

**The State of New South Wales by its
Department of Education and Training**

and

Canteen Licence Agreement

This Licence Agreement made on

Between

The State of New South Wales by its Department of Education and Training of 35 Bridge Street, Sydney on behalf of the School ("**the Licensor**") and

ABN _____ of
 ("**the Licensee**")

of
 ("**the Guarantors**")

Recitals

- A. The School requires the provision of School Canteen Services at the Premises.
- B. The parties have agreed that subject to the terms and conditions of this agreement the Licensee shall supply the School Canteen Services to the Licensor at the Premises.

It is agreed

1. Definitions and interpretation

1.1 In this agreement the following definitions shall apply:

- (a) "**Commencement Date**" means the commencement of this Licence as specified in Item 3 of Schedule 1.
- (b) "**Guarantors**" means the person or people specified in Item 9 of Schedule 1.
- (c) "**Licence**" means this agreement.
- (d) "**Licence Fee**" means the annual amount specified in Item 2 of Schedule 1.
- (e) "**Licensee**" means the Licensee named in Item 1 of Schedule 1 and includes its permitted successors and assignees.
- (f) "**Manager**" means the operational manager of the Licensee as advised from time to time by the Licensee to the Licensor and from the commencement of this agreement is the person specified in Item 7 of Schedule 1.
- (g) "**Premises**" means that part of the School as identified in the plan attached to this Licence and/or as disclosed in Item 10 of Schedule 1.
- (h) "**Principal**" means the person occupying the position of, or acting as, principal of the School.

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- (i) "**School**" means the school identified by name and address in Item 14 of Schedule 1 and the ABN of which is specified in Item 15 of Schedule 1.
 - (j) "**School Canteen Services**" means the provision and sale of food and drinks as approved by the NSW Healthy School Canteen Strategy as published from time to time by the Licensor and the NSW Department of Health and in particular in compliance with the Food Spectrum published with that strategy but if there be no such strategy in place at any time during the Term the food and drink authorised to be sold under this Licence shall be those items as are approved by the Principal.
 - (k) "**Security Deposit**" means the amount, if any, specified in Item 8 of Schedule 1.
 - (l) "**Term**" is the period commencing from the Commencement Date as specified in Item 4 of Schedule 1.
 - (m) "**Trading Hours**" means the hours and days specified in Item 6 of Schedule 1 or such other hours or days as may be required from time to time by notice from the Licensor to the Licensee.
 - (n) "**Vacation Periods**" means those days fixed from time to time by the Minister for Education and Training as school holidays and such other days during a school term when all students enrolled at the School are absent.

1.2 In the interpretation of this Licence:

- (a) "person" includes a corporation;
- (b) words importing the singular number shall include the plural number or vice versa;
- (c) words importing a gender shall include each other gender;
- (d) a reference to a party to this Licence shall include all receivers, managers, liquidators, successors in title and assigns of that party;
- (e) headings and the ordering of clauses shall be disregarded;
- (f) when two or more persons comprise the Licensee or any Guarantors all provisions in this agreement shall bind such persons and any two or greater number of them jointly and each of them separately.

2. Grant of licence

The Licensor grants to the Licensee a licence to use the Premises.

3. Term

- 3.1 This Licence shall commence on the Commencement Date for the duration of the Term.
- 3.2 Notwithstanding the Term either party may by giving notice to the other terminate this Licence by notice of not less than 3 months.
- 3.3 This Licence may not be terminated prior to the expiration of the Term other than in accordance with the provisions of this agreement.

4. Permitted use

- 4.1 The Licensee must use the Premises under this agreement for the conduct of School Canteen Services during the Trading Hours.
- 4.2 The Principal may in the absolute discretion of the Principal direct that certain foods not be sold as School Canteen Services. The Licensee must withdraw from sale any foods directed by the Principal to be not sold and must endeavour to sell foods as may be requested by the Principal.
- 4.3 The Principal must provide to the Licensee a copy of the New South Wales Government policy applicable from time to time for the sale of food and drinks at schools.

5. Holding over

If following the expiration of the Term the Licensee remains in possession of the Premises it shall pay for each additional month of possession or part thereof to the Licensor one-twelfth of the annual licence fee payable at the expiration of the Term. Any such occupancy shall be terminable by either party giving to the other on any date notice of one month.

6. Option to renew

- 6.1 The Licensee may require the Licensor to enter into a further licence of the Premises for the period , if any, specified in Item 12 of Schedule 1 commencing from the last day of the Term provided that:
- (a) the Licensee serves notice in writing upon the Principal requiring the Licensor to enter into the further licence;
 - (b) the Principal receives the notice not less than 6 months prior to the last day of the Term; and
 - (c) the Licensee is not in default under this Licence as at the date of giving the notice and on the last day of the Term.

6.2 The further licence shall contain identical provisions as are contained in this Licence except:

- (a) Clause 6 and Item 12 shall be deleted;
- (b) the Term will be amended to reflect the provisions of this clause;
- (c) the annual Licence Fee in Item 2 of Schedule 1 will be 4% greater than the Licence Fee applicable immediately prior to the commencement of the new term.

7. Licence Fees

7.1 The Licensee must pay to the Licensor the Licence Fee.

7.2 The Licence Fee:

- (a) is determined on the basis that the Licensee will be able to trade from the Premises for the Trading Hours;
- (b) will be paid by weekly instalments as specified in Item 2A of Schedule 1 in advance calculated from the Commencement Date.

7.3 The Licence Fee shall not be paid during the Vacation Periods.

7.4 Where the Term is for more than one calendar year the Licence Fee shall be increased on each anniversary of the commencement of the Term by the amount specified in Item 5 of Schedule 1.

8. Goods and services tax

8.1 The Licensee must pay to the Licensor the GST applicable to the Licence Fee at the same time as each weekly instalment of the Licence Fee is paid. The GST on the Licence Fee is the amount specified in Item 2B of Schedule 1 which will increase at the time of any increase in the Licence Fee by the same amount as the Licence Fee increases as specified in Item 5 of Schedule 1.

8.2 If from time to time in respect of

- (a) anything else paid by the Licensor or provided to the Licensee by the Licensor under or in connection with this Licence; or
- (b) in connection with anything else which the Licensee is required to pay or reimburse to the Licensor or indemnify the Licensor against under this Licence

is subject to GST the Licensee must within 7 days of the receipt of an invoice pursuant to the GST Act pay to the Licensor any tax under the GST Act in addition to the amount payable for such item as required in this Licence.

8.3 In this clause

- (a) "**GST Act**" means the Act entitled *A New Tax System (Goods and Services Tax) Act 1999* as amended from time to time or any re-enactment of or substitution for it and includes any regulations or statutory instruments issued under it;
- (b) "**GST**" has the meaning given to that term by the GST Act.

9. Interest

The Licensee must pay interest to the Licensor on any money which is or becomes due and payable under this Licence from when it fell due to be paid until the date it is actually paid at the rate of 15% per annum. Such interest shall accrue and be calculated on a daily basis.

10. Security Deposit

10.1 As security for the performance of its obligations under the Licence, the Licensee must upon signing this Licence give to the Licensor for the Security Deposit either a bank guarantee or a cheque.

10.2 If the Security Deposit is satisfied by a bank guarantee:

- (a) it must be issued by a bank authorised under the Banking Act 1959 on terms reasonably satisfactory to the Licensor;
- (b) if the Licensee defaults under the Licence the Licensor may demand payment under the bank guarantee for the amount necessary to remedy the default and to indemnify the Licensor for all loss it sustains as a consequence of the default;
- (c) if the Licensor calls up any money under the bank guarantee the Licensee must within 14 days of notice from the Licensor of the amount called up forward to the Licensor a bank guarantee in identical terms for the amount of the initial bank guarantee that was called up.

10.3 If the Security Deposit is a cash deposit:

- (a) it must be deposited by the Licensor with the Director General of the Department of State and Regional Development ("Director General") within the time required by the Retail Leases Act;
- (b) if the Licensee defaults under the Licence the Licensor is entitled to make application to the Director General to pay all or part of the Security Deposit as it may be entitled under the Retail Leases Act and this Licence to rectify the default and to indemnify the Licensor for all loss it sustains as a consequence of the default;

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- (c) if the Licensor is paid by the Director General any part of the Security Deposit the Licensee must within 5 business days of receipt of a notice from the Licensor specifying in reasonable detail the amount received, forward further money to the Licensor to be lodged with the Director General to make up the Security Deposit;
 - (d) any interest earned on the Security Deposit arising from its lodgement with the Director General will accrue to the benefit of the Licensee and unless prohibited by any law will not be paid to the Licensee until the return of the Security Deposit from the Director General upon the expiration or sooner termination of this Licence and will be included as part of the Security Deposit available to the Licensor under the Licence.
- 10.4 Any appropriation of the Security Deposit to the Licensor shall not waive any unsatisfied obligation of the Licensee nor prejudice any other right of the Licensor arising from the default of the Licensee.
- 10.5 Upon the Licensee vacating the Premises on the expiration of the Term or sooner termination of this Licence subject to any claim on the Security Deposit if a cash deposit it will , or any applicable balance, be refunded to the Licensee or if a bank guarantee will be returned to the Licensee.

11. Nature of rights granted

- 11.1 The Licence does not create between the parties the relationship of lessor and lessee, principal and agent, franchisor and franchisee or employer and employee.
- 11.2 The Licensee shall not have the exclusive right to provide the School Canteen Services at the School nor the exclusive right of occupation of the Premises.
- 11.3 The Licensor may permit students and staff at the School, members of the parents and citizens group for the School and any other members of the School community to conduct social events on the School which events may include the sale of items included in School Canteen Services
- 11.4 The Licensee must enter into all agreements with its suppliers and others in relation to the School Canteen Services in its own name as an independent party and must not hold out to any party that the Licensor will be liable to any such supplier for debts incurred in supplying goods and services to the Licensee.
- 11.5 The Licensor may operate at the School food and drink vending machines in a location other than in the Premises.

12. Obligations of the Licensee

The Licensee must:

- 12.1 conduct the School Canteen Services in a professional and competent manner and lock up and secure the Premises on leaving the Premises each day after the conclusion of Trading Hours;
- 12.2 use the Premises for School Canteen Services and keep it open to customers for such purposes during the Trading Hours;
- 12.3 not bring upon the Premises or permit to be done any act, matter or thing which may be a nuisance or inconvenience or cause damage or annoyance to the Licensor, its students or invitees at the School or which may breach any law or requirement of any competent authority for the time being in force with regard to the conduct of School Canteen Services from the Premises;
- 12.4 not do or permit to be done in the Premises anything in the nature of overloading any floor;
- 12.5 not do or bring or permit to be done or brought upon the Premises any act, matter or thing which might prejudicially affect the rights of the Licensor under any insurance policy held by the Licensor;
- 12.6 not interfere with any part of the fire alarm or sprinkler systems which may exist at the Premises or any air conditioning equipment or any other machinery which may be supplied by the Licensor to the Premises;
- 12.7 not carry out any structural or other alterations to the Premises;
- 12.8 not use or store chemicals, liquids or gas in the Premises without the prior written approval of the Licensor which approval shall not be unreasonably withheld;
- 12.9 not damage any fixtures, structures or installations belonging to the Licensor, in the Premises or permit anyone else to do so;
- 12.10 permit any nominee of the Licensor at any time entry to the Premises;
- 12.11 obtain all necessary consents from any competent authority for the conduct of School Canteen Services from the Premises and comply with all requirements of such competent authority throughout the Term including but not limited to the requirements of the Food Act 2003, the Public Health Act 1902, the Local Government Act 1993 and the Environmental Planning and Assessment Act 1979 or any amendments thereto or regulations thereunder or any substituted Act;
- 12.12 withdraw from sale at the Premises any item which the Licensor in its absolute discretion deems inappropriate;
- 12.13 not sell from the Premises any cigarettes or other tobacco products or permit any such products to be used in the Premises or where under its control in the School;

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- 12.14 not bring onto the Premises or permit alcohol to be consumed in the Premises or permit anyone under the control of the Licensee to bring alcohol onto the School or consume alcohol in the School;
- 12.15 not use any part of the Premises for any use which is not School Canteen Services and in particular without limiting the generality of this clause not permit any amusement machine, music machine, amplified sound system or television to be used without the prior written consent of the Licensor;
- 12.16 not place any vending machine on any part of the School except within the Premises;
- 12.17 observe and comply with the provisions of the *Commission for Children and Young People Act 1998* ("the CCYP Act") and other relevant New South Wales child protection legislation including but not limited to:
- (a) acknowledging that certain if not all of the students attending the School are minors;
 - (b) compliance with the CCYP Act and other relevant New South Wales child protection legislation by the Licensee's employees, subcontractors, employees and any volunteers performing practical training for the Licensee;
 - (c) carrying out employment screening;
 - (d) notifying the Commission of any relevant disciplinary proceedings against any employee or of any applicant rejected for child related employment;
 - (e) not employ, or continue the employment of a prohibited person; and
 - (f) obtaining the execution of all employees of the Licensee at the School of a Prohibited Employment Declaration

and in this clause words and phrases that are defined in the CCYP Act shall be interpreted as specified in that Act.

- 12.18 promptly discharge all debts, claims and liabilities and any other obligations arising out of or connected with the conduct by the Licensee of the School Canteen Services;
- 12.19 display at all times in a conspicuous place in the Premises for customers to peruse a legible price list of the goods to be sold by the Licensee in the Premises, such goods and price list to be approved by the Licensor which consent shall not be unreasonably withheld;
- 12.20 upon the expiry of the Term or the sooner vacation of the Premises by the Licensee give up possession of the Premises and the items specified in Schedule 2 to the Licensor and leave the Premises in good repair and condition fair wear and tear excepted taking into account the condition in which the Premises were at the time of the first occupation of the Premises by the Licensee under this Licence or in any

licence agreement pre-dating this Licence in which the Licensee is a party or took an assignment from the licensee as named in that licence;

12.21 not hold itself out to be an employee or agent of the Licensor.

13. Staff

13.1 The Licensee must employ a sufficient number of trained and competent persons to provide the School Canteen Services including the receipt at the Premises of all deliveries to the Premises.

13.2 The licensee must ensure that all staff employed in the Premises are trained by a Registered Training Organisation to the extent required by any competent authority for handling in a safe and competent manner the preparation and sale of food.

13.3 At no time must the Licensee request the assistance of the staff of the Licensor in taking deliveries of any items to the Premises.

13.4 The Licensee must not without the prior consent of the Licensor employ or otherwise engage any person in the conduct of the School Canteen Services at the Premises who has a criminal conviction or whilst so employed or otherwise engaged is charged with any criminal offence or knowingly permit any person with such characteristics to be upon the Premises.

13.5 The Licensor may in its absolute discretion and without giving any reason advise the Licensee that:

- (a) any employee of the Licensee must not work in the Premises;
- (b) any person otherwise engaged in the conduct of the School Canteen Services at the Premises may not be so engaged.

In this event the Licensee must not further permit that employee to remain at the Premises or such other person to be otherwise engaged in the conduct of the School Canteen Services at the Premises.

13.6 The Licensee must nominate from time to time a Manager and a 24 hour telephone contact number for that person.

13A Licensee Prohibition

Unless otherwise approved by the Licensor, the provisions in clause 13.2 and clause 13.5 apply to the Licensee and where applicable, to any director of the Licensee.

14. Deliveries

14.1 All deliveries which are required to be received by the Licensee must be restricted to those reasonably necessary for the conduct of the School Canteen Services and not for use elsewhere by the Licensee.

- 14.2 All items required to be held by the Licensee for the provision of the School Canteen Services must be stored within the Premises.
- 14.3 The Licensee must ensure that
- (a) it always has on hand sufficient staff to take delivery of all foodstuffs and other commodities required for the conduct of the School Canteen Services;
 - (b) such items are delivered to the Premises so as not to damage any property of the Licensor or to cause injury to any staff of the Licensor or student at the School or other invitee;
 - (c) such items are delivered to the Premises by such route over the School as is prescribed from time to time by the Licensor; and
 - (d) such items may only be delivered unless otherwise agreed by the Principal during the time specified in Item 11 of Schedule 1.

15. Fittings and equipment

- 15.1 The parties acknowledge that the Licensor has provided in the Premises the fittings and equipment as are specified in Schedule 2. The Licensee may use these items without additional charge but the Licensor is under no obligation to repair or replace any such item that may be damaged or become worn out.
- 15.2 If any of the items specified in Schedule 2 should be damaged or destroyed the Licensee must at the expense of the Licensee repair where appropriate or replace such items.
- 15.3 The Licensee must supply at its own expense any other equipment reasonably necessary for the conduct by it of the School Canteen Services and must upon the expiration of this Licence remove from the Premises all such items brought upon the Premises by the Licensee and ensure that no damage is caused to the property of the Licensor in such removal and if so immediately rectify at its expense all such damage.
- 15.4 If upon the termination of this Licence the Licensee fails to remove from the Premises its items of fixtures, plant and equipment the Licensor shall be entitled at its discretion to remove all such items and to recover from the Licensee the cost of such removal and upon their removal to do with such items as the Licensor in its absolute discretion determines and without any liability or need to account to the Licensee for having done so.
- 15.5 Upon the expiry of the Term the Licensee will have no entitlement to recover from the Licensor any compensation for the value of any fittings and equipment supplied to the Premises by the Licensee at any time during its occupancy of the Premises whether during the Term or during a period prior to the commencement of this Licence.

16. Cleaning

- 16.1 During the conduct of the School Canteen Services at any time throughout the day the Licensee must remove all litter and spillage from the floor and furniture throughout the Premises to ensure that a clean and hygienic environment is maintained at all times.
- 16.2 The Licensor will at its own expense daily clean the Premises by a cleaning contractor appointed by the Licensor to the specifications agreed from time to time between the Licensor and the contractor.
- 16.3 Any cleaning of the Premises required at the end of each day in addition to the cleaning undertaken by the Licensor under clause 16.2 must be performed by the Licensee at its expense and to the satisfaction of the Licensor.
- 16.4 The Licensee must throughout the Term at its expense promptly remove all garbage from the Premises and must keep thoroughly clean all utensils, equipment and appliances used in connection with the School Canteen Services.

17. Waste disposal/pest control

- 17.1 The Licensor will make available appropriate garbage bins the contents of which will be removed in a timely manner by the Licensor at its expense.
- 17.2 The Licensee must cause all rubbish and other waste material from the conduct of the School Canteen Services to be placed in the receptacles provided by the Licensor.
- 17.3 The Licensor will cause the Premises to be treated for pest control at the same time as other parts of the School are similarly treated. If by reason of the Licensee not complying with clause 17.2 there is a need for an additional pest control treatment the Licensee will be required to pay the cost of that additional pest control treatment for the Premises.

18. Inspections

- 18.1 Any nominee of the Licensor shall be at liberty at all times without notice to the Licensee to enter the Premises and to undertake any inspection considered necessary as to the state and condition of the Premises and of the compliance of the Licensee of the covenants in this Licence as to the conduct of the School Canteen Services.
- 18.2 The Licensee must remove from the Premises any foodstuffs or other items not approved by the Licensor or the quality of which is not approved and the Licensee shall have no claim against the Licensor in respect of any such direction.
- 18.3 Any person authorised by the Licensor may at any time and without notice to the Licensee obtain samples of any item offered for sale or otherwise used in the Premises as part of School Canteen Services for analysis. If any item is found not to

be of approved quality or true to its label it must be removed and destroyed by the Licensee.

19. Utilities

- 19.1 The Licensee must pay the percentage amount, if any, specified in Item 13 of Schedule 1 of the costs of the supply of gas and electricity to the Premises for the conduct of School Canteen Services.
- 19.2 The Licensee must use best endeavours to ensure that electricity and gas (if applicable) are used appropriately.

20. Telephone

- 20.1 The Licensor is under no obligation to make available a telephone for the use of the Licensee in the Premises.
- 20.2 If a telephone is installed in the Premises in the name of or on behalf of the School the Licensee must pay all Charges applicable to the connection and for the use of the telephone during the currency of this Licence.

21. Signage and Advertising

- 21.1 The Licensor will at the cost of the Licensee provide signs to identify the location of the Premises within the precincts of the Premises.
- 21.2 The Licensee may at its own cost erect at a place approved by the Principal one sign outside and in the immediate vicinity of the Premises identifying the Licensee, any trade name used by the Licensee and its services and hours of operation at the Premises.
- 21.3 The Licensee must not refer to the Licensor in any advertising.
- 21.4 The Licensee must not advertise its presence pursuant to this Licence without the prior written approval of the Principal which approval shall not be unreasonably withheld.

22. Car parking

- 22.1 The Licensee may not park any motor vehicle on the School without the prior approval of the Licensor which may be given in the absolute discretion of the Principal.
- 22.2 The Licensee must ensure that all vehicles used to deliver items specified in clause 14 only park on the School in such locations, if any, as are approved from time to time by the Licensor.

23. Damage to stock or property

The Licensor shall not be liable under any circumstances to the Licensee or to any other person for any loss or damage occasioned to any property including stock of the Licensee required for the School Canteen Services howsoever such loss may arise whether due to the negligence of the Licensor or otherwise.

24. Insurance

- 24.1 The Licensee must maintain all policies of insurance that are required by law for the employees of the Licensee including workers' compensation. The Licensee must produce upon reasonable request from the Licensor from time to time evidence of the currency of such policies.
- 24.2 The Licensee indemnifies the Licensor for all damages to any plate glass, fixtures and fittings of the Licensor at the Premises howsoever such damage is caused.
- 24.3 The Licensee must maintain a public liability insurance policy for a cover of not less than \$20,000,000.00 to note the interest of the Licensor as owner of the Premises and to cover any liability howsoever caused to any person upon the Premises and provide whenever reasonably requested by the Licensor evidence of such insurance.
- 24.4 The Licensee must notify the Licensor in writing as soon as reasonably practicable after the Licensee becomes aware of any event or occurrence likely to give rise to a claim under the insurance specified in clause 24.3 and thereafter provide all assistance as may be required by the insurer and the Licensor regarding the subject matter of the notice.
- 24.5 If the Licensor is required by law from time to time to hold certain insurance policies which would include the conduct of the business of the Licensee under this Licence the Licensee must take out and maintain such additional insurance policies as may be required in order for the Licensor to comply with its legal requirements.

25. Indemnity

- 25.1 The Licensee indemnifies the Licensor against liability for all loss, damage or injury to persons or property caused by the Licensee, its employees or agents whether through negligence or otherwise in connection with the operation of the School Canteen Services. The Licensee must at its own expense make good the amount of all claims, damages, costs and expenses arising from such damage or injury to persons or property.
- 25.2 The Licensee must duly and punctually pay or otherwise discharge all outgoings, debts, claims, liabilities and other obligations arising out of or connected with the conduct by the Licensee of School Canteen Services.
- 25.3 The Licensor shall not be liable under any circumstances to the Licensee or to any other person for any loss or damage occasioned by defect or malfunction in any services to the Premises or for loss incurred as a consequence of damage to the

stock, fittings or fixtures of the Licensee whether such loss arises pursuant to the negligence of the Licensor, its employees, contractors or agents or otherwise and the Licensor shall further not be liable for the safety of any stock or property installed, placed or left in the Premises under this agreement.

26. Assignment and subletting

- 26.1 The Licensee must not enter into any sub-licence of the Premises.
- 26.2 The Licensee may with the consent of the Licensor assign the Licence and in this event the provisions of the Retail Leases Act shall apply.
- 26.3 If the Licensee is a company, a substantial change in its directors or shareholders is deemed to constitute an assignment of this Licence. The reasonable opinion of the Licensor about substantial change is conclusive.

27. Rights of termination

- 27.1 This Licence shall terminate at the option of the Licensor if at any time during the Term the Licensee:
- (a) fails to pay the Licence Fee or GST within 7 days of such fee becoming due and payable;
 - (b) fails to observe and perform any of the agreements and undertakings on the part of the Licensee required to be observed and performed under this Licence after 7 days from receiving notice from the Licensor of such failure
- and in such event the Licensor may enter the Premises and terminate this Licence.
- 27.2 This Licence shall also be terminated on notice of not less than two months if the Licensor elects to close the School permanently or for some indefinite period exceeding one month. In this event the Licensor will not be liable to the Licensee for any damages as a result of the early termination.

28. Essential terms

The parties acknowledge that the following are essential terms of this Licence:

- (a) the covenant to pay the Licence Fee and GST;
- (b) the proper conduct of School Canteen Services;
- (c) keeping the Premises open for business during Trading Hours;
- (d) the provisions of clauses 26.1 and 26.2;
- (e) the provisions of clause 12.17;

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- (f) the provisions of clause 13.5 and 13.6; and
 - (g) the provisions of clause 13A.
 - (h) the provision of clause 13.2

29. Costs

- 29.1 Each party must pay its own legal costs and disbursements in relation to the preparation of this Licence. The Licensor may in its discretion charge the Licensee for any legal costs incurred in negotiating the terms and conditions of this Licence as may be permitted under the Retail Leases Act. The Licensee must pay any stamp duty payable on the Licence.
- 29.2 The Licensee must pay all professional costs on any surrender or other early termination of the Licence together with all professional costs incurred by the Licensor in remedying or attempting to remedy any breach or default by the Licensee and in or incidental to the exercise or attempted exercise of any right or power of the Licensor in consequence of any breach or default.

30. Variation

No variation or modification of the terms and conditions of this agreement shall be binding unless agreed in writing and signed by both parties.

31. Principal

The Licensor has delegated to the Principal the authority to receive a notice, give consent or give a direction wherever in this Licence it is specified that the Principal may receive notices, give directions or grant consents.

32. Notices

- 32.1 The parties may service notices in the manner prescribed by section 170 of the Conveyancing Act 1919.
- 32.2 In addition:-
 - (a) Until such time as the Licensor effects a re-entry or otherwise excludes the Licensee from the Premises the Licensor may serve notices on the Licensee by leaving them at the Premises during Trading Hours and in that case service is deemed to have been effected on delivery;
 - (b) The Licensee must serve notices on the Licensor by delivery to the office of the Principal at the School between the hours of 9.00am and 3.00pm Monday to Friday but excluding public holidays, school holidays or days on which the office is not staffed; and

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- (c) Notices may also be served by being sent by facsimile transmission to the following:
- (1) To the Licensor to the number specified in Item 16 of Schedule 1; and
 - (2) To the Licensee to the number specified in Item 17 of Schedule 1.

32.3 Any notice given by facsimile

- (a) will be deemed to be served on the date that it is sent subject to the sender holding evidence from the machine from which the facsimile was sent that it was received by the other party;
- (b) if to the Licensee and the notice is sent on a weekend or public holiday or after 5.00 pm on any day will be deemed to be served on the next day which is not a weekend or public holiday; and
- (c) if to the Licensor must be received between the time and on the day specified in clause 32.2(b) and if not will be deemed to be served on the next day that is not excluded under clause 32.2(b).

33. Guarantee and indemnity

33.1 The Guarantors acknowledge that this Licence has been granted to the Licensee at their request and in consideration of this request they covenant for themselves, their executors, administrators and assigns with the Licensor as follows:

- (a) they unconditionally guarantee jointly and severally to the Licensor the payment when demanded from the Guarantor of every sum of whatever nature payable by the Licensee to the Licensor under this Licence;
- (b) if the Licensee fails to perform any of the covenants in this Licence between the Licensee and the Licensor the Guarantor indemnifies and keeps indemnified the Licensor from and against all actions claims costs and damages arising out of any such non-performance.

33.2 This guarantee and indemnity shall not be affected in any way by any of the following:

- (a) any variation with or without the consent or knowledge of the Guarantor of any of the covenants in this Licence;
- (b) any breach of the obligations of the Licensee with or without the consent or knowledge of the Guarantor or the Licensor;
- (c) the granting by the Licensor of any time or indulgence to the Licensee for the performance of any of the obligations of the Licensee;

- (d) the Licensee being wound up or passing a resolution for its liquidation or entering into voluntary administration or any other arrangement with its creditors;
- (e) the giving of any notice of termination of this Licence;
- (f) the absence of any notice to the Guarantor of default by the Licensee in respect of this Licence; or
- (g) any other circumstance or thing which but for this provision might determine or impair the operation of the guarantee or indemnity given in this clause by each Guarantor.

RETAIL LEASES ACT

SECTION 16(3) CERTIFICATE

I, _____, a solicitor/licensed conveyancer(*delete that which does not apply*), certify in respect of this Licence as follows:

1. I practise as a lawyer/licensed conveyancer(*delete that which does not apply*).
2. I act for the Licensee in respect of the Licence.
3. At the request of the Licensee I have explained to the Licensee the effect of section 16(1) and section 16(2) of the Retail Leases Act 1994.
4. The Licensee is aware and accepts that the term of the Licence is as set out in Item 4 of Schedule 1 and that sections 16(1) and 16(2) of the Retail Leases Act 1994 do not apply to the Licence which otherwise would have conferred a term of 5 years upon the Licensee.
5. I am instructed by the Licensee to give this certificate.

Dated:

.....

SCHEDULE 1

Item 1:	Licensee: (Clauses 1.1(e) and 7)		
Item 2:	Licence Fee:	\$	per annum
Item 2A:	Weekly instalment of Licence Fee: (Clause 7.2)	\$	
Item 2B:	Weekly instalment of GST: (Clause 8.1)	\$	
Item 3:	Commencement Date: (Clauses 1.1(a) and 3.1)		
Item 4:	Term: (Clause 1.1(l) and 3.1)		
Item 5:	Annual increase in Licence Fee: (Clause 7.4)	%	
Item 6:	Trading Hours: (Clauses 1.1(m), 4.1, 7.2(a) and 12.2)		
Item 7:	Licensee Manager: (Clause 1.1(f))		
Item 8:	Security Deposit: (Clauses 1.1(k) and 10)	\$	
Item 9:	Guarantors: (Clauses 1.1(b) and 33)		
Item 10:	Description of Premises: (Clauses 1.1(g))		

Item 11: Hours for receipt of Deliverables:
(Clause 14.3(d))

Item 12: Option/s to Renew: First Option –
(Clause 6) Second Option –

Item 13: Contribution to costs of utilities: %
(Clause 19.1)

Item 14: Name and address of the school:

Item 15: ABN of the School:

Item 16: Facsimile number of the Licensor:
(Clause 32.2(c)(1))

Item 17: Facsimile number of the Licensee:
(Clause 32.2(c)(2))

**SCHEDULE 2
(Clause 15)**

Description

Make

Model

SIGNED by the Licensee in the presence of:

.....
Signature of Witness

.....
Signature of Licensee

.....
Name of Witness

.....

.....
Address of Witness

EXECUTED by

ACN _____ in accordance with
section 127 of the *Corporations Act 2001*:

Signature:

Signature:

Name:
PLEASE PRINT

Name:
PLEASE PRINT

Director

Director/Secretary *

* Delete as appropriate

SIGNED by the Guarantor in the presence of:

.....
Signature of Witness

.....
Signature of Guarantor

.....
Name of Witness

.....

.....
Address of Witness

SIGNED by the duly authorised delegate of
the Licensor in the presence of:

.....
Signature of Delegate

.....
Signature of Witness

.....
Name of Delegate
Manager, School & Regional
Financial Operations

.....
Name of Witness

.....
Address of Witness

This page is to be returned unsigned.

The delegation to approve school canteen licences as determined by State Contracts
Control Board rests with delegated officers of the State Office.

Principals are not to sign licence agreements.

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