

Logo Licence and Premises Licence

Schedule: Agreement details

Item 1	School	
Item 2	School Service Address	Postal address: Email address:
Item 3	Licensee	
Item 4	Licensee Service Address	Postal address: Email address:
Item 5	Agreement Start Date	
Item 6	Agreement End Date	
Item 7	Logo Licence Fee Percentage	Quarterly 10% of the total gross sales of the uniform stock.
Item 8	Payment Schedule	
Item 9	Retail Methods	<input type="checkbox"/> Uniform Shop at the School <i>By ticking this box and executing this Agreement, the Department and the Licensee also agree to be bound by a licence for the Premises on the terms set out in the Annexure (the Premises Licence)</i> <input type="checkbox"/> Online retail <input type="checkbox"/> Retail shop at [<i>insert location of shop(s)</i>].
Item 10	Delivery conditions	<p>The Licensee will deliver Uniform Items purchased online by customers:</p> <p>(i) to the School every week for collection by the customer at no cost;</p> <p>(ii) to the customer within [] days of order:</p> <ul style="list-style-type: none"> • at a cost of \$[] if the order is less than \$[]; • at no cost if the order is over \$[].
Item 11	Additional Conditions	

Agreement terms and conditions

1. Parties

The parties are:

- (a) the Minister for Education and Early Childhood Learning (the **Department**); and
- (b) the party named in Item 3 of the Schedule (the **Licensee**).

2. Department delegation and consents

- 2.1. **(Delegation)** The Department may delegate or authorise its Personnel to perform some or all of its obligations under this Agreement including providing consents or approvals.
- 2.2. **(Discretion for consents and approvals)** If the doing of any act, matter or thing under this Agreement is dependent on the consent or approval of the Department or is within the discretion of the Department, the consent or approval may be given or the discretion may be exercised conditionally or unconditionally or withheld by the Department as the case may be at the Department's absolute discretion.
- 2.3. **(Consents and approvals to be in writing)** Any matter or thing requiring the Department's consent or approval under this Agreement requires the Department's consent or approval to be in writing in advance. Clause 23.14 (Waivers and consents) applies to all consents and approvals.

3. Definitions

Except where the contrary intention is clear, these words have the following meaning:

Agreed Price	means the price for the relevant Uniform Item set out in Appendix A.
Agreement	means this agreement and includes schedules and appendixes as amended from time to time.
Applicable Laws	means all Laws applicable to the Licensee or relating to the manufacturing or sale of clothing, including any mandatory standards under the Australian Consumer Law and privacy Laws.
Business Day	means a day that is not a Saturday, Sunday or any other day which is a NSW gazetted public holiday.
Claim	means any claim, demand, proceedings, dispute or complaint of any nature or kind.
Confidential Information	means all information disclosed by the Department (including its Personnel, teachers, students and parents or carers of students) to the Licensee that is by its nature confidential or that the Licensee knows or ought to know is confidential. It includes Department Data. It does not include information which: is lawfully in the public domain prior to its disclosure to the Licensee by another person; enters the public domain otherwise than as a result of an unauthorised disclosure; is or becomes available to

the Licensee from a third person which has the right to disclose the information to the Licensee on a non-confidential basis; or was known by the Licensee before disclosure to it.

Department Data	means all data and information relating to the operations, facilities, students, parents and carers, teachers, clients, Personnel, assets and programmes of the Department in whatever form that information may exist and whether collected, entered into, stored in, generated by or processed as part of the performance of this Agreement.
Gross Sales	has the meaning given by clause 7.2 (Calculating Logo Licence Fee).
Intellectual Property Rights	means any rights attached to all patents, copyright, moral rights, registered designs, registered and unregistered trademarks, trade secrets, know-how and all other intellectual property.
Law	means any statute, rule, regulation, order, subordinate legislation, standard or other document or direction enforceable under any statute, rule, regulation, order, or subordinate legislation.
Logo Licence	means the licence to use the School Logo granted under clause 4 (Licence to Use School Logo) subject to the conditions of this Agreement.
Logo Licence Fee	means the fee calculated in accordance with clause 7.2 (Calculating Logo Licence Fee).
Loss	means any loss, damage, liability, action, suit, Claim, charge, cost or expense of any kind.
Payment Schedule	means the payment schedule set out in Item 8 of the Schedule.
Personnel	of a person includes its employee, agent, officer, subcontractor, contractor or volunteer. A reference to the Licensee's Personnel does not include the Department. A reference to the Department's Personnel does not include the Licensee.
School	means the school outlined in Item 1 of the Schedule.
School Logo	means the logo set out in Appendix B.
School Specific Uniform Items	has the meaning given by clause 20.1(a)(i).
School Specific Fabric	has the meaning given by clause 20.1(a)(ii).
Term	means the period between the Agreement Start Date and the Agreement End Date (specified in Item 5 and Item 6 of the Schedule), unless ended earlier under clause 18 (Suspension and ending).
Uniform Items	means all items that form part of the School's uniform as specified in Appendix A, and not just those with the School Logo, as updated.
WHS Law	means all Laws relating to work, health and safety and includes the <i>Work Health and Safety Act 2011</i> (NSW) and the <i>Work Health and Safety Regulations 2011</i> (NSW).

4. Licence to Use School Logo

- 4.1. **(Grant of licence to use School Logo)** The Department grants to the Licensee a non-exclusive, non-transferable, revocable licence to reproduce the School Logo for the Term for the purpose of manufacturing and selling Uniform Items in accordance with this Agreement. The Department intends that the Licensee will be the sole manufacturer and seller of the Uniform Items with the School Logo.
- 4.2. **(Uniform specifications)** The Licensee will only produce Uniform Items in accordance with the specifications required under this Agreement.
- 4.3. **(Other retailers)** The Licensee must not supply Uniform Items with the School Logo to other retailers/resellers without the Department's prior consent.
- 4.4. **(Retail Methods)** The Licensee will make Uniform Items available for sale via the Retail Methods specified in Item 9 of the Schedule. The Licensee must not change these Retail Methods without the Department's consent.
- 4.5. **(Resales)** The Licensee acknowledges that this clause 4 does not prevent the resale of Uniform Items (including second-hand/used Uniform Items) by the Department or any third party permitted by the Department to resell Uniform Items.

5. Intellectual Property Rights

- 5.1. **(Ownership)** The Licensee acknowledges that this Agreement does not transfer ownership of Intellectual Property Rights in the School Logo or any Uniform Item including any modifications.
- 5.2. **(Licensee's obligations)** It is the Licensee's obligation to satisfy itself that it has the approvals and consents to manufacture and supply the Uniform Items, and that in doing so, the Licensee will not infringe the Intellectual Property Rights of any third party.
- 5.3. **(Restrictions)** The Licensee must not:
- (a) infringe the Department's Intellectual Property Rights in the School Logo; or
 - (b) without the consent of the Department:
 - (i) use, copy or reproduce the School Logo or any part of it otherwise than in accordance with this Agreement; or
 - (ii) sub-license the Licensee's rights in relation to the School Logo.
- 5.4. **(IP acknowledgement and no dispute)** The Licensee acknowledges the Department owns the Intellectual Property Rights in the School Logo. The Licensee will not directly or indirectly dispute, or assist any third party to dispute, the validity of the Department's ownership of Intellectual Property Rights in the School Logo. This includes not registering any trade marks that are the same as or similar to the School Logo.
- 5.5. **(Rights to use Uniform Items)** The Licensee grants to the Department a perpetual, irrevocable, transferrable, sub-licensable, licence to the Intellectual Property Rights:
- (a) in the Uniform Items (excluding the School Logo); and
 - (b) it or its Personnel may provide or create, alone or with others, arising out of or in connection with the Uniform Items.

The Licensee must ensure that it has all approvals and consent to provide these rights to the Department.

6. Term

- 6.1. **(Agreement Term)** The Agreement will operate for the Term.
- 6.2. **(Steps prior to Agreement End Date)** The Department will give notice to the Licensee not less than 6 months and not more than 12 months prior to the expiry of the Term confirming that the Agreement will end on the Agreement End Date. Regardless of the date it receives such notice, the Licensee must take all reasonable and appropriate steps so that from the Agreement End Date it may vacate the Premises (if a Premises Licence had been granted) and cease performing its obligations under this Agreement other than those set out in clause 19 (Licensee obligations on ending). The Licensee will have no Claim in connection with the Department not entering into a new agreement (or any of the licences under it), or for any Loss arising in connection with the Department not extending the Agreement (or any of the licences under it).
- 6.3. **(Holding Over)** If the Parties continue to perform the Agreement immediately after the expiry of the Agreement End Date, the Agreement will continue until either Party provides at least 6 months' written notice to the other party to terminate the Agreement.

7. Licence fees

- 7.1. **(Licence fees)** The Licensee will pay the:
- (a) Logo Licence Fee; and
 - (b) Premises Licence Fee (if applicable),
- to the Department in accordance with the timing specified in the Payment Schedule. The fees above must be paid free of deductions, set offs or counter claims. The details of the Premises Licence Fee are set out in the Annexure **(Premises Licence)**.
- 7.2. **(Calculating Logo Licence Fee)** The Logo Licence Fee is the amount calculated by multiplying the percentage nominated in Item 7 of the Schedule by Gross Sales for the previous month.
- To be clear, the Logo Licence Fee is a fee for the licence granted in clause 4 (Licence to use School Logo) of this Agreement and has no connection to the Premises Licence.
- Gross Sales** means the total amount of sales of Uniform Items (including items without the School Logo) less GST and any returns. This includes all sales, such as online and telephone orders, sales at school events, and any other retail sales.
- 7.3. **(Statement of accounts)** The Licensee must provide a statement of accounts to the Department in accordance with the timing specified in the Payment Schedule which includes a total of Gross Sales, details of Uniform Items sold (including sizes and volumes sold) and the calculation of the Logo Licence Fee. On receipt of the statement of accounts the Department will issue to the Licensee a tax invoice for the Logo Licence Fee. The Licensee must pay each tax invoice within 30 days of issue.
- 7.4. **(Accounting records)** The Licensee must keep proper accounting records including transaction records for the sale of all Uniform Items. If the accounting records are not prepared by a duly qualified accountant, the records must be audited by a duly qualified accountant on request by the Department at the Licensee's cost.

- 7.5. **(Inspection and audit)** The Department may, after giving reasonable notice, inspect the Licensee's premises and/or audit the Licensee's records in relation to its compliance with this Agreement. The Licensee must provide reasonable assistance to the Department, including providing access to premises and copies of documents, as required by the Department to perform the inspection or audit (as the case may be). Without limiting the Department's rights, if any underpayment is identified, the Licensee must notify the Department of this underpayment and pay the amount of the underpayment to the Department within 7 days of becoming aware of the underpayment.
- 7.6. **(Dispute)** If the Department disputes the amount set out in the Licensee's statement provided under clause 7.3 (Statement of Accounts):
- (a) the Department must provide notice of the dispute to the Licensee; and
 - (b) if any dispute cannot be resolved between the parties, an independent accountant is to be appointed by the parties to review the records of the Licensee and verify the statement. The independent accountant's opinion of the statement will be binding on the parties.
- 7.7. **(Interest)** The Licensee must pay interest to the Department on any money which is or becomes due and payable under this Agreement from the day that is 30 days from the date when it fell due to be paid until the date it is actually paid at the rate equal to the Reserve Bank of Australia's cash rate, as it changes from time to time, plus 4% per annum basis. Such interest shall accrue and be calculated on a daily basis.

8. Licensee obligations

- 8.1. **(Obligations and priority of terms)** The Licensee must comply with:
- (a) all Applicable Laws
 - (b) the additional conditions, if applicable, in Item 11 of the Schedule
 - (c) the Schedule (excluding Item 11 of the Schedule)
 - (d) the terms and conditions of this Agreement (including relevant appendixes)
 - (e) the Premises Licence (if applicable)
 - (f) the additional conditions, if applicable in Item 8 of the Premises Licence (if applicable)
 - (g) Appendix C: Licensee Tender Response; and
 - (h) Appendix D: Department Statement of Requirements.

To the extent of any inconsistency between the above, the order of priority will be 8.1(a), 8.1(b), 8.1(c), 8.1(d), 8.1(e), 8.1(f), 8.1(g) and then 8.1(h).

- 8.2. **(Other Licensee obligations)** The Licensee:
- (a) must operate in a professional, courteous, respectful and competent manner
 - (b) must comply with all reasonable directions by the Department
 - (c) must work cooperatively with the Department's Personnel and suppliers
 - (d) must perform the Retail Methods in a manner that provides a positive customer service experience
 - (e) must minimise any disruption to the Department's operations; and
 - (f) accepts all risks and costs to comply with this Agreement.

- 8.3. **(Department not responsible)** The Licensee agrees:
- (a) it is responsible for performing its obligations under this Agreement
 - (b) the Department does not assume or owe any duty of care to the Licensee to review, consider, or assess the Licensee's services for errors, omissions or compliance with this Agreement or any Laws; and
 - (c) any review or rejection by the Department of anything provided by the Licensee, or failure to review or reject, will not:
 - (i) relieve, affect or change the Licensee's obligations under this Agreement or at Law; or
 - (ii) prejudice the Department's rights against the Licensee under this Agreement or at Law.

9. GST

- 9.1. **(Act)** A term used in this Agreement which is defined in the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* (**GST Act**) is interpreted as defined or used in the GST Act.
- 9.2. **(GST-Exclusive)** Any amount relevant in determining a payment to be made by a party is exclusive of any GST unless indicated otherwise.
- 9.3. **(If GST applies)** If GST is imposed on a supply, the consideration provided for that supply must be paid in addition to the relevant GST rate. GST is payable at the same time as the consideration to which it relates.
- 9.4. **(Input tax credits)** If one of the parties is entitled to be reimbursed for an expense or outgoing, the amount of the reimbursement will be net of any Input Tax Credit which may be claimed by the party being reimbursed in relation to that expense or outgoing.

10. Uniform specifications, pricing and levels of business

- 10.1. **(Changes to Uniform Items: at least 18 months notice)** The Department may change the Uniform Items including the School Logo from time to time by giving at least 18 months' written notice to the Licensee setting out the specific changes required. To be clear, the time period of 18 months does not include preliminary discussions before the Department has given written notice of the changes required. After receipt of notice from the Department, the Licensee must consult with the Department and reasonably agree on transition arrangements for the period of notice including:
- (a) timeframes for supply of the new stock;
 - (b) arrangements for running down existing stock levels of any stock that may become redundant once the change occurs;
 - (c) how the change will be communicated to the school community; and
 - (d) any other matters that may impact the level of stock that will still be held at the end of the Term.

Any agreement between the parties must be in writing and signed by the parties. The School's only obligations in relation to the change to Uniform Items and transition arrangements will be those agreed in writing and signed by the parties.

- 10.2. **(Changes to Uniform Items: less than 18 months notice)** If the Department would like to change the School's uniform policy, the Uniform Items or the School Logo with less than 18 months' to the Licensee, there must be a signed agreement setting out:
- (a) reasonable transition arrangements; and
 - (b) purchase of quantities of affected School Specific Uniform Items and School Specific Fabric that the Licensee has remaining in stock. The price and other conditions of sale of these items will be in accordance with clause 20.3 (Conditions of sale) other than clause 20.3(c) (Maximum Purchase Amount).

The Licensee must use best endeavours to facilitate the School's preferred change to its uniform policy.

- 10.3. **(Pricing)** The Licensee must only sell the Uniform Items for a maximum of the Agreed Price. These prices may only be increased once per calendar year with the Department's approval. The request for approval must be in writing and provided at least 12 weeks, not including school holidays, before the price increase is intended to take effect. The Department may approve any reasonable Agreed Price increases but has no obligation to do so. The Licensee may decrease prices at any time or increase the prices to an amount no higher than the Agreed Price.
- 10.4. **(Sufficient and reasonable volumes of stock)** The Licensee must, at all times, use reasonable endeavours to hold sufficient and reasonable volumes of Uniform Items in various sizes to address demand over the Term. The amount of stock held must take into account the School's individual demand circumstances including the number of students, gender, ages and size requirements. To be clear, the Licensee is solely responsible for decisions it makes about volumes of Uniform Items it holds.
- 10.5. **(Reporting on stock levels)** The Licensee must provide the Department with a report by the end of March and September each year that details the Uniform Items it holds. The report should specify the volumes of stock in various sizes, estimated value of the stock and sales for the previous 6 month period. The March report will cover September to February (inclusive) and the September report will cover March to August (inclusive). The Licensee must provide such a report at other times when reasonably requested by the Department.
- 10.6. **(Delivery arrangements)** The Licensee must ensure Uniform Items are delivered to customers, either directly to the customer or to the School, in accordance with Item 10 of the Schedule.
- 10.7. **(Levels of business)** Information about student enrolments in NSW public schools is generally made available by the Centre for Education Statistics and Evaluation (<https://data.cese.nsw.gov.au/>). The Licensee can request and the Department will provide information available to the Department about current and anticipated student enrolments within the School once each calendar year. The Department gives no warranty to the Licensee as to accuracy of anticipated student enrolments or the levels of business the Licensee may expect as a result of this Agreement.
- 10.8. **(Rights to use other suppliers, if needed)** While it is intended that the Licensee will be the sole manufacturer and seller of Uniform Items with the School Logo, the Department may grant a third party the right to manufacture and sell any type of uniform items (such as speciality items) with the School Logo. Before granting a third party such a right, the Department will consult with the Licensee to determine if the Licensee is able to supply

the required uniform item to suitable levels of quality, price and/or availability as determined by the Department.

- 10.9. **(All Uniform Items)** This clause 10 applies to all items specified in the Uniform Items, and not just those with the School Logo.

11. Applicable Laws and Department's policies

The Licensee must comply with all Applicable Laws and the Department's policies made available to the Licensee from time to time. To be clear, the Uniform Items (including components of the items) must not be manufactured or supplied:

- (a) using 'the worst forms of child labour' as defined under ILO Convention 182; or
- (b) in breach of the *Modern Slavery Act 2018* and other similar Laws which may come into force in Australia.

12. Licensee Personnel and subcontractors

- 12.1. **(Primary contact)** The Licensee must nominate from time to time a person who will be the primary point of contact. Contact details for this person must be provided to the Department.
- 12.2. **(Compliance by Licensee's Personnel)** The Licensee must ensure its Personnel comply with:
- (a) **(Agreement)** this Agreement; and
 - (b) **(Laws)** all Applicable Laws, including the *Child Protection (Working with Children) Act 2012* (NSW), the *Child Protection (Working with Children) Regulation 2013* (NSW) and WHS Law and any other ancillary legislation, and the Department's policies as notified to the Licensee.
- 12.3. **(Licensee Personnel checks)**
- (a) **(When checks are required)** The Licensee must at its cost ensure that any of its Personnel performing the obligations of the Licensee that involve child-related work (within the meaning of the Department's policies and child protection legislation) at the School satisfactorily complete the following checks before they are engaged to do such work:
 - (i) a Working With Children Check; and
 - (ii) a National Police Check.

The above checks must be completed in accordance with the Department's policies, and child protection legislation.
 - (b) **(Evidence of checks)** The Licensee must at its cost provide evidence that those Personnel have passed the above checks before commencing the child-related work in connection with this Agreement.
- 12.4. **(Personnel at School)** The Licensee must not without the consent of the Department employ or otherwise engage any person to perform any work in connection with this Agreement at the School 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 at the School.

- 12.5. **(Department concerns about Personnel)** The Department may advise the Licensee without providing a reason that it is concerned about:
- (a) any employee of the Licensee continuing to work in the School;
 - (b) any person otherwise engaged in work at the School continuing to be so engaged.
- On receipt of notice from the Department pursuant to this clause, the Licensee must take steps to investigate whether the employee or person otherwise engaged should remain at the School. The employee or person must not work in the School or otherwise be engaged in work in connection with this Agreement until this investigation is complete and the Department is satisfied that the employee or person may continue.
- 12.6. **(Subcontracting)** The Licensee must not subcontract any part of its obligations under this Agreement without the Department's consent.
- 12.7. **(Continued liability)** If the Department permits the Licensee to subcontract its obligations to a third party, the Licensee will remain fully liable to the Department for all its obligations under this Agreement and for all acts and omissions of its subcontractors as if they were the acts and omissions of the Licensee.

13. Child Protection

- 13.1. **(Notifying the Department)** The Licensee must notify the Department within 1 Business Day if it is aware that one of its workers or invitees whose role in supplying the services involves child-related work (within the meaning of the Department's policies) at the School:
- (a) has been referred to the police in relation to a disqualifying offence
 - (b) has been charged by the police in relation to a disqualifying offence; or
 - (c) has been found guilty of a disqualifying offence.

Disqualifying offence means an offence in Schedule 2 of the *Child Protection (Working with Children) Act 2012* (NSW) (**CP Act**).

- 13.2. **(Requirement to report)** The Licensee acknowledges the Department has a requirement to report any information provided under clause 13.1 (Notifying the Department).
- The safety, welfare and wellbeing of children, and in particular protecting them from child abuse, is the paramount consideration when considering any further use or disclosure will be made of the information received. This will include informing various other persons in compliance with the Department's requirements and may include informing members of the School community of the information provided under clause 13.1 (Notifying the Department) where those community members may be directly concerned with or affected by the information.
- 13.3. **(Providing further information)** The Licensee must provide the Department with information it receives relating to the safety, welfare or wellbeing of a particular child or a class of children enrolled in the School if the Licensee reasonably believes this information would assist the Department to make any decision, assessment or plan, or conduct any investigation or provide any service relating to the safety, welfare or wellbeing of the child or a class of children.

- 13.4. **(Persons to be excluded)** The Licensee must not employ, or continue to employ, as a worker a person in child-related work at the School if it knows or has reasonable cause to believe that:
- (a) the worker is not the holder of a working with children check clearance under the CP Act; or
 - (b) the worker is subject to an interim bar under the CP Act.
- 13.5. **(Verification of compliance)** The Licensee must complete and sign Child Protection Declarations as required under the CP Act or by the Department.
- 13.6. **(Change in Department requirements)** The Department may at any time change the provisions of its policies or of this Agreement in relation to child protection without a requirement to vary the Agreement. Upon notification of any change, the Licensee must comply with the changes as notified within such reasonable time as is specified in the notice.

14. Information management

- 14.1. **(Confidentiality)** The Licensee must keep Confidential Information that it receives or develops in complying with its obligations under this Agreement confidential and not use it other than for the purpose of exercising its rights and performing its obligations under this Agreement. The Licensee may disclose the Department's Confidential Information to the extent required by Applicable Laws.
- 14.2. **(Privacy)** The Licensee must comply with the *Privacy and Personal Information Protection Act 1998* (NSW) (**PIIP Act**) in respect of any Personal Information (as defined in the PPIP Act) the Licensee (including its Personnel) receives in the course of performing its obligations under this Agreement.
- 14.3. **(Publicity)** The Licensee must not disclose, distribute or otherwise communicate any media release, promotional material or publicity about or relating to this Agreement without the consent of the Department.
- 14.4. **(Marketing)** The Licensee must not use any marketing collateral or promotions in connection with this Agreement, including Uniform Items, without the Department's consent. To be clear, the Licensee must not make any reference to the Department, the School or use the School Logo on its website without the approval of the Department.

15. Online sales

If indicated in Item 9, the Licensee must provide customers with an online sales platform for the sale of Uniform Items during the Term, which allows customers to view, order and pay for Uniform Items.

The Licensee must continue to ensure:

- (a) **(security)** the website and electronic payment system meets all security and reliability standards (e.g. the PCI DSS) usually followed by online retailers in Australia to safeguard against the unauthorised access, use, destruction, loss or alteration of information
- (b) **(laws and privacy)** the website and electronic payment system complies with all Applicable Laws including privacy Laws

- (c) **(use of Confidential Information)** it only uses Confidential Information (including customer information or transaction information) for the purpose of performing its obligations under this Agreement. The Licensee must not use the Confidential Information for any advertising or other commercial purpose other than as approved by the Department
- (d) **(notify the Department)** it notifies the Department promptly if it becomes aware of any breaches of security or privacy Laws that occur in the course of the Licensee performing its obligations under this Agreement; and
- (e) **(use of School Logo or School name)** any reference to the Department, School or use of the School Logo or School name on the Licensee's website is approved by the Department.

16. Insurance

- 16.1. **(Policies to be maintained)** The Licensee must have and maintain the following insurances:
 - (a) general and public liability insurance with a minimum cover of \$20 million per claim;
 - (b) workers' compensation as required by law;
 - (c) adequate insurance against damage to or loss of the Licensee's fixtures, fittings, equipment and goods in the Premises (where there is a Premises Licence); and
 - (d) any other insurances which are required by law or by the Department acting reasonably.
- 16.2. **(Evidence)** The Licensee must, on request by the Department, provide current confirmation of insurance documentation including the policies wording (i.e. terms, conditions, exclusions) and certificates of currency, certifying that it has insurance as required under this Agreement.
- 16.3. **(Insurance does not affect liabilities)** The requirements of this clause 16 do not affect the Licensee's liabilities in connection with this Agreement.

17. Indemnity and liability

- 17.1. **(Indemnity)** The Licensee indemnifies the Department from and against any Loss (including legal fees on a solicitor/client basis) which the Department pays, suffers, incurs or is liable for arising out of or in connection with this Agreement including the manufacture, marketing, sale and delivery of the Uniform Items.
- 17.2. **(Contribution)** The indemnity in clause 17.1 (Indemnity) will be reduced proportionally to the extent that any unlawful, negligent or deliberately wrongful act or omission of the Department caused or contributed to the Loss. To be clear, any consent or approval which the Department provides under this Agreement does not reduce the Licensee's liability (if any) under the indemnity in clause 17.1 (Indemnity) above.
- 17.3. **(Exclusion of consequential loss)** Neither party is liable for, and no measure of Loss will, under any circumstances include Consequential Loss whether in contract, tort (including negligence), equity, under statute or any other basis, whether or not the Loss was foreseeable and even if advised of the possibility of the Loss.

Consequential Loss means any Loss of any person recoverable at Law which is:

- (a) indirect or consequential loss
- (b) loss of income, revenue, profits, opportunity or goodwill
- (c) a loss of anticipated savings or business; and
- (d) loss of value of any equipment,

and any Loss in connection with the above items.

The Licensee's obligation to pay the Logo Licence Fee, Premises Licence Fee and other amounts set out in the Schedule is not excluded by this clause.

18. Suspension and ending

18.1. Termination for convenience

- (a) **(Termination by notice)** The Department may end this Agreement, in whole or in part, for any reason or no reason, by notice to the Licensee.
 - (i) **(Notice of 12 months or more)** If the Department provides notice to end this Agreement with 12 months' or more notice, the Licensee will have no Claim in connection with the Department terminating under this clause 18.1, or for any Loss arising in connection with the ending.
 - (ii) **(Notice of less than 12 months)** If the Department provides notice to end this Agreement with less than 12 months' notice, the Department must purchase quantities of unsold School Specific Uniform Items and School Specific Fabric that the Licensee has remaining in stock.

The quantities to be purchased, price and other conditions of sale will be in accordance with clauses 20.3 (Conditions of sale) other than clause 20.3(c)(Maximum purchase amount).

18.2. Termination or suspension for Licensee default

- (a) **(Not allow an Event of Default)** The Licensee will not allow an Event of Default (defined below) to occur.
- (b) **(Notify Department about an event)** If an Event of Default occurs, the Licensee must immediately notify the Department of the event and give full details to allow the Department to assess the event.
- (c) **(What Department may do if an Event of Default occurs)** If an Event of Default occurs, then the Department may, by notice to the Licensee, immediately:
 - (i) **(suspend)** suspend all or part of the Licensee's rights
 - (ii) **(enforce other rights)** exercise any of its rights under this Agreement or at Law; or
 - (iii) **(end this Agreement)** end the Agreement.
- (d) **(Event of Default)** Event of Default means any of the following (whether or not caused by anything outside the control of the Licensee):
 - (i) **non-compliance:** the Licensee has not complied with this Agreement
 - (ii) **insolvency:** (subject to Laws) an insolvency event occurs in relation to the Licensee

- (iii) **unlawful:** it becomes unlawful for the Licensee to manufacture or supply the Uniform Items
- (iv) **abandonment:** the Licensee abandons, ceases or suspends all or a substantial part of manufacturing or supplying the Uniform Items or is, in the reasonable opinion of the Department, likely to do so; or
- (v) **disrepute:** the Department reasonably believes that to continue the Agreement may affect or bring its reputation into disrepute. The Licensee acknowledges that the Department's reputation is invaluable and agrees that the Department has the sole discretion to determine whether continuing performance of this Agreement will affect its reputation.

19. Licensee obligations on ending

- 19.1. **(Stop using the School Logo)** On ending of this Agreement, the Licensee must stop manufacturing items with the School Logo.
- 19.2. **(Stop supplying Uniform Items)** On ending of this Agreement, the Licensee must stop supplying Uniform Items. The Licensee may only continue to supply any remaining stock of Uniform Items with the Department's consent.
- 19.3. **(Deal with Confidential Information)** Within 60 days of this Agreement ending (for any reason), the Licensee must unless otherwise directed by the Department destroy any Department Confidential Information (including Department Data and any Personal Information on students and their families or Department Personnel).
- 19.4. **(Uniform Items)** On ending of this Agreement (for any reason), the Licensee is responsible for all unsold Uniform Items that are not purchased by the Department or an incoming licensee including for all costs and expenses in connection with that stock. The Department is not required to purchase any unsold stock from the Licensee or require any incoming licensee to purchase such unsold stock other than in accordance with clause 18.1(a)(ii) (Termination by notice, notice of less than 12 months) and clause 20 (Purchase of items and material on ending).
- 19.5. **(Transition to new licensee)** The Licensee must provide all reasonable assistance requested by the Department in connection with transitioning this licence arrangement to another licensee.
- 19.6. **(Other rights)** Ending of this Agreement for any reason will be without prejudice to any rights which either party may have accrued before ending.

20. Purchase of items and material on ending

- 20.1. **(Licensee to provide information)**
 - (a) The Department may at any time before or after ending of this Agreement, request that the Licensee provide:
 - (i) **School Specific Uniform Items:** stock levels by item type, size, current Agreed Price and sales history over the Term of Uniform Items with the School Logo or made specially for the School (**School Specific Uniform Items**); or

- (ii) **School Specific Fabric:** information about fabric made specially to create School Specific Uniform Items (**School Specific Fabric**) that the Licensee has remaining in stock including information about the types and quantities of fabric with details of the actual price paid by the Licensee to an arm's length third party for each of them, without mark-up or overhead.

The Licensee must provide this information within 10 Business Days of the Department's request. The Licensee must allow the Department to view these items if requested.

- (b) The Department may provide this information as part of a process to select an incoming licensee.

20.2. (Purchase of stock by incoming licensee)

- (a) **(Department to include requirement in selection process)** In its process to select an incoming licensee, the Department will include a requirement for the successful incoming licensee to negotiate in good faith with the Licensee to purchase remaining quantities of School Specific Uniform Items and School Specific Fabric (**Remaining Specific Inventory**).

The terms on which the Licensee must offer the remaining items and fabric must be no less beneficial to an incoming licensee than as set out in clause 20.3 (Conditions of sale) below.

- (b) **(Department to provide incoming licensee details)** The Department must, on request from the Licensee, provide the contact details of an incoming licensee if an agreement has been signed with the incoming licensee. The Licensee may approach the incoming licensee to negotiate in good faith the sale of any Remaining Specific Inventory.

20.3. (Conditions of sale) The sale of Remaining Specific Inventory by the Licensee to an incoming licensee (**Purchaser**) will be subject to the following conditions:

- (a) **(Reasonable quantities and new and acceptable quality)** Unless otherwise agreed by the Purchaser and the Licensee, the items to be purchased will be limited to reasonable quantities of new and acceptable quality Remaining Specific Inventory.
- (b) **(Prices for Remaining Specific Inventory)** The prices that the Purchaser will pay the Licensee for the items being purchased will not be more than:
 - (i) **School Specific Uniform Items:** 60% of the Agreed Price for the School Specific Uniform Items; and
 - (ii) **School Specific Fabric:** the actual price, without mark-up or overhead, paid by the Licensee to arm's length third party for the School Specific Fabric.
- (c) **(Maximum purchase amount)** The Purchaser will not be required to pay for the Remaining Specific Inventory an amount that is more than 50% of the total sales (ex GST) of School Specific Uniform Items by the Licensee in the 12 months before expiry or termination of the Agreement (**Maximum Purchase Amount**). *For example, assume (for illustrative purposes only) that in the final 12 month period total sales of School Specific Uniform Items at the applicable Agreed Prices for those items was \$100,000. This would mean that the Maximum Purchase Amount of Remaining Specific Inventory will be \$50,000.*

If the total price of the Remaining Specific Inventory multiplied by the prices specified in 20.3(b) exceeds the Maximum Purchase Amount, the Purchaser will have discretion to decide the components of the Remaining Specific Inventory it will purchase up to the Maximum Purchase Amount.

- (d) **(Delivery, invoicing and payment for items sold)** The Licensee will provide the purchased items to the Purchaser within 10 Business Days of the later of expiry or termination of this Agreement, and signing of an agreement for sale of the Remaining Uniform Items. The Licensee must also provide the Purchaser with an invoice for the price. The Purchaser will pay this invoice before receiving the purchased items.

The Licensee must in good faith negotiate an agreement with the Purchaser for the Remaining Specific Inventory (or any other inventory) consistent with this clause 20.3 (Conditions of sale).

- 20.4. **(Agreement between Licensee and Incoming Licensee)** The Department has no responsibility for any agreement between the Licensee and any incoming licensee (Purchaser) nominated by the Department.
- 20.5. **(Department will determine reasonable quantities if there is a dispute)** In the event of a dispute between the Licensee and Purchaser about what constitutes reasonable quantities under clause 20.3(a), the Department will determine the quantities taking into consideration the School's demand circumstances (including number of students, gender, age size requirements), prior sales history, time of year and other matters that the Department may determine as relevant.
- 20.6. **(Department as purchaser)**
- (a) **(Is required to purchase)** If the Department is required to purchase Remaining Specific Items from the Licensor under clause 10.2 (Changes to Uniform Items- less than 18 months notice) or 18.1(a)(ii) (Termination by notice, Notice of less than 12 months), the conditions of sale will be as set out in clause 20.3 (Conditions of sale), other than clause 20.3(c) (Maximum purchase amount). The Department will be considered the 'Purchaser'.
- (b) **(Elects to purchase instead of an incoming licensee)** If the Department gives notice that it will purchase Remaining Specific Items instead of requiring an incoming licensee to negotiate in good faith with the Licensee to purchase those items, then the conditions of sale will be as set out in clause 20.3 (Conditions of sale). The Department will be considered the 'Purchaser'.

21. Notices

- 21.1. **(Notice in writing)** A notice related to contractual issues under this Agreement (**Notice**) has no legal effect unless it is in writing and is sent to the addresses in the Schedule (Agreement Details).
- 21.2. **(Rules for notices)** A Notice may be:
- (a) **(post)** sent by prepaid post to the address for service of the addressee
- (b) **(email)** sent by email to the email address of the addressee; or
- (c) **(delivery)** delivered at the address for service of the addressee.

- 21.3. **(When notice is received)** If a Notice is provided under clause 21.2, it must be treated as received by the party to which it is addressed:
- (a) **(post)** if sent by post, on the 2nd Business Day after posting
 - (b) **(email)** if sent by email, when sent by the sender unless the sender receives a delivery failure notification; or
 - (c) **(delivery)** if delivered by hand, when delivered to the nominated address.

22. Interpretation

In this Agreement, unless the contrary intention appears:

- 22.1. **(meaning of references)** a reference to:
- (a) the singular includes the plural, the plural includes the singular
 - (b) a clause, appendix or schedule is a reference to a clause, appendix, or schedule to this Agreement
 - (c) a document includes any variation or replacement of it
 - (d) a Law includes a Law made or issued under it and consolidations, amendments, re-enactments or replacements of any of them
 - (e) a person includes a partnership, body corporate, unincorporated association or an authority
 - (f) a reference to Department includes the School and *vice versa*
 - (g) a party includes the party's executors, administrators, successors and permitted assigns
 - (h) a liability (including a Loss or Claim) includes any obligation whether present or future or actual or contingent or as a principal, surety or otherwise
 - (i) **dollars, A\$ or \$** is a reference to the currency of Australia; and
 - (j) time is a reference to Sydney time
- 22.2. **(‘may’)** the term ‘may’ when used in the context of any power, right, authority, discretion or remedy (express or implied) **(Power)** of the Department means:
- (a) the Department can exercise or not exercise that Power in its absolute and unfettered discretion
 - (b) the Department has no obligation to the Licensee or any other party in connection with the exercise or non-exercise of that Power, including in connection with its effect on the Licensee; and
 - (c) no right, interest or expectation of any kind is created in the Licensee in respect of that Power or its exercise or otherwise
- 22.3. **(exercise of a power not affect rights)** where a Power is conferred on the Department under this Agreement, that Power is in addition to, and not in substitution of, any other Power conferred on the Department at Law or under this Agreement
- 22.4. **(timing of acts)** if a period of time dates from a given day or the day of an act or event, it is to be calculated exclusive of that day
- 22.5. **(non-Business Days)** if an act must be done on or by a day which is not a Business Day, it must be done instead on or by the next Business Day

- 22.6. **(‘include’ not exhaustive)** the words include, including, for example or such as when introducing an example, do not limit the meaning of the words to which the example relates to, or to examples of a similar kind
- 22.7. **(meaning of expressions)** where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning
- 22.8. **(headings)** headings, clause introductions in brackets and any index are for convenience only and do not form part of this Agreement or affect its interpretation
- 22.9. **(no adverse construction)** a provision of this Agreement must not be construed to the disadvantage of a party merely because that party was responsible for the preparation of this Agreement or the inclusion of the provision.

23. General

- 23.1. **(Good faith)** The parties will act in good faith in connection with this Agreement, including to resolve any disputes.
- 23.2. **(Conflicts of Interest)**
- (a) **(No conflict)** The Licensee will ensure that, to the best of its knowledge, no Conflict of Interest of the Licensee or its Personnel exists or is likely to arise in the performance of this Agreement.
 - (b) **(Definition)** Conflict of Interest includes engaging in any activity, or obtaining any interest, likely to conflict with the performance by the Licensee of, or to restrict the Licensee in performing, its obligations under this Agreement.
- 23.3. **(No exclusivity)** The Department does not give any exclusivity rights arising out of or in connection with this Agreement or services which are the same or similar to the Licensee’s operations in connection with this Agreement (in whole or part).
- 23.4. **(Assignment)** The Licensee may only assign its rights or obligations under this Agreement with the consent of the Department, which will not be unreasonably withheld.
- 23.5. **(Change in Control)** Any change in Control (as defined by Section 50AA of the *Corporations Act 2001* (Cth)) of the Licensee or any proposed or other action by the Licensee to reconstruct or amalgamate itself, requires the Department’s consent, which will not be unreasonably withheld.
- 23.6. **(Costs)** Each party must pay its own legal costs and other expenses connected with the negotiation, preparation and execution of this Agreement. The Department will not be liable for any costs incurred by the Licensee to fulfil its obligations according to this Agreement under any circumstances. The Licensee incurs those costs at its own expense and business risk.
- 23.7. **(No fetter on the Department’s powers)** This Agreement does not restrict or otherwise affect the Department’s unfettered discretion to exercise its statutory powers.
- 23.8. **(Further assurance)** Each party must promptly at its own cost do all things (including executing and delivering documents) necessary to give effect to this Agreement.
- 23.9. **(Relationships)** This Agreement does not create a relationship of partnership, employment, principal and agent, or trustee and beneficiary.

- 23.10. **(Taxes, duties and government charges)** The Licensee is liable for all taxes, duties and government charges imposed or levied in connection with this Agreement, except as otherwise specified in this Agreement.
- 23.11. **(Severability)** If anything in this Agreement is unenforceable, illegal or void then it is severed and the rest of this Agreement remains in force.
- 23.12. **(Entire understanding)** This Agreement and the Premises Licence (if applicable) is the entire agreement and understanding between the parties on the subject matter of this Agreement and the Premises Licence. It supersedes any prior agreement or understanding between the parties on anything connected with that subject matter.
- 23.13. **(Survival)** Clauses 2 (Department delegation and consents), 5 (Intellectual Property Rights), 7 (Licence fees), 8 (Licensee obligations), 14 (Information management), 17 (Indemnity and liability), 18 (Suspension and ending), 19 (Licensee obligations on ending), 20 (Purchase of items and material on ending), 21 (Notices), 22 (Interpretation), and 23 (General) survive ending of this Agreement as well as any right or obligation, which, by its nature is intended to survive ending of this Agreement.
- 23.14. **(Waivers and consents)** Except as expressly stated in this Agreement, each party acknowledges that:
- (a) a waiver or consent under this Agreement is not effective unless it is in writing and signed by the parties entitled to give the waiver or consent
 - (b) a waiver or consent may be given conditionally or unconditionally or withheld at the absolute discretion of the party entitled to give the waiver or consent
 - (c) a waiver of a power or right or the giving of consent is effective only in respect of the specific instance to which it relates and for the specific purpose for which it is given
 - (d) a party's failure or delay to exercise a power or right does not operate as a waiver of that power or right; and
 - (e) the exercise of a power or right does not preclude either its exercise in the future or the exercise of any other power or right.
- 23.15. **(Variations)** Any change to the Agreement must be in writing and signed by authorised representatives of each party.
- 23.16. **(Governing law and jurisdiction)** This Agreement is governed by the laws of New South Wales, Australia. The parties submit to the exclusive jurisdiction of the courts of New South Wales and any courts which are entitled to hear appeals from them.

Executed as an agreement on

EXECUTED by the **Licensee** in accordance
with section 127 of the *Corporations Act*
2001:

Signature:

Signature:

Name:
PLEASE PRINT

Director

Name:
PLEASE PRINT

Director/Secretary

* Delete as appropriate

Date:

Date:

SIGNED by
as duly authorised delegate of the
Department
in the presence of:

.....
Signature of witness

.....
Signature of delegate of Department

.....
Name of witness

Date:

Appendix A: Uniform Items

Summer uniform

Item	Description	Sizes	Includes logo	Agreed Price (incl GST)	Image
			Yes / No		
			Yes / No		
			Yes / No		
			Yes / No		
			Yes / No		
			Yes / No		

Winter uniform

Item	Description	Sizes	Includes logo	Agreed Price (incl GST)	Image
			Yes / No		
			Yes / No		
			Yes / No		
			Yes / No		
			Yes / No		
			Yes / No		

Sports uniform

Item	Description	Sizes	Includes logo	Agreed Price (incl GST)	Image
			Yes / No		
			Yes / No		
			Yes / No		
			Yes / No		
			Yes / No		
			Yes / No		

Other items

Item	Description	Sizes	Includes logo	Agreed Price (incl GST)	Image
			Yes / No		
			Yes / No		
			Yes / No		
			Yes / No		
			Yes / No		
			Yes / No		

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Annexure: Premises Licence

Item 1	Premises Licence Period	[date] to the Agreement End Date.
Item 2	Access Hours	[] on Retail Days
Item 3	Retail Hours	[] on Retail Days
Item 4	Retail Days	<ul style="list-style-type: none"> • During School terms: [] • Outside School terms: []
Item 5	Premises Licence Fee	Quarterly 5% of the total gross sales of the uniform stock.
Item 6	Security Deposit	\$1000
Item 7	Department Fittings and Equipment	
Item 8	Additional Conditions	

1. Terms of this Premises Licence

- 1.1. **(Separate agreements)** This Premises Licence is a separate agreement between the parties to the Agreement.
- 1.2. **(Applicable Agreement terms)** Despite being separate agreements, the terms of the Agreement also apply to this Premises Licence except for the following Agreement clauses 4 (Licence to Use School Logo), 7.2 (Calculating Logo Licence Fee) to 7.6 (Dispute) inclusive, 10.1 (Changes to Uniform Items: at least 18 months notice) to 10.6(Delivery arrangements) inclusive, 10.9 (All Uniform Items), 12.3 (Licensee Personnel checks), 15 (Online sales), 19.1 (Stop using the School Logo) and 20 (Purchase of items and material on ending).
- 1.3. **(References to 'Agreement')** For the purposes of applying the terms of the Agreement to this Premises Licence, a reference to the 'Agreement' in that document is interpreted as if it read 'Premises Licence' instead of 'Agreement'.
- 1.4. **(Entering into Premises Licence)** The parties will be taken to have entered into this Premises Licence if the Retail Methods described in the Agreement include a 'Uniform Shop at the School' and the Agreement has been duly executed as an agreement by the parties.

2. Definitions

Except where the contrary intention is clear, these words have the following meaning:

Access Hours	means the times listed in Item 2 of this Premises Licence.
Premises	means the area of the School grounds identified in the Attachment to this Premises Licence as the area for use as the Uniform Shop.
Premises Licence	means the licence to use the Premises for the Uniform Shop subject to the conditions of this Annexure.
Premises Licence Fee	means the amount to be paid by the Licensee for the Premises Licence as set out in Item 5 of this Premises Licence.
Retail Days	means the dates listed in Item 4 of this Premises Licence.
Retail Hours	means the hours or times listed in Item 3 of this Premises Licence.
Security Deposit	means the amount specified in Item 6 of this Premises Licence.
Uniform Shop	means the retail shop for Uniform Items at the Premises operating on the Retail Days during Retail Hours.

3. Premises Licence

- 3.1. **(Grant of licence)** The Department grants to the Licensee a non-exclusive, non-transferable, revocable licence to use the Premises during the Premises Licence Period to conduct the Uniform Shop in accordance with this Premises Licence. The Licensee will be the party conducting the Uniform Shop.
- 3.2. **(Licensee access to the Premises)** The Licensee will have access to the Premises during Access Hours on Retail Days. The Licensee must:
- (a) lock up and secure the Premises on leaving at the conclusion of Retail Hours and the end of each Retail Day; and
 - (b) not do anything or permit anything that may disturb the Department, its staff and students, or any visitors to the School.
- 3.3. **(Cleaning)** The Licensee must ensure the Premises are kept clean at all times, including promptly disposing of litter as instructed.
- 3.4. **(Use of Premises for Uniform Shop only)** The Licensee must not use the Premises for any other purpose than conducting the Uniform Shop.
- 3.5. **(Costs)** The Licensee must:
- (a) pay for any additional or unusual cleaning of the Premises, including during school holidays; and
 - (b) pay any other cost arising solely because of its use of the Premises including, but not limited to, additional security costs.
- 3.6. **(Utilities)** The cost of the supply of utilities (including electricity) to the Premises for the conduct of the Uniform Shop is included in the Premises Licence Fee.
- 3.7. **(Department access to Premises)** Nothing in this Premises Licence affects the Department's right to access the Premises at any time to inspect the Premises or to carry

out repairs, renovations, maintenance or modifications of or to the Premises or the School which are deemed necessary by the Department or for any other reason.

- 3.8. **(Suitability)** The Licensee is responsible for ensuring that the Premises are suitable for the Uniform Shop. The Licensee enters into this Premises Licence subject to any restriction on the use of the Premises. The Licensee must make its own enquiries about these matters and the Department makes no representations or warranties about the suitability of the Premises or any restrictions on use.
- 3.9. **(Department's fittings and equipment)** The parties acknowledge that the Premises contain the Department's fittings and equipment (as specified in Item 7 of this Premises Licence), which have been provided by the Department. The Licensee may use these items without additional charge. The Department is under no obligation to repair or replace any such item. The Licensee must return these items on ending of this Premises Licence.
- 3.10. **(Licensee's equipment)** The Licensee must supply at its own expense any other equipment reasonably necessary for conduct of the Uniform Shop. The Licensee must remove this equipment on ending of this Premises Licence.
- 3.11. **(Alterations and additions)** The Licensee must not make any alterations or additions to the Premises without the Department's consent.
- 3.12. **(Signage)** The Licensee must not put any sign, advertisement or notice anywhere within the School without the Department's consent. No consent is required for the Licensee to put up signs within the Premises that are not visible from outside the Premises and are related to the Uniform Shop (for example, a sign identifying how Uniform Items are organised within the Premises).
- 3.13. **(Electrical equipment)** The Licensee must make all electrical equipment it brings onto the Premises available to the Department for testing as determined by the Department. If any equipment fails testing the Licensee must at its own cost replace it or remove it from the Premises.
- 3.14. **(Damage)** The Licensee must take all steps necessary to ensure that the Premises (including the Department's Fittings and Equipment) and any part of the School are not damaged by the conduct of the Uniform Shop. The Licensee must immediately at its own expense make good any damage so caused.
- 3.15. **(Security)** The Licensee must observe all reasonable security requirements that may be stipulated from time to time by the Department with regard to the use and access of the Premises. If directed by the Department, the Licensee must ensure that at all times when the Premises are unattended that they are securely locked.
- 3.16. **(Risk in the Premises)** The Licensee retains the risk for Loss of or damage to any property it brings on to the Premises and for any Loss to the Premises which occurs during the Term that is caused or contributed to by the Licensee's operations. The Department is not responsible for property brought on to the Premises by the Licensee. The Licensee will not be entitled to any form of compensation and must not make any Claims for Loss arising out of or in connection with such property being left at the Premises.

4. Security Deposit

- 4.1. **(Provide Security Deposit)** The Licensee must pay the Security Deposit to the Department on execution of this Premises Licence by way of bank guarantee.

- 4.2. **(Bank guarantee)** The bank guarantee:
- (a) **(Issue)** must be issued by a reputable Australian financial institution
 - (b) **(Terms)** must be on terms reasonably satisfactory to the Department including having no expiry date or an expiry date not earlier than 6 months after the Agreement End Date
 - (c) **(Purpose)** will be held as security for the due and punctual performance and completion of all obligations of the Licensee under this Premises Licence.
 - (d) **(Top up)** if drawn on by the Department (in whole or part), must be supplemented or replaced by the Licensee on demand so that the amount of the bank guarantee is always for an amount equal to the Security Deposit; and
 - (e) **(Release of bank guarantee)** upon ending of this Premises Licence, will be returned by the Department to the Licensee after the Department is reasonably satisfied the Licensee has complied with all its obligations under this Premises Licence, and no later than the time required by the *Retail Leases Act 1994* (NSW).
- 4.3. **(Draw down)** The Department may draw down on the bank guarantee, without notice to the Licensee, if any amount properly due to the Department under this Premises Licence is outstanding.

5. Operation of Uniform Shop

- 5.1. **(Sufficient Licensee Personnel)** The Licensee must employ and have sufficient number of Personnel working at the Uniform Shop.
- 5.2. **(Storage at School)** All items required to be held by the Licensee for the provision of the Uniform Shop must be stored within the Premises.
- 5.3. **(Delivery arrangements for Uniform Shop)** The Licensee must ensure that:
- (a) all deliveries which are required to be received by the Licensee must be restricted to those reasonably necessary for the conduct of the Uniform Shop and not for any other purpose, including for use elsewhere by the Licensee
 - (b) items are delivered to the School without risk of damage to any property of the Department or injury to any staff of the Department, student at the School or other invitee
 - (c) such items are delivered to the Premises via the route over the School grounds prescribed from time to time by the Department; and
 - (d) such items are only delivered during Access Hours.

At no time must the Licensee request the assistance of the staff of the Department to accept deliveries of any items on behalf of the Licensee.

6. Licensee obligations on ending

- 6.1. **(Stop supplying Uniform Items)** On ending of the Premises Licence, the Licensee must stop conducting the Uniform Shop.

6.2. **(Make good)**

- (a) Within 1 week of the end of the Premises Licence, the Licensee must, unless the Department otherwise directs, at its own cost and in accordance with such reasonable directions as are given by the Department:
 - (i) remove all of the Licensee's equipment, signage, fixtures and fittings from the Premises and School
 - (ii) remove any additions to the Premises made by the Licensee; and
 - (iii) make good the Premises to its condition at the commencement of this Premises Licence, except for fair wear and tear.
- (b) The Licensee must provide details to the Department of actions it proposes to take to make good the Premises. The Licensee must obtain the Department's prior consent before commencing these actions. The Department may undertake this work at the Licensee's cost.
- (c) If the Licensee does not comply with clause 6.2(a), the Department may carry out the Licensee's obligations and recover the cost from the Licensee.

6.3. **(Disposal of the Licensee's property)** If, following the end of the Premises Licence, any of the Licensee's property is left at the Premises the Department may deal with it as it thinks fit as if it was the Department's own property, without being liable to the Licensee.

6.4. **(Return of keys)** Within 1 week of the end of the Premises Licence, the Licensee must provide to the Department any keys or other access passes it holds for the Premises and the School. If the Licensee does not provide the Department with these items within this time the Licensee will be responsible for the costs reasonably incurred by the School for the replacement of keys, other access passes or locks.

If the key is a master key for locks at the School, the Licensee's liability will include replacing all locks at the School.

6.5. **(Transition to incoming licensee)** The Licensee must provide all reasonable assistance requested by the Department in connection with transitioning this licence arrangement to another licensee.

6.6. **(Other rights)** Ending of this Premises Licence for any reason will be without prejudice to any rights which either party may have accrued before ending.

7. **General**

7.1. **(No mortgage)** The Licensee must not grant a mortgage of this Premises Licence or otherwise use the Premises Licence as security for any financial facility.

7.2. **(No sublicence)** The Licensee must not enter into any sublicence of the Premises Licence without the Department's consent.

7.3. **(Survival)** The following provisions survive the ending of this Premises Licence as well as any right or obligation which by its nature is intended to survive the ending of this Premises Licence:

- (a) as documented in clause 23.13 of the Agreement except where specifically excluded by clause 1.2 of this Premises Licence, and
- (a) as documented in this Premises Licence: Clauses 3.5 (Costs), 4 (Security Deposit) and 6 (Licensee obligations on ending).

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