

Contract of Sale

Vendor: BENNY ZHUO BANG YAO

Property: 835 MT DANDENONG RD
MONTROSE VIC 3765

SUITE 8
19 ELLINGWORTH PARADE
BOX HILL VIC 3128
E: julie.3wa@gmail.com



Contract of Sale of Land

Property address: 835 MT DANDENONG RD MONTROSE VIC 3765

The vendor agrees to sell and the purchaser agrees to buy the property, being the land and the goods, for the price and on the terms set out in this contract.

The terms of this contract are contained in the:

- Particulars of sale; and
- Special conditions, if any; and
- General conditions

in that order of priority.

IMPORTANT NOTICE TO PURCHASERS

Cooling-off period

Section 31, Sale of Land Act 1962

You may end this contract within 3 clear business days of the day that you sign the contract if none of the exceptions listed below applies to you.

You must either give the vendor or the vendor's agent written notice that you are ending the contract or leave the notice at the address of the vendor or the vendor's agent to end this contract within this time in accordance with this cooling-off provision.

You are entitled to a refund of all the money you paid **except** for \$100 or 0.2% of the purchase price (whichever is more) if you end the contract in this way.

Exceptions

The 3-day cooling-off period does not apply if:

- you bought the property at or within 3 clear business days before or after a publicly advertised auction; or
- the property is used primarily for industrial or commercial purposes; or
- the property is more than 20 hectares in size and is used primarily for farming; or
- you and the vendor have previously signed a contract for the sale of the same land in substantially the same terms; or
- you are an estate agent or a corporate body.

Signing of this contract

WARNING: THIS IS A LEGALLY BINDING CONTRACT. YOU SHOULD READ THIS CONTRACT BEFORE SIGNING IT.

Purchasers should ensure that prior to signing this contract, they have received:

- a copy of the section 32 statement required to be given by a vendor under section 32 of the *Sale of Land Act 1962* in accordance with Division 2 of Part II of that Act. In this contract, “section 32 statement” means the statement required to be given by a vendor under section 32 of the *Sale of Land Act 1962*; and
- a copy of the full terms of this contract.

The authority of a person signing:

- under power of attorney; or
- as director of a corporation; or
- as an agent authorised in writing by one of the parties must be noted beneath the signature.

Any person whose signature is secured by an estate agent acknowledges being given by the agent at the time of signing a copy of the terms of this contract.

Signed by the purchaser

on
dd/mm/yyyy

Print name(s) of person(s) signing

State nature of authority if applicable
e.g. ‘director’, ‘attorney under power
of attorney’

This offer will lapse unless accepted within [] clear business days (3 clear business days if none specified).

Signed by the vendor

on
dd/mm/yyyy

Print name(s) of person(s) signing

BENNY ZHUO BANG YAO

State nature of authority if applicable
e.g. ‘director’, ‘attorney under power
of attorney’

The **day of sale** is the date by which both parties have signed this contract.

Particulars of sale

Vendor's estate agent

Name:	
Address:	
Telephone:	
Fax:	
Email:	

Vendor

Name(s):	BENNY ZHUO BANG YAO
Address:	
Telephone:	
Email:	

Vendor's legal practitioner or conveyancer

Name:	3W & ASSOCIATES
Address:	Suite 8D 19 Ellingworth Parade BOX HILL VIC 3128
Telephone:	03 9899 1881
Fax:	03 9899 1886
Email:	julie.3wa@gmail.com

Purchaser

Name(s):

Address:

Telephone:

Email:

Purchaser's legal practitioner or conveyancer

Name:

Address:

Telephone:

Fax:

Email:

Land (general conditions 7 and 13)

The land is described in the following table.

Certificate of Title reference				being lot	on plan
Volume	7149	Folio	787	1	TP531960S
Volume		Folio			

or

described in the copy title(s) and plan(s) as attached to the Vendor's Statement if no title or plan references are recorded in the table above or if the land is general law land.

The land includes all improvements and fixtures.

Property address
The address of the land

835 MT DANDENONG RD MONTROSE VIC 3765

Goods sold with the land
General condition 6.3(f). List
or attach schedule.

All fixed floor coverings, electric light fitting, window furnishings and all other permanent fitting and fixtures as inspected.

Payment

Price

Deposit

by
dd/mm/yyyy

(of which [amount] has been
paid)

Balance payable at
settlement

Deposit bond

☐ General condition 15 applies only if the box is checked – NOT APPLICABLE AT AUCTION

Bank guarantee

☐ General condition 16 applies only if the box is checked – NOT APPLICABLE AT AUCTION

GST (general condition 19)

The price includes GST (if any)
unless the words '**plus GST**'
appear in this box:

If this is a sale of a 'farming
business' or 'going concern'
then add the words '**farming
business**' or '**going concern**'
in this box:

If the margin scheme will be
used to calculate GST then
add the words 'margin
scheme' in this box

Settlement (general condition 17 and 26.2)

Is due on:
dd/mm/yyyy

unless the land is a lot on an unregistered plan of subdivision, in which case settlement is due on the later of:

- the above date; or
- 14 days after the vendor gives notice in writing to the purchaser of registration of the plan of subdivision.

Lease (general condition 5.1)

At settlement the purchaser
is entitled to **vacant
possession** of the property
unless the words '**subject to
lease**' appear in this box:

Subject to lease

in which case refer to general condition 5.1. If '**subject to lease**' then particulars of the lease are:

Terms contract (general condition 30)

If this contract is intended to be a terms contract within the meaning of the *Sale of Land Act 1962* then add the words '**terms contract**' in this box

--

and refer to general condition 30 and add any further provisions by way of special conditions.

Loan (general condition 20) – NOT APPLICABLE AT AUCTION

The following details apply if this contract is subject to a loan being approved:

Lender	
Loan amount	
Approval date	

Building report

☐ General condition 21 applies only if the box is checked – NOT APPLICABLE AT AUCTION

Pest report

☐ General condition 22 applies only if the box is checked – NOT APPLICABLE AT AUCTION

Special conditions

This contract does not include any special conditions unless the words '**special conditions**' appear in this box:

SPECIAL CONDITIONS

See ANNEXURE – SPECIAL CONDITIONS

Contract of Sale of Land - General Conditions

Contract Signing

1 ELECTRONIC SIGNATURE

- 1.1 In this general condition "electronic signature" means a digital signature or a visual representation of a person's handwritten signature or mark which is placed on a physical or electronic copy of this contract by electronic or mechanical means, and "electronically signed" has a corresponding meaning.
- 1.2 The parties consent to this contract being signed by or on behalf of a party by an electronic signature.
- 1.3 Where this contract is electronically signed by or on behalf of a party, the party warrants and agrees that the electronic signature has been used to identify the person signing and to indicate that the party intends to be bound by the electronic signature.
- 1.4 This contract may be electronically signed in any number of counterparts which together will constitute the one document.
- 1.5 Each party consents to the exchange of counterparts of this contract by delivery by email or such other electronic means as may be agreed in writing.
- 1.6 Each party must upon request promptly deliver a physical counterpart of this contract with the handwritten signature or signatures of the party and all written evidence of the authority of a person signing on their behalf, but a failure to comply with the request does not affect the validity of this contract.

2. LIABILITY OF SIGNATORY

Any signatory for a proprietary limited company purchaser is personally liable for the due performance of the purchaser's obligations as if the signatory were the purchaser in the case of a default by a proprietary limited company purchaser.

3. GUARANTEE

The vendor may require one or more directors of the purchaser to guarantee the purchaser's performance of this contract if the purchaser is a proprietary limited company.

4. NOMINEE

The purchaser may nominate a substitute or additional transferee, but the named purchaser remains personally liable for the due performance of all the purchaser's obligations under this contract.

Title

5. ENCUMBRANCES

- 5.1 The purchaser buys the property subject to:
 - (a) any encumbrance shown in the section 32 statement other than mortgages or caveats; and
 - (b) any reservations, exceptions and conditions in the crown grant; and
 - (c) any lease or tenancy referred to in the particulars of sale.
- 5.2 The purchaser indemnifies the vendor against all obligations under any lease or tenancy that are to be performed by the landlord after settlement.

6. VENDOR WARRANTIES

- 6.1 The vendor warrants that these general conditions 1 to 35 are identical to the general conditions 1 to 35 in the form of contract of sale of land published by the Law Institute of Victoria Limited and the Real Estate Institute of Victoria Ltd in the month and year set out in the header of this page
- 6.2 The warranties in general conditions 6.3 and 6.4 replace the purchaser's right to make requisitions and inquiries.

- 6.3 The vendor warrants that the vendor:
- (a) has, or by the due date for settlement will have, the right to sell the land; and
 - (b) is under no legal disability; and
 - (c) is in possession of the land, either personally or through a tenant; and
 - (d) has not previously sold or granted any option to purchase, agreed to a lease or granted a pre-emptive right which is current over the land and which gives another party rights which have priority over the interest of the purchaser; and
 - (e) will at settlement be the holder of an unencumbered estate in fee simple in the land; and
 - (f) will at settlement be the unencumbered owner of any improvements, fixtures, fittings and goods sold with the land.
- 6.4 The vendor further warrants that the vendor has no knowledge of any of the following:
- (a) public rights of way over the land;
 - (b) easements over the land;
 - (c) lease or other possessory agreement affecting the land;
 - (d) notice or order directly and currently affecting the land which will not be dealt with at settlement, other than the usual rate notices and any land tax notices;
 - (e) legal proceedings which would render the sale of the land void or voidable or capable of being set aside.
- 6.5 The warranties in general conditions 6.3 and 6.4 are subject to any contrary provisions in this contract and disclosures in the section 32 statement.
- 6.6 If sections 137B and 137C of the *Building Act* 1993 apply to this contract, the vendor warrants that:
- (a) all domestic building work carried out in relation to the construction by or on behalf of the vendor of the home was carried out in a proper and workmanlike manner; and
 - (b) all materials used in that domestic building work were good and suitable for the purpose for which they were used and that, unless otherwise stated in the contract, those materials were new; and
 - (c) domestic building work was carried out in accordance with all laws and legal requirements, including, without limiting the generality of this warranty, the *Building Act* 1993 and regulations made under the *Building Act* 1993.
- 6.7 Words and phrases used in general condition 6.6 which are defined in the *Building Act* 1993 have the same meaning in general condition 6.6.

7. IDENTITY OF THE LAND

- 7.1 An omission or mistake in the description of the property or any deficiency in the area, description or measurements of the land does not invalidate the sale.
- 7.2 The purchaser may not:
- (a) make any objection or claim for compensation for any alleged misdescription of the property or any deficiency in its area or measurements; or
 - (b) require the vendor to amend title or pay any cost of amending title.

8. SERVICES

- 8.1 The vendor does not represent that the services are adequate for the purchaser's proposed use of the property and the vendor advises the purchaser to make appropriate inquiries. The condition of the services may change between the day of sale and settlement and the vendor does not promise that the services will be in the same condition at settlement as they were on the day of sale.
- 8.2 The purchaser is responsible for the connection of all services to the property after settlement and the payment of any associated cost.

9. CONSENTS

The vendor must obtain any necessary consent or licence required for the vendor to sell the property. The contract will be at an end and all money paid must be refunded if any necessary consent or licence is not obtained by settlement.

10. TRANSFER & DUTY

- 10.1 The purchaser must prepare and deliver to the vendor at least 7 days before the due date for settlement any paper transfer of land document which is necessary for this transaction. The delivery of the transfer of land document is not acceptance of title.
- 10.2 The vendor must promptly initiate the Duties on Line or other form required by the State Revenue Office in respect of this transaction, and both parties must co-operate to complete it as soon as practicable.

11. RELEASE OF SECURITY INTEREST

- 11.1 This general condition applies if any part of the property is subject to a security interest to which the *Personal Property Securities Act 2009 (Cth)* applies.
- 11.2 For the purposes of enabling the purchaser to search the Personal Property Securities Register for any security interests affecting any personal property for which the purchaser may be entitled to a release, statement, approval or correction in accordance with general condition 11.4, the purchaser may request the vendor to provide the vendor's date of birth to the purchaser. The vendor must comply with a request made by the purchaser under this condition if the purchaser makes the request at least 21 days before the due date for settlement.
- 11.3 If the purchaser is given the details of the vendor's date of birth under general condition 11.2, the purchaser must
 - (a) only use the vendor's date of birth for the purposes specified in general condition 11.2; and
 - (b) keep the date of birth of the vendor secure and confidential.
- 11.4 The vendor must ensure that at or before settlement, the purchaser receives—
 - (a) a release from the secured party releasing the property from the security interest; or
 - (b) a statement in writing in accordance with section 275(1)(b) of the *Personal Property Securities Act 2009 (Cth)* setting out that the amount or obligation that is secured is nil at settlement; or
 - (c) a written approval or correction in accordance with section 275(1)(c) of the *Personal Property Securities Act 2009 (Cth)* indicating that, on settlement, the personal property included in the contract is not or will not be property in which the security interest is granted.
- 11.5 Subject to general condition 11.6, the vendor is not obliged to ensure that the purchaser receives a release, statement, approval or correction in respect of personal property—
 - (a) that—
 - (i) the purchaser intends to use predominantly for personal, domestic or household purposes; and
 - (ii) has a market value of not more than \$5000 or, if a greater amount has been prescribed for the purposes of section 47(1) of the *Personal Property Securities Act 2009 (Cth)*, not more than that prescribed amount; or
 - (b) that is sold in the ordinary course of the vendor's business of selling personal property of that kind.
- 11.6 The vendor is obliged to ensure that the purchaser receives a release, statement, approval or correction in respect of personal property described in general condition 11.5 if—
 - (a) the personal property is of a kind that may or must be described by serial number in the Personal Property Securities Register; or
 - (b) the purchaser has actual or constructive knowledge that the sale constitutes a breach of the security agreement that provides for the security interest.
- 11.7 A release for the purposes of general condition 11.4(a) must be in writing.

- 11.8 A release for the purposes of general condition 11.4(a) must be effective in releasing the goods from the security interest and be in a form which allows the purchaser to take title to the goods free of that security interest.
- 11.9 If the purchaser receives a release under general condition 11.4(a) the purchaser must provide the vendor with a copy of the release at or as soon as practicable after settlement.
- 11.10 In addition to ensuring that a release is received under general condition 11.4(a), the vendor must ensure that at or before settlement the purchaser receives a written undertaking from a secured party to register a financing change statement to reflect that release if the property being released includes goods of a kind that are described by serial number in the Personal Property Securities Register.
- 11.11 The purchaser must advise the vendor of any security interest that is registered on or before the day of sale on the Personal Property Securities Register, which the purchaser reasonably requires to be released, at least 21 days before the due date for settlement.
- 11.12 The vendor may delay settlement until 21 days after the purchaser advises the vendor of the security interests that the purchaser reasonably requires to be released if the purchaser does not provide an advice under general condition 11.11.
- 11.13 If settlement is delayed under general condition 11.12 the purchaser must pay the vendor—
- (a) interest from the due date for settlement until the date on which settlement occurs or 21 days after the vendor receives the advice, whichever is the earlier; and
 - (b) any reasonable costs incurred by the vendor as a result of the delay—
as though the purchaser was in default.
- 11.14 The vendor is not required to ensure that the purchaser receives a release in respect of the land. This general condition 11.14 applies despite general condition 11.1.
- 11.15 Words and phrases which are defined in the *Personal Property Securities Act 2009* (Cth) have the same meaning in general condition 11 unless the context requires otherwise.

12. BUILDER WARRANTY INSURANCE

The vendor warrants that the vendor will provide at settlement details of any current builder warranty insurance in the vendor's possession relating to the property if requested in writing to do so at least 21 days before settlement.

13. GENERAL LAW LAND

- 13.1 The vendor must complete a conversion of title in accordance with section 14 of the *Transfer of Land Act 1958* before settlement if the land is the subject of a provisional folio under section 23 of that Act.
- 13.2 The remaining provisions of this general condition 13 only apply if any part of the land is not under the operation of the *Transfer of Land Act 1958*.
- 13.3 The vendor is taken to be the holder of an unencumbered estate in fee simple in the land if there is an unbroken chain of title starting at least 30 years before the day of sale proving on the face of the documents the ownership of the entire legal and equitable estate without the aid of other evidence.
- 13.4 The purchaser is entitled to inspect the vendor's chain of title on request at such place in Victoria as the vendor nominates.

- 13.5 The purchaser is taken to have accepted the vendor's title if:
- (a) 21 days have elapsed since the day of sale; and
 - (b) the purchaser has not reasonably objected to the title or reasonably required the vendor to remedy a defect in the title.
- 13.6 The contract will be at an end if:
- (a) the vendor gives the purchaser a notice that the vendor is unable or unwilling to satisfy the purchaser's objection or requirement and that the contract will end if the objection or requirement is not withdrawn within 14 days of the giving of the notice; and
 - (b) the objection or requirement is not withdrawn in that time.
- 13.7 If the contract ends in accordance with general condition 13.6, the deposit must be returned to the purchaser and neither party has a claim against the other in damages.
- 13.10 General condition 17.1 [settlement] should be read as if the reference to 'registered proprietor' is a reference to 'owner' in respect of that part of the land which is not under the operation of the *Transfer of Land Act 1958*.

Money

14. DEPOSIT

- 14.1 The purchaser must pay the deposit:
- (a) to the vendor's licensed estate agent; or
 - (b) if there is no estate agent, to the vendor's legal practitioner or conveyancer; or
 - (c) if the vendor directs, into a special purpose account in an authorised deposit-taking institution in Victoria specified by the vendor in the joint names of the purchaser and the vendor.
- 14.2 If the land sold is a lot on an unregistered plan of subdivision, the deposit:
- (a) must not exceed 10% of the price; and
 - (b) must be paid to the vendor's estate agent, legal practitioner or conveyancer and held by the estate agent, legal practitioner or conveyancer on trust for the purchaser until the registration of the plan of subdivision.
- 14.3 The deposit must be released to the vendor if:
- (a) the vendor provides particulars, to the satisfaction of the purchaser, that either-
 - (i) there are no debts secured against the property; or
 - (ii) if there are any debts, the total amount of those debts together with any amounts to be withheld in accordance with general conditions 24 and 25 does not exceed 80% of the sale price; and
 - (b) at least 28 days have elapsed since the particulars were given to the purchaser under paragraph (a); and
 - (c) all conditions of section 27 of the *Sale of Land Act 1962* have been satisfied.
- 14.4 The stakeholder must pay the deposit and any interest to the party entitled when the deposit is released, the contract is settled, or the contract is ended.
- 14.5 The stakeholder may pay the deposit and any interest into court if it is reasonable to do so.
- 14.6 Where the purchaser is deemed by section 27(7) of the *Sale of Land Act 1962* to have given the deposit release authorisation referred to in section 27(1), the purchaser is also deemed to have accepted title in the absence of any prior express objection to title.
- 14.7 Payment of the deposit may be made or tendered:
- (a) in cash up to \$1,000 or 0.2% of the price, whichever is greater; or
 - (b) by cheque drawn on an authorised deposit-taking institution; or

- (c) by electronic funds transfer to a recipient having the appropriate facilities for receipt. However, unless otherwise agreed:
 - (d) payment may not be made by credit card, debit card or any other financial transfer system that allows for any chargeback or funds reversal other than for fraud or mistaken payment, and
 - (e) any financial transfer or similar fees or deductions from the funds transferred, other than any fees charged by the recipient's authorised deposit-taking institution, must be paid by the remitter.
- 14.8 Payment by electronic funds transfer is made when cleared funds are received in the recipient's bank account.
- 14.9 Before the funds are electronically transferred the intended recipient must be notified in writing and given sufficient particulars to readily identify the relevant transaction.
- 14.10 As soon as the funds have been electronically transferred the intended recipient must be provided with the relevant transaction number or reference details.
- 14.11 For the purpose of this general condition 'authorised deposit-taking institution' means a body corporate for which an authority under section 9(3) of the *Banking Act 1959 (Cth)* is in force.

15. DEPOSIT BOND

- 15.1 This general condition only applies if the applicable box in the particulars of sale is checked.
- 15.2 In this general condition "deposit bond" means an irrevocable undertaking to pay on demand an amount equal to the deposit or any unpaid part of the deposit. The issuer and the form of the deposit bond must be satisfactory to the vendor. The deposit bond must have an expiry date at least 45 days after the due date for settlement.
- 15.3 The purchaser may deliver a deposit bond to the vendor's estate agent, legal practitioner or conveyancer within 7 days after the day of sale.
- 15.4 The purchaser may at least 45 days before a current deposit bond expires deliver a replacement deposit bond on the same terms and conditions.
- 15.5 Where a deposit bond is delivered, the purchaser must pay the deposit to the vendor's legal practitioner or conveyancer on the first to occur of:
- (a) settlement;
 - (b) the date that is 45 days before the deposit bond or any replacement deposit bond expires;
 - (c) the date on which this contract ends in accordance with general condition 35.2 [default not remedied] following breach by the purchaser; and
 - (d) the date on which the vendor ends this contract by accepting repudiation of it by the purchaser.
- 15.6 The vendor may claim on the deposit bond without prior notice if the purchaser defaults under this contract or repudiates this contract and the contract is ended. The amount paid by the issuer satisfies the obligations of the purchaser under general condition 15.5 to the extent of the payment.
- 15.7 Nothing in this general condition limits the rights of the vendor if the purchaser defaults under this contract or repudiates this contract, except as provided in general condition 15.6.
- 15.8 This general condition is subject to general condition 14.2 [deposit].

16. BANK GUARANTEE

- 16.1 This general condition only applies if the applicable box in the particulars of sale is checked.
- 16.2 In this general condition:
- (a) "bank guarantee" means an unconditional and irrevocable guarantee or undertaking by a bank in a form satisfactory to the vendor to pay on demand any amount under this contract agreed in writing, and
 - (b) "bank" means an authorised deposit-taking institution under the *Banking Act 1959 (Cth)*.
- 16.3 The purchaser may deliver a bank guarantee to the vendor's legal practitioner or conveyancer.

- 16.4 The purchaser must pay the amount secured by the bank guarantee to the vendor's legal practitioner or conveyancer on the first to occur of:
- (a) settlement;
 - (b) the date that is 45 days before the bank guarantee expires;
 - (c) the date on which this contract ends in accordance with general condition 35.2 [default not remedied] following breach by the purchaser; and
 - (d) the date on which the vendor ends this contract by accepting repudiation of it by the purchaser.
- 16.5 The vendor must return the bank guarantee document to the purchaser when the purchaser pays the amount secured by the bank guarantee in accordance with general condition 16.4.
- 16.6 The vendor may claim on the bank guarantee without prior notice if the purchaser defaults under this contract or repudiates this contract and the contract is ended. The amount paid by the bank satisfies the obligations of the purchaser under general condition 16.4 to the extent of the payment.
- 16.7 Nothing in this general condition limits the rights of the vendor if the purchaser defaults under this contract or repudiates this contract except as provided in general condition 16.6.
- 16.8 This general condition is subject to general condition 14.2 [deposit].

17. SETTLEMENT

- 17.1 At settlement:
- (a) the purchaser must pay the balance; and
 - (b) the vendor must:
 - (i) do all things necessary to enable the purchaser to become the registered proprietor of the land; and
 - (ii) give either vacant possession or receipt of rents and profits in accordance with the particulars of sale.
- 17.2 Settlement must be conducted between the hours of 10.00 am and 4.00 pm unless the parties agree otherwise.
- 17.3 The purchaser must pay all money other than the deposit in accordance with a written direction of the vendor or the vendor's legal practitioner or conveyancer.

18. ELECTRONIC SETTLEMENT

- 18.1 Settlement and lodgment of the instruments necessary to record the purchaser as registered proprietor of the land will be conducted electronically in accordance with the Electronic Conveyancing National Law. This general condition 18 has priority over any other provision of this contract to the extent of any inconsistency.
- 18.2 A party must immediately give written notice if that party reasonably believes that settlement and lodgment can no longer be conducted electronically. General condition 18 ceases to apply from when such a notice is given.
- 18.3 Each party must:
- (a) be, or engage a representative who is, a subscriber for the purposes of the Electronic Conveyancing National Law,
 - (b) ensure that all other persons for whom that party is responsible and who are associated with this transaction are, or engage, a subscriber for the purposes of the Electronic Conveyancing National Law, and
 - (c) conduct the transaction in accordance with the Electronic Conveyancing National Law.
- 18.4 The vendor must open the electronic workspace ("workspace") as soon as reasonably practicable and nominate a date and time for settlement. The inclusion of a specific date and time for settlement in a workspace is not of itself a promise to settle on that date or at that time. The workspace is an electronic address for the service of notices and for written communications for the purposes of any electronic transactions legislation.
- 18.5 This general condition 18.5 applies if there is more than one electronic lodgment network operator in respect of the transaction. In this general condition 18.5 "the transaction" means this sale and purchase and any associated transaction involving any of the same subscribers.

To the extent that any interoperability rules governing the relationship between electronic lodgment network operators do not provide otherwise:

- (a) the electronic lodgment network operator to conduct all the financial and lodgment aspects of the transaction after the workspace locks must be one which is willing and able to conduct such aspects of the transaction in accordance with the instructions of all the subscribers in the workspaces of all the electronic lodgment network operators after the workspace locks;
 - (b) if two or more electronic lodgment network operators meet that description, one may be selected by purchaser's incoming mortgagee having the highest priority but if there is no mortgagee of the purchaser, the vendor must make the selection.
- 18.6 Settlement occurs when the workspace records that:
- (a) there has been an exchange of funds or value between the exchange settlement account or accounts in the Reserve Bank of Australia of the relevant financial institutions or their financial settlement agents in accordance with the instructions of the parties; or
 - (b) if there is no exchange of funds or value, the documents necessary to enable the purchaser to become registered proprietor of the land have been accepted for electronic lodgment.
- 18.7 The parties must do everything reasonably necessary to effect settlement:
- (a) electronically on the next business day, or
 - (b) at the option of either party, otherwise than electronically as soon as possible –
- if, after the locking of the workspace at the nominated settlement time, settlement in accordance with general condition 18.6 has not occurred by 4.00 pm, or 6.00 pm if the nominated time for settlement is after 4.00 pm.
- 18.8 Each party must do everything reasonably necessary to assist the other party to trace and identify the recipient of any missing or mistaken payment and to recover the missing or mistaken payment.
- 18.9 The vendor must before settlement:
- (a) deliver any keys, security devices and codes ("keys") to the estate agent named in the contract,
 - (b) direct the estate agent to give the keys to the purchaser or the purchaser's nominee on notification of settlement by the vendor, the vendor's subscriber or the electronic lodgment network operator;
 - (c) deliver all other physical documents and items (other than the goods sold by the contract) to which the purchaser is entitled at settlement, and any keys if not delivered to the estate agent, to the vendor's subscriber or, if there is no vendor's subscriber, confirm in writing to the purchaser that the vendor holds those documents, items and keys at the vendor's address set out in the contract, and
- give, or direct its subscriber to give, all those documents and items and any such keys to the purchaser or the purchaser's nominee on notification by the electronic lodgment network operator of settlement.

19. GST

- 19.1 The purchaser does not have to pay the vendor any amount in respect of GST in addition to the price if the particulars of sale specify that the price includes GST (if any).
- 19.2 The purchaser must pay to the vendor any GST payable by the vendor in respect of a taxable supply made under this contract in addition to the price if:
- (a) the particulars of sale specify that GST (if any) must be paid in addition to the price; or
 - (b) GST is payable solely as a result of any action taken or intended to be taken by the purchaser after the day of sale, including a change of use; or
 - (c) the particulars of sale specify that the supply made under this contract is of land on which a 'farming business' is carried on and the supply (or part of it) does not satisfy the requirements of section 38-480 of the GST Act; or
 - (d) the particulars of sale specify that the supply made under this contract is of a going concern and the supply (or a part of it) does not satisfy the requirements of section 38-325 of the GST Act.
- 19.3 The purchaser is not obliged to pay any GST under this contract until a tax invoice has been given to the purchaser.
- 19.4 If the particulars of sale specify that the supply made under this contract is of land on which a 'farming business' is carried on:

- (a) the vendor warrants that the property is land on which a farming business has been carried on for the period of 5 years preceding the date of supply; and
 - (b) the purchaser warrants that the purchaser intends that a farming business will be carried on after settlement on the property.
- 19.5 If the particulars of sale specify that the supply made under this contract is a 'going concern':
- (a) the parties agree that this contract is for the supply of a going concern; and
 - (b) the purchaser warrants that the purchaser is, or prior to settlement will be, registered for GST; and
 - (c) the vendor warrants that the vendor will carry on the going concern until the date of supply.
- 19.6 If the particulars of sale specify that the supply made under this contract is a 'margin scheme' supply, the parties agree that the margin scheme applies to this contract.
- 19.7 In this general condition:
- (a) 'GST Act' means *A New Tax System (Goods and Services Tax) Act 1999* (Cth); and
 - (b) 'GST' includes penalties and interest.

20. LOAN

- 20.1 If the particulars of sale specify that this contract is subject to a loan being approved, this contract is subject to the lender approving the loan on the security of the property by the approval date or any later date allowed by the vendor.
- 20.2 The purchaser may end the contract if the loan is not approved by the approval date, but only if the purchaser:
- (a) immediately applied for the loan; and
 - (b) did everything reasonably required to obtain approval of the loan; and
 - (c) serves written notice ending the contract, together with written evidence of rejection or non-approval of the loan, on the vendor within 2 clear business days after the approval date or any later date allowed by the vendor; and
 - (d) is not in default under any other condition of this contract when the notice is given.
- 20.3 All money must be immediately refunded to the purchaser if the contract is ended.

21. BUILDING REPORT

- 21.1 This general condition only applies if the applicable box in the particulars of sale is checked.
- 21.2 The purchaser may end this contract within 14 days from the day of sale if the purchaser:
- (a) obtains a written report from a registered building practitioner or architect which discloses a current defect in a structure on the land and designates it as a major building defect;
 - (b) gives the vendor a copy of the report and a written notice ending this contract; and
 - (c) is not then in default.
- 21.3 All money paid must be immediately refunded to the purchaser if the contract ends in accordance with this general condition.
- 21.4 A notice under this general condition may be served on the vendor's legal practitioner, conveyancer or estate agent even if the estate agent's authority has formally expired at the time of service.
- 21.5 The registered building practitioner may inspect the property at any reasonable time for the purpose of preparing the report.

22. PEST REPORT

- 22.1 This general condition only applies if the applicable box in the particulars of sale is checked.
- 22.2 The purchaser may end this contract within 14 days from the day of sale if the purchaser:
- (a) obtains a written report from a pest control operator licensed under Victorian law which discloses a current pest infestation on the land and designates it as a major infestation affecting the structure of a building on the land;
 - (b) gives the vendor a copy of the report and a written notice ending this contract; and
 - (c) is not then in default.

- 22.3 All money paid must be immediately refunded to the purchaser if the contract ends in accordance with this general condition.
- 22.4 A notice under this general condition may be served on the vendor's legal practitioner, conveyancer or estate agent even if the estate agent's authority has formally expired at the time of service.
- 22.5 The pest control operator may inspect the property at any reasonable time for the purpose of preparing the report.

23. ADJUSTMENTS

- 23.1 All periodic outgoings payable by the vendor, and any rent and other income received in respect of the property must be apportioned between the parties on the settlement date and any adjustments paid and received as appropriate.
- 23.2 The periodic outgoings and rent and other income must be apportioned on the following basis:
 - (a) the vendor is liable for the periodic outgoings and entitled to the rent and other income up to and including the day of settlement; and
 - (b) the land is treated as the only land of which the vendor is owner (as defined in the *Land Tax Act 2005*); and
 - (c) the vendor is taken to own the land as a resident Australian beneficial owner; and
 - (d) any personal statutory benefit available to each party is disregarded in calculating apportionment.
- 23.3 The purchaser must provide copies of all certificates and other information used to calculate the adjustments under general condition 23, if requested by the vendor.

24. FOREIGN RESIDENT CAPITAL GAINS WITHHOLDING

- 24.1 Words defined or used in Subdivision 14-D of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* have the same meaning in this general condition unless the context requires otherwise.
- 24.2 Every vendor under this contract is a foreign resident for the purposes of this general condition unless the vendor gives the purchaser a clearance certificate issued by the Commissioner under section 14-220 (1) of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*. The specified period in the clearance certificate must include the actual date of settlement.
- 24.3 The remaining provisions of this general condition 24 only apply if the purchaser is required to pay the Commissioner an amount in accordance with section 14-200(3) or section 14-235 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* ("the amount") because one or more of the vendors is a foreign resident, the property has or will have a market value not less than the amount set out in section 14-215 of the legislation just after the transaction, and the transaction is not excluded under section 14-215(1) of the legislation.
- 24.4 The amount is to be deducted from the vendor's entitlement to the contract consideration. The vendor must pay to the purchaser at settlement such part of the amount as is represented by non-monetary consideration.
- 24.5 The purchaser must:
 - (a) engage a legal practitioner or conveyancer ("representative") to conduct all the legal aspects of settlement, including the performance of the purchaser's obligations under the legislation and this general condition; and
 - (b) ensure that the representative does so.
- 24.6 The terms of the representative's engagement are taken to include instructions to have regard to the vendor's interests and instructions that the representative must:
 - (a) pay, or ensure payment of, the amount to the Commissioner in the manner required by the Commissioner and as soon as reasonably and practicably possible, from moneys under the control or direction of the representative in accordance with this general condition if the sale of the property settles;
 - (b) promptly provide the vendor with proof of payment; and
 - (c) otherwise comply, or ensure compliance, with this general condition;despite:
 - (d) any contrary instructions, other than from both the purchaser and the vendor; and

- (e) any other provision in this contract to the contrary.
- 24.7 The representative is taken to have complied with the requirements of general condition 24.6 if:
 - (a) the settlement is conducted through an electronic lodgment network; and
 - (b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.
- 24.8 Any clearance certificate or document evidencing variation of the amount in accordance with section 14-235(2) of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* must be given to the purchaser at least 5 business days before the due date for settlement.
- 24.9 The vendor must provide the purchaser with such information as the purchaser requires to comply with the purchaser's obligation to pay the amount in accordance with section 14-200 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*. The information must be provided within 5 business days of request by the purchaser. The vendor warrants that the information the vendor provides is true and correct.
- 24.10 The purchaser is responsible for any penalties or interest payable to the Commissioner on account of late payment of the amount.

25. GST WITHHOLDING

- 25.1 Words and expressions defined or used in Subdivision 14-E of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* or in *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* have the same meaning in this general condition unless the context requires otherwise. Words and expressions first used in this general condition and shown in italics and marked with an asterisk are defined or described in at least one of those Acts.
- 25.2 The purchaser must notify the vendor in writing of the name of the recipient of the *supply for the purposes of section 14-255 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* at least 21 days before the due date for settlement unless the recipient is the purchaser named in the contract.
- 25.3 The vendor must at least 14 days before the due date for settlement provide the purchaser and any person nominated by the purchaser under general condition 4 with a GST withholding notice in accordance with section 14-255 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*, and must provide all information required by the purchaser or any person so nominated to confirm the accuracy of the notice.
- 25.4 The remaining provisions of this general condition 25 apply if the purchaser is or may be required to pay the Commissioner an *amount in accordance with section 14-250 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* because the property is *new residential premises or *potential residential land in either case falling within the parameters of that section, and also if the sale attracts the operation of section 14-255 of the legislation. Nothing in this general condition 25 is to be taken as relieving the vendor from compliance with section 14-255.
- 25.5 The amount is to be deducted from the vendor's entitlement to the contract *consideration and is then taken to be paid to the vendor, whether or not the vendor provides the purchaser with a GST withholding notice in accordance with section 14-255 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*. The vendor must pay to the purchaser at settlement such part of the amount as is represented by non-monetary consideration.
- 25.6 The purchaser must:
 - (a) engage a legal practitioner or conveyancer ("representative") to conduct all the legal aspects of settlement, including the performance of the purchaser's obligations under the legislation and this general condition; and
 - (b) ensure that the representative does so.
- 25.7 The terms of the representative's engagement are taken to include instructions to have regard to the vendor's interests relating to the payment of the amount to the Commissioner and instructions that the representative must:
 - (a) pay, or ensure payment of, the amount to the Commissioner in the manner required by the Commissioner and as soon as reasonably and practicably possible, from moneys under the control or direction of the representative in accordance with this general condition on settlement of the sale of the property;
 - (b) promptly provide the vendor with evidence of payment, including any notification or other document provided by the purchaser to the Commissioner relating to payment; and

- (c) otherwise comply, or ensure compliance, with this general condition; despite:
 - (d) any contrary instructions, other than from both the purchaser and the vendor; and
 - (e) any other provision in this contract to the contrary.
- 25.8 The representative is taken to have complied with the requirements of general condition 25.7 if:
- (a) settlement is conducted through an electronic lodgment network; and
 - (b) the amount is included in the settlement statement requiring payment to the Commissioner in respect of this transaction.
- 25.9 The purchaser may at settlement give the vendor a bank cheque for the amount in accordance with section 16-30 (3) of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*, but only if:
- (a) so agreed by the vendor in writing; and
 - (b) the settlement is not conducted through an electronic lodgment network.
- However, if the purchaser gives the bank cheque in accordance with this general condition 25.9, the vendor must:
- (c) immediately after settlement provide the bank cheque to the Commissioner to pay the amount in relation to the supply; and
 - (d) give the purchaser a receipt for the bank cheque which identifies the transaction and includes particulars of the bank cheque, at the same time the purchaser gives the vendor the bank cheque.
- 25.10 A party must provide the other party with such information as the other party requires to:
- (a) decide if an amount is required to be paid or the quantum of it, or
 - (b) comply with the purchaser's obligation to pay the amount,
- in accordance with section 14-250 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*. The information must be provided within 5 business days of a written request. The party providing the information warrants that it is true and correct.
- 25.11 The vendor warrants that:
- (a) at settlement, the property is not new residential premises or potential residential land in either case falling within the parameters of section 14-250 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* if the vendor gives the purchaser a written notice under section 14-255 to the effect that the purchaser will not be required to make a payment under section 14-250 in respect of the supply, or fails to give a written notice as required by and within the time specified in section 14-255; and
 - (b) the amount described in a written notice given by the vendor to the purchaser under section 14-255 of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* is the correct amount required to be paid under section 14-250 of the legislation.
- 25.12 The purchaser is responsible for any penalties or interest payable to the Commissioner on account of non-payment or late payment of the amount, except to the extent that:
- (a) the penalties or interest arise from any failure on the part of the vendor, including breach of a warranty in general condition 25.11; or
 - (b) the purchaser has a reasonable belief that the property is neither new residential premises nor potential residential land requiring the purchaser to pay an amount to the Commissioner in accordance with section 14-250 (1) of Schedule 1 to the *Taxation Administration Act 1953 (Cth)*.
- The vendor is responsible for any penalties or interest payable to the Commissioner on account of non-payment or late payment of the amount if either exception applies.

Transactional

26. TIME & CO OPERATION

- 26.1 Time is of the essence of this contract.
- 26.2 Time is extended until the next business day if the time for performing any action falls on a day which is not a business day.
- 26.3 Each party must do all things reasonably necessary to enable this contract to proceed to settlement, and must act in a prompt and efficient manner.
- 26.4 Any unfulfilled obligation will not merge on settlement.

27. SERVICE

- 27.1 Any document required to be served by or on any party may be served by or on the legal practitioner or conveyancer for that party.
- 27.2 A cooling off notice under section 31 of the *Sale of Land Act 1962* or a notice under general condition 20 [loan approval], 21 [building report] or 22 [pest report] may be served on the vendor's legal practitioner, conveyancer or estate agent even if the estate agent's authority has formally expired at the time of service.
- 27.3 A document is sufficiently served:
- (a) personally, or
 - (b) by pre-paid post, or
 - (c) in any manner authorized by law or by the Supreme Court for service of documents, including any manner authorised for service on or by a legal practitioner, whether or not the person serving or receiving the document is a legal practitioner, or
 - (d) by email.
- 27.4 Any document properly sent by:
- (a) express post is taken to have been served on the next business day after posting, unless proved otherwise;
 - (b) priority post is taken to have been served on the fourth business day after posting, unless proved otherwise;
 - (c) regular post is taken to have been served on the sixth business day after posting, unless proved otherwise;
 - (d) email is taken to have been served at the time of receipt within the meaning of section 13A of the *Electronic Transactions (Victoria) Act 2000*.
- 27.5 In this contract 'document' includes 'demand' and 'notice', 'serve' includes 'give', and 'served' and 'service' have corresponding meanings.

28. NOTICES

- 28.1 The vendor is responsible for any notice, order, demand or levy imposing liability on the property that is issued or made before the day of sale, and does not relate to periodic outgoings.
- 28.2 The purchaser is responsible for any notice, order, demand or levy imposing liability on the property that is issued or made on or after the day of sale, and does not relate to periodic outgoings.
- 28.3 The purchaser may enter the property to comply with that responsibility where action is required before settlement.

29. INSPECTION

The purchaser and/or another person authorised by the purchaser may inspect the property at any reasonable time during the 7 days preceding and including the settlement day.

30. TERMS CONTRACT

- 30.1 If this is a 'terms contract' as defined in the *Sale of Land Act 1962*:
- (a) any mortgage affecting the land sold must be discharged as to that land before the purchaser becomes entitled to possession or to the receipt of rents and profits unless the vendor satisfies section 29M of the *Sale of Land Act 1962*; and
 - (b) the deposit and all other money payable under the contract (other than any money payable in excess of the amount required to so discharge the mortgage) must be paid to a legal practitioner or conveyancer or a licensed estate agent to be applied in or towards discharging the mortgage.
- 30.2 While any money remains owing each of the following applies:
- (a) the purchaser must maintain full damage and destruction insurance of the property and public risk insurance noting all parties having an insurable interest with an insurer approved in writing by the vendor;

- (b) the purchaser must deliver copies of the signed insurance application forms, the policies and the insurance receipts to the vendor not less than 10 days before taking possession of the property or becoming entitled to receipt of the rents and profits;
- (c) the purchaser must deliver copies of any amendments to the policies and the insurance receipts on each amendment or renewal as evidence of the status of the policies from time to time;
- (d) the vendor may pay any renewal premiums or take out the insurance if the purchaser fails to meet these obligations;
- (e) insurance costs paid by the vendor under paragraph (d) must be refunded by the purchaser on demand without affecting the vendor's other rights under this contract;
- (f) the purchaser must maintain and operate the property in good repair (fair wear and tear excepted) and keep the property safe, lawful, structurally sound, weatherproof and free from contaminations and dangerous substances;
- (g) the property must not be altered in any way without the written consent of the vendor which must not be unreasonably refused or delayed;
- (h) the purchaser must observe all obligations that affect owners or occupiers of land;
- (i) the vendor and/or other person authorised by the vendor may enter the property at any reasonable time to inspect it on giving 7 days written notice, but not more than twice in a year.

31. LOSS OR DAMAGE BEFORE SETTLEMENT

- 31.1 The vendor carries the risk of loss or damage to the property until settlement.
- 31.2 The vendor must deliver the property to the purchaser at settlement in the same condition it was in on the day of sale, except for fair wear and tear.
- 31.3 The purchaser must not delay settlement because one or more of the goods is not in the condition required by general condition 31.2 but may claim compensation from the vendor after settlement.
- 31.4 The purchaser may nominate an amount not exceeding \$5,000 to be held by a stakeholder to be appointed by the parties if the property is not in the condition required by general condition 31.2 at settlement.
- 31.5 The nominated amount may be deducted from the amount due to the vendor at settlement and paid to the stakeholder, but only if the purchaser also pays an amount equal to the nominated amount to the stakeholder.
- 31.6 The stakeholder must pay the amounts referred to in general condition 31.5 in accordance with the determination of the dispute, including any order for payment of the costs of the resolution of the dispute.

32. BREACH

A party who breaches this contract must pay to the other party on demand:

- (a) compensation for any reasonably foreseeable loss to the other party resulting from the breach; and
- (b) any interest due under this contract as a result of the breach.

Default

33. INTEREST

Interest at a rate of 2% per annum plus the rate for the time being fixed by section 2 of the *Penalty Interest Rates Act* 1983 is payable at settlement on any money owing under the contract during the period of default, without affecting any other rights of the offended party.

34. DEFAULT NOTICE

34.1 A party is not entitled to exercise any rights arising from the other party's default, other than the right to receive interest and the right to sue for money owing, until the other party is given and fails to comply with a written default notice.

34.2 The default notice must:

- (a) specify the particulars of the default; and
- (b) state that it is the offended party's intention to exercise the rights arising from the default unless, within 14 days of the notice being given -
 - (i) the default is remedied; and
 - (ii) the reasonable costs incurred as a result of the default and any interest payable are paid.

35. DEFAULT NOT REMEDIED

35.1 All unpaid money under the contract becomes immediately payable to the vendor if the default has been made by the purchaser and is not remedied and the costs and interest are not paid.

35.2 The contract immediately ends if:

- (a) the default notice also states that unless the default is remedied and the reasonable costs and interest are paid, the contract will be ended in accordance with this general condition; and
- (b) the default is not remedied and the reasonable costs and interest are not paid by the end of the period of the default notice.

35.3 If the contract ends by a default notice given by the purchaser:

- (a) the purchaser must be repaid any money paid under the contract and be paid any interest and reasonable costs payable under the contract; and
- (b) all those amounts are a charge on the land until payment; and
- (c) the purchaser may also recover any loss otherwise recoverable.

35.4 If the contract ends by a default notice given by the vendor:

- (a) the deposit up to 10% of the price is forfeited to the vendor as the vendor's absolute property, whether the deposit has been paid or not; and
- (b) the vendor is entitled to possession of the property; and
- (c) in addition to any other remedy, the vendor may within one year of the contract ending either:
 - (i) retain the property and sue for damages for breach of contract; or
 - (ii) resell the property in any manner and recover any deficiency in the price on the resale and any resulting expenses by way of liquidated damages; and
- (d) the vendor may retain any part of the price paid until the vendor's damages have been determined and may apply that money towards those damages; and
- (e) any determination of the vendor's damages must take into account the amount forfeited to the vendor.

35.5 The ending of the contract does not affect the rights of the offended party as a consequence of the default.

GUARANTEE and INDEMNITY

I/We		of	
And		of	
being the Sole Director / Directors of			ACN

(Called the "Guarantors") IN CONSIDERATION of the Vendor selling to the Purchaser at our request the Land described in this Contract of Sale for the price and upon the terms and conditions contained therein **DO** for ourselves and our respective executors and administrators **JOINTLY AND SEVERALLY COVENANT** with the said Vendor and their assigns that if at any time default shall be made in payment of the Deposit Money or residue of Purchase Money or interest or any other moneys payable by the Purchaser to the Vendor under this Contract or in the performance or observance of any term or condition of this Contract to be performed or observed by the Purchaser I/we will immediately on demand by the Vendor pay to the Vendor the whole of the Deposit Money, residue of Purchase Money, interest or other moneys which shall then be due and payable to the Vendor and indemnify and agree to keep the Vendor indemnified against all loss of Deposit Money, residue of Purchase Money, interest and other moneys payable under the within Contract and all losses, costs, charges and expenses whatsoever which the Vendor may incur by reason of any default on the part of the Purchaser. This Guarantee shall be a continuing Guarantee and Indemnity and shall not be released by:-

- a) any neglect or forbearance on the part of the Vendor in enforcing payment of any of the moneys payable under the within Contract;
- b) the performance or observance of any of the agreements, obligations or conditions under the within Contract;
- c) by time given to the Purchaser for any such payment performance or observance;
- d) by reason of the Vendor assigning his, her or their rights under the said Contract; and
- e) by any other thing which under the law relating to sureties would but for this provision have the effect of releasing me/us, my/our executors or administrators.

IN WITNESS whereof the parties hereto have set their hands and seals

This Day of 20

SIGNED SEALED AND DELIVERED by the said

Print Name

In the presence of

Witness

Director(Sign)

SIGNED SEALED AND DELIVERED by the said

Print Name

In the presence of

Witness

Director(Sign)

ANNEXURE - SPECIAL CONDITIONS

Special condition

Settlement and lodgement will be conducted electronically in accordance with the Electronic Conveyancing National Law and special condition applies

1. This special condition has priority over any other provision to the extent of any inconsistency. This special condition applies if the contract of sale specifies, or the parties subsequently agree in writing, that settlement and lodgement of the instruments necessary to record the purchaser as registered proprietor of the land will be conducted electronically in accordance with the Electronic Conveyancing National Law..
2. The purchaser hereby acknowledges having received from the vendor a Due Diligence Checklist and a Signed Section 32 Statement prior to signing the Contract of Sale hereof. The Purchaser agrees not to seek to terminate, rescind or make any objection requisition or claim for compensation arising out of any of the matters covered by this clause.
3. Each party must do everything reasonably necessary to assist the other party to trace and identify the recipient of any mistaken payment and to recover the mistaken payment. The purchaser admits that the land as offered for sale and inspected by him is identical with that described in the title particulars given in the Vendor's Statement and in the Particulars of Sale hereof. The purchaser agrees not to seek to terminate rescind or make any objection requisition or claim for compensation arising out of any of the matters covers by this clause.
 - a) any alleged misdescription of the land or deficiency in its area or measurements; or call upon the Vendor to amend the title or to bear all or any part of the costs of doing so.
 - b) any Building not being within the boundaries of the Land;
 - c) any minor variation between the size, shape, configuration or location of any lots on the Plan as they are on the Day of Sale compared to when the Plan is registered;
 - d) any patent or latent defects in the land ;
 - e) renumbering of any lot on the Plan;
 - f) any minor variations between the Property as inspected and the corresponding lot on the Plan as registered; or
 - g) any variation to the construction or design of the Building as long as the variation does not materially affect the Property.
4. The purchaser acknowledges that the Vendor has not, nor has anyone on the Vendor's behalf, made any representation or warranty as to the fitness for any particular purpose or otherwise of the property or that any structures comply with the current or any building regulations and the Purchaser expressly releases the Vendor and/or his servants or the Vendor's Agents from any claims demands in respect thereof.
5. The purchaser acknowledges that they are purchasing the property as a result of their own enquiries and inspection and not relying upon any representation made by the vendor or any other person on the vendor's behalf, and they accept property and its goods: The Purchaser acknowledges that the Purchaser has inspected the property and chattels prior to the day of sale. The Purchaser agrees that the Purchaser is purchasing and will accept delivery of the property and chattels in their present condition and state of repair and with any defects existing at the date hereof. The Purchaser agrees that the Vendor is under no liability or obligation to carry out repairs, renovations, alterations or improvement of any description.
 - (a) Subject to all defects latent and patent;
 - (b) Subject to any infestations and dilapidation;
 - (c) Subject to all existing water,sewerage,drainage and plumbing services and connections in respect of the property;
 - (d) Subject to any contamination by any hazardous substances; and any non-compliance with the Local Government Act or any Ordinance under that Act in respect of any building on the land.

6. Subsequent to the date of this contract the Purchaser shall be responsible for complying with any notices, orders or other like requirements issued or served by any government or semi-government instrumentality, relating to the Property (other than those referring to the apportionable outgoings) which are made or issued on or after the Date of Sale and the Purchaser shall assume liability arising therefrom and indemnify the Vendor against such liability. This Special Condition shall not merge upon settlement and shall ensure for the benefit of the Vendor.
7. The Vendor makes no representations that the improvements on the land sold or any alterations or additions thereof comply with the Victorian Building Regulations or the requirements of the local municipal council or any other authority.
The Purchaser shall not make any requisitions or claim any compensation in respect of any non-compliance with the Regulations and shall not call upon the Vendor to bear all or any part of the cost complying with the Regulations.
- 8.. In the event solar panels and/or batteries are contained within the land, the Vendor makes no representations or gives any warranties whatsoever with respect to any solar panels and/or batteries which may have been installed on the property hereby sold in relation to their condition, state or repair, fitness for purpose, their input, feed in tariff or any benefits arising from the electricity generated by any such solar panels and/or batteries, save that they are owned by the Vendor and are not encumbered in any way. The Purchaser acknowledges that any current arrangements with any energy supplier shall cease upon settlement.
9. In the event the property includes a swimming pool/spa or other body of water, the Purchaser hereby acknowledges by signing this Contract of Sale that the swimming pool/ spa or other body of water located on the property may not have fencing or safety measures that comply with the Building Regulations 2018(VIC) and the Statutory Regulations 2006 and any other laws or Regulations requiring the provision of Barriers to restrict the access by young children to the body of water. The Purchaser future acknowledges and agrees that it has made its own enquires in relation to compliance with current building regulations. The Purchaser agrees that they cannot terminate this Contract in the event the swimming pool/spa does not comply current building regulations, nor will the Purchaser require the Vendor to comply with any notice issued by any authority nor seek any compensation from the Vendor for any non-compliance.
10. Smoke Detectors - The Purchaser acknowledges and agrees that it will comply with the obligations, if any, in respect of the installation of smoke detectors in the Property under the *Building Regulations* 2006.
11. This contract sets out all the terms of this sale. Any promise, condition, representation or warranty which may have been made by the Vendor or by any person on behalf of the Vendor and which is not set out in this contract is negated and withdrawn. The purchaser acknowledges that there is no other contract agreement or collateral warranty subsisting at the time of signing this contract. This condition operates for the benefit of the Vendor and the Vendor's estate agent and their respective employees, agents and contractors.
12. If there is more than one Purchaser, it is the Purchaser's responsibility to ensure the Contract correctly records at the date of sale the proportions in which they are buying the Property ("the proportions"); If the proportions recorded in the transfer differ from those recorded in the Contract, it is the Purchaser's responsibility to pay any additional duty which may be assessed as a result of the variation ; The Purchaser fully indemnifies the Vendor, the Vendor's agent and the Vendor's legal practitioner against any claims or demands which may be made against any or all of them in relation to any additional duty payable as a result of the proportions in the transfer differing from those in the Contract.
13. Finance Decline: In the event of failure to obtain finance the Purchaser agrees to provide the Vendor upon request a copy of the Formal Finance Decline Letter from the Registered Lending Institution, not the broker that is engaged to secure the finance. Once the contract is unconditional then the deposit bond is not refundable.
14. If the Purchaser fails to pay the deposit in part or in full by the due date for payment of the deposit, the Vendor may terminate the contract by notice in writing to the Purchaser without issuing a Default Notice pursuant to General Condition 34.

15. The purchaser hereby acknowledges being given at the time of signing this Contract a notice in writing pursuant to Section 27 of the Sale of Land Act 1962 ("SLA") setting out the particulars specified in sub-sections (3)(a) and (3)(c). The vendor may, if no written objection is received in accordance with Section 27(6) of the SLA and without the consent from the purchaser, authorise the stakeholder to release deposit moneys pursuant to Section 27(7) of the SLA. Where the Purchaser has been given accurate details of the particulars, the purchaser must not make any objection if the relevant evidence is supplied and the deposit money is released at the expiration of 28 days of receiving the particulars. The purchaser will have made a default under the terms of the contract should the deposit moneys not be released by the stakeholder, if the purchaser acts contrary to Section 27(7) of the SLA, at which time the vendor is entitled to reasonable costs for the default and any interest due on the unpaid deposit withheld, at a rate of Interest of 2% per annum plus the rate for the time being fixed by section 2 of the Penalty Interest Rates Act 1983 during the period of withholding and default, without affecting any other rights of the vendor. This is an essential term of the contract.
16. Nomination: The Purchaser may only exercise the Purchaser's rights under General Condition 4 if the Purchaser delivers to the vendor not less than 14 days prior to settlement. The Nomination Form should be properly completed with all of the relevant details and delivered to vendor's legal practitioner. The Vendor's costs associated with nomination is \$220 inclusive of GST and are payable by the nominated purchaser to the Vendor's Legal practitioner upon being nominated.
17. All rates, taxes, assessments and any other expenses which apply to the property must be adjusted between the vendor and the purchaser on the basis that they have been or will be paid by the vendor. Notwithstanding anything in this contract, the vendor is only required to pay such rates, taxes, assessments and other expenses when they are due to be paid and the purchaser cannot require such rates, taxes, assessments and other expenses to be paid on an earlier date. In calculating adjustments of such rates, taxes, assessments and other expenses, any personal statutory benefit available to any party will be disregarded. In case of land tax being charged on a proportional tax basis, adjustment of such land tax will be computed on a proportional tax basis and not on a single holding tax basis. It is further agreed that adjustments of rates, charges and like outgoings at settlement will be made on the basis that the purchaser accepts sole responsibility for all supplementary rates, charges and like outgoings which may be levied after settlement and the vendor will not be obliged to adjust or be liable for any part of such supplementary rates, charges and like outgoings.
18. Early possession: In the event of the Purchaser wishing to take early possession of the property having obtained the consent of the Vendor, a separate License Agreement must be executed between the parties to facilitate such early possession. The Purchaser agrees to provide copies of all updated certificates obtained by them to complete any adjustments to the Vendor's Representative. The Vendor will not be obliged to provide cheque direction details until this condition has been complied with.
- a) Such License Agreement referred herein is a separate legal document and does not form part of this Contract.
- a) The cost of preparing a License Agreement being \$330 is payable by the Purchaser to the Vendor's representative.
19. Variation of settlement date: The Purchaser acknowledges and agrees the Vendor will incur additional fees as a result of the Purchaser requesting variation to the settlement date and , in addition to any amounts due to the Vendor, the Purchaser agrees to pay the sum of \$220.00 for each separate request to vary the settlement date.
20. The Purchaser warrants that in the event that he or she is a person as defined by the Foreign Acquisitions & Takeovers Act 1975 all requirements of the Act have been observed and that any loss occasioned by a breach of such warranty shall form the basis of damages recoverable from the Purchaser.
21. General conditions deleted - General conditions 9, 12,16,32,35.3 are deleted.

22. If the GST is applicable to the land, the purchaser is liable for GST.
- a) The Parties agree that this Special Condition prevails over General Condition 19 and anything else contained in this Contract.
 - b) If at the date of Settlement the Vendor is required to be registered for GST and is registered for GST the Purchaser shall pay in addition to the price the GST for the supply of the Land.
 - c) If the supply of the Land (or any interest in such Land) is not, or is not accepted by the Commissioner of Taxation to be, a GST free taxable supply, and the Vendor becomes liable for GST, interest and/or penalties as a consequence, the Purchaser must, in addition to its obligations under the General Conditions, pay to the Vendor all GST in addition to the purchase price upon receipt of a valid tax invoice and must indemnify the Vendor and keep the Vendor indemnified against all GST, including penalties and interest, payable in connection with any supply made under this Contract without set off or deduction.
23. The purchaser breaching this Contract shall pay upon demand all expenses incurred by the vendor as a result of such breaching notwithstanding: that the purchaser may not be aware at the date of the Contract of the Particular consequences which may flow from delay in settlement; and that such damages could not have reasonably been foreseen by the purchaser. The Vendor gives notice to the Purchaser that in the event that the Purchaser fails to complete the purchase of the property on the due date specified in the Contract of Sale or any such date as may have been mutually agreed to by the parties, the purchaser default in payment of any money due under this contract, then interest at the rate of fifteen per centum (15 %) per annum shall be paid on demand by the Purchaser to the Vendor upon the money overdue and that the Purchaser will also be liable for the following expenses:
- (a) All costs incurred by the Vendor associated with obtaining bridging finance to complete the Vendor's purchaser of another property and interest charged on such bridging finance.
 - (b) Interest payable by the Vendor under any existing Mortgage over the property calculated from the due date.
 - (c) Accommodation expenses necessarily incurred by the Vendor.
 - (d) Addition costs and expenses as between the Vendor and the Vendor's representative.
 - (e) The cost for the issue of a Default Notice being \$770 payable to the Vendor's representative.
 - (f) The cost for the issue of a Notice of Rescission being \$770 payable to the Vendor's representative.
 - (g) Any costs, expenses and penalties incurred by the Vendor to a third party through any delay in completion of the Vendor's purchase.
 - (h) Settlement rescheduling fee of \$220 payable to the Vendor's representative at settlement.
24. Our office will be closed from 22/12/2023 – 15/01/2024 and we are unable to attend settlements in that period. During this time, emails will not be attended to. Please arrange the settlement earlier or after the break.

25. **Notification of Vendor GST Withholding**

The vendor warrants that at settlement, the property is not new residential premises or potential residential land and as such

The Purchaser/recipient ***is not required*** to make a payment under section 14-250 of Schedule 1 of the *Taxation Administration Act 1953* (Cwlth) in relation to the supply of the above property.

Due Diligence Checklist

What you need to know before buying a residential property

Before you buy a home, you should be aware of a range of issues that may affect that property and impose restrictions or obligations on you, if you buy it. This checklist aims to help you identify whether any of these issues will affect you. The questions are a starting point only and you may need to seek professional advice to answer some of them. You can find links to organisations and web pages that can help you learn more, by visiting consumer.vic.gov.au/duediligencechecklist.

Urban living

Moving to the inner city?

High density areas are attractive for their entertainment and service areas, but these activities create increased traffic as well as noise and odours from businesses and people. Familiarising yourself with the character of the area will give you a balanced understanding of what to expect.

Is the property subject to an owners corporation?

If the property is part of a subdivision with common property such as driveways or grounds, it may be subject to an owners corporation. You may be required to pay fees and follow rules that restrict what you can do on your property, such as a ban on pet ownership.

Growth areas

Are you moving to a growth area?

You should investigate whether you will be required to pay a growth areas infrastructure contribution.

Flood and fire risk

Does this property experience flooding or bushfire?

Properties are sometimes subject to the risk of fire and flooding due to their location. You should properly investigate these risks and consider their implications for land management, buildings and insurance premiums.

Rural properties

Moving to the country?

If you are looking at property in a rural zone, consider:

- Is the surrounding land use compatible with your lifestyle expectations? Farming can create noise or odour that may be at odds with your expectations of a rural lifestyle.
- Are you considering removing native vegetation? There are regulations which affect your ability to remove native vegetation on private property.
- Do you understand your obligations to manage weeds and pest animals?
- Can you build new dwellings?
- Does the property adjoin crown land, have a water frontage, contain a disused government road, or are there any crown licences associated with the land?

Is there any earth resource activity such as mining in the area?

You may wish to find out more about exploration, mining and quarrying activity on or near the property and consider the issue of petroleum, geothermal and greenhouse gas sequestration permits, leases and licences, extractive industry authorisations and mineral licences.

Soil and groundwater contamination

Has previous land use affected the soil or groundwater?

You should consider whether past activities, including the use of adjacent land, may have caused contamination at the site and whether this may prevent you from doing certain things to or on the land in the future.

Land boundaries

Do you know the exact boundary of the property?

You should compare the measurements shown on the title document with actual fences and buildings on the property, to make sure the boundaries match. If you have concerns about this, you can speak to your lawyer or conveyancer, or commission a site survey to establish property boundaries.

Planning controls

Can you change how the property is used, or the buildings on it?

All land is subject to a planning scheme, run by the local council. How the property is zoned and any overlays that may apply, will determine how the land can be used. This may restrict such things as whether you can build on vacant land or how you can alter or develop the land and its buildings over time.

The local council can give you advice about the planning scheme, as well as details of any other restrictions that may apply, such as design guidelines or bushfire safety design. There may also be restrictions – known as encumbrances – on the property's title, which prevent you from developing the property. You can find out about encumbrances by looking at the section 32 statement.

Are there any proposed or granted planning permits?

The local council can advise you if there are any proposed or issued planning permits for any properties close by. Significant developments in your area may change the local 'character' (predominant style of the area) and may increase noise or traffic near the property.

Safety

Is the building safe to live in?

Building laws are in place to ensure building safety. Professional building inspections can help you assess the property for electrical safety, possible illegal building work, adequate pool or spa fencing and the presence of asbestos, termites, or other potential hazards.

Building permits

Have any buildings or retaining walls on the property been altered, or do you plan to alter them?

There are laws and regulations about how buildings and retaining walls are constructed, which you may wish to investigate to ensure any completed or proposed building work is approved. The local council may be able to give you information about any building permits issued for recent building works done to the property, and what you must do to plan new work. You can also commission a private building surveyor's assessment.

Are any recent building or renovation works covered by insurance?

Ask the vendor if there is any owner-builder insurance or builder's warranty to cover defects in the work done to the property.

Utilities and essential services

Does the property have working connections for water, sewerage, electricity, gas, telephone and internet?

Unconnected services may not be available, or may incur a fee to connect. You may also need to choose from a range of suppliers for these services. This may be particularly important in rural areas where some services are not available.

Buyers' rights

Do you know your rights when buying a property?

The contract of sale and section 32 statement contain important information about the property, so you should request to see these and read them thoroughly. Many people engage a lawyer or conveyancer to help them understand the contracts and ensure the sale goes through correctly. If you intend to hire a professional, you should consider speaking to them before you commit to the sale. There are also important rules about the way private sales and auctions are conducted. These may include a cooling-off period and specific rights associated with 'off the plan' sales. The important thing to remember is that, as the buyer, you have rights

SECTION 32 STATEMENT

PURSUANT TO DIVISION 2 OF PART II
SECTION 32 OF THE SALE OF LAND ACT 1962 (VIC)

Vendor:	BENNY ZHUO BANG YAO
----------------	---------------------

Property:	835 MT DANDENONG RD MONTROSE VIC 3765
------------------	---------------------------------------

VENDORS REPRESENTATIVE

3W & ASSOCIATES
Suite 8d
19 Ellingworth Parade
BOX HILL VIC 3128

Email: **julie.3wa@gmail.com**

Ref: 2370V

SECTION 32 STATEMENT

32A FINANCIAL MATTERS

32A(a) Information concerning any rates, taxes, charges or other similar outgoings AND any interest payable on any part of them is contained in the attached certificate/s

At settlement the rates will be adjusted between the parties, so that they each bear the proportion of rates applicable to their respective periods of occupancy in the property.

32A(b) The particulars of any Charge (whether registered or not) over the land imposed by or under an Act to secure an amount due under that Act, including the amount owing under the charge are as follows:- Not Applicable

32B INSURANCE

(a) Where the Contract does not provide for the land to remain at the risk of the Vendor, particulars of any policy of insurance maintained by the Vendor in respect of damage to or destruction of the land are as follows: - Not Applicable

(b) Where there is a residence on the land which was constructed within the preceding six years, and section 137B of the *Building Act 1993* applies, particulars of the required insurance are as follows:-

No such Insurance has been effected to the Vendors knowledge.

32C LAND USE

(a) RESTRICTIONS

Information concerning any easement, covenant or similar restriction affecting the land (whether registered or unregistered) is as follows:-

- Easements affecting the land are as set out in the attached copies of title.
- Covenants affecting the land are as set out in the attached copies of title.
- Other restrictions affecting the land are as attached.
- Particulars of any existing failure to comply with the terms of such easement, covenant and/or restriction are as follows:-

To the best of the Vendor's knowledge there is no existing failure to comply with the terms of any easement, covenant or similar restriction affecting the land. The Purchaser should note that there may be sewers, drains, water pipes, underground and/or overhead electricity cables, underground and/or overhead telephone cables and underground gas pipes laid outside any registered easements and which are not registered or required to be registered against the Certificate of Title.

(b) BUSHFIRE

This land is not in a designated bushfire-prone area under section 192A of the Building Act 1993

(c) ROAD ACCESS

There is access to the Property by Road.

SECTION 32 STATEMENT

(d) PLANNING

Planning Scheme:	See attached certificate
Responsible Authority:	See attached certificate
Zoning:	See attached certificate
Planning Overlay/s:	See attached certificate

32D NOTICES

- (a) Particulars of any Notice, Order, Declaration, Report or recommendation of a Public Authority or Government Department or approved proposal directly and currently affecting the land of which the Vendor might reasonably be expected to have knowledge are:- None to the Vendors knowledge however the Vendor has no means of knowing all decisions of the Government and other authorities unless such decisions have been communicated to the Vendor
- (b) The Vendor is not aware of any Notices, Property Management Plans, Reports or Orders in respect of the land issued by a Government Department or Public Authority in relation to livestock disease or contamination by agricultural chemicals affecting the ongoing use of the land for agricultural purposes.
- (c) Particulars of any Notice of intention to acquire served under Section 6 of the *Land Acquisition and Compensation Act, 1986* are: Not Applicable

32E BUILDING PERMITS

Particulars of any Building Permit issued under the *Building Act 1993* during the past seven years (where there is a residence on the land):- No such Building Permit has been granted to the Vendors knowledge.

32F OWNERS CORPORATION

The Land is NOT affected by an Owners Corporation within the meaning of the *Owners Corporation Act 2006*.

32G GROWTH AREAS INFRASTRUCTURE CONTRIBUTION (GAIC)

- (1) The land, in accordance with a work-in-kind agreement (within the meaning of Part 9B of the *Planning and Environment Act 1987* is NOT –
 - land that is to be transferred under the agreement.
 - land on which works are to be carried out under the agreement (other than Crown land).
 - land in respect of which a GAIC is imposed

SECTION 32 STATEMENT

32H SERVICES

Service	Status / Authority
Electricity supply	Connected/ At Purchaser's selection
Gas supply	Connected/ At Purchaser's selection
Water supply	Connected
Sewerage	Connected
Telephone services	Connected/ At Purchaser's selection

Connected indicates that the service is provided by an authority and operating on the day of sale. The Purchaser should be aware that the Vendor may terminate their account with the service provider before settlement, and the purchaser will have to have the service reconnected.

32I TITLE

Attached are the following document/s concerning Title:

- (a) In the case of land under the *Transfer of Land Act 1958* a copy of the Register Search Statement/s and the document/s, or part of the document/s, referred to as the diagram location in the Register Search Statement/s that identifies the land and its location.
- (b) In any other case, a copy of -
 - (i) the last conveyance in the Chain of Title to the land; or
 - (ii) any other document which gives evidence of the Vendors title to the land.
- (c) Where the Vendor is not the registered proprietor or the owner of the estate in fee simple, copies of the documents bearing evidence of the Vendor's right or power to sell the land.
- (d) In the case of land that is subject to a subdivision -
 - (i) a copy of the Plan of Subdivision which has been certified by the relevant municipal council (if the Plan of Subdivision has not been registered), or
 - (ii) a copy of the latest version of the plan (if the Plan of Subdivision has not been certified).
- (e) In the case of land that is part of a staged subdivision within the meaning of Section 37 of the *Subdivision Act 1988* -
 - (i) if the land is in the second or a subsequent stage, a copy of the plan for the first stage; and
 - (ii) details of any requirements in a Statement of Compliance relating to the stage in which the land is included that have not been complied with; and
 - (iii) details of any proposals relating to subsequent stages that are known to the Vendor; and
 - (iv) a statement of the contents of any permit under the *Planning and Environment Act 1987* authorising the staged subdivision.
- (f) In the case of land that is subject to a subdivision and in respect of which a further plan within the meaning of the *Subdivision Act 1988* is proposed -
 - (i) if the later plan has not been registered, a copy of the plan which has been certified by the relevant municipal council; or
 - (ii) if the later plan has not yet been certified, a copy of the latest version of the plan.

SECTION 32 STATEMENT

DATE OF THIS STATEMENT

	/		/20	
--	---	--	-----	--

Name of the Vendor

BENNY ZHUO BANG YAO

Signature/s of the Vendor

x

The Purchaser acknowledges being given a duplicate of this statement signed by the Vendor before the Purchaser signed any contract. The Purchaser further acknowledges being directed to the **DUE DILIGENCE CHECKLIST**.

DATE OF THIS ACKNOWLEDGMENT

	/		/20	
--	---	--	-----	--

Name of the Purchaser

--

Signature/s of the Purchaser

x

Register Search Statement - Volume 7149 Folio 787

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The Victorian Government acknowledges the Traditional Owners of Victoria and pays respects to their ongoing connection to their Country, History and Culture. The Victorian Government extends this respect to their Elders, past, present and emerging.

REGISTER SEARCH STATEMENT (Title Search) Transfer of Land Act 1958

VOLUME 07149 FOLIO 787

Security no : 124109417817T
Produced 28/09/2023 03:57 PM

LAND DESCRIPTION

Lot 1 on Title Plan 531960S.
PARENT TITLE Volume 03733 Folio 456
Created by instrument 2097842 29/08/1947

REGISTERED PROPRIETOR

Estate Fee Simple
Sole Proprietor
BENNY ZHUO BANG YAO of 38 ARLINGTON DRIVE GLEN WAVERLEY VIC 3150
AH931402E 05/05/2011

ENCUMBRANCES, CAVEATS AND NOTICES

MORTGAGE AW085151M 20/09/2022
COMMONWEALTH BANK OF AUSTRALIA

Any encumbrances created by Section 98 Transfer of Land Act 1958 or Section 24 Subdivision Act 1988 and any other encumbrances shown or entered on the plan set out under DIAGRAM LOCATION below.

DIAGRAM LOCATION

SEE TP531960S FOR FURTHER DETAILS AND BOUNDARIES

ACTIVITY IN THE LAST 125 DAYS

NIL

-----END OF REGISTER SEARCH STATEMENT-----

Additional information: (not part of the Register Search Statement)

Street Address: 835 MT DANDENONG ROAD MONTROSE VIC 3765

ADMINISTRATIVE NOTICES

NIL

eCT Control 15940N COMMONWEALTH BANK OF AUSTRALIA
Effective from 20/09/2022

DOCUMENT END

The information supplied has been obtained by Dye & Durham Property Pty Ltd who is licensed by the State of Victoria to provide this information via LANDATA® System. Delivered at 28/09/2023, for Order Number 81311495. Your reference: 2370V.

TITLE PLAN		EDITION 1	TP 531960S						
Location of Land Parish: MOORROOLBARK Township: Section: Crown Allotment: 35G (PT) Crown Portion: Last Plan Reference: Derived From: VOL 7149 FOL 787 Depth Limitation: NIL		Notations ANY REFERENCE TO MAP IN THE TEXT MEANS THE DIAGRAM SHOWN ON THIS TITLE PLAN							
Description of Land / Easement Information All that piece of Land, delineated and coloured red on the map in the margin being part of Crown Allotment Thirty-five^G Parish of Mooroolbark County of Evelyn - Together with a right to use the land coloured-- yellow on the said map for drainage purposes -----		THIS PLAN HAS BEEN PREPARED FOR THE LAND REGISTRY, LAND VICTORIA, FOR TITLE DIAGRAM PURPOSES AS PART OF THE LAND TITLES AUTOMATION PROJECT COMPILED: 15/06/2000 VERIFIED: RH COLOUR CODE R = RED Y = YELLOW							
<table><tr><th colspan="2">TABLE OF PARCEL IDENTIFIERS</th></tr><tr><td colspan="2">WARNING: Where multiple parcels are referred to or shown on this Title Plan this does not imply separately disposable parcels under Section 8A of the Sale of Land Act 1962</td></tr><tr><td colspan="2">PARCEL 1 = CA 35G (PT)</td></tr></table>				TABLE OF PARCEL IDENTIFIERS		WARNING: Where multiple parcels are referred to or shown on this Title Plan this does not imply separately disposable parcels under Section 8A of the Sale of Land Act 1962		PARCEL 1 = CA 35G (PT)	
TABLE OF PARCEL IDENTIFIERS									
WARNING: Where multiple parcels are referred to or shown on this Title Plan this does not imply separately disposable parcels under Section 8A of the Sale of Land Act 1962									
PARCEL 1 = CA 35G (PT)									
LENGTHS ARE IN FEET & INCHES		Metres = 0.3048 x Feet Metres = 0.201168 x Links	Sheet 1 of 1 sheets						

Victorian Land Index Property Address Search Result

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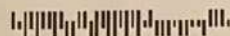
Vol/Fol	Address	Description	Municipality	Property Number
7149/787	835 MT DANDENONG ROAD, MONTROSE 3765	Lot 1 of Plan TP531960S	YARRA RANGES	188106

**The information supplied has been obtained by Dye & Durham Property Pty Ltd who is licensed by the State of Victoria to provide this information via LANDATA® System
Delivered at 28/09/23 15:56, for Order Number 81311486. Your reference: 2370V.**



VALUATION & RATE NOTICE 2025-2026

Issue date - 18/08/2025
Property ID - 188106



709660-001 000226(981) 0027 H1
Mr B Z B Yao
38 Arlington Drive
GLEN WAVERLEY VIC 3150



Flexible payments with Payble

- Pay in full or choose smaller instalments that suit your budget.
- Helpful SMS reminders
- Card or bank payments
- See your balance



Scan the QR code or
pay at pay.yarraranges.vic.gov.au

Rates and charges at your property - 1 July 2025 to 30 June 2026

Property ID 188106

835 Mt Dandenong Road MONTROSE VIC 3765
CA PTCA 35G PMooroolbark

Property Owners

Mr Benny Zhuo Bang Yao

Property Valuations - Valuation Date 1 January 2025 - Valuation first used 1 July 2025

Capital improved value (CIV) - (the CIV is used to calculate your rates)	\$850,000
Site value - (the site value is included in the CIV)	\$440,000
Net annual value	\$53,500

FSPL Classification: Commercial. AVPCC: 240

Description: Pub/Tavern/Hotel/Lic Club/Restaurant/Lic Rest etc

General Rate - 2025-2026

Commercial Rate (0.0037925 x \$850,000) \$3,223.60

Waste charge including State Government EPA levy

Non-Residential Waste Service - Base Charge	\$48.00
Non-Res Food & Garden Organics 240L bin (\$201 x 1)	\$201.00
Non-Res Recycling 240L bin (\$69 x 2)	\$138.00
Non-Res Rubbish 120L bin (\$155 x 2)	\$310.00

State Government Emergency Services and Volunteers Fund - Commercial

ESVF Commercial (\$275 + (\$850,000 x 0.00133) \$1,405.50

Total amount due

\$5,326.10

Payments received after 18th August will not be included on this notice.

Have you made changes recently that affect your rates amounts such as bin changes, pension rebates, or a supplementary valuation? You may receive an adjusted notice in the coming months. In the meantime, please make payments using the options on this notice.

Your quarterly bill



734058-001 000443(887) R H3

MR B YAO
38 ARLINGTON DR
GLEN WAVERLEY VIC 3150

Enquiries 1300 304 688
Faults (24/7) 13 27 62
Account number 07 8972 3889
Invoice number 0781 3872 49808
Issue date 4 Feb 2026
Tax Invoice Yarra Valley Water ABN 93 066 902 501

Amount due
\$985.86

Due date
25 Feb 2026

Summary

835 MT DANDENONG RD, MONTROSE

Property Number 1698 750, TP 531960

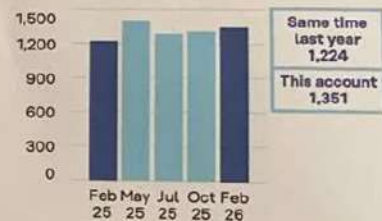
Product/Service	Amount
Usage Charges	\$675.21
Water Supply System Charge	\$77.17
Sewerage System Charge	\$149.81
Yarra Valley Water Total	\$902.19
Other Authority Charges	
Waterways and Drainage Charge on behalf of Melbourne Water	\$46.31
Perks Charge	\$37.36
TOTAL (GST does not apply)	\$985.86

Payment summary

Last Account	\$941.22
Paid/Adjusted	-\$941.22
Balance	\$0.00
Total this Account	+\$985.86
Total Balance	\$985.86

Daily water use

Your average usage in litres per day



How to pay



*3042 078138724980 8

Direct debit
Sign up for Direct Debit at yvw.com.au/directdebit or call 1300 304 688.

EFT
Transfer direct from your bank account to ours by Electronic Funds Transfer (EFT).
Account name: Yarra Valley Water
BSB: 033-885
Account number: 789702864

Centrepay
Use Centrepay to arrange regular deductions from your Centrelink payments.
Visit yvw.com.au/paying
CRN reference: 555 054 1187

Post Billpay®
Pay in person at any post office, by phone on 13 18 16 or at postbillpay.com.au
Bill code: 3042
Ref: 0781 3872 49808

BPAY®
Bill code: 344366
Ref: 078 9723 8890

Credit Card
Online: yvw.com.au/paying
Phone: 1300 362 332

MR B YAO
Account number 07 8972 3889
Invoice number 0781 3872 49808
Total due **\$985.86**
Due date **25 Feb 2026**
Amount paid \$

PROPERTY REPORT

From www.planning.vic.gov.au at 28 September 2023 03:51 PM

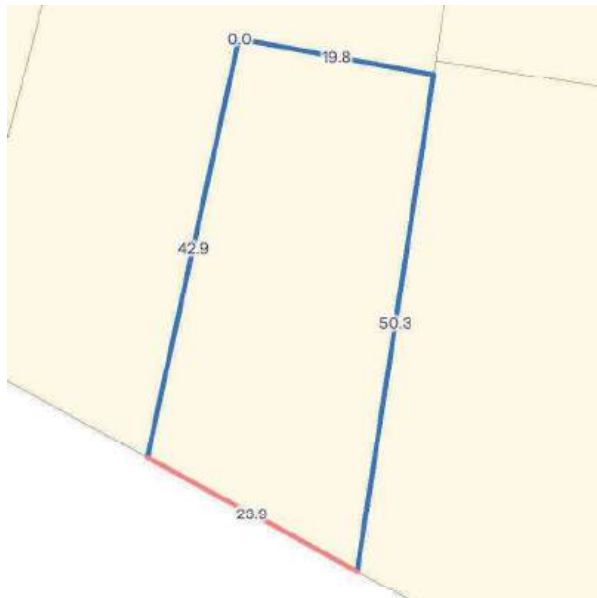
PROPERTY DETAILS

Address: **835 MT DANDENONG ROAD MONTROSE 3765**
Lot and Plan Number: **Lot 1 TP531960**
Standard Parcel Identifier (SPI): **1\TP531960**
Local Government Area (Council): **YARRA RANGES**
Council Property Number: **188106**
Directory Reference: **Melway 52 B7**

www.yarraranges.vic.gov.au

SITE DIMENSIONS

All dimensions and areas are approximate. They may not agree with those shown on a title or plan.



Area: 990 sq. m

Perimeter: 137 m

For this property:

— Site boundaries

— Road frontages

Dimensions for individual parcels require a separate search, but dimensions for individual units are generally not available.

Calculating the area from the dimensions shown may give a different value to the area shown above

For more accurate dimensions get copy of plan or [Title and Property Certificates](#)

UTILITIES

Rural Water Corporation: **Southern Rural Water**
Melbourne Water Retailer: **Yarra Valley Water**
Melbourne Water: **Inside drainage boundary**
Power Distributor: **AUSNET**

STATE ELECTORATES

Legislative Council: **EASTERN VICTORIA**
Legislative Assembly: **EVELYN**

PLANNING INFORMATION

Property Planning details have been removed from the Property Reports to address duplication with the Planning Property Reports which are DELWP's authoritative source for all Property Planning information.

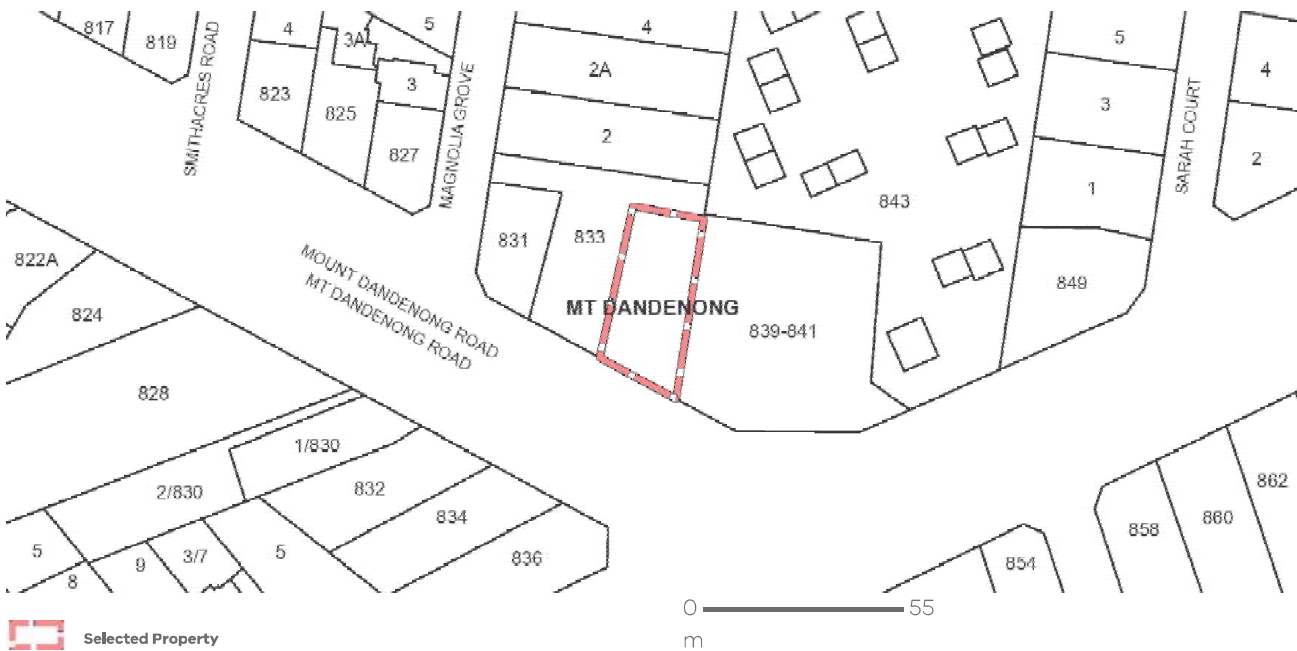
The Planning Property Report for this property can found here – [Planning Property Report](#)

Planning Property Reports can be found via these two links

Vicplan <https://mapshare.vic.gov.au/vicplan/>

Property and parcel search <https://www.land.vic.gov.au/property-and-parcel-search>

Area Map



PLANNING PROPERTY REPORT

From www.planning.vic.gov.au at 28 September 2023 03:51 PM

PROPERTY DETAILS

Address: **835 MT DANDENONG ROAD MONTROSE 3765**
Lot and Plan Number: **Lot 1 TP531960**
Standard Parcel Identifier (SPI): **1\TP531960**
Local Government Area (Council): **YARRA RANGES**
Council Property Number: **188106**
Planning Scheme: **Yarra Ranges**
Directory Reference: **Melway 52 B7**

www.yarraranges.vic.gov.au

[Planning Scheme - Yarra Ranges](#)

UTILITIES

Rural Water Corporation: **Southern Rural Water**
Melbourne Water Retailer: **Yarra Valley Water**
Melbourne Water: **Inside drainage boundary**
Power Distributor: **AUSNET**

STATE ELECTORATES

Legislative Council: **EASTERN VICTORIA**
Legislative Assembly: **EVELYN**

OTHER

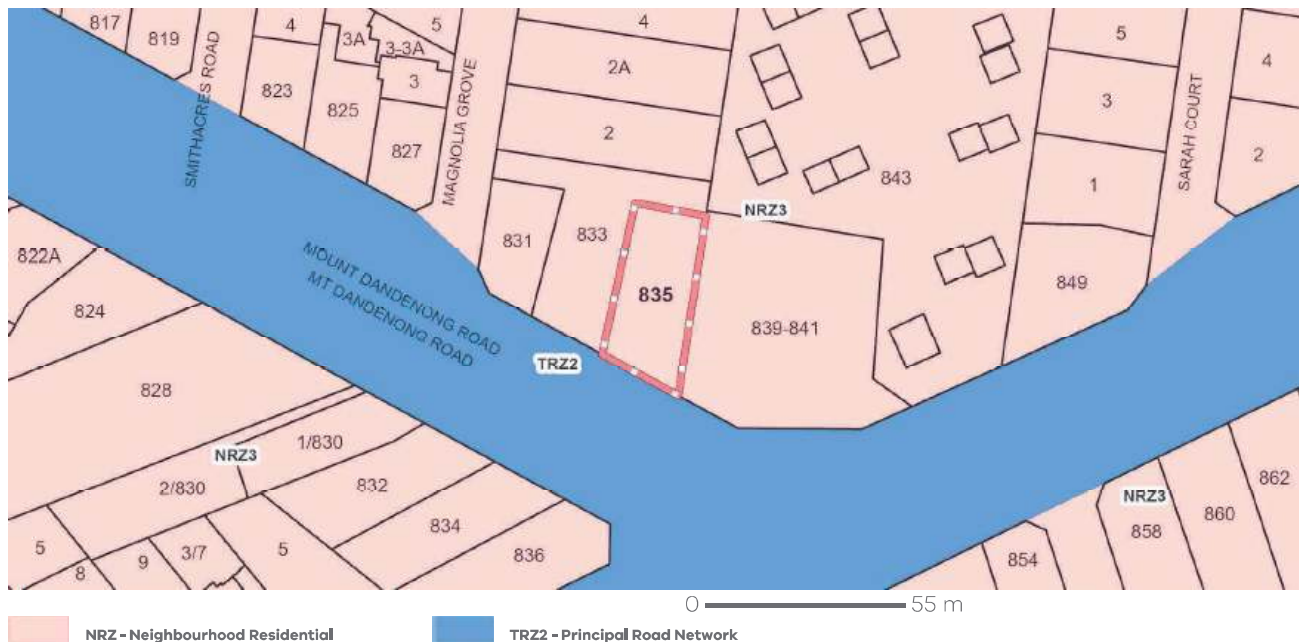
Registered Aboriginal Party: **Wurundjeri Woi Wurrung Cultural
Heritage Aboriginal Corporation**

[View location in VicPlan](#)

Planning Zones

[NEIGHBOURHOOD RESIDENTIAL ZONE \(NRZ\)](#)

[NEIGHBOURHOOD RESIDENTIAL ZONE - SCHEDULE 3 \(NRZ3\)](#)



NRZ - Neighbourhood Residential
TR22 - Principal Road Network

Note: Labels for zones may appear outside the actual zone - please compare the labels with the legend.

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Read the full disclaimer at <https://www.delwp.vic.gov.au/disclaimer>

Notwithstanding this disclaimer, a vendor may rely on the information in this report for the purpose of a statement that land is in a bushfire prone area as required by section 32C (b) of the Sale of Land 1962 (Vic).

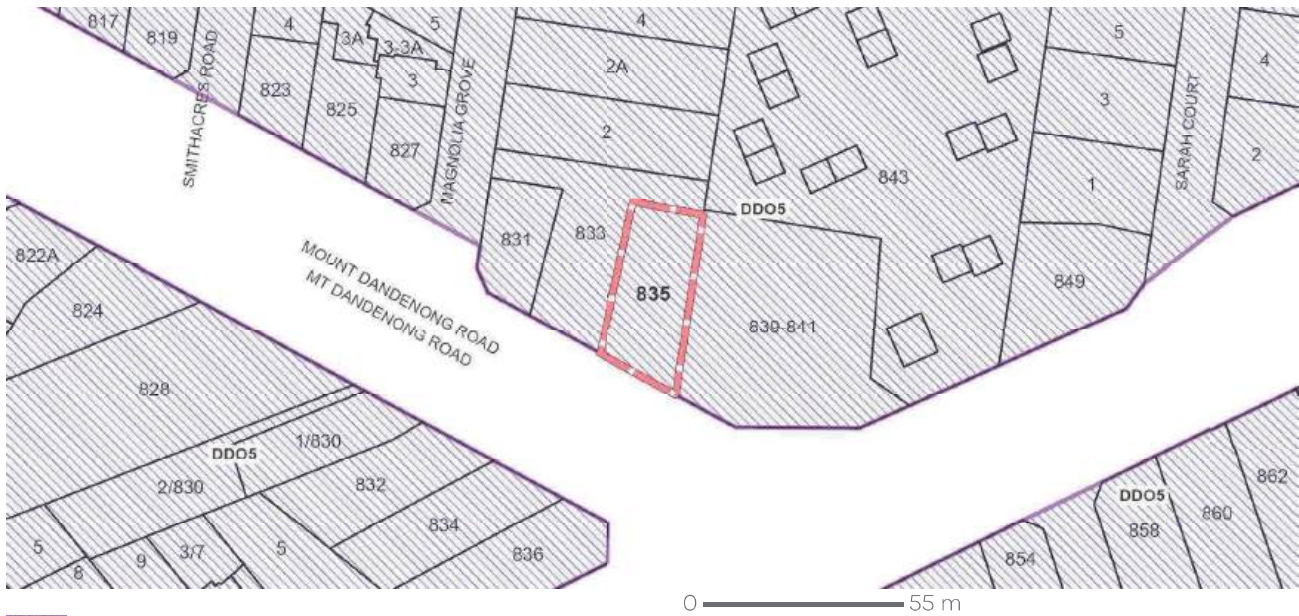
PLANNING PROPERTY REPORT: 835 MT DANDENONG ROAD MONTROSE 3765

Page 1 of 4

Planning Overlays

DESIGN AND DEVELOPMENT OVERLAY (DDO)

DESIGN AND DEVELOPMENT OVERLAY - SCHEDULE 5 (DDO5)



 **DDO - Design and Development Overlay**

Note: due to overlaps, some overlays may not be visible, and some colours may not match those in the legend

SIGNIFICANT LANDSCAPE OVERLAY (SLO)

SIGNIFICANT LANDSCAPE OVERLAY - SCHEDULE 22 (SLO22)



 **SLO - Significant Landscape Overlay**

Note: due to overlaps, some overlays may not be visible, and some colours may not match those in the legend

Planning Overlays

OTHER OVERLAYS

Other overlays in the vicinity not directly affecting this land

SPECIFIC CONTROLS OVERLAY (SCO)



Note: due to overlaps, some overlays may not be visible, and some colours may not match those in the legend

Further Planning Information

Planning scheme data last updated on 22 September 2023.

A **planning scheme** sets out policies and requirements for the use, development and protection of land.

This report provides information about the zone and overlay provisions that apply to the selected land.

Information about the State and local policy, particular, general and operational provisions of the local planning scheme that may affect the use of this land can be obtained by contacting the local council or by visiting <https://www.planning.vic.gov.au>

This report is NOT a **Planning Certificate** issued pursuant to Section 199 of the **Planning and Environment Act 1987**.

It does not include information about exhibited planning scheme amendments, or zonings that may affect the land.

To obtain a Planning Certificate go to Titles and Property Certificates at Landata - <https://www.landata.vic.gov.au>

For details of surrounding properties, use this service to get the Reports for properties of interest.

To view planning zones, overlay and heritage information in an interactive format visit

<https://mapshare.maps.vic.gov.au/vicplan>

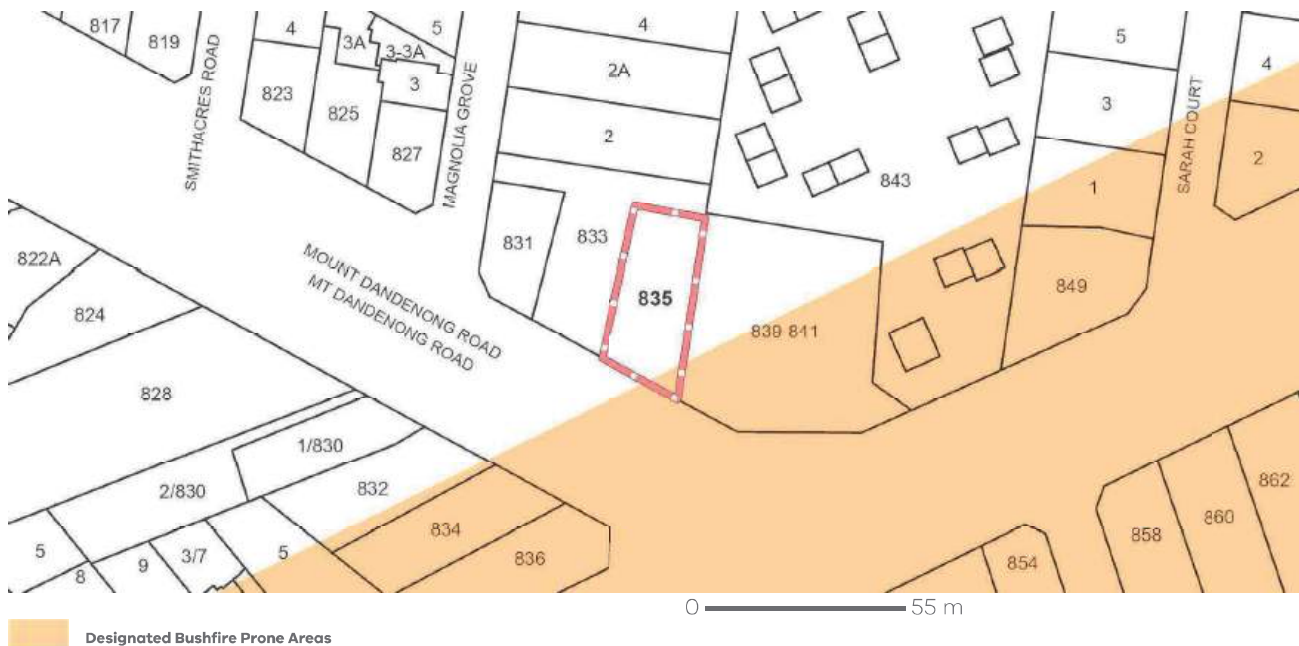
For other information about planning in Victoria visit <https://www.planning.vic.gov.au>

Designated Bushfire Prone Areas

This property is in a designated bushfire prone area. Special bushfire construction requirements apply to the part of the property mapped as a designated bushfire prone area (BPA). Planning provisions may apply.

Where part of the property is mapped as BPA, if no part of the building envelope or footprint falls within the BPA area, the BPA construction requirements do not apply.

Note: the relevant building surveyor determines the need for compliance with the bushfire construction requirements.



Designated BPA are determined by the Minister for Planning following a detailed review process. The Building Regulations 2018, through adoption of the Building Code of Australia, apply bushfire protection standards for building works in designated BPA.

Designated BPA maps can be viewed on VicPlan at <https://mapshare.vic.gov.au/vicplan/> or at the relevant local council.

Create a BPA definition plan in [VicPlan](#) to measure the BPA.

Information for lot owners building in the BPA is available at <https://www.planning.vic.gov.au>

Further information about the building control system and building in bushfire prone areas can be found on the Victorian Building Authority website <https://www.vba.vic.gov.au>. Copies of the Building Act and Building Regulations are available from <http://www.legislation.vic.gov.au>. For Planning Scheme Provisions in bushfire areas visit <https://www.planning.vic.gov.au>

Native Vegetation

Native plants that are indigenous to the region and important for biodiversity might be present on this property. This could include trees, shrubs, herbs, grasses or aquatic plants. There are a range of regulations that may apply including need to obtain a planning permit under Clause 52.17 of the local planning scheme. For more information see [Native Vegetation \(Clause 52.17\)](#) with local variations in [Native Vegetation \(Clause 52.17\) Schedule](#)

To help identify native vegetation on this property and the application of Clause 52.17 please visit the Native Vegetation Information Management system <https://nvim.delwp.vic.gov.au/> and [Native vegetation \(environment.vic.gov.au\)](#) or please contact your relevant council.

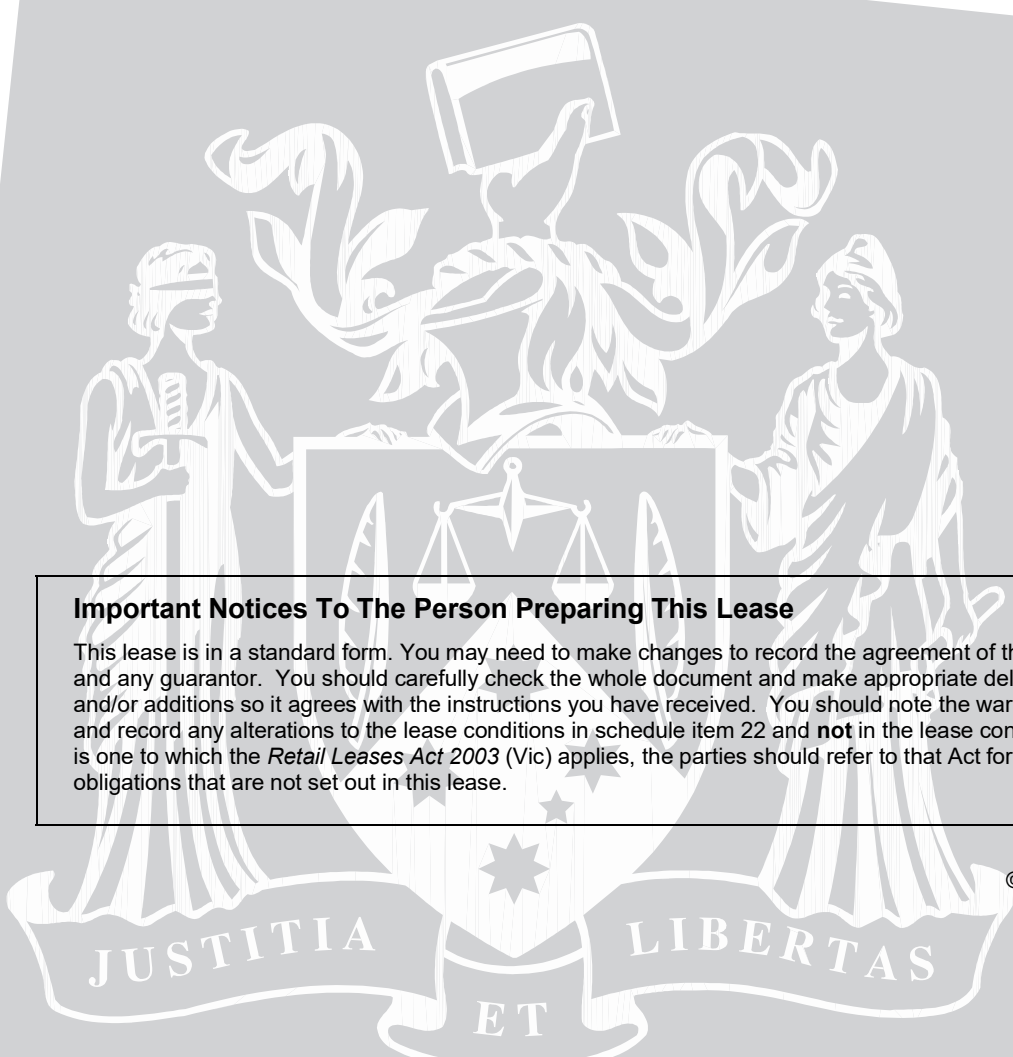
You can find out more about the natural values on your property through NatureKit [NatureKit \(environment.vic.gov.au\)](#)

Lease of Real Estate

with Guarantee & Indemnity

(Commercial Property)

835 Mt Dandenong Road MONTROSE VIC 3765



Important Notices To The Person Preparing This Lease

This lease is in a standard form. You may need to make changes to record the agreement of the landlord, tenant, and any guarantor. You should carefully check the whole document and make appropriate deletions, alterations, and/or additions so it agrees with the instructions you have received. You should note the warranty in clause 22 and record any alterations to the lease conditions in schedule item 22 and **not** in the lease conditions. If the lease is one to which the *Retail Leases Act 2003* (Vic) applies, the parties should refer to that Act for important rights and obligations that are not set out in this lease.

[Ref:]

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Contents

1. DEFINITIONS AND INTERPRETATION	4	7.4	Essential terms	12
2. TENANT'S PAYMENT, USE AND INSURANCE OBLIGATIONS	6	7.5	Notice before termination for repudiation or event to which section 146 does not apply	12
2.1	Payment and use obligations	6		
2.2	Negative use obligations	7		
2.3	Tenant's insurance	7		
3. REPAIRS, MAINTENANCE, FIRE PREVENTION AND REQUIREMENTS OF AUTHORITIES	8	8. DESTRUCTION OR DAMAGE	12	
3.1	Tenant's general repair obligations	8		
3.2	Tenant's specific repair obligations	8	8.1	Abatement in case of damage
3.3	Exceptions to tenant's obligations	9	8.2	Reinstatement where premises not substantially destroyed
4. LEASE TRANSFER AND SUBLETTING	9	8.3	Substantial destruction	12
4.1	No transfer or subletting	9	8.4	Insurance cover denied due to tenant act or omission
4.2	Landlord's consent	9	8.5	Resolution of disputes
4.3	Request for consent	9		
4.4	Deemed consent	9	9. CONSENTS AND WARRANTIES	12
4.5	Execution of document	9	9.1	Consents and approvals
4.6	Payment of landlord's expenses	9	9.2	Whole agreement
4.7	No licence or sharing arrangements	9		
4.8	Obligations of transferor after transfer	10	10. OVERHOLDING AND ABANDONMENT OF THE PREMISES	12
5. GENERAL AGREEMENTS BETWEEN LANDLORD AND TENANT	10	10.1	Holding over	12
5.1	Yield up at end of term	10	10.2	Certain conduct not waiver
5.2	Indemnity by tenant	10		
5.3	Release by tenant	10	11. RENT REVIEWS TO MARKET	13
5.4	Building outgoings	10	11.1	Market review procedure
5.5	Transfer of premises by landlord	10	11.2	Determination binding
5.6	Payment of cheque	11	11.3	Valuer's fee
6. LANDLORD'S OBLIGATIONS	11	11.4	Rent pending determination	14
6.1	Quiet possession	11	11.5	Delay in market review
6.2	Landlord's insurance	11		
6.3	Mortgagee's consent	11	12. FURTHER TERM(S)	14
6.4	Landlord's repair obligations	11	12.1	Exercise of option to renew
7. EVENTS OF DEFAULT AND LANDLORD'S RIGHTS	11	12.2	Terms of renewed lease	14
7.1	Termination by landlord for default	11	12.3	Director's guarantees
7.2	Damages	11		
7.3	Section 146 <i>Property Law Act</i> 1958	12	13. SECURITY DEPOSIT	14
			13.1	Payment of security deposit
			13.2	Interest on security deposit
			13.3	Use of security deposit
			13.4	Refund of unused security deposit
			13.5	Bank guarantee as security deposit
			13.6	Replacement guarantee on change of landlord

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Contents

14. NOTICES	14	18. CONSUMER PRICE INDEX	16
14.1 Service of notices	14	18.1 CPI formula	16
14.2 Time notices served	15	18.2 Delay in publications of index	17
14.3 Notices by email	15	18.3 Change in CPI basis	17
15. OBLIGATIONS OF GUARANTOR(S) UNDER GURANTEE AND INDEMNITY	15	18.4 CPI discontinued	17
15.1 Guarantee and indemnity	15	18.5 No decrease unless Act applies	17
15.2 Guarantee and indemnity not affected by certain events	15	19. IF PREMISES ONLY PART OF THE LETTALBE AREA OF THE BUILDING	17
15.3 Insolvency of tenant	15	19.1 Application of clause	17
15.4 Unenforceability of tenant's obligations	15	19.2 Naming rights and logos	17
15.5 Multiple guarantors	15	19.3 External surfaces and outside areas	17
15.6 Deemed breaches of lease	15	19.4 Landlord reserves certain rights	17
16. DISPUTE RESOLUTION	15	19.5 No obstruction of common areas	17
16.1 Provision for mediation	15	19.6 Building rules	17
16.2 Mediation procedure	16	20. PERSONAL PROPERTY SECURITIES ACT	17
16.3 Mediator's fees	16	20.1 Interpretation	17
16.4 Terms of settlement	16	20.2 Landlord may register financing statement	17
16.5 Mediation confidential	16	20.3 When lease ends	17
16.6 Release of mediator	16	20.4 Tenant to co-operate	18
16.7 Mediator not bound by natural justice	16	20.5 Tenant not to register	18
16.8 VCAT proceedings	16	20.6 Tenant to pay landlord's expenses	18
17. GST	16	20.7 Confidentiality	18
17.1 Terms used	16	20.8 Service of PPSA notices	18
17.2 Amounts GST exclusive	16	21. ADDITIONAL PROVISIONS	18
17.3 Recipient of supply to pay amount for GST	16	22. LANDLORD WARRANTY	18
17.4 Reimbursements	16		
17.5 Tax Invoice	16		

The **landlord** leases the **premises** to the **tenant** for the **term** and at the **rent** and on the conditions set out in this lease together with all necessary access over any **common areas**.

The **guarantor**, if any, agrees to be bound by the **guarantor's** obligations set out in this lease.

Lease Conditions

1. DEFINITIONS AND INTERPRETATION

1.1 The listed expressions in **bold** print have the meaning set out opposite them -

EXPRESSION	MEANING
accounting period	the period of 12 months ending 30 June or other period of 12 months adopted by the landlord in respect of this lease for recovery of building outgoings and includes any broken periods at the start and end of the term
Act	the <i>Retail Leases Act 2003</i> (Vic)
Building	any building in which the premises are located, including the landlord's installations
Building outgoings	any of the following expenses (excluding capital expenses and expenses whose recovery from the tenant would be contrary to applicable legislation) incurred in respect of the land, the building, the premises or any premises in the building which include the premises - (a) rates, levies and assessments imposed by any relevant authorities; (b) taxes including land tax (unless the Act applies), calculated on the basis that the land is the only land of the landlord liable to tax and is not subject to a trust but excluding income tax and capital gains tax; (c) the costs of maintaining and repairing the building and the landlord's installations and carrying out works as required by relevant authorities (but excluding any amount recovered in respect of maintenance or repair by the landlord from its insurer); (d) premiums and charges for the following insurance policies taken out by the landlord - (i) damage to and destruction of the premises for their replacement value for the risks listed in item 11, (ii) removal of debris, (iii) breakdown of landlord's installations, (iv) breakage of glass, (v) public risk for any single event for the amount stated in item 12 (if none is stated, \$10 million) or other amount reasonably specified from time to time by the landlord, and (vi) loss of rent and outgoings for the period stated in item 13 or, if none is stated, 12 months, and excesses paid or payable on claims, and, if the premises occupy only a part of the lettable area of the building, the following further items - (e) costs incurred in providing services to the building and the land including - (i) heating, (ii) cooling, (iii) air-conditioning, (iv) cleaning, (v) pest control, (vi) waste collection, (vii) lighting, (viii) landscaping and garden maintenance, (ix) security, and (x) fire safety prevention, detection and control; (f) accountancy and audit fees; and (g) costs of whatever description, reasonably incurred by the landlord in the administration, management or operation of the building and the land, whether incurred by the landlord directly or as owners corporation levies, at cost to the landlord on the basis that an expense is deemed to have been paid at the time it fell due for payment

building rules	any rules adopted from time to time for the building , including the rules of any owners corporation affecting the premises
common areas	areas in the building or on the land that are under the control of the landlord and are used or intended for use - (a) by the public; or (b) in common by tenants of premises in the building in relation to the carrying on of businesses on those premises, other than areas which are let or licensed, or intended to be let or licensed, other than on a casual basis
Consumer Price Index	the consumer price index published by the Australian Government Statistician under the heading All Groups, Melbourne
CPI review date	a date specified in item 16(b)
fixed review date	a date specified in item 16(c)
GST	GST within the meaning of the GST Act
GST Act	<i>A New Tax System (Goods and Services Tax) Act 1999 (Cth)</i>
guarantor	the person named in item 3
item	an item in the schedule to this lease
land	the parcel of land on which the building is erected and which is described in item 4(b)
landlord	the person named in item 1 , or any other person who will be entitled to possession of the premises when this lease ends
landlord's installations	any property of the landlord , other than land or fixtures, from time to time in the premises or on the land and includes the property listed in item 5
lettable area	unless the Act applies and requires otherwise - (a) in relation to the premises, the area let; and (b) in relation to the building, the total area of the building that is let or licensed or intended to be let or licensed, other than on a casual basis. When it is necessary to measure the lettable area of the building or any part of the building, the measurement is to be carried out using the most recent revision of the relevant Property Council of Australia method of measurement
market review date	a date specified in item 16(a)
permitted use	the use specified in item 15
PPSA	the <i>Personal Property Securities Act 2009 (Cth)</i>
premises	the premises described in item 4(a) and fixed improvements and the landlord's installations within the premises
rent	the amount in item 6 , as varied in accordance with this lease
review date	a date specified in item 16
start of the lease	the first day of the term but, if this lease is a renewal under an option in an earlier lease (whether or not this lease is on terms that are materially different to those contemplated by the earlier lease), the starting date of the first lease to contain an option for renewal.
tenant	the person named in item 2 , or any person to whom the lease has been transferred
tenant's agents	the tenant's employees, agents, contractors, customers and visitors to the premises
tenant's installations	the items of equipment and fittings listed in item 7 and those introduced by the tenant after the lease starts
term	the period stated in item 8
valuer	a person holding the qualifications or experience specified under section 13DA(2) of the <i>Valuation of Land Act 1960 (Vic)</i> and, if the Act applies, a specialist retail valuer.

- 1.2 References to laws include statutes, regulations, instruments and by-laws and all other subordinate legislation or orders made by any authority with jurisdiction over the **premises**. Illegal means contrary to a law as defined in this sub-clause.
- 1.3 This lease must be interpreted so that it complies with all laws applicable in Victoria. If any provision of this lease does not comply with any law, then the provision must be read down so as to give it as much effect as possible. If it is not possible to give the provision any effect at all, then it must be severed from the rest of the lease.
- 1.4 The law of Victoria applies to this lease.
- 1.5 Any change to this lease must be in writing and signed by the parties.
- 1.6 If a party consists of more than one person –
(a) the acts and omissions of any of them bind all of them; and
(b) an obligation imposed by this lease on or in favour of more than one person binds or benefits them separately, together and in any combination.
- 1.7 The use of one gender includes the others and the singular includes the plural and vice versa.
- 1.8 If the **landlord**, **tenant** or **guarantor** is an individual, this lease binds that person's legal personal representative. If any of them is a corporation, this lease binds its transferees.
- 1.9 This lease, including all guarantees and indemnities, is delivered and operates as a deed.
- 1.10 The **tenant** is bound by and answerable for the acts and omissions of the **tenant's agents**.
- 1.11 If there is a conflict between a provision in the schedule and one of these lease conditions then the provision in the schedule is to prevail.
- 1.12 "Include" and every form of that word is to be read as if followed by "(without limitation)".
- 1.13 This lease includes the schedule.
- 1.14 The parties consider that the application of the **Act** to this lease is as specified in **item 15** and, if **item 15** states that the **Act** does not apply, that the reason is as specified in **item 15**.

2. TENANT'S PAYMENT, USE AND INSURANCE OBLIGATIONS

2.1 The **tenant** must -

- 2.1.1 pay the **rent** without any set-off (legal or equitable) or deduction whatever to the **landlord** on the days and in the way stated in **item 9** without the need for a formal demand. The **landlord** may direct in writing that the **rent** be paid to another person. The **rent** is reviewed on each **review date** specified in **item 16** -
(a) on a **market review date**, the **rent** is reviewed in accordance with clause 11,
(b) on a **CPI review date**, the **rent** is reviewed in accordance with clause 18, and
(c) on a **fixed review date**, the **rent** is either increased by the fixed percentage or changed by or to the fixed amount, in either case as specified in **item 16** in respect of that **fixed review date**.
- 2.1.2 produce receipts for paid **building outgoings** within 7 days of a request.
- 2.1.3 pay when due all charges for the provision of services to the **premises** including gas, electricity, water and telephone.
- 2.1.4 remove regularly from the **premises** all rubbish and waste generated by the **tenant's** operations.
- 2.1.5 pay the proportion of the **building outgoings** specified in **item 10** in accordance with clause 5.4.
- 2.1.6 pay or reimburse within 7 days of a request all increases in insurance premiums paid or payable by the **landlord** as the result of the **tenant's** use of the **premises**.
- 2.1.7 pay within 7 days of a request interest at the rate stated in **item 14** on any **rent** or other money which the **tenant** has not paid within 7 days of the due date. Interest is to be calculated daily from the due date, continues until the overdue money is paid and is capitalised monthly.
- 2.1.8 pay within 7 days of a request the **landlord's** reasonable expenses and legal costs in respect of -
(a) the negotiation, preparation, settling, execution and stamping (if applicable) of this lease,
(b) change to this lease requested by the **tenant** whether or not the change occurs,
(c) the surrender or ending of this lease (other than by expiration of the **term**) requested by the **tenant**, whether or not the lease is surrendered or ended,
(d) the transfer of this lease or subletting of the **premises** or proposed transfer or subletting whether or not the transfer or subletting occurs,
(e) a request by the **tenant** for consent or approval, whether or not consent or approval is given,

- (f) any breach of this lease by the **tenant**, or
 - (g) the exercise or attempted exercise by the **landlord** of any right or remedy against the **tenant**,

but, if the **Act** applies, only to the extent to which the **Act** permits recovery.
- 2.1.9 pay any stamp duty on this lease, on any renewal, and any additional stamp duty after a review of **rent**.
- 2.1.10 subject to clauses 3.3.2 and 3.3.3, comply with all laws relating to the use or occupation of the **premises**.
- 2.1.11 carry on the business of the **permitted use** efficiently and, subject to all applicable laws, keep the **premises** open during the business hours which are normal for the **permitted use** and not suspend or discontinue the operation of the business.
- 2.1.12 comply with the **landlord's** reasonable requirements in relation to the use of the **landlord's installations** and any services provided by the **landlord**.
- 2.1.13 subject to clauses 3.3.2 and 3.3.3, comply with the laws and requirements of relevant authorities relating to essential safety measures, occupational health and safety and disability discrimination relevant to the **premises** or the **building**.
- 2.2 The **tenant** must not, and must not let anyone else -
 - 2.2.1 use the **premises** except for the **permitted use**, but the **tenant** agrees that the **landlord** has not represented that the **premises** may be used for that use according to law or that the **premises** are suitable for that use.
 - 2.2.2 use the **premises** for any illegal purpose.
 - 2.2.3 carry on any noxious or offensive activity on the **premises**.
 - 2.2.4 do anything which might cause nuisance, damage or disturbance to a tenant, occupier or owner of any adjacent property.
 - 2.2.5 conduct an auction or public meeting on the **premises**.
 - 2.2.6 use radio, television or other sound-producing equipment at a volume that can be heard outside the **premises**.
 - 2.2.7 do anything which might affect any insurance policy relating to the **premises** by causing -
 - (a) it to become void or voidable,
 - (b) any claim on it being rejected, or
 - (c) a premium to be increased.
 - 2.2.8 keep or use chemicals, inflammable fluids, acids, or other hazardous things on the **premises** except to the extent necessary for the **permitted use**, or create fire hazards.
 - 2.2.9 do anything which might prejudicially affect the essential safety measures or the occupational health and safety or disability discrimination status of the **premises** or the **building**.
 - 2.2.10 place any sign on the exterior of the **premises** without the **landlord's** written consent.
 - 2.2.11 make any alteration or addition, or affix any object, to the **premises** except with the **landlord's** written consent; consent is at the **landlord's** discretion for any alteration, addition or affixation affecting the structure of the **building** or any of the infrastructure for the provision of services to the **building** but, otherwise, clause 9.1 applies. In undertaking any work for which the **landlord's** consent has been obtained, the **tenant** must strictly conform to plans approved by the **landlord** and comply with all reasonable conditions imposed on that consent by the **landlord** and the requirements of each authority with jurisdiction over the **premises**.
 - 2.2.12 bring onto the **premises** any object which, due to its nature, weight, size or operation, might cause damage to the **premises**, the **building**, or the effective operation of the infrastructure for the provision of services to the **premises** or the **building** without the **landlord's** written consent.
 - 2.2.13 except in an emergency, interfere with any infrastructure for the provision of services in the **premises**, the **building**, or in any property of which the **premises** are part.
- 2.3 The **tenant** must -
 - 2.3.1 take out and keep current an insurance cover for the **premises** in the name of the **tenant** and noting the interest of the **landlord**, for public risk for any single event for the amount stated in **item** 12 or, if none is stated, for \$10 million, with an extension which includes the indemnities given by the **tenant** to the **landlord** in clauses 5.2 and 5.3.2 of this lease to the extent that such an extension is procurable on reasonable terms in the Australian insurance market.
 - 2.3.2 maintain the insurance cover with an insurer approved by the **landlord**.
 - 2.3.3 produce satisfactory evidence of insurance cover on written request by the **landlord**.

3. REPAIRS, MAINTENANCE, FIRE PREVENTION AND REQUIREMENTS OF AUTHORITIES

- 3.1 Subject to clause 3.3, the **tenant** must -
- 3.1.1 keep the **premises** in the same condition as at the **start of the lease**, except for fair wear and tear; and
 - 3.1.2 comply with all notices and orders affecting the **premises** which are issued during the **term** except any notices or orders that applicable legislation makes the responsibility of the **landlord**.
- 3.2 In addition to its obligations under clause 3.1, the **tenant** must -
- 3.2.1 repaint or refinish all painted or finished surfaces in a workmanlike manner with as good quality materials as previously at least once every 5 years during the **term** and any further term viewed as one continuous period.
 - 3.2.2 keep the **premises** properly cleaned and free from rubbish, keep waste in proper containers and have it removed regularly.
 - 3.2.3 immediately replace glass which becomes cracked or broken with glass of the same thickness and quality.
 - 3.2.4 immediately repair defective windows, light fittings, doors, locks and fastenings, and replace missing or inoperative light-globes and fluorescent tubes, keys and keycards.
 - 3.2.5 maintain in working order all plumbing, drainage, gas, electric, solar and sewerage installations.
 - 3.2.6 promptly give written notice to the **landlord** or **landlord's** agent of -
 - (a) damage to the **premises** or of any defect in the structure of, or any of infrastructure for the provision of services to, the **premises**,
 - (b) receipt of a notice or order affecting the **premises**,
 - (c) any hazards threatening or affecting the **premises**, and
 - (d) any hazards arising from the **premises** for which the **landlord** might be liable.
 - 3.2.7 immediately make good damage caused to adjacent property by the **tenant** or the **tenant's agents**.
 - 3.2.8 permit the **landlord**, its agents or workmen to enter the **premises** during normal business hours, after giving reasonable notice (except in cases of emergency) -
 - (a) to inspect the **premises**,
 - (b) to carry out repairs or agreed alterations, and
 - (c) to do anything necessary to comply with notices or orders of any relevant authority, bringing any necessary materials and equipment.
 - 3.2.9 carry out repairs within 14 days of being served with a written notice of any defect or lack of repair which the **tenant** is obliged to make good under this lease. If the **tenant** does not comply with the notice, the **landlord** may carry out the repairs and the **tenant** must repay the cost to the **landlord** within 7 days of a request.
 - 3.2.10 only use persons approved by the **landlord** to repair and maintain the **premises** but, if the **Act** applies, only use persons who are suitably qualified.
 - 3.2.11 comply with all reasonable directions of the **landlord** or the insurer of the **premises** as to the prevention, detection and control of fire.
 - 3.2.12 on vacating the **premises**, remove all signs and make good any damage caused by installation or removal.
 - 3.2.13 take reasonable precautions to secure the **premises** and their contents from theft, keep all doors and windows locked when the **premises** are not in use and comply with the **landlord's** directions for the use and return of keys or keycards.
 - 3.2.14 permit the **landlord** or its agent access to the **premises** at reasonable times by appointment to show the **premises** -
 - (a) to valuers and to the **landlord's** consultants,
 - (b) to prospective purchasers at any time during the **term**, and
 - (c) to prospective tenants within 3 months before the end of the **term** (unless the **tenant** has exercised an option to renew this lease)and to affix "for sale" or "to let" signs in a way that does not unduly interfere with the **permitted use**.
 - 3.2.15 maintain any grounds and gardens of the **premises** in good condition, tidy, free from weeds and well-watered.
 - 3.2.16 maintain and keep in good repair any heating, cooling or air conditioning equipment exclusively serving the **premises**.

- 3.3 The **tenant** is not obliged -
- 3.3.1 to repair damage against which the **landlord** must insure under clause 6.2 or to reimburse the **landlord** for items of expense or damage that would be covered under insurance of the type specified unless the **landlord** loses or, where the **landlord** has failed to insure as required, would have lost, the benefit of the insurance because of acts or omissions by the **tenant** or the **tenant's agents**.
- 3.3.2 to carry out structural or capital repairs or alterations or make payments of a capital nature unless the need for them results from -
- (a) negligence by the **tenant** or the **tenant's agents**,
- (b) failure by the **tenant** to perform its obligations under this lease,
- (c) the **tenant's** use of the **premises**, other than reasonable use for the **permitted use**,
or
- (d) the nature, location or use of the **tenant's installations**,
- in which case the repairs, alterations or payments are the responsibility of the **tenant**.
- 3.3.3 to carry out any work that applicable legislation makes the responsibility of the **landlord**.

4. LEASE TRANSFERS AND SUBLETTING

- 4.1 The **tenant** must not transfer this lease or sublet the **premises** without the **landlord's** written consent, and section 144 of the *Property Law Act* 1958 (Vic) and clause 9.1 do not apply.
- 4.2 The **landlord** -
- 4.2.1 subject to sub-clause 4.2.2, must not unreasonably withhold consent to a transfer of this lease or a sublease of the **premises** if the **tenant** has complied with the requirements of clause 4.3 and the proposed transferee or subtenant proposes to use the **premises** in a way permitted under this lease. If the **Act** applies, the **landlord** may only withhold consent to a transfer of this lease in accordance with the **Act**.
- 4.2.2 may withhold consent at the **landlord's** discretion if the **Act** does not apply, and a transfer of this lease would result in the **Act** applying, or applying if this lease is renewed for a further term.
- 4.3 To obtain the **landlord's** consent to a transfer or sublease the **tenant** must -
- 4.3.1 ask the **landlord** in writing to consent to the transfer or sublease,
- 4.3.2 give the **landlord** -
- (a) in relation to each proposed new tenant or sub-tenant such information as the **landlord** reasonably requires about its financial resources and business experience and if the **Act** does not apply, any additional information reasonably required by the **landlord** to enable it to make a decision, and
- (b) a copy of the proposed document of transfer or sublease, and
- 4.3.3 remedy any breach of the lease which has not been remedied and of which the **tenant** has been given written notice.
- 4.4 If the **Act** applies and -
- 4.4.1 the **tenant** has asked the **landlord** to consent to a transfer and complied with clause 4.3 and section 61 of the **Act**, and
- 4.4.2 the **landlord** fails to respond by giving or withholding consent to the transfer within 28 days,
then the **landlord** is to be taken as having consented.
- 4.5 If the **landlord** consents to the transfer or sublease, the **landlord**, **tenant** and new tenant or sub-tenant and the **guarantor** must execute the documents submitted under sub-clause 4.3.2(b). The directors of the new tenant (if it is a corporation) must execute a guarantee and indemnity in the terms of clause 15.
- 4.6 The **tenant** must pay the **landlord's** reasonable expenses incurred in connection with an application for consent or the granting of consent and the completion of the documents, as well as any stamp duty on the documents.
- 4.7 Except by a transfer or sublease to which the **landlord** has consented, or is to be taken as having consented, the **tenant** must not give up possession or share occupancy of the **premises** or grant a licence to anyone else or mortgage or charge its interest under this lease or enter into any arrangement that gives a person the right to enter into occupation of the **premises** without the **landlord's** written consent; consent is at the **landlord's** discretion.
- 4.8 Subject to the **Act**, if it applies, the obligations to the **landlord** of every **tenant** who has transferred this lease continue until this lease ends. They do not continue into any period of overholding after this lease ends, nor into any renewed term: at those times they are the responsibility only of the **tenant** in possession. This clause does not prevent the **landlord** from enforcing rights which arise before this lease ends.

5. GENERAL AGREEMENTS BETWEEN LANDLORD AND TENANT

5.1 When the **term** ends, the **tenant** must -

- 5.1.1 return the **premises** to the **landlord** clean and in the condition required by this lease, and
- 5.1.2 remove the **tenant's installations** and other **tenant's** property from the **premises** and make good any damage caused in installing or removing them.

If the **tenant** leaves any **tenant's installations** or other **tenant's** property on the **premises** after the end of the lease, unless the **landlord** and **tenant** agree otherwise -

- 5.1.3 all items of **tenant's installations** and **tenant's** property will be considered abandoned and will become the property of the **landlord**, but the **landlord** may remove any of the **tenant's installations** or other property of the **tenant** and recover the costs of removal and making good as a liquidated debt payable on demand; and
- 5.1.4 the parties intend that clause 5.1.3 operate in relation to **tenant's installations** and **tenant's** property in place of any legislation that might otherwise apply to goods remaining on the **premises**.

5.2 The **tenant** indemnifies the **landlord** against any claim resulting from any act or failure to act by the **tenant** or the **tenant's agents** while using the **premises**.

5.3 The **tenant** -

- 5.3.1 uses and occupies the **premises** at its own risk, and
- 5.3.2 releases the **landlord** from and indemnifies the **landlord** against all claims resulting from incidents occurring on the **premises** (except to the extent caused or contributed to by the **landlord**, or a person for whom the **landlord** is responsible) or resulting from damage to adjacent premises covered by clause 3.2.7.

5.4 In relation to **building outgoings** -

- 5.4.1 the **landlord** must pay the **building outgoings** when they fall due for payment but, if the **landlord** requires, the **tenant** must pay when due a **building outgoing** for which the **tenant** receives notice directly and reimburse the **landlord** within 7 days of a request all **building outgoings** for which notices are received by the **landlord**.
- 5.4.2 the **tenant** must pay or reimburse the **landlord** the proportion specified in **item 10**.
- 5.4.3 at least 1 month before the start of an **accounting period**, the **landlord** may, or if the **Act** applies must, give the **tenant** an estimate of **building outgoings** for the **accounting period**.
- 5.4.4 despite clause 5.4.1, if the **landlord** requires, the **tenant**, must pay its share of the estimated **building outgoings** by equal monthly instalments during the **accounting period** on the days on which **rent** is payable (after allowing for **building outgoings** paid directly or separately reimbursed by the **tenant**).
- 5.4.5 if the **Act** applies, the **landlord** must make a statement of **building outgoings** available during each **accounting period** as required by the **Act**.
- 5.4.6 within 3 months after the end of an **accounting period**, the **landlord** must give the **tenant** a statement of the actual **building outgoings** for the **accounting period** (if the **Act** applies and requires that the statement be accompanied by a report by a registered company auditor, the statement must be accompanied by a report complying with section 47(5); if the **Act** applies but does not require that the statement be accompanied by a report by a registered company auditor, the statement must be accompanied by the items specified in section 47(6)(b)).
- 5.4.7 the **tenant** must pay any deficiency or the **landlord** must repay any excess, within 1 month after a statement is provided under clause 5.4.6 or within 4 months after the end of the **accounting period**, whichever is earlier.
- 5.4.8 the parties must make an appropriate adjustment for any **building outgoing** incurred in respect of a period beginning before the start of the **term** or extending beyond the end of the **term**.

5.5 If the freehold of the **premises** (or the **building**) is transferred, the transferor **landlord** is released from all lease obligations falling due for performance on or after the date of the instrument of transfer.

5.6 Payment or tender by cheque is not effective until clearance of funds.

6. LANDLORD'S OBLIGATIONS

- 6.1 The **landlord** must give the **tenant** quiet possession of the **premises** without any interruption by the **landlord** or anyone connected with the **landlord** as long as the **tenant** does what it must under this lease.
- 6.2 The **landlord** must take out at the start of the **term** and keep current policies of insurance for the risks listed in **item 11** against -

- 6.2.1 damage to and destruction of the **building**, for its replacement value,
 - 6.2.2 removal of debris,
 - 6.2.3 breakdown of **landlord's installations**, and
 - 6.2.4 breakage of glass, for its replacement value.
- 6.3 The **landlord** must give to the **tenant** the written consent to this lease of each mortgagee whose interest would otherwise have priority over this lease by endorsement on this lease in the terms set out following the 'execution and attestation' section.
- 6.4 The **landlord** must keep the structure (including the external faces and roof) of the **building** and the **landlord's installations** in a condition consistent with their condition at the **start of the lease**, but is not responsible for repairs which are the responsibility of the **tenant** under clauses 3.1, 3.2 and 3.3.2.

7. EVENTS OF DEFAULT AND LANDLORD'S RIGHTS

- 7.1 The **landlord** may terminate this lease, by re-entry or notice of termination, if -
- 7.1.1 the **rent** is unpaid after the day on which it falls due for payment,
 - 7.1.2 the **tenant** does not meet its obligations under this lease,
 - 7.1.3 the **tenant** is a corporation and -
 - (a) an order is made or a resolution is passed to wind it up except for reconstruction or amalgamation,
 - (b) goes into liquidation,
 - (c) is placed under official management,
 - (d) has a receiver, including a provisional receiver, or receiver and manager of any of its assets or an administrator appointed,
 - (e) without the **landlord's** written consent, there is a different person in effective control of the **tenant** as a result of changes in -
 - (i) membership of the company or its holding company,
 - (ii) beneficial ownership of the shares in the company or its holding company, or
 - (iii) beneficial ownership of the business or assets of the company,

but this paragraph does not apply if the **tenant** is a public company listed on a recognised Australian public securities exchange, or a subsidiary of one.

"Effective control" means the ability to control the composition of the board of directors or having more than 50% of the shares giving the right to vote at general meetings,
 - 7.1.4 a warrant issued by a court to satisfy a judgement against the **tenant** or a **guarantor** is not satisfied within 30 days of being issued,
 - 7.1.5 a **guarantor** is a natural person and -
 - (a) becomes bankrupt,
 - (b) takes or tries to take advantage of Part X of the *Bankruptcy Act* 1966 (Cth),
 - (c) makes an assignment for the benefit of their creditors, or
 - (d) enters into a composition or arrangement with their creditors,
 - 7.1.6 a **guarantor** is a corporation and one of the events specified in (a) to (e) of clause 7.1.3 occurs in relation to it, or
 - 7.1.7 the **tenant**, without the **landlord's** written consent -
 - (a) discontinues its business on the **premises**, or
 - (b) leaves the **premises** unoccupied for 14 days.
- 7.2 Termination by the **landlord** ends this lease, but the **landlord** retains the right to sue the **tenant** for unpaid money or for damages (including damages for the loss of the benefits that the **landlord** would have received if the lease had continued for the full **term**) for breaches of its obligations under this lease.
- 7.3 For the purpose of section 146(1) of the *Property Law Act* 1958 (Vic), 14 days is fixed as the period within which the **tenant** must remedy a breach capable of remedy and pay reasonable compensation for the breach.
- 7.4 Breach by the **tenant** of any of the following clauses of this lease is a breach of an essential term and constitutes repudiation: 2.1.1, 2.1.5, 2.1.6, 2.1.10, 2.1.11, 2.2.1, 2.2.2, 2.2.7, 2.2.8, 2.2.9, 2.2.11, 2.2.12, 2.3, 3.2.11, 4.1, 4.7, 5.4.2, 5.4.7, 13 and 17. Other **tenant** obligations under this lease may also be essential.
- 7.5 Before terminating this lease for repudiation (including repudiation consisting of the non-payment of rent), or for an event to which section 146(1) of the *Property Law Act* 1958 (Vic) does not extend, the **landlord** must give the **tenant** written notice of the breach and a period of 14 days in which to remedy it (if it is capable of remedy) and to pay reasonable compensation for it. A notice given in respect of a breach amounting to repudiation is not an affirmation of the lease.

- 7.6 Even though the **landlord** does not exercise its rights under this lease on one occasion, it may do so on any later occasion.

8. DESTRUCTION OR DAMAGE

- 8.1 If the **premises** or the **building** are damaged so that the **premises** are unfit for use for the **permitted use** or inaccessible-
- 8.1.1 a fair proportion of the **rent** and **building outgoings** is to be suspended until the **premises** are again wholly fit for the **permitted use**, and accessible, and
- 8.1.2 the suspended proportion of the **rent** and **building outgoings** must be proportionate to the nature and extent of the unfitness for use or inaccessibility.
- 8.2 If the **premises** or the **building** are partly destroyed, but not substantially destroyed, the **landlord** must reinstate the **premises** or the **building** as soon as reasonably practicable.
- 8.3 If the **premises** or the **building** are wholly or substantially destroyed -
- 8.3.1 the **landlord** is not obliged to reinstate the **premises** or the **building**, and
- 8.3.2 if the reinstatement does not start within 3 months, or is not likely to be completed within 9 months, the **landlord** or the **tenant** may end this lease by giving the other written notice.
- 8.4 The **tenant** will not be entitled to suspension of **rent** or **building outgoings** under sub-clause 8.1.1 nor to end the lease under sub-clause 8.3.2 and the **landlord** will not be obliged to reinstate the **premises** or the **building** under clause 8.2 if payment of an insurance claim is properly refused in respect of the damage or destruction because of any act or omission by the **tenant** or the **tenant's agents**.
- 8.5 If the **Act** does not apply and there is a dispute under this clause, the **landlord** or the **tenant** may request the President of the Australian Property Institute, Victorian Division, to nominate a practising valuer member of that Institute to determine the dispute or the **landlord** and **tenant** may refer the dispute to mediation under clause 16 unless **item 21** states that the mediation procedure does not apply to this lease. The valuer acts as an expert and not as an arbitrator and the determination is binding.

9. CONSENTS AND WARRANTIES BY THE PARTIES

- 9.1 Subject to the **Act** (if it applies), the **landlord** must not unreasonably withhold its consent or approval to any act by the **tenant** or matter which needs consent or approval unless any other clause provides otherwise, but -
- 9.1.1 the **landlord** may impose reasonable conditions on any consent or approval, and
- 9.1.2 the **tenant** must reimburse the **landlord's** reasonable expenses resulting from an application for its consent or approval, including fees paid to consultants.
- 9.2 This lease, together with (if the **Act** applies) any disclosure statement, contains the whole agreement of the parties. Neither the **landlord** nor the **tenant** is entitled to rely on any warranty or statement in relation to -
- 9.2.1 the conditions on which this lease has been agreed,
- 9.2.2 the provisions of this lease, or
- 9.2.3 the **premises**
- which is not contained in those documents.

10. OVERHOLDING AND ABANDONMENT OF THE PREMISES

- 10.1 If the **tenant** remains in possession of the **premises** without objection by the **landlord** after the end of the **term** -
- 10.1.1 the **tenant**, without any need for written notice of any kind, is a monthly tenant on the conditions in this lease, modified so as to apply to a monthly tenancy,
- 10.1.2 the **landlord** or the **tenant** may end the tenancy by giving one month's written notice to the other which may expire on any day of the month,
- 10.1.3 the monthly rent starts at one-twelfth of the annual **rent** which the **tenant** was paying immediately before the **term** ended unless a different rent has been agreed, and
- 10.1.4 the **landlord** may increase the monthly rent by giving the **tenant** one month's written notice.
- 10.2 If the **tenant** vacates the **premises** during the **term**, whether or not it ceases to pay **rent** -
- 10.2.1 the **landlord** may -
- (a) accept the keys,
- (b) enter the **premises** to inspect, maintain or repair them, or
- (c) show the **premises** to prospective tenants or purchasers,

without this being re-entry or an acceptance of repudiation or a waiver of the **landlord's** rights to recover **rent** or other money under this lease.

- 10.2.2 this lease continues until a new tenant takes possession of the **premises**, unless the **landlord**-
- (a) accepts a surrender of the lease, or
 - (b) notifies the **tenant** in writing that the **landlord** accepts the **tenant's** repudiation of the lease, or
 - (c) ends the lease in accordance with clause 7.1.

11. RENT REVIEWS TO MARKET

- 11.1 In this clause "review period" means the period following each **market review date** until the next **review date** or the end of this lease.

The review procedure on each **market review date** is -

- 11.1.1 each review of **rent** may be initiated by the **landlord** or the **tenant** unless **item 17** states otherwise but, if the **Act** applies, review is mandatory.

- 11.1.2 the **landlord** or the **tenant** entitled to initiate a review does so by giving the other a written notice stating the current market rent which it proposes as the **rent** for the review period. If the **Act** does not apply and the recipient of the notice does not object in writing to the proposed rent within 14 days the proposed **rent** becomes the **rent** for the review period.

- 11.1.3 If -

- (a) the **Act** does not apply and the recipient of the notice serves an objection to the proposed rent within 14 days and the **landlord** and **tenant** do not agree on the **rent** within 28 days after the objection is served, or
- (b) the **Act** applies and the **landlord** and **tenant** do not agree on what the **rent** is to be for the review period,

the **landlord** and **tenant** must appoint a **valuer** to determine the current market **rent**.

If the **Act** does not apply and if the **landlord** and **tenant** do not agree on the name of the **valuer** within 28 days after the objection is served, either may apply to the President of the Australian Property Institute, Victorian Division to nominate the **valuer**. If the **Act** applies, the **valuer** is to be appointed by agreement of the **landlord** and **tenant**, or failing agreement, by the Small Business Commissioner.

- 11.1.4 In determining the current market **rent** for the **premises** the **valuer** must -

- (a) consider any written submissions made by the **landlord** and **tenant** within 21 days of their being informed of the **valuer's** appointment, and
- (b) determine the current market rent as an expert

and, whether or not the **Act** applies, must make the determination in accordance with the criteria set out in section 37(2) of the **Act**.

- 11.1.5 The **valuer** must make the determination of the current market rent and inform the **landlord** and **tenant** in writing of the amount of the determination and the reasons for it as soon as possible after the end of the 21 days allowed for submissions by the parties.

- 11.1.6 If -

- (a) no determination has been made within 45 days (or such longer period as is agreed by the **landlord** and the **tenant** or, if the **Act** applies, as is determined in writing by the Small Business Commissioner) of the **landlord** and **tenant**
 - (i) appointing the **valuer**, or
 - (ii) being informed of the **valuer's** appointment, or
- (b) the **valuer** resigns, dies, or becomes unable to complete the valuation,

then the **landlord** and **tenant** may immediately appoint a replacement **valuer** in accordance with sub-clause 11.1.3.

- 11.2 The **valuer's** determination is binding.

- 11.3 The **landlord** and **tenant** must bear equally the **valuer's** fee for making the determination and if either pays more than half the fee, may recover the difference from the other.

- 11.4 Until the determination is made by the **valuer**, the **tenant** must continue to pay the same **rent** as before the **market review date** and within 7 days of being informed of the **valuer's** determination, the parties must make any necessary adjustments.

- 11.5 If the **Act** does not apply, a delay in starting a market review does not prevent the review from taking place and being effective from the **market review date** but if the market review is started more than 12 months after the **market review date**, the review takes effect only from the date on which it is started.

12. FURTHER TERM(S)

- 12.1 The **tenant** has an option to renew this lease for the further term or terms stated in **item 18** and the **landlord** must renew this lease for that further term or those further terms if -
- 12.1.1 there is no unremedied breach of this lease by the **tenant** of which the **landlord** has given the **tenant** written notice at the time the **tenant** requests renewal as required by clause 12.1.13,
 - 12.1.2 the **tenant** has not persistently committed breaches of this lease of which the **landlord** has given written notice during the **term**, and
 - 12.1.3 the **tenant** has exercised the option for renewal in writing not more than 6 months nor less than 3 months before the end of the **term**. The earliest and latest dates for exercising the option are stated in **item 19**.
- 12.2 The lease for the further term -
- 12.2.1 starts on the day after the **term** ends,
 - 12.2.2 has a starting **rent** determined in accordance with clause 11 as if the first day of the further term were specified as a **market review date** in **item 16(a)**, and
 - 12.2.3 must contain the same terms as this lease (but with no option for renewal after the last option for a further term stated in **item 18** has been exercised) including any provisions appearing in this document that may have been read down or severed to comply with any applicable law that has ceased to be applicable, as if they had not been read down or severed.
- 12.3 If the **tenant** is a corporation and was required to provide directors' guarantees for this lease, the **tenant** must provide guarantees of its obligations under the renewed lease by its directors, and by each person who has provided a guarantee for the expired **term**, in the terms of clause 15.

13. SECURITY DEPOSIT

- 13.1 The **tenant** must pay a security deposit to the **landlord** of the amount stated in **item 20** and must maintain the deposit at that amount.
- 13.2 Any security deposit not in the form of a guarantee must be invested in an interest bearing deposit and all interest accruing on it is treated as a supplementary payment of security deposit. When the **term** starts, the **tenant** must provide the **landlord** with the **tenant's** tax file number.
- 13.3 The **landlord** may use the deposit to make good the cost of remedying breaches of the **tenant's** obligations under this lease (or any of the events specified in clause 7.1) and the **tenant** must pay whatever further amount is required to bring the deposit back to the required level.
- 13.4 As soon as practicable after this lease has ended and the **tenant** has vacated the **premises** and performed all of its obligations under the lease, the **landlord** must refund the unused part of the deposit.
- 13.5 The **tenant** may, and if the **landlord** requires must, provide the security deposit by means of a guarantee by an ADI within the meaning of the *Banking Act 1959* (Cth).
- 13.6 If the freehold of the **premises** is transferred:
- 13.6.1 the **tenant** must provide a replacement guarantee in exchange for the existing guarantee if requested by the **landlord** in writing to do so, but the **landlord** must pay the reasonable fees charged by the ADI for the issue of the replacement guarantee, and
 - 13.6.2 the **landlord** must transfer any security deposit held under this lease to the transferee.

14. NOTICES

- 14.1 A notice given under this lease may be given -
- 14.1.1 by pre-paid post,
 - 14.1.2 by delivery
 - 14.1.3 by email, or
 - 14.1.4 in any manner authorised by law or the Supreme Court for service of documents, including any manner authorised for service on or by a legal practitioner,
- to the party's last known address, registered office, or (if to the **tenant**) at the **premises**.
- 14.2 Posted notices will be taken to have been received on the second day after posting that is not a Saturday, Sunday or bank holiday in place of intended receipt, unless proved otherwise.
- 14.3 Notices delivered or sent by email are taken to have been served or given at the time of receipt as specified in section 13A of the *Electronic Transactions (Victoria) Act 2000*.

15. OBLIGATIONS OF GUARANTOR(S) UNDER GUARANTEE AND INDEMNITY

- 15.1 The **guarantor** in consideration of the **landlord** having entered into this lease at the **guarantor's** request —
- 15.1.1 guarantees that the **tenant** will perform all its obligations under this lease for the **term** and any further term or terms and during any period of overholding after the end of the **term**,
 - 15.1.2 must pay on demand any amount which the **landlord** is entitled to recover from the **tenant** under this lease whether in respect of the **term**, any further term or further terms or any period of overholding, and
 - 15.1.3 indemnifies the **landlord** against all loss resulting from the **landlord's** having entered into this lease whether from the **tenant's** failure to perform its obligations under it or from this lease being or becoming unenforceable against the **tenant** and whether in respect of the **term**, any further term or any period of overholding.
- 15.2 The liability of the **guarantor** will not be affected by -
- 15.2.1 the **landlord** granting the **tenant** or a **guarantor** time or any other indulgence, or agreeing not to sue the **tenant** or another **guarantor**,
 - 15.2.2 failure by any **guarantor** to sign this document,
 - 15.2.3 transfer (except in accordance with the **Act**, if the **Act** applies) or variation of this lease, but if this lease is transferred the **guarantor's** obligations, other than those which have already arisen, end when the **term** ends and do not continue into a term renewed by a new tenant nor a period of overholding by a new tenant,
 - 15.2.4 the fact that this lease is subsequently registered at the Land Registry or not registered, or, for any reason, is incapable of registration, or
 - 15.2.5 transfer of the freehold of the **premises**.
- 15.3 The **guarantor** agrees that —
- 15.3.1 the **landlord** may retain all money received including dividends from the **tenant's** bankrupt estate, and need allow the **guarantor** a reduction in its liability under this guarantee only to the extent of the amount received,
 - 15.3.2 the **guarantor** must not seek to recover money from the **tenant** to reimburse the **guarantor** for payments made to the **landlord** until the **landlord** has been paid in full,
 - 15.3.3 the **guarantor** must not prove in the bankruptcy or winding up of the **tenant** for any amount which the **landlord** has demanded from the **guarantor**, and
 - 15.3.4 the **guarantor** must pay the **landlord** all money which the **landlord** refunds to the **tenant's** liquidator or trustee in bankruptcy as preferential payments received from the **tenant**.
- 15.4 If any of the **tenant's** obligations are unenforceable against the **tenant**, then this clause is to operate as a separate indemnity and the **guarantor** indemnifies the **landlord** against all loss resulting from the **landlord's** inability to enforce performance of those obligations. The **guarantor** must pay the **landlord** the amount of the loss resulting from the unenforceability.
- 15.5 If there is more than one **guarantor**, this guarantee binds them separately, together and in any combination.
- 15.6 Each of the events referred to in clauses 7.1.5 and 7.1.6 is deemed to be a breach of an essential term of this lease.

16. DISPUTE RESOLUTION

- 16.1 Unless the **Act** applies, if the words "The mediation procedure applies to this lease" are included in **item 21**, the mediation procedure applies to this lease. In that event the **landlord** and the **tenant** must attempt to resolve any dispute by the mediation procedure, except disputes about -
- 16.1.1 unpaid **rent** and interest charged on it,
 - 16.1.2 review of **rent**, and
 - 16.1.3 a dispute to be resolved in another way prescribed by any other provision of this lease.
- 16.2 The mediation procedure is -
- 16.2.1 the **landlord** or **tenant** may start mediation by serving a mediation notice on the other.
 - 16.2.2 the notice must state that a dispute has arisen and identify what the dispute is.
 - 16.2.3 the **landlord** and **tenant** must jointly request appointment of a mediator. If they fail to agree on the appointment within 7 days of service of the mediation notice, either may apply to the President of the Law Institute of Victoria or the nominee of the President to appoint a mediator.

- 16.2.4 once the mediator has accepted the appointment the **landlord** and **tenant** and each **guarantor** must comply with the mediator's instructions.
- 16.2.5 if the dispute is not resolved within 30 days of the appointment of the mediator, or any other period agreed by the **landlord** and **tenant** in writing, the mediation ceases.
- 16.3 The mediator may fix the charges for the mediation which must be paid equally by the **landlord** and **tenant**.
- 16.4 If the dispute is settled, the **landlord** and **tenant** and each **guarantor** must sign the terms of agreement and the signed terms are binding.
- 16.5 The mediation is confidential and -
- 16.5.1 statements made by the mediator or the parties, and
- 16.5.2 discussions between the participants to the mediation, before after or during the mediation, cannot be used in any legal proceedings.
- 16.6 It must be a term of the engagement of the mediator that the **landlord** and **tenant** and each **guarantor** release the mediator from any court proceedings relating to this lease or the mediation.
- 16.7 The mediator is not bound by the rules of natural justice and may discuss the dispute with a participant in the absence of any others.
- 16.8 If the **Act** applies, so that a dispute must be referred to the Victorian Civil and Administrative Tribunal, the **landlord** and **tenant** agree that each may be represented by a legal practitioner or legal practitioners of its choice.
- 17. GST**
- 17.1 Expressions used in this clause 17 and in the **GST Act** have the same meanings as when used in the **GST Act** unless the context requires otherwise.
- 17.2 Amounts specified as payable under or in respect of this lease are expressed exclusive of **GST**.
- 17.3 The recipient of a taxable supply made under or in respect of this lease must pay to the supplier, at the time payment for the supply is due, the **GST** payable in respect of the supply. This obligation extends to supply consisting of entry into this lease.
- 17.4 An amount payable by the **tenant** in respect of a creditable acquisition by the **landlord** from a third party must not exceed the sum of the value of the **landlord's** acquisition and the additional amount payable by the **tenant** under clause 17.3 on account of the **landlord's** liability for **GST**.
- 17.5 A recipient of supply is not obliged, under clause 17.3, to pay the **GST** on a taxable supply to it under this lease, until given a valid tax invoice for it.
- 18. CONSUMER PRICE INDEX**
- 18.1 On a **CPI review date**, the **rent** is adjusted by reference to the **Consumer Price Index** using the following formula -
- $$AR = R \times \frac{CPIB}{CPIA}$$
- Where:
- "AR" means adjusted **rent**,
- "R" means **rent** before adjustment,
- "CPIB" means the **Consumer Price Index** number for the quarter immediately preceding the **CPI review date**, and
- "CPIA" means the **Consumer Price Index** number for the quarter immediately preceding the most recent earlier **review date** or, where there is no earlier **review date**, the quarter immediately preceding the start of the **term**.
- 18.2 If CPIB is not published until after the **CPI review date**, the adjustment is made when it is published but the adjustment takes effect from the relevant **CPI review date**. In the meantime, the **tenant** must continue to pay the **rent** at the old rate and, when the adjustment is made, the **tenant** must immediately pay any deficiency or the **landlord** must immediately repay the excess.
- 18.3 If the base of the **Consumer Price Index** is changed between the two comparison dates an appropriate compensating adjustment must be made so that a common base is used.
- 18.4 Unless the **Act** applies and requires otherwise, if the **Consumer Price Index** is discontinued or suspended, then the calculation is to be made using whatever index is substituted for it. If no other index is substituted for it, the calculation is to be made using the index or calculation which the President of the Australian Property Institute, Victorian Division (acting as an expert and not as an arbitrator), determines is appropriate in the circumstances. This determination is binding.

18.5 Unless the **Act** applies, the adjustment is not made if it would result in a decrease in the **rent** payable.

19. IF PREMISES ONLY PART OF THE LETTABLE AREA OF THE BUILDING

19.1 If the **premises** are only a part of the **lettable area** of the **building**, the provisions of this clause apply.

19.2 The **landlord** -

19.2.1 may adopt whatever name it chooses for the **building** and change the name from time to time, and

19.2.2 reserves all proprietary rights to the name of the **building** and any logo adopted for the **building**.

19.3 The **landlord** reserves for itself the use of all external surfaces of the **building** and areas outside the **building**.

19.4 The **building**, **common areas** and **landlord's installations** remain under the absolute control of the **landlord** which may manage them and regulate their use as it considers appropriate. In particular the **landlord** has the right -

19.4.1 to close off the **common areas** as often as the **landlord** reasonably considers appropriate to prevent rights of way or user arising in favour of the public or third parties,

19.4.2 to exclude persons whose presence the **landlord** considers undesirable,

19.4.3 to grant easements over any parts of the **land** which do not materially and adversely affect the **tenant's** use,

19.4.4 to install, repair and replace, as necessary, the infrastructure necessary or desirable for the provision of services to the various parts of the **building**, and

19.4.5 to repair, renovate, alter or extend the **building** but, in doing so, the **landlord** must not cause more inconvenience to the **tenant** than is reasonable in the circumstances.

If the **Act** applies, these rights may only be exercised in a manner consistent with the **Act**.

19.5 The **tenant** must not obstruct the **common areas** or use them for any purpose other than the purposes for which they were intended.

19.6 The **tenant** must comply with the **building rules**. The **landlord** may change the **building rules** from time to time and the **tenant** will be bound by a change when it receives written notice of it. The **landlord** must not adopt a **building rule** or change the **building rules** in a way that is inconsistent with this lease. To the extent that a **building rule** is inconsistent with this lease, the lease prevails.

20. PERSONAL PROPERTY SECURITIES ACT

20.1 Expressions used in this clause that are defined in the **PPSA** have the meanings given to them in the **PPSA**.

20.2 The **landlord** may, at any time, register a financing statement for any security interest arising out of or evidence by this lease over any or all of -

20.2.1 the **landlord's installations**,

20.2.2 any security deposit provided by the **tenant**, and

20.2.3 **tenant's installations** and other **tenant's** property left on the **premises** after the end of the lease,

that are personal property, and must identify the property affected by the financing statement in the free text field of the statement. *The **tenant** waives the right to receive notice under section 157(1) of the **PPSA**.
[*Delete if inapplicable]

20.3 When this lease -

20.3.1 ends and the **tenant** has vacated the premises and performed all of its obligations under it, or

20.3.2 is transferred,

the **landlord** must register a financing change statement with respect to any security interest for which the **landlord** has registered a financing statement other than those to which sub-clause 20.2.3 relates.

20.4 The **tenant must** sign any documents and do anything necessary to enable the **landlord** to register the statements referred to in the preceding sub-clause and to enforce its rights and perform its obligations under this clause and the **PPSA**. In particular, if the **tenant** is a natural person, the **tenant** must provide the **landlord** with the **tenant's** date of birth and a certified copy of a Victorian driver's licence (or other evidence acceptable to the **landlord**) to confirm the **tenant's** date of birth. The **landlord** must keep the **tenant's** date of birth and any evidence provided to confirm it secure and confidential.

20.5 The **tenant** must not register, or permit to be registered, a financing statement in favour of any person other than the **landlord**, for any security deposit provided by the **tenant** or any of the **landlord's installations**.

- 20.6 The **tenant** must pay the **landlord's** reasonable expenses and legal costs in respect of anything done or attempted by the **landlord** in the exercise of its rights or performance of its obligations under this clause or the **PPSA***, except the **landlord's** costs of registering a financing statement under sub-clause 20.2 which are to be borne by the **landlord**. [***Delete if inapplicable**]
- 20.7 In accordance with section 275(6)(a) of the **PPSA**, the parties agree that neither of them will disclose information of the kind mentioned in subsection 275(1).
- 20.8 Subject to any requirement to the contrary in the **PPSA**, notices under this clause or the **PPSA** may be served in accordance with clause 14 of this lease.

21. ADDITIONAL PROVISIONS

Any additional provisions set out in **item 22** -

- 21.1 bind the parties, and
- 21.2 if inconsistent with any other provisions of this lease, override them.

22. LANDLORD WARRANTY

The **landlord** warrants that clauses 1 to 21 appearing in this lease are identical to clauses 1 to 21 of the copyright Law Institute of Victoria Lease of Real Estate August 2014 Revision and that any modifications to them are set out as additional provisions in **item 22**.

Schedule

Important Notice To The Person Completing This Schedule

This lease is in a standard form. You may need to make changes to record the agreement of the landlord, tenant and any guarantor. You should carefully check the whole document and make appropriate deletions, alterations and/or additions so it agrees with the instructions you have received. You should note the warranty in clause 21 and record any deletions, alterations and/or additions to the standard lease conditions as additional provisions in item 22 and **not** in the lease conditions.

Item 1
[1.1]

Landlord:
BENNY ZHUO BANG YAO
835 MT DANDENONG ROAD MONTROSE VIC 3765

Item 2
[1.1]

Tenant:
LONG FU CHU
21 Kingsbridge Avenue Nunawading VIC 3131

Item 3
[1.1]

Guarantor ;
NIL

Item 4
[1.1]

(a)Premises: 835 MT DANDENONG ROAD MONTROSE VIC 3765
(b) Land:
being the land more particularly described in Certificate of Title Volume 07149 Folio 787

Item 5
[1.1]

Landlord's installations: All fixtures and fitting installed of a permanent nature

Item 6
[1.1]

Rent:
\$52,000.00 per annum (plus GST if applicable) rent payable by equal monthly instalments A\$4,333.33.00 in advance

Note: There is no need to refer to GST if the rent is expressed as a GST exclusive sum – see clause 17; If the rent is expressed as a GST inclusive sum, an additional provision will be needed to modify the operation of clause 17.

Item 7
[1.1]

Tenant's installations:

All installations brought onto the premises by the tenant after the date of commencement of occupation of the premises by the tenant.

Item 8
[1.1]

Term of the lease:

Three (3) years starting on **01/07/2024** with one further terms of three years each.

Item 9
[2.1.1]

How rent is to be paid:

Calendar monthly in advance by consecutive monthly instalments equal to one-twelfth of the annual rent, the first of such instalments to be made on the commencement date of this lease

Item 10
[1.1,
2.1.2,
2.1.5 &
5.4]

Building outgoings which the tenant must pay or reimburse:

100% of all **building outgoings**

Item 11
[1.1 &
6.2]

Risks which the insurance policies must cover: *

- Fire
- Flood
- Lightning
- Storm and tempest
- Explosion
- Riots and civil commotion
- Strikes
- Malicious damage
- Earthquake
- Impact by vehicles
- Impact by aircraft and articles dropped by them
- Internal flood water

and such other risks as the **landlord** reasonably requires from time to time.

*** Delete risks not required to be covered and add any other risks required to be covered**

Item 12
[1.1 &
2.3.1]

Amount of public risk insurance cover:

\$20 million or other amount reasonably specified from time to time by the **landlord**.

Item 13
[1.1]

Period of loss of rent and outgoings insurance:

6 Months

Item 14
[2.1.7]

Interest rate on overdue money:

2% per annum more than the rate from time to time fixed by the Penalty *Interest Rates Act* 1983 (Vic).

Item 15
[2.2.1]

Permitted use:

Take away or restaurant

[1.14]

Application of Act:

The **Act** does apply

Item 16
[2.1.1,
11, 18]

Review date(s):

Term

- (a) *Market review date(s): The commencement of each further term*
- (b) *CPI review date(s): Not Applicable*
- (c) *Fixed review date(s) and percentage or fixed amount increases: Three (3) percent on each anniversary of the commencement date of the term*

Further term(s)

- (a) *Market review date(s): The commencement of each further term*
- (b) *CPI review date(s): Not Applicable*
- (c) *Fixed review date(s) and percentage or fixed amount increases: Three (3) percent on each anniversary of the commencement date of the term*

Item 17
[2.1.1,
11, 18]

Who may initiate reviews:

Market review: Landlord, subject to **Act**, if it applies

CPI review: N/A

Fixed review: automatic

Item 18
[12]

Further term(s):
One (1) option to renew each of three (3) years

Item 19
[12]

Earliest and latest dates for exercising option for renewal:
Earliest date: 6 months from end of the initial term
Latest date: The tenant must provide at least three months notice of his intention to excercise an option

Item 20
[13]

Security deposit:
A\$4,333.33 payable before or at settlement.

Item 21
[16.1]

The mediation procedure applies to this lease

Item 22
[20]

Additional provisions: NIL

EXECUTION & ATTESTATION

THE LANDLORD

[If individual(s), then each of them needs one of these signing clauses]

Signed, sealed and delivered by the said BENNY ZHOU BANG YAO

in the presence of:

Witness

Print name

Print usual address

Signed, sealed and delivered by the said

in the presence of:

Witness

Print name

Print usual address

EXECUTION & ATTESTATION

THE TENANT

[If individual(s), then each of them needs one of these signing clauses]

Signed, sealed and delivered by the said LONG FU CHU

in the presence of:

Witness

Print name

Print usual address

Signed, sealed and delivered by the said

in the presence of:

Witness

Print name

Print usual address

