement costs incurred by the Owners Corporation or Manager as a result of its (or its guests) use of the Bicycle Store;

18.1.4 must not smoke or make any undue noise in the Bicycle Store;

18.1.5 must ensure that the Bicycle Store is left in the same condition in which it was found;

18.1.6 use the Bicycle Store at their own risk; and

18.1.7 must not use the Bicycle Store for any purpose other than storing their bicycle.

18.2 The Members and Occupiers agree that:

18.2.1 the Manager may close off one or more areas of the Bicycle Store at its reasonable discretion, including to allow for the safe or desirable use of the Bicycle Store, for the purposes of maintenance, works and the like;

18.2.2 the Owners Corporation may make additional or separate rules relating to the use of the Bicycle Store provided they are not inconsistent with these Rules. If breached, rules relating to the Bicycle Store will constitute a breach of these Rules.

19. Moving object on or through Common Property

19.1 The Owners Corporation may resolve that furniture or large objects are to be transported through or on the Common Property (whether in the Building or not) in a specified manner.

19.2 If the Owners Corporation has specified, by resolution, the manner in which furniture or large objects are to be transported, a Member or Occupier must not transport any furniture or large object through or on the Common Property except in accordance with that resolution.

19.3 When using the lifts to move goods or furniture a Member or Occupier must ensure that the walls, floor and ceiling of the lifts are adequately protected from damage.

19.4 If the Member or Occupier requires the use of a crane to move goods or furniture, the Member or Occupier must first notify (by giving at least 7 days' written notice) and obtain the consent of the Owners Corporation. The Member or Occupier must cooperate with and comply with any requirements of the Owners Corporation (acting reasonably) in order to facilitate the use of the crane and minimise disruption to other Members or Occupiers.

19.5 A Member or Occupier must not move any article of furniture or any other article likely to cause damage or obstruction through the Common Property without first notifying the

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Owners Corporation (by giving at least 7 days' written notice) to enable the lifts to be covered and ensure only one Member or Occupier is moving in at a time.

19.6 Prior to moving any article of furniture or any other article likely to cause damage or destruction, the Manager or a representative of the Owners Corporation and the Member or Occupier will inspect the Common Property through which such article is to be moved to establish its state of repair. The Member or Occupier will be liable for any damage caused to the Common Property arising from the movement of the article.

20. Signage and windows

20.1 A Member is not permitted to display signs, advertising or notices on any Lot, including for the purpose of offering for sale or lease or letting any Lot or Common Property, without the consent of the Owners Corporation. Any sign that is erected must be of a standard that shall not detract from the overall appearance of the Development.

20.2 A Member is not permitted to display any advertising material, logos or sign writing to any external window, glazing or external solid face of a lot without the written consent of the Owners Corporation.

20.3 A Member must not allow any glazed portions of the Lot or Common Property to be tinted or otherwise treated with the intention of changing the visual characteristic of the Development.

21. Mail

21.1 Members and Occupiers must keep their mail box regularly cleared to avoid overflowing of mail, leaflets, circulars, pamphlets, newspapers, advertising material or other objects whatsoever at any one time, whether solicited or not, and must arrange for all such required clearance by other persons should a Member or Occupier be absent for any reason for any period of time to avoid such overflowing. This requirement may be waived upon request made to the Owners Corporation in writing not less than seven days prior to the date or dates for which such waiver is required.

21.2 Where large parcels do not fit into a mail box, Members and Occupiers consent to the Manager holding such parcels on their behalf, until collected by the Member or Occupier.

22. Garbage disposal

A Member of a Lot must:

22.1 except where the Owners Corporation provides some other means of disposal of garbage, maintain within their Lot, or on such part of the Common Property as may be authorised by the Owners Corporation, a receptacle for garbage and to keep such receptacle in a clean and tidy condition and not visible to the public except on days designated for rubbish collection;

22.2 comply with all requirements of Governmental Agencies relating to the disposal of garbage;

22.3 ensure that rubbish is disposed of in accordance with the disposal facilities of the Building, and the rules/directions of the Owners Corporation from time to time (for example recyclables are placed in the recycle chute);

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22.4 consult with and seek approval from the Owners Corporation in respect of the disposal of large articles to ensure that they are disposed of appropriately;

22.5 ensure that rubbish does not accumulate on their Lot, and that the health, hygiene and comfort of other Members is not adversely affected by their disposal of garbage;

22.6 ensure that rubbish is transported from their Lot to the designated garbage room on the Common Property in an appropriate watertight receptacle; and

22.7 pay or reimburse the Owners Corporation any costs incurred by the Owners Corporation as a result of the Member or Occupier's misuse of the garbage disposal facilities, or other breach of this rule 22.

23. Restrictions – trade or business

23.1 The Member or Occupier must not use or permit others from using that Lot or any part of the Common Property for any trade, business or other retail use without the express written consent of the Owners Corporation unless that Lot is a Retail Lot.

23.2 If authorised to do so by the Owners Corporation, the Member or Occupier of any Lot may carry on a trade, business or other retail use from the relevant Lot, provided:

23.2.1 the planning scheme of the relevant Authority governing the use of that Lot permits the trade, business or other commercial use to be carried on from the Lot; and

23.2.2 any requirements in respect of the trade, business or other commercial use stipulated by any relevant Authority from time to time are complied with; and

23.2.3 the trade, business or other commercial use can be carried on and is carried on without causing undue nuisance or, creating a greater security risk to the Members and Occupiers of other Lots.

24. Commercial area

24.1 Without limiting any other rule, the proprietor or occupier of a Retail Lot used for Retail Purposes must:

24.1.1 ensure that rubbish is disposed of in the bins provided in the Building by the Owners Corporation at the end of each day of business, in a discrete manner via the basement, or in any other location or manner advised by the Owners Corporation as may be necessary or desirable;

24.1.2 avoid unnecessary noise when filling bins;

24.1.3 ensure lids on bins are securely closed after taking rubbish to the bins;

24.1.4 ensure all cardboard and paper waste is cut up or folded and neatly contained in bins;

24.1.5 otherwise comply with rule 22;

24.1.6 comply with all health, noise and other regulations in carrying on the business from the Lot;

24.1.7 any mechanical fluing must be charcoal filtered or equivalent;

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24.1.8 small utility deliveries are to be between 5:30am – 6:00pm Monday to Friday and 6:30am – 6:00pm Saturdays & Sundays;

24.1.9 large deliveries are to be between 8:00am – 6:00pm Monday to Sunday;

24.1.10 not permit electronic gaming machines;

24.1.11 make all reasonable attempts to address/treat any odours that emanate from the Lot; and

24.1.12 ensure that all wall, floor and ceiling linings and treatments are acoustically treated where required by the Owners Corporation or Manager.

24.2 Nothing herein will prevent or prohibit any owner or Occupier of a Retail Lot from carrying on its reasonable business operations within a Retail Lot and to apply for, and obtain, any planning permit, liquor licence, or any other legislative consent or permit which the owner of any Retail Lot may apply for, provided that all times the proprietor or occupier of any such Retail Lot:

24.2.1 operates lawfully;

24.2.2 obtains each and every permit, liquor licence or other consent required; and

24.2.3 operates within the terms of any such liquor licence, permit or consent.

24.3 The owner or Occupier of any Retail Lot will be responsible for all costs associated with the cleaning, repairs and maintenance of the areas licensed to them. The licensees will be responsible for ensuring that these areas are kept in a pristine condition at all times.

24.4 Any owner or Occupier of a Retail Lot will be entitled to reasonable access at all times for invitees and customers through those parts of the Common Property necessary for usual business practice.

24.5 The Owners Corporation(s) will not hinder access to the Retail Lots via the main front entry except when they are required to undertake routine maintenance of these areas.

24.6 Rule 20 does not apply to a Lot used for Retail Purposes.

25. Behaviour of Invitees

25.1 The duties and obligations imposed by these special rules upon a Member of a Lot must be observed not only by the Member but also by the guest, servants, employees, agents, children, invitees and licensees of the Member or the occupier of their Lot (Invitees).

25.2 A Member must take all reasonable steps to ensure that their Invitees do not behave in a manner likely to interfere with the peaceful enjoyment of any Member or occupier of another Lot or of any person lawfully using the Common Property or which may result in damage to any Common Property.

25.3 A Member is liable to compensate the Owners Corporation for all damage to the Common Property or personal property vested in it caused by a breach of Rule 25.1 and 25.2.

25.4 Where the Owners Corporation expends money to make good damage caused by a breach of the Act, or of these rules by any Member or Invitees, the Owners Corporation can recover the amount so expended as a debt in action in any Court of competent jurisdiction from the Member of the Lot at the time when the breach occurred.

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25.5 Rules 25.1 to 25.4 are intended to operate in addition to the requirements of the Act.

26. Owners Corporation fees

26.1 The Member must pay the fees set by the Owners Corporation to cover general administration and maintenance, insurance and other recurrent obligations quarterly in advance according to their lot liability.

26.2 The amount of the annual Owners Corporation fees which is payable by each Member will be established at each annual general meeting of the Owners Corporation.

26.3 Any special fees or charges levied by the Owners Corporation to cover extraordinary items of expenditure must be paid on the due date set by the Owners Corporation upon the levying of each special fee or charge.

27. Consent of Owners Corporation

A consent given by the Owners Corporation under these Rules will, if practicable, be revocable and may be given subject to conditions including, without limitation, a condition evidenced by a minute of a resolution that the member for the time being of the lot to which the consent or approval relates is responsible for compliance with the terms of the consent.

28. Enforcement of Domestic Building Contract

The Member agrees that for the purpose of its obligations under the Act:

28.1 the Members acknowledge and agree that reasonable steps to enforce any domestic building contract (within the meaning of the Domestic Building Contracts Act 1995) include:

28.1.1 the making of a demand in writing to the builder under any domestic building contract to comply with the terms of the domestic building contract and/or rectify any breach of the domestic building contract;

28.1.2 the exercise of any right under the domestic building contract to withhold any payment to the builder or have recourse to any security provided by the builder under the domestic building contract;

28.1.3 the settlement of any dispute under any domestic building contract between the original owner and the builder on terms acceptable to the original owner; and

28.1.4 any other enforcement action the Initial Owner considers appropriate in the circumstances; and

28.2 the Members agree to pay or reimburse the Initial Owner its portion of any enforcement relative to its lot liability.

29. Complaints and disputes

29.1 Any Dispute must be dealt with at first instance in accordance with this Rule 29.

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29.2 A party to a Dispute must not initiate legal proceedings or complain to the Director in respect of the Dispute unless it has first complied with the dispute resolution procedure set out in this Rule 29.

29.3 The party making the complaint must in the first instance notify the Manager, or where the Manager is the subject of or involved in the Dispute, the Committee, of the Dispute in writing. The Manager must refer any complaint it receives to the Committee. Upon receipt of a complaint referred by the Manager or received directly from a Member or Occupier, the Committee will then decide (at its absolute discretion having regard to the nature and urgency of the Dispute) whether to:

29.3.1 arrange a meeting between the parties to resolve the Dispute; or

29.3.2 waive the requirement for the parties to meet.

29.4 Notwithstanding the course of action elected by the Committee under Rule 29.3, the parties must consult with one another in good faith and use their best endeavours to resolve the Dispute to the mutual satisfaction of both parties without resort to legal proceedings or other avenues of dispute resolution.

29.5 Without limiting the generality of this Rule 29, where no formal complaint is made by a Member or Occupier and the Owners Corporation otherwise becomes aware of a Dispute, the Owners Corporation (through the Manager or the Committee or otherwise) may decide (at its absolute discretion having regard to the nature and urgency of the Dispute) whether:

29.5.1 arrange a meeting between the parties to resolve the Dispute; or

29.5.2 waive the requirement for the parties to meet.

29.6 If the parties are unable to resolve the Dispute within 30 days (or such other period as the Committee thinks fit) of the meeting arranged pursuant to Rule 29.3.1 or 29.5.2, the parties may revert to the dispute resolution mechanisms set out in the Act or other Law.

30. Cost of non-compliance

The Member or Occupier must indemnify and keep indemnified the Owners Corporation on a full indemnity basis against any action, demand, cost, liability or loss incurred by the Owners Corporation as a consequence of any default by the Member or Occupier in the performance or observance of any term, covenant or condition contained in these Rules, the Act or Regulations including, without limitation administrative costs, legal costs, the cost of any works performed to rectify any non compliance and the cost incurred by the Owners Corporation in recovering overdue charges from the Member or Occupier.

31. Charges imposed on Members and Occupiers

31.1 Any payments to the Owners Corporation imposed on a Member or Occupier under the Rules, Act or Regulations will (until paid) be a charge on the Lot.

31.2 The Member or Occupier must accept a certificate signed by the Manager or valid tax invoice issued by the Owners Corporation as prima facie proof of the costs and expenses incurred by the Owners Corporation relating to any charge payable by a Member or Occupier pursuant to these Rules and must not make any claim or dispute the amount specified therein.

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31.3 The Member or Occupier must pay interest at the rate prescribed under the Penalty Interest Rates Act 1983 (Vic) on outstanding fees and charges set under the Rules, Act or Regulations until they are paid.

31.4 Any payments made for the purposes of these Rules, the Act or Regulations will be appropriated first in payment of any interest and any unpaid costs and expenses of the Owners Corporation and then be applied in repayment of the principal sum.

32. Rights of entry

32.1 Except in the case of an emergency (in which case no notice shall be required) upon seven (7) days' notice in writing, the Owners Corporation or the committee of the Owners Corporation and its servants, agents and contractors shall be permitted to inspect the interior of any Lot and test the electrical, gas or water installation or equipment therein and to trace and repair any leakage or defect in the said installations or equipment (at the expense of the Member or Occupier in cases where such leakage or defect is due to any act or default of the said Member or Occupier of his or her invitees). The committee of the Owners Corporation, in exercising this power shall ensure that its servants, agents and employees cause as little inconvenience to the Member or Occupier as is reasonable in the circumstances.

32.2 A Member or Occupier in occupation of a Lot must allow any person authorised by and on behalf of the Owners Corporation;

32.2.1 to enter the Lot or a Building in order to have access to the exterior of the Building, and

32.2.2 to enter the Lot from the exterior of the Building via a balcony, terrace, window or other part of the Lot and to use that part of the Lot, to facilitate the repair and maintenance of and other works on Common Property including the structure of the Building and the exterior face of the Building and any service that is for the benefit of more than one Lot or the Common Property being areas of Common Property that would otherwise be difficult to access.

32.3 The Owners Corporation must give at least 7 calendar days' notice in writing to the Member or Occupier of a Lot or other Occupier of a Lot of an intention to enter:

32.3.1 unless the Member or Occupier agrees to a lesser time and where the Occupier is a tenant under a residential tenancy agreement the Occupier must be given the same notice as that required to be given by a landlord under Section 85 of the Residential Tenancies Act 1997;

32.3.2 entry to and use of the relevant part of the Lot must be between the hours of 8.00 am and 6.00pm on any day Monday to Friday; or

32.3.3 unless there is an emergency when no notice and no time restrictions apply, and then in such a manner as to cause as little interruption or inconvenience to the Occupier as is possible in the circumstances.

32.4 Members and Occupiers acknowledge and agree the access described by this rule 32 is expressly contemplated under section 12(2) of the Subdivision Act 1988 (Vic) and the Member or Occupier must not, either directly or indirectly frustrate, limit or impede the access contemplated by this rule.

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33. Security

The Owners Corporation may make rules and regulations to ensure the security of the Development from intruders and otherwise with regard to the use and means of access to any roadways created upon the Common Property.

34. Contact

34.1 Each Member must advise the Manager of any out of normal business hours contact address, email and telephone number for their Lot and must promptly advise the Manager of any change in their address, email or telephone number.

34.2 Each Member must provide the Manager with an Australian address for service of notices. If a Member fails to provide an Australian address for service of notices, the Lot address will be deemed to be the proper address for service.

35. Restricted use of Common Property for fire control

35.1 The Owners Corporation may take measures to ensure the security, and to preserve the safety of the Common Property and the Lots affected by the Owners Corporation from fire or other hazards and without limitation may:

35.1.1 close off any part of the Common Property not required for access to a Lot on either a temporary or permanent basis or otherwise restrict the access to or use by Members or Occupiers of any part of the Common Property;

35.1.2 permit, to the exclusion of Members and Occupiers, any designated part of Common Property to be used by any security person as a means of monitoring security and general safety of the Lots, either solely or in conjunction with other Lots;

35.1.3 restrict by means of key or other security device the access of the Members or Occupiers;

35.1.4 restrict by means of key or other security device the access of the Members or Occupiers of one level of the Lots to any other level of the Lots; and

35.1.5 cancel any security card issued where a Member is in arrears in payment of Owners Corporation levies in excess of two quarters.

35.2 A Member and Occupier of a Lot must abide by any actions taken by the Owners Corporation in accordance with these Rules and must meet all costs incurred by the Owners Corporation in relation to these Rules (or a breach of these Rules by the relevant Member or Occupier).

36. Fire

36.1 A Member or Occupier of a Lot must ensure compliance with all statutory and other requirements, including those of the Owners Corporation, relating to fire, fire safety and the storage of bioethanol in respect of the Lot.

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36.2 A Member or Occupier of a Lot must not use, interfere or tamper with any fire safety equipment except in the case of an emergency and must not obstruct any fire stairs or fire escape.

36.3 In the event that the Melbourne Fire Brigade is called out to the Building as a result of the activation of a false fire alarm, whether the activation of the fire alarm was caused by a willful, negligent, foreseeable, or unforeseeable action or inaction, and the cause of the alarm is found to originate from a Lot, the Member or Occupier of the Lot will be jointly and severally liable to pay any and all associated costs and charges connected to a false fire alarm.

36.4 A Member hereby agrees to indemnify the Owners Corporation for all costs and charges incurred by the Owners Corporation in connection to a false fire alarm call out and the Member may elect to pursue recovery from the Occupier. This rule is enforceable regardless of whether:

36.4.1 the Member or Occupier was directly, indirectly and /or negligently responsible for the cause of the fire alarm; and/or

36.4.2 the Member authorised either impliedly or expressly the actions of the Occupier which caused the false fire alarm.

36.5 A Member or Occupier of a Lot must ensure that all fire doors, exhaust systems and smoke detectors installed in a Lot are properly maintained and tested monthly and that back-up batteries relating to the smoke detectors are replaced whenever necessary.

36.6 Each Member or Occupier of a Lot must undertake a fire and safety induction for the Development, prior to their occupation of the Lot (Induction). Occupiers must give the Manager at least 14 days' notice for the Manager to carry out the Induction. The Manager may charge any Occupier of a Lot a fee of $1,000 plus GST for any Induction required by an Occupier with less than 14 days' notice. A Member or Occupier of a Lot may be denied access to the Building if an Induction is not undertaken.

37. Insurance

A Member or Occupier of a Lot must not without the prior written consent of the Owners Corporation do or permit anything to be done which may invalidate, suspend or increase the premium for any insurance policy effected by the Owners Corporation.

38. Security and Security Keys

38.1 A Member or Occupier of a Lot or persons thereon from time to time must not do or permit anything, which may prejudice the security or safety of the Common Property, or any person in or about the Development.

38.2 The Owners Corporation may charge a reasonable fee for any additional security key required by a Member or Occupier.

38.3 A Member must exercise a high degree of caution and responsibility in making a security key available for use by any Occupier and must use all reasonable endeavours including without limitation an appropriate stipulation in any lease or licence of a Lot to the Occupier to ensure the return of the security key to the Member or the Owners Corporation.

38.4 A Member or Occupier of a Lot in possession of a security key must not without written consent from the Owners Corporation duplicate the security key or permit it to be duplicated

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and must take all reasonable precautions to ensure that the security key is not lost or handed to any person other than any other Member or Occupier and is not disposed of otherwise than by returning it to the Member or the Owners Corporation.

38.5 A Member or Occupier of a Lot must promptly notify the Owners Corporation if a security key issued to them is lost or destroyed.

39. Rules Subject to Rights of the Developer

39.1 These Rules do not apply to and, are not enforceable against the Developer or its mortgagee or chargee or the Vendor or its mortgagee or chargee, for so long as any of the following apply:

39.1.1 the Developer or the Vendor and/or either of their equity partners (if any) or the Vendor is a Member or Occupier;

39.1.2 any mortgagee or chargee of the Developer or the Vendor has an interest in any Lot; or

39.1.3 the Developer or the Vendor and/or either of their equity partners (if any) or the Vendor is engaged in any action required to complete the Development,

where to do so would prevent, hinder, obstruct or in any way interfere with any works of any nature or description that the Developer their mortgagee or chargee or the Vendor their mortgagee or chargee may be engaged in or which may need to be carried out in order to complete construction of the Buildings and facilities comprised in the Plan or the Development.

39.2 Subject to Rule 39.4, the Developer and its equity partners (if any), its mortgagees and chargees and the Vendor and its equity partners (if any), its mortgagees and chargees must be and are by this Rule, authorised by each and every member of each and every Owners Corporation in the Plan and by each and every Owners Corporation in the Plan to:

39.2.1 erect such barriers, fences, hoardings, signs as it deems necessary to facilitate any works to be carried out in relation to the Development; and

39.2.2 take exclusive and sole possession of any parts of the Common Property as it may need to have exclusive possession of in order to carry out any works or activities in relation to the Development; and

39.2.3 exclude all and any Members or Occupiers from any parts of the Common Property as may be necessary in order to carry out any works in relation to the Development; and

39.2.4 erect for sale promotional advertising or other signs as the Developer may require on any part of the Common Property; and

39.2.5 grant rights to use or access through or over the Common Property to third parties on such terms and conditions as the Developer or its mortgagee or chargee thinks fit; and

39.2.6 limit or restrict access to certain areas of the Development including areas of the Common Property in order to expeditiously complete the Development; and

39.2.7 use whatever rights of way and/or points of egress and ingress to the Development as necessary to carry out any works and to block for whatever periods are

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necessary any rights of way or points of egress and ingress to the Development in order to carry out any works,

provided that the Developer or the Vendor and any third party authorised by either of them under this Rule or any party to which it assigns all or part of the benefits of its rights under this Rule, uses its best endeavours to minimise disturbance and inconvenience to others occupying or using the Common Property.

39.3 The Owners Corporation must, within 7 days of being requested by the Developer or its mortgagee or chargee or the Vendor or its mortgagee or chargee, sign whatever consents, authorities, permits or other such documents as may be required to enable the Developer or its mortgagee or chargee to complete the Development. A Member must not vote in favour of any motion for a resolution proposed for consideration by a general meeting of the Owners Corporation which would revoke this Rule 39 or contravene any right or reprieve afforded to the Developer under this Rule 39.

39.4 In case of any inconsistency between the Rules and the rights of the Developer and Vendor under any Development Agreement, the Developer's rights and the Vendor's rights under the Development Agreement will prevail and the Members, Occupiers and Owners Corporation must not seek to enforce the Rules against the Developer or Vendor where to do so would conflict with the Developer's Rights or the Vendor's rights under any such Development Agreement.

39.5 A Member or Occupier must comply with the terms of any Development Agreement between the Developer and the Owners Corporation that is disclosed to the Member or Occupier.

39.6 Every Member hereby consents to and agrees to the Developer or the Vendor undertaking any or all of the rights of the Developer or the Vendor, as the context permits, set out in this Rule without any prevention or hindrance of such Member.

39.7 In exercising its rights under this Rule, the Developer and Vendor must act honestly and in good faith and with due care and diligence in the interests of the Owners Corporation and must have regard to the amenity of Members. The Developer and Vendor must only exercise their rights to the extent necessary for the genuine Development. The Developer and the Vendor must not exercise its rights under this Rule to arbitrarily exclude the Owners Corporation or the participation of Members.

40. Warranties & Novation or assignment of contracts

40.1 The Developer may at its discretion enter into time limited contracts to supply, service, clean, maintain and/or inspect building essentials services, other building services or functions, common areas of the Building, landscaping, or any other Common Property, and any other service or other contract deemed appropriate and necessary for the proper care and function of the Common Property.

40.2 The Developer must and the Owners Corporation(s) must accept, assignment or novation of the contracts referred to in Rule 40.1 at the first meeting of the Owners Corporation.

40.3 The Owners Corporation must maintain any contracts assigned or novated to it under this Rule to the end of its current term except where it is deemed that the contract is unreasonable or unnecessary or is replaced by a contract for similar services by the same service provider.

40.4 The Owners Corporation must comply with the terms of and properly manage any time or condition limited warranties for items, components or parts of the Common Property provided by subcontractors or suppliers so as to ensure they remain valid for the benefit of the Owners Corporation.

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40.5 The Owners Corporation must ensure that it provides for or enters into contracts to provide for care, cleaning, maintenance and inspection of any item or component of Common Property to enable it to perform its obligations under the Law and these Rules upon the lapse of any subcontractor or supplier backed warranty or upon the end of any contract assigned or novated to it by the Developer.

40.6 All Members must contribute its proportion of the cost incurred by the Owners Corporation in complying with this Rule 40 relative to the lot liability on the Plan.

41. Signage & Other Licences

41.1 The Owners Corporation may grant the Developer:

41.1.1 a lease and licence including but not limited to for the provision of information technology infrastructure relating to broadband services and/or signage rights to the Development;

41.1.2 a licence to host festivals, parties or other celebratory or promotional events in the main lobby area, or other areas of the Common Property;

41.1.3 a licence to place and maintain sale signs, insignias, logos and other fixtures and fittings for marketing purposes on the Common Property; or

41.1.4 allow the Developer's representatives and their invitees to conduct selling activities from a Lot, if not sold prior to completion, which will serve as a display unit,

provided the Developer uses its best endeavours to minimise disturbance and inconvenience to others Members' or Occupiers' use of the Common Property and at all times acts honestly and in good faith and with due care and diligence in the interests of the Owners Corporation.

41.2 A Member or Occupier of the Lot must not hinder or impede the Developer, its successors and assigns, from exercising its rights under any agreement entered into under this Rule.

41.3 The Owners Corporation(s) must procure all the necessary consents and resolutions to give effect to the matters set out in this Rule 41.

41.4 A Member must not vote in favour of any motion for a resolution proposed for consideration by a general meeting of the Owners Corporation(s) which would impede the powers of the Owners Corporation(s) under this Rule 41.

42. Electric Car Charging Station

A Member or Occupier of a Lot using an electric car charging station on Common Property must abide by the following rules:

42.1.1 the first car at the charging station has priority;

42.1.2 cars must only be parked in the bay while charging and for a time period not exceeding 12 hours;

42.1.3 once charging is complete, the car must be moved out of the bay as soon as possible;

42.1.4 Rules 42.1.2 and 42.1.3 do not apply to an electric car charging station located on a column which forms part of the Common Property and which is situated between

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two or more Lots and intended for the private use of the Member or Occupier of those Lots. For the avoidance of doubt all other clauses of this Rule 42 continue to apply.

42.1.5 charging equipment must be left in the same manner it was found;

42.1.6 a Member or Occupier is not able to use a charging station when the charging station is being maintained, repaired, replaced or in the instance of unexpected circumstances or emergency events;

42.1.7 a Member or Occupier must not park in another Member or Occupier's car park to charge their vehicle;

42.1.8 Members and Occupiers indemnify and release the Owners Corporation from and against any loss or cost due to the Member or Occupier's failure to observe rule 42.1.6.

42.1.9 a Member or Occupier must ensure that any vehicle is removed from a charging station when requested by the Owners Corporation for any scheduled, unexpected or emergency maintenance, repair or replacement of a charging station.

42.1.10 the Owners Corporation is not liable for, and the Member and Occupier of a Lot releases and indemnifies the Owners Corporation from and against the failure of the charging station due to maintenance, repair or replacement in the ordinary course or due to unexpected or emergency circumstances events;

42.1.11 each Member and Occupier must reimburse the Owners Corporation as and when required by it for all loss, damage or cost incurred by the Owners Corporation because of any damage to a charging station caused by the Member, the Occupier, the guest of a Member or Occupier and any third party; to the extent that the loss, damage or cost is not recoverable from the Owners Corporation's insurer; and

42.1.12 the Owners Corporation may from time to time provide rules requiring users of car charging stations (located both on Common Property and in a Lot) to pay for the use of the car charging stations, which may include the costs of supplying the electricity to the Common Property or Lot.

43. Urban Art

A Member or Occupier must not damage, destroy, alter, modify or otherwise tamper with any urban art installations in the Development.

44. Dog and Car Wash Facilities

44.1 When using the Dog and Car Wash Facilities a Member and an Occupier:

44.1.1 must ensure that unless otherwise stated, children below the age of 15 years are not in or around the Dog and Car Wash Facilities unless accompanied by an adult Member or Occupier exercising effective control over them;

44.1.2 must ensure that no guests are allowed in the Dog and Car Wash Facilities, subject to prior approval of the Manager and subject to any conditions on entry determined by the Manager;

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44.1.3 is responsible (at its cost) for any damage, cleaning or reinstatement costs incurred by the Owners Corporation or Manager as a result of its use of the Dog and Car Wash Facilities;

44.1.4 must not smoke or make any undue noise in the Dog and Car Wash Facilities; and

44.1.5 must ensure that the Dog and Car Wash Facilities are to be left in the same condition in which it was found.

44.2 Members and Occupiers acknowledge that some areas of the Dog and Car Wash Facilities may need to be booked with the Manager ahead of use. The Manager may refuse the booking if the facility is not available.

44.3 Members and Occupiers acknowledge and agree that they may be required to pay a general usage charge for some areas of the Dog and Car Wash Facilities and the cost of consumables used while using these areas, as determined by the Owners Corporation.

44.4 The Owners Corporation may make additional or separate rules relating to the use of all or part of the Dog and Car Wash Facilities provided they are not inconsistent with these Rules. If breached, rules relating to the Dog and Car Wash Facilities will constitute a breach of these Rules.

44.5 With respect to the car wash specifically, Members or Occupiers using the car wash:

44.5.1 do so at their own risk;

44.5.2 must not use the car wash facilities for any purpose other than washing their car or motorbike; and

44.5.3 must leave the facilities in a clean and tidy state after the car wash is complete.

44.6 With respect to the dog wash specifically:

44.6.1 dogs must be on a leash or in a carrier when bathing;

44.6.2 the wash tubs must be washed thoroughly after each use;

44.6.3 dogs are to be towel dried prior to using the blow dryer;

44.6.4 a Member or Occupier must notify the Manager immediately if there is an issue with the dog wash requiring attention;

44.6.5 restraints provided in the tubs must be utilized to prevent dogs from jumping out;

44.6.6 Members and Occupiers must not leave a dog unattended at any given time;

44.6.7 Members and Occupiers must use leave the dog wash facility in a clean and tidy state after use.

44.7 The Members and Occupiers agree that the Manager may close off one or more areas of the Dog and Car Wash Facilities at its reasonable discretion, including to allow for the safe or desirable use of the Dog and Car Wash Facilities, for the purposes of maintenance, works and the like.

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45. Valet Service

45.1 If the Owner's Corporation provides a valet service for residential Lots with a car space, each Member or Occupier of a residential Lot that owns a car space must pay the Owners Corporation as and when required by the Owners Corporation a fee per car parking space equal to the total of the following costs divided by the number of car spaces allocated to residential Lots:

45.1.1 all operational costs required to provide the valet service, including insurance and wages; and

45.1.2 a management fee as determined by the Owners Corporation; and

45.1.3 any Goods and Services Tax on the above amounts.

45.2 Each Member of a residential Lot with a car space must pay the above amounts even if they do not use the valet service.

45.3 The Members and Occupiers acknowledge and agree that the Owners Corporation may calculate the costs, contributions and liabilities detailed above and require payment in any way it considers reasonable, and a Member or Occupier must not challenge such a calculation.

Attachment 5

Signage Licence

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Maddocks

Lawyers
Collins Square, Tower Two
Level 25, 727 Collins Street
Melbourne VIC 3008
Australia

Telephone 61 3 9258 3555
Facsimile 61 3 9258 3666

info@maddocks.com.au
www.maddocks.com.au

DX 259 Melbourne

Date 14 / 06 /2022

Signage Licence – Lot 1R

Grand Esplanade Building, Saint Moritz, 14-16 The Esplanade, St Kilda, Victoria

Owners Corporation No. 1
on Plan of Subdivision PS826420W

and

14-16 The Esplanade by Gurner Pty Ltd ACN 626 307 131

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Schedule

1.	**Date of this Licence:**	The 14th day of June 2022
2.	**Licensor:**	Owners Corporation No. 1 on Plan of Subdivision PS826420W c/o The Knight, PO Box 678 Malvern, Victoria 3144.
3.	**Licensee:**	14-16 The Esplanade by Gurner Pty Ltd ACN 626 307 131 of 168 Williams Road, Prahran, VIC 3181.
4.	**Licensed Area:**	The signage area delineated in red and shown as 'Signage Licence Area' on the plan attached to this Licence as Annexure A and known as Part of Common Property No. 1 on Plan of Subdivision PS826420W.
5.	**Commencement Date**	The 14th day of June 2022
6.	**Term**	299 years
7.	**Licence Fee during the Term:**	$1.00 payable by a single instalment on the Commencement Date, if demanded.
8.	**Lot**	Lot 1R on Plan of Subdivision PS826420W.
9.	**Additional Clauses:**	Not applicable.

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Execution Page

EXECUTED by the parties on the date specified in Item 1.

Executed by **Owners Corporation No. 1** on **PS826420W** by a person who declares they are the sole Lot Owner and member of the Owners Corporation or by a director of a corporation that is a sole Lot Owner, in accordance with s 10 of the *Owners Corporations Act 2006* (Vic) in accordance with a resolution dated 7th June :

DocuSigned by:
Greg Shand
D9878C82F30C406...
Signature

Greg Shand

Name (print full name)

3A Macquarie Street, Sydney NSW 2000

Address

Position: Director of sole Lot Owner

Barana (St Kilda) Investments Pty Ltd
ACN 160 116 076

Name of corporation that is the sole Lot Owner

Executed by **14-16 The Esplanade by Gurner Pty Ltd ACN 626 307 131** in accordance with section 127(1) of the *Corporations Act* 2001:)
)
)
)

DocuSigned by:
Tim Gurner
9EF6211C76A42E...
Signature of Sole Director/Secretary

Tim Gurner

Print full name

DocuSign Envelope ID: 36F358EB-86A6-4A58-9B06-C25D0A080925

Licence

THIS LICENCE is made on the date specified in Item 1.

BETWEEN

The Licensor

AND

The Licensee

RECITAL

A. The Licensor has agreed to grant the Licensee a licence of the Licensed Area on the terms and conditions in this Licence.

THE PARTIES AGREE

1. Definitions

In this Licence, unless expressed or implied to the contrary:

Additional Clauses means the clauses (if any) specified in Item 9.

Adjustment has the same meaning given to that term in the GST Act.

Adjustment Note has the same meaning given to that term in the GST Act.

Commencement Date means the commencement date specified at Item 5 of the Schedule.

Consideration means consideration payable under this Licence in return for a Taxable Supply, but does not include any amount on account of GST.

Deal means assign, sublicense or otherwise deal.

Development means Saint Moritz, 14-16 The Esplanade, St Kilda, Victoria.

GST Act means A New Tax System (Goods and Services Tax) Act 1999 (as amended).

GST has the same meaning given to that term in the GST Act.

Input Tax Credit has the same meaning given to that term in the GST Act, but also includes a reduced input tax credit under Division 70 and an adjusted input tax credit under Division 132 of the GST Act.

Item means an item in the Schedule.

Licensed Area means the area specified in Item 4 being the signage area delineated and hatched on the plan attached as Annexure A.

Licence Fee means the amount specified in Item 7.

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Licensee means the Licensee specified in Item 3 and includes the Licensee's successors and assigns and where it is consistent with the context includes the Licensee's employees, agents, invitees and persons the Licensee allows to use the Licensed Area.

Licensor means the Licensor specified in Item 2 above and includes the Licensor's successors and assigns and where it is consistent with the context includes the Licensor's employees and agents.

Lot means the Lot specified in Item 8.

Recipient has the same meaning given to that term in the GST Act.

Signage means the signage or other advertising material (including lighting and illuminations thereof) constructed on the Licensed Area in accordance with clause 5.1 of this Licence.

Supplier means the entity making a Supply to the Recipient.

Supply has the same meaning given to that term in the GST Act.

Tax Invoice has the same meaning given to that term in the GST Act.

Taxable Supply has the same meaning given to that term in the GST Act.

Taxes means a tax, levy, duty, impost, fee, deduction, withholding or charge, however described, imposed by legislation, (including stamp and transaction duty and any car parking levies) together with any related interest, penalty, fine or expense concerning any of them and the costs of challenging any of them.

Term means the Term specified in Item 6 of the Schedule.

2. Licence

The Licensor has exercised its powers under section 14 of the *Owners Corporations Act* 2006 to grant by special resolution a Licence of the Licensed Area to the Licensee subject to the terms, covenants, conditions and restrictions contained in this Licence, for the Term starting on the Commencement Date.

3. Payments by the Licensee

3.1 Payment of Licence Fee

The Licensee must pay the Licence Fee to the Licensor on the Commencement Date and in the manner specified in Item 6.

3.2 Costs and Duty

The Licensee must pay to the Licensor within 7 days of demand:

3.2.1 all Taxes levied in respect of this Licence, the Licensed Area or the rights granted to the Licensee under this Licence whether those Taxes are in force at or after the Commencement Date;

3.2.2 the operating costs incurred by the Licensor in connection with or as a result of this Licence, the Licensed Area or the rights granted to the Licensee under this Licence; and

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3.2.3 the Licensor's costs (including charges on a solicitor-own client basis) incurred as a result of a breach of this Licence by the Licensee.

3.3 **Interest on Late Payments**

The Licensee must pay to the Licensor on demand interest at the rate per annum equal to the rate for the time being fixed under section 2 of the *Penalty Interest Rates Act* 1983 (Vic) on any money payable by the Licensee under this Licence and remaining unpaid for 7 days. Interest will be computed from the date on which such payment became due.

3.4 **No Deduction or Right of Set-off**

The Licensee must pay all amounts due under this Licence to the Licensor without deduction or right of set-off.

4. GST

4.1 **GST Exclusive**

Except as otherwise provided by this clause, all Consideration payable under this Licence in relation to any Supply is exclusive of GST.

4.2 **Increase in Consideration**

To the extent that any Supply under this Licence constitutes a Taxable Supply, the Consideration payable by the Recipient to the Supplier will be increased by the applicable amount of GST (**GST Amount**), which shall be calculated by multiplying the amount upon which GST is payable by the prevailing rate of GST.

4.3 **Payment of GST**

Any GST Amount must be paid by the Recipient to the Supplier at the same time and in the same manner as the relevant Consideration is paid or given under this Licence, without any right of set-off or deduction (unless otherwise provided in this Licence).

4.4 **Reimbursements**

If this Licence requires the Recipient to pay, reimburse or contribute to any expense, loss or outgoing suffered or incurred by the Supplier (**Relevant Expense**), the amount which the Recipient must pay, reimburse or contribute will be the amount net of any Input Tax Credits to which the Supplier is entitled in respect of the Relevant Expense, together with any GST Amount if the payment, reimbursement or contribution constitutes a Taxable Supply by the Supplier to the Recipient.

4.5 **Tax Invoice**

The Supplier must provide to the Recipient a valid Tax Invoice at or prior to the time of payment of any GST Amount.

4.6 **Adjustments & Adjustment Notes**

To the extent that any Adjustment occurs in relation to a Taxable Supply, the Supplier must issue an Adjustment Note to the Recipient within 7 days of becoming aware of the Adjustment, and any payment necessary to give effect to such Adjustment must be made within 7 days after the date of receipt of the Adjustment Note.

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5. Use of Licensed Area

5.1 Use of Licensed Area

5.1.1 The Licensee may use the Licensed Area for the purpose of signage and/or advertising (**Proposed Use**).

5.1.2 The Licensee must not:

(a) use or allow anyone else to use the Licensed Area for any purpose other than the Proposed Use;

(b) place or allow to be placed on the Licensed Area any signage that is illegal, offensive or unpleasant; and

(c) place or allow to be placed on the Licensed Area anything which is or may become an annoyance, nuisance, grievance or disturbance to anyone in the Development or any owners or occupier of any adjacent premises.

5.2 Nuisance

The Licensee must not do anything in connection with the Licensed Area which may cause a nuisance or interfere with any other person.

5.3 All Necessary Permits, Approvals and Consents to be Obtained

The Licensee covenants that prior to the installation of the Signage:

5.3.1 the Licensee must obtain at its own cost all statutory permits, approvals and consents which are necessary to allow the Licensee to use the Licensed Area for the Proposed Use and the Licensee must comply with all conditions of any permit issued in relation to the Licensed Area or any part of it by the responsible authority under the *Planning and Environment* Act 1987 or by any other authority under any other Act; and

5.3.2 the Licensee must deliver copies of the permits, approvals and consents for the Signage on the Licensor at the request of the Licensor.

5.4 Insurance

5.4.1 The Licensee must from the Commencement Date until the end of the Term effect and maintain a policy of insurance in the names of the Licensor and the Licensee (and of such other persons as the Licensor may reasonably require) in respect of liability for loss, injury or damage to any person or property whatsoever whether arising out of any act, omission, breach of duty or failure by the Licensor, the Licensee, the employees, agents and invitees of the Licensor or the Licensee or otherwise, on or in relation to the Licensed Area or the use of the Licensed Area by the Licensee in the sum of ten million dollars ($10,000,000) or such greater amount as the Licensor may reasonably nominate from time to time in order to effect a sufficient and proper cover in respect of any single accident or event.

5.4.2 The Licensee must from the Commencement Date until the end of the Term effect and maintain a policy of insurance in the names of the Licensor and the Licensee (and of such other persons as the Licensor may reasonably require) in respect of liability for the usual insured risks on an indemnity or replacement value basis of the Signage constructed or to be constructed on the Licensed Area.

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6. Installation, Maintenance, Repairs and Alterations

6.1 Installation and Maintenance of Signage

6.1.1 The Signage must be installed at the cost and expense of the Licensee by duly qualified tradesmen in a safe, sound and workmanlike manner in accordance with clause 5.3 and in compliance with all laws.

6.1.2 The Licensee must, at its own cost and expense, keep and maintain the Signage in good and substantial condition and repair and replace faulty or damaged parts. The Licensor may at any time inspect the Signage and if any work as reasonably determined by the Licensor is required to be carried out on the Signage that work shall be carried out expeditiously by the Licensee at its own cost. Should the Licensee fail to maintain the Signage in good and substantial condition and repair, the Licensor or its agents may at the cost of the Licensee effect such maintenance and repair in order to comply with this clause.

6.1.3 The Licensee must be responsible for all costs and charges associated with and incurred in the operation of the Signage.

6.1.4 The Licensee and its agents, contractors, invitees, consultants and employees approved by Licensor may have all necessary egress and egress to the Licensed Area for the purposes of effecting repairs to or maintenance of or removing or replacing the Signage.

6.1.5 The Licensee must repair any damage to the Licensed Area caused by want of care, misuse or abuse or otherwise on the part of the Licensee or any of its agents, contractors, invitees, consultants or employees in exercising the Licensee's right under the Licence to install, keep and maintain the Signage or arising from the Licensee's failure to comply with the terms of this Licence.

6.2 Inspection

The Licensor and its agents, contractors, invitees, consultants and employees may upon reasonable notice inspect the state of repair of the Signage and serve upon the Licensee a notice in writing requiring it to repair any defect.

7. Release and Indemnity

7.1 Release

The Licensee uses and occupies the Licensed Area at its own risk and releases the Licensor from all claims resulting from any damage, loss, death or injury in connection with the Licensed Area except to the extent that the Licensor is negligent.

7.2 Indemnity

The Licensee must indemnify and hold harmless the Licensor against all claims resulting from any damage, loss, death or injury in connection with the Licensed Area and the use of the Licensed Area by the Licensee except to the extent that the Licensor is negligent.

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8. Assignment and Sub-Licensing

8.1 The Licensee must not assign, sublicense or part with possession with this Licence or its interest in the Licensed Area.

8.2 Despite clause 8.1, the Licensee may:

8.2.1 assign the Licence without the consent of the Licensor provided that:

(a) the assignee is, or is entitled to be registered proprietor of lot 1R on Plan of Subdivision PS826420W;

(b) the Licensee gives written notice to the Licensor of the details of the assignee and the assignment; and

(c) the assignee has properly executed a deed of assignment, which includes a condition by which the assignee covenants to comply with all obligations of the Licensee under this Licence;

8.2.2 sublicense its interest in the Licensed Area without the consent of the Licensor provided that:

(a) the sublicensee is, or is entitled to be, the tenant of the Lot; and

(b) the Licensee gives written notice to the Licensor of the details of the sublicensee and the sublicense.

8.3 The Licensor must sign any and all things necessary to give effect to an assignment under clause 8.2 within 5 business days of the Licensee's request to do so.

8.4 If the registered proprietor of lot 1R on Plan of Subdivision PS826420W transfers the lot to a purchaser (**New Owner**), the Licensor must simultaneously assign this Licence to the New Owner in accordance with clause 8.2.1.

9. Licensor not Liable

The Licensor will not be liable to the Licensee if the Licensee cannot obtain access to the Licensed Area in circumstances either:

9.1 required for maintenance or repair; or

9.2 beyond the Licensor's reasonable control.

10. Right of Entry

The Licensee authorises the Licensor to enter any the Licensed Area in the event of an emergency.

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11. Licensee's Obligations at End of Licence

11.1 **Licensee's Obligations**

At the end of this Licence, the Licensee must give to the Licensor any security devices (if applicable) used by the Licensee to obtain access to the Licensed Area.

11.2 **Licensee's Property Left in Licensed Area**

Anything left in the Licensed Area at the end of this Licence will become the property of the Licensor and may be removed by the Licensor at the Licensee's cost and at the Licensee's risk.

11.3 **Dismantling of Signage**

11.3.1 The Licensee must, at its expense, at or prior to the expiration of the Term or any earlier termination or if required by any statutory or other rating authorities so to do, dismantle, remove and carry away the Signage.

11.3.2 The Licensee shall, at its own expense, repair any damage to the Licences Area, the Licensee, its agents, contractors, invitees, consultants or employees cause in dismantling, removing or carrying away the Signage.

11.3.3 The Licensee shall at its own expense, restore and reinstate the Licensed Area to its condition prior to the installation of the Signage and shall at its own expense remove all rubbish and leave the affected locations in a clean state and condition. Failing removal by the Licensee, the Licensor may remove the Signage and restore and reinstate the Licensed Area and in that event any expense incurred by the Licensor in so doing shall constitute a liquidated debt and be payable to the Licensor by the Licensee on demand.

12. Owners Corporation Rules

12.1 The Licensee must observe and comply with the Owners Corporation Rules set out in Annexure B.

12.2 A breach of the Owners Corporation Rules is a breach of this Licence.

12.3 Where there is any inconsistency between the terms of the Owners Corporation Rules and this Licence, the provisions of this Licence prevail.

13. Termination of Licence

13.1 **Re-entry**

The Licensor may terminate this Licence if the Licensee breaches this Licence and does not remedy the breach within 14 days of receipt of written notice from the Licensor.

13.2 **Damages following Termination**

If this Licence is terminated by the Licensor, the Licensee agrees to compensate the Licensor for any loss or damage the Licensor suffers in connection with the Licensee's breach of this Licence including the loss of the benefit of the Licensee performing its obligations under this Licence up to the expiration of the Term.

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14. General

14.1 Notices

Any notice required to be served under this Licence must be in writing and must be served by post, facsimile transmission or hand delivered to:

14.1.1 the Licensee at its address set out in this Licence, the Licensee's registered office address or the last known address of the Licensee; and

14.1.2 the Licensor at its address set out in this Licence or any other address notified in writing to the Licensee by the Licensor.

14.2 Entire Understanding

This Licence contains the entire understanding between the parties as to the subject matter contained in it. All previous agreements, representations, warranties, explanations and commitments, expressed or implied, affecting this subject matter are superseded by this Licence and have no effect.

14.3 Waiver

If the Licensor accepts the Licence Fee or any other monies under this Licence (before or after the end of this Licence) or does not exercise or delays exercising any of the Licensor's rights under this Licence, it will not be a waiver of the breach of this Licence by the Licensee or of the Licensor's rights under this Licence.

14.4 Additional Clauses

This Licence is subject to the Additional Clauses. The Additional Clauses override any inconsistent provisions in this Licence.

14.5 Electronic Execution

The parties agree that this Licence may be executed by electronic means. The parties agree to be bound by this Licence, including if executed by electronic means.

15. Interpretation

15.1 Governing Law and Jurisdiction

This Licence is governed by and is to be construed in accordance with the laws of Victoria. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Courts of Victoria and waives any right to object to proceedings being brought in those Courts.

15.2 Persons

In this Licence, a reference to a person includes a firm, partnership, association, corporation or other corporate body.

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15.3 **Joint and Several**

If a party consists of more than one person, this Licence binds them jointly and each of them severally.

15.4 **Legislation**

In this Licence, a reference to a statute includes regulations under it and consolidations, amendments, re-enactments or replacements of any of them.

15.5 **Clauses and Headings**

In this Licence:

15.5.1 a reference to a clause, schedule or appendix is a reference to a clause, schedule or appendix in or to this Licence; and

15.5.2 headings and sub-headings are inserted for ease of reference only and do not effect the interpretation of this Licence.

15.6 **Severance**

In this Licence:

15.6.1 if a provision is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable; and

15.6.2 if it is not possible to read down a provision as required in this clause, that provision is severable without affecting the validity or enforceability of the remaining part of that provision or the other provisions in this Licence.

15.7 **Number and Gender**

In this Licence, a reference to:

15.7.1 the singular includes the plural and vice versa; and

15.7.2 a gender includes the other genders.

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Annexure A

Signage Plan

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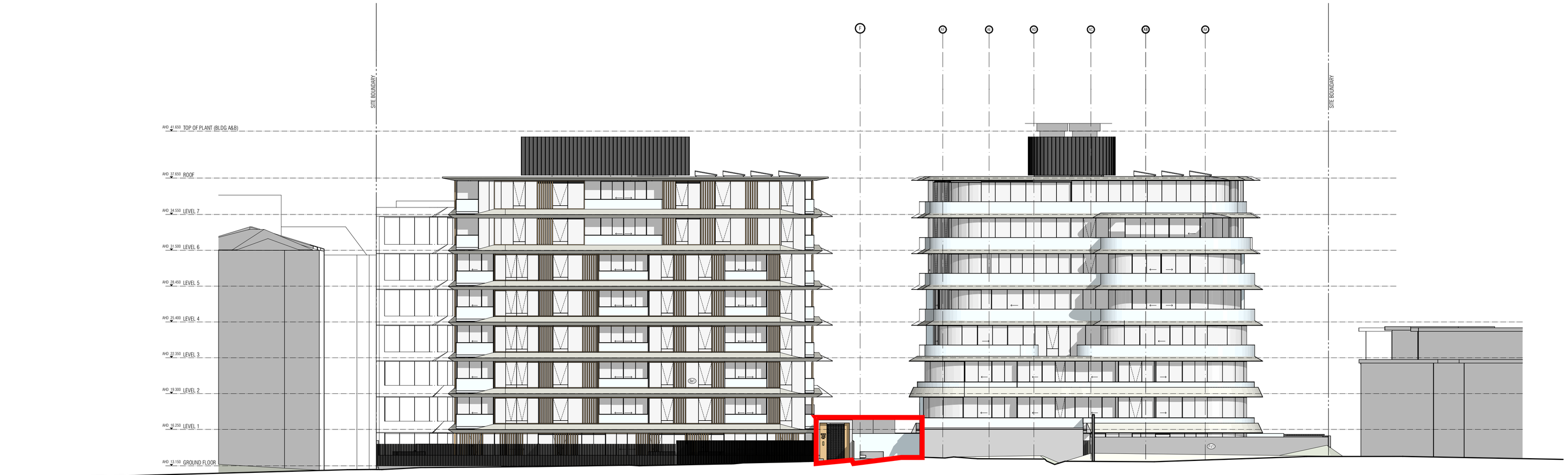

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REVISION

REVISION

QUALITY ASSURANCE (FK IS A CERTIFIED COMPANY TO ISO 9001-2015)

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- ☐ DESIGN DEVELOPMENT REVIEW FOR THIS PROJECT IS YET TO BE COMPLETED.
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DRAWN	DATE	CHECKED	PLOT DATE	JOB NO.	SCALE

PROJECT
ESPLANADE APARTMENTS
14-16 THE ESPLANADE
ST KILDA VIC 3182

DRAWING TITLE
NORTH ELEVATION

FENDER KATSALIDIS
WWW.FKAUSTRALIA.COM
2 RIVERSIDE QUAY, SOUTHBANK
VICTORIA 3006 AUSTRALIA
TELEPHONE: +61 3 8696 3888
FENDER KATSALIDIS (AUST) PTY LTD ACN 092 943 032

ISSUE PURPOSE
ILLUSTRATION ONLY

REV. -

DRAWING NO.
A2003

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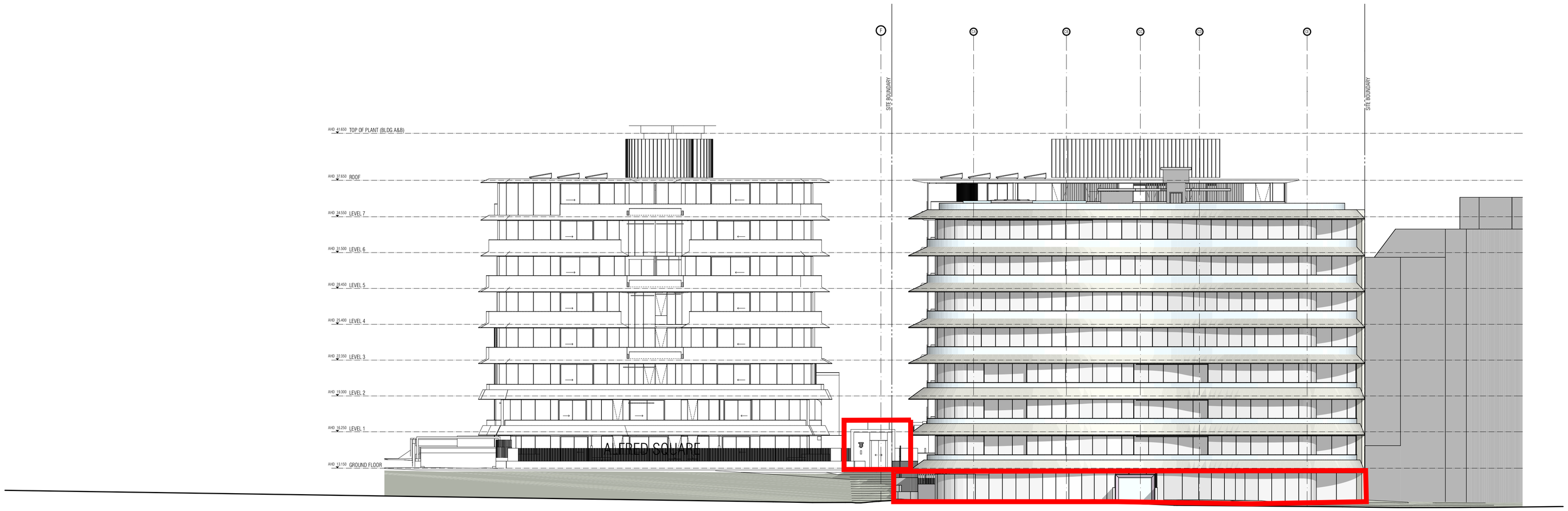

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PROJECT

ESPLANADE APARTMENTS
14-16 THE ESPLANADE
ST KILDA VIC 3182

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ISSUE PURPOSE
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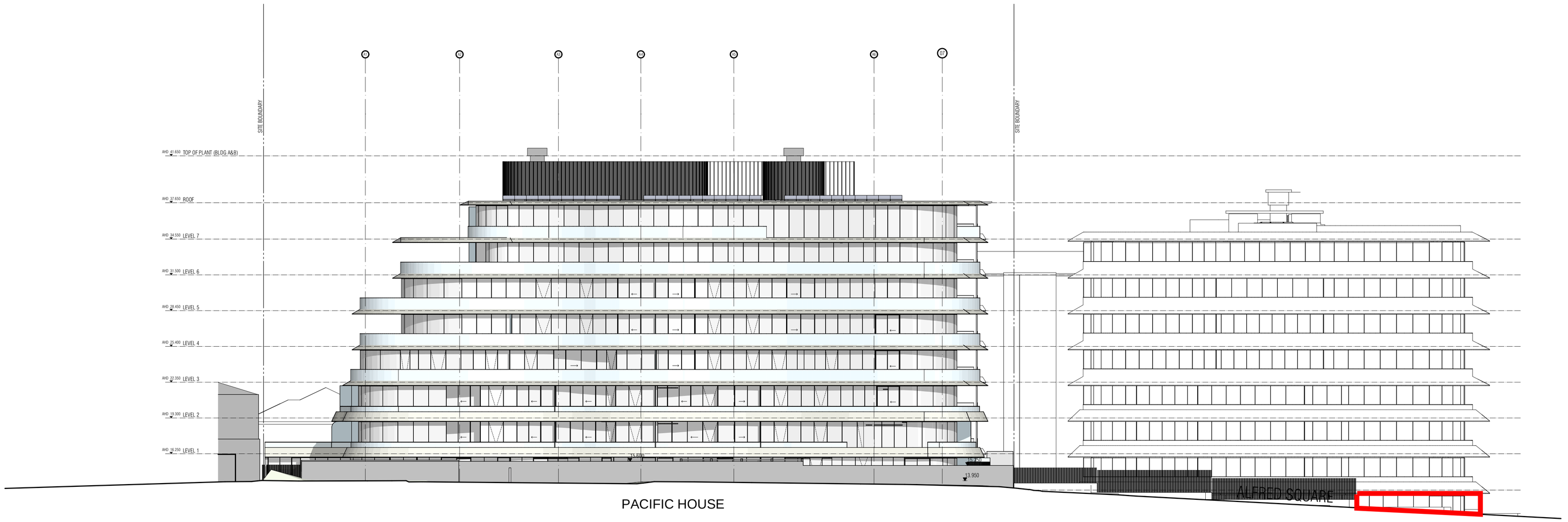

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REVISION

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PROJECT

ESPLANADE APARTMENTS
14-16 THE ESPLANADE
ST KILDA VIC 3182

DRAWING TITLE

WEST ELEVATION

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Annexure B

Owners Corporation Rules

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Date / /

Owners Corporation Rules

Saint Moritz, 14-16 The Esplanade, St Kilda, Victoria

Owners Corporation No. 1 on Plan of Subdivision PS826420W

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Owners Corporation Rules

Date / /

Notes

The Act and Regulations detail the powers of the Owners Corporation(s), the general duties of members, meetings and administration of the Owners Corporation(s), insurance and other miscellaneous matters. These Rules must be read in conjunction with the Act, Regulations and the model rules prescribed under the Regulations.

1. Definitions

In these rules:

Act means the *Owners Corporations Act* 2006 (Vic) as amended from time to time.

Authority means any government or any public, statutory, governmental, semi-governmental, local government, municipal or judicial body, entity or authority and includes a Minister of the Crown (in any right), and any person, body, entity or authority exercising a power pursuant to an Act of Parliament.

Bicycle Store means the bicycle store common facilities located on the Common Property.

Building Works means all design, building and construction works including the construction, erection, fixing, installation or otherwise or any item not originally included with or part of a Lot or Common Property.

Building means all and any buildings, structures or improvements comprised in the Development.

Common Property means the land, the Building and any other improvements erected on 14-16 The Esplanade, St Kilda and designated as common property no. 1 on the Plan.

Developer means 14-16 The Esplanade by Gurner Pty Ltd ACN 626 307 131 or a Related Entity responsible for the development of the Development and creation of Lots and includes the Developer's successors and assigns and where it is consistent with the context includes the Developer's employees, agents, builders, contractors, subcontractors and invitees.

Development means all the land and improvements comprised in the Plan and known as Saint Moritz, 14-16 The Esplanade, St Kilda.

Development Agreement means any agreement between the Developer and Owners Corporation or in relation to the Development, including any ancillary agreements between the Developer and the Owners Corporation such as development leases or other licences.

Director has the same meaning as it has in the *Fair Trading Act* 1999 (Vic).

Dispute means a dispute or other matter arising under the Act, Regulations or Rules including a dispute or matter relating to:

(a) the operation of the Owners Corporation;

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(b) an alleged breach by a Member or Occupier of an obligation imposed on that person under the Act, Regulations or the Rules; or

(c) the exercise of a function by a Manager in respect of the Owners Corporation.

Dog and Car Wash Facilities means the dog and car wash common facilities located on the Common Property.

Domestic Building Contract means any domestic building contract within the meaning of the *Domestic Building Contracts Act* 1995 (Vic) entered into by the Initial Owner.

Governmental Agency means any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.

Initial Owner has the same meaning as it has under the Act and where the context requires includes its successors and assigns.

Land means the whole of the land described in the Plan.

Lot means a lot shown on the Plan.

Maintenance Fund means a fund or part of a fund used for implementation of the Maintenance Plan (if any).

Maintenance Plan means a maintenance plan (if any) established and approved by the Owners Corporation as contemplated by the Act.

Manager means the person or entity appointed by the Owners Corporation as Manager of the Owners Corporation(s) or, where the context permits, the building manager, concierge or valet appointed by the Owners Corporation to assist it with the functions of the Owners Corporation contemplated by the Rules and where relevant includes the Manager's successors and assigns and where the context requires includes the Manager's officers, employees, agents, contractors, subcontractors and invitees.

Member means a member of the Owners Corporation by reason of being the owner of a Lot for the time being and where the context requires includes an Occupier or their invitees.

Occupier means the person or entity authorised by the Member to occupy the designated Lot as tenant or licensee and where the context requires includes the Occupier's invitees.

Owners Corporation means the Owner Corporation No. 1 on the Plan.

Plan means Plan of Subdivision No. PS826420W.

Regulations means the *Owners Corporations Regulations* 2018 (Vic) as amended from time to time.

Related Entity has the same meaning given to that term in the *Corporations Act* 2001 (Cth).

Retail Lot means a Lot for Retail Purposes.

Retail Purposes means use for a restaurant, café, retail use or other commercial purpose, subject to any approvals required by an Authority.

Rule or **Rules** means these rules which are for the purpose of the control, management, administration, use or enjoyment of the Common Property or any Lot as amended from time to time.

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Vendor means Barana (St Kilda) Investments Pty Ltd.

2. Interpretation

2.1 Unless the context otherwise requires:

2.1.1 headings are for convenience only;

2.1.2 words imparting the singular include the plural and vice versa;

2.1.3 expressions imparting a natural person includes any company, partnership, joint structure, association or other Owners Corporation and any governmental authority; and

2.1.4 a reference to a thing includes part of that thing.

2.2 The obligations and restrictions in these Rules must be read subject to the rights, grants or privileges that may be given to any person or entity by the Owners Corporation from time to time and to the extent of any inconsistency, such rights, grants or privileges, must prevail over these Rules in respect of the person or entity to whom they are given.

2.3 In these Rules:

2.3.1 if a provision is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable; and

2.3.2 if it is not possible to read down a provision as required in this Rule, that provision is severable without affecting the validity or enforceability of the remaining part of that Rule or the other Rule;

2.3.3 references to 'Owners Corporation' includes any person or body authorised to act on behalf of the Owners Corporation delegated any power or functions by the Owners Corporation or appointed by the Owners Corporation to assist in carrying out its functions, including without limitation the Manager, as the context permits.

2.4 In the event of a conflict between these Rules and any restriction on the Plan, the restriction will prevail.

2.5 In the event of a conflict between these Rules and the model rules prescribed under the Regulations, these Rules prevail.

3. Role and functions

3.1 The Owners Corporation is responsible for ensuring that appropriate rules, measures and procedures are established to govern issues common to the Members, including that the Common Property and/or a Lot are maintained for the benefit and enjoyment of all Members and Occupiers. The Owners Corporation exercises such responsibilities through enforcing the Rules and through holding regular committee meetings at which matters affecting the operation of the Common Property are resolved and advised to all Members.

3.2 The Owners Corporation must abide by the Rules, Act and Regulations, and in carrying out its functions and powers must act honestly and in good faith and exercise due care and diligence.

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3.3 These Rules are for the purpose of the control, management, administration, use or enjoyment of the Common Property or a Lot and represent the interests of Members and Occupiers. The Rules may be added to, amended or revoked:

3.3.1 if a resolution is passed after a ballot or poll is taken and 75% of the total lot entitlements of all the Lots are in favour of such addition, amendment or revocation; or

3.3.2 if a resolution is passed in any other case and 75% of the total votes for all the Lots are in favour of such addition, amendment or revocation (**Special Resolution**).

3.4 Under the Act and Regulations, the Owners Corporation is responsible for, amongst other things:

3.4.1 electing the Committee (if required);

3.4.2 establishing a Maintenance Plan and Fund;

3.4.3 establishing and maintaining an Owners Corporation Register;

3.4.4 taking out, maintaining and paying the premiums for insurance;

3.4.5 keeping proper accounts that cover the income, expenditure, assets and liabilities of the Owners Corporation and providing true reports of the financial situation of the Owners Corporation; and

3.4.6 preparing annual financial statements.

4. Provision of services

4.1 Each Member of the Owners Corporation agrees that the Owners Corporation will provide the following services:

4.1.1 the repair and maintenance of all Common Property including gardens, trees, paved areas and landscaping; and

4.1.2 any other service or facility provided by the Owners Corporation for the benefit of the Members.

4.2 A Member or an Occupier acknowledges that:

4.2.1 the Owners Corporation may share amongst the Members and Occupiers the costs of supply and maintenance (based on lot liability or other methodology determined by the Owners Corporation) of any gas facility or power facility required for heating or air conditioning or any variable refrigerant volume or variable refrigerant flow system (VRV) to the Lots affected by the Owners Corporation or any Common Property; and

4.2.2 where any Lot is not separately metered in relation to any service, including gas, electricity, water, heating, air conditioning and/or VRV, then the Occupier shall pay a proportion of such service and supply charges relating to same on a proportional rate by dividing the unit liability of that Lot by the total unit liability of all Lots serviced jointly or as otherwise determined by the Owners Corporation, acting reasonably.

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5. Use of a Lot

5.1 A Member must not:

5.1.1 create noise or behave in a manner that is likely to interfere with the peaceful enjoyment of the member of another Lot, or any person lawfully using the Common Property;

5.1.2 operate or permit to be operated on a Lot any device or electronic equipment which interferes with any domestic appliance lawfully in use on the Common Property, or another Lot;

5.1.3 use or store on the Lot any flammable chemical, liquid, gas or other flammable material other than chemicals, liquids, gases or other material used or intended to be used for normal and lawful domestic purposes or in the fuel tank of a motor vehicle;

5.1.4 use that part of a Lot designed for use as a car parking space for any other purpose without the prior written consent of the Owners Corporation;

5.1.5 use that part of a Lot designed for use as storage for any other purpose without the prior written consent of the Owners Corporation;

5.1.6 use that part of a Lot designed for use as wine storage for any other purpose without the prior written consent of the Owners Corporation;

5.1.7 use that part of a Lot designed for use as a VIP locker for any other purpose than storage without the prior written consent of the Owners Corporation;

5.1.8 carry out or cause to be carried out on a Lot, road or any other land in the vicinity of a Lot, any dismantling, assembly, repairs or restorations of vehicles unless carried out in an area screened from public view; and

5.1.9 use the Lot for any purpose that may be illegal or injurious to the reputation of the premises comprised of the lots and the Common Property or which may cause a nuisance or hazard to any other member of a Lot.

5.2 Each Member must:

5.2.1 maintain their Lot and must ensure that their Lot is so kept and maintained as not to be offensive in appearance nor a fire or health hazard to other Members; and

5.2.2 comply with all laws relating to the Lot including, without limitation, any requirement, notices and orders of any governmental authority.

6. Notification of Defects

A Member or Occupier of must promptly notify the Owners Corporation or the Manager on becoming aware of any damage to or defect in the Common Property or any personal property vested in the Owners Corporation.

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7. Compensation to Owners Corporation

The Member or Occupier must compensate the Owners Corporation in respect of any damage to the Common Property or personal property vested in the Owners Corporation caused by that Member or Occupier or their respective tenants, licensees or invitees.

8. Pets and animals

8.1 A Member can keep any animal upon a Lot or the Common Property unless the Member has been given notice by the Owners Corporation to remove and keep removed such animal once the Owners Corporation has resolved that the animal is causing a nuisance.

8.2 A Member must ensure that any animal belonging to them does not urinate or defecate on Common Property including internal court yards. In the event any animal belonging to them does urinate or defecate on Common Property, the Member must immediately clean up the urine and/or faeces.

8.3 A Member must ensure that any animal belonging to them must be on a lead at all times when on the Common Property.

9. Cleaning and maintenance of a Lot

9.1 A Member or Occupier must keep its Lot (including any car park, storage cage, wine storage lot or VIP locker utilised by the Member or Occupier) clean and in good repair.

9.2 A Member or Occupier must ensure that the external blinds or screens forming part of the Lot are regularly maintained and kept clean at all times. Failure to clean or maintain the external blinds or screens on a regular basis will cause the Owners Corporation to maintain the blinds or screens at a cost to the Member.

9.3 A Member or Occupier must ensure that all landscaped areas and pools/spas visible from Common Property or which adversely affect the outward appearance or state of repair of the Lot or the use and enjoyment of the Lots or Common Property by other Members or Occupiers are maintained to a standard commensurate with the standard of maintenance of Common Property landscaped areas or as reasonably directed by the Owners Corporation or its Manager. Failure to comply with this rule will cause the Owners Corporation to landscape areas or clean pools/spas visible from Common Property at a cost to the Member.

9.4 Without limiting rule 9.3, a Member or Occupier must ensure that any palm trees situated on their Lot are regularly maintained, including trimming fronds away from the glazing line of the Building.

10. Blinds, Windows and Awnings

10.1 A Member or Occupier may only install window furnishings which are:

10.1.1 blockout roller blinds:

(a) the colour of the blockout backing facing the window is charcoal grey or any other similar colour approved by the Owners Corporation in writing; and

(b) on a ceiling mounted track; or

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10.1.2 sheer roller blinds:

(a) the colour of the sheer backing facing the window is charcoal grey or any other similar colour approved by the Owners Corporation in writing; and

(b) on a ceiling mounted track; or

10.1.3 blockout curtains:

(a) the colour of the blockout backing facing the window is charcoal grey or any other similar colour approved by the Owners Corporation in writing;

(b) full height drop without decorative pelmets or valances; and

(c) on ceiling mounted track; or

10.1.4 sheer curtains:

(a) the colour is white or any other similar colour approved by the Owners Corporation in writing;

(b) full height drop without decorative permits or valances; and

(c) on ceiling mounted track.

10.2 The Member or Occupier is responsible for any costs and expenses associated with the window furnishings, including without limitation the cost of the window furnishings and any installation costs.

10.3 A Member or Occupier must install and maintain internal window furnishings on their Lot, at their own cost, in a manner so as to ensure efficient operation of the heating/cooling system of the Lot.

10.4 A Member or Occupier must not allow any glazed portions of the Lot or the Common Property that surrounds the Lot to be tinted or similar treated.

10.5 A Member or Occupier must not install or allow to be installed any:

10.5.1 external blinds or awnings; or

10.5.2 internal window furnishings visible from the outside of the Lot (other than as allowed under this Rule),

without prior approval from the Owners Corporation in writing.

10.6 Timber plantation style solid shutters, venetian blinds, pleated blinds and similar horizontal appearance to venetians, vertical blinds and highly ornate fabric blinds or any finish are not permitted.

11. Building Works

11.1 A Member must not undertake any Building Works, including the alteration or modification to the external façade of a Lot, the removal or replacement of floor coverings or materials, fixing or having fixed any electrical, audio visual, or communication device or equipment (for example, plasma or LCD televisions or speakers) within or about or relating to their Lot which may effect the acoustic performance of any inter-tenancy wall, floor or ceiling, without:

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11.1.1 the prior written approval of the Owners Corporation; and

11.1.2 providing at least 28 days' notice of the Building Works to each horizontal and vertical neighbour.

11.2 Before commencing any Building Works, a Member must:

11.2.1 submit to the Owners Corporation for approval plans and specifications of any proposed Building Works;

11.2.2 obtain, for any Building Works proposal submitted for approval, certification by a qualified acoustics engineer that the works when completed will meet the Building Code of Australia minimum requirements for sound attenuation;

11.2.3 receive written approval from the Owners Corporation to proceed with those specified Building Works;

11.2.4 obtain and supply copies to the Manager of all requisite permits, approvals and consents under all relevant Laws;

11.2.5 pay costs to the Owners Corporation where a building contractor or consultant may be engaged to advise the Owners Corporation on the proposed Building Works even if consent is not given;

11.2.6 cause to be effected and maintained during the period of the Building Works a contractor's all risk insurance policy;

11.2.7 deliver a copy of the contractor's all risk insurance policy and certificate of currency to the Owners Corporation which notes the interests of the Owners Corporation.

11.3 A Member or Occupier must ensure that any contractor engaged to perform approved Building Work on their Lot complies with the reasonable directions of the Owners Corporation concerning the method of building operations, means of access, use of the Common Property, on-site management, building protection and hours of work. The Member or Occupier must also supervise the carrying out of such Building Works and ensure that the following conditions are met:

11.3.1 the Building Works are undertaken in:

(a) accordance with the requirements of the *Occupational Health and Safety Act* 2004 (Vic) and the *Occupational Health and Safety Regulations* 2017 (Vic), as amended or replaced from time to time; and

(b) a reasonable manner so as to minimise any nuisance, annoyance, disturbance and inconvenience to other Members or Occupiers;

11.3.2 building materials are not stacked or stored in Common Property;

11.3.3 scaffolding is not erected on the Common Property or the exterior of the Building, without the prior written approval of the Owners Corporation;

11.3.4 construction work complies with all Laws of the relevant Authorities;

11.3.5 construction vehicles and construction worker's vehicles are not brought into, or parked on the Common Property except by prior arrangement with the Owners Corporation;

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11.3.6 the exterior and Common Property of the Building is at all times be maintained in a clean and tidy state;

11.3.7 suitable floor, wall and other protections is installed in the Common Property before any building materials are taken through those parts of the Common Property; and

11.3.8 all contractors and tradesmen use only the basement, lifts, lobby and areas designated by the Manager when working in the Lot.

11.4 Where a Member or Occupier commissions Building Work in accordance with Rule 11.3, a representative of the Owners Corporation and the Member or Occupier must inspect the part of the Common Property which will be affected by the Building Works (for example, the area through which building materials will be transported) prior to commencing the Building Work to establish the state of repair of the Common Property and again after the Building Work has been completed to determine if any damage has been caused to the Common Property.

11.5 A Member or Occupier must promptly make good all damage to and dirtying of the Building, the Common Property, the services thereof or any fixtures and fittings and finishes which are caused by any Building Works. If the Member or Occupier fails to do so the Owners Corporation may in its absolute discretion make good the damage and dirtying at the Member's or Occupier's expenses. The Member or Occupier must indemnify and keep indemnified the Owners Corporation for all costs and liabilities incurred by the Owners Corporation in so making good the damage or dirtying caused by the Building Work. The Owners Corporation may at their absolute discretion demand from the Member or Occupier a performance bond in relation to the cleaning or repair of the Common Property to guarantee their performance under this Rule.

11.6 Before commencing any Building Works, a Member or Occupier must ensure that the walls, floor and ceiling of the lifts are adequately protected from damage.

12. Use of appurtenances

12.1 A Member or Occupier must not use the water closet, conveniences or other water apparatus, including water pipes and drains for any other purpose than those which they were constructed and, must not sweep or deposit rubbish, baby wipes or other unsuitable substances therein. The Member indemnifies and keeps indemnified the Owners Corporation on a full indemnity basis for any costs or expenses resulting from any damage or blockage incurred by the Owners Corporation where the damage or blockage was caused by the Member, Occupier or their invitees.

13. Fittings

13.1 A Member or Occupier must:

13.1.1 not modify any VRV, air-conditioning, heating or ventilation system or associated ducting servicing that services the Member's Lot without the prior consent of the Owners Corporation;

13.1.2 not install in a Lot a floor safe, a safe, or any other item exceeding 100kg in weight without a written consent of the Owners Corporation and before submitting to the Owners Corporation a structural engineering report in respect to the proposed installation; and

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13.1.3 ensure that all floor space within a Lot is covered or otherwise treated to an extent sufficient to prevent the transmission from the floor space of the Lot noise likely to disturb the peaceful enjoyment of the Member or Occupier of another Lot.

13.2 A Member or Occupier must not affix or have affixed to any Common Property wall, floor or ceiling any electrical, audio visual or communication device or equipment without the prior written consent of the Owners Corporation including but not limited to plasma or LCD televisions or speakers.

14. Use of Common Property

14.1 A Member or Occupier must not:

14.1.1 do or allow to be done anything on the Common Property which causes a nuisance to or interferes with its lawful use by the Owners Corporation or other Members;

14.1.2 do or permit anything which might cause structural damage to the Common Property;

14.1.3 interfere with the operation of any equipment installed on the Common Property without the prior written consent of the Owners Corporation;

14.1.4 interfere with any personal property vested in the Owners Corporation;

14.1.5 park or leave a vehicle or permit any vehicle to be parked or left upon the Common Property or in any place other than in a parking area specified for such purpose by the Owners Corporation;

14.1.6 paint, finish, drive nails or screws or the like into, or otherwise damage, alter or deface the Building or any other part of the Common Property including the external facade except with the consent in writing of the Owners Corporation;

14.1.7 when on Common Property (or if on any part of a Lot so as to be visible from another Lot or from Common Property), fail to be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to the Member or Occupier of another Lot or to any person lawfully using Common Property;

14.1.8 deposit or throw upon the Common Property any rubbish, dirt, dust or other material likely to interfere with the peaceful enjoyment of other Member or any person lawfully using the Common Property;

14.1.9 disregard any requirements made by the Owners Corporation relating to the use of any access keys and intercom system that may be provided as the means of access upon roadways created within the Common Property;

14.1.10 use or store on the Common Property any flammable chemical, liquid, gas or other flammable material other than chemicals, liquids, gases or other material used or intended to be used for normal and lawful domestic purposes or in the fuel tank of a motor vehicle;

14.1.11 hold or allow to be held any public auction on or near the Common Property;

14.1.12 directly instruct any contractors or workmen employed by the Owners Corporation unless so authorised;

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14.1.13 except with the consent in writing of the Owners Corporation, use for their own purposes as a garden any portion of the Common Property; and

14.1.14 smoke in the stairwells, lifts, foyers, and car park forming part of the Common Property or any other part of the Common Property.

14.2 A Member or Occupier:

14.2.1 must notify the Owners Corporation or its Manager promptly when becoming aware of any damage to or defect in the Common Property or any personal property vested in the Owners Corporation;

14.2.2 must ensure that any guests or invitees of the Member or Occupier are accompanied at all times when on Common Property; and

14.2.3 acknowledges that the use of the Common Property is subject to any written agreements, leases or licences that the Owners Corporation may enter into relating to areas of the Common Property.

15. Lifts

15.1 A Member or Occupier must not and must ensure that the Occupier of a Member's Lot does not:

15.1.1 use the lifts for any other purpose other than to gain pedestrian access to his or her Lot as directed by the Owners Corporation;

15.1.2 hold the lift doors and/or prevent the doors of the lift closing for any period of time so as to interfere with the normal operation of other Occupiers' use of the lifts;

15.1.3 press the alarm or stop button except in an emergency situation;

15.1.4 press any button other than the one representing the floor or level that the lift is required to stop at; and

15.1.5 change any lift programming that gives preferential access to a Lot(s) within the Development.

15.2 Retail Lot occupants are not permitted to utilise the residential lifts to transport any goods.

16. Parking

16.1 Only motor vehicles and motorbikes are permitted to be located in a car space or garage allocated to a Lot and a Lot's allocated car space or garage can only be used for the storage of motor vehicles and motorbikes and not for the storage of any other items.

16.2 Members and Occupiers must park only in the car space allocated to the Lot and not in any other carparking space allocated to another Lot or any carparking spaces allocated for the use of visitors to the Development.

16.3 If a Member or Occupier of a Lot has more vehicles than the car spaces allocated to that Lot, any additional vehicles must be parked outside the Development.

16.4 Members must not close in any carparking space allocated to the Lot to make a private garage-style carparking space without the prior written approval of the Owners Corporation.

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16.5 Visitors parking provided on any Common Property (if any) is reserved for casual visitors to Lots, and is restricted to a maximum 1 hour parking time. Members and Occupiers must ensure that visitors parking is not used by long term visitors for more than 1 hour at a time without the prior consent of the Owners Corporation.

16.6 The Owners Corporation has the power to:

16.6.1 impose a speed limit for driving in Common Property;

16.6.2 impose reasonable restrictions on the use of Common Property, driveways and parking areas;

16.6.3 install speed humps and other traffic control devices on Common Property; and

16.6.4 install signs in relation to parking to control driving on Common Property.

16.7 A Member or Occupier of a Lot must comply at all times with the speed limits, restrictions, parking and traffic signs imposed or installed by the Owners Corporation or the Manager.

16.8 A Member of Occupier of a Lot must not park or leave a vehicle or other similar object on Common Property so as to obstruct any driveway or entrance to a Lot, or in any place other than in parking areas specified by the Owners Corporation or the Manager from time to time and must observe any parking directions given orally or published by the Manager from time to time in respect of parking.

16.9 A Member or Occupier of a Lot must not:

16.9.1 obstruct a driveway or entrance to a Lot or any other road in the Common Property;

16.9.2 allow parking spaces to be purchased by or leased to non residents/non Occupiers; or

16.9.3 allow parking spaces to be used for anything other than for the parking of vehicles, trailers or similar.

16.10 The Owners Corporation or Manager may remove any offending vehicles, trailers or motorbikes which are parked on the Common Property or in any carparking spaces in breach of these Rules.

16.11 A Member or Occupier must ensure its car parking space(s) are free of oil, petrol and like substances. The Owners Corporation may clean any car parking space which is excessively stained by oil, petrol or a like substance at the Member's or Occupier's expense if after providing 14 days notice the Member or Occupier has failed to clean the excessive staining. The Owners Corporation may authorise a person to enter the relevant Lot or Building on its behalf to carrying out cleaning of car spaces in accordance with this Rule.

17. Bicycles

17.1 A Member or Occupier must not permit any bicycle to be stored on Common Property except in areas designated by the Owners Corporation or otherwise with its written consent.

17.2 Members or Occupiers must indemnify and keep indemnified the Owners Corporation on a full indemnity basis for the costs of repairing any damage to the Common Property arising out of bringing their bicycles on to any Lot (for example, corridors, lifts).

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18. Bicycle Store

18.1 When using the Bicycle Store, a Member and an Occupier:

18.1.1 must ensure that unless otherwise stated, children below the age of 15 years are not in or around the Bicycle Store unless accompanied by an adult Member or Occupier exercising effective control over them;

18.1.2 must ensure that no guests are allowed in the Bicycle Store, subject to prior approval of the Manager and subject to any conditions on entry determined by the Manager;

18.1.3 is responsible (at its cost) for any damage, cleaning or reinstatement costs incurred by the Owners Corporation or Manager as a result of its (or its guests) use of the Bicycle Store;

18.1.4 must not smoke or make any undue noise in the Bicycle Store;

18.1.5 must ensure that the Bicycle Store is left in the same condition in which it was found;

18.1.6 use the Bicycle Store at their own risk; and

18.1.7 must not use the Bicycle Store for any purpose other than storing their bicycle.

18.2 The Members and Occupiers agree that:

18.2.1 the Manager may close off one or more areas of the Bicycle Store at its reasonable discretion, including to allow for the safe or desirable use of the Bicycle Store, for the purposes of maintenance, works and the like;

18.2.2 the Owners Corporation may make additional or separate rules relating to the use of the Bicycle Store provided they are not inconsistent with these Rules. If breached, rules relating to the Bicycle Store will constitute a breach of these Rules.

19. Moving object on or through Common Property

19.1 The Owners Corporation may resolve that furniture or large objects are to be transported through or on the Common Property (whether in the Building or not) in a specified manner.

19.2 If the Owners Corporation has specified, by resolution, the manner in which furniture or large objects are to be transported, a Member or Occupier must not transport any furniture or large object through or on the Common Property except in accordance with that resolution.

19.3 When using the lifts to move goods or furniture a Member or Occupier must ensure that the walls, floor and ceiling of the lifts are adequately protected from damage.

19.4 If the Member or Occupier requires the use of a crane to move goods or furniture, the Member or Occupier must first notify (by giving at least 7 days' written notice) and obtain the consent of the Owners Corporation. The Member or Occupier must cooperate with and comply with any requirements of the Owners Corporation (acting reasonably) in order to facilitate the use of the crane and minimise disruption to other Members or Occupiers.

19.5 A Member or Occupier must not move any article of furniture or any other article likely to cause damage or obstruction through the Common Property without first notifying the

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Owners Corporation (by giving at least 7 days' written notice) to enable the lifts to be covered and ensure only one Member or Occupier is moving in at a time.

19.6 Prior to moving any article of furniture or any other article likely to cause damage or destruction, the Manager or a representative of the Owners Corporation and the Member or Occupier will inspect the Common Property through which such article is to be moved to establish its state of repair. The Member or Occupier will be liable for any damage caused to the Common Property arising from the movement of the article.

20. Signage and windows

20.1 A Member is not permitted to display signs, advertising or notices on any Lot, including for the purpose of offering for sale or lease or letting any Lot or Common Property, without the consent of the Owners Corporation. Any sign that is erected must be of a standard that shall not detract from the overall appearance of the Development.

20.2 A Member is not permitted to display any advertising material, logos or sign writing to any external window, glazing or external solid face of a lot without the written consent of the Owners Corporation.

20.3 A Member must not allow any glazed portions of the Lot or Common Property to be tinted or otherwise treated with the intention of changing the visual characteristic of the Development.

21. Mail

21.1 Members and Occupiers must keep their mail box regularly cleared to avoid overflowing of mail, leaflets, circulars, pamphlets, newspapers, advertising material or other objects whatsoever at any one time, whether solicited or not, and must arrange for all such required clearance by other persons should a Member or Occupier be absent for any reason for any period of time to avoid such overflowing. This requirement may be waived upon request made to the Owners Corporation in writing not less than seven days prior to the date or dates for which such waiver is required.

21.2 Where large parcels do not fit into a mail box, Members and Occupiers consent to the Manager holding such parcels on their behalf, until collected by the Member or Occupier.

22. Garbage disposal

A Member of a Lot must:

22.1 except where the Owners Corporation provides some other means of disposal of garbage, maintain within their Lot, or on such part of the Common Property as may be authorised by the Owners Corporation, a receptacle for garbage and to keep such receptacle in a clean and tidy condition and not visible to the public except on days designated for rubbish collection;

22.2 comply with all requirements of Governmental Agencies relating to the disposal of garbage;

22.3 ensure that rubbish is disposed of in accordance with the disposal facilities of the Building, and the rules/directions of the Owners Corporation from time to time (for example recyclables are placed in the recycle chute);

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22.4 consult with and seek approval from the Owners Corporation in respect of the disposal of large articles to ensure that they are disposed of appropriately;

22.5 ensure that rubbish does not accumulate on their Lot, and that the health, hygiene and comfort of other Members is not adversely affected by their disposal of garbage;

22.6 ensure that rubbish is transported from their Lot to the designated garbage room on the Common Property in an appropriate watertight receptacle; and

22.7 pay or reimburse the Owners Corporation any costs incurred by the Owners Corporation as a result of the Member or Occupier's misuse of the garbage disposal facilities, or other breach of this rule 22.

23. Restrictions – trade or business

23.1 The Member or Occupier must not use or permit others from using that Lot or any part of the Common Property for any trade, business or other retail use without the express written consent of the Owners Corporation unless that Lot is a Retail Lot.

23.2 If authorised to do so by the Owners Corporation, the Member or Occupier of any Lot may carry on a trade, business or other retail use from the relevant Lot, provided:

23.2.1 the planning scheme of the relevant Authority governing the use of that Lot permits the trade, business or other commercial use to be carried on from the Lot; and

23.2.2 any requirements in respect of the trade, business or other commercial use stipulated by any relevant Authority from time to time are complied with; and

23.2.3 the trade, business or other commercial use can be carried on and is carried on without causing undue nuisance or, creating a greater security risk to the Members and Occupiers of other Lots.

24. Commercial area

24.1 Without limiting any other rule, the proprietor or occupier of a Retail Lot used for Retail Purposes must:

24.1.1 ensure that rubbish is disposed of in the bins provided in the Building by the Owners Corporation at the end of each day of business, in a discrete manner via the basement, or in any other location or manner advised by the Owners Corporation as may be necessary or desirable;

24.1.2 avoid unnecessary noise when filling bins;

24.1.3 ensure lids on bins are securely closed after taking rubbish to the bins;

24.1.4 ensure all cardboard and paper waste is cut up or folded and neatly contained in bins;

24.1.5 otherwise comply with rule 22;

24.1.6 comply with all health, noise and other regulations in carrying on the business from the Lot;

24.1.7 any mechanical fluing must be charcoal filtered or equivalent;

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24.1.8 small utility deliveries are to be between 5:30am – 6:00pm Monday to Friday and 6:30am – 6:00pm Saturdays & Sundays;

24.1.9 large deliveries are to be between 8:00am – 6:00pm Monday to Sunday;

24.1.10 not permit electronic gaming machines;

24.1.11 make all reasonable attempts to address/treat any odours that emanate from the Lot; and

24.1.12 ensure that all wall, floor and ceiling linings and treatments are acoustically treated where required by the Owners Corporation or Manager.

24.2 Nothing herein will prevent or prohibit any owner or Occupier of a Retail Lot from carrying on its reasonable business operations within a Retail Lot and to apply for, and obtain, any planning permit, liquor licence, or any other legislative consent or permit which the owner of any Retail Lot may apply for, provided that all times the proprietor or occupier of any such Retail Lot:

24.2.1 operates lawfully;

24.2.2 obtains each and every permit, liquor licence or other consent required; and

24.2.3 operates within the terms of any such liquor licence, permit or consent.

24.3 The owner or Occupier of any Retail Lot will be responsible for all costs associated with the cleaning, repairs and maintenance of the areas licensed to them. The licensees will be responsible for ensuring that these areas are kept in a pristine condition at all times.

24.4 Any owner or Occupier of a Retail Lot will be entitled to reasonable access at all times for invitees and customers through those parts of the Common Property necessary for usual business practice.

24.5 The Owners Corporation(s) will not hinder access to the Retail Lots via the main front entry except when they are required to undertake routine maintenance of these areas.

24.6 Rule 20 does not apply to a Lot used for Retail Purposes.

25. Behaviour of Invitees

25.1 The duties and obligations imposed by these special rules upon a Member of a Lot must be observed not only by the Member but also by the guest, servants, employees, agents, children, invitees and licensees of the Member or the occupier of their Lot (Invitees).

25.2 A Member must take all reasonable steps to ensure that their Invitees do not behave in a manner likely to interfere with the peaceful enjoyment of any Member or occupier of another Lot or of any person lawfully using the Common Property or which may result in damage to any Common Property.

25.3 A Member is liable to compensate the Owners Corporation for all damage to the Common Property or personal property vested in it caused by a breach of Rule 25.1 and 25.2.

25.4 Where the Owners Corporation expends money to make good damage caused by a breach of the Act, or of these rules by any Member or Invitees, the Owners Corporation can recover the amount so expended as a debt in action in any Court of competent jurisdiction from the Member of the Lot at the time when the breach occurred.

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25.5 Rules 25.1 to 25.4 are intended to operate in addition to the requirements of the Act.

26. Owners Corporation fees

26.1 The Member must pay the fees set by the Owners Corporation to cover general administration and maintenance, insurance and other recurrent obligations quarterly in advance according to their lot liability.

26.2 The amount of the annual Owners Corporation fees which is payable by each Member will be established at each annual general meeting of the Owners Corporation.

26.3 Any special fees or charges levied by the Owners Corporation to cover extraordinary items of expenditure must be paid on the due date set by the Owners Corporation upon the levying of each special fee or charge.

27. Consent of Owners Corporation

A consent given by the Owners Corporation under these Rules will, if practicable, be revocable and may be given subject to conditions including, without limitation, a condition evidenced by a minute of a resolution that the member for the time being of the lot to which the consent or approval relates is responsible for compliance with the terms of the consent.

28. Enforcement of Domestic Building Contract

The Member agrees that for the purpose of its obligations under the Act:

28.1 the Members acknowledge and agree that reasonable steps to enforce any domestic building contract (within the meaning of the Domestic Building Contracts Act 1995) include:

28.1.1 the making of a demand in writing to the builder under any domestic building contract to comply with the terms of the domestic building contract and/or rectify any breach of the domestic building contract;

28.1.2 the exercise of any right under the domestic building contract to withhold any payment to the builder or have recourse to any security provided by the builder under the domestic building contract;

28.1.3 the settlement of any dispute under any domestic building contract between the original owner and the builder on terms acceptable to the original owner; and

28.1.4 any other enforcement action the Initial Owner considers appropriate in the circumstances; and

28.2 the Members agree to pay or reimburse the Initial Owner its portion of any enforcement relative to its lot liability.

29. Complaints and disputes

29.1 Any Dispute must be dealt with at first instance in accordance with this Rule 29.

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29.2 A party to a Dispute must not initiate legal proceedings or complain to the Director in respect of the Dispute unless it has first complied with the dispute resolution procedure set out in this Rule 29.

29.3 The party making the complaint must in the first instance notify the Manager, or where the Manager is the subject of or involved in the Dispute, the Committee, of the Dispute in writing. The Manager must refer any complaint it receives to the Committee. Upon receipt of a complaint referred by the Manager or received directly from a Member or Occupier, the Committee will then decide (at its absolute discretion having regard to the nature and urgency of the Dispute) whether to:

29.3.1 arrange a meeting between the parties to resolve the Dispute; or

29.3.2 waive the requirement for the parties to meet.

29.4 Notwithstanding the course of action elected by the Committee under Rule 29.3, the parties must consult with one another in good faith and use their best endeavours to resolve the Dispute to the mutual satisfaction of both parties without resort to legal proceedings or other avenues of dispute resolution.

29.5 Without limiting the generality of this Rule 29, where no formal complaint is made by a Member or Occupier and the Owners Corporation otherwise becomes aware of a Dispute, the Owners Corporation (through the Manager or the Committee or otherwise) may decide (at its absolute discretion having regard to the nature and urgency of the Dispute) whether:

29.5.1 arrange a meeting between the parties to resolve the Dispute; or

29.5.2 waive the requirement for the parties to meet.

29.6 If the parties are unable to resolve the Dispute within 30 days (or such other period as the Committee thinks fit) of the meeting arranged pursuant to Rule 29.3.1 or 29.5.2, the parties may revert to the dispute resolution mechanisms set out in the Act or other Law.

30. Cost of non-compliance

The Member or Occupier must indemnify and keep indemnified the Owners Corporation on a full indemnity basis against any action, demand, cost, liability or loss incurred by the Owners Corporation as a consequence of any default by the Member or Occupier in the performance or observance of any term, covenant or condition contained in these Rules, the Act or Regulations including, without limitation administrative costs, legal costs, the cost of any works performed to rectify any non compliance and the cost incurred by the Owners Corporation in recovering overdue charges from the Member or Occupier.

31. Charges imposed on Members and Occupiers

31.1 Any payments to the Owners Corporation imposed on a Member or Occupier under the Rules, Act or Regulations will (until paid) be a charge on the Lot.

31.2 The Member or Occupier must accept a certificate signed by the Manager or valid tax invoice issued by the Owners Corporation as prima facie proof of the costs and expenses incurred by the Owners Corporation relating to any charge payable by a Member or Occupier pursuant to these Rules and must not make any claim or dispute the amount specified therein.

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31.3 The Member or Occupier must pay interest at the rate prescribed under the Penalty Interest Rates Act 1983 (Vic) on outstanding fees and charges set under the Rules, Act or Regulations until they are paid.

31.4 Any payments made for the purposes of these Rules, the Act or Regulations will be appropriated first in payment of any interest and any unpaid costs and expenses of the Owners Corporation and then be applied in repayment of the principal sum.

32. Rights of entry

32.1 Except in the case of an emergency (in which case no notice shall be required) upon seven (7) days' notice in writing, the Owners Corporation or the committee of the Owners Corporation and its servants, agents and contractors shall be permitted to inspect the interior of any Lot and test the electrical, gas or water installation or equipment therein and to trace and repair any leakage or defect in the said installations or equipment (at the expense of the Member or Occupier in cases where such leakage or defect is due to any act or default of the said Member or Occupier of his or her invitees). The committee of the Owners Corporation, in exercising this power shall ensure that its servants, agents and employees cause as little inconvenience to the Member or Occupier as is reasonable in the circumstances.

32.2 A Member or Occupier in occupation of a Lot must allow any person authorised by and on behalf of the Owners Corporation;

32.2.1 to enter the Lot or a Building in order to have access to the exterior of the Building, and

32.2.2 to enter the Lot from the exterior of the Building via a balcony, terrace, window or other part of the Lot and to use that part of the Lot, to facilitate the repair and maintenance of and other works on Common Property including the structure of the Building and the exterior face of the Building and any service that is for the benefit of more than one Lot or the Common Property being areas of Common Property that would otherwise be difficult to access.

32.3 The Owners Corporation must give at least 7 calendar days' notice in writing to the Member or Occupier of a Lot or other Occupier of a Lot of an intention to enter:

32.3.1 unless the Member or Occupier agrees to a lesser time and where the Occupier is a tenant under a residential tenancy agreement the Occupier must be given the same notice as that required to be given by a landlord under Section 85 of the Residential Tenancies Act 1997;

32.3.2 entry to and use of the relevant part of the Lot must be between the hours of 8.00 am and 6.00pm on any day Monday to Friday; or

32.3.3 unless there is an emergency when no notice and no time restrictions apply, and then in such a manner as to cause as little interruption or inconvenience to the Occupier as is possible in the circumstances.

32.4 Members and Occupiers acknowledge and agree the access described by this rule 32 is expressly contemplated under section 12(2) of the Subdivision Act 1988 (Vic) and the Member or Occupier must not, either directly or indirectly frustrate, limit or impede the access contemplated by this rule.

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33. Security

The Owners Corporation may make rules and regulations to ensure the security of the Development from intruders and otherwise with regard to the use and means of access to any roadways created upon the Common Property.

34. Contact

34.1 Each Member must advise the Manager of any out of normal business hours contact address, email and telephone number for their Lot and must promptly advise the Manager of any change in their address, email or telephone number.

34.2 Each Member must provide the Manager with an Australian address for service of notices. If a Member fails to provide an Australian address for service of notices, the Lot address will be deemed to be the proper address for service.

35. Restricted use of Common Property for fire control

35.1 The Owners Corporation may take measures to ensure the security, and to preserve the safety of the Common Property and the Lots affected by the Owners Corporation from fire or other hazards and without limitation may:

35.1.1 close off any part of the Common Property not required for access to a Lot on either a temporary or permanent basis or otherwise restrict the access to or use by Members or Occupiers of any part of the Common Property;

35.1.2 permit, to the exclusion of Members and Occupiers, any designated part of Common Property to be used by any security person as a means of monitoring security and general safety of the Lots, either solely or in conjunction with other Lots;

35.1.3 restrict by means of key or other security device the access of the Members or Occupiers;

35.1.4 restrict by means of key or other security device the access of the Members or Occupiers of one level of the Lots to any other level of the Lots; and

35.1.5 cancel any security card issued where a Member is in arrears in payment of Owners Corporation levies in excess of two quarters.

35.2 A Member and Occupier of a Lot must abide by any actions taken by the Owners Corporation in accordance with these Rules and must meet all costs incurred by the Owners Corporation in relation to these Rules (or a breach of these Rules by the relevant Member or Occupier).

36. Fire

36.1 A Member or Occupier of a Lot must ensure compliance with all statutory and other requirements, including those of the Owners Corporation, relating to fire, fire safety and the storage of bioethanol in respect of the Lot.

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36.2 A Member or Occupier of a Lot must not use, interfere or tamper with any fire safety equipment except in the case of an emergency and must not obstruct any fire stairs or fire escape.

36.3 In the event that the Melbourne Fire Brigade is called out to the Building as a result of the activation of a false fire alarm, whether the activation of the fire alarm was caused by a willful, negligent, foreseeable, or unforeseeable action or inaction, and the cause of the alarm is found to originate from a Lot, the Member or Occupier of the Lot will be jointly and severally liable to pay any and all associated costs and charges connected to a false fire alarm.

36.4 A Member hereby agrees to indemnify the Owners Corporation for all costs and charges incurred by the Owners Corporation in connection to a false fire alarm call out and the Member may elect to pursue recovery from the Occupier. This rule is enforceable regardless of whether:

36.4.1 the Member or Occupier was directly, indirectly and /or negligently responsible for the cause of the fire alarm; and/or

36.4.2 the Member authorised either impliedly or expressly the actions of the Occupier which caused the false fire alarm.

36.5 A Member or Occupier of a Lot must ensure that all fire doors, exhaust systems and smoke detectors installed in a Lot are properly maintained and tested monthly and that back-up batteries relating to the smoke detectors are replaced whenever necessary.

36.6 Each Member or Occupier of a Lot must undertake a fire and safety induction for the Development, prior to their occupation of the Lot (Induction). Occupiers must give the Manager at least 14 days' notice for the Manager to carry out the Induction. The Manager may charge any Occupier of a Lot a fee of $1,000 plus GST for any Induction required by an Occupier with less than 14 days' notice. A Member or Occupier of a Lot may be denied access to the Building if an Induction is not undertaken.

37. Insurance

A Member or Occupier of a Lot must not without the prior written consent of the Owners Corporation do or permit anything to be done which may invalidate, suspend or increase the premium for any insurance policy effected by the Owners Corporation.

38. Security and Security Keys

38.1 A Member or Occupier of a Lot or persons thereon from time to time must not do or permit anything, which may prejudice the security or safety of the Common Property, or any person in or about the Development.

38.2 The Owners Corporation may charge a reasonable fee for any additional security key required by a Member or Occupier.

38.3 A Member must exercise a high degree of caution and responsibility in making a security key available for use by any Occupier and must use all reasonable endeavours including without limitation an appropriate stipulation in any lease or licence of a Lot to the Occupier to ensure the return of the security key to the Member or the Owners Corporation.

38.4 A Member or Occupier of a Lot in possession of a security key must not without written consent from the Owners Corporation duplicate the security key or permit it to be duplicated

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and must take all reasonable precautions to ensure that the security key is not lost or handed to any person other than any other Member or Occupier and is not disposed of otherwise than by returning it to the Member or the Owners Corporation.

38.5 A Member or Occupier of a Lot must promptly notify the Owners Corporation if a security key issued to them is lost or destroyed.

39. Rules Subject to Rights of the Developer

39.1 These Rules do not apply to and, are not enforceable against the Developer or its mortgagee or chargee or the Vendor or its mortgagee or chargee, for so long as any of the following apply:

39.1.1 the Developer or the Vendor and/or either of their equity partners (if any) or the Vendor is a Member or Occupier;

39.1.2 any mortgagee or chargee of the Developer or the Vendor has an interest in any Lot; or

39.1.3 the Developer or the Vendor and/or either of their equity partners (if any) or the Vendor is engaged in any action required to complete the Development,

where to do so would prevent, hinder, obstruct or in any way interfere with any works of any nature or description that the Developer their mortgagee or chargee or the Vendor their mortgagee or chargee may be engaged in or which may need to be carried out in order to complete construction of the Buildings and facilities comprised in the Plan or the Development.

39.2 Subject to Rule 39.4, the Developer and its equity partners (if any), its mortgagees and chargees and the Vendor and its equity partners (if any), its mortgagees and chargees must be and are by this Rule, authorised by each and every member of each and every Owners Corporation in the Plan and by each and every Owners Corporation in the Plan to:

39.2.1 erect such barriers, fences, hoardings, signs as it deems necessary to facilitate any works to be carried out in relation to the Development; and

39.2.2 take exclusive and sole possession of any parts of the Common Property as it may need to have exclusive possession of in order to carry out any works or activities in relation to the Development; and

39.2.3 exclude all and any Members or Occupiers from any parts of the Common Property as may be necessary in order to carry out any works in relation to the Development; and

39.2.4 erect for sale promotional advertising or other signs as the Developer may require on any part of the Common Property; and

39.2.5 grant rights to use or access through or over the Common Property to third parties on such terms and conditions as the Developer or its mortgagee or chargee thinks fit; and

39.2.6 limit or restrict access to certain areas of the Development including areas of the Common Property in order to expeditiously complete the Development; and

39.2.7 use whatever rights of way and/or points of egress and ingress to the Development as necessary to carry out any works and to block for whatever periods are

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necessary any rights of way or points of egress and ingress to the Development in order to carry out any works,

provided that the Developer or the Vendor and any third party authorised by either of them under this Rule or any party to which it assigns all or part of the benefits of its rights under this Rule, uses its best endeavours to minimise disturbance and inconvenience to others occupying or using the Common Property.

39.3 The Owners Corporation must, within 7 days of being requested by the Developer or its mortgagee or chargee or the Vendor or its mortgagee or chargee, sign whatever consents, authorities, permits or other such documents as may be required to enable the Developer or its mortgagee or chargee to complete the Development. A Member must not vote in favour of any motion for a resolution proposed for consideration by a general meeting of the Owners Corporation which would revoke this Rule 39 or contravene any right or reprieve afforded to the Developer under this Rule 39.

39.4 In case of any inconsistency between the Rules and the rights of the Developer and Vendor under any Development Agreement, the Developer's rights and the Vendor's rights under the Development Agreement will prevail and the Members, Occupiers and Owners Corporation must not seek to enforce the Rules against the Developer or Vendor where to do so would conflict with the Developer's Rights or the Vendor's rights under any such Development Agreement.

39.5 A Member or Occupier must comply with the terms of any Development Agreement between the Developer and the Owners Corporation that is disclosed to the Member or Occupier.

39.6 Every Member hereby consents to and agrees to the Developer or the Vendor undertaking any or all of the rights of the Developer or the Vendor, as the context permits, set out in this Rule without any prevention or hindrance of such Member.

39.7 In exercising its rights under this Rule, the Developer and Vendor must act honestly and in good faith and with due care and diligence in the interests of the Owners Corporation and must have regard to the amenity of Members. The Developer and Vendor must only exercise their rights to the extent necessary for the genuine Development. The Developer and the Vendor must not exercise its rights under this Rule to arbitrarily exclude the Owners Corporation or the participation of Members.

40. Warranties & Novation or assignment of contracts

40.1 The Developer may at its discretion enter into time limited contracts to supply, service, clean, maintain and/or inspect building essentials services, other building services or functions, common areas of the Building, landscaping, or any other Common Property, and any other service or other contract deemed appropriate and necessary for the proper care and function of the Common Property.

40.2 The Developer must and the Owners Corporation(s) must accept, assignment or novation of the contracts referred to in Rule 40.1 at the first meeting of the Owners Corporation.

40.3 The Owners Corporation must maintain any contracts assigned or novated to it under this Rule to the end of its current term except where it is deemed that the contract is unreasonable or unnecessary or is replaced by a contract for similar services by the same service provider.

40.4 The Owners Corporation must comply with the terms of and properly manage any time or condition limited warranties for items, components or parts of the Common Property provided by subcontractors or suppliers so as to ensure they remain valid for the benefit of the Owners Corporation.

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40.5 The Owners Corporation must ensure that it provides for or enters into contracts to provide for care, cleaning, maintenance and inspection of any item or component of Common Property to enable it to perform its obligations under the Law and these Rules upon the lapse of any subcontractor or supplier backed warranty or upon the end of any contract assigned or novated to it by the Developer.

40.6 All Members must contribute its proportion of the cost incurred by the Owners Corporation in complying with this Rule 40 relative to the lot liability on the Plan.

41. Signage & Other Licences

41.1 The Owners Corporation may grant the Developer:

41.1.1 a lease and licence including but not limited to for the provision of information technology infrastructure relating to broadband services and/or signage rights to the Development;

41.1.2 a licence to host festivals, parties or other celebratory or promotional events in the main lobby area, or other areas of the Common Property;

41.1.3 a licence to place and maintain sale signs, insignias, logos and other fixtures and fittings for marketing purposes on the Common Property; or

41.1.4 allow the Developer's representatives and their invitees to conduct selling activities from a Lot, if not sold prior to completion, which will serve as a display unit,

provided the Developer uses its best endeavours to minimise disturbance and inconvenience to others Members' or Occupiers' use of the Common Property and at all times acts honestly and in good faith and with due care and diligence in the interests of the Owners Corporation.

41.2 A Member or Occupier of the Lot must not hinder or impede the Developer, its successors and assigns, from exercising its rights under any agreement entered into under this Rule.

41.3 The Owners Corporation(s) must procure all the necessary consents and resolutions to give effect to the matters set out in this Rule 41.

41.4 A Member must not vote in favour of any motion for a resolution proposed for consideration by a general meeting of the Owners Corporation(s) which would impede the powers of the Owners Corporation(s) under this Rule 41.

42. Electric Car Charging Station

A Member or Occupier of a Lot using an electric car charging station on Common Property must abide by the following rules:

42.1.1 the first car at the charging station has priority;

42.1.2 cars must only be parked in the bay while charging and for a time period not exceeding 12 hours;

42.1.3 once charging is complete, the car must be moved out of the bay as soon as possible;

42.1.4 Rules 42.1.2 and 42.1.3 do not apply to an electric car charging station located on a column which forms part of the Common Property and which is situated between

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two or more Lots and intended for the private use of the Member or Occupier of those Lots. For the avoidance of doubt all other clauses of this Rule 42 continue to apply.

42.1.5 charging equipment must be left in the same manner it was found;

42.1.6 a Member or Occupier is not able to use a charging station when the charging station is being maintained, repaired, replaced or in the instance of unexpected circumstances or emergency events;

42.1.7 a Member or Occupier must not park in another Member or Occupier's car park to charge their vehicle;

42.1.8 Members and Occupiers indemnify and release the Owners Corporation from and against any loss or cost due to the Member or Occupier's failure to observe rule 42.1.6.

42.1.9 a Member or Occupier must ensure that any vehicle is removed from a charging station when requested by the Owners Corporation for any scheduled, unexpected or emergency maintenance, repair or replacement of a charging station.

42.1.10 the Owners Corporation is not liable for, and the Member and Occupier of a Lot releases and indemnifies the Owners Corporation from and against the failure of the charging station due to maintenance, repair or replacement in the ordinary course or due to unexpected or emergency circumstances events;

42.1.11 each Member and Occupier must reimburse the Owners Corporation as and when required by it for all loss, damage or cost incurred by the Owners Corporation because of any damage to a charging station caused by the Member, the Occupier, the guest of a Member or Occupier and any third party; to the extent that the loss, damage or cost is not recoverable from the Owners Corporation's insurer; and

42.1.12 the Owners Corporation may from time to time provide rules requiring users of car charging stations (located both on Common Property and in a Lot) to pay for the use of the car charging stations, which may include the costs of supplying the electricity to the Common Property or Lot.

43. Urban Art

A Member or Occupier must not damage, destroy, alter, modify or otherwise tamper with any urban art installations in the Development.

44. Dog and Car Wash Facilities

44.1 When using the Dog and Car Wash Facilities a Member and an Occupier:

44.1.1 must ensure that unless otherwise stated, children below the age of 15 years are not in or around the Dog and Car Wash Facilities unless accompanied by an adult Member or Occupier exercising effective control over them;

44.1.2 must ensure that no guests are allowed in the Dog and Car Wash Facilities, subject to prior approval of the Manager and subject to any conditions on entry determined by the Manager;

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44.1.3 is responsible (at its cost) for any damage, cleaning or reinstatement costs incurred by the Owners Corporation or Manager as a result of its use of the Dog and Car Wash Facilities;

44.1.4 must not smoke or make any undue noise in the Dog and Car Wash Facilities; and

44.1.5 must ensure that the Dog and Car Wash Facilities are to be left in the same condition in which it was found.

44.2 Members and Occupiers acknowledge that some areas of the Dog and Car Wash Facilities may need to be booked with the Manager ahead of use. The Manager may refuse the booking if the facility is not available.

44.3 Members and Occupiers acknowledge and agree that they may be required to pay a general usage charge for some areas of the Dog and Car Wash Facilities and the cost of consumables used while using these areas, as determined by the Owners Corporation.

44.4 The Owners Corporation may make additional or separate rules relating to the use of all or part of the Dog and Car Wash Facilities provided they are not inconsistent with these Rules. If breached, rules relating to the Dog and Car Wash Facilities will constitute a breach of these Rules.

44.5 With respect to the car wash specifically, Members or Occupiers using the car wash:

44.5.1 do so at their own risk;

44.5.2 must not use the car wash facilities for any purpose other than washing their car or motorbike; and

44.5.3 must leave the facilities in a clean and tidy state after the car wash is complete.

44.6 With respect to the dog wash specifically:

44.6.1 dogs must be on a leash or in a carrier when bathing;

44.6.2 the wash tubs must be washed thoroughly after each use;

44.6.3 dogs are to be towel dried prior to using the blow dryer;

44.6.4 a Member or Occupier must notify the Manager immediately if there is an issue with the dog wash requiring attention;

44.6.5 restraints provided in the tubs must be utilized to prevent dogs from jumping out;

44.6.6 Members and Occupiers must not leave a dog unattended at any given time;

44.6.7 Members and Occupiers must use leave the dog wash facility in a clean and tidy state after use.

44.7 The Members and Occupiers agree that the Manager may close off one or more areas of the Dog and Car Wash Facilities at its reasonable discretion, including to allow for the safe or desirable use of the Dog and Car Wash Facilities, for the purposes of maintenance, works and the like.

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45. Valet Service

45.1 If the Owner's Corporation provides a valet service for residential Lots with a car space, each Member or Occupier of a residential Lot that owns a car space must pay the Owners Corporation as and when required by the Owners Corporation a fee per car parking space equal to the total of the following costs divided by the number of car spaces allocated to residential Lots:

45.1.1 all operational costs required to provide the valet service, including insurance and wages; and

45.1.2 a management fee as determined by the Owners Corporation; and

45.1.3 any Goods and Services Tax on the above amounts.

45.2 Each Member of a residential Lot with a car space must pay the above amounts even if they do not use the valet service.

45.3 The Members and Occupiers acknowledge and agree that the Owners Corporation may calculate the costs, contributions and liabilities detailed above and require payment in any way it considers reasonable, and a Member or Occupier must not challenge such a calculation.

Attachment 6

Storage Room Licence

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Maddocks

Lawyers
Collins Square, Tower Two
Level 25, 727 Collins Street
Melbourne VIC 3008
Australia

Telephone 61 3 9258 3555
Facsimile 61 3 9258 3666

info@maddocks.com.au
www.maddocks.com.au

DX 259 Melbourne

Date 14 / 06 /2022

Storage Room Licence – 1R

Saint Moritz, 14-16 The Esplanade, St Kilda, Victoria

Owners Corporation No. 5
on Plan of Subdivision PS826420W

and

14-16 The Esplanade by Gurner Pty Ltd
ACN 626 307 131

DocuSign Envelope ID: E883B140-B563-49E3-BD8F-251BD1BBAA58

Schedule

1.	**Date of this Licence:**	14th June 2022
2.	**Licensor:**	Owners Corporation No. 5 on Plan of Subdivision PS826420W, c/o The Knight, PO Box 678 Malvern, Victoria 3144.
3.	**Licensee:**	14-16 The Esplanade by Gurner Pty Ltd ACN 626 307 131 of 168 Williams Road, Prahran, VIC 3181
4.	**Licensed Area:**	the area shown shaded light blue and annotated 'Storage' on the Plan at Annexure A.
5.	**Commencement Date**	14th June 2022
6.	**Term**	299 years
7.	**Licence Fee during the Term:**	$1 payable by a single instalment on the Commencement Date, if demanded.
8.	**Additional Clauses:**	Not applicable.

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Execution Page

EXECUTED by the parties on the date specified in Item 1.

Executed by **Owners Corporation No. 5** on **PS826420W** by a person who declares they are the sole Lot Owner and member of the Owners Corporation or by a director of a corporation that is a sole Lot Owner, in accordance with s 10 of the *Owners Corporations Act 2006* (Vic) in accordance with a resolution dated 7th June 2022 :

DocuSigned by:
Greg Shand
D9879C82F30C406...

Signature

Greg Shand

Name (print full name)

3A Macquarie Street, Sydney NSW 2000

Address

Position: Director of sole Lot Owner

Barana (St Kilda) Investments Pty Ltd
ACN 160 116 076

Name of corporation that is the sole Lot Owner

Executed by **14-16 The Esplanade by Gurner Pty Ltd ACN 626 307 131** in accordance with section 127(1) of the *Corporations Act* 2001:)
)
)
)

DocuSigned by:
Tim Gurner
9EF5211C783442E...

Signature of Sole Director/Secretary

Tim Gurner

Print full name

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Licence

THIS LICENCE is made on the date specified in Item 1.

BETWEEN

The Licensor

AND

The Licensee

RECITAL

A. The Licensor has agreed to grant the Licensee a licence of the Licensed Area on the terms and conditions in this Licence.

THE PARTIES AGREE

1. Definitions

In this Licence, unless expressed or implied to the contrary:

Additional Clauses means the clauses (if any) specified in Item 8.

Adjustment has the same meaning given to that term in the GST Act.

Adjustment Note has the same meaning given to that term in the GST Act.

Commencement Date means the commencement date specified at Item 5 of the Schedule.

Common Property means the common property No. 5 on PS826420W.

Consideration means consideration payable under this Licence in return for a Taxable Supply, but does not include any amount on account of GST.

Development means Saint Moritz, 14-16 The Esplanade, St Kilda, Victoria.

GST Act means A New Tax System (Goods and Services Tax) Act 1999 (as amended).

GST has the same meaning given to that term in the GST Act.

Input Tax Credit has the same meaning given to that term in the GST Act, but also includes a reduced input tax credit under Division 70 and an adjusted input tax credit under Division 132 of the GST Act.

Item means an item in the Schedule.

Licensed Area means the area specified in Item 4.

Licence Fee means the amount specified in Item 7.

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Licensee means the Licensee specified in Item 3 and includes the Licensee's successors and assigns and where it is consistent with the context includes the Licensee's employees, agents, invitees and persons the Licensee allows to use the Licensed Area.

Licensor means the Licensor specified in Item 2 above and includes the Licensor's successors and assigns and where it is consistent with the context includes the Licensor's employees and agents.

Plan means the plan attached as Annexure A to this Licence.

Premises means Lot 1R on Plan of Subdivision PS826420W.

Owners Corporation Rules means the rules of Owners Corporation No 5 on Plan of Subdivision PS826420W as amended from time to time.

Recipient has the same meaning given to that term in the GST Act.

Supplier means the entity making a Supply to the Recipient.

Supply has the same meaning given to that term in the GST Act.

Tax Invoice has the same meaning given to that term in the GST Act.

Taxable Supply has the same meaning given to that term in the GST Act.

Taxes means a tax, levy, duty, impost, fee, deduction, withholding or charge, however described, imposed by legislation, (including stamp and transaction duty and any car parking levies) together with any related interest, penalty, fine or expense concerning any of them and the costs of challenging any of them.

Term means the Term specified in Item 6 of the Schedule.

2. Licence

2.1 The Licensor has exercised its powers under section 14 of the *Owners Corporations Act* 2006 to grant by special resolution a licence of the Licensed Area to the Licensee subject to the terms, covenants, conditions and restrictions contained in this Licence, for the Term starting on the Commencement Date.

3. Payments by the Licensee

3.1 Payment of Licence Fee

The Licensee must pay the Licence Fee to the Licensor on the Commencement Date and in the manner specified in Item 6.

3.2 Costs and Duty

The Licensee must pay to the Licensor within 7 days of demand:

3.2.1 all Taxes levied in respect of this Licence (if any), the Licensed Area or the rights granted to the Licensee under this Licence whether those Taxes are in force at or after the Commencement Date;

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3.2.2 the operating costs incurred by the Licensor in connection with or as a result of this Licence, the Licensed Area or the rights granted to the Licensee under this Licence; and

3.2.3 the Licensor's costs (including charges on a solicitor-own client basis) incurred as a result of a breach of this Licence by the Licensee.

3.3 Interest on Late Payments

The Licensee must pay to the Licensor on demand interest at the rate per annum equal to the rate for the time being fixed under section 2 of the *Penalty Interest Rates Act* 1983 (Vic) on any money payable by the Licensee under this Licence and remaining unpaid for 14 days. Interest will be computed from the date on which such payment became due.

3.4 No Deduction or Right of Set-off

The Licensee must pay all amounts due under this Licence to the Licensor without deduction or right of set-off.

---

4. GST

4.1 GST Exclusive

Except as otherwise provided by this clause, all Consideration payable under this Licence in relation to any Supply is exclusive of GST.

4.2 Increase in Consideration

To the extent that any Supply under this Licence constitutes a Taxable Supply, the Consideration payable by the Recipient to the Supplier will be increased by the applicable amount of GST (**GST Amount**), which shall be calculated by multiplying the amount upon which GST is payable by the prevailing rate of GST.

4.3 Payment of GST

Any GST Amount must be paid by the Recipient to the Supplier at the same time and in the same manner as the relevant Consideration is paid or given under this Licence, without any right of set-off or deduction (unless otherwise provided in this Licence).

4.4 Reimbursements

If this Licence requires the Recipient to pay, reimburse or contribute to any expense, loss or outgoing suffered or incurred by the Supplier (**Relevant Expense**), the amount which the Recipient must pay, reimburse or contribute will be the amount net of any Input Tax Credits to which the Supplier is entitled in respect of the Relevant Expense, together with any GST Amount if the payment, reimbursement or contribution constitutes a Taxable Supply by the Supplier to the Recipient.

4.5 Tax Invoice

The Supplier must provide to the Recipient a valid Tax Invoice at or prior to the time of payment of any GST Amount.

4.6 Adjustments & Adjustment Notes

To the extent that any Adjustment occurs in relation to a Taxable Supply, the Supplier must issue an Adjustment Note to the Recipient within 7 days of becoming aware of the

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Adjustment, and any payment necessary to give effect to such Adjustment must be made within 7 days after the date of receipt of the Adjustment Note.

5. Use of Licensed Areas

5.1 Use of Licensed Area

5.1.1 The Licensee may use the Licenced Area for the purpose of a storage room, in support of activities at the Premises.

5.1.2 The Licensee must not:

(a) use or allow anyone else to use the Licensed Area for any purpose other than the permitted use described in clause 5.1.1; or

(b) allow patrons, guests or customers of the Premises to access the Licensed Area.

5.2 Nuisance

The Licensee must not do anything in connection with the Licensed Area which may cause a nuisance or interfere with any other person, including other users of the Licensed Area as contemplated by this Licence.

5.3 Insurance

5.3.1 The Licensee must from the Commencement Date until the end of the Term effect and maintain a policy of insurance in the name of the Licensee noting the interests of the Licensor as an interested party in respect of liability for loss, injury or damage to any person or property whatsoever whether arising out of any act, omission, breach of duty or failure by the Licensor, the Licensee, the employees, agents and invitees of the Licensor or the Licensee or otherwise, on or in relation to the Licensed Area or the use of the Licensed Area by the Licensee in the sum of ten million dollars ($10,000,000) or such greater amount as the Licensor may reasonably nominate from time to time in order to effect a sufficient and proper cover in respect of any single accident or event.

5.3.2 The Licensee must from the Commencement Date until the end of the Term effect and maintain a policy of insurance in the name of the Licensee in respect of liability for the usual insured risks on an indemnity or replacement value basis of any Air Conditioning constructed or to be constructed pursuant to this Licence.

5.4 Licences and Permits

The Licensee must maintain all licences and permits required for the Licensee's use of the Licensed Area.

5.5 Signs

The Licensee must seek the prior written consent of the Licensor (which may be withheld at the Licensor's absolute discretion) before displaying or affixing any signs, advertisements or notices on or to any part of the Licensed Area.

5.6 Heavy Equipment and Inflammable Substances

The Licensee must obtain the Licensor's prior written consent before bringing any heavy equipment or inflammable substances into the Licensed Area.

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6. Repairs, alterations and Damage

6.1 Repairs and Maintenance

The Licensee must at its cost use reasonable endeavours to:

6.1.1 keep the Licensed Area clean, tidy and in good repair;

6.1.2 keep the Licensed Area in the same condition as it was in at the date the Licensee first entered occupation of the Premises (fair wear and tear excepted) including repairing or replacing anything in the Licensed Area which is damaged, destroyed or deteriorated; and

6.1.3 remove waste and/or clean the Licensed Area.

6.2 Failure to Repair and Maintain

If the Licensee does not carry out any repairs, maintenance or other works required under this Licence within 14 days of receiving written notice from the Licensor, the Licensor may enter the Licensed Area to carry out such repairs, maintenance and works at any reasonable time after giving the Licensee reasonable notice. The cost of all such repairs, maintenance and works must be paid by the Licensee to the Licensor on demand.

6.3 Alterations

The Licensee must not carry out any alterations on the Licensed Area.

6.4 Notice of Damage

The Licensee must give the Licensor prompt written notice of any material damage to the Licensed Area or anything likely to be a risk to the Licensed Area or any person in the Licensed Area.

7. Release and Indemnity

7.1 Release

The Licensee uses and occupies the Licensed Area at its own risk and releases the Licensor from all claims resulting from any damage, loss, death or injury in connection with the Licensed Area except to the extent that the Licensor is negligent.

7.2 Indemnity

The Licensee must indemnify and hold harmless the Licensor against all claims resulting from any damage, loss, death or injury in connection with the Licensed Area and the use of the Licensed Area by the Licensee except to the extent that the Licensor is negligent.

8. Assignment and Sub-Licensing

8.1 The Licensee must not assign, sublicense or part with possession with this Licence or its interest in the Licensed Area.

8.2 Despite clause 8.1, the Licensee may:

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8.2.1 assign the Licence without the consent of the Licensor provided that:

(a) the assignee is, or is entitled to be registered proprietor of lot 1R on Plan of Subdivision PS826420W;

(b) the Licensee gives written notice to the Licensor of the details of the assignee and the assignment; and

(c) the assignee has properly executed a deed of assignment, which includes a condition by which the assignee covenants to comply with all obligations of the Licensee under this Licence;

8.2.2 sublicense its interest in the Licensed Area without the consent of the Licensor provided that:

(a) the sublicensee is, or is entitled to be, the tenant of the lot 1R on Plan of Subdivision PS826420W; and

(b) the Licensee gives written notice to the Licensor of the details of the sublicensee and the sublicense.

8.3 The Licensor must sign any and all things necessary to give effect to an assignment under clause 8.2 within 5 business days of the Licensee's request to do so.

8.4 If the registered proprietor of lot 1R on Plan of Subdivision PS826420W transfers the lot to a purchaser (**New Owner**), the Licensor must simultaneously assign this Licence to the New Owner in accordance with clause 8.2.1.

9. Licensor not Liable

The Licensor will not be liable to the Licensee if the Licensee cannot obtain access to the Licensed Area in circumstances either:

9.1 required for maintenance or repair; or

9.2 beyond the Licensor's reasonable control.

10. Right of Entry

The Licensee authorises the Licensor to enter the Licensed Area in the event of an emergency.

11. Licensee's Obligations at End of Licence

11.1 Licensee's Obligations

At the end of this Licence, the Licensee must give to the Licensor any security devices (if applicable) used by the Licensee to obtain access to the Licensed Area.

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11.2 Licensee's Property Left in Licensed Area

Anything left in the Licensed Area at the end of this Licence will become the property of the Licensor and may be removed by the Licensor at the Licensee's cost and at the Licensee's risk.

12. Owners Corporation Rules

12.1 The Licensee must observe and comply with the Owners Corporation Rules.

12.2 A breach of the Owners Corporation Rules is a breach of this Licence.

12.3 Where there is any inconsistency between the terms of the Owners Corporation Rules and this Licence, the provisions of this Licence prevail.

13. Termination of Licence

13.1 Re-entry

The Licensor may terminate this Licence if the Licensee breaches a material provision of this Licence and does not remedy the breach within 28 days of receipt of written notice from the Licensor specifying the material breach complained of.

13.2 Damages following Termination

If this Licence is terminated by the Licensor, the Licensee agrees to compensate the Licensor for any loss or damage the Licensor suffers in connection with the Licensee's breach of this Licence including the loss of the benefit of the Licensee performing its obligations under this Licence up to the expiration of the Term.

14. General

14.1 Notices

Any notice required to be served under this Licence must be in writing and must be served by post, facsimile transmission or hand delivered to:

14.1.1 the Licensee at its address set out in this Licence, the Licensee's registered office address or the last known address of the Licensee; and

14.1.2 the Licensor at its address set out in this Licence or any other address notified in writing to the Licensee by the Licensor.

14.2 Entire Understanding

This Licence contains the entire understanding between the parties as to the subject matter contained in it. All previous agreements, representations, warranties, explanations and commitments, expressed or implied, affecting this subject matter are superseded by this Licence and have no effect.

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14.3 Waiver

If the Licensor accepts the Licence Fee or any other monies under this Licence (before or after the end of this Licence) or does not exercise or delays exercising any of the Licensor's rights under this Licence, it will not be a waiver of the breach of this Licence by the Licensee or of the Licensor's rights under this Licence.

14.4 Additional Clauses

This Licence is subject to the Additional Clauses. The Additional Clauses override any inconsistent provisions in this Licence.

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15. Interpretation

15.1 Governing Law and Jurisdiction

This Licence is governed by and is to be construed in accordance with the laws of Victoria. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Courts of Victoria and waives any right to object to proceedings being brought in those Courts.

15.2 Persons

In this Licence, a reference to a person includes a firm, partnership, association, corporation or other corporate body.

15.3 Joint and Several

If a party consists of more than one person, this Licence binds them jointly and each of them severally.

15.4 Legislation

In this Licence, a reference to a statute includes regulations under it and consolidations, amendments, re-enactments or replacements of any of them.

15.5 Clauses and Headings

In this Licence:

15.5.1 a reference to a clause, schedule or appendix is a reference to a clause, schedule or appendix in or to this Licence; and

15.5.2 headings and sub-headings are inserted for ease of reference only and do not effect the interpretation of this Licence.

15.6 Severance

In this Licence:

15.6.1 if a provision is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable; and

15.6.2 if it is not possible to read down a provision as required in this clause, that provision is severable without affecting the validity or enforceability of the remaining part of that provision or the other provisions in this Licence.

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15.7 Number and Gender

In this Licence, a reference to:

15.7.1 the singular includes the plural and vice versa; and

15.7.2 a gender includes the other genders.

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Annexure A

Licensed Area

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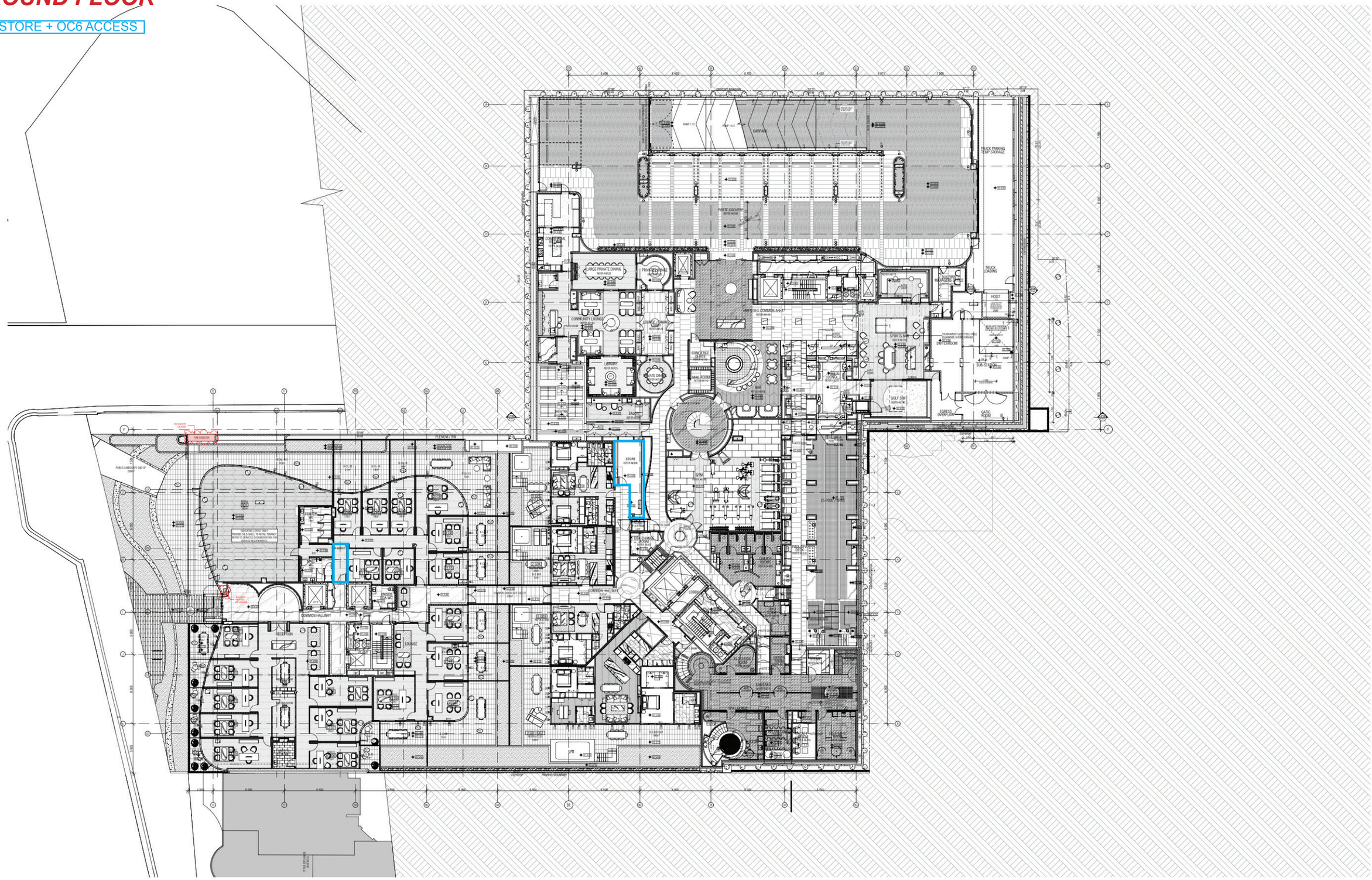
GROUND FLOOR

1R STORE + OC6 ACCESS



Attachment 7

Waste Room Licence

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Maddocks

Lawyers
Collins Square, Tower Two
Level 25, 727 Collins Street
Melbourne VIC 3008
Australia

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Facsimile 61 3 9258 3666

info@maddocks.com.au
www.maddocks.com.au

DX 259 Melbourne

Date 14 / 06 /2022

Retail Lot 1R Waste Room Licence

Grand Esplanade Building, Saint Moritz, 14-16 The Esplanade, St Kilda, Victoria

Owners Corporation No. 2 on Plan of Subdivision PS826420W

and

14-16 The Esplanade by Gurner Pty Ltd
ACN 626 307 131

DocuSign Envelope ID: 36F358EB-86A6-4A58-9B06-C25D0A080925

Schedule

1.	**Date of this Licence:**	The 14th day of June 2022
2.	**Licensor:**	Owners Corporation No. 2 on Plan of Subdivision PS826420W c/o The Knight, PO Box 678 Malvern, Victoria 3144 on behalf of the members of Owners Corporation No. 2 on PS826420W
3.	**Licensee:**	14-16 The Esplanade by Gurner Pty Ltd ACN 626 307 131 of 168 Williams Road, Prahran, VIC 3181
4.	**Licensed Area:**	The area outlined in dark blue on the plan attached to this Licence as Annexure A and known as part of Common Property No. 2 on Plan of Subdivision PS826420W.
5.	**Commencement Date**	The 14th day of June 2022
6.	**Term**	299 years
7.	**Licence Fee during the Term:**	$1.00 payable by a single instalment on the Commencement Date, if demanded.

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Execution Page

EXECUTED by the parties on the date specified in Item 1.

Executed by **Owners Corporation No. 2** on **PS826420W** by a person who declares they are the sole Lot Owner and member of the Owners Corporation or by a director of a corporation that is a sole Lot Owner, in accordance with s 10 of the *Owners Corporations Act 2006* (Vic) in accordance with a resolution dated 7th June :

DocuSigned by:
Greg Shand
D9878C82F30C406...
Signature

Greg Shand

Name (print full name)

3A Macquarie Street, Sydney NSW 2000

Address

Position: Director of sole Lot Owner

Barana (St Kilda) Investments Pty Ltd
ACN 160 116 076

Name of corporation that is the sole Lot Owner

Executed by **14-16 The Esplanade by Gurner Pty Ltd ACN 626 307 131** in accordance with section 127(1) of the *Corporations Act* 2001:)
)
)
)

DocuSigned by:
Tim Gurner
9EF5211G763442E...
Signature of Sole Director/Secretary

Tim Gurner

Print full name

DocuSign Envelope ID: 36F358EB-86A6-4A58-9B06-C25D0A080925

Licence

THIS LICENCE is made on the date specified in Item 1.

BETWEEN

The Licensor

AND

The Licensee

RECITAL

A. The Licensor has a duty to properly administer the Common Property for the benefit of its members, owners and occupiers.

B. The Licensor has agreed to grant the Licensee a licence of the Licensed Area on the terms and conditions in this Licence, for the purposes of:

B.1 temporary storage of waste generated at the Property;

B.2 the installation and operation of a cool store facilities to the Licensed Area; and

B.3 a right to access and egress the Licensed Area via lifts adjacent to the Licensed Area.

THE PARTIES AGREE

1. Definitions

In this Licence, unless expressed or implied to the contrary:

Adjustment has the same meaning given to that term in the GST Act.

Adjustment Note has the same meaning given to that term in the GST Act.

Commencement Date means the commencement date specified at Item 5 of the Schedule.

Common Property means Common Property No. 2 on Plan of Subdivision PS826420W**.**

Consideration means consideration payable under this Licence in return for a Taxable Supply, but does not include any amount on account of GST.

Development means Saint Moritz, 14-16 The Esplanade, St Kilda, Victoria.

Equipment means cool store facilities including supporting mechanical plant, equipment and materials/structures to be located on the Licensed Area, required for cool storage of waste generated at the Property.

GST Act means A New Tax System (Goods and Services Tax) Act 1999 (as amended).

GST has the same meaning given to that term in the GST Act.

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Input Tax Credit has the same meaning given to that term in the GST Act, but also includes a reduced input tax credit under Division 70 and an adjusted input tax credit under Division 132 of the GST Act.

Item means an item in the Schedule.

Licensed Area means the area specified in Item 4.

Licence Fee means the amount specified in Item 7.

Licensee means the Licensee specified in Item 3 and includes the Licensee's successors and assigns and where it is consistent with the context includes the Licensee's employees, agents, invitees and persons the Licensee allows to use the Licensed Area.

Licensor means the Licensor specified in Item 2 above and includes the Licensor's successors and assigns and where it is consistent with the context includes the Licensor's employees and agents.

Property means lot 1R on PS826420W.

New Owner has the meaning as defined in clause 9.4.

Recipient has the same meaning given to that term in the GST Act.

Supplier means the entity making a Supply to the Recipient.

Supply has the same meaning given to that term in the GST Act.

Tax Invoice has the same meaning given to that term in the GST Act.

Taxable Supply has the same meaning given to that term in the GST Act.

Taxes means a tax, levy, duty, impost, fee, deduction, withholding or charge, however described, imposed by legislation, (including stamp and transaction duty) together with any related interest, penalty, fine or expense concerning any of them and the costs of challenging any of them.

Term means the Term specified in Item 6 of the Schedule.

2. Licence

The Licensor has exercised its powers under section 14 of the *Owners Corporations Act* 2006 to grant by special resolution a Licence of the Licensed Area to the Licensee subject to the terms, covenants, conditions and restrictions contained in this Licence, for the Term starting on the Commencement Date.

3. Payments by the Licensee

3.1 Payment of Licence Fee

The Licensee must pay the Licence Fee to the Licensor on the Commencement Date and in the manner specified in Item 7.

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3.2 Costs and Duty

The Licensee must pay to the Licensor within 7 days of demand:

3.2.1 all Taxes levied in respect of this Licence, the Licensed Area or the rights granted to the Licensee under this Licence whether those Taxes are in force at or after the Commencement Date;

3.2.2 the operating costs incurred by the Licensor in connection with or as a result of this Licence, the Licensed Area or the rights granted to the Licensee under this Licence; and

3.2.3 the Licensor's costs (including charges on a solicitor-own client basis) incurred as a result of a breach of this Licence by the Licensee.

3.3 Interest on Late Payments

The Licensee must pay to the Licensor on demand interest at the rate per annum equal to the rate for the time being fixed under section 2 of the *Penalty Interest Rates Act* 1983 (Vic) on any money payable by the Licensee under this Licence and remaining unpaid for 7 days. Interest will be computed from the date on which such payment became due.

3.4 No Deduction or Right of Set-off

The Licensee must pay all amounts due under this Licence to the Licensor without deduction or right of set-off.

---

4. GST

4.1 GST Exclusive

Except as otherwise provided by this clause, all Consideration payable under this Licence in relation to any Supply is exclusive of GST.

4.2 Increase in Consideration

To the extent that any Supply under this Licence constitutes a Taxable Supply, the Consideration payable by the Recipient to the Supplier will be increased by the applicable amount of GST (**GST Amount**), which shall be calculated by multiplying the amount upon which GST is payable by the prevailing rate of GST.

4.3 Payment of GST

Any GST Amount must be paid by the Recipient to the Supplier at the same time and in the same manner as the relevant Consideration is paid or given under this Licence, without any right of set-off or deduction (unless otherwise provided in this Licence).

4.4 Reimbursements

If this Licence requires the Recipient to pay, reimburse or contribute to any expense, loss or outgoing suffered or incurred by the Supplier (**Relevant Expense**), the amount which the Recipient must pay, reimburse or contribute will be the amount net of any Input Tax Credits to which the Supplier is entitled in respect of the Relevant Expense, together with any GST Amount if the payment, reimbursement or contribution constitutes a Taxable Supply by the Supplier to the Recipient.

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4.5 Tax Invoice

The Supplier must provide to the Recipient a valid Tax Invoice at or prior to the time of payment of any GST Amount.

4.6 Adjustments & Adjustment Notes

To the extent that any Adjustment occurs in relation to a Taxable Supply, the Supplier must issue an Adjustment Note to the Recipient within 7 days of becoming aware of the Adjustment, and any payment necessary to give effect to such Adjustment must be made within 7 days after the date of receipt of the Adjustment Note.

---

5. Use of Licensed Area

5.1 Use of Licensed Area

5.1.1 The Licensee may use the Licensed Area for the purposes of:

(a) temporary storage of waste and rubbish generated at the Property; and

(b) installing (at its cost), using and operating the Equipment.

5.1.2 The Licensee must not use or allow anyone else to use the Licensed Area for any purpose other than the permitted use described in 5.1.1.

5.2 Nuisance

The Licensee must not do anything in connection with the Licensed Area which may cause a nuisance or interfere with any other person or impact on any activities of any users of any Common Property or land surrounding the Licensed Area.

5.3 Insurance

5.3.1 The Licensee must from the date the Equipment is installed, until the end of the Term effect and maintain a policy of insurance in the names of the Licensor and the Licensee (and of such other persons as the Licensor may reasonably require) in respect of liability for loss, injury or damage to any person or property whatsoever whether arising out of any act, omission, breach of duty or failure by the Licensor, the Licensee, the employees, agents and invitees of the Licensor or the Licensee or otherwise, on or in relation to the Licensed Area or the use of the Licensed Area by the Licensee in the sum of ten million dollars ($10,000,000) or such greater amount as the Licensor may reasonably nominate from time to time in order to effect a sufficient and proper cover in respect of any single accident or event.

5.3.2 The Licensee must from the date the Equipment is installed until the end of the Term effect and maintain a policy of insurance in the names of the Licensor and the Licensee (and of such other persons as the Licensor may reasonably require) in respect of liability for the usual insured risks on an indemnity or replacement value basis of the Equipment constructed on the Licensed Area.

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6. Access to Licensed Area

6.1 Use of lifts and lobby

6.1.1 The Licensor agrees that the Licensee may access the Licensed Area by using the the lifts, stairs and lobby areas located on the Common Property located adjacent to the Licensed Area (**Lift and Lobby Areas**), subject to clause 6.1.2.

6.1.2 In accessing the Lift and Lobby Areas, the Licensee:

(a) must only use the Lift and Lobby Areas when they are not being used by residents or occupants of the Development;

(b) must not use the Lift and Lobby Areas in any way that causes a nuisance to the residents and occupiers of the Development; and

(c) must immediately cleanup any spills and make good any damage caused by its access to the Lift and Lobby Areas.

7. Installation, Maintenance, Repairs and Alterations

7.1 Installation of Equipment

7.1.1 The parties agree that the Licensee may (or may not) install the Equipment in the Licensed Area at its cost following the Commencement Date.

7.1.2 When installing the Equipment, the Licensee must:

(a) only install Equipment that is reasonably required to provide a cold store facility for the temporary storage of waste generated by activities carried out on the Property;

(b) obtain any and all permits and approvals required to install the Equipment;

(c) provide the Licensor with at least 7 days' notice prior to the installation occurring;

(d) ensure that installation is carried out in a proper and workmanlike manner;

(e) minimise disruption to occupants of the Development, including only installing the Equipment of weekdays (excluding public holidays in Victoria); and

(f) comply with the reasonable directions of the Licensor.

7.1.3 When installing the Equipment, the Licensee may penetrate and affix items to the Common Property to give effect to clause 7.2.3(b); and

7.1.4 The Licensee acknowledges that it continues to own the Equipment following installation in the Licensed Area.

7.2 Repair and Maintenance of Equipment

Following installation of the Equipment by the Licensee:

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7.2.1 the Licensee must, at its own cost and expense, keep and maintain the Equipment in good and substantial condition and repair and replace faulty or damaged parts. The Licensor may at any time inspect the Equipment and if any work as reasonably determined by the Licensor is required to be carried out on the Equipment that work shall be carried out expeditiously by the Licensee at its own cost. Should the Licensee fail to maintain the Equipment in good and substantial condition and repair, the Licensor or its agents may at the cost of the Licensee effect such maintenance and repair in order to comply with this clause;

7.2.2 the Licensee must be responsible for all costs and charges associated with and incurred in the operation of the Equipment;

7.2.3 the Licensee and its agents, contractors, invitees, consultants and employees may:

(a) have all necessary access and egress to the Common Property and the Licensed Area for the purposes of repairing, maintaining, testing, operating, removing or replacing the Equipment; and

(b) install, maintain, repair, replace and use cables, conduits, pipes, cable trays and the like within areas of the Common Property which are outside the Licensed Area, where necessary, to connect to the Equipment located on the Licensed Area; and

7.2.4 the Licensee must repair any damage to the Licensed Area caused by want of care, misuse or abuse or otherwise on the part of the Licensee or any of its agents, contractors, invitees, consultants or employees in exercising the Licensee's right under the Licence to keep and maintain the Equipment or arising from the Licensee's failure to comply with the terms of this Licence.

7.3 Inspection

The Licensor and its agents, contractors, invitees, consultants and employees may upon reasonable notice inspect the state of repair of any Equipment and serve upon the Licensee a notice in writing requiring it to repair any defect.

8. Release and Indemnity

8.1 Release

The Licensee installs and uses the Equipment and occupies the Licensed Area at its own risk and releases the Licensor from all claims resulting from any damage, loss, death or injury in connection with the Licensed Area, except to the extent that the Licensor is negligent.

8.2 Indemnity

The Licensee must indemnify and hold harmless the Licensor against all claims resulting from any damage, loss, death or injury in connection with the Equipment or the Licensed Area and the installation and use of the Equipment and occupation of the Licensed Area by the Licensee, except to the extent that the Licensor is negligent.

9. Assignment and Sub-Licensing

9.1 The Licensee must not assign, sublicense or part with possession with this Licence or its interest in the Licensed Area.

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9.2 Despite clause 8.1, the Licensee may:

9.2.1 assign the Licence without the consent of the Licensor provided that:

(a) the assignee is, or is entitled to be registered proprietor of the Property;

(b) the Licensee gives written notice to the Licensor of the details of the assignee and the assignment; and

(c) the assignee has properly executed a deed of assignment, which includes a condition by which the assignee covenants to comply with all obligations of the Licensee under this Licence;

9.2.2 sublicense its interest in the Licensed Area without the consent of the Licensor provided that:

(a) the sublicensee is, or is entitled to be, the tenant of the Property; and

(b) the Licensee gives written notice to the Licensor of the details of the sublicensee and the sublicense.

9.3 The Licensor must sign all things necessary to give effect to an assignment under clause 8.2 within 5 business days of the Licensee's request to do so.

9.4 If the Licensee transfers the Property to a purchaser (**New Owner**), it must simultaneously assign this Licence to the New Owner in accordance with clause 8.2.1.

10. Licensor not Liable

The Licensor will not be liable to the Licensee if the Licensee cannot obtain access to the Licensed Area in circumstances either:

10.1 required for installation; or

10.2 required for maintenance or repair; or

10.3 beyond the Licensor's reasonable control.

11. Right of Entry

The Licensee authorises the Licensor to enter the Licensed Area in the event of an emergency.

12. Licensee's Obligations at End of Licence

12.1 Licensee's Obligations

At the end of this Licence, the Licensee must give to the Licensor any security devices (if applicable) used by the Licensee to obtain access to the Licensed Area.

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12.2 Licensee's Property Left in Licensed Area

Anything left in the Licensed Area at the end of this Licence will become the property of the Licensor and may be removed by the Licensor at the Licensee's cost and at the Licensee's risk.

12.3 Dismantling of Equipment

12.3.1 The Licensee must, at its expense, at or prior to the expiration of the Term or any earlier termination or if required by any statutory or other rating authorities so to do, dismantle, remove and carry away any and all of the Equipment.

12.3.2 The Licensee shall, at its own expense, repair any damage to the Licenced Area, the Licensee, its agents, contractors, invitees, consultants or employees cause in dismantling, removing or carrying away the Equipment.

12.3.3 The Licensee shall at its own expense, restore and reinstate the Licensed Area to its condition prior to the installation of the Equipment and shall at its own expense remove all rubbish and leave the affected locations in a clean state and condition. Failing removal by the Licensee, the Licensor may remove the Equipment and restore and reinstate the Licensed Area and in that event any expense incurred by the Licensor in so doing shall constitute a liquidated debt and be payable to the Licensor by the Licensee on demand.

13. Owners Corporation Rules

13.1 The Licensee must observe and comply with the Owners Corporation Rules set out in Annexure B.

13.2 A breach of the Owners Corporation Rules is a breach of this Licence.

13.3 Where there is any inconsistency between the terms of the Owners Corporation Rules and this Licence, the provisions of this Licence prevail.

14. Termination of Licence

14.1 Re-entry

The Licensor may terminate this Licence if the Licensee breaches this Licence and does not remedy the breach within 14 days of receipt of written notice from the Licensor.

14.2 Damages following Termination

If this Licence is terminated by the Licensor, the Licensee agrees to compensate the Licensor for any loss or damage the Licensor suffers in connection with the Licensee's breach of this Licence including the loss of the benefit of the Licensee performing its obligations under this Licence up to the expiration of the Term.

14.3 Termination by Licensee if Licence is not assigned

14.3.1 This clause 14.3 applies to the entity specified in Item 3.

14.3.2 The parties acknowledge and agree that if this Licence is not assigned by the Licensee to the New Owner within 6 months of the date of this Licence, the Licensee may, at its absolute discretion, terminate this Licence by written notice to the Licensor.

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14.3.3 If this Licence is terminated in accordance with clause 14.3.1, the Licensee will not be responsible for any loss or damage incurred by the Licensor arising from or in any way associated with such termination.

15. General

15.1 Notices

Any notice required to be served under this Licence must be in writing and must be served by post, facsimile transmission or hand delivered to:

15.1.1 the Licensee at its address set out in this Licence, the Licensee's registered office address or the last known address of the Licensee; and

15.1.2 the Licensor at its address set out in this Licence or any other address notified in writing to the Licensee by the Licensor.

15.2 Entire Understanding

This Licence contains the entire understanding between the parties as to the subject matter contained in it. All previous agreements, representations, warranties, explanations and commitments, expressed or implied, affecting this subject matter are superseded by this Licence and have no effect.

15.3 Waiver

If the Licensor accepts the Licence Fee or any other monies under this Licence (before or after the end of this Licence) or does not exercise or delays exercising any of the Licensor's rights under this Licence, it will not be a waiver of the breach of this Licence by the Licensee or of the Licensor's rights under this Licence.

15.4 Electronic Execution

The parties agree that this Licence may be executed by electronic means. The parties agree to be bound by this Licence, including if executed electronically.

16. Interpretation

16.1 Governing Law and Jurisdiction

This Licence is governed by and is to be construed in accordance with the laws of Victoria. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Courts of Victoria and waives any right to object to proceedings being brought in those Courts.

16.2 Persons

In this Licence, a reference to a person includes a firm, partnership, association, corporation or other corporate body.

16.3 Joint and Several

If a party consists of more than one person, this Licence binds them jointly and each of them severally.

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16.4 Legislation

In this Licence, a reference to a statute includes regulations under it and consolidations, amendments, re-enactments or replacements of any of them.

16.5 Clauses and Headings

In this Licence:

16.5.1 a reference to a clause, schedule or appendix is a reference to a clause, schedule or appendix in or to this Licence; and

16.5.2 headings and sub-headings are inserted for ease of reference only and do not affect the interpretation of this Licence.

16.6 Severance

In this Licence:

16.6.1 if a provision is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable; and

16.6.2 if it is not possible to read down a provision as required in this clause, that provision is severable without affecting the validity or enforceability of the remaining part of that provision or the other provisions in this Licence.

16.7 Number and Gender

In this Licence, a reference to:

16.7.1 the singular includes the plural and vice versa; and

16.7.2 a gender includes the other genders.

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Annexure A

Licensed Area Plan

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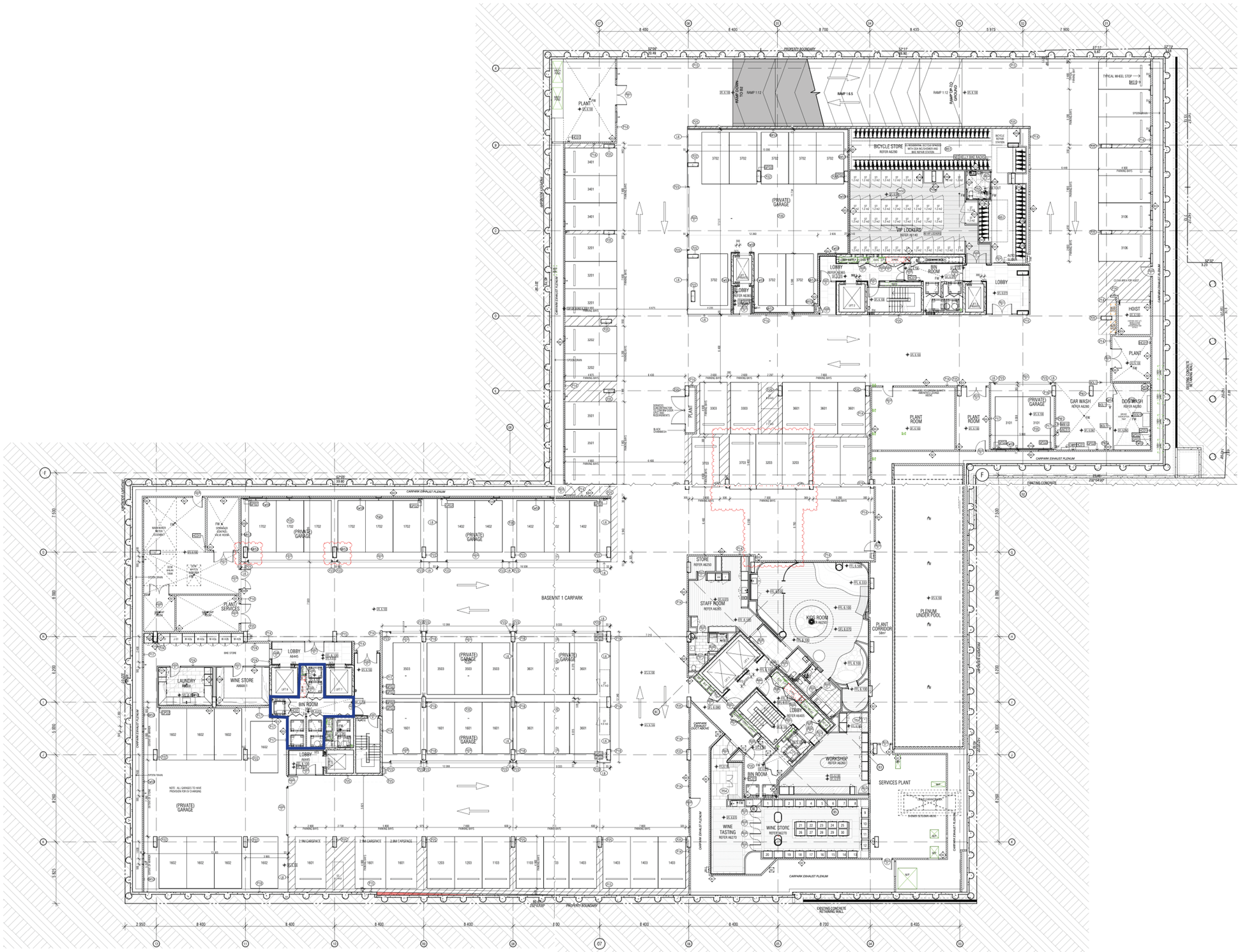
BASEMENT 01

WASTE ROOM



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Annexure B

Owners Corporation Rules

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Department of Environment, Land, Water & Planning

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Date and Time Lodged: 18/03/2022 02:40:35 PM
Responsible Subscriber: MADDOCKS
Customer Code: 17223H
Reference:

OWNERS CORPORATION NOTIFICATION OF MAKING RULES SECTION 27E(1) SUBDIVISION ACT 1988 (WHEN LODGED WITH PLAN)

Applicant(s):
BARANA (ST KILDA) INVESTMENTS PTY LTD (ACN/ARBN: 160116076)
168 WILLIAMS ROAD PRAHRAN VIC 3181

Plan Number:
PS826420W

Owners Corporation Number:
2

Proposed rules of the Owners Corporation:
Appended

Execution:
1. The Certifier has taken reasonable steps to verify the identity of the applicant or his, her or its administrator or attorney.
2. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
3. The Certifier has retained the evidence supporting this Registry Instrument or Document.
4. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Executed on behalf of BARANA (ST KILDA) INVESTMENTS PTY LTD

Secure Electronic Registries Victoria (SERV), Level 13, 697 Collins Street Docklands 3008
Locked bag 20005, Melbourne 3001, DX 210189
ABN 86 627 986 396

VICTORIA State Government

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Department of Environment, Land, Water & Planning

Electronic Instrument Statement

Signer Name CATHERINE MARINO
Signer Organisation MADDOCKS
Signer Role AUSTRALIAN LEGAL PRACTITIONER
Execution Date 16 March 2022

File Notes:
NIL

This is a representation of the digitally signed Electronic Instrument or Document certified by Land Use Victoria.

Statement End.

Secure Electronic Registries Victoria (SERV), Level 13, 697 Collins Street Docklands 3008
Locked bag 20005, Melbourne 3001, DX 210189
ABN 86 627 986 396

VICTORIA State Government

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www.maddocks.com.au

DX 259 Melbourne

Date / /

Owners Corporation Rules

Saint Moritz, 14-16 The Esplanade, St Kilda, Victoria

Owners Corporation No. 2 on Plan of Subdivision PS826420W (Grand Esplanade)

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Owners Corporation Rules

Date / /

Notes

The Act and Regulations detail the powers of the Owners Corporation(s), the general duties of members, meetings and administration of the Owners Corporation(s), insurance and other miscellaneous matters. These Rules must be read in conjunction with the Act, Regulations and the model rules prescribed under the Regulations.

1. Definitions

In these rules:

Act means the *Owners Corporations Act* 2006 (Vic) as amended from time to time.

Authority means any government or any public, statutory, governmental, semi-governmental, local government, municipal or judicial body, entity or authority and includes a Minister of the Crown (in any right), and any person, body, entity or authority exercising a power pursuant to an Act of Parliament.

Building Works means all design, building and construction works including the construction, erection, fixing, installation or otherwise or any item not originally included with or part of a Lot or Common Property.

Building means all and any buildings, structures or improvements comprised in the Development.

Common Property means the land, the Building and any other improvements erected on 14-16 The Esplanade, St Kilda and designated as common property no. 2 on the Plan.

Developer means 14-16 The Esplanade by Gurner Pty Ltd ACN 626 307 131 or a Related Entity responsible for the development of the Development and creation of Lots and includes the Developer's successors and assigns and where it is consistent with the context includes the Developer's employees, agents, builders, contractors, subcontractors and invitees.

Development means all the land and improvements comprised in the Plan and known as Saint Moritz, 14-16 The Esplanade, St Kilda.

Development Agreement means any agreement between the Developer and Owners Corporation or in relation to the Development, including any ancillary agreements between the Developer and the Owners Corporation such as development leases or other licences.

Director has the same meaning as it has in the *Fair Trading Act* 1999 (Vic).

Dispute means a dispute or other matter arising under the Act, Regulations or Rules including a dispute or matter relating to:

(a) the operation of the Owners Corporation;

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(b) an alleged breach by a Member or Occupier of an obligation imposed on that person under the Act, Regulations or the Rules; or

(c) the exercise of a function by a Manager in respect of the Owners Corporation.

Domestic Building Contract means any domestic building contract within the meaning of the *Domestic Building Contracts Act* 1995 (Vic) entered into by the Initial Owner.

Governmental Agency means any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.

Initial Owner has the same meaning as it has under the Act and where the context requires includes its successors and assigns.

Land means the whole of the land described in the Plan.

Lot means a lot shown on the Plan.

Maintenance Fund means a fund or part of a fund used for implementation of the Maintenance Plan (if any).

Maintenance Plan means a maintenance plan (if any) established and approved by the Owners Corporation as contemplated by the Act.

Manager means the person or entity appointed by the Owners Corporation as Manager of the Owners Corporation(s) or, where the context permits, the building manager, concierge or valet appointed by the Owners Corporation to assist it with the functions of the Owners Corporation contemplated by the Rules and where relevant includes the Manager's successors and assigns and where the context requires includes the Manager's officers, employees, agents, contractors, subcontractors and invitees.

Member means a member of the Owners Corporation by reason of being the owner of a Lot for the time being and where the context requires includes an Occupier or their invitees.

Occupier means the person or entity authorised by the Member to occupy the designated Lot as tenant or licensee and where the context requires includes the Occupier's invitees.

Owners Corporation means the Owner Corporation No. 2 on the Plan.

Plan means Plan of Subdivision No. PS826420W.

Regulations means the *Owners Corporations Regulations* 2018 (Vic) as amended from time to time.

Related Entity has the same meaning given to that term in the *Corporations Act* 2001 (Cth).

Rule or **Rules** means these rules which are for the purpose of the control, management, administration, use or enjoyment of the Common Property or any Lot as amended from time to time.

Vendor means Barana (St Kilda) Investments Pty Ltd.

2. Interpretation

2.1 Unless the context otherwise requires:

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2.1.1 headings are for convenience only;

2.1.2 words imparting the singular include the plural and vice versa;

2.1.3 expressions imparting a natural person includes any company, partnership, joint structure, association or other Owners Corporation and any governmental authority; and

2.1.4 a reference to a thing includes part of that thing.

2.2 The obligations and restrictions in these Rules must be read subject to the rights, grants or privileges that may be given to any person or entity by the Owners Corporation from time to time and to the extent of any inconsistency, such rights, grants or privileges, must prevail over these Rules in respect of the person or entity to whom they are given.

2.3 In these Rules:

2.3.1 if a provision is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable; and

2.3.2 if it is not possible to read down a provision as required in this Rule, that provision is severable without affecting the validity or enforceability of the remaining part of that Rule or the other Rule;

2.3.3 references to 'Owners Corporation' includes any person or body authorised to act on behalf of the Owners Corporation delegated any power or functions by the Owners Corporation or appointed by the Owners Corporation to assist in carrying out its functions, including without limitation the Manager, as the context permits.

2.4 In the event of a conflict between these Rules and any restriction on the Plan, the restriction will prevail.

2.5 In the event of a conflict between these Rules and the model rules prescribed under the Regulations, these Rules prevail.

2.6 In the event of a conflict between these Rules and the rules for Owners Corporation No. 1 on the Plan (**OC1**), the rules for OC1 will prevail.

3. Role and functions

3.1 The Owners Corporation is responsible for ensuring that appropriate rules, measures and procedures are established to govern issues common to the Members, including that the Common Property and/or a Lot are maintained for the benefit and enjoyment of all Members and Occupiers. The Owners Corporation exercises such responsibilities through enforcing the Rules and through holding regular committee meetings at which matters affecting the operation of the Common Property are resolved and advised to all Members.

3.2 The Owners Corporation must abide by the Rules, Act and Regulations, and in carrying out its functions and powers must act honestly and in good faith and exercise due care and diligence.

3.3 These Rules are for the purpose of the control, management, administration, use or enjoyment of the Common Property or a Lot and represent the interests of Members and Occupiers. The Rules may be added to, amended or revoked:

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3.3.1 if a resolution is passed after a ballot or poll is taken and 75% of the total lot entitlements of all the Lots are in favour of such addition, amendment or revocation; or

3.3.2 if a resolution is passed in any other case and 75% of the total votes for all the Lots are in favour of such addition, amendment or revocation (**Special Resolution**).

3.4 Under the Act and Regulations, the Owners Corporation is responsible for, amongst other things:

3.4.1 electing the Committee (if required);

3.4.2 establishing a Maintenance Plan and Fund;

3.4.3 establishing and maintaining an Owners Corporation Register;

3.4.4 taking out, maintaining and paying the premiums for insurance;

3.4.5 keeping proper accounts that cover the income, expenditure, assets and liabilities of the Owners Corporation and providing true reports of the financial situation of the Owners Corporation; and

3.4.6 preparing annual financial statements.

4. Provision of services

4.1 Each Member of the Owners Corporation agrees that the Owners Corporation will provide the following services:

4.1.1 the repair and maintenance of all Common Property including gardens, trees, paved areas and landscaping; and

4.1.2 any other service or facility provided by the Owners Corporation for the benefit of the Members.

4.2 A Member or an Occupier acknowledges that:

4.2.1 the Owners Corporation may share amongst the Members and Occupiers the costs of supply and maintenance (based on lot liability or other methodology determined by the Owners Corporation) of any gas facility or power facility required for heating or air conditioning or any variable refrigerant volume or variable refrigerant flow system (VRV) to the Lots affected by the Owners Corporation or any Common Property; and

4.2.2 where any Lot is not separately metered in relation to any service, including gas, electricity, water, heating, air conditioning and/or VRV, then the Occupier shall pay a proportion of such service and supply charges relating to same on a proportional rate by dividing the unit liability of that Lot by the total unit liability of all Lots serviced jointly or as otherwise determined by the Owners Corporation, acting reasonably.

5. Use of a Lot

5.1 A Member must not:

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5.1.1 create noise or behave in a manner that is likely to interfere with the peaceful enjoyment of the member of another Lot, or any person lawfully using the Common Property;

5.1.2 without the prior written consent of the Owners Corporation, maintain inside a Lot anything visible from outside a Lot (including but not limited to a balcony, terrace or garden area) that when viewed from outside the Lot is aesthetically or otherwise detrimental to the amenity of the Development including the hanging of any washing, towel, bedding, clothing or any other article or like matter on any part of their Lot;

5.1.3 operate or permit to be operated on a Lot any device or electronic equipment which interferes with any domestic appliance lawfully in use on the Common Property, another Lot;

5.1.4 use or store on the Lot any flammable chemical, liquid, gas or other flammable material other than chemicals, liquids, gases or other material used or intended to be used for normal and lawful domestic purposes or in the fuel tank of a motor vehicle;

5.1.5 use that part of a Lot designed for use as a car parking space for any other purpose without the prior written consent of the Owners Corporation;

5.1.6 use that part of a Lot designed for use as storage for any other purpose without the prior written consent of the Owners Corporation;

5.1.7 use that part of a Lot designed for use as wine storage for any other purpose without the prior written consent of the Owners Corporation;

5.1.8 use that part of a Lot designed for use as a VIP locker for any other purpose than storage without the prior written consent of the Owners Corporation;

5.1.9 carry out or cause to be carried out on a Lot, road or any other land in the vicinity of a Lot, any dismantling, assembly, repairs or restorations of vehicles unless carried out in an area screened from public view; and

5.1.10 use the Lot for any purpose that may be illegal or injurious to the reputation of the premises comprised of the lots and the Common Property or which may cause a nuisance or hazard to any other member of a Lot.

5.2 Each Member must:

5.2.1 maintain their Lot and must ensure that their Lot is so kept and maintained as not to be offensive in appearance nor a fire or health hazard to other Members; and

5.2.2 comply with all laws relating to the Lot including, without limitation, any requirement, notices and orders of any governmental authority.

6. Notification of Defects

A Member or Occupier of must promptly notify the Owners Corporation or the Manager on becoming aware of any damage to or defect in the Common Property or any personal property vested in the Owners Corporation.

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7. Compensation to Owners Corporation

The Member or Occupier must compensate the Owners Corporation in respect of any damage to the Common Property or personal property vested in the Owners Corporation caused by that Member or Occupier or their respective tenants, licensees or invitees.

8. Pets and animals

8.1 A Member can keep any animal upon a Lot or the Common Property unless the Member has been given notice by the Owners Corporation to remove and keep removed such animal once the Owners Corporation has resolved that the animal is causing a nuisance.

8.2 A Member must ensure that any animal belonging to them does not urinate or defecate on Common Property including internal court yards. In the event any animal belonging to them does urinate or defecate on Common Property, the Member must immediately clean up the urine and/or faeces.

8.3 A Member must ensure that any animal belonging to them must be on a lead at all times when on the Common Property.

9. Cleaning and maintenance of a Lot

9.1 A Member or Occupier must keep its Lot (including any car park, storage cage, wine storage lot or VIP locker utilised by the Member or Occupier) clean and in good repair.

9.2 A Member or Occupier must ensure that the external blinds or screens forming part of the Lot are regularly maintained and kept clean at all times. Failure to clean or maintain the external blinds or screens on a regular basis will cause the Owners Corporation to maintain the blinds or screens at a cost to the Member.

9.3 A Member or Occupier must ensure that all landscaped areas and pools/spas visible from Common Property or which adversely affect the outward appearance or state of repair of the Lot or the use and enjoyment of the Lots or Common Property by other Members or Occupiers are maintained to a standard commensurate with the standard of maintenance of Common Property landscaped areas or as reasonably directed by the Owners Corporation or its Manager. Failure to comply with this rule will cause the Owners Corporation to landscape areas or clean pools/spas visible from Common Property at a cost to the Member.

9.4 Without limiting rule 9.3, a Member or Occupier must ensure that any palm trees situated on their Lot are regularly maintained, including trimming fronds away from the glazing line of the Building.

10. Cleaning windows, doors and balustrades

10.1 A Member or Occupier must keep clean and maintain all surfaces of glass in windows, doors and balustrades on the boundary of the Lot, including any part of that glass which is in the Common Property unless;

10.1.1 the Owners Corporation resolves that it will keep the glass or specified parts of the glass clean; or

10.1.2 that glass or part of the glass cannot be accessed by the Member or Occupier safely or at all.

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11. Blinds, Windows and Awnings

11.1 A Member or Occupier may only install window furnishings which are:

11.1.1 blockout roller blinds:

(a) the colour of the blockout backing facing the window is charcoal grey or any other similar colour approved by the Owners Corporation in writing; and

(b) on a ceiling mounted track; or

11.1.2 sheer roller blinds:

(a) the colour of the sheer backing facing the window is charcoal grey or any other similar colour approved by the Owners Corporation in writing; and

(b) on a ceiling mounted track; or

11.1.3 blockout curtains:

(a) the colour of the blockout backing facing the window is charcoal grey or any other similar colour approved by the Owners Corporation in writing;

(b) full height drop without decorative pelmets or valances; and

(c) on ceiling mounted track; or

11.1.4 sheer curtains:

(a) the colour is white or any other similar colour approved by the Owners Corporation in writing;

(b) full height drop without decorative permits or valances; and

(c) on ceiling mounted track.

11.2 The Member or Occupier is responsible for any costs and expenses associated with the window furnishings, including without limitation the cost of the window furnishings and any installation costs.

11.3 A Member or Occupier must install and maintain internal window furnishings on their Lot, at their own cost, in a manner so as to ensure efficient operation of the heating/cooling system of the Lot.

11.4 A Member or Occupier must not allow any glazed portions of the Lot or the Common Property that surrounds the Lot to be tinted or similar treated.

11.5 A Member or Occupier must not install or allow to be installed any:

11.5.1 external blinds or awnings; or

11.5.2 internal window furnishings visible from the outside of the Lot (other than as allowed under this Rule),

without prior approval from the Owners Corporation in writing.

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11.6 Timber plantation style solid shutters, venetian blinds, pleated blinds and similar horizontal appearance to venetians, vertical blinds and highly ornate fabric blinds or any finish are not permitted.

12. Balconies

A Member or Occupier:

12.1 must not hang or permit to be hung any clothes, towels or other articles including wind chimes on any balconies, windows, stairways or any part of the Common Property or any part of the exterior of the Lot so as to be visible or audible from the outside of the Lot;

12.2 must not construct, erect or fix any shed, enclosure, spa, water feature, planter box or structure of any nature or description or undertaking any building works on a balcony, terrace or garden area forming part of the Lot without the prior written consent of the Owners Corporation (the Owners Corporation shall not in any case consent to the erection of any structure if such structure detracts from the general appearance of the Development, or if it interferes with the views or use and enjoyment of another Lot);

12.3 must ensure that any barbeques, pot plants and outdoor furniture and other movable objects kept on the balcony to their Lot is secured against strong winds and where necessary remove any loose items from balconies which may be dislodged during periods of strong winds;

12.4 must not plant any species of plants/flowers in a planter/flower box which forms part of any Lot, unless the species of plants/flowers and planter/flower box have been approved by the Owners Corporation in writing;

12.5 must not allow any plants/flowers contained within a planter/flower box which forms part of any Lot or otherwise attached to the balcony of a Lot to become unkempt and must ensure at all times that the plants/flowers are maintained according to the specification as determined by the Owners Corporation. In the event that the flower/plants are not maintained to the standard required by the Owners Corporation, the Member or Occupier must provide access after reasonable notice is provided to a representative of the Owners Corporation for the express purpose of reinstating the planter box to the said specification and costs of which will be charged to the account of the Member;

12.6 must not interfere or tamper with any planter box irrigation system installed in the Development. The Member or Occupier at the time will provide access after reasonable notice is provided to a representative of the Owners Corporation for the purpose of repairing, maintaining or replacing the automatic irrigation system owned by the Owners Corporation that services the planter/flower box which forms part of any Lot;

12.7 must not temporarily or permanently fix or otherwise install on any balcony to their Lot, any equipment or apparatus of any kind (including, any external blind, light fitting, awning, air conditioning unit, antenna or satellite dish);

12.8 must ensure that no rubbish, residue or overflow is expelled onto another Lot at all or onto Common Property when cleaning or washing balconies other than to areas specifically designated for such purpose from time to time by the Owners Corporation;

12.9 must ensure that when watering or cleaning any balcony, terrace or garden area that forms part of the Lot, the water does not fall onto lower Lots;

12.10 must grant and provide to the Owners Corporation, upon the Member or Occupier being given 7 calendar days prior written notice, access to any balcony forming part of the

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Member's or Occupier's Lot for the purpose of cleaning and/or maintaining the Common Property;

12.11 must ensure building materials related to any Building Works are not stacked or stored in or on balcony areas;

12.12 must not permit disposal of cigarette butts, cigarette ash or any other item over balconies on Common Property or other Lots; and

12.13 must keep balconies clean, tidy and well maintained.

13. Building Works

13.1 A Member must not undertake any Building Works, including the alteration or modification to the external façade of a Lot, the removal or replacement of floor coverings or materials, fixing or having fixed any electrical, audio visual, or communication device or equipment (for example, plasma or LCD televisions or speakers) within or about or relating to their Lot which may effect the acoustic performance of any inter-tenancy wall, floor or ceiling, without:

13.1.1 the prior written approval of the Owners Corporation; and

13.1.2 providing at least 28 days' notice of the Building Works to each horizontal and vertical neighbour

13.2 Before commencing any Building Works, a Member must:

13.2.1 submit to the Owners Corporation for approval plans and specifications of any proposed Building Works;

13.2.2 obtain, for any Building Works proposal submitted for approval, certification by a qualified acoustics engineer that the works when completed will meet the Building Code of Australia minimum requirements for sound attenuation;

13.2.3 receive written approval from the Owners Corporation to proceed with those specified Building Works;

13.2.4 obtain and supply copies to the Manager of all requisite permits, approvals and consents under all relevant Laws;

13.2.5 pay costs to the Owners Corporation where a building contractor or consultant may be engaged to advise the Owners Corporation on the proposed Building Works even if consent is not given;

13.2.6 cause to be effected and maintained during the period of the Building Works a contractor's all risk insurance policy;

13.2.7 deliver a copy of the contractor's all risk insurance policy and certificate of currency to the Owners Corporation which notes the interests of the Owners Corporation.

13.3 A Member or Occupier must ensure that any contractor engaged to perform approved Building Work on their Lot complies with the reasonable directions of the Owners Corporation concerning the method of building operations, means of access, use of the Common Property, on-site management, building protection and hours of work. The Member or Occupier must also supervise the carrying out of such Building Works and ensure that the following conditions are met:

13.3.1 the Building Works are undertaken in:

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(a) accordance with the requirements of the *Occupational Health and Safety Act* 2004 (Vic) and the *Occupational Health and Safety Regulations* 2017 (Vic), as amended or replaced from time to time; and

(b) a reasonable manner so as to minimise any nuisance, annoyance, disturbance and inconvenience to other Members or Occupiers;

13.3.2 building materials are not stacked or stored in Common Property;

13.3.3 scaffolding is not erected on the Common Property or the exterior of the Building, without the prior written approval of the Owners Corporation;

13.3.4 construction work complies with all Laws of the relevant Authorities;

13.3.5 construction vehicles and construction worker's vehicles are not brought into, or parked on the Common Property except by prior arrangement with the Owners Corporation;

13.3.6 the exterior and Common Property of the Building is at all times be maintained in a clean and tidy state;

13.3.7 suitable floor, wall and other protections is installed in the Common Property before any building materials are taken through those parts of the Common Property; and

13.3.8 all contractors and tradesmen use only the basement, lifts, lobby and areas designated by the Manager when working in the Lot.

13.4 Where a Member or Occupier commissions Building Work in accordance with Rule 13.3, a representative of the Owners Corporation and the Member or Occupier must inspect the part of the Common Property which will be affected by the Building Works (for example, the area through which building materials will be transported) prior to commencing the Building Work to establish the state of repair of the Common Property and again after the Building Work has been completed to determine if any damage has been caused to the Common Property.

13.5 A Member or Occupier must promptly make good all damage to and dirtying of the Building, the Common Property, the services thereof or any fixtures and fittings and finishes which are caused by any Building Works. If the Member or Occupier fails to do so the Owners Corporation may in its absolute discretion make good the damage and dirtying at the Member's or Occupier's expenses. The Member or Occupier must indemnify and keep indemnified the Owners Corporation for all costs and liabilities incurred by the Owners Corporation in so making good the damage or dirtying caused by the Building Work. The Owners Corporation may at their absolute discretion demand from the Member or Occupier a performance bond in relation to the cleaning or repair of the Common Property to guarantee their performance under this Rule.

13.6 Before commencing any Building Works, a Member or Occupier must ensure that the walls, floor and ceiling of the lifts are adequately protected from damage.

14. Use of appurtenances

14.1 A Member or Occupier must not use the water closet, conveniences or other water apparatus, including water pipes and drains for any other purpose than those which they were constructed and, must not sweep or deposit rubbish, baby wipes or other unsuitable substances therein. The Member indemnifies and keeps indemnified the Owners Corporation on a full indemnity basis for any costs or expenses resulting from any damage or blockage incurred by the Owners Corporation where the damage or blockage was caused by the Member, Occupier or their invitees.

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15. Fittings

15.1 A Member or Occupier must:

15.1.1 not modify any VRV, air-conditioning, heating or ventilation system or associated ducting servicing that services the Member's Lot without the prior consent of the Owners Corporation;

15.1.2 not install in a Lot a floor safe, a safe, or any other item exceeding 100kg in weight without a written consent of the Owners Corporation and before submitting to the Owners Corporation a structural engineering report in respect to the proposed installation; and

15.1.3 ensure that all floor space within a Lot is covered or otherwise treated to an extent sufficient to prevent the transmission from the floor space of the Lot noise likely to disturb the peaceful enjoyment of the Member or Occupier of another Lot.

15.2 A Member or Occupier must not affix or have affixed to any Common Property wall, floor or ceiling any electrical, audio visual or communication device or equipment without the prior written consent of the Owners Corporation including but not limited to plasma or LCD televisions or speakers.

16. Use of Common Property

16.1 A Member or Occupier must not:

16.1.1 do or allow to be done anything on the Common Property which causes a nuisance to or interferes with its lawful use by the Owners Corporation or other Members;

16.1.2 do or permit anything which might cause structural damage to the Common Property;

16.1.3 interfere with the operation of any equipment installed on the Common Property without the prior written consent of the Owners Corporation;

16.1.4 interfere with any personal property vested in the Owners Corporation;

16.1.5 park or leave a vehicle or permit any vehicle to be parked or left upon the Common Property or in any place other than in a parking area specified for such purpose by the Owners Corporation;

16.1.6 paint, finish, drive nails or screws or the like into, or otherwise damage, alter or deface the Building or any other part of the Common Property including the external facade except with the consent in writing of the Owners Corporation;

16.1.7 when on Common Property (or if on any part of a Lot so as to be visible from another Lot or from Common Property), fail to be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to the Member or Occupier of another Lot or to any person lawfully using Common Property;

16.1.8 deposit or throw upon the Common Property any rubbish, dirt, dust or other material likely to interfere with the peaceful enjoyment of other Member or any person lawfully using the Common Property;

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16.1.9 disregard any requirements made by the Owners Corporation relating to the use of any access keys and intercom system that may be provided as the means of access upon roadways created within the Common Property;

16.1.10 use or store on the Common Property any flammable chemical, liquid, gas or other flammable material other than chemicals, liquids, gases or other material used or intended to be used for normal and lawful domestic purposes or in the fuel tank of a motor vehicle;

16.1.11 hold or allow to be held any public auction on or near the Common Property;

16.1.12 directly instruct any contractors or workmen employed by the Owners Corporation unless so authorised;

16.1.13 except with the consent in writing of the Owners Corporation, use for their own purposes as a garden any portion of the Common Property;

16.1.14 smoke in the stairwells, lifts, foyers and car park forming part of the Common Property or any other parts of the Common Property.

16.2 A Member or Occupier:

16.2.1 must notify the Owners Corporation or its Manager promptly when becoming aware of any damage to or defect in the Common Property or any personal property vested in the Owners Corporation;

16.2.2 must ensure that any guests or invitees of the Member or Occupier are accompanied at all times when on Common Property; and

16.2.3 acknowledges that the use of the Common Property is subject to any written agreements, leases or licences that the Owners Corporation may enter into relating to areas of the Common Property.

17. Lifts

A Member or Occupier must not and must ensure that the Occupier of a Member's Lot does not:

17.1 use the lifts for any other purpose other than to gain pedestrian access to his or her Lot as directed by the Owners Corporation;

17.2 hold the lift doors and/or prevent the doors of the lift closing for any period of time so as to interfere with the normal operation of other Occupiers' use of the lifts;

17.3 press the alarm or stop button except in an emergency situation;

17.4 press any button other than the one representing the floor or level that the lift is required to stop at; and

17.5 change any lift programming that gives preferential access to a Lot(s) within the Development.

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18. Parking

18.1 Only motor vehicles and motorbikes are permitted to be located in a car space or garage allocated to a Lot and a Lot's allocated car space or garage can only be used for the storage of motor vehicles and motorbikes and not for the storage of any other items.

18.2 Members and Occupiers must park only in the car space allocated to the Lot and not in any other carparking space allocated to another Lot or any carparking spaces allocated for the use of visitors to the Development.

18.3 If a Member or Occupier of a Lot has more vehicles than the car spaces allocated to that Lot, any additional vehicles must be parked outside the Development.

18.4 Members must not close in any carparking space allocated to the Lot to make a private garage-style carparking space without the prior written approval of the Owners Corporation.

18.5 Visitors parking provided on any Common Property (if any) is reserved for casual visitors to Lots, and is restricted to a maximum 1 hour parking time. Members and Occupiers must ensure that visitors parking is not used by long term visitors for more than 1 hour at a time without the prior consent of the Owners Corporation.

18.6 The Owners Corporation or the Manager has the power to:

18.6.1 impose a speed limit for driving in Common Property;

18.6.2 impose reasonable restrictions on the use of Common Property, driveways and parking areas;

18.6.3 install speed humps and other traffic control devices on Common Property; and

18.6.4 install signs in relation to parking to control driving on Common Property.

18.7 A Member or Occupier of a Lot must comply at all times with the speed limits, restrictions, parking and traffic signs imposed or installed by the Owners Corporation or the Manager.

18.8 A Member of Occupier of a Lot must not park or leave a vehicle or other similar object on Common Property so as to obstruct any driveway or entrance to a Lot, or in any place other than in parking areas specified by the Owners Corporation or the Manager from time to time and must observe any parking directions given orally or published by the Manager from time to time in respect of parking.

18.9 A Member or Occupier of a Lot must not:

18.9.1 obstruct a driveway or entrance to a Lot or any other road in the Common Property;

18.9.2 allow parking spaces to be purchased by or leased to non residents/non Occupiers; or

18.9.3 allow parking spaces to be used for anything other than for the parking of vehicles, trailers or similar.

18.10 The Owners Corporation or Manager may remove any offending vehicles, trailers or motorbikes which are parked on the Common Property or in any carparking spaces in breach of these Rules.

18.11 A Member or Occupier must ensure its car parking space(s) are free of oil, petrol and like substances. The Owners Corporation may clean any car parking space which is excessively stained by oil, petrol or a like substance at the Member's or Occupier's expense if after

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providing 28 days notice the Member or Occupier has failed to clean the excessive staining. The Owners Corporation may authorise a person to enter the relevant Lot or Building on its behalf to carrying out cleaning of car spaces in accordance with this Rule.

19. Bicycles

19.1 A Member or Occupier must not permit any bicycle to be stored on Common Property except in areas designated by the Owners Corporation or otherwise with its written consent.

19.2 Members or Occupiers must indemnify and keep indemnified the Owners Corporation on a full indemnity basis for the costs of repairing any damage to the Common Property arising out of bringing their bicycles on to any Lot (for example, corridors, lifts).

20. Moving object on or through Common Property

20.1 The Owners Corporation may resolve that furniture or large objects are to be transported through or on the Common Property (whether in the Building or not) in a specified manner.

20.2 If the Owners Corporation has specified, by resolution, the manner in which furniture or large objects are to be transported, a Member or Occupier must not transport any furniture or large object through or on the Common Property except in accordance with that resolution.

20.3 When using the lifts to move goods or furniture a Member or Occupier must ensure that the walls, floor and ceiling of the lifts are adequately protected from damage.

20.4 If the Member or Occupier requires the use of a crane to move goods or furniture, the Member or Occupier must first notify (by giving at least 7 days' written notice) and obtain the consent of the Owners Corporation. The Member or Occupier must cooperate with and comply with any requirements of the Owners Corporation (acting reasonably) in order to facilitate the use of the crane and minimise disruption to other Members or Occupiers.

20.5 A Member or Occupier must not move any article of furniture or any other article likely to cause damage or obstruction through the Common Property without first notifying the Owners Corporation (by giving at least 7 days' written notice) to enable the lifts to be covered and ensure only one Member or Occupier is moving in at a time.

20.6 Prior to moving any article of furniture or any other article likely to cause damage or destruction, the Manager or a representative of the Owners Corporation and the Member or Occupier will inspect the Common Property through which such article is to be moved to establish its state of repair. The Member or Occupier will be liable for any damage caused to the Common Property arising from the movement of the article.

21. Signage and windows

21.1 A Member is not permitted to display signs, advertising or notices on any Lot, including for the purpose of offering for sale or lease or letting any Lot or Common Property, without the consent of the Owners Corporation. Any sign that is erected must be of a standard that shall not detract from the overall appearance of the Development.

21.2 A Member is not permitted to display any advertising material, logos or sign writing to any external window, glazing or external solid face of a lot without the written consent of the Owners Corporation.

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21.3 A Member must not allow any glazed portions of the Lot or Common Property to be tinted or otherwise treated with the intention of changing the visual characteristic of the Development.

22. Mail

Members and Occupiers must keep their mail box regularly cleared to avoid overflowing of mail, leaflets, circulars, pamphlets, newspapers, advertising material or other objects whatsoever at any one time, whether solicited or not, and must arrange for all such required clearance by other persons should a Member or Occupier be absent for any reason for any period of time to avoid such overflowing. This requirement may be waived upon request made to the Owners Corporation in writing not less than seven days prior to the date or dates for which such waiver is required.

22.1 Where large parcels do not fit into a mail box, Members and Occupiers consent to the Manager holding such parcels on their behalf, until collected by the Member or Occupier.

23. Garbage disposal

A Member of a Lot must:

23.1 except where the Owners Corporation provides some other means of disposal of garbage, maintain within their Lot, or on such part of the Common Property as may be authorised by the Owners Corporation, a receptacle for garbage and to keep such receptacle in a clean and tidy condition and not visible to the public except on days designated for rubbish collection;

23.2 comply with all requirements of Governmental Agencies relating to the disposal of garbage;

23.3 ensure that rubbish is disposed of in accordance with the disposal facilities of the Building, and the rules/directions of the Owners Corporation from time to time (for example recyclables are placed in the recycle chute);

23.4 consult with and seek approval from the Owners Corporation in respect of the disposal of large articles to ensure that they are disposed of appropriately;

23.5 ensure that rubbish does not accumulate on their Lot, and that the health, hygiene and comfort of other Members is not adversely affected by their disposal of garbage; ensure that rubbish is transported from their Lot to the designated garbage room on the Common Property in an appropriate watertight receptacle; and

23.6 pay or reimburse the Owners Corporation any costs incurred by the Owners Corporation as a result of the Member or Occupier's misuse of the garbage disposal facilities, or other breach of this rule 23.

24. Behaviour of Invitees

24.1 The duties and obligations imposed by these special rules upon a Member of a Lot must be observed not only by the Member but also by the guest, servants, employees, agents, children, invitees and licensees of the Member or the occupier of their Lot (Invitees).

24.2 A Member must take all reasonable steps to ensure that their Invitees do not behave in a manner likely to interfere with the peaceful enjoyment of any Member or occupier of another

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Lot or of any person lawfully using the Common Property or which may result in damage to the Common Property.

24.3 A Member is liable to compensate the Owners Corporation for all damage to the Common Property or personal property vested in it caused by a breach of Rule 24.1 and 24.2.

24.4 Where the Owners Corporation expends money to make good damage caused by a breach of the Act, or of these rules by any Member or Invitees, the Owners Corporation can recover the amount so expended as a debt in action in any Court of competent jurisdiction from the Member of the Lot at the time when the breach occurred.

24.5 Rules 24.1 to 24.4 are intended to operate in addition to the requirements of the Act.

25. Owners Corporation fees

25.1 The Member must pay the fees set by the Owners Corporation to cover general administration and maintenance, insurance and other recurrent obligations quarterly in advance according to their lot entitlement.

25.2 The amount of the annual Owners Corporation fees which is payable by each Member will be established at each annual general meeting of the Owners Corporation.

25.3 Any special fees or charges levied by the Owners Corporation to cover extraordinary items of expenditure must be paid on the due date set by the Owners Corporation upon the levying of each special fee or charge.

26. Consent of Owners Corporation

A consent given by the Owners Corporation under these Rules will, if practicable, be revocable and may be given subject to conditions including, without limitation, a condition evidenced by a minute of a resolution that the member for the time being of the lot to which the consent or approval relates is responsible for compliance with the terms of the consent.

27. Enforcement of Domestic Building Contract

The Member agrees that for the purpose of its obligations under the Act:

27.1 the Members acknowledge and agree that reasonable steps to enforce any domestic building contract (within the meaning of the Domestic Building Contracts Act 1995) include:

27.1.1 the making of a demand in writing to the builder under any domestic building contract to comply with the terms of the domestic building contract and/or rectify any breach of the domestic building contract;

27.1.2 the exercise of any right under the domestic building contract to withhold any payment to the builder or have recourse to any security provided by the builder under the domestic building contract;

27.1.3 the settlement of any dispute under any domestic building contract between the original owner and the builder on terms acceptable to the original owner; and

27.1.4 any other enforcement action the Initial Owner considers appropriate in the circumstances; and

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27.2 the Members agree to pay or reimburse the Initial Owner its portion of any enforcement relative to its lot liability.

28. Complaints and disputes

28.1 Any Dispute must be dealt with at first instance in accordance with this Rule 28.

28.2 A party to a Dispute must not initiate legal proceedings or complain to the Director in respect of the Dispute unless it has first complied with the dispute resolution procedure set out in this Rule 28.

28.3 The party making the complaint must in the first instance notify the Manager, or where the Manager is the subject of or involved in the Dispute, the Committee, of the Dispute in writing. The Manager must refer any complaint it receives to the Committee. Upon receipt of a complaint referred by the Manager or received directly from a Member or Occupier, the Committee will then decide (at its absolute discretion having regard to the nature and urgency of the Dispute) whether to:

28.3.1 arrange a meeting between the parties to resolve the Dispute; or

28.3.2 waive the requirement for the parties to meet.

28.4 Notwithstanding the course of action elected by the Committee under Rule 28.3, the parties must consult with one another in good faith and use their best endeavours to resolve the Dispute to the mutual satisfaction of both parties without resort to legal proceedings or other avenues of dispute resolution.

28.5 Without limiting the generality of this Rule 28, where no formal complaint is made by a Member or Occupier and the Owners Corporation otherwise becomes aware of a Dispute, the Owners Corporation (through the Manager or the Committee or otherwise) may decide (at its absolute discretion having regard to the nature and urgency of the Dispute) whether:

28.5.1 arrange a meeting between the parties to resolve the Dispute; or

28.5.2 waive the requirement for the parties to meet.

28.6 If the parties are unable to resolve the Dispute within 30 days (or such other period as the Committee thinks fit) of the meeting arranged pursuant to Rule 28.3.1 or 28.5.2, the parties may revert to the dispute resolution mechanisms set out in the Act or other Law.

29. Cost of non-compliance

The Member or Occupier must indemnify and keep indemnified the Owners Corporation on a full indemnity basis against any action, demand, cost, liability or loss incurred by the Owners Corporation as a consequence of any default by the Member or Occupier in the performance or observance of any term, covenant or condition contained in these Rules, the Act or Regulations including, without limitation administrative costs, legal costs, the cost of any works performed to rectify any non compliance and the cost incurred by the Owners Corporation in recovering overdue charges from the Member or Occupier.

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30. Charges imposed on Members and Occupiers

30.1 Any payments to the Owners Corporation imposed on a Member or Occupier under the Rules, Act or Regulations will (until paid) be a charge on the Lot.

30.2 The Member or Occupier must accept a certificate signed by the Manager or valid tax invoice issued by the Owners Corporation as prima facie proof of the costs and expenses incurred by the Owners Corporation relating to any charge payable by a Member or Occupier pursuant to these Rules and must not make any claim or dispute the amount specified therein.

30.3 The Member or Occupier must pay interest at the rate prescribed under the Penalty Interest Rates Act 1983 (Vic) on outstanding fees and charges set under the Rules, Act or Regulations until they are paid.

30.4 Any payments made for the purposes of these Rules, the Act or Regulations will be appropriated first in payment of any interest and any unpaid costs and expenses of the Owners Corporation and then be applied in repayment of the principal sum.

31. Rights of entry

31.1 Except in the case of an emergency (in which case no notice shall be required) upon seven (7) days' notice in writing, the Owners Corporation or the committee of the Owners Corporation and its servants, agents and contractors shall be permitted to inspect the interior of any Lot and test the electrical, gas or water installation or equipment therein and to trace and repair any leakage or defect in the said installations or equipment (at the expense of the Member or Occupier in cases where such leakage or defect is due to any act or default of the said Member or Occupier of his or her invitees). The committee of the Owners Corporation, in exercising this power shall ensure that its servants, agents and employees cause as little inconvenience to the Member or Occupier as is reasonable in the circumstances.

31.2 A Member or Occupier in occupation of a Lot must allow any person authorised by and on behalf of the Owners Corporation;

31.2.1 to enter the Lot or a Building in order to have access to the exterior of the Building, and

31.2.2 to enter the Lot from the exterior of the Building via a balcony, terrace, window or other part of the Lot and to use that part of the Lot, to facilitate the repair and maintenance of and other works on Common Property including the structure of the Building and the exterior face of the Building and any service that is for the benefit of more than one Lot or the Common Property being areas of Common Property that would otherwise be difficult to access.

31.3 The Owners Corporation must give at least 7 calendar days' notice in writing to the Member or Occupier of a Lot or other Occupier of a Lot of an intention to enter:

31.3.1 unless the Member or Occupier agrees to a lesser time and where the Occupier is a tenant under a residential tenancy agreement the Occupier must be given the same notice as that required to be given by a landlord under Section 85 of the Residential Tenancies Act 1997;

31.3.2 entry to and use of the relevant part of the Lot must be between the hours of 8.00 am and 6.00pm on any day Monday to Friday; or

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31.3.3 unless there is an emergency when no notice and no time restrictions apply, and then in such a manner as to cause as little interruption or inconvenience to the Occupier as is possible in the circumstances.

31.4 Members and Occupiers acknowledge and agree the access described by this rule 31 is expressly contemplated under section 12(2) of the Subdivision Act 1988 (Vic) and the Member or Occupier must not, either directly or indirectly frustrate, limit or impede the access contemplated by this rule.

32. Security

The Owners Corporation may make rules and regulations to ensure the security of the Development from intruders and otherwise with regard to the use and means of access to any roadways created upon the Common Property.

33. Contact

33.1 Each Member must advise the Manager of any out of normal business hours contact address, email and telephone number for their Lot and must promptly advise the Manager of any change in their address, email or telephone number.

33.2 Each Member must provide the Manager with an Australian address for service of notices. If a Member fails to provide an Australian address for service of notices, the Lot address will be deemed to be the proper address for service.

34. Restricted use of Common Property for fire control

34.1 The Owners Corporation may take measures to ensure the security, and to preserve the safety of the Common Property and the Lots affected by the Owners Corporation from fire or other hazards and without limitation may:

34.1.1 close off any part of the Common Property not required for access to a Lot on either a temporary or permanent basis or otherwise restrict the access to or use by Members or Occupiers of any part of the Common Property;

34.1.2 permit, to the exclusion of Members and Occupiers, any designated part of Common Property to be used by any security person as a means of monitoring security and general safety of the Lots, either solely or in conjunction with other Lots;

34.1.3 restrict by means of key or other security device the access of the Members or Occupiers;

34.1.4 restrict by means of key or other security device the access of the Members or Occupiers of one level of the Lots to any other level of the Lots; and

34.1.5 cancel any security card issued where a Member is in arrears in payment of Owners Corporation levies in excess of two quarters.

34.2 A Member and Occupier of a Lot must abide by any actions taken by the Owners Corporation in accordance with these Rules and must meet all costs incurred by the Owners Corporation in relation to these Rules (or a breach of these Rules by the relevant Member or Occupier).

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35. Fire

35.1 A Member or Occupier of a Lot must ensure compliance with all statutory and other requirements, including those of the Owners Corporation, relating to fire, fire safety and the storage of bioethanol in respect of the Lot.

35.2 A Member or Occupier of a Lot must not use, interfere or tamper with any fire safety equipment except in the case of an emergency and must not obstruct any fire stairs or fire escape.

35.3 In the event that the Melbourne Fire Brigade is called out to the Building as a result of the activation of a false fire alarm, whether the activation of the fire alarm was caused by a willful, negligent, foreseeable, or unforeseeable action or inaction, and the cause of the alarm is found to originate from a Lot, the Member or Occupier of the Lot will be jointly and severally liable to pay any and all associated costs and charges connected to a false fire alarm.

35.4 A Member hereby agrees to indemnify the Owners Corporation for all costs and charges incurred by the Owners Corporation in connection to a false fire alarm call out and the Member may elect to pursue recovery from the Occupier. This rule is enforceable regardless of whether:

35.4.1 the Member or Occupier was directly, indirectly and /or negligently responsible for the cause of the fire alarm; and/or

35.4.2 the Member authorised either impliedly or expressly the actions of the Occupier which caused the false fire alarm.

35.5 A Member or Occupier of a Lot must ensure that all fire doors, exhaust systems and smoke detectors installed in a Lot are properly maintained and tested monthly and that back-up batteries relating to the smoke detectors are replaced whenever necessary.

35.6 Each Member or Occupier of a Lot must undertake a fire and safety induction for the Development, prior to their occupation of the Lot (Induction). Occupiers must give the Manager at least 14 days' notice for the Manager to carry out the Induction. The Manager may charge any Occupier of a Lot a fee of $1,000 plus GST for any Induction required by an Occupier with less than 14 days' notice. A Member or Occupier of a Lot may be denied access to the Building if an Induction is not undertaken.

36. Insurance

A Member or Occupier of a Lot must not without the prior written consent of the Owners Corporation do or permit anything to be done which may invalidate, suspend or increase the premium for any insurance policy effected by the Owners Corporation.

37. Security and Security Keys

37.1 A Member or Occupier of a Lot or persons thereon from time to time must not do or permit anything, which may prejudice the security or safety of the Common Property, or any person in or about the Development.

37.2 The Owners Corporation may charge a reasonable fee for any additional security key required by a Member or Occupier.

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37.3 A Member must exercise a high degree of caution and responsibility in making a security key available for use by any Occupier and must use all reasonable endeavours including without limitation an appropriate stipulation in any lease or licence of a Lot to the Occupier to ensure the return of the security key to the Member or the Owners Corporation.

37.4 A Member or Occupier of a Lot in possession of a security key must not without written consent from the Owners Corporation duplicate the security key or permit it to be duplicated and must take all reasonable precautions to ensure that the security key is not lost or handed to any person other than any other Member or Occupier and is not disposed of otherwise than by returning it to the Member or the Owners Corporation.

37.5 A Member or Occupier of a Lot must promptly notify the Owners Corporation if a security key issued to them is lost or destroyed.

38. Rules Subject to Rights of the Developer

38.1 These Rules do not apply to and, are not enforceable against the Developer or its mortgagee or chargee or the Vendor or its mortgagee or chargee, for so long as any of the following apply:

38.1.1 the Developer or the Vendor and/or either of their equity partners (if any) or the Vendor is a Member or Occupier;

38.1.2 any mortgagee or chargee of the Developer or the Vendor has an interest in any Lot; or

38.1.3 the Developer or the Vendor and/or either of their equity partners (if any) or the Vendor is engaged in any action required to complete the Development,

where to do so would prevent, hinder, obstruct or in any way interfere with any works of any nature or description that the Developer their mortgagee or chargee or the Vendor their mortgagee or chargee may be engaged in or which may need to be carried out in order to complete construction of the Buildings and facilities comprised in the Plan or the Development.

38.2 Subject to Rule 38.4, the Developer and its equity partners (if any), its mortgagees and chargees and the Vendor and its equity partners (if any), its mortgagees and chargees must be and are by this Rule, authorised by each and every member of each and every Owners Corporation in the Plan and by each and every Owners Corporation in the Plan to:

38.2.1 erect such barriers, fences, hoardings, signs as it deems necessary to facilitate any works to be carried out in relation to the Development; and

38.2.2 take exclusive and sole possession of any parts of the Common Property as it may need to have exclusive possession of in order to carry out any works or activities in relation to the Development; and

38.2.3 exclude all and any Members or Occupiers from any parts of the Common Property as may be necessary in order to carry out any works in relation to the Development; and

38.2.4 erect for sale promotional advertising or other signs as the Developer may require on any part of the Common Property; and

38.2.5 grant rights to use or access through or over the Common Property to third parties on such terms and conditions as the Developer or its mortgagee or chargee thinks fit; and

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38.2.6 limit or restrict access to certain areas of the Development including areas of the Common Property in order to expeditiously complete the Development; and

38.2.7 use whatever rights of way and/or points of egress and ingress to the Development as necessary to carry out any works and to block for whatever periods are necessary any rights of way or points of egress and ingress to the Development in order to carry out any works,

provided that the Developer or the Vendor and any third party authorised by either of them under this Rule or any party to which it assigns all or part of the benefits of its rights under this Rule, uses its best endeavours to minimise disturbance and inconvenience to others occupying or using the Common Property.

38.3 The Owners Corporation must, within 7 days of being requested by the Developer or its mortgagee or chargee or the Vendor or its mortgagee or chargee, sign whatever consents, authorities, permits or other such documents as may be required to enable the Developer or its mortgagee or chargee to complete the Development. A Member must not vote in favour of any motion for a resolution proposed for consideration by a general meeting of the Owners Corporation which would revoke this Rule 38 or contravene any right or reprieve afforded to the Developer under this Rule 38.

38.4 In case of any inconsistency between the Rules and the rights of the Developer and Vendor under any Development Agreement, the Developer's rights and the Vendor's rights under the Development Agreement will prevail and the Members, Occupiers and Owners Corporation must not seek to enforce the Rules against the Developer or Vendor where to do so would conflict with the Developer's Rights or the Vendor's rights under any such Development Agreement.

38.5 A Member or Occupier must comply with the terms of any Development Agreement between the Developer and the Owners Corporation that is disclosed to the Member or Occupier.

38.6 Every Member hereby consents to and agrees to the Developer or the Vendor undertaking any or all of the rights of the Developer or the Vendor, as the context permits, set out in this Rule without any prevention or hindrance of such Member.

38.7 In exercising its rights under this Rule, the Developer and Vendor must act honestly and in good faith and with due care and diligence in the interests of the Owners Corporation and must have regard to the amenity of Members. The Developer and Vendor must only exercise their rights to the extent necessary for the genuine Development. The Developer and the Vendor must not exercise its rights under this Rule to arbitrarily exclude the Owners Corporation or the participation of Members.

39. Warranties & Novation or assignment of contracts

39.1 The Developer may at its discretion enter into time limited contracts to supply, service, clean, maintain and/or inspect building essentials services, other building services or functions, common areas of the Building, landscaping, or any other Common Property, and any other service or other contract deemed appropriate and necessary for the proper care and function of the Common Property.

39.2 The Developer must and the Owners Corporation(s) must accept, assignment or novation of the contracts referred to in Rule 39.1 at the first meeting of the Owners Corporation.

39.3 The Owners Corporation must maintain any contracts assigned or novated to it under this Rule to the end of its current term except where it is deemed that the contract is unreasonable or unnecessary or is replaced by a contract for similar services by the same service provider.

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39.4 The Owners Corporation must comply with the terms of and properly manage any time or condition limited warranties for items, components or parts of the Common Property provided by subcontractors or suppliers so as to ensure they remain valid for the benefit of the Owners Corporation.

39.5 The Owners Corporation must ensure that it provides for or enters into contracts to provide for care, cleaning, maintenance and inspection of any item or component of Common Property to enable it to perform its obligations under the Law and these Rules upon the lapse of any subcontractor or supplier backed warranty or upon the end of any contract assigned or novated to it by the Developer.

39.6 All Members must contribute its proportion of the cost incurred by the Owners Corporation in complying with this Rule 39 relative to the lot liability on the Plan.

40. Signage & Other Licences

40.1 The Owners Corporation may grant the Developer:

40.1.1 a lease and licence including but not limited to for the provision of information technology infrastructure relating to broadband services and/or signage rights to the Development;

40.1.2 a licence to host festivals, parties or other celebratory or promotional events in the main lobby area, or other areas of the Common Property;

40.1.3 a licence to place and maintain sale signs, insignias, logos and other fixtures and fittings for marketing purposes on the Common Property; or

40.1.4 allow the Developer's representatives and their invitees to conduct selling activities from a Lot, if not sold prior to completion, which will serve as a display unit,

provided the Developer uses its best endeavours to minimise disturbance and inconvenience to others Members' or Occupiers' use of the Common Property and at all times acts honestly and in good faith and with due care and diligence in the interests of the Owners Corporation.

40.2 A Member or Occupier of the Lot must not hinder or impede the Developer, its successors and assigns, from exercising its rights under any agreement entered into under this Rule.

40.3 The Owners Corporation(s) must procure all the necessary consents and resolutions to give effect to the matters set out in this Rule 40.

40.4 A Member must not vote in favour of any motion for a resolution proposed for consideration by a general meeting of the Owners Corporation(s) which would impede the powers of the Owners Corporation(s) under this Rule 40.

41. Valet Service

41.1 If the Owner's Corporation provides a valet service for residential Lots with a car space, each Member or Occupier of a residential Lot that owns a car space must pay the Owners Corporation as and when required by the Owners Corporation a fee per car parking space equal to the total of the following costs divided by the number of car spaces allocated to residential Lots:

41.1.1 all operational costs required to provide the valet service, including insurance and wages; and

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41.1.2 a management fee as determined by the Owners Corporation; and

41.1.3 any Goods and Services Tax on the above amounts.

41.2 Each Member of a residential Lot with a car space must pay the above amounts even if they do not use the valet service.

41.3 The Members and Occupiers acknowledge and agree that the Owners Corporation may calculate the costs, contributions and liabilities detailed above and require payment in any way it considers reasonable, and a Member or Occupier must not challenge such a calculation.

Attachment 8

Waste Room Vehicle Storage Licence

Maddocks

Lawyers
Collins Square, Tower Two
Level 25, 727 Collins Street
Melbourne VIC 3008
Australia

Telephone 61 3 9258 3555
Facsimile 61 3 9258 3666

info@maddocks.com.au
www.maddocks.com.au

DX 259 Melbourne

Date / /2025

Retail Lot 1R Waste Room Vehicle Storage Licence

Saint Moritz, 14-16 The Esplanade, St Kilda, Victoria

Owners Corporation No. 1 on Plan of Subdivision PS826420W

and

Owners Corporation No. 5 on Plan of Subdivision PS826420W

and

14-16 The Esplanade by Gurner Pty Ltd
ACN 626 307 131

Schedule

1.	**Date of this Licence:**	The day of
2.	**Licensor:**	Owners Corporation No. 1 on Plan of Subdivision PS826420W c/o The Knight, PO Box 678 Malvern, Victoria 3144 on behalf of the members of Owners Corporation No. 1 on PS826420W Owners Corporation No. 5 on Plan of Subdivision PS826420W c/o The Knight, PO Box 678 Malvern, Victoria 3144 on behalf of the members of Owners Corporation No. 5 on PS826420W
3.	**Licensee:**	14-16 The Esplanade by Gurner Pty Ltd ACN 626 307 131 of 168 Williams Road, Prahran, VIC 3181
4.	**Licensed Area:**	The area outlined in red on the plan attached to this Licence as Annexure A and known as part of Common Property No. 1 on Plan of Subdivision PS826420W.
5.	**Commencement Date**	The Date of this Licence
6.	**Term**	99 years
7.	**Licence Fee during the Term:**	$1.00 payable by a single instalment on the Commencement Date, if demanded.

Execution Page

EXECUTED by the parties on the date specified in Item 1.

Executed as a deed by **Owners Corporation No. 1** on **PS826420W** by persons who declare they are Lot Owners of separate lots and members of the Owners Corporation or by a director of a corporation that is a Lot Owner, in accordance with s 10 of the *Owners Corporations Act 2006* (Vic) in accordance with a resolution dated :

Signature	Signature
Name (print full name)	Name (print full name)
Address	Address
Position: Lot Owner* / Director of Lot Owner* (*Delete whichever is inapplicable)	Position: Lot Owner* / Director of Lot Owner* (*Delete whichever is inapplicable)
Name of corporation that is a Lot Owner (If signed by a director)	Name of corporation that is a Lot Owner (If signed by a director)

Executed as a deed by **Owners Corporation No. 5** on **PS826420W** by persons who declare they are Lot Owners of separate lots and members of the Owners Corporation or by a director of a corporation that is a Lot Owner, in accordance with s 10 of the *Owners Corporations Act 2006* (Vic) in accordance with a resolution dated :

Signature	Signature
Name (print full name)	Name (print full name)
Address	Address
Position: Lot Owner* / Director of Lot Owner* (*Delete whichever is inapplicable)	Position: Lot Owner* / Director of Lot Owner* (*Delete whichever is inapplicable)

Name of corporation that is a Lot Owner (If signed by a director)	Name of corporation that is a Lot Owner (If signed by a director)

Executed by **14-16 The Esplanade by Gurner Pty Ltd ACN 626 307 131** in accordance with section 127(1) of the *Corporations Act* 2001:)
)
)
)

.....
Signature of Sole Director/Secretary

.....
Print full name

Licence

THIS LICENCE is made on the date specified in Item 1.

BETWEEN

The Licensor

AND

The Licensee

RECITAL

A. The Licensor has a duty to properly administer the Common Property for the benefit of its members, owners and occupiers.

B. The Licensor has agreed to grant the Licensee a licence of the Licensed Area on the terms and conditions in this Licence, for the purposes of:

B.1 allowing storage of a vehicle, to be used for the transportation of waste from the Property to the waste room located adjacent to the Licensed Area; and

B.2 setting out the procedure to be followed to allow transport of waste from the Property to the waste room located adjacent to the Licensed Area, and retrieval of the vehicle.

THE PARTIES AGREE

1. Definitions

In this Licence, unless expressed or implied to the contrary:

Adjustment has the same meaning given to that term in the GST Act.

Adjustment Note has the same meaning given to that term in the GST Act.

Commencement Date means the commencement date specified at Item 5 of the Schedule.

Common Property means Common Property No. 1 on Plan of Subdivision PS826420W**.**

Consideration means consideration payable under this Licence in return for a Taxable Supply, but does not include any amount on account of GST.

Development means Saint Moritz, 14-16 The Esplanade, St Kilda, Victoria.

GST Act means A New Tax System (Goods and Services Tax) Act 1999 (as amended).

GST has the same meaning given to that term in the GST Act.

Input Tax Credit has the same meaning given to that term in the GST Act, but also includes a reduced input tax credit under Division 70 and an adjusted input tax credit under Division 132 of the GST Act.

Item means an item in the Schedule.

Licensed Area means the area specified in Item 4.

Licence Fee means the amount specified in Item 7.

Licensee means the Licensee specified in Item 3 and includes the Licensee's successors and assigns and where it is consistent with the context includes the Licensee's employees, agents, invitees and persons the Licensee allows to use the Licensed Area.

Licensor means the Licensor specified in Item 2 above and includes the Licensor's successors and assigns and where it is consistent with the context includes the Licensor's employees and agents.

Property means lot 1R on PS826420W.

New Owner has the meaning as defined in clause 9.4.

Owners Corporation Rules means the owners corporation rules for owners corporation no. 1 on PS826420W, as set out in Annexure B.

Recipient has the same meaning given to that term in the GST Act.

Supplier means the entity making a Supply to the Recipient.

Supply has the same meaning given to that term in the GST Act.

Tax Invoice has the same meaning given to that term in the GST Act.

Taxable Supply has the same meaning given to that term in the GST Act.

Taxes means a tax, levy, duty, impost, fee, deduction, withholding or charge, however described, imposed by legislation, (including stamp and transaction duty) together with any related interest, penalty, fine or expense concerning any of them and the costs of challenging any of them.

Term means the Term specified in Item 6 of the Schedule.

Vehicle means a vehicle to be used for the transportation of waste from the Property to the waste room located adjacent to the Licensed Area in accordance with the procedure setout at clause 6.3.

2. Licence

The Licensor has exercised its powers under section 14 of the *Owners Corporations Act* 2006 to grant by special resolution a Licence of the Licensed Area (and associated access rights over the common property no. 1 and no. 5 on Plan of Subdivision PS826420W) to the Licensee subject to the terms, covenants, conditions and restrictions contained in this Licence, for the Term starting on the Commencement Date.

3. Payments by the Licensee

3.1 Payment of Licence Fee

The Licensee must pay the Licence Fee to the Licensor on the Commencement Date and in the manner specified in Item 7.

3.2 Costs and Duty

The Licensee must pay to the Licensor within 7 days of demand:

3.2.1 all Taxes levied in respect of this Licence, the Licensed Area or the rights granted to the Licensee under this Licence whether those Taxes are in force at or after the Commencement Date;

3.2.2 the operating costs incurred by the Licensor in connection with or as a result of this Licence, the Licensed Area or the rights granted to the Licensee under this Licence; and

3.2.3 the Licensor's costs (including charges on a solicitor-own client basis) incurred as a result of a breach of this Licence by the Licensee.

3.3 Interest on Late Payments

The Licensee must pay to the Licensor on demand interest at the rate per annum equal to the rate for the time being fixed under section 2 of the *Penalty Interest Rates Act* 1983 (Vic) on any money payable by the Licensee under this Licence and remaining unpaid for 7 days. Interest will be computed from the date on which such payment became due.

3.4 No Deduction or Right of Set-off

The Licensee must pay all amounts due under this Licence to the Licensor without deduction or right of set-off.

4. GST

4.1 GST Exclusive

Except as otherwise provided by this clause, all Consideration payable under this Licence in relation to any Supply is exclusive of GST.

4.2 Increase in Consideration

To the extent that any Supply under this Licence constitutes a Taxable Supply, the Consideration payable by the Recipient to the Supplier will be increased by the applicable amount of GST (**GST Amount**), which shall be calculated by multiplying the amount upon which GST is payable by the prevailing rate of GST.

4.3 Payment of GST

Any GST Amount must be paid by the Recipient to the Supplier at the same time and in the same manner as the relevant Consideration is paid or given under this Licence, without any right of set-off or deduction (unless otherwise provided in this Licence).

4.4 Reimbursements

If this Licence requires the Recipient to pay, reimburse or contribute to any expense, loss or outgoing suffered or incurred by the Supplier (**Relevant Expense**), the amount which the Recipient must pay, reimburse or contribute will be the amount net of any Input Tax Credits to which the Supplier is entitled in respect of the Relevant Expense, together with any GST Amount if the payment, reimbursement or contribution constitutes a Taxable Supply by the Supplier to the Recipient.

4.5 Tax Invoice

The Supplier must provide to the Recipient a valid Tax Invoice at or prior to the time of payment of any GST Amount.

4.6 Adjustments & Adjustment Notes

To the extent that any Adjustment occurs in relation to a Taxable Supply, the Supplier must issue an Adjustment Note to the Recipient within 7 days of becoming aware of the Adjustment, and any payment necessary to give effect to such Adjustment must be made within 7 days after the date of receipt of the Adjustment Note.

5. Use of Licensed Area

5.1 Use of Licensed Area

5.1.1 The Licensee may use the Licensed Area for the purposes of allowing storage of a Vehicle.

5.1.2 The Licensee must not use or allow anyone else to use the Licensed Area for any purpose other than the permitted use described in 5.1.1.

5.2 Nuisance

The Licensee must not do anything in connection with the Licensed Area which may cause a nuisance or interfere with any other person or impact on any activities of any users of any Common Property or land surrounding the Licensed Area.

5.3 Insurance

The Licensee must from Commencement Date effect and maintain a policy of insurance in the names of the Licensor and the Licensee (and of such other persons as the Licensor may reasonably require) in respect of liability for loss, injury or damage to any person or property whatsoever whether arising out of any act, omission, breach of duty or failure by the Licensor, the Licensee, the employees, agents and invitees of the Licensor or the Licensee or otherwise, on or in relation to the Licensed Area or the use of the Licensed Area by the Licensee in the sum of ten million dollars ($10,000,000) or such greater amount as the Licensor may reasonably nominate from time to time in order to effect a sufficient and proper cover in respect of any single accident or event.

6. Disposal of Rubbish from Property

6.1 The parties acknowledge that the Owners Corporation Rules contain requirements for disposing of rubbish from the Property (**Rubbish Disposal Rules**).

6.2 In addition to the Rubbish Disposal Rules, the Licensee (or its agents, contractors, invitees, consultants, tenants and employees), may dispose of rubbish generated at the Property in accordance with the procedure set out at clauses 6.3 and 6.4.

6.3 The Licensee may move rubbish generated at the Property by:

6.3.1 parking a Vehicle either on the street or on the Property itself;

6.3.2 loading a Vehicle with rubbish (loading must be via the street and not via an internal access point);

6.3.3 driving a Vehicle (via the street) to the Licensed Area, including across those external and driveway of Common Property No. 1 as necessary to access the Licensed Area; and

6.3.4 disposing of the rubbish in the waste facilities located adjacent to the Licensed Area.

6.4 The Licensee may traverse Common Property No. 1 and Common Property No. 5 on PS826420W to retrieve a Vehicle located on the Licensed Area, or to return to the Property after parking a Vehicle in the Licensed Area, on the condition that access can only be provided on foot.

7. Damage and Repair

7.1 Repair

The Licensee must repair any damage to the Licensed Area caused by want of care, misuse or abuse or otherwise on the part of the Licensee or any of its agents, contractors, invitees, consultants or employees in exercising the Licensee's right under the Licence or arising from the Licensee's failure to comply with the terms of this Licence.

7.2 Inspection

The Licensor and its agents, contractors, invitees, consultants and employees may upon reasonable notice inspect the state of repair of the Licensed Area and serve upon the Licensee a notice in writing requiring it to repair any defect.

8. Release and Indemnity

8.1 Release

The Licensee uses and occupies the Licensed Area at its own risk and releases the Licensor from all claims resulting from any damage, loss, death or injury in connection with the Licensed Area, except to the extent that the Licensor is negligent.

8.2 Indemnity

The Licensee must indemnify and hold harmless the Licensor against all claims resulting from any damage, loss, death or injury in connection with the use and occupation of the Licensed Area by the Licensee, except to the extent that the Licensor is negligent.

9. Assignment and Sub-Licensing

9.1 The Licensee must not assign, sublicense or part with possession with this Licence or its interest in the Licensed Area.

9.2 Despite clause 9.1, the Licensee may:

9.2.1 assign the Licence without the consent of the Licensor provided that:

(a) the assignee is, or is entitled to be registered proprietor of the Property;

(b) the Licensee gives written notice to the Licensor of the details of the assignee and the assignment; and

(c) the assignee has properly executed a deed of assignment, which includes a condition by which the assignee covenants to comply with all obligations of the Licensee under this Licence;

9.2.2 sublicense its interest in the Licensed Area (and associated access rights over Common Property No. 1 and Common Property No. 5 granted under this Licence) without the consent of the Licensor provided that:

(a) the sublicensee is, or is entitled to be, the tenant of the Property; and

(b) the Licensee gives written notice to the Licensor of the details of the sublicensee and the sublicense.

9.3 The Licensor must sign all things necessary to give effect to an assignment under clause 9.2 within 5 business days of the Licensee's request to do so.

9.4 If the registered proprietor of the Property transfers the Property to a purchaser (**New Owner**), the Licensee must simultaneously assign this Licence to the New Owner in accordance with clause 9.2.1.

10. Licensor not Liable

The Licensor will not be liable to the Licensee if the Licensee cannot obtain access to the Licensed Area in circumstances either:

10.1 required for installation; or

10.2 required for maintenance or repair; or

10.3 beyond the Licensor's reasonable control.

11. Right of Entry

The Licensee authorises the Licensor to enter the Licensed Area in the event of an emergency.

12. Licensee's Obligations at End of Licence

12.1 Licensee's Obligations

At the end of this Licence, the Licensee must remove any vehicle stored on the Licensed Area.

12.2 Licensee's Property Left in Licensed Area

Anything left in the Licensed Area at the end of this Licence will become the property of the Licensor and may be removed by the Licensor at the Licensee's cost and at the Licensee's risk.

13. Owners Corporation Rules

13.1 The Licensee must observe and comply with the Owners Corporation Rules.

13.2 A breach of the Owners Corporation Rules is a breach of this Licence.

13.3 Where there is any inconsistency between the terms of the Owners Corporation Rules and this Licence, the provisions of this Licence prevail.

14. Termination of Licence

14.1 Re-entry

The Licensor may terminate this Licence if the Licensee breaches this Licence and does not remedy the breach within 14 days of receipt of written notice from the Licensor.

14.2 Damages following Termination

If this Licence is terminated by the Licensor, the Licensee agrees to compensate the Licensor for any loss or damage the Licensor suffers in connection with the Licensee's breach of this Licence including the loss of the benefit of the Licensee performing its obligations under this Licence up to the expiration of the Term.

14.3 Termination by Licensee

The Licensee may terminate this Licence at any time by giving at least 30 days' written notice to the Licensor.

15. General

15.1 Notices

Any notice required to be served under this Licence must be in writing and must be served by post, facsimile transmission or hand delivered to:

15.1.1 the Licensee at its address set out in this Licence, the Licensee's registered office address or the last known address of the Licensee; and

15.1.2 the Licensor at its address set out in this Licence or any other address notified in writing to the Licensee by the Licensor.

15.2 Entire Understanding

This Licence contains the entire understanding between the parties as to the subject matter contained in it. All previous agreements, representations, warranties, explanations and commitments, expressed or implied, affecting this subject matter are superseded by this Licence and have no effect.

15.3 Waiver

If the Licensor accepts the Licence Fee or any other monies under this Licence (before or after the end of this Licence) or does not exercise or delays exercising any of the Licensor's rights under this Licence, it will not be a waiver of the breach of this Licence by the Licensee or of the Licensor's rights under this Licence.

15.4 Counterparts and Electronic Execution

15.4.1 This Licence may be executed in counterparts.

15.4.2 The parties agree that this Licence may be executed by electronic means. The parties agree to be bound by this Licence, including if executed electronically.

16. Interpretation

16.1 Governing Law and Jurisdiction

This Licence is governed by and is to be construed in accordance with the laws of Victoria. Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Courts of Victoria and waives any right to object to proceedings being brought in those Courts.

16.2 Persons

In this Licence, a reference to a person includes a firm, partnership, association, corporation or other corporate body.

16.3 Joint and Several

If a party consists of more than one person, this Licence binds them jointly and each of them severally.

16.4 Legislation

In this Licence, a reference to a statute includes regulations under it and consolidations, amendments, re-enactments or replacements of any of them.

16.5 Clauses and Headings

In this Licence:

16.5.1 a reference to a clause, schedule or appendix is a reference to a clause, schedule or appendix in or to this Licence; and

16.5.2 headings and sub-headings are inserted for ease of reference only and do not affect the interpretation of this Licence.

16.6 Severance

In this Licence:

16.6.1 if a provision is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable; and

16.6.2 if it is not possible to read down a provision as required in this clause, that provision is severable without affecting the validity or enforceability of the remaining part of that provision or the other provisions in this Licence.

16.7 Number and Gender

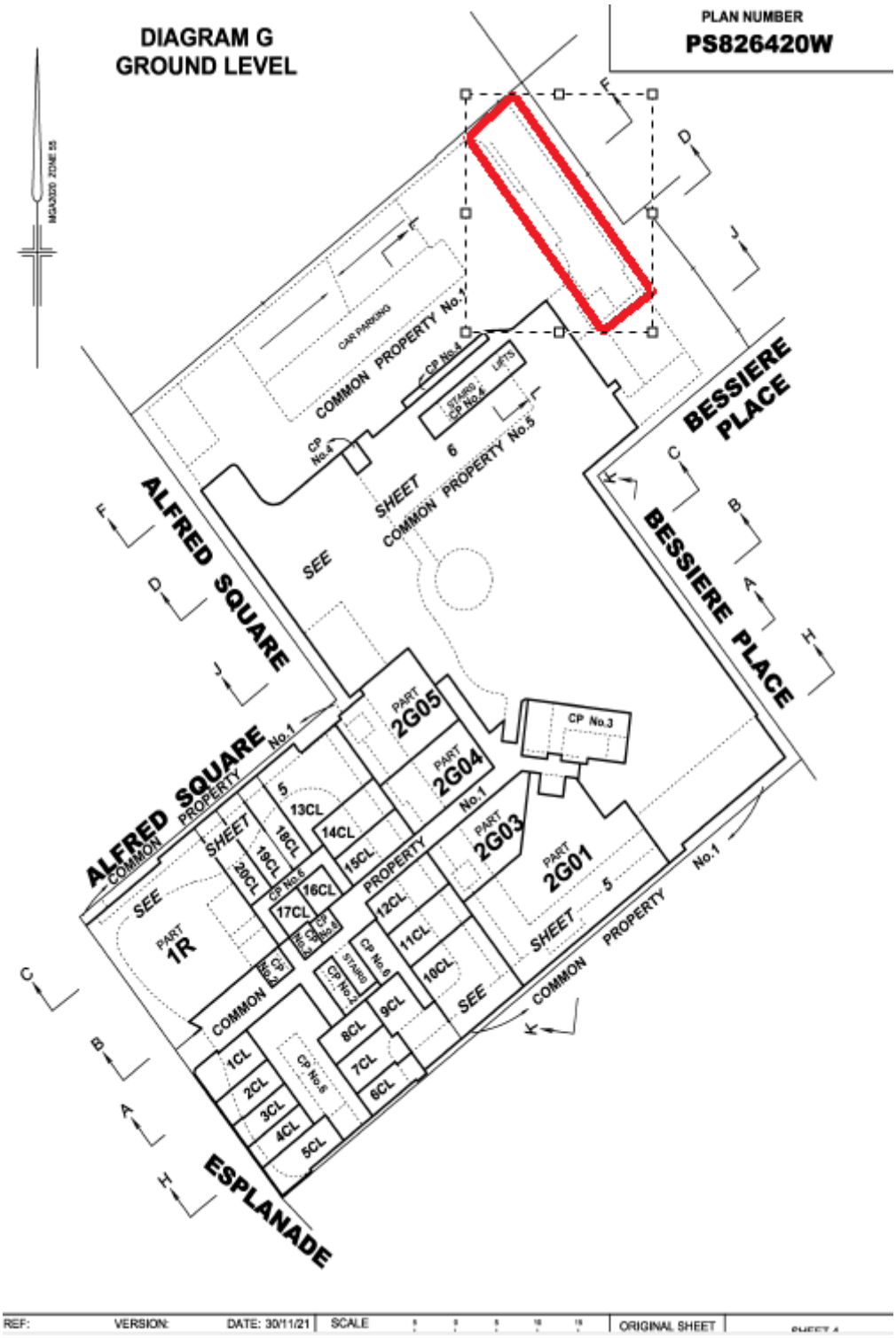
In this Licence, a reference to:

16.7.1 the singular includes the plural and vice versa; and

16.7.2 a gender includes the other genders.

Annexure A

Licensed Area Plan



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Annexure B

Owners Corporation Rules

Department of Environment, Land, Water & Planning

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OWNERS CORPORATION NOTIFICATION OF MAKING RULES SECTION 27E(1) SUBDIVISION ACT 1988 (WHEN LODGED WITH PLAN)

Applicant(s):
BARANA (ST KILDA) INVESTMENTS PTY LTD (ACN/ARBN: 160116076)
168 WILLIAMS ROAD PRAHRAN VIC 3181

Plan Number:
PS826420W

Owners Corporation Number:
1

Proposed rules of the Owners Corporation:
Appended

Execution:
1. The Certifier has taken reasonable steps to verify the identity of the applicant or his, her or its administrator or attorney.
2. The Certifier holds a properly completed Client Authorisation for the Conveyancing Transaction including this Registry Instrument or Document.
3. The Certifier has retained the evidence supporting this Registry Instrument or Document.
4. The Certifier has taken reasonable steps to ensure that this Registry Instrument or Document is correct and compliant with relevant legislation and any Prescribed Requirement.

Executed on behalf of BARANA (ST KILDA) INVESTMENTS PTY LTD

Secure Electronic Registries Victoria (SERV), Level 13, 697 Collins Street Docklands 3008
Locked bag 20005, Melbourne 3001, DX 210189
ABN 86 627 986 396

VICTORIA State Government

Department of Environment, Land, Water & Planning

Electronic Instrument Statement

Signer Name CATHERINE MARINO
Signer Organisation MADDOCKS
Signer Role AUSTRALIAN LEGAL PRACTITIONER
Execution Date 16 March 2022

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DX 259 Melbourne

Date / /

Owners Corporation Rules

Saint Moritz, 14-16 The Esplanade, St Kilda, Victoria

Owners Corporation No. 1 on Plan of Subdivision PS826420W

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Owners Corporation Rules

Date / /

Notes

The Act and Regulations detail the powers of the Owners Corporation(s), the general duties of members, meetings and administration of the Owners Corporation(s), insurance and other miscellaneous matters. These Rules must be read in conjunction with the Act, Regulations and the model rules prescribed under the Regulations.

1. Definitions

In these rules:

Act means the *Owners Corporations Act* 2006 (Vic) as amended from time to time.

Authority means any government or any public, statutory, governmental, semi-governmental, local government, municipal or judicial body, entity or authority and includes a Minister of the Crown (in any right), and any person, body, entity or authority exercising a power pursuant to an Act of Parliament.

Bicycle Store means the bicycle store common facilities located on the Common Property.

Building Works means all design, building and construction works including the construction, erection, fixing, installation or otherwise or any item not originally included with or part of a Lot or Common Property.

Building means all and any buildings, structures or improvements comprised in the Development.

Common Property means the land, the Building and any other improvements erected on 14-16 The Esplanade, St Kilda and designated as common property no. 1 on the Plan.

Developer means 14-16 The Esplanade by Gurner Pty Ltd ACN 626 307 131 or a Related Entity responsible for the development of the Development and creation of Lots and includes the Developer's successors and assigns and where it is consistent with the context includes the Developer's employees, agents, builders, contractors, subcontractors and invitees.

Development means all the land and improvements comprised in the Plan and known as Saint Moritz, 14-16 The Esplanade, St Kilda.

Development Agreement means any agreement between the Developer and Owners Corporation or in relation to the Development, including any ancillary agreements between the Developer and the Owners Corporation such as development leases or other licences.

Director has the same meaning as it has in the *Fair Trading Act* 1999 (Vic).

Dispute means a dispute or other matter arising under the Act, Regulations or Rules including a dispute or matter relating to:

(a) the operation of the Owners Corporation;

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(b) an alleged breach by a Member or Occupier of an obligation imposed on that person under the Act, Regulations or the Rules; or

(c) the exercise of a function by a Manager in respect of the Owners Corporation.

Dog and Car Wash Facilities means the dog and car wash common facilities located on the Common Property.

Domestic Building Contract means any domestic building contract within the meaning of the *Domestic Building Contracts Act* 1995 (Vic) entered into by the Initial Owner.

Governmental Agency means any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.

Initial Owner has the same meaning as it has under the Act and where the context requires includes its successors and assigns.

Land means the whole of the land described in the Plan.

Lot means a lot shown on the Plan.

Maintenance Fund means a fund or part of a fund used for implementation of the Maintenance Plan (if any).

Maintenance Plan means a maintenance plan (if any) established and approved by the Owners Corporation as contemplated by the Act.

Manager means the person or entity appointed by the Owners Corporation as Manager of the Owners Corporation(s) or, where the context permits, the building manager, concierge or valet appointed by the Owners Corporation to assist it with the functions of the Owners Corporation contemplated by the Rules and where relevant includes the Manager's successors and assigns and where the context requires includes the Manager's officers, employees, agents, contractors, subcontractors and invitees.

Member means a member of the Owners Corporation by reason of being the owner of a Lot for the time being and where the context requires includes an Occupier or their invitees.

Occupier means the person or entity authorised by the Member to occupy the designated Lot as tenant or licensee and where the context requires includes the Occupier's invitees.

Owners Corporation means the Owner Corporation No. 1 on the Plan.

Plan means Plan of Subdivision No. PS826420W.

Regulations means the *Owners Corporations Regulations* 2018 (Vic) as amended from time to time.

Related Entity has the same meaning given to that term in the *Corporations Act* 2001 (Cth).

Retail Lot means a Lot for Retail Purposes.

Retail Purposes means use for a restaurant, café, retail use or other commercial purpose, subject to any approvals required by an Authority.

Rule or **Rules** means these rules which are for the purpose of the control, management, administration, use or enjoyment of the Common Property or any Lot as amended from time to time.

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Vendor means Barana (St Kilda) Investments Pty Ltd.

2. Interpretation

2.1 Unless the context otherwise requires:

2.1.1 headings are for convenience only;

2.1.2 words imparting the singular include the plural and vice versa;

2.1.3 expressions imparting a natural person includes any company, partnership, joint structure, association or other Owners Corporation and any governmental authority; and

2.1.4 a reference to a thing includes part of that thing.

2.2 The obligations and restrictions in these Rules must be read subject to the rights, grants or privileges that may be given to any person or entity by the Owners Corporation from time to time and to the extent of any inconsistency, such rights, grants or privileges, must prevail over these Rules in respect of the person or entity to whom they are given.

2.3 In these Rules:

2.3.1 if a provision is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable; and

2.3.2 if it is not possible to read down a provision as required in this Rule, that provision is severable without affecting the validity or enforceability of the remaining part of that Rule or the other Rule;

2.3.3 references to 'Owners Corporation' includes any person or body authorised to act on behalf of the Owners Corporation delegated any power or functions by the Owners Corporation or appointed by the Owners Corporation to assist in carrying out its functions, including without limitation the Manager, as the context permits.

2.4 In the event of a conflict between these Rules and any restriction on the Plan, the restriction will prevail.

2.5 In the event of a conflict between these Rules and the model rules prescribed under the Regulations, these Rules prevail.

3. Role and functions

3.1 The Owners Corporation is responsible for ensuring that appropriate rules, measures and procedures are established to govern issues common to the Members, including that the Common Property and/or a Lot are maintained for the benefit and enjoyment of all Members and Occupiers. The Owners Corporation exercises such responsibilities through enforcing the Rules and through holding regular committee meetings at which matters affecting the operation of the Common Property are resolved and advised to all Members.

3.2 The Owners Corporation must abide by the Rules, Act and Regulations, and in carrying out its functions and powers must act honestly and in good faith and exercise due care and diligence.

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3.3 These Rules are for the purpose of the control, management, administration, use or enjoyment of the Common Property or a Lot and represent the interests of Members and Occupiers. The Rules may be added to, amended or revoked:

3.3.1 if a resolution is passed after a ballot or poll is taken and 75% of the total lot entitlements of all the Lots are in favour of such addition, amendment or revocation; or

3.3.2 if a resolution is passed in any other case and 75% of the total votes for all the Lots are in favour of such addition, amendment or revocation (**Special Resolution**).

3.4 Under the Act and Regulations, the Owners Corporation is responsible for, amongst other things:

3.4.1 electing the Committee (if required);

3.4.2 establishing a Maintenance Plan and Fund;

3.4.3 establishing and maintaining an Owners Corporation Register;

3.4.4 taking out, maintaining and paying the premiums for insurance;

3.4.5 keeping proper accounts that cover the income, expenditure, assets and liabilities of the Owners Corporation and providing true reports of the financial situation of the Owners Corporation; and

3.4.6 preparing annual financial statements.

4. Provision of services

4.1 Each Member of the Owners Corporation agrees that the Owners Corporation will provide the following services:

4.1.1 the repair and maintenance of all Common Property including gardens, trees, paved areas and landscaping; and

4.1.2 any other service or facility provided by the Owners Corporation for the benefit of the Members.

4.2 A Member or an Occupier acknowledges that:

4.2.1 the Owners Corporation may share amongst the Members and Occupiers the costs of supply and maintenance (based on lot liability or other methodology determined by the Owners Corporation) of any gas facility or power facility required for heating or air conditioning or any variable refrigerant volume or variable refrigerant flow system (VRV) to the Lots affected by the Owners Corporation or any Common Property; and

4.2.2 where any Lot is not separately metered in relation to any service, including gas, electricity, water, heating, air conditioning and/or VRV, then the Occupier shall pay a proportion of such service and supply charges relating to same on a proportional rate by dividing the unit liability of that Lot by the total unit liability of all Lots serviced jointly or as otherwise determined by the Owners Corporation, acting reasonably.

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5. Use of a Lot

5.1 A Member must not:

5.1.1 create noise or behave in a manner that is likely to interfere with the peaceful enjoyment of the member of another Lot, or any person lawfully using the Common Property;

5.1.2 operate or permit to be operated on a Lot any device or electronic equipment which interferes with any domestic appliance lawfully in use on the Common Property, or another Lot;

5.1.3 use or store on the Lot any flammable chemical, liquid, gas or other flammable material other than chemicals, liquids, gases or other material used or intended to be used for normal and lawful domestic purposes or in the fuel tank of a motor vehicle;

5.1.4 use that part of a Lot designed for use as a car parking space for any other purpose without the prior written consent of the Owners Corporation;

5.1.5 use that part of a Lot designed for use as storage for any other purpose without the prior written consent of the Owners Corporation;

5.1.6 use that part of a Lot designed for use as wine storage for any other purpose without the prior written consent of the Owners Corporation;

5.1.7 use that part of a Lot designed for use as a VIP locker for any other purpose than storage without the prior written consent of the Owners Corporation;

5.1.8 carry out or cause to be carried out on a Lot, road or any other land in the vicinity of a Lot, any dismantling, assembly, repairs or restorations of vehicles unless carried out in an area screened from public view; and

5.1.9 use the Lot for any purpose that may be illegal or injurious to the reputation of the premises comprised of the lots and the Common Property or which may cause a nuisance or hazard to any other member of a Lot.

5.2 Each Member must:

5.2.1 maintain their Lot and must ensure that their Lot is so kept and maintained as not to be offensive in appearance nor a fire or health hazard to other Members; and

5.2.2 comply with all laws relating to the Lot including, without limitation, any requirement, notices and orders of any governmental authority.

6. Notification of Defects

A Member or Occupier of must promptly notify the Owners Corporation or the Manager on becoming aware of any damage to or defect in the Common Property or any personal property vested in the Owners Corporation.

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7. Compensation to Owners Corporation

The Member or Occupier must compensate the Owners Corporation in respect of any damage to the Common Property or personal property vested in the Owners Corporation caused by that Member or Occupier or their respective tenants, licensees or invitees.

8. Pets and animals

8.1 A Member can keep any animal upon a Lot or the Common Property unless the Member has been given notice by the Owners Corporation to remove and keep removed such animal once the Owners Corporation has resolved that the animal is causing a nuisance.

8.2 A Member must ensure that any animal belonging to them does not urinate or defecate on Common Property including internal court yards. In the event any animal belonging to them does urinate or defecate on Common Property, the Member must immediately clean up the urine and/or faeces.

8.3 A Member must ensure that any animal belonging to them must be on a lead at all times when on the Common Property.

9. Cleaning and maintenance of a Lot

9.1 A Member or Occupier must keep its Lot (including any car park, storage cage, wine storage lot or VIP locker utilised by the Member or Occupier) clean and in good repair.

9.2 A Member or Occupier must ensure that the external blinds or screens forming part of the Lot are regularly maintained and kept clean at all times. Failure to clean or maintain the external blinds or screens on a regular basis will cause the Owners Corporation to maintain the blinds or screens at a cost to the Member.

9.3 A Member or Occupier must ensure that all landscaped areas and pools/spas visible from Common Property or which adversely affect the outward appearance or state of repair of the Lot or the use and enjoyment of the Lots or Common Property by other Members or Occupiers are maintained to a standard commensurate with the standard of maintenance of Common Property landscaped areas or as reasonably directed by the Owners Corporation or its Manager. Failure to comply with this rule will cause the Owners Corporation to landscape areas or clean pools/spas visible from Common Property at a cost to the Member.

9.4 Without limiting rule 9.3, a Member or Occupier must ensure that any palm trees situated on their Lot are regularly maintained, including trimming fronds away from the glazing line of the Building.

10. Blinds, Windows and Awnings

10.1 A Member or Occupier may only install window furnishings which are:

10.1.1 blockout roller blinds:

(a) the colour of the blockout backing facing the window is charcoal grey or any other similar colour approved by the Owners Corporation in writing; and

(b) on a ceiling mounted track; or

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10.1.2 sheer roller blinds:

(a) the colour of the sheer backing facing the window is charcoal grey or any other similar colour approved by the Owners Corporation in writing; and

(b) on a ceiling mounted track; or

10.1.3 blockout curtains:

(a) the colour of the blockout backing facing the window is charcoal grey or any other similar colour approved by the Owners Corporation in writing;

(b) full height drop without decorative pelmets or valances; and

(c) on ceiling mounted track; or

10.1.4 sheer curtains:

(a) the colour is white or any other similar colour approved by the Owners Corporation in writing;

(b) full height drop without decorative permits or valances; and

(c) on ceiling mounted track.

10.2 The Member or Occupier is responsible for any costs and expenses associated with the window furnishings, including without limitation the cost of the window furnishings and any installation costs.

10.3 A Member or Occupier must install and maintain internal window furnishings on their Lot, at their own cost, in a manner so as to ensure efficient operation of the heating/cooling system of the Lot.

10.4 A Member or Occupier must not allow any glazed portions of the Lot or the Common Property that surrounds the Lot to be tinted or similar treated.

10.5 A Member or Occupier must not install or allow to be installed any:

10.5.1 external blinds or awnings; or

10.5.2 internal window furnishings visible from the outside of the Lot (other than as allowed under this Rule),

without prior approval from the Owners Corporation in writing.

10.6 Timber plantation style solid shutters, venetian blinds, pleated blinds and similar horizontal appearance to venetians, vertical blinds and highly ornate fabric blinds or any finish are not permitted.

11. Building Works

11.1 A Member must not undertake any Building Works, including the alteration or modification to the external façade of a Lot, the removal or replacement of floor coverings or materials, fixing or having fixed any electrical, audio visual, or communication device or equipment (for example, plasma or LCD televisions or speakers) within or about or relating to their Lot which may effect the acoustic performance of any inter-tenancy wall, floor or ceiling, without:

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11.1.1 the prior written approval of the Owners Corporation; and

11.1.2 providing at least 28 days' notice of the Building Works to each horizontal and vertical neighbour.

11.2 Before commencing any Building Works, a Member must:

11.2.1 submit to the Owners Corporation for approval plans and specifications of any proposed Building Works;

11.2.2 obtain, for any Building Works proposal submitted for approval, certification by a qualified acoustics engineer that the works when completed will meet the Building Code of Australia minimum requirements for sound attenuation;

11.2.3 receive written approval from the Owners Corporation to proceed with those specified Building Works;

11.2.4 obtain and supply copies to the Manager of all requisite permits, approvals and consents under all relevant Laws;

11.2.5 pay costs to the Owners Corporation where a building contractor or consultant may be engaged to advise the Owners Corporation on the proposed Building Works even if consent is not given;

11.2.6 cause to be effected and maintained during the period of the Building Works a contractor's all risk insurance policy;

11.2.7 deliver a copy of the contractor's all risk insurance policy and certificate of currency to the Owners Corporation which notes the interests of the Owners Corporation.

11.3 A Member or Occupier must ensure that any contractor engaged to perform approved Building Work on their Lot complies with the reasonable directions of the Owners Corporation concerning the method of building operations, means of access, use of the Common Property, on-site management, building protection and hours of work. The Member or Occupier must also supervise the carrying out of such Building Works and ensure that the following conditions are met:

11.3.1 the Building Works are undertaken in:

(a) accordance with the requirements of the *Occupational Health and Safety Act* 2004 (Vic) and the *Occupational Health and Safety Regulations* 2017 (Vic), as amended or replaced from time to time; and

(b) a reasonable manner so as to minimise any nuisance, annoyance, disturbance and inconvenience to other Members or Occupiers;

11.3.2 building materials are not stacked or stored in Common Property;

11.3.3 scaffolding is not erected on the Common Property or the exterior of the Building, without the prior written approval of the Owners Corporation;

11.3.4 construction work complies with all Laws of the relevant Authorities;

11.3.5 construction vehicles and construction worker's vehicles are not brought into, or parked on the Common Property except by prior arrangement with the Owners Corporation;

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11.3.6 the exterior and Common Property of the Building is at all times be maintained in a clean and tidy state;

11.3.7 suitable floor, wall and other protections is installed in the Common Property before any building materials are taken through those parts of the Common Property; and

11.3.8 all contractors and tradesmen use only the basement, lifts, lobby and areas designated by the Manager when working in the Lot.

11.4 Where a Member or Occupier commissions Building Work in accordance with Rule 11.3, a representative of the Owners Corporation and the Member or Occupier must inspect the part of the Common Property which will be affected by the Building Works (for example, the area through which building materials will be transported) prior to commencing the Building Work to establish the state of repair of the Common Property and again after the Building Work has been completed to determine if any damage has been caused to the Common Property.

11.5 A Member or Occupier must promptly make good all damage to and dirtying of the Building, the Common Property, the services thereof or any fixtures and fittings and finishes which are caused by any Building Works. If the Member or Occupier fails to do so the Owners Corporation may in its absolute discretion make good the damage and dirtying at the Member's or Occupier's expenses. The Member or Occupier must indemnify and keep indemnified the Owners Corporation for all costs and liabilities incurred by the Owners Corporation in so making good the damage or dirtying caused by the Building Work. The Owners Corporation may at their absolute discretion demand from the Member or Occupier a performance bond in relation to the cleaning or repair of the Common Property to guarantee their performance under this Rule.

11.6 Before commencing any Building Works, a Member or Occupier must ensure that the walls, floor and ceiling of the lifts are adequately protected from damage.

12. Use of appurtenances

12.1 A Member or Occupier must not use the water closet, conveniences or other water apparatus, including water pipes and drains for any other purpose than those which they were constructed and, must not sweep or deposit rubbish, baby wipes or other unsuitable substances therein. The Member indemnifies and keeps indemnified the Owners Corporation on a full indemnity basis for any costs or expenses resulting from any damage or blockage incurred by the Owners Corporation where the damage or blockage was caused by the Member, Occupier or their invitees.

13. Fittings

13.1 A Member or Occupier must:

13.1.1 not modify any VRV, air-conditioning, heating or ventilation system or associated ducting servicing that services the Member's Lot without the prior consent of the Owners Corporation;

13.1.2 not install in a Lot a floor safe, a safe, or any other item exceeding 100kg in weight without a written consent of the Owners Corporation and before submitting to the Owners Corporation a structural engineering report in respect to the proposed installation; and

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13.1.3 ensure that all floor space within a Lot is covered or otherwise treated to an extent sufficient to prevent the transmission from the floor space of the Lot noise likely to disturb the peaceful enjoyment of the Member or Occupier of another Lot.

13.2 A Member or Occupier must not affix or have affixed to any Common Property wall, floor or ceiling any electrical, audio visual or communication device or equipment without the prior written consent of the Owners Corporation including but not limited to plasma or LCD televisions or speakers.

14. Use of Common Property

14.1 A Member or Occupier must not:

14.1.1 do or allow to be done anything on the Common Property which causes a nuisance to or interferes with its lawful use by the Owners Corporation or other Members;

14.1.2 do or permit anything which might cause structural damage to the Common Property;

14.1.3 interfere with the operation of any equipment installed on the Common Property without the prior written consent of the Owners Corporation;

14.1.4 interfere with any personal property vested in the Owners Corporation;

14.1.5 park or leave a vehicle or permit any vehicle to be parked or left upon the Common Property or in any place other than in a parking area specified for such purpose by the Owners Corporation;

14.1.6 paint, finish, drive nails or screws or the like into, or otherwise damage, alter or deface the Building or any other part of the Common Property including the external facade except with the consent in writing of the Owners Corporation;

14.1.7 when on Common Property (or if on any part of a Lot so as to be visible from another Lot or from Common Property), fail to be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to the Member or Occupier of another Lot or to any person lawfully using Common Property;

14.1.8 deposit or throw upon the Common Property any rubbish, dirt, dust or other material likely to interfere with the peaceful enjoyment of other Member or any person lawfully using the Common Property;

14.1.9 disregard any requirements made by the Owners Corporation relating to the use of any access keys and intercom system that may be provided as the means of access upon roadways created within the Common Property;

14.1.10 use or store on the Common Property any flammable chemical, liquid, gas or other flammable material other than chemicals, liquids, gases or other material used or intended to be used for normal and lawful domestic purposes or in the fuel tank of a motor vehicle;

14.1.11 hold or allow to be held any public auction on or near the Common Property;

14.1.12 directly instruct any contractors or workmen employed by the Owners Corporation unless so authorised;

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14.1.13 except with the consent in writing of the Owners Corporation, use for their own purposes as a garden any portion of the Common Property; and

14.1.14 smoke in the stairwells, lifts, foyers, and car park forming part of the Common Property or any other part of the Common Property.

14.2 A Member or Occupier:

14.2.1 must notify the Owners Corporation or its Manager promptly when becoming aware of any damage to or defect in the Common Property or any personal property vested in the Owners Corporation;

14.2.2 must ensure that any guests or invitees of the Member or Occupier are accompanied at all times when on Common Property; and

14.2.3 acknowledges that the use of the Common Property is subject to any written agreements, leases or licences that the Owners Corporation may enter into relating to areas of the Common Property.

15. Lifts

15.1 A Member or Occupier must not and must ensure that the Occupier of a Member's Lot does not:

15.1.1 use the lifts for any other purpose other than to gain pedestrian access to his or her Lot as directed by the Owners Corporation;

15.1.2 hold the lift doors and/or prevent the doors of the lift closing for any period of time so as to interfere with the normal operation of other Occupiers' use of the lifts;

15.1.3 press the alarm or stop button except in an emergency situation;

15.1.4 press any button other than the one representing the floor or level that the lift is required to stop at; and

15.1.5 change any lift programming that gives preferential access to a Lot(s) within the Development.

15.2 Retail Lot occupants are not permitted to utilise the residential lifts to transport any goods.

16. Parking

16.1 Only motor vehicles and motorbikes are permitted to be located in a car space or garage allocated to a Lot and a Lot's allocated car space or garage can only be used for the storage of motor vehicles and motorbikes and not for the storage of any other items.

16.2 Members and Occupiers must park only in the car space allocated to the Lot and not in any other carparking space allocated to another Lot or any carparking spaces allocated for the use of visitors to the Development.

16.3 If a Member or Occupier of a Lot has more vehicles than the car spaces allocated to that Lot, any additional vehicles must be parked outside the Development.

16.4 Members must not close in any carparking space allocated to the Lot to make a private garage-style carparking space without the prior written approval of the Owners Corporation.

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16.5 Visitors parking provided on any Common Property (if any) is reserved for casual visitors to Lots, and is restricted to a maximum 1 hour parking time. Members and Occupiers must ensure that visitors parking is not used by long term visitors for more than 1 hour at a time without the prior consent of the Owners Corporation.

16.6 The Owners Corporation has the power to:

16.6.1 impose a speed limit for driving in Common Property;

16.6.2 impose reasonable restrictions on the use of Common Property, driveways and parking areas;

16.6.3 install speed humps and other traffic control devices on Common Property; and

16.6.4 install signs in relation to parking to control driving on Common Property.

16.7 A Member or Occupier of a Lot must comply at all times with the speed limits, restrictions, parking and traffic signs imposed or installed by the Owners Corporation or the Manager.

16.8 A Member of Occupier of a Lot must not park or leave a vehicle or other similar object on Common Property so as to obstruct any driveway or entrance to a Lot, or in any place other than in parking areas specified by the Owners Corporation or the Manager from time to time and must observe any parking directions given orally or published by the Manager from time to time in respect of parking.

16.9 A Member or Occupier of a Lot must not:

16.9.1 obstruct a driveway or entrance to a Lot or any other road in the Common Property;

16.9.2 allow parking spaces to be purchased by or leased to non residents/non Occupiers; or

16.9.3 allow parking spaces to be used for anything other than for the parking of vehicles, trailers or similar.

16.10 The Owners Corporation or Manager may remove any offending vehicles, trailers or motorbikes which are parked on the Common Property or in any carparking spaces in breach of these Rules.

16.11 A Member or Occupier must ensure its car parking space(s) are free of oil, petrol and like substances. The Owners Corporation may clean any car parking space which is excessively stained by oil, petrol or a like substance at the Member's or Occupier's expense if after providing 14 days notice the Member or Occupier has failed to clean the excessive staining. The Owners Corporation may authorise a person to enter the relevant Lot or Building on its behalf to carrying out cleaning of car spaces in accordance with this Rule.

17. Bicycles

17.1 A Member or Occupier must not permit any bicycle to be stored on Common Property except in areas designated by the Owners Corporation or otherwise with its written consent.

17.2 Members or Occupiers must indemnify and keep indemnified the Owners Corporation on a full indemnity basis for the costs of repairing any damage to the Common Property arising out of bringing their bicycles on to any Lot (for example, corridors, lifts).

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18. Bicycle Store

18.1 When using the Bicycle Store, a Member and an Occupier:

18.1.1 must ensure that unless otherwise stated, children below the age of 15 years are not in or around the Bicycle Store unless accompanied by an adult Member or Occupier exercising effective control over them;

18.1.2 must ensure that no guests are allowed in the Bicycle Store, subject to prior approval of the Manager and subject to any conditions on entry determined by the Manager;

18.1.3 is responsible (at its cost) for any damage, cleaning or reinstatement costs incurred by the Owners Corporation or Manager as a result of its (or its guests) use of the Bicycle Store;

18.1.4 must not smoke or make any undue noise in the Bicycle Store;

18.1.5 must ensure that the Bicycle Store is left in the same condition in which it was found;

18.1.6 use the Bicycle Store at their own risk; and

18.1.7 must not use the Bicycle Store for any purpose other than storing their bicycle.

18.2 The Members and Occupiers agree that:

18.2.1 the Manager may close off one or more areas of the Bicycle Store at its reasonable discretion, including to allow for the safe or desirable use of the Bicycle Store, for the purposes of maintenance, works and the like;

18.2.2 the Owners Corporation may make additional or separate rules relating to the use of the Bicycle Store provided they are not inconsistent with these Rules. If breached, rules relating to the Bicycle Store will constitute a breach of these Rules.

19. Moving object on or through Common Property

19.1 The Owners Corporation may resolve that furniture or large objects are to be transported through or on the Common Property (whether in the Building or not) in a specified manner.

19.2 If the Owners Corporation has specified, by resolution, the manner in which furniture or large objects are to be transported, a Member or Occupier must not transport any furniture or large object through or on the Common Property except in accordance with that resolution.

19.3 When using the lifts to move goods or furniture a Member or Occupier must ensure that the walls, floor and ceiling of the lifts are adequately protected from damage.

19.4 If the Member or Occupier requires the use of a crane to move goods or furniture, the Member or Occupier must first notify (by giving at least 7 days' written notice) and obtain the consent of the Owners Corporation. The Member or Occupier must cooperate with and comply with any requirements of the Owners Corporation (acting reasonably) in order to facilitate the use of the crane and minimise disruption to other Members or Occupiers.

19.5 A Member or Occupier must not move any article of furniture or any other article likely to cause damage or obstruction through the Common Property without first notifying the

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Owners Corporation (by giving at least 7 days' written notice) to enable the lifts to be covered and ensure only one Member or Occupier is moving in at a time.

19.6 Prior to moving any article of furniture or any other article likely to cause damage or destruction, the Manager or a representative of the Owners Corporation and the Member or Occupier will inspect the Common Property through which such article is to be moved to establish its state of repair. The Member or Occupier will be liable for any damage caused to the Common Property arising from the movement of the article.

20. Signage and windows

20.1 A Member is not permitted to display signs, advertising or notices on any Lot, including for the purpose of offering for sale or lease or letting any Lot or Common Property, without the consent of the Owners Corporation. Any sign that is erected must be of a standard that shall not detract from the overall appearance of the Development.

20.2 A Member is not permitted to display any advertising material, logos or sign writing to any external window, glazing or external solid face of a lot without the written consent of the Owners Corporation.

20.3 A Member must not allow any glazed portions of the Lot or Common Property to be tinted or otherwise treated with the intention of changing the visual characteristic of the Development.

21. Mail

21.1 Members and Occupiers must keep their mail box regularly cleared to avoid overflowing of mail, leaflets, circulars, pamphlets, newspapers, advertising material or other objects whatsoever at any one time, whether solicited or not, and must arrange for all such required clearance by other persons should a Member or Occupier be absent for any reason for any period of time to avoid such overflowing. This requirement may be waived upon request made to the Owners Corporation in writing not less than seven days prior to the date or dates for which such waiver is required.

21.2 Where large parcels do not fit into a mail box, Members and Occupiers consent to the Manager holding such parcels on their behalf, until collected by the Member or Occupier.

22. Garbage disposal

A Member of a Lot must:

22.1 except where the Owners Corporation provides some other means of disposal of garbage, maintain within their Lot, or on such part of the Common Property as may be authorised by the Owners Corporation, a receptacle for garbage and to keep such receptacle in a clean and tidy condition and not visible to the public except on days designated for rubbish collection;

22.2 comply with all requirements of Governmental Agencies relating to the disposal of garbage;

22.3 ensure that rubbish is disposed of in accordance with the disposal facilities of the Building, and the rules/directions of the Owners Corporation from time to time (for example recyclables are placed in the recycle chute);

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22.4 consult with and seek approval from the Owners Corporation in respect of the disposal of large articles to ensure that they are disposed of appropriately;

22.5 ensure that rubbish does not accumulate on their Lot, and that the health, hygiene and comfort of other Members is not adversely affected by their disposal of garbage;

22.6 ensure that rubbish is transported from their Lot to the designated garbage room on the Common Property in an appropriate watertight receptacle; and

22.7 pay or reimburse the Owners Corporation any costs incurred by the Owners Corporation as a result of the Member or Occupier's misuse of the garbage disposal facilities, or other breach of this rule 22.

23. Restrictions – trade or business

23.1 The Member or Occupier must not use or permit others from using that Lot or any part of the Common Property for any trade, business or other retail use without the express written consent of the Owners Corporation unless that Lot is a Retail Lot.

23.2 If authorised to do so by the Owners Corporation, the Member or Occupier of any Lot may carry on a trade, business or other retail use from the relevant Lot, provided:

23.2.1 the planning scheme of the relevant Authority governing the use of that Lot permits the trade, business or other commercial use to be carried on from the Lot; and

23.2.2 any requirements in respect of the trade, business or other commercial use stipulated by any relevant Authority from time to time are complied with; and

23.2.3 the trade, business or other commercial use can be carried on and is carried on without causing undue nuisance or, creating a greater security risk to the Members and Occupiers of other Lots.

24. Commercial area

24.1 Without limiting any other rule, the proprietor or occupier of a Retail Lot used for Retail Purposes must:

24.1.1 ensure that rubbish is disposed of in the bins provided in the Building by the Owners Corporation at the end of each day of business, in a discrete manner via the basement, or in any other location or manner advised by the Owners Corporation as may be necessary or desirable;

24.1.2 avoid unnecessary noise when filling bins;

24.1.3 ensure lids on bins are securely closed after taking rubbish to the bins;

24.1.4 ensure all cardboard and paper waste is cut up or folded and neatly contained in bins;

24.1.5 otherwise comply with rule 22;

24.1.6 comply with all health, noise and other regulations in carrying on the business from the Lot;

24.1.7 any mechanical fluing must be charcoal filtered or equivalent;

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24.1.8 small utility deliveries are to be between 5:30am – 6:00pm Monday to Friday and 6:30am – 6:00pm Saturdays & Sundays;

24.1.9 large deliveries are to be between 8:00am – 6:00pm Monday to Sunday;

24.1.10 not permit electronic gaming machines;

24.1.11 make all reasonable attempts to address/treat any odours that emanate from the Lot; and

24.1.12 ensure that all wall, floor and ceiling linings and treatments are acoustically treated where required by the Owners Corporation or Manager.

24.2 Nothing herein will prevent or prohibit any owner or Occupier of a Retail Lot from carrying on its reasonable business operations within a Retail Lot and to apply for, and obtain, any planning permit, liquor licence, or any other legislative consent or permit which the owner of any Retail Lot may apply for, provided that all times the proprietor or occupier of any such Retail Lot:

24.2.1 operates lawfully;

24.2.2 obtains each and every permit, liquor licence or other consent required; and

24.2.3 operates within the terms of any such liquor licence, permit or consent.

24.3 The owner or Occupier of any Retail Lot will be responsible for all costs associated with the cleaning, repairs and maintenance of the areas licensed to them. The licensees will be responsible for ensuring that these areas are kept in a pristine condition at all times.

24.4 Any owner or Occupier of a Retail Lot will be entitled to reasonable access at all times for invitees and customers through those parts of the Common Property necessary for usual business practice.

24.5 The Owners Corporation(s) will not hinder access to the Retail Lots via the main front entry except when they are required to undertake routine maintenance of these areas.

24.6 Rule 20 does not apply to a Lot used for Retail Purposes.

25. Behaviour of Invitees

25.1 The duties and obligations imposed by these special rules upon a Member of a Lot must be observed not only by the Member but also by the guest, servants, employees, agents, children, invitees and licensees of the Member or the occupier of their Lot (Invitees).

25.2 A Member must take all reasonable steps to ensure that their Invitees do not behave in a manner likely to interfere with the peaceful enjoyment of any Member or occupier of another Lot or of any person lawfully using the Common Property or which may result in damage to any Common Property.

25.3 A Member is liable to compensate the Owners Corporation for all damage to the Common Property or personal property vested in it caused by a breach of Rule 25.1 and 25.2.

25.4 Where the Owners Corporation expends money to make good damage caused by a breach of the Act, or of these rules by any Member or Invitees, the Owners Corporation can recover the amount so expended as a debt in action in any Court of competent jurisdiction from the Member of the Lot at the time when the breach occurred.

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25.5 Rules 25.1 to 25.4 are intended to operate in addition to the requirements of the Act.

26. Owners Corporation fees

26.1 The Member must pay the fees set by the Owners Corporation to cover general administration and maintenance, insurance and other recurrent obligations quarterly in advance according to their lot liability.

26.2 The amount of the annual Owners Corporation fees which is payable by each Member will be established at each annual general meeting of the Owners Corporation.

26.3 Any special fees or charges levied by the Owners Corporation to cover extraordinary items of expenditure must be paid on the due date set by the Owners Corporation upon the levying of each special fee or charge.

27. Consent of Owners Corporation

A consent given by the Owners Corporation under these Rules will, if practicable, be revocable and may be given subject to conditions including, without limitation, a condition evidenced by a minute of a resolution that the member for the time being of the lot to which the consent or approval relates is responsible for compliance with the terms of the consent.

28. Enforcement of Domestic Building Contract

The Member agrees that for the purpose of its obligations under the Act:

28.1 the Members acknowledge and agree that reasonable steps to enforce any domestic building contract (within the meaning of the Domestic Building Contracts Act 1995) include:

28.1.1 the making of a demand in writing to the builder under any domestic building contract to comply with the terms of the domestic building contract and/or rectify any breach of the domestic building contract;

28.1.2 the exercise of any right under the domestic building contract to withhold any payment to the builder or have recourse to any security provided by the builder under the domestic building contract;

28.1.3 the settlement of any dispute under any domestic building contract between the original owner and the builder on terms acceptable to the original owner; and

28.1.4 any other enforcement action the Initial Owner considers appropriate in the circumstances; and

28.2 the Members agree to pay or reimburse the Initial Owner its portion of any enforcement relative to its lot liability.

29. Complaints and disputes

29.1 Any Dispute must be dealt with at first instance in accordance with this Rule 29.

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29.2 A party to a Dispute must not initiate legal proceedings or complain to the Director in respect of the Dispute unless it has first complied with the dispute resolution procedure set out in this Rule 29.

29.3 The party making the complaint must in the first instance notify the Manager, or where the Manager is the subject of or involved in the Dispute, the Committee, of the Dispute in writing. The Manager must refer any complaint it receives to the Committee. Upon receipt of a complaint referred by the Manager or received directly from a Member or Occupier, the Committee will then decide (at its absolute discretion having regard to the nature and urgency of the Dispute) whether to:

29.3.1 arrange a meeting between the parties to resolve the Dispute; or

29.3.2 waive the requirement for the parties to meet.

29.4 Notwithstanding the course of action elected by the Committee under Rule 29.3, the parties must consult with one another in good faith and use their best endeavours to resolve the Dispute to the mutual satisfaction of both parties without resort to legal proceedings or other avenues of dispute resolution.

29.5 Without limiting the generality of this Rule 29, where no formal complaint is made by a Member or Occupier and the Owners Corporation otherwise becomes aware of a Dispute, the Owners Corporation (through the Manager or the Committee or otherwise) may decide (at its absolute discretion having regard to the nature and urgency of the Dispute) whether:

29.5.1 arrange a meeting between the parties to resolve the Dispute; or

29.5.2 waive the requirement for the parties to meet.

29.6 If the parties are unable to resolve the Dispute within 30 days (or such other period as the Committee thinks fit) of the meeting arranged pursuant to Rule 29.3.1 or 29.5.2, the parties may revert to the dispute resolution mechanisms set out in the Act or other Law.

30. Cost of non-compliance

The Member or Occupier must indemnify and keep indemnified the Owners Corporation on a full indemnity basis against any action, demand, cost, liability or loss incurred by the Owners Corporation as a consequence of any default by the Member or Occupier in the performance or observance of any term, covenant or condition contained in these Rules, the Act or Regulations including, without limitation administrative costs, legal costs, the cost of any works performed to rectify any non compliance and the cost incurred by the Owners Corporation in recovering overdue charges from the Member or Occupier.

31. Charges imposed on Members and Occupiers

31.1 Any payments to the Owners Corporation imposed on a Member or Occupier under the Rules, Act or Regulations will (until paid) be a charge on the Lot.

31.2 The Member or Occupier must accept a certificate signed by the Manager or valid tax invoice issued by the Owners Corporation as prima facie proof of the costs and expenses incurred by the Owners Corporation relating to any charge payable by a Member or Occupier pursuant to these Rules and must not make any claim or dispute the amount specified therein.

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31.3 The Member or Occupier must pay interest at the rate prescribed under the Penalty Interest Rates Act 1983 (Vic) on outstanding fees and charges set under the Rules, Act or Regulations until they are paid.

31.4 Any payments made for the purposes of these Rules, the Act or Regulations will be appropriated first in payment of any interest and any unpaid costs and expenses of the Owners Corporation and then be applied in repayment of the principal sum.

32. Rights of entry

32.1 Except in the case of an emergency (in which case no notice shall be required) upon seven (7) days' notice in writing, the Owners Corporation or the committee of the Owners Corporation and its servants, agents and contractors shall be permitted to inspect the interior of any Lot and test the electrical, gas or water installation or equipment therein and to trace and repair any leakage or defect in the said installations or equipment (at the expense of the Member or Occupier in cases where such leakage or defect is due to any act or default of the said Member or Occupier of his or her invitees). The committee of the Owners Corporation, in exercising this power shall ensure that its servants, agents and employees cause as little inconvenience to the Member or Occupier as is reasonable in the circumstances.

32.2 A Member or Occupier in occupation of a Lot must allow any person authorised by and on behalf of the Owners Corporation;

32.2.1 to enter the Lot or a Building in order to have access to the exterior of the Building, and

32.2.2 to enter the Lot from the exterior of the Building via a balcony, terrace, window or other part of the Lot and to use that part of the Lot, to facilitate the repair and maintenance of and other works on Common Property including the structure of the Building and the exterior face of the Building and any service that is for the benefit of more than one Lot or the Common Property being areas of Common Property that would otherwise be difficult to access.

32.3 The Owners Corporation must give at least 7 calendar days' notice in writing to the Member or Occupier of a Lot or other Occupier of a Lot of an intention to enter:

32.3.1 unless the Member or Occupier agrees to a lesser time and where the Occupier is a tenant under a residential tenancy agreement the Occupier must be given the same notice as that required to be given by a landlord under Section 85 of the Residential Tenancies Act 1997;

32.3.2 entry to and use of the relevant part of the Lot must be between the hours of 8.00 am and 6.00pm on any day Monday to Friday; or

32.3.3 unless there is an emergency when no notice and no time restrictions apply, and then in such a manner as to cause as little interruption or inconvenience to the Occupier as is possible in the circumstances.

32.4 Members and Occupiers acknowledge and agree the access described by this rule 32 is expressly contemplated under section 12(2) of the Subdivision Act 1988 (Vic) and the Member or Occupier must not, either directly or indirectly frustrate, limit or impede the access contemplated by this rule.

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33. Security

The Owners Corporation may make rules and regulations to ensure the security of the Development from intruders and otherwise with regard to the use and means of access to any roadways created upon the Common Property.

34. Contact

34.1 Each Member must advise the Manager of any out of normal business hours contact address, email and telephone number for their Lot and must promptly advise the Manager of any change in their address, email or telephone number.

34.2 Each Member must provide the Manager with an Australian address for service of notices. If a Member fails to provide an Australian address for service of notices, the Lot address will be deemed to be the proper address for service.

35. Restricted use of Common Property for fire control

35.1 The Owners Corporation may take measures to ensure the security, and to preserve the safety of the Common Property and the Lots affected by the Owners Corporation from fire or other hazards and without limitation may:

35.1.1 close off any part of the Common Property not required for access to a Lot on either a temporary or permanent basis or otherwise restrict the access to or use by Members or Occupiers of any part of the Common Property;

35.1.2 permit, to the exclusion of Members and Occupiers, any designated part of Common Property to be used by any security person as a means of monitoring security and general safety of the Lots, either solely or in conjunction with other Lots;

35.1.3 restrict by means of key or other security device the access of the Members or Occupiers;

35.1.4 restrict by means of key or other security device the access of the Members or Occupiers of one level of the Lots to any other level of the Lots; and

35.1.5 cancel any security card issued where a Member is in arrears in payment of Owners Corporation levies in excess of two quarters.

35.2 A Member and Occupier of a Lot must abide by any actions taken by the Owners Corporation in accordance with these Rules and must meet all costs incurred by the Owners Corporation in relation to these Rules (or a breach of these Rules by the relevant Member or Occupier).

36. Fire

36.1 A Member or Occupier of a Lot must ensure compliance with all statutory and other requirements, including those of the Owners Corporation, relating to fire, fire safety and the storage of bioethanol in respect of the Lot.

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36.2 A Member or Occupier of a Lot must not use, interfere or tamper with any fire safety equipment except in the case of an emergency and must not obstruct any fire stairs or fire escape.

36.3 In the event that the Melbourne Fire Brigade is called out to the Building as a result of the activation of a false fire alarm, whether the activation of the fire alarm was caused by a willful, negligent, foreseeable, or unforeseeable action or inaction, and the cause of the alarm is found to originate from a Lot, the Member or Occupier of the Lot will be jointly and severally liable to pay any and all associated costs and charges connected to a false fire alarm.

36.4 A Member hereby agrees to indemnify the Owners Corporation for all costs and charges incurred by the Owners Corporation in connection to a false fire alarm call out and the Member may elect to pursue recovery from the Occupier. This rule is enforceable regardless of whether:

36.4.1 the Member or Occupier was directly, indirectly and /or negligently responsible for the cause of the fire alarm; and/or

36.4.2 the Member authorised either impliedly or expressly the actions of the Occupier which caused the false fire alarm.

36.5 A Member or Occupier of a Lot must ensure that all fire doors, exhaust systems and smoke detectors installed in a Lot are properly maintained and tested monthly and that back-up batteries relating to the smoke detectors are replaced whenever necessary.

36.6 Each Member or Occupier of a Lot must undertake a fire and safety induction for the Development, prior to their occupation of the Lot (Induction). Occupiers must give the Manager at least 14 days' notice for the Manager to carry out the Induction. The Manager may charge any Occupier of a Lot a fee of $1,000 plus GST for any Induction required by an Occupier with less than 14 days' notice. A Member or Occupier of a Lot may be denied access to the Building if an Induction is not undertaken.

37. Insurance

A Member or Occupier of a Lot must not without the prior written consent of the Owners Corporation do or permit anything to be done which may invalidate, suspend or increase the premium for any insurance policy effected by the Owners Corporation.

38. Security and Security Keys

38.1 A Member or Occupier of a Lot or persons thereon from time to time must not do or permit anything, which may prejudice the security or safety of the Common Property, or any person in or about the Development.

38.2 The Owners Corporation may charge a reasonable fee for any additional security key required by a Member or Occupier.

38.3 A Member must exercise a high degree of caution and responsibility in making a security key available for use by any Occupier and must use all reasonable endeavours including without limitation an appropriate stipulation in any lease or licence of a Lot to the Occupier to ensure the return of the security key to the Member or the Owners Corporation.

38.4 A Member or Occupier of a Lot in possession of a security key must not without written consent from the Owners Corporation duplicate the security key or permit it to be duplicated

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and must take all reasonable precautions to ensure that the security key is not lost or handed to any person other than any other Member or Occupier and is not disposed of otherwise than by returning it to the Member or the Owners Corporation.

38.5 A Member or Occupier of a Lot must promptly notify the Owners Corporation if a security key issued to them is lost or destroyed.

39. Rules Subject to Rights of the Developer

39.1 These Rules do not apply to and, are not enforceable against the Developer or its mortgagee or chargee or the Vendor or its mortgagee or chargee, for so long as any of the following apply:

39.1.1 the Developer or the Vendor and/or either of their equity partners (if any) or the Vendor is a Member or Occupier;

39.1.2 any mortgagee or chargee of the Developer or the Vendor has an interest in any Lot; or

39.1.3 the Developer or the Vendor and/or either of their equity partners (if any) or the Vendor is engaged in any action required to complete the Development,

where to do so would prevent, hinder, obstruct or in any way interfere with any works of any nature or description that the Developer their mortgagee or chargee or the Vendor their mortgagee or chargee may be engaged in or which may need to be carried out in order to complete construction of the Buildings and facilities comprised in the Plan or the Development.

39.2 Subject to Rule 39.4, the Developer and its equity partners (if any), its mortgagees and chargees and the Vendor and its equity partners (if any), its mortgagees and chargees must be and are by this Rule, authorised by each and every member of each and every Owners Corporation in the Plan and by each and every Owners Corporation in the Plan to:

39.2.1 erect such barriers, fences, hoardings, signs as it deems necessary to facilitate any works to be carried out in relation to the Development; and

39.2.2 take exclusive and sole possession of any parts of the Common Property as it may need to have exclusive possession of in order to carry out any works or activities in relation to the Development; and

39.2.3 exclude all and any Members or Occupiers from any parts of the Common Property as may be necessary in order to carry out any works in relation to the Development; and

39.2.4 erect for sale promotional advertising or other signs as the Developer may require on any part of the Common Property; and

39.2.5 grant rights to use or access through or over the Common Property to third parties on such terms and conditions as the Developer or its mortgagee or chargee thinks fit; and

39.2.6 limit or restrict access to certain areas of the Development including areas of the Common Property in order to expeditiously complete the Development; and

39.2.7 use whatever rights of way and/or points of egress and ingress to the Development as necessary to carry out any works and to block for whatever periods are

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necessary any rights of way or points of egress and ingress to the Development in order to carry out any works,

provided that the Developer or the Vendor and any third party authorised by either of them under this Rule or any party to which it assigns all or part of the benefits of its rights under this Rule, uses its best endeavours to minimise disturbance and inconvenience to others occupying or using the Common Property.

39.3 The Owners Corporation must, within 7 days of being requested by the Developer or its mortgagee or chargee or the Vendor or its mortgagee or chargee, sign whatever consents, authorities, permits or other such documents as may be required to enable the Developer or its mortgagee or chargee to complete the Development. A Member must not vote in favour of any motion for a resolution proposed for consideration by a general meeting of the Owners Corporation which would revoke this Rule 39 or contravene any right or reprieve afforded to the Developer under this Rule 39.

39.4 In case of any inconsistency between the Rules and the rights of the Developer and Vendor under any Development Agreement, the Developer's rights and the Vendor's rights under the Development Agreement will prevail and the Members, Occupiers and Owners Corporation must not seek to enforce the Rules against the Developer or Vendor where to do so would conflict with the Developer's Rights or the Vendor's rights under any such Development Agreement.

39.5 A Member or Occupier must comply with the terms of any Development Agreement between the Developer and the Owners Corporation that is disclosed to the Member or Occupier.

39.6 Every Member hereby consents to and agrees to the Developer or the Vendor undertaking any or all of the rights of the Developer or the Vendor, as the context permits, set out in this Rule without any prevention or hindrance of such Member.

39.7 In exercising its rights under this Rule, the Developer and Vendor must act honestly and in good faith and with due care and diligence in the interests of the Owners Corporation and must have regard to the amenity of Members. The Developer and Vendor must only exercise their rights to the extent necessary for the genuine Development. The Developer and the Vendor must not exercise its rights under this Rule to arbitrarily exclude the Owners Corporation or the participation of Members.

40. Warranties & Novation or assignment of contracts

40.1 The Developer may at its discretion enter into time limited contracts to supply, service, clean, maintain and/or inspect building essentials services, other building services or functions, common areas of the Building, landscaping, or any other Common Property, and any other service or other contract deemed appropriate and necessary for the proper care and function of the Common Property.

40.2 The Developer must and the Owners Corporation(s) must accept, assignment or novation of the contracts referred to in Rule 40.1 at the first meeting of the Owners Corporation.

40.3 The Owners Corporation must maintain any contracts assigned or novated to it under this Rule to the end of its current term except where it is deemed that the contract is unreasonable or unnecessary or is replaced by a contract for similar services by the same service provider.

40.4 The Owners Corporation must comply with the terms of and properly manage any time or condition limited warranties for items, components or parts of the Common Property provided by subcontractors or suppliers so as to ensure they remain valid for the benefit of the Owners Corporation.

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40.5 The Owners Corporation must ensure that it provides for or enters into contracts to provide for care, cleaning, maintenance and inspection of any item or component of Common Property to enable it to perform its obligations under the Law and these Rules upon the lapse of any subcontractor or supplier backed warranty or upon the end of any contract assigned or novated to it by the Developer.

40.6 All Members must contribute its proportion of the cost incurred by the Owners Corporation in complying with this Rule 40 relative to the lot liability on the Plan.

41. Signage & Other Licences

41.1 The Owners Corporation may grant the Developer:

41.1.1 a lease and licence including but not limited to for the provision of information technology infrastructure relating to broadband services and/or signage rights to the Development;

41.1.2 a licence to host festivals, parties or other celebratory or promotional events in the main lobby area, or other areas of the Common Property;

41.1.3 a licence to place and maintain sale signs, insignias, logos and other fixtures and fittings for marketing purposes on the Common Property; or

41.1.4 allow the Developer's representatives and their invitees to conduct selling activities from a Lot, if not sold prior to completion, which will serve as a display unit,

provided the Developer uses its best endeavours to minimise disturbance and inconvenience to others Members' or Occupiers' use of the Common Property and at all times acts honestly and in good faith and with due care and diligence in the interests of the Owners Corporation.

41.2 A Member or Occupier of the Lot must not hinder or impede the Developer, its successors and assigns, from exercising its rights under any agreement entered into under this Rule.

41.3 The Owners Corporation(s) must procure all the necessary consents and resolutions to give effect to the matters set out in this Rule 41.

41.4 A Member must not vote in favour of any motion for a resolution proposed for consideration by a general meeting of the Owners Corporation(s) which would impede the powers of the Owners Corporation(s) under this Rule 41.

42. Electric Car Charging Station

A Member or Occupier of a Lot using an electric car charging station on Common Property must abide by the following rules:

42.1.1 the first car at the charging station has priority;

42.1.2 cars must only be parked in the bay while charging and for a time period not exceeding 12 hours;

42.1.3 once charging is complete, the car must be moved out of the bay as soon as possible;

42.1.4 Rules 42.1.2 and 42.1.3 do not apply to an electric car charging station located on a column which forms part of the Common Property and which is situated between

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two or more Lots and intended for the private use of the Member or Occupier of those Lots. For the avoidance of doubt all other clauses of this Rule 42 continue to apply.

42.1.5 charging equipment must be left in the same manner it was found;

42.1.6 a Member or Occupier is not able to use a charging station when the charging station is being maintained, repaired, replaced or in the instance of unexpected circumstances or emergency events;

42.1.7 a Member or Occupier must not park in another Member or Occupier's car park to charge their vehicle;

42.1.8 Members and Occupiers indemnify and release the Owners Corporation from and against any loss or cost due to the Member or Occupier's failure to observe rule 42.1.6.

42.1.9 a Member or Occupier must ensure that any vehicle is removed from a charging station when requested by the Owners Corporation for any scheduled, unexpected or emergency maintenance, repair or replacement of a charging station.

42.1.10 the Owners Corporation is not liable for, and the Member and Occupier of a Lot releases and indemnifies the Owners Corporation from and against the failure of the charging station due to maintenance, repair or replacement in the ordinary course or due to unexpected or emergency circumstances events;

42.1.11 each Member and Occupier must reimburse the Owners Corporation as and when required by it for all loss, damage or cost incurred by the Owners Corporation because of any damage to a charging station caused by the Member, the Occupier, the guest of a Member or Occupier and any third party; to the extent that the loss, damage or cost is not recoverable from the Owners Corporation's insurer; and

42.1.12 the Owners Corporation may from time to time provide rules requiring users of car charging stations (located both on Common Property and in a Lot) to pay for the use of the car charging stations, which may include the costs of supplying the electricity to the Common Property or Lot.

43. Urban Art

A Member or Occupier must not damage, destroy, alter, modify or otherwise tamper with any urban art installations in the Development.

44. Dog and Car Wash Facilities

44.1 When using the Dog and Car Wash Facilities a Member and an Occupier:

44.1.1 must ensure that unless otherwise stated, children below the age of 15 years are not in or around the Dog and Car Wash Facilities unless accompanied by an adult Member or Occupier exercising effective control over them;

44.1.2 must ensure that no guests are allowed in the Dog and Car Wash Facilities, subject to prior approval of the Manager and subject to any conditions on entry determined by the Manager;

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44.1.3 is responsible (at its cost) for any damage, cleaning or reinstatement costs incurred by the Owners Corporation or Manager as a result of its use of the Dog and Car Wash Facilities;

44.1.4 must not smoke or make any undue noise in the Dog and Car Wash Facilities; and

44.1.5 must ensure that the Dog and Car Wash Facilities are to be left in the same condition in which it was found.

44.2 Members and Occupiers acknowledge that some areas of the Dog and Car Wash Facilities may need to be booked with the Manager ahead of use. The Manager may refuse the booking if the facility is not available.

44.3 Members and Occupiers acknowledge and agree that they may be required to pay a general usage charge for some areas of the Dog and Car Wash Facilities and the cost of consumables used while using these areas, as determined by the Owners Corporation.

44.4 The Owners Corporation may make additional or separate rules relating to the use of all or part of the Dog and Car Wash Facilities provided they are not inconsistent with these Rules. If breached, rules relating to the Dog and Car Wash Facilities will constitute a breach of these Rules.

44.5 With respect to the car wash specifically, Members or Occupiers using the car wash:

44.5.1 do so at their own risk;

44.5.2 must not use the car wash facilities for any purpose other than washing their car or motorbike; and

44.5.3 must leave the facilities in a clean and tidy state after the car wash is complete.

44.6 With respect to the dog wash specifically:

44.6.1 dogs must be on a leash or in a carrier when bathing;

44.6.2 the wash tubs must be washed thoroughly after each use;

44.6.3 dogs are to be towel dried prior to using the blow dryer;

44.6.4 a Member or Occupier must notify the Manager immediately if there is an issue with the dog wash requiring attention;

44.6.5 restraints provided in the tubs must be utilized to prevent dogs from jumping out;

44.6.6 Members and Occupiers must not leave a dog unattended at any given time;

44.6.7 Members and Occupiers must use leave the dog wash facility in a clean and tidy state after use.

44.7 The Members and Occupiers agree that the Manager may close off one or more areas of the Dog and Car Wash Facilities at its reasonable discretion, including to allow for the safe or desirable use of the Dog and Car Wash Facilities, for the purposes of maintenance, works and the like.

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45. Valet Service

45.1 If the Owner's Corporation provides a valet service for residential Lots with a car space, each Member or Occupier of a residential Lot that owns a car space must pay the Owners Corporation as and when required by the Owners Corporation a fee per car parking space equal to the total of the following costs divided by the number of car spaces allocated to residential Lots:

45.1.1 all operational costs required to provide the valet service, including insurance and wages; and

45.1.2 a management fee as determined by the Owners Corporation; and

45.1.3 any Goods and Services Tax on the above amounts.

45.2 Each Member of a residential Lot with a car space must pay the above amounts even if they do not use the valet service.

45.3 The Members and Occupiers acknowledge and agree that the Owners Corporation may calculate the costs, contributions and liabilities detailed above and require payment in any way it considers reasonable, and a Member or Occupier must not challenge such a calculation.

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Attachment 9

Works and Storage Room Licence

Maddocks

Lawyers
Collins Square, Tower Two
Level 25, 727 Collins Street
Melbourne VIC 3008
Australia

Telephone 61 3 9258 3555
Facsimile 61 3 9258 3666

info@maddocks.com.au
www.maddocks.com.au

DX 259 Melbourne

Date / /2025

Works and Storage Room Licence – 1R

Saint Moritz, 14-16 The Esplanade, St Kilda, Victoria

Owners Corporation 6
Plan No. PS826420W

and

14-16 The Esplanade by Gurner Pty Ltd
ACN 626 307 131

Schedule

1.	**Date of this Licence:**	The day of
2.	**Licensor:**	Owners Corporation 6 Plan No. PS826420W, 14-16 The Esplanade, St Kilda, Victoria 3004.
3.	**Licensee:**	14-16 The Esplanade by Gurner Pty Ltd ACN 626 307 131 of 168 Williams Road, Prahran, VIC 3181
4.	**Licensed Area:**	The area shown and annotated ' Internal Area = 7.26 square metre' on the Plan at Annexure A.
5.	**Commencement Date**	The day of
6.	**Term**	99 years
7.	**Licence Fee during the Term:**	$1.00 payable by a single instalment on the Commencement Date, if demanded.
8.	**Additional Clauses:**	Not applicable.

Execution Page

EXECUTED by the parties as a deed on the date specified in Item 1.

Executed as a deed by **Owners Corporation 6 Plan No. PS826420W** by persons who declare they are Lot Owners of separate lots and members of the Owners Corporation or by a director of a corporation that is a Lot Owner, in accordance with s 10 of the *Owners Corporations Act 2006* (Vic) in accordance with a resolution dated :

Signature	Signature
Name (print full name)	Name (print full name)
Address	Address
Position: Lot Owner* / Director of Lot Owner* (*Delete whichever is inapplicable)	Position: Lot Owner* / Director of Lot Owner* (*Delete whichever is inapplicable)
Name of corporation that is a Lot Owner (If signed by a director)	Name of corporation that is a Lot Owner (If signed by a director)

Executed by 14-16 The Esplanade by Gurner Pty Ltd ACN 626 307 131 in accordance with section 127(1) and section 127(3) of the Corporations Act 2001:)

.....
Signature of Sole Director and Sole Company Secretary

.....
Print full name

Licence

THIS LICENCE is made on the date specified in Item 1.

BETWEEN

The Licensor

AND

The Licensee

RECITAL

A. The Licensor has agreed to grant the Licensee a licence of the Licensed Area on the terms and conditions in this Licence.

THE PARTIES AGREE

1. Definitions

In this Licence, unless expressed or implied to the contrary:

Additional Clauses means the clauses (if any) specified in Item 8.

Adjustment has the same meaning given to that term in the GST Act.

Adjustment Note has the same meaning given to that term in the GST Act.

Commencement Date means the commencement date specified at Item 5 of the Schedule.

Common Property means the common property No.6 on PS826420W.

Consideration means consideration payable under this Licence in return for a Taxable Supply, but does not include any amount on account of GST.

Development means Saint Moritz, 14-16 The Esplanade, St Kilda, Victoria.

GST Act means A New Tax System (Goods and Services Tax) Act 1999 (as amended).

GST has the same meaning given to that term in the GST Act.

Input Tax Credit has the same meaning given to that term in the GST Act, but also includes a reduced input tax credit under Division 70 and an adjusted input tax credit under Division 132 of the GST Act.

Item means an item in the Schedule.

Licensed Area means the area specified in Item 4 as may be varied in accordance with this Licence.

Licence Fee means the amount specified in Item 7.

Licensee means the Licensee specified in Item 3 and includes the Licensee's successors and assigns and where it is consistent with the context includes the Licensee's employees, agents, invitees and persons the Licensee allows to use the Licensed Area.

Licensor means the Licensor specified in Item 2 above.

OH&S Laws means the *Occupational Health and Safety Act 2004* (Vic) and the *Occupational Health and Safety Regulations 2017* (Vic) and any other occupational health and safety law, regulation or by-law.

Plan means the plan attached as Annexure A to this Licence.

Premises means Lot 1R on Plan of Subdivision PS826420W.

Principal Contractor has the meaning given in the OH&S Laws.

Owners Corporation Rules means the rules of Owners Corporation 6 Plan No PS826420W as amended from time to time.

Recipient has the same meaning given to that term in the GST Act.

Supplier means the entity making a Supply to the Recipient.

Supply has the same meaning given to that term in the GST Act.

Tax Invoice has the same meaning given to that term in the GST Act.

Taxable Supply has the same meaning given to that term in the GST Act.

Taxes means a tax, levy, duty, impost, fee, deduction, withholding or charge, however described, imposed by legislation, (including stamp and transaction duty and any car parking levies) together with any related interest, penalty, fine or expense concerning any of them and the costs of challenging any of them.

Term means the term specified in Item 6 of the Schedule.

Works means the works described in Annexure B.

2. Licence

The Licensor has exercised its powers under section 14 of the *Owners Corporations Act* 2006 to grant by special resolution a Licence of the Licensed Area to the Licensee subject to the terms, covenants, conditions and restrictions contained in this Licence, for the Term starting on the Commencement Date.

3. Payments by the Licensee

3.1 Payment of Licence Fee

The Licensee must pay the Licence Fee to the Licensor on the Commencement Date and in the manner specified in Item 7.

3.2 Costs and Duty

The Licensee must pay to the Licensor within 7 days of demand:

3.2.1 all Taxes levied in respect of this Licence, the Licensed Area or the rights granted to the Licensee under this Licence whether those Taxes are in force at or after the Commencement Date;

3.2.2 the operating costs incurred by the Licensor in connection with or as a result of this Licence, the Licensed Area or the rights granted to the Licensee under this Licence;

3.2.3 the Licensor's costs in relation to the negotiation, amendment and execution of this Licence capped at a maximum of $10,000; and

3.2.4 the Licensor's costs (including charges on a solicitor-own client basis) incurred as a result of a breach of this Licence by the Licensee.

3.3 **Interest on Late Payments**

The Licensee must pay to the Licensor on demand interest at the rate per annum equal to the rate for the time being fixed under section 2 of the *Penalty Interest Rates Act* 1983 (Vic) on any money payable by the Licensee under this Licence and remaining unpaid for 7 days. Interest will be computed from the date on which such payment became due.

3.4 **No Deduction or Right of Set-off**

The Licensee must pay all amounts due under this Licence to the Licensor without deduction or right of set-off.

4. GST

4.1 **GST Exclusive**

Except as otherwise provided by this clause, all Consideration payable under this Licence in relation to any Supply is exclusive of GST.

4.2 **Increase in Consideration**

To the extent that any Supply under this Licence constitutes a Taxable Supply, the Consideration payable by the Recipient to the Supplier will be increased by the applicable amount of GST (**GST Amount**), which shall be calculated by multiplying the amount upon which GST is payable by the prevailing rate of GST.

4.3 **Payment of GST**

Any GST Amount must be paid by the Recipient to the Supplier at the same time and in the same manner as the relevant Consideration is paid or given under this Licence, without any right of set-off or deduction (unless otherwise provided in this Licence).

4.4 **Reimbursements**

If this Licence requires the Recipient to pay, reimburse or contribute to any expense, loss or outgoing suffered or incurred by the Supplier (**Relevant Expense**), the amount which the Recipient must pay, reimburse or contribute will be the amount net of any Input Tax Credits to which the Supplier is entitled in respect of the Relevant Expense, together with any GST Amount if the payment, reimbursement or contribution constitutes a Taxable Supply by the Supplier to the Recipient.

4.5 **Tax Invoice**

The Supplier must provide to the Recipient a valid Tax Invoice at or prior to the time of payment of any GST Amount.

4.6 **Adjustments & Adjustment Notes**

To the extent that any Adjustment occurs in relation to a Taxable Supply, the Supplier must issue an Adjustment Note to the Recipient within 7 days of becoming aware of the Adjustment, and any payment necessary to give effect to such Adjustment must be made within 7 days after the date of receipt of the Adjustment Note.

5. Use of Licensed Area

5.1 **Use of Licensed Area**

5.1.1 The Licensee may use the Licensed Area:

(a) to carry out the Works; and

(b) as a storage room, in support of activities at the Premises.

5.1.2 The Licensee must not:

(a) use or allow anyone else to use the Licensed Area for any purpose other than permitted use described in clause 5.1.1; or

(b) allow patrons, guests or customers of the Premises to access the Licensed Area.

5.2 **Nuisance**

Subject to clause 6.2.3, the Licensee must not do anything in connection with the Licensed Area which may cause a nuisance or interfere with any other person, including other users of the Licensed Area as contemplated by this Licence.

5.3 **Insurance**

The Licensee must from the Commencement Date until the end of the Term effect and maintain a policy of insurance in the names of the Licensor and the Licensee (and of such other persons as the Licensor may reasonably require) in respect of liability for loss, injury or damage to any person or property whatsoever whether arising out of any act, omission, breach of duty or failure by the Licensor, the Licensee, the employees, agents and invitees of the Licensor or the Licensee or otherwise, on or in relation to the Licensed Area or the use of the Licensed Area by the Licensee in the sum of twenty million dollars ($20,000,000) or such greater amount as the Licensor may reasonably nominate from time to time in order to effect a sufficient and proper cover in respect of any single accident or event.

5.4 **Licences and Permits**

The Licensee must maintain all licences and permits required for the Licensee's use of the Licensed Area.

5.5 **Signs**

The Licensee must seek the prior written consent of the Licensor (which may be withheld at the Licensor's absolute discretion) before displaying or affixing any signs, advertisements or

notices on or to any part of the Licensed Area except where these are required to carry out the Works.

5.6 **Heavy Equipment and Inflammable Substances**

5.6.1 The Licensee must obtain the Licensor's prior written consent before bringing any heavy equipment or inflammable substances into the Licensed Area except where these are required to carry out the Works.

5.6.2 The Licensee must give written notice to the Licensor at least 1 Business Day before bringing any inflammable substances onto the Licensed Area.

5.6.3 The Licensee must not store any hazardous goods or items on the Licensed Area without the Licensor's prior written consent except where these are required for the operation of the retail business conducted on the Premises.

6. Works

6.1 **Completion of Works**

6.1.1 The Licensee must, at its own cost:

(a) prior to carrying out or procuring the carrying out of the Works:

(i) without limiting the operation of clause 5.4, obtain all relevant consents, approvals and permits (**Approvals**) required for the carrying out of the Works; and

(ii) provide a copy of all relevant Approvals to the Licensor; and

(b) ensure that the Works are carried out:

(i) within a reasonable period of time after the later of the:

(A) Commencement Date; and

(B) receipt of any required Approvals;

(ii) in a proper and workmanlike manner;

(iii) by appropriately qualified and experienced tradespeople; and

(iv) in accordance with the Approvals, laws and the requirements of the relevant authorities

6.1.2 The Licensee must use it best endeavours to minimise the dust, noise or other discomforts that may arise during the course of completion of the Works.

6.2 **Licensor's obligations**

6.2.1 The Licensor must, at its cost, do all things reasonably required to assist the Licensee in obtaining all necessary Approvals for the Works, including:

(a) signing and returning within 7 days after a written request, all documents required to obtain the necessary Approvals for the Works;

(b) not objecting to the Licensee's applications or submissions to obtain the necessary Approvals for the Works; and

(c) not lodging or permitting to be lodged forms or applications in relation to the Licensed Area unless directed or permitted by the Licensee.

6.2.2 The Licensor must not directly object to, impede or otherwise obstruct the Licensee in relation to:

(a) obtaining the necessary Approvals for the Works; and/or

(b) the carrying out of the Works.

6.2.3 Subject to the Licensee complying with its obligations in this clause 6, the Licensor must:

(a) not:

(i) object to the carrying out of the Works;

(ii) object to the dust, noise or other discomforts that may arise during the course of completion of the Works;

(iii) institute or prosecute any action or proceeding for injunctions or damages arising out of or connected with the completion of the Works; or

(iv) make any claim against the Licensee, the Principal Contractor or any other person in relation to any nuisance, dust, noise or other inconvenience associated with the Works; and

(b) provide access to the Licensed Area to the Licensee, the Principal Contractor and any other person as may be necessary for the purpose of completing the Works.

6.3 **Amendment to Works**

6.3.1 The Licensee may make minor alterations and/or amendments to the Works without the prior written consent of the Licensor, but the Licensee must, as soon as reasonably practicable, notify the Licensor of such minor alterations and/or amendments.

6.3.2 The Licensee must not make any material amendments to the Works without the Licensor's prior written consent (which must not be unreasonably withheld).

6.3.3 Where material amendments are required by:

(a) an authority; and/or

(b) law,

the Licensee must, as soon as reasonably practicable, notify the Licensor of such material amendment.

6.3.4 If the Licensee requests the Licensor's written consent in accordance with clause 6.3.2, the Licensor must use its best endeavours to, within 14 days of receipt of such request

(a) confirm in writing whether the Licensor approves or does not approve of the amended Works; and

(a) if the Licensor does not agree to the Licensee's proposed amendments to the Works, set out the reasons as to why the Licensor does not agree to the amended Works.

6.3.5 To the extent that it is possible (as determined by the Licensee), the Licensee must:

(a) make further amendments to the Works so that they address and satisfy the reasons set out by the Licensor (as contemplated in clause 6.3.4(a)); and

(b) resubmit the further amended Works to the Licensor for approval.

6.4 If the parties cannot agree to the amendments to the Works within 30 days from the date on which the Licensee first notifies the Licensor that the Licensor's written consent is requested in accordance with clause 6.3.2, either party may provide the notice contemplated in clause 16.1.

6.5 **No admission of liability**

The Licensee acknowledges and agrees that:

6.4.1 the Licensor is not responsible for the Works and takes no responsibility for the Works, their quality, suitability or the materials and equipment used; and

6.4.2 that any dispute arising from or in connection with the construction of the Works is solely between the Licensee and the contractor/s engaged to carry out the Works and does not involve the Licensor.

6.6 **Compliance**

After the Works are completed, the Licensee must:

6.5.1 give to the Licensor all Approvals and compliances for the Works; and

6.5.2 perform any further works during the Term to ensure that the Works are compliant and remain compliant with all applicable building laws for the Term.

7. Occupational health and safety

7.1 **Principal Contractor**

The Licensee must give details of the Principal Contractor contracted to carry out the Works to the Licensor.

7.2 **Occupational Health and Safety**

The Licensee must:

7.2.1 ensure that the Principal Contractor complies with its respective obligations under the OH&S Laws;

7.2.2 carry out the Works in a manner that satisfies the Licensee's obligations under the OH&S Laws; and

7.2.3 promptly inform the Licensor of all serious incidents and/or near misses involving injury or potential injury to any person arising during the execution and performance of the Works on the Licensed Area.

8. Repairs, alterations and Damage

8.1 Repairs and Maintenance

The Licensee must at its cost use reasonable endeavours to:

8.1.1 keep the Licensed Area clean, tidy and in good repair;

8.1.2 keep the Licensed Area in the same condition as it was in at the date the Licensee first entered occupation (except for fair wear and tear and the Works) including repairing or replacing anything in the Licensed Area which is damaged, destroyed or deteriorated; and

8.1.3 remove waste and/or clean the Licensed Area.

8.2 Failure to Repair and Maintain

8.2.1 If the Licensee does not carry out any repairs, maintenance or other works required under this Licence within 14 days of receiving written notice from the Licensor, the Licensor may enter the Licensed Area to carry out such repairs, maintenance and works at any reasonable time after giving the Licensee reasonable notice.

8.2.2 The cost of all such repairs, maintenance and works must be paid by the Licensee to the Licensor on demand.

8.3 Alterations

The Licensee must not carry out any alterations on the Licensed Area except for the Works.

8.4 Notice of Damage

The Licensee must give the Licensor prompt written notice of any:

8.4.1 material damage to the Licensed Area; or

8.4.2 thing likely to be a risk to the Licensed Area or any person in the Licensed Area.

9. Release and Indemnity

9.1 Release

9.1.1 Subject to clause 9.1.2, the Licensee uses the Licensed Area at its own risk and releases to the full extent permitted by law the Licensor, its members, officers and committee members from all claims and demands of every kind arising from any accident, damage, death, injury or loss sustained by the Licensee or any other person (whether to person or property) as a result of any accident, omission or event in, on or about the Licensed Area or arising from or in any way in connection with the Works.

9.1.2 Despite clause 9.1.1, if the Licensor, its members, officers and/or committee members have caused or contributed to the accident, damage, death, injury or loss

sustained by the Licensee or any other person, the release by the Licensee in clause 9.1.1 is reduced by the proportion of the contribution of the Licensor, its members, officers and/or committee members.

9.2 **Indemnity**

9.2.1 Subject to clause 9.2.2, the Licensee and its successors in title undertakes to indemnify the Licensor, its members, servants, officers, and committee members to the full extent permitted by law from and against all claims, demands, actions, damages, costs and expenses of any kind (whether in respect of death, injury to person or damage to property) suffered by the Licensor, its members, officers and committee members arising from any act whether wilful, negligent or reckless or any default of the Licensee or the Licensee's agents, contractors, sub-licensee's and invitees, or arising from any act in connection with the Licensee's use and occupation of the Licensed Area or arising from or in any way in connection with the Works.

9.2.2 Despite clause 9.2.1, if the Licensor, its members, officers and/or committee members. have caused or contributed to the act or default of the Licensee or the Licensee's agents, contractors, sub-licensee's and invitees, the indemnity by the Licensee in clause 9.2.1 is reduced by the proportion of the contribution of the Licensor, its members, officers and/or committee members.

10. Assignment and Sub-Licensing

10.1 The Licensee must not assign, sublicense or part with possession with this Licence or its interest in the Licensed Area.

10.2 Despite clause 10.1, the Licensee may:

10.2.1 assign this Licence without the consent of the Licensor provided that:

(a) the Licensee only assigns the whole of this Licence;

(b) the assignee is, or is entitled to be, registered proprietor of the Premises;

(c) the assignee has properly executed a deed of assignment which includes a condition by which the assignee covenants to comply with all obligations of the Licensee under this Licence; and

(d) the Licensee gives written notice to the Licensor of the assignment and the details of the assignee;

10.2.2 sublicense its interest in the Licensed Area without the consent of the Licensor provided that:

(a) the Licensee only sublicenses the whole of its interest in the Licensed Area;

(b) the sublicensee is, or is entitled to be, the tenant of the Premises; and

(c) the Licensee gives written notice to the Licensor of the sublicence and the details of the sublicensee.

10.3 The Licensor must sign any and all things necessary to give effect to an assignment under clause 10.2 within 10 business days of the Licensee's request to do so.

10.4 If the registered proprietor of the Premises transfers ownership of the Premises to a purchaser (**New Owner**), the Licensee must simultaneously assign this Licence to the New Owner in accordance with clause 10.2.1.

11. Licensor not Liable

The Licensor will not be liable to the Licensee if the Licensee cannot obtain access to the Licensed Area in circumstances either:

11.1 required for maintenance or repair; or

11.2 beyond the Licensor's reasonable control.

12. Right of Entry

The Licensee authorises the Licensor to enter the Licensed Area in the event of an emergency.

13. Licensee's Obligations at End of Licence

13.1 **Licensee's Obligations**

At the end of this Licence, the Licensee must give to the Licensor any security devices (if applicable) used by the Licensee to obtain access to the Licensed Area.

13.2 **Licensee's Property Left in Licensed Area**

Anything left in the Licensed Area at the end of this Licence will become the property of the Licensor and may be removed by the Licensor at the Licensee's cost and at the Licensee's risk.

13.3 **Works**

If requested in writing by the Licensor at least 2 months before the end of this Licence, the Licensee must remove the Works and must restore the Licensed Area at the end of this Licence to its original condition at the sole cost of the Licensee.

14. Owners Corporation Rules

14.1 The Licensee must observe and comply with the Owners Corporation Rules, a current copy of which are set out in Annexure C.

14.2 A breach of the Owners Corporation Rules is a breach of this Licence.

14.3 Where there is any inconsistency between the Owners Corporation Rules and this Licence, this Licence prevails.

15. Termination of Licence

15.1 **Termination**

15.1.1 If the Licensee fails or neglects to perform and observe the covenants and obligations of the Licensee under the Licence, the Licensor may, if the Licensee does not remedy that failure or neglect within 14 days after service of notice in writing by the Licensor requiring the Licensee to do so, terminate this Licence and re-enter the Licensed Area and restore the Licensed Area to its original condition at the sole cost of the Licensee.

15.1.2 This Licence will terminate upon any cancellation of Plan of Subdivision PS826420W or winding-up of the Licensor pursuant to sections 34G and 34H of the *Subdivision Act 1988* (Vic).

15.1.3 On termination of the Licence, the Licensor may e-enter and resume possession of the Licensed Area.

15.2 **Damages following Termination**

If this Licence is terminated by the Licensor, the Licensee agrees to compensate the Licensor for any loss or damage the Licensor suffers in connection with the Licensee's breach of this Licence including the loss of the benefit of the Licensee performing its obligations under this Licence up to the expiration of the Term.

16. Dispute resolution

16.1 **Dispute Notice**

16.1.1 A party asserting a dispute exists between the parties under this Licence or incidental to this Licence must give the other party or parties a dispute notice.

16.1.2 The dispute notice must state:

(a) what is in dispute;

(b) the arguments of the party giving the dispute notice; and

(c) what should be done to rectify the dispute,

with sufficient details to allow the other party or parties to effectively respond to the notice.

16.2 **Notice of Response**

The party receiving the dispute notice must respond in writing within 14 days of receiving the dispute notice. (**Notice of Response**)

16.3 **Reasonable endeavours**

The parties must use reasonable endeavours to resolve the dispute.

16.4 **Determination**

16.4.1 If the parties are unable to resolve the dispute within 10 days of the provision of the Notice of Response, the parties must refer the dispute to a mutually agreed Expert.

16.4.2 The Expert must be an independent consulting firm or individual, in each case with at least 10 years of experience and be qualified to resolve the issue in question.

16.4.3 If the parties do not agree on the appointment of an Expert within 17 days of the provision of the Notice of Response, either party can request an Expert to be nominated for the purpose by the Property Council of Australia (Victorian Division).

16.4.4 Both parties are entitled to make written submissions to the Expert.

16.4.5 The Expert must give notice of its decision within 30 days of its appointment.

16.4.6 The Expert's decision is final and binding on the parties.

16.4.7 The Expert's costs will be paid by the parties as the Expert decide, and failing such decision, equally.

16.5 **Powers and duties of the Expert**

The Expert:

16.5.1 will not be an arbitrator;

16.5.2 may take into consideration all documents, information and other written and oral material that the parties to the dispute place before it;

16.5.3 must disclose all information and documents received from any party to the dispute to the other parties to the dispute;

16.5.4 may arrange a conference to hear oral representations;

16.5.5 is not bound by the rules of evidence and may receive information in any manner; and

16.5.6 is not required to obtain or refer to any other documents, information or material but may do so.

16.6 **Negotiations without Prejudice**

Evidence of anything said or done in the course of attempting to settle a dispute is not admissible in any subsequent proceedings.

16.7 **Continued Performance**

During the dispute resolution process, the parties must perform their obligations under this Licence.

16.8 **Referral of Dispute**

If a party has complied with clauses 16.1 to 16.4, it may at any later time refer any dispute or other matter related to this Licence to a court, or a body having jurisdiction.

17. General

17.1 Notices

Any notice required to be served under this Licence must be in writing and must be served by:

17.1.1 post or hand delivered to:

(a) the Licensee at its address set out in this Licence, the Licensee's registered office address or the last known address of the Licensee; and

(b) the Licensor at its address set out in this Licence or any other address notified in writing to the Licensee by the Licensor; and

17.1.2 electronic mail to the electronic mail address of the relevant party.

17.2 Entire Understanding

This Licence contains the entire understanding between the parties as to the subject matter contained in it. All previous agreements, representations, warranties, explanations and commitments, expressed or implied, affecting this subject matter are superseded by this Licence and have no effect.

17.3 Waiver

If the Licensor accepts the Licence Fee or any other monies under this Licence (before or after the end of this Licence) or does not exercise or delays exercising any of the Licensor's rights under this Licence, it will not be a waiver of the breach of this Licence by the Licensee or of the Licensor's rights under this Licence.

17.4 Additional Clauses

This Licence is subject to the Additional Clauses. The Additional Clauses override any inconsistent provisions in this Licence.

17.5 Counterparts

This Licence may be signed in counterparts, all of which taken together are one document.

17.6 Electronic execution

17.6.1 A party may sign this Licence, and any variations to it, by electronic means where permitted by law. Each other party consents to signing by electronic means.

17.6.2 The parties agree that if any party signs this Licence under clause 17.6.1, then:

(a) an electronic form of this Licence with that party's electronic signature(s) appearing will constitute an executed counterpart; and

(b) a print-out of this Licence with that party's electronic signature(s) appearing will also constitute an executed counterpart.

17.7 Stamp Duty

The Licensee must pay any stamp duty assessed in relation to this Licence.

17.8 **Amendment of Licence**

This Licence may only be amended by an instrument in writing signed by the parties.

18. Interpretation

18.1 **Governing Law and Jurisdiction**

18.1.1 This Licence is governed by the laws of Victoria.

18.1.2 Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Courts of Victoria and waives any right to object to proceedings being brought in those Courts.

18.2 **Persons**

In this Licence, a person includes a firm, partnership, association, corporation or other corporate body.

18.3 **Joint and Several**

If a party is more than 1 person, this Licence binds them jointly and each of them severally.

18.4 **Legislation**

In this Licence, a statute includes regulations under it and consolidations, amendments, re-enactments or replacements of any of them.

18.5 **Clauses and Headings**

In this Licence:

18.5.1 a reference to a clause or annexure is a reference to a clause or annexure in or to this Licence; and

18.5.2 headings are inserted for ease of reference only and do not affect interpretation.

18.6 **Severance**

In this Licence:

18.6.1 if a provision is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable; and

18.6.2 if it is not possible to read down a provision as required in this clause, that provision is severable without affecting the validity or enforceability of the remaining part of that provision or the other provisions in this Licence.

18.7 **Number and Gender**

In this Licence, a reference to:

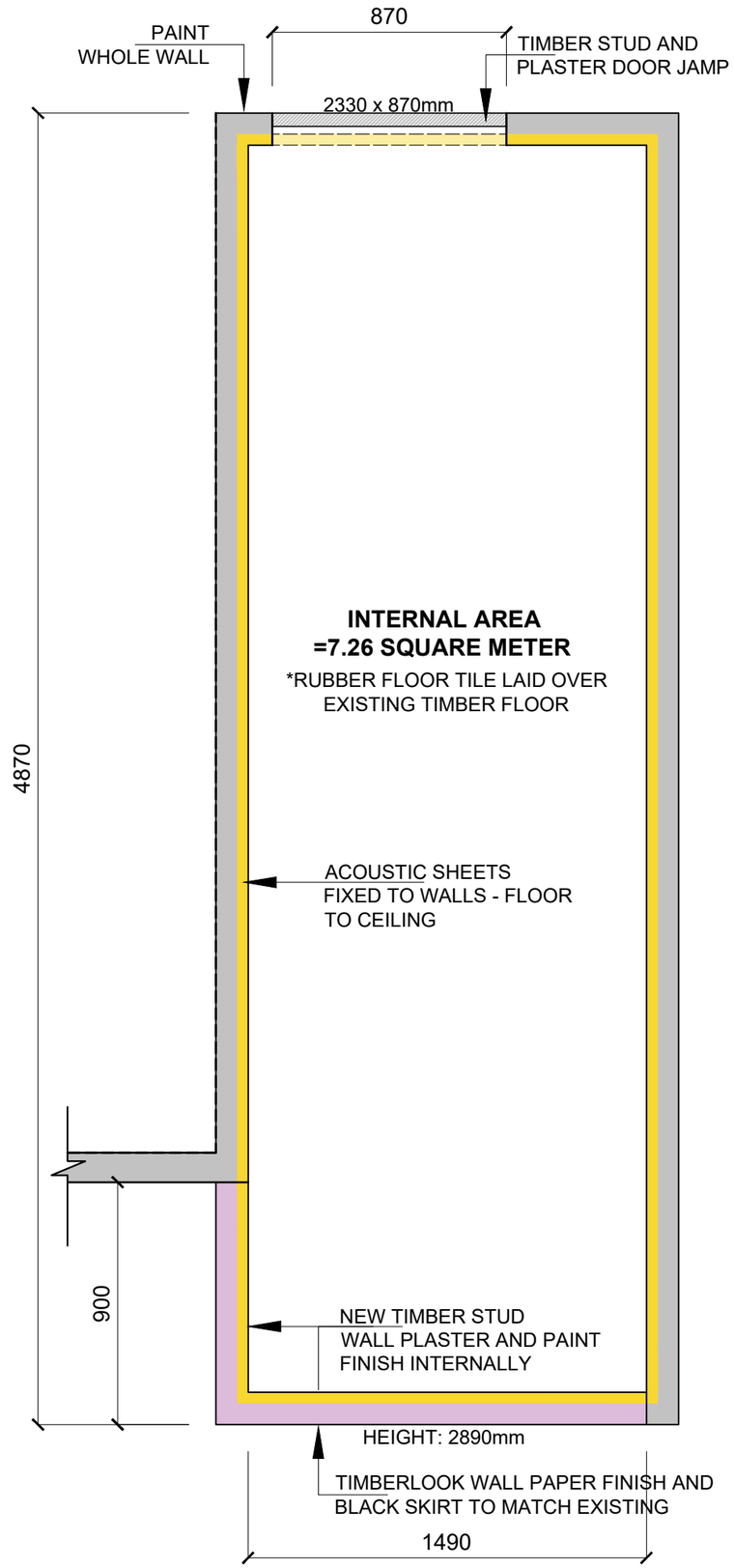
18.7.1 the singular includes the plural and vice versa; and

18.7.2 a gender includes the other genders.

Annexure A

Plan

ST. MORITZ
STORAGE PLAN



LEGEND:

- ACOUSTIC SHEETS
- NEW WALL

Annexure B

Works

The Works under this Licence comprise:

Wall Construction

- Erection of a new wall in the chairman's lounge corridor to seal off space outside the 1R tenancy exit door (as per diagram above)
- Acoustic treatment of the new 1 R storeroom after wall completion
- Wood varnish wall finishings to match with Chairmans Lounge

Fire Safety System Adjustments

- Modification of fire services in the Licensed Area
- Coordination of site visit for isolation of Fire Indicator Panel (FIP) and necessary circuit breakers
- Management of sprinkler system including drain down, relocate one sprinkler head to meet store spacing requirements, and reinstate system
- De-isolation of FIP on completion
- Provision of compliance report confirming all modifications meet code requirements and fire evacuation paths are compliant

Lighting & Exit Sign Modifications

- Relocation of 1 exit light to accommodate new store layout
- Removal of 1 exit light to suit revised store configuration
- Conversion of 2-way light switch to single switch operation

Annexure C

Owners Corporation Rules

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DX 259 Melbourne

Date / /

Owners Corporation Rules

Saint Moritz, 14-16 The Esplanade, St Kilda, Victoria

Owners Corporation No. 6 on Plan of Subdivision PS826420W (Chairman's Lounge)

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Owners Corporation Rules

Date / /

Notes

The Act and Regulations detail the powers of the Owners Corporation(s), the general duties of members, meetings and administration of the Owners Corporation(s), insurance and other miscellaneous matters. These Rules must be read in conjunction with the Act, Regulations and the model rules prescribed under the Regulations.

1. Definitions

In these rules:

Act means the *Owners Corporations Act* 2006 (Vic) as amended from time to time.

Authority means any government or any public, statutory, governmental, semi-governmental, local government, municipal or judicial body, entity or authority and includes a Minister of the Crown (in any right), and any person, body, entity or authority exercising a power pursuant to an Act of Parliament.

Building Works means all design, building and construction works including the construction, erection, fixing, installation or otherwise or any item not originally included with or part of a Lot or Common Property.

Building means all and any buildings, structures or improvements comprised in the Development.

Chairman's Lounge Facilities means the boardrooms and associated facilities in the Development.

Common Property means the land, the Building and any other improvements erected on 14-16 The Esplanade, St Kilda and designated as common property no.6 on the Plan.

Developer means 14-16 The Esplanade by Gurner Pty Ltd ACN 626 307 131 or a Related Entity responsible for the development of the Development and creation of Lots and includes the Developer's successors and assigns and where it is consistent with the context includes the Developer's employees, agents, builders, contractors, subcontractors and invitees.

Development means all the land and improvements comprised in the Plan and known as Saint Moritz, 14-16 The Esplanade, St Kilda.

Development Agreement means any agreement between the Developer and Owners Corporation or in relation to the Development, including any ancillary agreements between the Developer and the Owners Corporation such as development leases or other licences.

Director has the same meaning as it has in the *Fair Trading Act* 1999 (Vic).

Dispute means a dispute or other matter arising under the Act, Regulations or Rules including a dispute or matter relating to:

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(a) the operation of the Owners Corporation;

(b) an alleged breach by a Member or Occupier of an obligation imposed on that person under the Act, Regulations or the Rules; or

(c) the exercise of a function by a Manager in respect of the Owners Corporation.

Domestic Building Contract means any domestic building contract within the meaning of the *Domestic Building Contracts Act* 1995 (Vic) entered into by the Initial Owner.

Governmental Agency means any government or any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.

Initial Owner has the same meaning as it has under the Act and where the context requires includes its successors and assigns.

Land means the whole of the land described in the Plan.

Lot means a lot shown on the Plan.

Maintenance Fund means a fund or part of a fund used for implementation of the Maintenance Plan (if any).

Maintenance Plan means a maintenance plan (if any) established and approved by the Owners Corporation as contemplated by the Act.

Manager means the person or entity appointed by the Owners Corporation as Manager of the Owners Corporation(s) or, where the context permits, the building manager, concierge or valet appointed by the Owners Corporation to assist it with the functions of the Owners Corporation contemplated by the Rules and where relevant includes the Manager's successors and assigns and where the context requires includes the Manager's officers, employees, agents, contractors, subcontractors and invitees.

Member means a member of the Owners Corporation by reason of being the owner of a Lot for the time being and where the context requires includes an Occupier or their invitees.

Occupier means the person or entity authorised by the Member to occupy the designated Lot as tenant or licensee and where the context requires includes the Occupier's invitees.

Owners Corporation means the Owner Corporation No. 6 on the Plan.

Plan means Plan of Subdivision No. PS826420W.

Regulations means the *Owners Corporations Regulations* 2018 (Vic) as amended from time to time.

Related Entity has the same meaning given to that term in the *Corporations Act* 2001 (Cth).

Rule or **Rules** means these rules which are for the purpose of the control, management, administration, use or enjoyment of the Common Property or any Lot as amended from time to time.

Vendor means Barana (St Kilda) Investments Pty Ltd.

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2. Interpretation

2.1 Unless the context otherwise requires:

2.1.1 headings are for convenience only;

2.1.2 words imparting the singular include the plural and vice versa;

2.1.3 expressions imparting a natural person includes any company, partnership, joint structure, association or other Owners Corporation and any governmental authority; and

2.1.4 a reference to a thing includes part of that thing.

2.2 The obligations and restrictions in these Rules must be read subject to the rights, grants or privileges that may be given to any person or entity by the Owners Corporation from time to time and to the extent of any inconsistency, such rights, grants or privileges, must prevail over these Rules in respect of the person or entity to whom they are given.

2.3 In these Rules:

2.3.1 if a provision is held to be illegal, invalid, void, voidable or unenforceable, that provision must be read down to the extent necessary to ensure that it is not illegal, invalid, void, voidable or unenforceable; and

2.3.2 if it is not possible to read down a provision as required in this Rule, that provision is severable without affecting the validity or enforceability of the remaining part of that Rule or the other Rule;

2.3.3 references to 'Owners Corporation' includes any person or body authorised to act on behalf of the Owners Corporation delegated any power or functions by the Owners Corporation or appointed by the Owners Corporation to assist in carrying out its functions, including without limitation the Manager, as the context permits.

2.4 In the event of a conflict between these Rules and any restriction on the Plan, the restriction will prevail.

2.5 In the event of a conflict between these Rules and the model rules prescribed under the Regulations, these Rules prevail.

2.6 In the event of a conflict between these Rules and the rules for Owners Corporation No. 1 on the Plan (OC1), the rules for OC1 will prevail

3. Role and functions

3.1 The Owners Corporation is responsible for ensuring that appropriate rules, measures and procedures are established to govern issues common to the Members, including that the Common Property and/or a Lot are maintained for the benefit and enjoyment of all Members and Occupiers. The Owners Corporation exercises such responsibilities through enforcing the Rules and through holding regular committee meetings at which matters affecting the operation of the Common Property are resolved and advised to all Members.

3.2 The Owners Corporation must abide by the Rules, Act and Regulations, and in carrying out its functions and powers must act honestly and in good faith and exercise due care and diligence.

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3.3 These Rules are for the purpose of the control, management, administration, use or enjoyment of the Common Property or a Lot and represent the interests of Members and Occupiers. The Rules may be added to, amended or revoked:

3.3.1 if a resolution is passed after a ballot or poll is taken and 75% of the total lot entitlements of all the Lots are in favour of such addition, amendment or revocation; or

3.3.2 if a resolution is passed in any other case and 75% of the total votes for all the Lots are in favour of such addition, amendment or revocation (**Special Resolution**).

3.4 Under the Act and Regulations, the Owners Corporation is responsible for, amongst other things:

3.4.1 electing the Committee (if required);

3.4.2 establishing a Maintenance Plan and Fund;

3.4.3 establishing and maintaining an Owners Corporation Register;

3.4.4 taking out, maintaining and paying the premiums for insurance;

3.4.5 keeping proper accounts that cover the income, expenditure, assets and liabilities of the Owners Corporation and providing true reports of the financial situation of the Owners Corporation; and

3.4.6 preparing annual financial statements.

4. Provision of services

4.1 Each Member of the Owners Corporation agrees that the Owners Corporation will provide the following services:

4.1.1 the repair and maintenance of all Common Property including gardens, trees, paved areas and landscaping; and

4.1.2 any other service or facility provided by the Owners Corporation for the benefit of the Members.

4.2 A Member or an Occupier acknowledges that:

4.2.1 the Owners Corporation may share amongst the Members and Occupiers the costs of supply and maintenance (based on lot liability or other methodology determined by the Owners Corporation) of any gas facility or power facility required for heating or air conditioning or any variable refrigerant volume or variable refrigerant flow system (VRV) to the Lots affected by the Owners Corporation or any Common Property; and

4.2.2 where any Lot is not separately metered in relation to any service, including gas, electricity, water, heating, air-conditioning and/or VRV, then the Occupier shall pay a proportion of such service and supply charges relating to same on a proportional rate by dividing the unit liability of that Lot by the total unit liability of all Lots serviced jointly or as otherwise determined by the Owners Corporation, acting reasonably.

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5. Use of a Lot

5.1 A Member must not:

5.1.1 create noise or behave in a manner that is likely to interfere with the peaceful enjoyment of the member of another Lot, or any person lawfully using the Common Property;

5.1.2 operate or permit to be operated on a Lot any device or electronic equipment which interferes with any domestic appliance lawfully in use on the Common Property, or another Lot;

5.1.3 use or store on the Lot any flammable chemical, liquid, gas or other flammable material other than chemicals, liquids, gases or other material used or intended to be used for normal and lawful domestic purposes or in the fuel tank of a motor vehicle;

5.1.4 carry out or cause to be carried out on a Lot, road or any other land in the vicinity of a Lot, any dismantling, assembly, repairs or restorations of vehicles unless carried out in an area screened from public view; and

5.1.5 use the Lot for any purpose that may be illegal or injurious to the reputation of the premises comprised of the lots and the Common Property or which may cause a nuisance or hazard to any other member of a Lot.

5.2 Each Member must:

5.2.1 maintain their Lot and must ensure that their Lot is so kept and maintained as not to be offensive in appearance nor a fire or health hazard to other Members; and

5.2.2 comply with all laws relating to the Lot including, without limitation, any requirement, notices and orders of any governmental authority.

6. Notification of Defects

A Member or Occupier of must promptly notify the Owners Corporation or the Manager on becoming aware of any damage to or defect in the Common Property or any personal property vested in the Owners Corporation.

7. Compensation to Owners Corporation

The Member or Occupier must compensate the Owners Corporation in respect of any damage to the Common Property or personal property vested in the Owners Corporation caused by that Member or Occupier or their respective tenants, licensees or invitees.

8. Pets and animals

8.1 A Member can keep any animal upon a Lot or the Common Property unless the Member has been given notice by the Owners Corporation to remove and keep removed such animal once the Owners Corporation has resolved that the animal is causing a nuisance.

8.2 A Member must ensure that any animal belonging to them does not urinate or defecate on Common Property including internal court yards. . In the event any animal belonging to them

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does urinate or defecate on Common Property, the Member must immediately clean up the urine and/or faeces.

8.3 A Member must ensure that any animal belonging to them must be on a lead at all times when on the Common Property.

9. Cleaning and maintenance of a Lot

9.1 A Member or Occupier must keep its Lot clean and in good repair.

9.2 A Member or Occupier must ensure that all landscaped areas visible from Common Property or which adversely affect the outward appearance or state of repair of the Lot or the use and enjoyment of the Lots or Common Property by other Members or Occupiers are maintained to a standard commensurate with the standard of maintenance of Common Property landscaped areas or as reasonably directed by the Owners Corporation or its Manager. Failure to comply with this rule will cause the Owners Corporation to landscape areas visible from Common Property at a cost to the Member.

10. Blinds, Windows and Awnings

10.1 A Member or Occupier may only install window furnishings which are:

10.1.1 blockout roller blinds:

(a) the colour of the blockout backing facing the window is charcoal grey or any other similar colour approved by the Owners Corporation in writing; and

(b) on a ceiling mounted track; or

10.1.2 sheer roller blinds:

(a) the colour of the sheer backing facing the window is charcoal grey or any other similar colour approved by the Owners Corporation in writing; and

(b) on a ceiling mounted track; or

10.1.3 blockout curtains:

(a) the colour of the blockout backing facing the window is charcoal grey or any other similar colour approved by the Owners Corporation in writing;

(b) full height drop without decorative pelmets or valances; and

(c) on ceiling mounted track; or

10.1.4 sheer curtains:

(a) the colour is white or any other similar colour approved by the Owners Corporation in writing;

(b) full height drop without decorative permits or valances; and

(c) on ceiling mounted track.

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10.2 The Member or Occupier is responsible for any costs and expenses associated with the window furnishings, including without limitation the cost of the window furnishings and any installation costs.

10.3 A Member or Occupier must install and maintain internal window furnishings on their Lot, at their own cost, in a manner so as to ensure efficient operation of the heating/cooling system of the Lot.

10.4 A Member or Occupier must not allow any glazed portions of the Lot or the Common Property that surrounds the Lot to be tinted or similar treated.

10.5 A Member or Occupier must not install or allow to be installed any:

10.5.1 external blinds or awnings; or

10.5.2 internal window furnishings visible from the outside of the Lot (other than as allowed under this Rule),

without prior approval from the Owners Corporation in writing.

10.6 Timber plantation style solid shutters, venetian blinds, pleated blinds and similar horizontal appearance to venetians, vertical blinds and highly ornate fabric blinds or any finish are not permitted.

11. Building Works

11.1 A Member must not undertake any Building Works, including the alteration or modification to the external façade of a Lot, the removal or replacement of floor coverings or materials, fixing or having fixed any electrical, audio visual, or communication device or equipment (for example, plasma or LCD televisions or speakers) within or about or relating to their Lot which may effect the acoustic performance of any inter-tenancy wall, floor or ceiling, without:

11.1.1 the prior written approval of the Owners Corporation; and

11.1.2 providing at least 28 days' notice of the Building Works to each horizontal and vertical neighbour.

11.2 Before commencing any Building Works, a Member must:

11.2.1 submit to the Owners Corporation for approval plans and specifications of any proposed Building Works;

11.2.2 obtain, for any Building Works proposal submitted for approval, certification by a qualified acoustics engineer that the works when completed will meet the Building Code of Australia minimum requirements for sound attenuation;

11.2.3 receive written approval from the Owners Corporation to proceed with those specified Building Works;

11.2.4 obtain and supply copies to the Manager of all requisite permits, approvals and consents under all relevant Laws;

11.2.5 pay costs to the Owners Corporation where a building contractor or consultant may be engaged to advise the Owners Corporation on the proposed Building Works even if consent is not given;

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11.2.6 cause to be effected and maintained during the period of the Building Works a contractor's all risk insurance policy;

11.2.7 deliver a copy of the contractor's all risk insurance policy and certificate of currency to the Owners Corporation which notes the interests of the Owners Corporation.

11.3 A Member or Occupier must ensure that any contractor engaged to perform approved Building Work on their Lot complies with the reasonable directions of the Owners Corporation concerning the method of building operations, means of access, use of the Common Property, on-site management, building protection and hours of work. The Member or Occupier must also supervise the carrying out of such Building Works and ensure that the following conditions are met:

11.3.1 the Building Works are undertaken in:

(a) accordance with the requirements of the *Occupational Health and Safety Act* 2004 (Vic) and the *Occupational Health and Safety Regulations* 2017 (Vic), as amended or replaced from time to time; and

(b) a reasonable manner so as to minimise any nuisance, annoyance, disturbance and inconvenience to other Members or Occupiers;

11.3.2 building materials are not stacked or stored in Common Property;

11.3.3 scaffolding is not erected on the Common Property or the exterior of the Building, without the prior written approval of the Owners Corporation;

11.3.4 construction work complies with all Laws of the relevant Authorities;

11.3.5 construction vehicles and construction worker's vehicles are not brought into, or parked on the Common Property except by prior arrangement with the Owners Corporation;

11.3.6 the exterior and Common Property of the Building is at all times be maintained in a clean and tidy state;

11.3.7 suitable floor, wall and other protections is installed in the Common Property before any building materials are taken through those parts of the Common Property; and

11.3.8 all contractors and tradesmen use only the basement, lifts, lobby and areas designated by the Manager when working in the Lot.

11.4 Where a Member or Occupier commissions Building Work in accordance with Rule 11.3, a representative of the Owners Corporation and the Member or Occupier must inspect the part of the Common Property which will be affected by the Building Works (for example, the area through which building materials will be transported) prior to commencing the Building Work to establish the state of repair of the Common Property and again after the Building Work has been completed to determine if any damage has been caused to the Common Property.

11.5 A Member or Occupier must promptly make good all damage to and dirtying of the Building, the Common Property, the services thereof or any fixtures and fittings and finishes which are caused by any Building Works. If the Member or Occupier fails to do so the Owners Corporation may in its absolute discretion make good the damage and dirtying at the Member's or Occupier's expenses. The Member or Occupier must indemnify and keep indemnified the Owners Corporation for all costs and liabilities incurred by the Owners Corporation in so making good the damage or dirtying caused by the Building Work. The Owners Corporation may at their absolute discretion demand from the Member or Occupier a performance bond in relation to the cleaning or repair of the Common Property to guarantee their performance under this Rule.

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11.6 Before commencing any Building Works, a Member or Occupier must ensure that the walls, floor and ceiling of the lifts are adequately protected from damage.

12. Use of appurtenances

12.1 A Member or Occupier must not use the water closet, conveniences or other water apparatus, including water pipes and drains for any other purpose than those which they were constructed and, must not sweep or deposit rubbish, baby wipes or other unsuitable substances therein. The Member indemnifies and keeps indemnified the Owners Corporation on a full indemnity basis for any costs or expenses resulting from any damage or blockage incurred by the Owners Corporation where the damage or blockage was caused by the Member, Occupier or their invitees.

13. Fittings

13.1 A Member or Occupier must:

13.1.1 not modify any VRV, air-conditioning, heating or ventilation system or associated ducting servicing that services the Member's Lot without the prior consent of the Owners Corporation;

13.1.2 not install in a Lot a floor safe, a safe, or any other item exceeding 100kg in weight without a written consent of the Owners Corporation and before submitting to the Owners Corporation a structural engineering report in respect to the proposed installation; and

13.1.3 ensure that all floor space within a Lot is covered or otherwise treated to an extent sufficient to prevent the transmission from the floor space of the Lot noise likely to disturb the peaceful enjoyment of the Member or Occupier of another Lot.

13.2 A Member or Occupier must not affix or have affixed to any Common Property wall, floor or ceiling any electrical, audio visual or communication device or equipment without the prior written consent of the Owners Corporation including but not limited to plasma or LCD televisions or speakers.

14. Use of Common Property

14.1 A Member or Occupier must not:

14.1.1 do or allow to be done anything on the Common Property which causes a nuisance to or interferes with its lawful use by the Owners Corporation or other Members;

14.1.2 do or permit anything which might cause structural damage to the Common Property;

14.1.3 interfere with the operation of any equipment installed on the Common Property without the prior written consent of the Owners Corporation;

14.1.4 interfere with any personal property vested in the Owners Corporation;

14.1.5 park or leave a vehicle or permit any vehicle to be parked or left upon the Common Property or in any place other than in a parking area specified for such purpose by the Owners Corporation;

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14.1.6 paint, finish, drive nails or screws or the like into, or otherwise damage, alter or deface the Building or any other part of the Common Property including the external facade except with the consent in writing of the Owners Corporation;

14.1.7 when on Common Property (or if on any part of a Lot so as to be visible from another Lot or from Common Property), fail to be adequately clothed and must not use language or behave in a manner likely to cause offence or embarrassment to the Member or Occupier of another Lot or to any person lawfully using Common Property;

14.1.8 deposit or throw upon the Common Property any rubbish, dirt, dust or other material likely to interfere with the peaceful enjoyment of other Member or any person lawfully using the Common Property;

14.1.9 disregard any requirements made by the Owners Corporation relating to the use of any access keys and intercom system that may be provided as the means of access upon roadways created within the Common Property;

14.1.10 use or store on the Common Property any flammable chemical, liquid, gas or other flammable material other than chemicals, liquids, gases or other material used or intended to be used for normal and lawful domestic purposes or in the fuel tank of a motor vehicle;

14.1.11 hold or allow to be held any public auction on or near the Common Property;

14.1.12 directly instruct any contractors or workmen employed by the Owners Corporation unless so authorised;

14.1.13 except with the consent in writing of the Owners Corporation, use for their own purposes as a garden any portion of the Common Property; and

14.1.14 smoke in the stairwells, lifts, foyers, and car park forming part of the Common Property or such other parts of the Common Property.

14.2 A Member or Occupier:

14.2.1 must notify the Owners Corporation or its Manager promptly when becoming aware of any damage to or defect in the Common Property or any personal property vested in the Owners Corporation;

14.2.2 must ensure that any guests or invitees of the Member or Occupier are accompanied at all times when on Common Property; and

14.2.3 acknowledges that the use of the Common Property is subject to any written agreements, leases or licences that the Owners Corporation may enter into relating to areas of the Common Property.

15. Lifts

A Member or Occupier must not and must ensure that the Occupier of a Member's Lot does not:

15.1 use the lifts for any other purpose other than to gain pedestrian access to his or her Lot as directed by the Owners Corporation;

15.2 hold the lift doors and/or prevent the doors of the lift closing for any period of time so as to interfere with the normal operation of other Occupiers' use of the lifts;

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15.3 press the alarm or stop button except in an emergency situation;

15.4 press any button other than the one representing the floor or level that the lift is required to stop at; and

15.5 change any lift programming that gives preferential access to a Lot(s) within the Development.

16. Moving object on or through Common Property

16.1 The Owners Corporation may resolve that furniture or large objects are to be transported through or on the Common Property (whether in the Building or not) in a specified manner.

16.2 If the Owners Corporation has specified, by resolution, the manner in which furniture or large objects are to be transported, a Member or Occupier must not transport any furniture or large object through or on the Common Property except in accordance with that resolution.

16.3 When using the lifts to move goods or furniture a Member or Occupier must ensure that the walls, floor and ceiling of the lifts are adequately protected from damage.

16.4 If the Member or Occupier requires the use of a crane to move goods or furniture, the Member or Occupier must first notify (by giving at least 7 days' written notice) and obtain the prior consent of the Owners Corporation. The Member or Occupier must cooperate with and comply with any requirements of the Owners Corporation (acting reasonably) in order to facilitate the use of the crane and minimise disruption to other Members or Occupiers.

16.5 A Member or Occupier must not move any article of furniture or any other article likely to cause damage or obstruction through the Common Property without first notifying the Owners Corporation (by giving at least 7 days' written notice) to enable the lifts to be covered and ensure only one Member or Occupier is moving in at a time.

16.6 Prior to moving any article of furniture or any other article likely to cause damage or destruction, the Manager or a representative of the Owners Corporation and the Member or Occupier will inspect the Common Property through which such article is to be moved to establish its state of repair. The Member or Occupier will be liable for any damage caused to the Common Property arising from the movement of the article.

17. Signage and windows

17.1 A Member is not permitted to display signs, advertising or notices on any Lot, including for the purpose of offering for sale or lease or letting any Lot or Common Property, without the consent of the Owners Corporation. Any sign that is erected must be of a standard that shall not detract from the overall appearance of the Development.

17.2 A Member is not permitted to display any advertising material, logos or sign writing to any external window, glazing or external solid face of a lot without the written consent of the Owners Corporation.

17.3 A Member must not allow any glazed portions of the Lot or Common Property to be tinted or otherwise treated with the intention of changing the visual characteristic of the Development.

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18. Mail

18.1 Members and Occupiers must keep their mail box regularly cleared to avoid overflowing of mail, leaflets, circulars, pamphlets, newspapers, advertising material or other objects whatsoever at any one time, whether solicited or not, and must arrange for all such required clearance by other persons should a Member or Occupier be absent for any reason for any period of time to avoid such overflowing. This requirement may be waived upon request made to the Owners Corporation in writing not less than seven days prior to the date or dates for which such waiver is required.

18.2 Where large parcels do not fit into a mail box, Members and Occupiers consent to the Manager holding such parcels on their behalf, until collected by the Member or Occupier.

19. Garbage disposal

A Member of a Lot must:

19.1 except where the Owners Corporation provides some other means of disposal of garbage, maintain within their Lot, or on such part of the Common Property as may be authorised by the Owners Corporation, a receptacle for garbage and to keep such receptacle in a clean and tidy condition and not visible to the public except on days designated for rubbish collection;

19.2 comply with all requirements of Governmental Agencies relating to the disposal of garbage;

19.3 ensure that rubbish is disposed of in accordance with the disposal facilities of the Building, and the rules/directions of the Owners Corporation from time to time (for example recyclables are placed in the recycle chute);

19.4 consult with and seek approval from the Owners Corporation in respect of the disposal of large articles to ensure that they are disposed of appropriately;

19.5 ensure that rubbish does not accumulate on their Lot, and that the health, hygiene and comfort of other Members is not adversely affected by their disposal of garbage;

19.6 ensure that rubbish is transported from their Lot to the designated garbage room on the Common Property in an appropriate watertight receptacle; and

19.7 pay or reimburse the Owners Corporation any costs incurred by the Owners Corporation as a result of the Member or Occupier's misuse of the garbage disposal facilities, or other breach of this rule 19.

20. Chairman's Lounge Facilities

20.1 Only a Member or Occupier is permitted to use the Chairman's Lounge Facilities. When using the Chairman's Lounge Facilities a Member and an Occupier must ensure that:

20.1.1 the Chairman's Lounge Facilities must be booked through the Manager. A bond may be required prior to use, and a cleaning fee may be applied after use of the Chairman's Lounge Facilities;

20.1.2 children below the age of 15 years are not in or around the Chairman's Lounge Facilities unless accompanied by an adult Member or Occupier exercising effective control over them;

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20.1.3 any request for exclusive use of the Chairman's Lounge Facilities must be approved by the Manager in writing. Such approval by the Manager may be withheld by the Manager at its absolute discretion, acting reasonably.

20.1.4 an Occupier is responsible for any damage, cleaning or reinstatement costs incurred by the Owners Corporation or Manager as a result of the use of the Chairman's Lounge Facilities.

20.1.5 an Occupier must not smoke or make any undue noise in the Chairman's Lounge Facilities without the prior written consent of the Manager; and

20.1.6 the Chairman's Lounge Facilities are to be left in the same condition in which it was found.

20.2 Members and Occupiers may only use the Chairman's Lounge Facilities during the hours of use determined by the Manager from time to time unless the consent of the Manager is obtained to use the facilities outside of these hours.

20.3 The Owners Corporation may make additional or separate rules relating to the use of the Chairman's Lounge Facilities provided they are not inconsistent with these Rules. If breached, rules relating to the Chairman's Lounge Facilities will constitute a breach of these Rules.

21. Behaviour of Invitees

21.1 The duties and obligations imposed by these special rules upon a Member of a Lot must be observed not only by the Member but also by the guest, servants, employees, agents, children, invitees and licensees of the Member or the occupier of their Lot (Invitees).

21.2 A Member must take all reasonable steps to ensure that their Invitees do not behave in a manner likely to interfere with the peaceful enjoyment of any Member or occupier of another Lot or of any person lawfully using the Common Property or which may result in damage to the Common Property.

21.3 A Member is liable to compensate the Owners Corporation for all damage to the Common Property or personal property vested in it caused by a breach of Rule 21.1 and 21.2.

21.4 Where the Owners Corporation expends money to make good damage caused by a breach of the Act, or of these rules by any Member or Invitees, the Owners Corporation can recover the amount so expended as a debt in action in any Court of competent jurisdiction from the Member of the Lot at the time when the breach occurred.

21.5 Rules 21.1 to 21.4 are intended to operate in addition to the requirements of the Act.

22. Owners Corporation fees

22.1 The Member must pay the fees set by the Owners Corporation to cover general administration and maintenance, insurance and other recurrent obligations quarterly in advance according to their lot entitlement.

22.2 The amount of the annual Owners Corporation fees which is payable by each Member will be established at each annual general meeting of the Owners Corporation.

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22.3 Any special fees or charges levied by the Owners Corporation to cover extraordinary items of expenditure must be paid on the due date set by the Owners Corporation upon the levying of each special fee or charge.

23. Consent of Owners Corporation

A consent given by the Owners Corporation under these Rules will, if practicable, be revocable and may be given subject to conditions including, without limitation, a condition evidenced by a minute of a resolution that the member for the time being of the lot to which the consent or approval relates is responsible for compliance with the terms of the consent.

24. Enforcement of Domestic Building Contract

The Member agrees that for the purpose of its obligations under the Act:

24.1 the Members acknowledge and agree that reasonable steps to enforce any domestic building contract (within the meaning of the Domestic Building Contracts Act 1995) include:

24.1.1 the making of a demand in writing to the builder under any domestic building contract to comply with the terms of the domestic building contract and/or rectify any breach of the domestic building contract;

24.1.2 the exercise of any right under the domestic building contract to withhold any payment to the builder or have recourse to any security provided by the builder under the domestic building contract;

24.1.3 the settlement of any dispute under any domestic building contract between the original owner and the builder on terms acceptable to the original owner; and

24.1.4 any other enforcement action the Initial Owner considers appropriate in the circumstances; and

24.2 the Members agree to pay or reimburse the Initial Owner its portion of any enforcement relative to its lot liability.

25. Complaints and disputes

25.1 Any Dispute must be dealt with at first instance in accordance with this Rule 25.

25.2 A party to a Dispute must not initiate legal proceedings or complain to the Director in respect of the Dispute unless it has first complied with the dispute resolution procedure set out in this Rule 25.

25.3 The party making the complaint must in the first instance notify the Manager, or where the Manager is the subject of or involved in the Dispute, the Committee, of the Dispute in writing. The Manager must refer any complaint it receives to the Committee. Upon receipt of a complaint referred by the Manager or received directly from a Member or Occupier, the Committee will then decide (at its absolute discretion having regard to the nature and urgency of the Dispute) whether to:

25.3.1 arrange a meeting between the parties to resolve the Dispute; or

25.3.2 waive the requirement for the parties to meet.

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25.4 Notwithstanding the course of action elected by the Committee under Rule 25.3, the parties must consult with one another in good faith and use their best endeavours to resolve the Dispute to the mutual satisfaction of both parties without resort to legal proceedings or other avenues of dispute resolution.

25.5 Without limiting the generality of this Rule 25, where no formal complaint is made by a Member or Occupier and the Owners Corporation otherwise becomes aware of a Dispute, the Owners Corporation (through the Manager or the Committee or otherwise) may decide (at its absolute discretion having regard to the nature and urgency of the Dispute) whether:

25.5.1 arrange a meeting between the parties to resolve the Dispute; or

25.5.2 waive the requirement for the parties to meet.

25.6 If the parties are unable to resolve the Dispute within 30 days (or such other period as the Committee thinks fit) of the meeting arranged pursuant to Rule 25.3.1 or 25.5.2, the parties may revert to the dispute resolution mechanisms set out in the Act or other Law.

26. Cost of non-compliance

The Member or Occupier must indemnify and keep indemnified the Owners Corporation on a full indemnity basis against any action, demand, cost, liability or loss incurred by the Owners Corporation as a consequence of any default by the Member or Occupier in the performance or observance of any term, covenant or condition contained in these Rules, the Act or Regulations including, without limitation administrative costs, legal costs, the cost of any works performed to rectify any non compliance and the cost incurred by the Owners Corporation in recovering overdue charges from the Member or Occupier.

27. Charges imposed on Members and Occupiers

27.1 Any payments to the Owners Corporation imposed on a Member or Occupier under the Rules, Act or Regulations will (until paid) be a charge on the Lot.

27.2 The Member or Occupier must accept a certificate signed by the Manager or valid tax invoice issued by the Owners Corporation as prima facie proof of the costs and expenses incurred by the Owners Corporation relating to any charge payable by a Member or Occupier pursuant to these Rules and must not make any claim or dispute the amount specified therein.

27.3 The Member or Occupier must pay interest at the rate prescribed under the Penalty Interest Rates Act 1983 (Vic) on outstanding fees and charges set under the Rules, Act or Regulations until they are paid.

27.4 Any payments made for the purposes of these Rules, the Act or Regulations will be appropriated first in payment of any interest and any unpaid costs and expenses of the Owners Corporation and then be applied in repayment of the principal sum.

28. Rights of entry

28.1 Except in the case of an emergency (in which case no notice shall be required) upon seven (7) days' notice in writing, the Owners Corporation or the committee of the Owners Corporation and its servants, agents and contractors shall be permitted to inspect the interior of any Lot and test the electrical, gas or water installation or equipment therein and to trace

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and repair any leakage or defect in the said installations or equipment (at the expense of the Member or Occupier in cases where such leakage or defect is due to any act or default of the said Member or Occupier of his or her invitees). The committee of the Owners Corporation, in exercising this power shall ensure that its servants, agents and employees cause as little inconvenience to the Member or Occupier as is reasonable in the circumstances.

28.2 A Member or Occupier in occupation of a Lot must allow any person authorised by and on behalf of the Owners Corporation;

28.2.1 to enter the Lot or a Building in order to have access to the exterior of the Building, and

28.2.2 to enter the Lot from the exterior of the Building via a balcony, terrace, window or other part of the Lot and to use that part of the Lot, to facilitate the repair and maintenance of and other works on Common Property including the structure of the Building and the exterior face of the Building and any service that is for the benefit of more than one Lot or the Common Property being areas of Common Property that would otherwise be difficult to access.

28.3 The Owners Corporation must give at least 7 calendar days' notice in writing to the Member or Occupier of a Lot or other Occupier of a Lot of an intention to enter:

28.3.1 unless the Member or Occupier agrees to a lesser time and where the Occupier is a tenant under a residential tenancy agreement the Occupier must be given the same notice as that required to be given by a landlord under Section 85 of the Residential Tenancies Act 1997;

28.3.2 entry to and use of the relevant part of the Lot must be between the hours of 8.00 am and 6.00pm on any day Monday to Friday; or

28.3.3 unless there is an emergency when no notice and no time restrictions apply, and then in such a manner as to cause as little interruption or inconvenience to the Occupier as is possible in the circumstances.

28.4 Members and Occupiers acknowledge and agree the access described by this rule 28 is expressly contemplated under section 12(2) of the Subdivision Act 1988 (Vic) and the Member or Occupier must not, either directly or indirectly frustrate, limit or impede the access contemplated by this rule.

29. Security

The Owners Corporation may make rules and regulations to ensure the security of the Development from intruders and otherwise with regard to the use and means of access to any roadways created upon the Common Property.

30. Contact

30.1 Each Member must advise the Manager of any out of normal business hours contact address, email and telephone number for their Lot and must promptly advise the Manager of any change in their address, email or telephone number.

30.2 Each Member must provide the Manager with an Australian address for service of notices. If a Member fails to provide an Australian address for service of notices, the Lot address will be deemed to be the proper address for service.

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31. Restricted use of Common Property for fire control

31.1 The Owners Corporation may take measures to ensure the security, and to preserve the safety of the Common Property and the Lots affected by the Owners Corporation from fire or other hazards and without limitation may:

31.1.1 close off any part of the Common Property not required for access to a Lot on either a temporary or permanent basis or otherwise restrict the access to or use by Members or Occupiers of any part of the Common Property;

31.1.2 permit, to the exclusion of Members and Occupiers, any designated part of Common Property to be used by any security person as a means of monitoring security and general safety of the Lots, either solely or in conjunction with other Lots;

31.1.3 restrict by means of key or other security device the access of the Members or Occupiers;

31.1.4 restrict by means of key or other security device the access of the Members or Occupiers of one level of the Lots to any other level of the Lots; and

31.1.5 cancel any security card issued where a Member is in arrears in payment of Owners Corporation levies in excess of two quarters.

31.2 A Member and Occupier of a Lot must abide by any actions taken by the Owners Corporation in accordance with these Rules and must meet all costs incurred by the Owners Corporation in relation to these Rules (or a breach of these Rules by the relevant Member or Occupier).

32. Fire

32.1 A Member or Occupier of a Lot must ensure compliance with all statutory and other requirements, including those of the Owners Corporation, relating to fire, fire safety and the storage of bioethanol in respect of the Lot.

32.2 A Member or Occupier of a Lot must not use, interfere or tamper with any fire safety equipment except in the case of an emergency and must not obstruct any fire stairs or fire escape.

32.3 In the event that the Melbourne Fire Brigade is called out to the Building as a result of the activation of a false fire alarm, whether the activation of the fire alarm was caused by a willful, negligent, foreseeable, or unforeseeable action or inaction, and the cause of the alarm is found to originate from a Lot, the Member or Occupier of the Lot will be jointly and severally liable to pay any and all associated costs and charges connected to a false fire alarm.

32.4 A Member hereby agrees to indemnify the Owners Corporation for all costs and charges incurred by the Owners Corporation in connection to a false fire alarm call out and the Member may elect to pursue recovery from the Occupier. This rule is enforceable regardless of whether:

32.4.1 the Member or Occupier was directly, indirectly and /or negligently responsible for the cause of the fire alarm; and/or

32.4.2 the Member authorised either impliedly or expressly the actions of the Occupier which caused the false fire alarm.

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32.5 A Member or Occupier of a Lot must ensure that all fire doors, exhaust systems and smoke detectors installed in a Lot are properly maintained and tested monthly and that back-up batteries relating to the smoke detectors are replaced whenever necessary.

32.6 Each Member or Occupier of a Lot must undertake a fire and safety induction for the Development, prior to their occupation of the Lot (Induction). Occupiers must give the Manager at least 14 days' notice for the Manager to carry out the Induction. The Manager may charge any Occupier of a Lot a fee of $1,000 plus GST for any Induction required by an Occupier with less than 14 days' notice. A Member or Occupier of a Lot may be denied access to the Building if an Induction is not undertaken.

33. Insurance

A Member or Occupier of a Lot must not without the prior written consent of the Owners Corporation do or permit anything to be done which may invalidate, suspend or increase the premium for any insurance policy effected by the Owners Corporation.

34. Security and Security Keys

34.1 A Member or Occupier of a Lot or persons thereon from time to time must not do or permit anything, which may prejudice the security or safety of the Common Property, or any person in or about the Development.

34.2 The Owners Corporation may charge a reasonable fee for any additional security key required by a Member or Occupier.

34.3 A Member must exercise a high degree of caution and responsibility in making a security key available for use by any Occupier and must use all reasonable endeavours including without limitation an appropriate stipulation in any lease or licence of a Lot to the Occupier to ensure the return of the security key to the Member or the Owners Corporation.

34.4 A Member or Occupier of a Lot in possession of a security key must not without written consent from the Owners Corporation duplicate the security key or permit it to be duplicated and must take all reasonable precautions to ensure that the security key is not lost or handed to any person other than any other Member or Occupier and is not disposed of otherwise than by returning it to the Member or the Owners Corporation.

34.5 A Member or Occupier of a Lot must promptly notify the Owners Corporation if a security key issued to them is lost or destroyed.

35. Rules Subject to Rights of the Developer

35.1 These Rules do not apply to and, are not enforceable against the Developer or its mortgagee or chargee or the Vendor or its mortgagee or chargee, for so long as any of the following apply:

35.1.1 the Developer or the Vendor and/or either of their equity partners (if any) or the Vendor is a Member or Occupier;

35.1.2 any mortgagee or chargee of the Developer or the Vendor has an interest in any Lot; or

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35.1.3 the Developer or the Vendor and/or either of their equity partners (if any) or the Vendor is engaged in any action required to complete the Development,

where to do so would prevent, hinder, obstruct or in any way interfere with any works of any nature or description that the Developer their mortgagee or chargee or the Vendor their mortgagee or chargee may be engaged in or which may need to be carried out in order to complete construction of the Buildings and facilities comprised in the Plan or the Development.

35.2 Subject to Rule 35.4, the Developer and its equity partners (if any), its mortgagees and chargees and the Vendor and its equity partners (if any), its mortgagees and chargees must be and are by this Rule, authorised by each and every member of each and every Owners Corporation in the Plan and by each and every Owners Corporation in the Plan to:

35.2.1 erect such barriers, fences, hoardings, signs as it deems necessary to facilitate any works to be carried out in relation to the Development; and

35.2.2 take exclusive and sole possession of any parts of the Common Property as it may need to have exclusive possession of in order to carry out any works or activities in relation to the Development; and

35.2.3 exclude all and any Members or Occupiers from any parts of the Common Property as may be necessary in order to carry out any works in relation to the Development; and

35.2.4 erect for sale promotional advertising or other signs as the Developer may require on any part of the Common Property; and

35.2.5 grant rights to use or access through or over the Common Property to third parties on such terms and conditions as the Developer or its mortgagee or chargee thinks fit; and

35.2.6 limit or restrict access to certain areas of the Development including areas of the Common Property in order to expeditiously complete the Development; and

35.2.7 use whatever rights of way and/or points of egress and ingress to the Development as necessary to carry out any works and to block for whatever periods are necessary any rights of way or points of egress and ingress to the Development in order to carry out any works,

provided that the Developer or the Vendor and any third party authorised by either of them under this Rule or any party to which it assigns all or part of the benefits of its rights under this Rule, uses its best endeavours to minimise disturbance and inconvenience to others occupying or using the Common Property.

35.3 The Owners Corporation must, within 7 days of being requested by the Developer or its mortgagee or chargee or the Vendor or its mortgagee or chargee, sign whatever consents, authorities, permits or other such documents as may be required to enable the Developer or its mortgagee or chargee to complete the Development. A Member must not vote in favour of any motion for a resolution proposed for consideration by a general meeting of the Owners Corporation which would revoke this Rule 35 or contravene any right or reprieve afforded to the Developer under this Rule 35.

35.4 In case of any inconsistency between the Rules and the rights of the Developer and Vendor under any Development Agreement, the Developer's rights and the Vendor's rights under the Development Agreement will prevail and the Members, Occupiers and Owners Corporation must not seek to enforce the Rules against the Developer or Vendor where to do so would conflict with the Developer's Rights or the Vendor's rights under any such Development Agreement.

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35.5 A Member or Occupier must comply with the terms of any Development Agreement between the Developer and the Owners Corporation that is disclosed to the Member or Occupier.

35.6 Every Member hereby consents to and agrees to the Developer or the Vendor undertaking any or all of the rights of the Developer or the Vendor, as the context permits, set out in this Rule without any prevention or hindrance of such Member.

35.7 In exercising its rights under this Rule, the Developer and Vendor must act honestly and in good faith and with due care and diligence in the interests of the Owners Corporation and must have regard to the amenity of Members. The Developer and Vendor must only exercise their rights to the extent necessary for the genuine Development. The Developer and the Vendor must not exercise its rights under this Rule to arbitrarily exclude the Owners Corporation or the participation of Members.

36. Warranties & Novation or assignment of contracts

36.1 The Developer may at its discretion enter into time limited contracts to supply, service, clean, maintain and/or inspect building essentials services, other building services or functions, common areas of the Building, landscaping, or any other Common Property, and any other service or other contract deemed appropriate and necessary for the proper care and function of the Common Property.

36.2 The Developer must and the Owners Corporation(s) must accept, assignment or novation of the contracts referred to in Rule 36.1 at the first meeting of the Owners Corporation.

36.3 The Owners Corporation must maintain any contracts assigned or novated to it under this Rule to the end of its current term except where it is deemed that the contract is unreasonable or unnecessary or is replaced by a contract for similar services by the same service provider.

36.4 The Owners Corporation must comply with the terms of and properly manage any time or condition limited warranties for items, components or parts of the Common Property provided by subcontractors or suppliers so as to ensure they remain valid for the benefit of the Owners Corporation.

36.5 The Owners Corporation must ensure that it provides for or enters into contracts to provide for care, cleaning, maintenance and inspection of any item or component of Common Property to enable it to perform its obligations under the Law and these Rules upon the lapse of any subcontractor or supplier backed warranty or upon the end of any contract assigned or novated to it by the Developer.

36.6 All Members must contribute its proportion of the cost incurred by the Owners Corporation in complying with this Rule 36 relative to the lot liability on the Plan.

37. Signage & Other Licences

37.1 The Owners Corporation may grant the Developer:

37.1.1 a lease and licence including but not limited to for the provision of information technology infrastructure relating to broadband services and/or signage rights to the Development;

37.1.2 a licence to host festivals, parties or other celebratory or promotional events in the main lobby area, or other areas of the Common Property;

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37.1.3 a licence to place and maintain sale signs, insignias, logos and other fixtures and fittings for marketing purposes on the Common Property; or

37.1.4 allow the Developer's representatives and their invitees to conduct selling activities from a Lot, if not sold prior to completion, which will serve as a display unit,

provided the Developer uses its best endeavours to minimise disturbance and inconvenience to others Members' or Occupiers' use of the Common Property and at all times acts honestly and in good faith and with due care and diligence in the interests of the Owners Corporation.

37.2 A Member or Occupier of the Lot must not hinder or impede the Developer, its successors and assigns, from exercising its rights under any agreement entered into under this Rule.

37.3 The Owners Corporation(s) must procure all the necessary consents and resolutions to give effect to the matters set out in this Rule 37.

37.4 A Member must not vote in favour of any motion for a resolution proposed for consideration by a general meeting of the Owners Corporation(s) which would impede the powers of the Owners Corporation(s) under this Rule 37.

38. Restrictions – trade or business

38.1 The Member or Occupier must not use or permit others from using that Lot or any part of the Common Property for any trade, business or other retail use without the express written consent of the Owners Corporation unless that Lot is a Retail Lot.

38.2 If authorised to do so by the Owners Corporation, the Member or Occupier of any Lot may carry on a trade, business or other retail use from the relevant Lot, provided:

38.2.1 the planning scheme of the relevant Authority governing the use of that Lot permits the trade, business or other commercial use to be carried on from the Lot; and

38.2.2 any requirements in respect of the trade, business or other commercial use stipulated by any relevant Authority from time to time are complied with; and

38.2.3 the trade, business or other commercial use can be carried on and is carried on without causing undue nuisance or, creating a greater security risk to the Members and Occupiers of other Lots.

Attachment 10

Variation of Signage Licence

Deed of Variation of Signage Licence

Dated / / 2026

Parties

Name	**Owners Corporation 1 Plan No. PS826420W**
Address	c/- The Knight, PO Box 678, Malvern VIC 3144
Short name	**Licensor**

Name	**14-16 The Esplanade ACN 626 307 131**
Address	Level 3, 10 river Street, South Yarra VIC 3141
Short name	**Licensee**

Background

A. The Licensor and the Licensee have entered into the Signage Licence.

B. The Licensor and the Licensee have agreed to vary the Signage Licence on and from the date of this Deed subject to the terms set out in this Deed.

1. Definitions

1.1 Defined terms in the Signage Licence have the same meaning in this Deed, unless the contrary intention appears or they are defined in clause 1.2 or elsewhere in this Deed.

1.2 In this Deed unless expressed or implied to the contrary:

Deed means this deed of variation of Signage Licence.

Item means an item set out in the Schedule.

Signage Licence means the signage licence between the Licensor and the Licensee dated 14 June 2022, a copy of which is attached as Attachment 2.

2. Variation of Licence

On and from the date of this Deed, the Licence is varied as follows:

2.1 Signage within the Definitions is amended to read:

"Signage" means tenancy identification signage only, and expressly excludes an third party advertising, promotional material, billboard's digital displays, illuminated advertising or other advertising content.

2.2 an additional term of "Signage Plan" be included in the definitions to read:

Signage plan means the plan attached as Attachment 1 to this Deed, which defines the exclusive Licences Area for signage. No signage may be installed outside the Licenced Area.

2.3 Item 6 of the Schedule is amended to read '99 years';

2.4 Clause 5.1.1 is amended to read:

The Licensee may use the Licenced Area solely for the purpose of display tenancy identification signage (Proposed Use)

2.5 Clause 5.1.2(b) is amended to read:

'5.1.2(b) place or allow to be placed on the Licensed Area, any signage that is illegal, offensive, unpleasant or obtrusive or illuminated in any manner inconsistent with clause 5.1.2(c); and';

2.6 Clause 5.1.2(c) is amended to read:

Place or allow to be placed on the Licenced Area anything which is or may become an annoyance, nuisance, grievance or disturbance to anyone in the Development or any owners or occupier of any adjacent premises.

2.7 an additional clause 5.1.3 is inserted as follows:

'5.1.3 without limiting any of the Licensee's obligations in this Licence, the Licensee mist obtain the prior written consent of the Licensor before displaying or affixing any signage in accordance with this Licence, such consent not to be unreasonably withheld or delayed';

2.8 Clause 6.1.2 is amended by inserting the words 'a professional, well-presented and tasteful appearance, consistent with the architectural character of the Development and the Owners Corporation's Rules;

2.9 Clause 11.3.3 is amended by inserting the words 'including repairing all holes, penetrations, wiring, conduits, staining, discolouration and any other damage to the Licensed Area or surrounding Common Property 'after the word 'Signage' in the second line; and

2.10 the Signage Plan is replaced with the signage plan attached as Attachment 1 to this Deed.

3. Legal costs

Each party must pay its own legal costs incurred in relation to the preparation, negotiation and execution of this Deed. The Licensee must pay all costs associated with the preparation and drafting of this Deed and any amendments requested by the Licensee

4. Deed supplementary

4.1 This Deed is supplementary to the Signage Licence and will be interpreted having regard to the provisions of the Signage Licence.

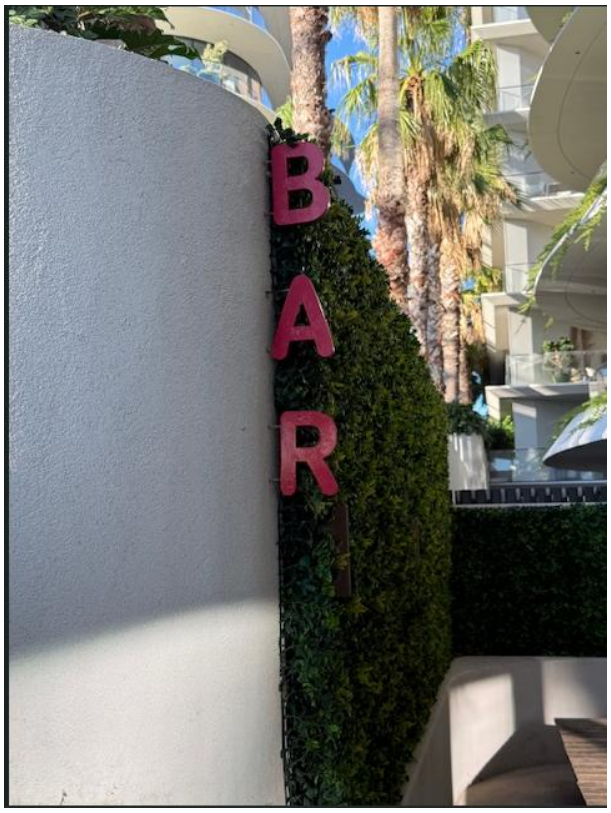
4.2 The Signage Licence remains effective and unaltered, except as varied by this Deed.

5. Counterparts and electronic exchange

This Deed can be executed by electronic communications and in any number of counterparts and all such counterparts taken together will constitute one instrument.

Attachment 1

Signage Images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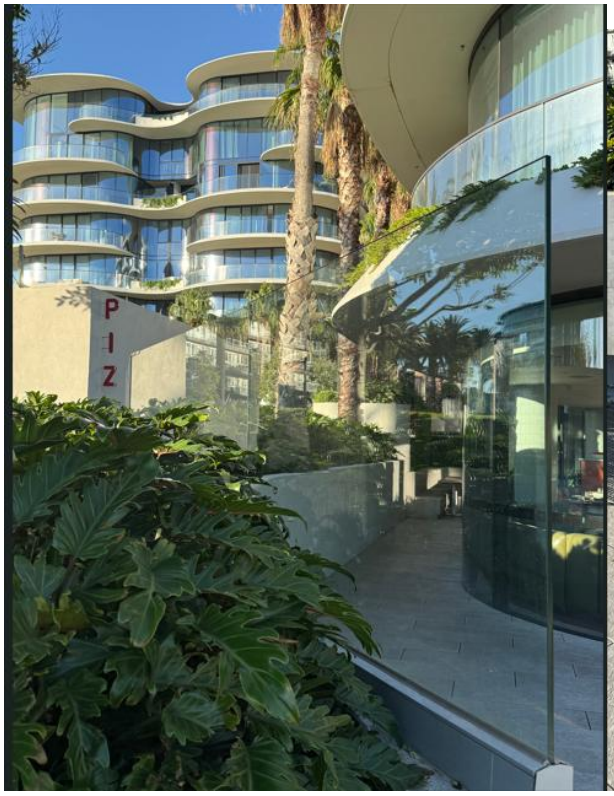
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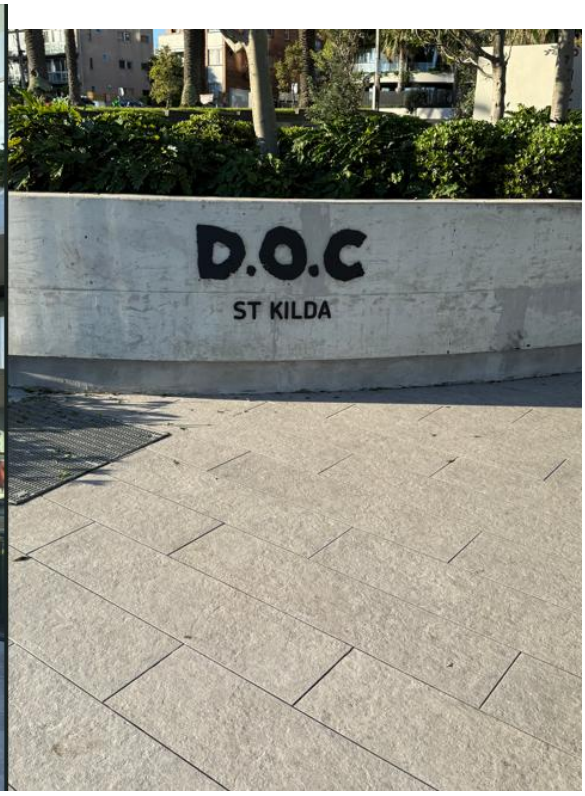
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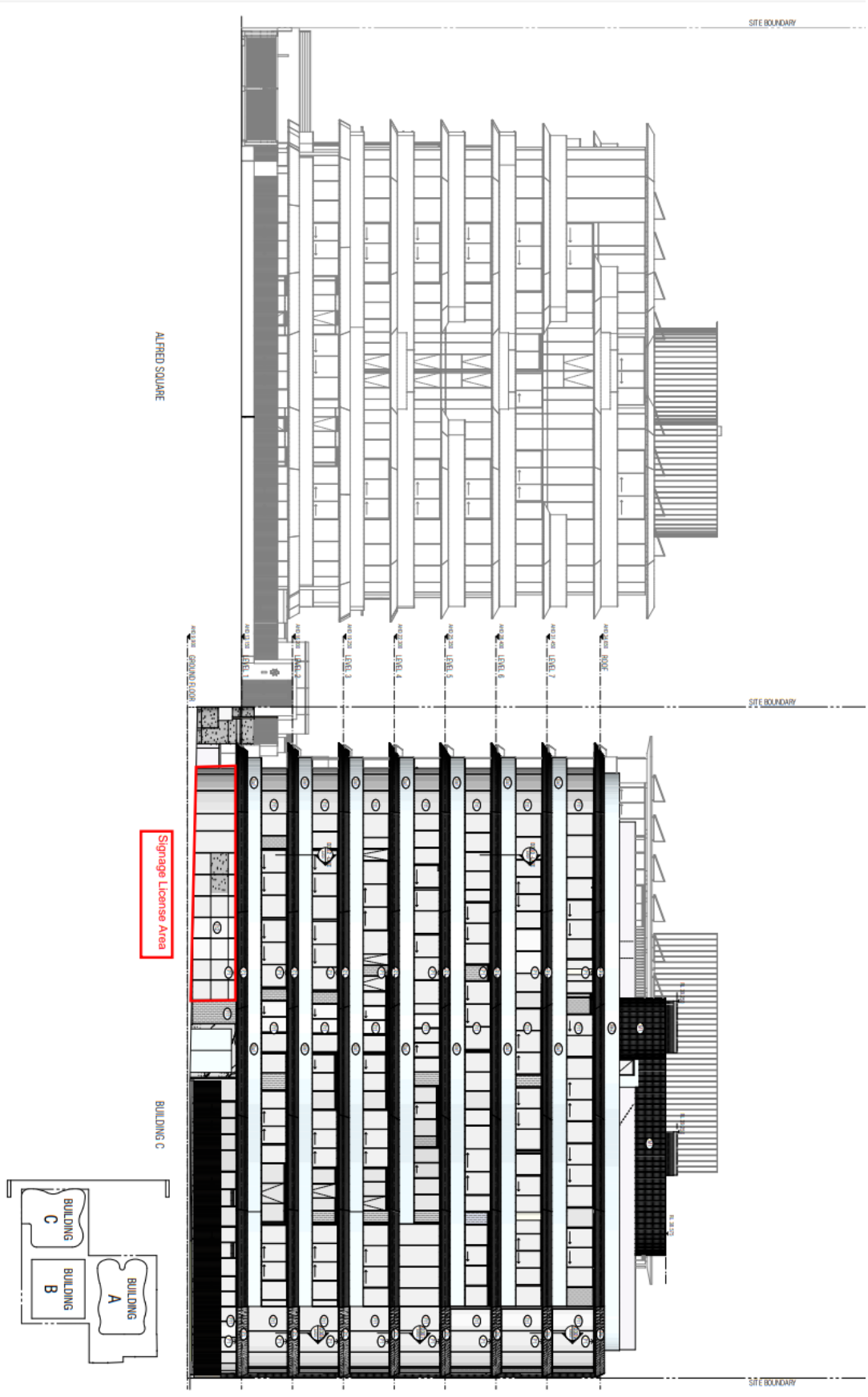
SITE BOUNDARY
ALFRED SQUARE
SITE BOUNDARY
Signage License Area
BUILDING C
BUILDING C
BUILDING B
BUILDING A
SITE BOUNDARY

Signing Page

Executed as a Deed

Executed as a deed by Owners Corporation 1 Plan No. PS826420W by persons who declare they are Lot Owners of separate lots and members of the Owners Corporation or by a director of a corporation that is a Lot Owner, in accordance with s 10 of the Owners Corporations Act 2006 (Vic) in accordance with a resolution dated :

Signature	Signature
Name (print full name)	Name (print full name)
Address	Address
Position: Lot Owner* / Director of Lot Owner* (*Delete whichever is inapplicable)	Position: Lot Owner* / Director of Lot Owner* (*Delete whichever is inapplicable)
Name of corporation that is a Lot Owner (If signed by a director)	Name of corporation that is a Lot Owner (If signed by a director)
..... Signature of Director	..... Signature of Director/Company Secretary
..... Print full name	..... Print full name

Executed as a deed by **14-16 The Esplanade by Gurner Pty Ltd ACN 626 307 131** in accordance with s 127(1) and s 127(3) of the *Corporations Act 2001*:)

.....
Signature of Sole Director and Sole Company Secretary

.....
Print full name