

DEED OF VARIATION OF LEASE

YY INVESTMENT LIMITED

TAMAKI REDEVELOPMENT COMPANY LIMITED



Simpson Grierson

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DEED DATED

2019

PARTIES

1. **YY INVESTMENT LIMITED** at Auckland (**Landlord**)
2. **TAMAKI REDEVELOPMENT COMPANY LIMITED** at Auckland (**Tenant**)

BACKGROUND

- A. Queens Investment Limited, a prior registered owner of the Premises, leased the Premises to Housing New Zealand Limited under the Lease.
- B. Housing New Zealand Limited assigned its interest in the Lease to the Tenant by deed dated 24 December 2015.
- D. The Landlord is the current registered owner of the Premises.
- E. The Landlord and the Tenant have agreed to vary the Lease as set out in this deed.

THIS DEED RECORDS THAT:

1. **DEFINITIONS AND INTERPRETATION**

- 1.1 **Definitions:** In this deed, unless the context indicates otherwise:

Lease means the deed of lease of the Premises dated 11 February 2004 between Queens Investment Limited and Housing New Zealand Limited including the deed of assignment dated 24 December 2015;

Landlord means YY Investment Limited;

Operative Date means the date of this deed; and

Premises means that part of the Landlord's building at 141-153 Queens Road, Panmure more particularly described in the Lease.

Tenant means Tamaki Redevelopment Company Limited;

- 1.2 **Interpretation:** In this deed, unless the context indicates otherwise:

- (a) **Defined Expressions:** expressions defined in the main body of this deed have the defined meaning throughout this deed, including the background;
- (b) **Headings:** clause and other headings are for ease of reference only and will not affect this deed's interpretation;
- (c) **Joint and Several Obligations:** where two or more persons are bound by a provision in this deed, that provision will bind those persons jointly and each of them severally;
- (d) **Lease Terms:** capitalised terms not otherwise defined in this deed have the meaning given to them in the Lease;

- (e) **Parties:** references to any **party** include that party's executors, administrators, successors and permitted assigns;
- (f) **Persons:** references to a **person** include an individual, company, corporation, partnership, firm, joint venture, association, trust, unincorporated body of persons, governmental or other regulatory body, authority or entity, in each case whether or not having separate legal identity;
- (g) **Plural and Singular:** references to the singular include the plural and vice versa;
- (h) **Inclusive Expressions:** the term **includes** or **including** (or any similar expression) is deemed to be followed by the words **without limitation**; and
- (i) **Documents:** references to any document (however described) are references to that document as modified, novated, supplemented, varied or replaced from time to time and in any form, whether on paper or in an electronic form.

2. VARIATION

The Lease is varied as follows, with effect from the Operative Date:

- 2.1 **Schedule Varied:** The following items of the schedule in the Lease are deleted and replaced with the following:

- "5. **Futher Terms:**
Three (3) rights of renewal each for a term of three (3) years, one right of renewal of six (6) years, one (1) right of renewal of eight (8) months and one (1) right of renewal of two (2) years.
- 6. **Renewal Dates**
1 April 2009, 1 April 2012, 1 April 2015, 1 April 2021, 1 October 2021 and 1 December 2021
- 7. **Final Expiry Date:**
30 November 2023
- 11. **Review Dates:**
CPI Rent Review Date: 1 December 2021"

- 2.2 **Clause Added:** The following clauses are added to the Lease:

- "1.6: The Annual Rent payable from each CPI Rent Review Date shall be determined as follows:

- (a) The Landlord shall adjust the Annual Rent on the basis of increases (and not decreases) in the CPI by giving notice to the Tenant of the increase (if any) using the formula:

$$A = B \times (C/D)$$

Where:

- A = the CPI reviewed rent from the relevant CPI rent review date;
- B = Annual Rent payable immediately before the relevant CPI rent review date;
- C = CPI for the nearest quarter date preceding the relevant CPI rent review date;
- D = CPI for the nearest quarter date preceding the most recent Renewal Date; and

provided that (C/D) will never be less than 1.00.

- (b) If the CPI is discontinued and not replaced, or if there is a material change to the basis of calculation of the CPI, or a resetting of the CPI, an appropriate index which reflects the change in the cost of living in New Zealand as agreed by the parties and failing agreement to be determined by an expert appointed by the president or vice president of the New Zealand Law Society will be used.
- (c) If the relevant CPI is not published at the relevant CPI rent review date, as soon as the CPI is published an appropriate adjustment will be made to the rent (if necessary) with effect from the relevant CPI rent review date.
- (d) Notwithstanding any other provision of subclause 1.6, the annual rent payable as from the relevant CPI rent review date shall not be less than the annual rent payable immediately preceding the CPI rent review date (and in the case where the relevant CPI rent review date is a renewal date, the annual rent payable at the expiry of the preceding term).

- 1.7 The new rent determined pursuant to subclause 1.6 shall be payable from the relevant CPI rent review date once it is determined by the Landlord giving notice under that subclause. Pending determination of the new rent, the Tenant will pay the rent that applies prior to the CPI Rent Review Date. On determination of the new annual rent, the Tenant will immediately pay any shortfall to the Landlord."

2.3 **Definition Added:** the following definition is added as clause 44.(h) of the Lease:

- "(h) "CPI" means the Consumer Price Index (All Groups) published by Statistics New Zealand or other government agency and any revised, replaced, or substituted index."

3. CONTINUANCE

Except as expressly varied by this deed, the terms expressed or implied in the Lease will continue in full force and effect after execution of this deed.



4. COSTS

Each party will pay their own costs of negotiation, preparation and execution of this deed.

5. GENERAL

- 5.1 Further Assurances:** Each party will do all things and execute all documents reasonably required to give effect to the provisions and intent of this deed.
- 5.2 Governing Law and Jurisdiction:** This deed is governed by the laws of New Zealand. The parties submit to the exclusive jurisdiction of the New Zealand courts in respect of all matters relating to this deed.

EXECUTED AND DELIVERED AS A DEED

SIGNED by YY INVESTMENT LIMITED as
Landlord by:

Zhenhua YE
Full name of director/authorised signatory

[Signature]
Signature of director/authorised signatory

Qingyan YE
Full name of director/authorised signatory

[Signature]
Signature of director/authorised signatory

Witness:
(if other than two directors sign)

[Signature]
Signature of witness

Full name of witness

WINSTON W. WANG

Occupation of witness

SOLICITOR

**WINSTON W. WANG
SOLICITOR
AUCKLAND**

Address of witness

SIGNED by **TAMAKI REDEVELOPMENT
COMPANY LIMITED** as Tenant by:

Paul William McElwee

Full name of director/authorised signatory



Signature of director/authorised signatory

Full name of director/authorised signatory

Signature of director/authorised signatory

Witness:

(if other than two directors sign)



Signature of witness

Full name of witness

Katrina Wilson

Solicitor

Occupation of witness

AUCKLAND

Address of witness