

Residential tenancy agreement

Landlord's copy

Residential Tenancies Act 1997 Section 26

This agreement is made on the day of

Date:	/	/
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This agreement is between

LANDLORD

Name:	
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Address:	
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Postcode:	
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ACN (if applicable):	
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whose agent is (if applicable)

Name:	
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Business address:	
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Postcode:	
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Telephone number:	
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ACN (if applicable):	
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and TENANT(S)

Name of TENANT 1:	DEFENCE HOUSING AUSTRALIA ABN 72 968 504 934
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Current address:	
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Postcode:	
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ACN (if applicable):	
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Name of TENANT 2:	
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Current address:	
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Postcode:	
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Name of TENANT 3:	
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Current address:	
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Postcode:	
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Name of TENANT 4:	
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Current address:	
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Postcode:	
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Name of TENANT 4:	
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Current address:	
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Postcode:	
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1. Premises

The landlord lets the premises known as

Address:	
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Postcode:	
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together with those items indicated in the Schedule (strike out if not applicable)

2. Rent

The weekly rent amount is (\$):	
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Date first rent payment due:	/ /
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Pay period

Weekly:	
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Fortnightly:	
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Monthly:	Monthly
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Day of each month (e.g. 15th):	First
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Place of payment: in accordance with clause 4.2 and clause 4.3 of the Additional Terms in Schedule B

3. Bond

- The TENANT must pay the bond of \$ amount specified below.
- In accordance with the *Residential Tenancies Act 1997*, the LANDLORD/agent must lodge the bond with the Residential Tenancies Bond Authority (RTBA) within 10 business days after receiving the bond.
- If the TENANT does not receive a bond receipt from the RTBA within 15 business days of handing over the bond money, they should telephone the RTBA on 1300 13 71 64.

Bond amount (\$):	
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Date bond payment due:	/ /
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If there is more than one TENANT and they do not contribute equally to the total bond, the amounts they each contribute must be listed here. This list is for reference only and will not be recognised by the RTBA.

Name of TENANT	Bond amount (\$)

4. Period

Fixed period:	
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The period of the agreement commences on:	/ /
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and ends on:	/ /
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unless the agreement terminates in accordance with the *Residential Tenancies Act 1997*, the agreement will continue as a periodic tenancy

OR Periodic:	
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The agreement will commence on:	/ /
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and continue until terminated in accordance with the *Residential Tenancies Act 1997*.

4A. Consent to electronic service

(1) Express Consent

The TENANT:

(Check one box only)

Consents to the electronic service of notices and other documents in accordance with the requirements of the <i>Electronic Transactions (Victoria) Act 2000</i> at this email address:	<input checked="" type="checkbox"/>
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Email address:	Leasing@dha.gov.au
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Or	
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Does Not Consent to the electronic service of notices and other documents.	<input type="checkbox"/>
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The LANDLORD:

(Check one box only)

Consents to the electronic service of notices and other documents in accordance with the requirements of the <i>Electronic Transactions (Victoria) Act 2000</i> at this email address:	
Email address:	
Or	
Does Not Consent to the electronic service of notices and other documents.	

(2) Inferred Consent

If the TENANT or the LANDLORD (as the case may be) have not consented to electronic service under subclause (1), the TENANT or the LANDLORD must not infer consent to electronic service merely from the receipt or response to emails or other electronic communications.

(3) Change of Electronic Address

The TENANT or the LANDLORD must immediately give notice in writing to the other party if the email address for electronic service under subclause (1) changes.

(4) Withdrawal of Consent

- (a) The TENANT or the LANDLORD may withdraw their consent under subclause (1) to electronic service of notices and other documents only by giving notice in writing to the other party.
- (b) Following the giving of notice under paragraph (a), no further notices or other documents are to be served by electronic communication.

5. Condition of the premises

The LANDLORD must:

- (a) ensure that the premises are maintained in good repair, and
- (b) If the LANDLORD owns or controls the common areas, take reasonable steps to ensure that the common areas are maintained in good repair.

6. Damage to the premises

- (a) The TENANT must ensure that care is taken to avoid damaging the rented premises.
- (b) The TENANT must take reasonable care to avoid damaging any common areas.
- (c) The TENANT who becomes aware of damage to the rented premises must give notice to the LANDLORD of any damage to the premises as soon as practicable.

7. Cleanliness of the premises

- (d) The LANDLORD must ensure that the premises are in a reasonably clean condition on the day on which it is agreed that the TENANT is to enter into occupation of the premises.
- (e) The TENANT must keep the premises in a reasonably clean condition during the period of agreement.

8. Use of premises

- (f) The TENANT must not use or allow the premises to be used for any illegal purpose.
- (g) The TENANT must not use or allow the premises to be used in such a manner as to cause a nuisance or cause an interference with the reasonable peace, comfort or privacy of any occupier of neighbouring premises.

9. Quiet enjoyment

The LANDLORD must take all reasonable steps to ensure that the TENANT has quiet enjoyment of the premises.

10. Assignment or sub-letting

- (h) The TENANT must not assign or sub-let the whole or any part of the premises without the written consent of the LANDLORD. The LANDLORD's consent must not be unreasonably withheld.
- (i) The LANDLORD must not demand or receive any fee or payment for the consent, except in respect of any fees, costs or charges incurred by the LANDLORD in relation to the preparation of a written assignment of the agreement.

11. Residential Tenancies Act 1997

- (j) Each party must comply with the *Residential Tenancies Act 1997*.
- (k) For further rights and duties refer to the *Residential Tenancies Act 1997*.

Schedule: A. Items let with the premises (if any); B. Additional terms (if any)

This section lists any additional items and terms to this agreement. **The terms listed cannot take away any of the rights and duties included in the *Residential Tenancies Act 1997*.** If you need extra space, please attach a separate sheet.

Both the LANDLORD and TENANT should sign and date any attachments.

Any additional terms must also comply with the Unfair Contract Terms provisions in the Australian Consumer Law (Victoria). Contact Consumer Affairs Victoria on 1300 55 81 81 for further information or visit www.consumer.vic.gov.au.

See Additional Terms set out at Schedule B.

Signatures

LANDLORD

Signature of LANDLORD:

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Urgent repairs emergency contact name and telephone number:

Tradesperson nominated by the Property Care Provider (Phone: 139 342)
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Signature of tenant:

Executed for and on behalf of Defence Housing Australia ABN 72 968 504 934 by its delegate duly authorised pursuant to s.65 of the *DefenceHousing Australia Act 1987* (Cth):

Signature:

Signature of witness:

Name: (please print)

Name of witness: (please print)

Position:

Position of witness:

Date:

Address of witness:

SCHEDULE B - ADDITIONAL TERMS

1. ACKNOWLEDGEMENTS

Lease terms

1.1 The parties acknowledge and agree that the agreement comprises the Standard Form, these Additional Terms and any other schedules or attachments to the agreement.

1.2 Landlord's acknowledgement

The Landlord acknowledges and agrees that:

- (a) it relies on its own independent legal, financial, taxation and other advice before entering into this agreement;
- (b) it will comply with any notice, reporting or other requirements under the *Residential Tenancies Act 1997* (Vic) and the *Residential Tenancies Regulations 2019* (Vic); and
- (c) there is no bond payable by the Tenant to the Landlord.

2. EXTENSION OF TERM

2.1 The Tenant's right to extend the Term

Without limiting the General Tenancy Agreement, and in addition to the rights and obligations of the landlord and tenant under the General Tenancy Agreement, the tenant may, by written notice to the landlord, exercise one of the following rights once:

- (a) extend the Term by a period of _____; by exercising one of the following rights where applicable:
 - extend the Term by a period of 3 years;
 - extend the Term by a period of 24 months;
 - extend the Term by a period of 18 months;
 - extend the Term by a period of 12 months;
 - extend the Term by a period of 6 months; and
- (b) extend the Term by up to 12 months.

2.2 Notice of extension of Term

A notice under this clause must:

- (a) be given at least 3 months before the date, which but for that extension, would have been the terminating date of this agreement;
- (b) specify which sub-clause of clause 2.1 of these Additional Terms is invoked;
- (c) specify the period by which the Term is to be extended; and
- (d) specify the new Terminating Date .

2.3 Effect of giving notice

After giving the notice pursuant to this clause 2 of these Additional Terms, the Terminating Date is extended accordingly.

3. RENT

3.1 Payment of Rent

- (a) The Tenant will pay the Rent by electronic funds transfer at the direction of the Landlord. The Landlord must make adequate arrangements to enable payment by this method.
- (b) The Tenant elects to pay Rent (other than the first and last payments) monthly in advance on the first day of each calendar month. The Tenant elects to pay the Rent monthly in advance although it may have no obligation to do so under the *Residential Tenancies Act 1997 (Vic)*.
- (c) The first Rent payment, which includes a partial Rent payment in arrears and the first full month Rent payment in advance, will be paid:
 - (i) where the Commencing Date is before the twenty-third day of the month, on the first day of the following month; or
 - (ii) where the Commencing Date is on or after the twenty-third day of the month, within 7 Business Days of the first day of the following month.
- (d) The last Rent payment is payable in arrears.

3.2 Calculation of Rent

- (a) The Rent accrues from day to day.
- (b) The monthly payment is calculated as follows: **monthly Rent = weekly Rent x 4.3482**.
- (c) If the first or last Rent payment is for a period of less than a full calendar month, the Rent for the broken Rent period is calculated on a daily basis as follows: **daily Rent = weekly Rent x 0.1429**.

4. DIRECTION FOR RENT PAYMENT

4.1 Acknowledgement

The parties acknowledge and agree that any direction under this clause 4 regarding payment of the Rent by the Tenant is not intended to reduce or offset the amount of Rent payable by the Tenant to the Landlord under this agreement.

4.2 Direction to pay

The landlord directs the tenant to make payment of the Rent in the following manner:

Payment direct to Landlord – of the Rent direct to the landlord in the account nominated by the landlord.

Payment direct to Property Care Provider - of the Rent direct to the Property Care Provider in the account nominated by the Property Care Provider.

4.3 New directions to pay from time to time

- (a) Subject to clause 4.3 (c), the parties agree that the Landlord may, from time to time, by notice in writing to the Tenant, issue a new direction for Rent payment under clause 4.2 of these Additional Terms, and the Tenant will comply with that new direction from the date of receipt.

- (b) If a new direction for Rent payment under clause 4.3(a) of these Additional Terms is expressed as only having effect for a particular month, the Tenant will revert to paying the Rent in accordance with clause 4.2 of these Additional Terms for subsequent months (after giving effect to the direction for the relevant month).
- (c) Any new direction for Rent payment issued under clause 4.3(a) must only involve an increase in the percentage of the Rent payable directly to the Property Care Provider under clause 4.2 and must not involve a decrease in that percentage.

5. **RENT REVIEW**

5.1 **Review dates and method of Rent review**

(a) The Rent will be reviewed and assessed as follows:

Review Date	Method of review
<p><u>First Review Date:</u> 31 December of the year in which this agreement commences, or if the Commencing Date is after 1 July 2020 then 31 December 2022.</p>	<p>The Landlord must notify the Tenant in writing in the prescribed form of the Landlord’s Assessment at least 60 days before the First Review Date.</p> <p>Unless clause 5.4 of these Additional Terms applies, the new Rent payable from the First Review Date is the New Rent Amount stated in the Landlord’s Assessment.</p>
<p><u>Second and subsequent Review Dates:</u> Every 31 December for the Term</p>	<p>By using the same Rent Review process as for the First Review Date in the row above, except that references to “First Review Date” will be read as references to the second or subsequent Review Dates (as appropriate).</p>

5.2 **When and how Rent will be reviewed**

- (a) The Rent will be reviewed by the Landlord as at each relevant Review Date, in the manner shown in the table in clause 5.1 of these Additional Terms.
- (b) Nothing in this clause 5 of these Additional Terms derogates from the Landlord’s obligations under the *Residential Tenancies Act 1997 (Vic)*.

5.3 **Date from which new Rent applies**

Subject to clause 5.4, if the Rent review:

- (a) is completed by the relevant Review Date, then, subject to the terms of this agreement, the new Rent takes effect on the relevant Review Date; or
- (b) is not completed by the relevant Review Date:
 - (i) the Tenant must continue to pay Rent at the rate applicable for the previous period until the rent review process has been completed and the Landlord’s Assessment has been issued; and
 - (ii) once the Landlord’s Assessment has been issued:
 - (A) the Tenant must pay the Landlord the amount of any underpayment within 10 Business Days of the Landlord’s Assessment; or
 - (B) the Landlord must refund to the Tenant the amount of any overpayment within 10 Business Days of demand by the Tenant,

and the tenant elects to pay an increase in Rent with effect from the relevant Review Date even if the Landlord gives notice of the Rent increase after the time required by the *Residential Tenancies Act 1997 (Vic)*.

5.4 Dispute between parties about Landlord's Assessment

- (a) If either party objects to the New Rent Amount stated in the Landlord's Assessment, or if the Landlord does not issue a Landlord's Assessment within a reasonable period of time after the relevant Review Date, the objecting party must notify the other party in writing and with effect from the relevant Review Date:
 - (i) no later than 20 Business Days after the date of service of the Landlord's Assessment; or
 - (ii) within a reasonable period of time after the relevant Review Date if no Landlord's Assessment has been received
- (b) The parties agree that they will refer all disputes in relation to the Landlord's Assessment or the Landlord's failure to issue a Landlord's Assessment (**Lease Rent Review Dispute**) to dispute resolution under this clause 5.4.
- (c) In the event of any Lease Rent Review Dispute, the disputing party may request in writing the Chair of the Australian Property Institute or the Australian Valuation Institute of Victoria to appoint a valuer who is a certified practising and registered valuer with the Australian Property Institute or the Australian Valuation Institute (as relevant) in Victoria (the **Chair's Valuer**) to determine the new current market Rent for the Premises , and in that case:
 - (i) in making its determination, the Chair's Valuer must apply the valuation criteria set out in the Landlord's Valuation Guide;
 - (ii) the costs of the Chair's Valuer must be met by the Landlord and Tenant equally; and
 - (iii) any determination of the new Rent by the Chair's Valuer will be conclusive and binding on the parties.
- (d) Once a Lease Rent Review Dispute has been concluded, having regard to the Rent then being paid by the Tenant and the amount determined by the Chair's Valuer as being the new Rent:
 - (i) the Tenant must pay the Landlord the amount of any underpayment (calculated from the previous Review Date) within 10 Business Days of such determination; or
 - (ii) the Landlord must refund to the Tenant (calculated from the previous Review Date) the amount of any overpayment within 10 Business Days of demand by the Tenant.
- (e) The Landlord is not precluded from objecting to the new Rent and initiating a Lease Rent Review Dispute on the basis that the Landlord served the Landlord's Assessment.
- (f) If the valuer fails to decide the new Rent within 10 Business Days after its appointment, the parties may agree to appoint (or either party may request the appointment of) a further valuer under clause 5.4(c).

6. PAYMENT OF COUNCIL RATES, LAND TAX, WATER AND OTHER CHARGES

6.1 Payment by the Landlord

The Landlord must pay:

- (a) rates, taxes or charges payable under any law (other than charges payable by the Tenant under this agreement);
- (b) the installation costs and charges for initial connection to the Premises of an electricity, water, gas, bottled gas or oil supply service;
- (c) all charges for the supply of electricity, non-bottled gas or oil to the Tenant at the Premises that are not separately metered;
- (d) the costs and charges for the supply or hire of gas bottles for the supply of bottled gas at the commencement of this agreement;

- (e) all charges (other than water usage charges) in connection with a water supply service where the Premises are separately metered;
- (f) all charges in connection with a water supply service to the Premises that are not separately metered;
- (g) all charges for the supply of sewerage services (other than for pump out septic services) or the supply or use of drainage services to the Premises;
- (h) all service availability charges, however described, for the supply of non-bottled gas to the Premises if the Premises are separately metered but do not have any appliances, supplied by the Landlord, for which gas is required and the Tenant does not use gas supplied to the Premises, and
- (i) the costs and charges for repair, maintenance or other work carried out on the Premises which is required to facilitate the proper installation or replacement of an electricity meter, in working order, including an advanced meter, if the meter installation is required by the retailer to replace an existing meter because the meter is faulty, testing indicates the meter may become faulty or the meter has reached the end of its life.

6.2 Payment by the Tenant

The Tenant must pay:

- (a) all charges for the supply of electricity or oil to the Tenant at the Premises if the Premises are separately metered, and
- (b) the cost of all water supplied to the Premises during the Tenant's occupancy if the cost is based solely on the amount of water supplied and the premises are separately metered (except where the Landlord is in breach of section 69 of the *Residential Tenancies Act 1997* (Vic) or any law requiring the use of water efficient appliances for the Premises); and
- (c) all charges for the supply of bottled gas to the Tenant at the Premises except for the costs and charges for the supply or hire of gas bottles at the start of this agreement.

7. REPAIRS

7.1 Urgent Repairs

The parties agree that for the purposes of this agreement, the term "Urgent Repairs":

- (a) has the same meaning as defined in section 3 of the *Residential Tenancies Act 1997* (Vic), as amended from time to time; and
- (b) to the extent permissible at law, also includes:
 - (i) a failure or breakdown of a cooling appliance or service provided by the Landlord;
 - (ii) a failure or breakdown of any safety related devices, including a smoke alarm or pool fence; and
 - (iii) any fault or damage that makes the Premises unsafe or insecure, including a pest infestation or the presence of mould or damp caused by or related to the building structure.

7.2 Tenant may arrange for Urgent Repairs

- (a) The Landlord is responsible for repairs and maintenance to the Premises.
- (b) The Tenant may arrange for Urgent Repairs to be carried out to the Premises if:
 - (i) the Tenant has taken reasonable steps to arrange for the Landlord or the Landlord's agent to immediately carry out the repairs; and
 - (ii) the Tenant is unable to get the Landlord or agent to carry out the repairs.
- (c) If the Tenant carries out Urgent Repairs:

- (i) the Tenant must give the Landlord 14 days written notice of the repairs carried out and the cost; and
 - (ii) the Landlord is liable to reimburse the Tenant for the reasonable cost of the repairs or \$1,000, whichever is less.
- (d) If Urgent Repairs are required to an item that uses or supplies water and that item does not have at least a prescribed level of rating in a prescribed rating system, and that item cannot be repaired, the Tenant may replace it with an item that has a rating that is of or above a prescribed level of rating in a prescribed rating system.
- (e) This clause does not apply to fixtures, furniture or equipment supplied by the Tenant.

8. SAFETY RELATED ACTIVITIES

8.1 Electrical safety activities

- (a) The Landlord must ensure an electrical safety check of all electrical installations, fittings and appliances provided by a Landlord in the Premises is conducted every two years by a licensed or registered electrician and must provide the Tenant with the date of the most recent safety check on request by the Tenant.
- (b) If an electrical safety check of the Premises has not been conducted within the last two years at the time the Tenant occupies the Premises, the Landlord must arrange an electrical safety check as soon as practicable.

8.2 Gas safety activities

- (a) This Additional Term only applies if the Premises contains any appliances, fixtures or fittings which use or supply gas.
- (b) The Landlord must ensure that a gas safety check of all gas installations and fittings in the Premises is conducted every two years by a licensed or registered gasfitter and must provide the Tenant with the date of the most recent safety check on request by the Tenant.
- (c) If a gas safety check has not been conducted within the last two years at the time the Tenant occupies the Premises, the Landlord must arrange a gas safety check as soon as practicable.

8.3 Smoke alarm safety activities

- (a) The Landlord must ensure that:
 - (i) any smoke alarm is correctly installed and in working condition
 - (ii) any smoke alarm is tested according to the manufacturer's instructions at least once every 12 months, and
 - (iii) the batteries in each smoke alarm are replaced as required.
- (b) The Landlord must immediately arrange for a smoke alarm to be repaired or replaced as an urgent repair if they are notified by the Tenant that it is not in working order.
- (c) The Landlord, on or before the Commencing Date, must provide the Tenant with the following information in writing:
 - (i) information about how each smoke alarm in the Premises works
 - (ii) information about how to test each smoke alarm in the Premises, and
 - (iii) information about the Tenant's obligations to not tamper with any smoke alarms and to report if a smoke alarm in the Premises is not in working order.

- (d) The Tenant must give written notice to the Landlord as soon as practicable after becoming aware that a smoke alarm in the Premises is not in working order.

8.4 Carbon monoxide alarm safety activities

- (a) This Additional Term only applies if the Premises contains any appliances, fixtures or fittings which use or supply gas.
- (b) The Landlord must ensure that:
 - (i) any carbon monoxide alarm is correctly installed and in working condition
 - (ii) any carbon monoxide alarm is tested according to the manufacturer's instructions at least once every two years, and
 - (iii) the batteries in each carbon monoxide alarm are replaced as required.
- (c) The Landlord must immediately arrange for a carbon monoxide alarm to be repaired or replaced as an urgent repair if they are notified by the Tenant that it is not in working order.
- (d) The Landlord, on or before the occupation day, must provide the Tenant with the following information in writing:
 - (i) information about how each carbon monoxide alarm in the Premises works
 - (ii) information about how to test each carbon monoxide alarm in the Premises, and
 - (iii) information about the tenant's obligations to not tamper with any carbon monoxide alarms and to report if a carbon monoxide alarm in the Premises is not in working order.
- (e) The Tenant must give written notice to the Landlord as soon as practicable after becoming aware that a carbon monoxide alarm in the Premises is not in working order.

8.5 Pool fence safety activities

- (a) This Additional Term applies if the Premises contains a pool.
- (b) The Landlord must ensure that the pool fence is maintained in good repair.
- (c) The Tenant must give written notice to the Landlord as soon as practicable after becoming aware that the pool fence is not in working order.
- (d) The Landlord must immediately arrange for the pool fence to be repaired or replaced as an urgent repair if they are notified by the Tenant that it is not in working order.

8.6 Relocatable pool safety activities

- (a) This Additional Term only applies if a relocatable pool is erected on the Premises.
- (b) A Tenant must not erect a relocatable pool on the Premises for more than one day, unless the Tenant has given prior written notice to the Landlord.

8.7 Bushfire prone area activities

- (a) This Additional Term only applies if the Premises is in a bushfire prone area and is required to have a water tank for bushfire safety.
- (b) If the Premises is in a designated bushfire-prone area under section 1952A of the *Building Act 1993* (Vic) and a water tank is required for firefighting purposes the Landlord must ensure the water tank and any connected infrastructure is maintained in good repair and cleaned as required.

9. OCCUPANCY

9.1 Occupancy arrangements

Provided that the Tenant continues to pay Rent in accordance with this agreement, the Landlord consents to the Tenant:

- (a) allowing Defence Force personnel and other persons specified under the DHA Act to occupy the Premises; or
- (b) if the Tenant does not require the Premises for housing Defence Force personnel or other specified persons under the DHA Act:
 - (i) allowing other persons to occupy the Premises; or
 - (ii) leaving the Premises unoccupied.

10. PROPERTY CARE CONTRACT

10.1 Relationship between the Property Care Contract and lease

- (a) It is an essential term of this agreement that this agreement and the Property Care Contract run concurrently and end simultaneously to enable DHA to meet its obligations under the DHA Act.
- (b) The parties acknowledge and agree that:
 - (i) this agreement is interdependent with the Property Care Contract;
 - (ii) if this agreement is terminated or is surrendered, the Property Care Contract automatically (and without the need for any action to be taken, or any notice to be given, by either party) terminates on the date of termination or surrender of this agreement;
 - (iii) if the Property Care Contract is terminated:
 - (A) the Tenant may vacate the Premises and the Landlord will be deemed to have consented to the vacation of the Premises for the purposes of section 218 of the *Residential Tenancies Act 1997* (Vic);
 - (B) this agreement will terminate under section 218 of the *Residential Tenancies Act 1997* (Vic); and
 - (C) the Tenant will not be obliged to pay any break fee to the Landlord;
 - (iv) in the event the Landlord sells the Premises by way of Mid-Lease Sale, the Landlord will ensure that any third party purchaser of the Premises (**Third Party Purchaser**) executes a deed of novation of the Property Care Contract in accordance with the terms of the Property Care Contract; and
 - (v) if there is any inconsistency between the provisions in this agreement and the provisions in the Property Care Contract, the provisions in this agreement will prevail to the extent of the inconsistency.
- (c) The parties acknowledge that
 - (i) the Property Care Provider and the Tenant are the same entity;
 - (ii) DHA acts in 2 different capacities, namely as the tenant under this agreement and the Property Care Provider under the Property Care Contract; and
 - (iii) DHA will be referred to in this agreement by either the name "Tenant" or "Property Care Provider" (as appropriate) to clarify the relevant capacity in which DHA is acting.

11. GENERAL PROVISIONS

11.1 Caveatable interest

- (a) The Tenant may lodge a caveat to protect its leasehold interest in the Premises.
- (b) The Landlord will not raise any objection to the lodgement of the caveat.

11.2 Mortgagee's consent

If the Premises are subject to a mortgage or charge, the Landlord must obtain the unconditional mortgagee's or chargee's consent to this agreement at the Landlord's cost, and provide the Tenant with a copy of such consent. Such consent must be in the form attached to this agreement at Schedule C.

11.3 Other legal costs

- (a) The Landlord must pay any applicable stamp duty in relation to this agreement.
- (b) The parties must bear their own costs in relation to the execution of this agreement and the performance of their obligations under this agreement.

11.4 Insurance by Landlord

- (a) The Landlord must take out and maintain, at its cost, appropriate insurance to cover the Premises and the Landlord's obligations in relation to the Premises, including:
 - (i) building insurance, against loss or damage from fire, lightning, flood, storm and tempest, earthquake, water damage (including sprinkler leakage and rain water), explosion or concussion from explosion, impact by vehicles or aircraft or articles dropped from aircraft, radiation, riots, strikes, civil commotion, and malicious damage, for its full reinstatement or replacement value
(including architects, surveyors and other professional fees, the cost of debris removal, demolition, site clearance, any works that may be required by law and incidental expenses) at the time of loss or damage; and
 - (ii) public liability insurance, for all claims for injury, loss or damage to any person or property however sustained arising out of the use of the Premises, for not less than the amount of \$20 million per occurrence (or for such other reasonable amount which the Landlord and the Tenant agree),
- (b) If, during the Term:
 - (i) a building on the Premises is damaged or destroyed by a risk against which the Landlord is required by this agreement to insure;
 - (ii) the payment of insurance moneys under the insurance policy has not been refused in whole or in part because of any act or omission of the Tenant; and
 - (iii) the Tenant has notified the Landlord within 20 Business Days after the date of the damage or destruction that it requires the Landlord to reinstate the building,

and the Tenant elects not to issue a notice of intention to vacate the Premises under section 238 of the *Residential Tenancies Act 1997* (Vic), the Landlord agrees to act promptly and do its best to reinstate the building, including:

- (iv) claiming and obtaining payment of any insurance moneys to which it is entitled under the insurance policy for the damage or destruction;
- (v) obtaining any permission, permits and consents that may be required under law to enable the Landlord to reinstate the building; and
- (vi) using all relevant insurance proceeds (except sums for loss of Rent) in reinstating the building, making up any difference between the cost of reinstating and the insurance proceeds.

- (c) The Landlord must provide evidence of the currency of its insurance policies to the tenant within 7 Business Days of a request in writing by the Tenant.
- (d) The Landlord agrees to notify the Tenant promptly if any of the insurances required by this clause lapse or become void, voidable or otherwise unenforceable.

11.5 **GST**

- (a) In this clause:
 - (i) "GST Law" means *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (as amended) and all related ancillary legislation which provides for a broad based consumption tax on the supply of goods and services which becomes operative in respect of the provisions of this agreement;
 - (ii) "GST" means any tax imposed on the supply of goods or services which is imposed or assessed under the GST Law; and
 - (iii) "Supply" means any supply, as defined in the GST Law, made by a party under this agreement.
- (b) If this agreement or any Supply under or in respect of this agreement becomes subject to GST, and if the recipient of the consideration is liable for GST in relation to any Supply under this agreement, the parties agree that the amount payable for any Supply under or in respect of this agreement by any party shall be adjusted by the amount of the GST.
- (c) Each party agrees to do all things, including providing invoices or other documentation in such form and detail that may be necessary to enable or assist the other party to claim or verify any input tax credit, set off, rebate or refund in relation to any GST payable under this agreement or in respect of any Supply under this agreement.
- (d) As required by any applicable legislation, where identifiable cost adjustments are realised by virtue of the enactment of the GST Law, those cost adjustments will be reflected in the calculations of the consideration under this agreement.

11.6 **No waiver**

A failure by a party to exercise any right arising under this agreement is not a waiver of that right or any other right under this agreement.

11.7 **Entire agreement**

This agreement:

- (a) supersedes all prior understandings or agreements between the parties (except for the Property Care Contract) and any prior condition, warranty, indemnity or representation given or made by a party in connection with their subject matter (except to the extent contained in the Property Care Contract);
- (b) may be varied only by an instrument in writing signed by or on behalf of both the Landlord and the Tenant; and
- (c) and the Property Care Contract and any other documents or information required to be provided by the parties under the *Residential Tenancies Act 1997* (Vic) constitute the entire agreement between the Landlord and the Tenant as to their subject matter, subject to the *Residential Tenancies Act 1997* (Vic).

11.8 **No merger**

None of the terms and conditions of this agreement or any other agreement between the parties (including the Property Care Contract), nor any act, matter or thing done in relation to this agreement or any other agreement (including the Property Care Contract), will operate as a merger of any of the rights and remedies of the parties in or under this agreement or any other agreement (including the Property Care Contract), all of which will continue in full force and effect.

11.9 No partnership or agency

Nothing in this agreement is intended to create a relationship of partnership, principal and agent and/or joint venture between the parties.

11.10 Notices

- (a) A notice given under this agreement must be in writing and, if there is an approved form, in the approved form.
- (b) A notice may be given to a party to this agreement or (in the case of the Landlord) to the Landlord's agent:
 - (i) by giving it to the party or agent personally;
 - (ii) if an address for service for the party or agent is stated in this agreement for service of notices – by leaving it at the address or sending it by prepaid post as a letter to the address;
 - (iii) if a facsimile number for the party or agent is stated in this agreement for service of notices – by sending it by facsimile to the facsimile number in accordance with the *Electronic Transactions (Victoria) Act 2000* (Vic); or
 - (iv) if an email address for the party or agent is stated in this agreement for service of notices – by sending it electronically to the email address in accordance with the *Electronic Transactions (Victoria) Act 2000* (Vic).
- (c) The parties agree that any communications delivered electronically through the tenant's and/or Property Care Provider's online portal will constitute a notice delivered via email for the purposes of this agreement.
- (d) If no address for service is stated in this agreement for the tenant, the tenant's address for service is taken to be the address of the premises.
- (e) A party or the Landlord's agent may withdraw his or her consent to notices being given to them by a particular means only by giving notice to each other party that notices are no longer to be given to them by that particular means.
- (f) A party or the Landlord's agent may change his or her address for service, facsimile number or email address only by giving notice to each other party of a new address for service, facsimile number or email address, in which case the new address for service, facsimile number or email address is taken to be the address for service, facsimile number or email address for the purposes of this agreement from the date of the notice.
- (g) Unless the contrary is proved:
 - (i) a notice left at an address for service is taken to have been received by the party to whom the address relates when the notice was left at the address;
 - (ii) a notice sent by post is taken to have been received by the person to whom it was addressed when it would have been delivered in the ordinary course of post;
 - (iii) a notice sent by facsimile is taken to have been received at the place to which the facsimile was sent when the sender's facsimile machine produces a transmission report indicating all pages of the notice have been successfully sent; and
 - (iv) a notice sent by email is taken to have been received by the recipient when the email enters the recipient's email server.

11.11 Severability

- (a) To the extent permitted by law, all provisions of this agreement will, so far as possible, be construed so as not to be invalid, illegal or unenforceable in any respect.

- (b) If any provision of this agreement (or part thereof) is invalid, illegal, or unenforceable:
 - (i) that provision (or part) will be severed to the extent it is invalid, illegal or unenforceable, and the remaining provisions will continue in force; and
 - (ii) the parties must do all things reasonably necessary, including the execution and registration of any documentation, to give effect to this agreement.

11.12 Counterparts

This agreement may be executed in any number of counterparts and all of those counterparts taken together constitute one and the same instrument.

11.13 Interpretation

- (a) Unless the context otherwise precludes it:
 - (i) where any expressions are defined in the text of this agreement, those expressions shall have the meanings ascribed to them;
 - (ii) the singular includes the plural and vice versa, and a reference to one gender includes all genders;
 - (iii) a reference to a person generally includes a reference to a corporation, firm, partnership, joint venture, association, authority, trust, government, statutory entity or any other legal entity, and vice versa;
 - (iv) a covenant, agreement or undertaking on the part of two or more parties shall bind those parties jointly and each of them severally;
 - (v) a reference to a statute includes all amendments made to that statute, and to any statute passed in substitution, and all regulations made under those statutes;
 - (vi) headings are for guidance only and do not affect interpretation;
 - (vii) no rule of construction will apply to the detriment of a party because that party was responsible for the drafting of this agreement or any part of it;
 - (viii) anything to be done on a day which is not a Business Day will be due on the immediately following Business Day; and
 - (ix) mentioning anything after "includes", "including", "for example" or similar expressions does not limit what else might be included.

12. FEDERAL, STATE AND TERRITORY LAWS

12.1 Application of laws

This agreement is to be construed in accordance with, and any matter related to it is to be governed by, the laws applying in the State of Victoria but nothing in this agreement is to be construed as binding the Tenant to comply with any laws or requirements which do not apply to it of their own force.

12.2 Jurisdiction

12.3 The parties acknowledge that the Victorian Civil and Administrative Tribunal or any successor or replacement tribunal does not have jurisdiction to determine certain disputes involving the tenant, which is a Commonwealth government business enterprise. The parties agree that a party must refer any dispute arising under this agreement to a competent court.

12.4 Residential Tenancies Act paramount

Nothing in this agreement is intended by the parties to exclude, modify or restrict the operation or application of provisions of the *Residential Tenancies Act 1997* (Vic) and/or the *Residential Tenancies Regulations 2019* (Vic), except to the extent permitted by that Act.

12.5 Agreement with respect to the Residential Tenancies Act

Where the *Residential Tenancies Act 1997 (Vic)* and/or the *Residential Tenancies Regulations 2019 (Vic)* permits the parties to exclude or modify statutory provisions or requirements by agreement, then the parties acknowledge that this agreement records the extent of their agreement to do so.

12.6 Mandatory Provisions

Where the *Residential Tenancies Act 1997 (Vic)* and/or the *Residential Tenancies Regulations 2019 (Vic)* implies Mandatory Provisions in this agreement:

- (a) the *Residential Tenancies Act 1997 (Vic)* and/or the *Residential Tenancies Regulations 2019 (Vic)* overrides any term of this agreement which is inconsistent with the Mandatory Provisions; and
- (b) the Mandatory Provisions are deemed to be incorporated into this agreement to the extent of the inconsistency.

13. Definitions

The following definitions apply to the Additional Terms unless a contrary intention appears:

- (a) **Additional Terms** means these additional terms in Schedule B of this agreement.
- (b) **Business Day** means a day that is not a Saturday, Sunday or public holiday in Victoria.
- (c) **Commencing Date** means the date set out at clause 4 of the Standard Form.
- (d) **Defence Housing Australia** ABN 72 968 504 934.
- (e) **DHA Act** means the *Defence Housing Australia Act 1987 (Cth)*.
- (f) **Fixtures and Fittings** means items that are secured or bolted to the walls or floor of the Premises (fixtures) and free-standing items including goods (fittings), and includes chattels, fixtures, partitions and equipment.
- (g) **Landlord's Assessment** means the Landlord's assessment of the New Rent Amount payable for the period of 12 months from the relevant Review Date.
- (h) **Landlord's Valuation Guide** means the Landlord's Valuation Guide on the DHA website (as may be amended from time to time).
- (i) **Lease Form** means pages 1 and 2 of this agreement.
- (j) **Mandatory Provisions** means provisions under the *Residential Tenancies Act 1997 (Vic)* that imply terms into, or give rise to rights or obligations on the part of the Landlord or the Tenant under this agreement which cannot be excluded, modified or restricted.
- (k) **Mid-Lease Sale** means a sale by the Landlord of the Premises to a Third Party Purchaser at any time during the Term of this agreement.
- (l) **New Rent Amount** means the current rent for the Premises payable for the period of 12 months from the relevant Review Date determined in accordance with the process set out in the table in paragraph 5 of Schedule 2 of the Property Care Contract.
- (m) **Premises** means the premises set out at clause 1 of the Standard Form and includes any Fixtures and Fittings and improvements.
- (n) **Property Care Contract** means the Contract so called between the Landlord and the Property Care Provider dated on or about the date of this agreement.
- (o) **Property Care Provider** means DHA, acting in its capacity as contractor for the Landlord under the Property Care Contract.

- (p) **Standard Form** means the Victorian residential tenancy agreement forming part of this agreement.
- (q) **Rent** means the amount set out at clause 2 of the Standard Form, as reviewed in accordance with clause 5 of these Additional Terms.
- (r) **Review Date** has the meaning given to that term in clause 5.1 of the Additional Terms.
- (s) **Term** means the term of this agreement as set out at clause 4 of the Standard Form starting on the Commencing Date and ending on the Terminating Date and includes any holdover period.
- (t) **Terminating Date** means the ending date set out at clause 4 of the Standard Form as extended under clause 2 of these Additional Terms.

Signature of Landlord:

Execution Page

[Execution clause for individual Landlord]

I certify that I am an eligible witness and that the Landlord signed this dealing in my presence. [see note ** below]

Signature of Landlord

Signature of witness

Date

Name of witness

Residential address of witness

Business hours telephone of witness

[Execution clause for corporate Landlord]

Executed on behalf of the corporation named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified.

Authority: Section 127 of the Corporations Act 2001 (Cth)

Signature of authorised person

Signature of authorised person

Name of authorised person

Name of authorised person

Office held
[Director, Secretary, Sole Director/Secretary]

Office held
[Director, Secretary, Sole Director/Secretary]

Date

Date

Signature of tenant:

Executed for and on behalf of Defence Housing Australia ABN 72 968 504 934 by its delegate duly authorised pursuant to s.65 of the *DefenceHousing Australia Act 1987* (Cth):

Signature:

Signature of witness:

Name: (please print)

Name of witness: (please print)

Position:

Position of witness:

Date:

Address of witness: