



# Standard form from 23 March 2020

## Residential tenancy agreement

*Residential Tenancies Regulation 2019 Schedule 1 Standard Form Agreement (Clause 4(1))*

### IMPORTANT INFORMATION

Please read this before completing the residential tenancy agreement (the **Agreement**).

1. This form is your written record of your tenancy agreement. This is a binding contract under the *Residential Tenancies Act 2010*, so please read all terms and conditions carefully.
2. If you need advice or information on your rights and responsibilities, please call NSW Fair Trading on 13 32 20 or visit [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au) before signing the Agreement.
3. If you require extra space to list additional items and terms, attach a separate sheet. All attachments should be signed and dated by both the landlord or the landlord's agent and the tenant to show that both parties have read and agree to the attachments.
4. The landlord or the landlord's agent **must give the tenant** a copy of the signed Agreement and any attachments, two copies or one electronic copy of the completed condition report and a copy of the Tenant Information Statement published by NSW Fair Trading.

**THIS AGREEMENT IS MADE ON**

**AT**



### BETWEEN

**Landlord Name (1):**

**Landlord Name (2):**



**Landlord telephone number or other contact details:**

**Note:** These details **must** be provided for landlord(s), whether or not there is a landlord's agent

Address for service of notices (can be an agent's address):

Suburb:

State:

Postcode:

**Note:** The landlord(s) business address or residential address **must** be provided for landlord(s) if there is **no** landlord's agent

**Tenant Name (1):**

**Tenant Name (2):**



**Tenant Name (3):**

Add all other tenants here:



Address for service of notices (if different to address of residential premises):

Suburb:

State:

Postcode:

Contact details:

For information about your rights and responsibilities under this agreement, contact NSW Fair Trading at [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au) or call 13 32 20.

**Landlord's agent details:** *[If applicable]*

Agent name:

Business address for service of notices:

Suburb:

State:

Postcode:

Contact details: *[This must include a telephone number]***Tenant's agent details:** *[If applicable]*

Agent name:

Address for service of notices:

Suburb:

State:

Postcode:

Contact details:

**Term of agreement:**

The term of this agreement is -

 6 months 12 months 2 years 3 years 5 years Other (please specify): Periodic (no end date)

starting on

and ending on

*[Cross out if not applicable]***Note:** For a residential tenancy agreement having a fixed term of more than 3 years, the agreement must be annexed to the form approved by the Registrar-General for registration under the Real Property Act 1900**Residential premises:**The residential premises are *[Insert address]*:

The residential premises include:

*[Insert any inclusions, for example a parking space or furniture provided. Attach additional pages if necessary.]***Rent:**

The rent is \$

per

payable in advance starting on

**Note:** Under section 33 of the Residential Tenancies Act 2010, a landlord, or landlord's agent, must not require a tenant to pay more than 2 weeks rent in advance under this Agreement.

The method by which the rent must be paid:

(a) Electronic Funds Transfer (EFT) into the following account, or any other account nominated by the landlord:

BSB number:

account number:

account name:

payment reference:

, or

(b) to

at

by cash, or

(c) as follows:

in accordance with clause 4.2 and clause 4.3 of the Additional Terms in Schedule 2

**Note:** The landlord or landlord's agent must permit the tenant to pay the rent by at least one means for which the tenant does not incur a cost (other than bank fees or other account fees usually payable for the tenant's transactions) (see clause 4.1) and that is reasonably available to the tenant.

**RENTAL BOND** [~~Cross out if there is not going to be a bond~~]:

A rental bond of \$ ..... must be paid by the tenant on signing this agreement. The amount of the rental bond must not be more than 4 weeks rent.

The tenant provided the rental bond amount to:

- the landlord or another person, or  
 the landlord's agent, or  
 NSW Fair Trading through Rental Bond Online.

**Note.** All rental bonds must be lodged with NSW Fair Trading. If the bond is paid to the landlord or another person, it must be deposited within 10 working days after it is paid using the Fair Trading approved form. If the bond is paid to the landlord's agent, it must be deposited within 10 working days after the end of the month in which it is paid.

## IMPORTANT INFORMATION

### Maximum number of occupants

No more than ..... persons may ordinarily live in the premises at any one time.

### Urgent repairs

Nominated tradespeople for urgent repairs

Electrical repairs: tradesperson nominated by DHA ..... Telephone: 139 342

Plumbing repairs: tradesperson nominated by DHA ..... Telephone: 139 342

Other repairs: tradesperson nominated by DHA ..... Telephone: 139 342

### Water usage

Will the tenant be required to pay separately for water usage?  Yes  No

If yes, see clauses 12 and 13.

### Utilities

Is **electricity** supplied to the premises from an embedded network?  Yes  No

Is **gas** supplied to the premises from an embedded network?  Yes  No

For more information on consumer rights if electricity or gas is supplied from an embedded network contact NSW Fair Trading.

For information about your rights and responsibilities under this agreement, contact NSW Fair Trading at [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au) or call 13 32 20.

## Smoke alarms

Indicate whether the smoke alarms installed in the residential premises are hardwired or battery operated:

- Hardwired smoke alarms  
 Battery operated smoke alarms

If the smoke alarms are battery operated, are the batteries in the smoke alarms of a kind the tenant can replace?  Yes  No

If yes, specify the type of battery that needs to be used if the battery in the smoke alarm needs to be replaced:

If the smoke alarms are hardwired, are the back-up batteries in the smoke alarms of a kind the tenant can replace?  Yes  No

If yes, specify the type of back-up battery that needs to be used if the back-up battery in the smoke alarm needs to be replaced:

If the *Strata Schemes Management Act 2015* applies to the residential premises, is the owners corporation of the strata scheme responsible for the repair and replacement of smoke alarms in the residential premises?  Yes  No

## Strata by-laws

Are there any strata or community scheme by-laws applicable to the residential premises?  Yes  No

If yes, see clauses 38 and 39.

## Giving notices and other documents electronically [Cross out if not applicable]

Indicate below for each person whether the person provides express consent to any notice and any other document under section 223 of the *Residential Tenancies Act 2010* being given or served on them by email. The *Electronic Transactions Act 2000* applies to notices and other documents you send or receive electronically.

**Note.** You should only consent to electronic service if you check your emails regularly. If there is more than one tenant on the agreement, all tenants should agree on a single email address for electronic service. This will help ensure co-tenants receive notices and other documents at the same time.

### Landlord

Does the landlord give express consent to the electronic service of notices and documents?  Yes  No

If yes, see clause 50.

[Specify email address to be used for the purpose of serving notices and documents.]

### Tenant

Does the tenant give express consent to the electronic service of notices and documents?  Yes  No

If yes, see clause 50.

[Specify email address to be used for the purpose of serving notices and documents.]

## Condition report

A condition report relating to the condition of the premises must be completed by or on behalf of the landlord before or when this agreement is given to the tenant for signing.

## Tenancy laws

The *Residential Tenancies Act 2010* and the *Residential Tenancies Regulation 2019* apply to this agreement. Both the landlord and the tenant must comply with these laws.

# The Agreement

## RIGHT TO OCCUPY THE PREMISES

1. **The landlord agrees** that the tenant has the right to occupy the residential premises during the tenancy. The residential premises include the additional things (if any) noted under **'Residential premises'** on page 2 of this agreement.

## COPY OF AGREEMENT

2. **The landlord agrees** to give the tenant:
  - 2.1 a copy of this agreement before or when the tenant gives the signed copy of the agreement to the landlord or landlord's agent, and
  - 2.2 a copy of this agreement signed by both the landlord and the tenant as soon as is reasonably practicable.

## RENT

### 3. The tenant agrees:

- 3.1 to pay rent on time, and
- 3.2 to reimburse the landlord for the cost of replacing rent deposit books or rent cards lost by the tenant, and
- 3.3 to reimburse the landlord for the amount of any fees paid by the landlord to a bank or other authorised deposit-taking institution as a result of funds of the tenant not being available for rent payment on the due date.

### 4. The landlord agrees:

- 4.1 to provide the tenant with at least one means to pay rent for which the tenant does not incur a cost (other than bank fees or other account fees usually payable for the tenant's transactions) and that is reasonably available to the tenant, and
- 4.2 not to require the tenant to pay more than 2 weeks rent in advance or to pay rent for a period of the tenancy before the end of the previous period for which rent has been paid, and
- 4.3 not to require the tenant to pay rent by a cheque or other negotiable instrument that is post-dated, and
- 4.4 to accept payment of unpaid rent after the landlord has given a termination notice on the ground of failure to pay rent if the tenant has not vacated the residential premises, and
- 4.5 not to use rent paid by the tenant for the purpose of any amount payable by the tenant other than rent, and

- 4.6 to give a rent receipt to the tenant if rent is paid in person (other than by cheque), and
- 4.7 to make a rent receipt available for collection by the tenant or to post it to the residential premises or to send it by email to an email address specified in this agreement by the tenant for the service of documents of that kind if rent is paid by cheque, and
- 4.8 to keep a record of rent paid under this agreement and to provide a written statement showing the rent record for a specified period within 7 days of a request by the tenant (unless the landlord has previously provided a statement for the same period).

**Note.** The landlord and tenant may, by agreement, change the manner in which rent is payable under this agreement.

## RENT INCREASES

5. **The landlord and the tenant agree** that the rent cannot be increased after the end of the fixed term (if any) of this agreement or under this agreement if the agreement is for a fixed term of 2 years or more, unless the landlord gives not less than 60 days written notice of the increase to the tenant. The notice must specify the increased rent and the day from which it is payable.

**Note:** Section 42 of the Residential Tenancies Act 2010 sets out the circumstances in which rent may be increased during the fixed term of a residential tenancy agreement. An additional term for this purpose may be included in the agreement.

6. **The landlord and the tenant agree** that the rent may not be increased after the end of the fixed term (if any) of this agreement more than once in any 12-month period.
7. **The landlord and the tenant agree:**
  - 7.1 that the increased rent is payable from the day specified in the notice, and
  - 7.2 that the landlord may cancel or reduce the rent increase by a later notice that takes effect on the same day as the original notice, and
  - 7.3 that increased rent under this agreement is not payable unless the rent is increased in accordance with this agreement and the Residential Tenancies Act 2010 or by the Civil and Administrative Tribunal.

## RENT REDUCTIONS

8. **The landlord and the tenant agree** that the rent abates if the residential premises:
  - 8.1 are destroyed, or become wholly or partly uninhabitable, otherwise than as a result of a breach of this agreement, or

- 8.2** cease to be lawfully usable as a residence, or
- 8.3** are compulsorily appropriated or acquired by an authority.
- 9.** The landlord and the tenant may, at any time during this agreement, agree to reduce the rent payable.

## **PAYMENT OF COUNCIL RATES, LAND TAX, WATER AND OTHER CHARGES**

### **10. The landlord agrees to pay:**

- 10.1** rates, taxes or charges payable under any Act (other than charges payable by the tenant under this agreement), and
- 10.2** the installation costs and charges for initial connection to the residential premises of an electricity, water, gas, bottled gas or oil supply service, and
- 10.3** all charges for the supply of electricity, non-bottled gas or oil to the tenant at the residential premises that are not separately metered, and

**Note 1.** *Clause 10.3 does not apply to premises located in an embedded network in certain circumstances in accordance with clauses 34 and 35 of the Residential Tenancies Regulation 2019.*

**Note 2.** *Clause 10.3 does not apply to social housing tenancy agreements in certain circumstances, in accordance with clause 36 of the Residential Tenancies Regulation 2019.*

- 10.4** the costs and charges for the supply or hire of gas bottles for the supply of bottled gas at the commencement of the tenancy, and
- 10.5** all charges (other than water usage charges) in connection with a water supply service to separately metered residential premises, and
- 10.6** all charges in connection with a water supply service to residential premises that are not separately metered, and
- 10.7** 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 residential premises, and
- 10.8** all service availability charges, however described, for the supply of non-bottled gas to the residential 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

- 10.9** the costs and charges for repair, maintenance or other work carried out on the residential premises which is required to facilitate the proper installation or replacement of an electricity meter, in working order, including an advance 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.

### **11. The tenant agrees to pay:**

- 11.1** all charges for the supply of electricity or oil to the tenant at the residential premises if the premises are separately metered, and
- 11.2** all charges for the supply of non-bottled gas to the tenant at the residential premises if the premises are separately metered, unless the premises 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

**Note.** *Charges for the supply of gas in certain circumstances may also be payable by a tenant under a social housing agreement in accordance with clause 36 of the Residential Tenancies Regulation 2019.*

- 11.3** all charges for the supply of bottled gas to the tenant at the residential premises except for the costs and charges for the supply or hire of gas bottles at the start of the tenancy, and
- 11.4** all charges for pumping out a septic system used for the residential premises, and
- 11.5** any excess garbage charges relating to the tenant's use of the residential premises, and
- 11.6** water usage charges, if the landlord has installed water efficiency measures referred to in clause 10 of the *Residential Tenancies Regulation 2019* and the residential premises:
- 11.6.1** are separately metered, or
- 11.6.2** are not connected to a water supply service and water is delivered by vehicle.

**Note. Separately metered** is defined in section 3 of the *Residential Tenancies Act 2010*.



**12. The landlord agrees** that the tenant is not required to pay water usage charges unless:

- 12.1** the landlord gives the tenant a copy of the part of the water supply authority's bill setting out the charges, or other evidence of the cost of water used by the tenant, and
- 12.2** the landlord gives the tenant at least 21 days to pay the charges, and
- 12.3** the landlord requests payment of the charges by the tenant not later than 3 months after the issue of the bill for the charges by the water supply authority, and
- 12.4** the residential premises have the following water efficiency measures:
  - 12.4.1** all internal cold water taps and single mixer taps for kitchen sinks or bathroom hand basins on the premises have a maximum flow rate of 9 litres a minute,
  - 12.4.2** on and from 23 March 2025, all toilets are dual flush toilets that have a minimum 3 star rating in accordance with the WELS scheme,
  - 12.4.3** all showerheads have a maximum flow rate of 9 litres a minute,
  - 12.4.4** at the commencement of the residential tenancy agreement and whenever any other water efficiency measures are installed, repaired or upgraded, the premises are checked and any leaking taps or toilets on the premises have been fixed.

**13. The landlord agrees** to give the tenant the benefit of, or an amount equivalent to, any rebate received by the landlord for water usage charges payable or paid by the tenant.

## **POSSESSION OF THE PREMISES**

**14. The landlord agrees:**

- 14.1** to make sure the residential premises are vacant so the tenant can move in on the date agreed, and
- 14.2** to take all reasonable steps to ensure that, at the time of signing this agreement, there is no legal reason why the premises cannot be used as a residence for the term of this agreement.

## **TENANT'S RIGHT TO QUIET ENJOYMENT**

**15. The landlord agrees:**

- 15.1** that the tenant will have quiet enjoyment of the residential premises without interruption by the landlord or any person claiming by, through or under the landlord or having superior title to that of the landlord (such as a head landlord), and
- 15.2** that the landlord or the landlord's agent will not interfere with, or cause or permit any interference with, the reasonable peace, comfort or privacy of the tenant in using the residential premises, and
- 15.3** that the landlord or the landlord's agent will take all reasonable steps to ensure that the landlord's other neighbouring tenants do not interfere with the reasonable peace, comfort or privacy of the tenant in using the residential premises.

## **USE OF THE PREMISES BY TENANT**

**16. The tenant agrees:**

- 16.1** not to use the residential premises, or cause or permit the premises to be used, for any illegal purpose, and
- 16.2** not to cause or permit a nuisance, and
- 16.3** not to interfere, or cause or permit interference, with the reasonable peace, comfort or privacy of neighbours, and
- 16.4** not to intentionally or negligently cause or permit any damage to the residential premises, and
- 16.5** not to cause or permit more people to reside in the residential premises than is permitted by this agreement.

**17. The tenant agrees:**

- 17.1** to keep the residential premises reasonably clean, and
- 17.2** to notify the landlord as soon as practicable of any damage to the residential premises, and
- 17.3** that the tenant is responsible to the landlord for any act or omission by a person who is lawfully on the residential premises if the person is only permitted on the premises with the tenant's consent and the act or omission would be in breach of this agreement if done or omitted by the tenant, and

**17.4** that it is the tenant's responsibility to replace light globes on the residential premises.

**18. The tenant agrees**, when this agreement ends and before giving vacant possession of the premises to the landlord:

**18.1** to remove all the tenant's goods from the residential premises, and

**18.2** to leave the residential premises as nearly as possible in the same condition, fair wear and tear excepted, as at the commencement of the tenancy, and

**18.3** to leave the residential premises reasonably clean, having regard to its condition at the commencement of the tenancy, and

**18.4** to remove or arrange for the removal of all rubbish from the residential premises in a way that is lawful and in accordance with council requirements, and

**18.5** to make sure that all light fittings on the premises have working globes, and

**18.6** to return to the landlord all keys, and other opening devices or similar devices, provided by the landlord.

**Note.** Under section 54 of the Residential Tenancies Act 2010, the vicarious liability of a tenant for damage to residential premises caused by another person is not imposed on a tenant who is the victim of a domestic violence offence, or a co-tenant who is not a relevant domestic violence offender, if the damage occurred during the commission of a domestic violence offence (within the meaning of that Act).

## LANDLORD'S GENERAL OBLIGATIONS FOR RESIDENTIAL PREMISES

**19. The landlord agrees:**

**19.1** to make sure that the residential premises are reasonably clean and fit to live in, and

**Note 1.** Section 52 of the Residential Tenancies Act 2010 specifies the minimum requirements that must be met for the residential premises to be fit to live in. These include that the residential premises:

- a) are structurally sound, and
- b) have adequate natural light or artificial lighting in each room of the premises other than a room that is intended to be used only for the purposes of storage or a garage, and
- c) have adequate ventilation, and
- d) are supplied with electricity or gas and have an adequate number of electricity outlet sockets or gas outlet sockets for the supply of lighting and heating to, and use of appliances in, the premises, and

- e) have adequate plumbing and drainage, and
- f) are connected to a water supply service or infrastructure that supplies water (including, but not limited to, a water bore or water tank) that is able to supply to the premises hot and cold water for drinking and ablution and cleaning activities, and
- g) contain bathroom facilities, including toilet and washing facilities, that allow privacy for the user.

**Note 2.** Premises are structurally sound only if the floors, ceilings, walls, supporting structures (including foundations), doors, windows, roof, stairs, balconies, balustrades and railings:

- a) are in a reasonable state of repair, and
- b) with respect to the floors, ceilings, walls and supporting structures – are not subject to significant dampness, and
- c) with respect to the roof, ceilings and windows – do not allow water penetration into the premises, and
- d) are not liable to collapse because they are rotted or otherwise defective.

**19.2** to make sure that all light fittings on the residential premises have working light globes on the commencement of the tenancy, and

**19.3** to keep the residential premises in a reasonable state of repair, considering the age of, the rent paid for and the prospective life of the premises, and

**19.4** not to interfere with the supply of gas, electricity, water, telecommunications or other services to the residential premises (unless the interference is necessary to avoid danger to any person or enable maintenance or repairs to be carried out), and

**19.5** not to hinder a tradesperson's entry to the residential premises when the tradesperson is carrying out maintenance or repairs necessary to avoid health or safety risks to any person, or to avoid a risk that the supply of gas, electricity, water, telecommunications or other services to the residential premises may be disconnected, and

**19.6** to comply with all statutory obligations relating to the health or safety of the residential premises, and

**19.7** that a tenant who is the victim of a domestic violence offence or a co-tenant who is under the same agreement as the victim of the domestic violence offence



but is not a relevant domestic violence offender is not responsible to the landlord for any act or omission by a co-tenant that is a breach of this agreement if the act or omission constitutes or resulted in damage to the premises and occurred during the commission of a domestic violence offence.

- (j) a failure or breakdown of any essential service on the residential premises for hot water, cooking, heating, cooling or laundering,
- (k) any fault or damage that causes the premises to be unsafe or insecure.

## URGENT REPAIRS

**20. The landlord agrees** to pay the tenant, within 14 days after receiving written notice from the tenant, any reasonable costs (not exceeding \$1,000) that the tenant has incurred for making urgent repairs to the residential premises (of the type set out below) so long as:

- 20.1** the damage was not caused as a result of a breach of this agreement by the tenant, and
- 20.2** the tenant gives or makes a reasonable attempt to give the landlord notice of the damage, and
- 20.3** the tenant gives the landlord a reasonable opportunity to make the repairs, and
- 20.4** the tenant makes a reasonable attempt to have any appropriate tradesperson named in this agreement make the repairs, and
- 20.5** the repairs are carried out, where appropriate, by licensed or properly qualified persons, and
- 20.6** the tenant, as soon as possible, gives or tries to give the landlord written details of the repairs, including the cost and the receipts for anything the tenant pays for.

**Note.** The type of repairs that are **urgent repairs** are defined in the Residential Tenancies Act 2010 and are defined as follows:

- (a) a burst water service,
- (b) an appliance, fitting or fixture that uses water or is used to supply water that is broken or not functioning properly, so that a substantial amount of water is wasted,
- (c) a blocked or broken lavatory system,
- (d) a serious roof leak,
- (e) a gas leak,
- (f) a dangerous electrical fault,
- (g) flooding or serious flood damage,
- (h) serious storm or fire damage,
- (i) a failure or breakdown of the gas, electricity or water supply to the premises,

## SALE OF THE PREMISES

### 21. The landlord agrees:

- 21.1** to give the tenant written notice that the landlord intends to sell the residential premises, at least 14 days before the premises are made available for inspection by potential purchasers, and
- 21.2** to make all reasonable efforts to agree with the tenant as to the days and times when the residential premises are to be available for inspection by potential purchasers.

**22. The tenant agrees** not to unreasonably refuse to agree to days and times when the residential premises are to be available for inspection by potential purchasers.

### 23. The landlord and tenant agree:

- 23.1** that the tenant is not required to agree to the residential premises being available for inspection more than twice in a period of a week, and
- 23.2** that, if they fail to agree, the landlord may show the residential premises to potential purchasers not more than twice in any period of a week and must give the tenant at least 48 hours notice each time.

## LANDLORD'S ACCESS TO THE PREMISES

**24. The landlord agrees** that the landlord, the landlord's agent or any person authorised in writing by the landlord, during the currency of this agreement, may only enter the residential premises in the following circumstances:

- 24.1** in an emergency (including entry for the purpose of carrying out urgent repairs),
- 24.2** if the Civil and Administrative Tribunal so orders,
- 24.3** if there is good reason for the landlord to believe the premises are abandoned,
- 24.4** if there is good reason for serious concern about the health of the tenant or any other person on the residential premises and a reasonable attempt has been made to obtain consent to the entry,

- 24.5** to inspect the premises, if the tenant is given at least 7 days written notice (no more than 4 inspections are allowed in any period of 12 months),
- 24.6** to carry out, or assess the need for, necessary repairs, if the tenant is given at least 2 days notice each time,
- 24.7** to carry out, or assess the need for, work relating to statutory health and safety obligations relating to the residential premises, if the tenant is given at least 2 days notice each time,
- 24.8** to show the premises to prospective tenants on a reasonable number of occasions if the tenant is given reasonable notice on each occasion (this is only allowed during the last 14 days of the agreement),
- 24.9** to value the property, if the tenant is given 7 days notice (not more than one valuation is allowed in any period of 12 months),
- 24.10** to take photographs, or make visual recordings, of the inside of the premises in order to advertise the premises for sale or lease, if the tenant is given reasonable notice and reasonable opportunity to move any of their possessions that can reasonably be moved out of the frame of the photograph or the scope of the recording (this is only allowed once in a 28 day period before marketing of the premises starts for sale or lease or the termination of this agreement),
- 24.11** if the tenant agrees.
- 25. The landlord agrees** that a person who enters the residential premises under clause 24.5, 24.6, 24.7, 24.8, 24.9 or 24.10 of this agreement:
- 25.1** must not enter the premises on a Sunday or a public holiday, unless the tenant agrees, and
- 25.2** may enter the premises only between the hours of 8.00 a.m. and 8.00 p.m., unless the tenant agrees to another time, and
- 25.3** must not stay on the residential premises longer than is necessary to achieve the purpose of the entry to the premises, and
- 25.4** must, if practicable, notify the tenant of the proposed day and time of entry.
- 26. The landlord agrees** that, except in an emergency (including to carry out urgent repairs), a person other than the landlord or the

landlord's agent must produce to the tenant the landlord's or the landlord's agent's written permission to enter the residential premises.

- 27. The tenant agrees** to give access to the residential premises to the landlord, the landlord's agent or any person, if they are exercising a right to enter the residential premises in accordance with this agreement.

## **PUBLISHING PHOTOGRAPHS OR VISUAL RECORDINGS**

- 28.** The landlord agrees that the landlord or the landlord's agent must not publish any photographs taken or visual recordings made of the inside of the residential premises in which the tenant's possessions are visible unless they first obtain written consent from the tenant.

**Note.** See section 55A of the *Residential Tenancies Act 2010* for when a photograph or visual recording is 'published'.

- 29. The tenant agrees** not to unreasonably withhold consent. If the tenant is in circumstances of domestic violence within the meaning of section 105B of the *Residential Tenancies Act 2010*, it is not unreasonable for the tenant to withhold consent.

## **FIXTURES, ALTERATIONS, ADDITIONS OR RENOVATIONS TO THE PREMISES**

### **30. The tenant agrees:**

- 30.1** not to install any fixture or renovate, alter or add to the residential premises without the landlord's written permission, and
- 30.2** that certain kinds of fixtures or alterations, additions or renovations that are of a minor nature specified by clause 22(2) of the *Residential Tenancies Regulation 2019* may only be carried out by a person appropriately qualified to install those fixtures or carry out those alterations, additions or renovations unless the landlord gives consent, and
- 30.3** to pay the cost of a fixture, installed by or on behalf of the tenant, or any renovation, alteration or addition to the residential premises, unless the landlord otherwise agrees, and
- 30.4** not to remove, without the landlord's permission, any fixture attached by the tenant that was paid for by the landlord or for which the landlord gave the tenant a benefit equivalent to the cost of the fixture, and

- 30.5** to notify the landlord of any damage caused by removing any fixture attached by the tenant, and
- 30.6** to repair any damage caused by removing the fixture or compensate the landlord for the reasonable cost of repair.

**31. The landlord agrees** not to unreasonably withhold consent to a fixture, or to an alteration, addition or renovation that is of a minor nature.

*Note. The Residential Tenancies Regulation 2019 provides a list of the kinds of fixtures or alterations, additions or renovations of a minor nature to which it would be unreasonable for a landlord to withhold consent and which of those fixtures, or alterations, additions or renovations the landlord may give consent to on the condition that the fixture or alteration, addition or renovation is carried out by an appropriately qualified person.*

## LOCKS AND SECURITY DEVICES

### 32. The landlord agrees:

- 32.1** to provide and maintain locks or other security devices necessary to keep the residential premises reasonably secure, and
- 32.2** to give each tenant under this agreement a copy of the key or opening device or information to open any lock or security device for the residential premises or common property to which the tenant is entitled to have access, and
- 32.3** not to charge the tenant for the cost of providing the copies except to recover the cost of replacement or additional copies, and
- 32.4** not to alter, remove or add any lock or other security device without reasonable excuse (which includes an emergency, an order of the Civil and Administrative Tribunal, termination of a co-tenancy or an apprehended violence order prohibiting a tenant or occupant from having access) or unless the tenant agrees, and
- 32.5** to give each tenant under this agreement a copy of any key or other opening device or information to open any lock or security device that the landlord changes as soon as practicable (and no later than 7 days) after the change.

### 33. The tenant agrees:

- 33.1** not to alter, remove or add any lock or other security device without reasonable excuse (which includes an emergency, an order of the Civil and Administrative

Tribunal, termination of a co-tenancy or an apprehended violence order prohibiting a tenant or occupant from having access) or unless the landlord agrees, and

- 33.2** to give the landlord a copy of the key or opening device or information to open any lock or security device that the tenant changes within 7 days of the change.

- 34.** A copy of a changed key or other opening device need not be given to the other party if the other party agrees not to be given a copy or the Civil and Administrative Tribunal authorises a copy not to be given or the other party is prohibited from access to the residential premises by an apprehended violence order.

## TRANSFER OF TENANCY OR SUB-LETTING BY TENANT

### 35. The landlord and the tenant agree that:

- 35.1** the tenant may, with the landlord's written permission, transfer the tenant's tenancy under this agreement or sub-let the residential premises, and
- 35.2** the landlord may refuse permission (whether or not it is reasonable to do so) to the transfer of the whole of the tenancy or sub-letting the whole of the residential premises, and
- 35.3** the landlord must not unreasonably refuse permission to a transfer of part of a tenancy or a sub-letting of part of the residential premises, and
- 35.4** without limiting clause 35.3, the landlord may refuse permission to a transfer of part of the tenancy or to sub-letting part of the residential premises if the number of occupants would be more than is permitted under this agreement or any proposed tenant or sub-tenant is listed on a residential tenancy database or it would result in overcrowding of the residential premises.

*Note: Clauses 35.3 and 35.4 do not apply to social tenancy housing agreements.*

- 36. The landlord agrees** not to charge for giving permission other than for the landlord's reasonable expenses in giving permission.

## CHANGE IN DETAILS OF LANDLORD OR LANDLORD'S AGENT

### 37. The landlord agrees:

- 37.1** if the name and telephone number or contact details of the landlord change, to give the tenant notice in writing of the change within 14 days, and
- 37.2** if the address of the landlord changes (and the landlord does not have an agent), to give the tenant notice in writing of the change within 14 days, and
- 37.3** if the name, telephone number or business address of the landlord's agent changes or the landlord appoints an agent, to give the tenant notice in writing of the change or the agent's name, telephone number and business address, as appropriate, within 14 days, and
- 37.4** if the landlord or landlord's agent is a corporation and the name or business address of the corporation changes, to give the tenant notice in writing of the change within 14 days.

### COPY OF CERTAIN BY-LAWS TO BE PROVIDED [Cross out clauses if not applicable]

- 38. The landlord agrees** to give to the tenant, before the tenant enters into this agreement, a copy of the by-laws applying to the residential premises if they are premises under the *Strata Schemes Management Act 2015*.
- 39. The landlord agrees** to give to the tenant, within 7 days of entering into this agreement, a copy of the by-laws applying to the residential premises if they are premises under the *Strata Schemes Development Act 2015*, the *Community Land Development Act 1989* or the *Community Land Management Act 1989*.

### MITIGATION OF LOSS

- 40.** The rules of law relating to mitigation of loss or damage on breach of a contract apply to a breach of this agreement. (For example, if the tenant breaches this agreement, the landlord will not be able to claim damages for loss which could have been avoided by reasonable effort by the landlord.)

### RENTAL BOND

[Cross out clauses if no rental bond is payable]

- ~~**41. The landlord agrees** that, where the landlord or the landlord's agent applies to the Rental Bond Board or the Civil and Administrative Tribunal for payment of the whole or part of the rental bond to the landlord, the landlord or the landlord's agent will provide the tenant with:~~

- ~~**41.1** details of the amount claimed, and~~
- ~~**41.2** copies of any quotations, accounts and receipts that are relevant to the claim, and~~
- ~~**41.3** a copy of a completed condition report about the residential premises at the end of the residential tenancy agreement.~~

### SMOKE ALARMS

#### 42. The landlord agrees to:

- 42.1** ensure that smoke alarms are installed in accordance with the *Environmental Planning and Assessment Act 1979* if that Act requires them to be installed in the premises and are functioning in accordance with the regulations under that Act, and
- 42.2** conduct an annual check of all smoke alarms installed on the residential premises to ensure that the smoke alarms are functioning, and
- 42.3** install or replace, or engage a person to install or replace, all removable batteries in all smoke alarms installed on the residential premises annually, except for smoke alarms that have a removable lithium battery, and
- 42.4** install or replace, or engage a person to install or replace, a removable lithium battery in a smoke alarm in the period specified by the manufacturer of the smoke alarm, and
- 42.5** engage an authorised electrician to repair or replace a hardwired smoke alarm, and
- 42.6** repair or replace, a smoke alarm within 2 business days of becoming aware that the smoke alarm is not working, unless the tenant notifies the landlord that the tenant will carry out the repair to the smoke alarm and the tenant carries out the repair, and
- 42.7** reimburse the tenant for the costs of a repair or replacement of a smoke alarm in accordance with clause 18 of the *Residential Tenancies Regulation 2019*, that the tenant is allowed to carry out.

**Note 1.** Under section 64A of the *Residential Tenancies Act 2010*, repairs to a smoke alarm (which includes a heat alarm) includes maintenance of a smoke alarm in working order by installing or replacing a battery in the smoke alarm.

**Note 2.** Clauses 42.2-42.7 do not apply to a landlord of premises that comprise or include a lot in a strata scheme (within the meaning of the *Strata Schemes Management Act 2015*) if the owners corporation is responsible for the repair and replacement of smoke alarms in the residential premises.



**Note 3.** A tenant who intends to carry out a repair to a smoke alarm may do so only in the circumstances prescribed for a tenant in clause 15 of the Residential Tenancies Regulation 2019.

#### 43. The tenant agrees:

- 43.1** to notify the landlord if a repair or a replacement of a smoke alarm is required, including replacing a battery in the smoke alarm, and
- 43.2** that the tenant may only replace a battery in a battery-operated smoke alarm, or a back-up battery in a hardwired smoke alarm, if the smoke alarm has a removable battery or a removable back-up battery, and
- 43.3** to give the landlord written notice, as soon as practicable if the tenant will carry out and has carried out a repair or replacement, or engages a person to carry out a repair or replacement, in accordance with clauses 15-17 of the Residential Tenancies Regulation 2019.

**Note.** Clauses 43.2 and 43.3 do not apply to tenants under social housing tenancy agreements or tenants of premises that comprise or include a lot in a strata scheme (within the meaning of the Strata Schemes Management Act 2015) if the owners corporation is responsible for the repair and replacement of smoke alarms in the residential premises.

- 44. The landlord and tenant each agree** not to remove or interfere with the operation of a smoke alarm installed on the residential premises unless they have a reasonable excuse to do so.

**Note.** The regulations made under the Environmental Planning and Assessment Act 1979 provide that it is an offence to remove or interfere with the operation of a smoke alarm or a heat alarm in particular circumstances.

#### SWIMMING POOLS

[Cross out the following clause if there is no swimming pool]

- 45. The landlord agrees** to ensure that the requirements of the *Swimming Pools Act 1992* have been complied with in respect of the swimming pool on the residential premises.

[Cross out the following clause if there is no swimming pool or the swimming pool is situated on land in a strata scheme (within the meaning of the Strata Schemes Management Act 2015) or in a community scheme (within the meaning of the Community Land Development Act 1989) and that strata or community scheme comprises more than 2 lots]

- 46. The landlord agrees** to ensure that at the time that this residential tenancy agreement is entered into:

- 46.1** the swimming pool on the residential premises is registered under the *Swimming Pools Act 1992* and has a valid certificate of compliance under that Act or a relevant occupation certificate within the meaning of that Act, and
- 46.2** a copy of that valid certificate of compliance or relevant occupation certificate is provided to the tenant.

**Note.** A swimming pool certificate of compliance is valid for 3 years from its date of issue.

#### LOOSE-FILL ASBESTOS INSULATION

##### 47. The landlord agrees:

- 47.1** if, at the time that this residential tenancy agreement is entered into, the premises have been and remain listed on the LFAI Register, the tenant has been advised in writing by the landlord that the premises are listed on that Register, or
- 47.2** if, during the tenancy, the premises become listed on the LFAI Register, to advise the tenant in writing, within 14 days of the premises being listed on the Register, that the premises are listed on the Register.

#### COMBUSTIBLE CLADDING

- 48. The landlord agrees** that if, during the tenancy, the landlord becomes aware of any of the following facts, the landlord will advise the tenant in writing within 14 days of becoming aware of the fact:

- 48.1** that the residential premises are part of a building in relation to which a notice of intention to issue a fire safety order, or a fire safety order, has been issued requiring rectification of the building regarding external combustible cladding,
- 48.2** that the residential premises are part of a building in relation to which a notice of intention to issue a building product rectification order, or a building product rectification order, has been issued requiring rectification of the building regarding external combustible cladding,
- 48.3** that the residential premises are part of a building where a development application or complying development certificate application has been lodged for rectification of the building regarding external combustible cladding.

## SIGNIFICANT HEALTH OR SAFETY RISKS

**49. The landlord agrees** that if, during the tenancy, the landlord becomes aware that the premises are subject to a significant health or safety risk, the landlord will advise the tenant in writing, within 14 days of becoming aware, that the premises are subject to the significant health or safety risk and the nature of the risk.

## ELECTRONIC SERVICE OF NOTICES AND OTHER DOCUMENTS

**50. The landlord and the tenant agree:**

- 50.1** to only serve any notices and any other documents, authorised or required by the *Residential Tenancies Act 2010* or the regulations or this agreement, on the other party by email if the other party has provided express consent, either as part of this agreement or otherwise, that a specified email address is to be used for the purpose of serving notices and other documents, and
- 50.2** to notify the other party in writing within 7 days if the email address specified for electronic service of notices and other documents changes, and
- 50.3** that they may withdraw their consent to the electronic service of notices and other documents at any time, by notifying the other party in writing, and
- 50.4** if a notice is given withdrawing consent to electronic service of notices and other documents, following the giving of such notice, no further notices or other documents are to be served by email.

## BREAK FEE FOR FIXED TERM OF NOT MORE THAN 3 YEARS

- 51. The tenant agrees** that, if the tenant ends the residential tenancy agreement before the end of the fixed term of the agreement, the tenant must pay a break fee of the following amount if the fixed term is not more than 3 years:
- 51.1** 4 weeks rent if less than 25% of the fixed term has expired,
  - 51.2** 3 weeks rent if 25% or more but less than 50% of the fixed term has expired,
  - 51.3** 2 weeks rent if 50% or more but less than 75% of the fixed term has expired,
  - 51.4** 1 week's rent if 75% or more of the fixed term has expired.

This clause does not apply if the tenant terminates a fixed term residential tenancy agreement for a fixed term of more than 3 years or if the tenant terminates a residential tenancy agreement early for a reason that is permitted under the *Residential Tenancies Act 2010*.

**Note.** Permitted reasons for early termination include destruction of residential premises, breach of the agreement by the landlord and an offer of social housing or a place in an aged care facility, and being in circumstances of domestic violence. Section 107 of the *Residential Tenancies Act 2010* regulates the rights of the landlord and tenant under this clause.

**52. The landlord agrees** that the compensation payable by the tenant for ending the residential tenancy agreement before the end of the fixed term of not more than 3 years is limited to the amount specified in clause 51 and any occupation fee payable under the *Residential Tenancies Act 2010* for goods left on the residential premises.

**Note.** Section 107 of the *Residential Tenancies Act 2010* also regulates the rights of landlords and tenants for a residential tenancy agreement with a fixed term of more than 3 years.

## ADDITIONAL TERMS

[Additional terms may be included in this agreement if:

- (a) both the landlord and the tenant agree to the terms, and
- (b) they do not conflict with the *Residential Tenancies Act 2010*, the *Residential Tenancies Regulation 2019* or any other Act, and
- (c) they do not conflict with the standard terms of this agreement.

Any additional terms are not required by law and are **negotiable**.]

## ADDITIONAL TERM—PETS

[Cross out clauses if not applicable]

**53. The landlord agrees** that the tenant may keep the following animal on the residential premises [specify the breed, size etc]:

**54. The tenant agrees:**

- 54.1** to supervise and keep the animal within the premises, and
- 54.2** to ensure that the animal does not cause a nuisance, or breach the reasonable peace, comfort or privacy of neighbours, and



**54.3** to ensure that the animal is registered and micro-chipped if required under law, and

**54.4** to comply with any council requirements.

**55. The tenant agrees** to have the carpet professionally cleaned or to pay the cost of having the carpet professionally cleaned at the end of the tenancy if cleaning is required because an animal has been kept on the residential premises during the tenancy.

SCHEDULE 2 – ADDITIONAL TERMS - as attached

## NOTES

### 1. Definitions

In this agreement:

- **landlord** means the person who grants the right to occupy residential premises under this agreement, and includes a successor in title to the residential premises whose interest is subject to that of the tenant and a tenant who has granted the right to occupy residential premises to a sub-tenant.
- **landlord's agent** means a person who acts as the agent of the landlord and who (whether or not the person carries on any other business) carries on business as an agent for:
  - (a) the letting of residential premises, or
  - (b) the collection of rents payable for any tenancy of residential premises.
- **LFAI Register** means the register of residential premises that contain or have contained loose-fill asbestos insulation that is required to be maintained under Division 1A of Part 8 of the *Home Building Act 1989*.
- **rental bond** means money paid by the tenant as security to carry out this agreement.
- **residential premises** means any premises or part of premises (including any land occupied with the premises) used or intended to be used as a place of residence.
- **tenancy** means the right to occupy residential premises under this agreement.
- **tenant** means the person who has the right to occupy residential premises under this agreement, and includes the person to whom such a right passes by transfer or operation of the law and a sub-tenant of the tenant.

### 2. Continuation of tenancy (if fixed term agreement)

Once any fixed term of this agreement ends, the agreement continues in force on the same terms as a periodic agreement unless the agreement is terminated by the landlord or the tenant in accordance with the *Residential Tenancies Act 2010* (see notes 3 and 4).

### 3. Ending a fixed term agreement

If this agreement is a fixed term agreement, it may be ended by the landlord or the tenant by giving written notice of termination. The notice may be given at any time up until the end of the fixed term but cannot take effect until the term ends. The landlord must give at least 30 days notice and the tenant must give at least 14 days notice.

### 4. Ending a periodic agreement

If this agreement is a periodic agreement, it may be ended by the landlord or the tenant by giving written notice of termination. The notice may be given at any time. The landlord must give at least 90 days notice and the tenant must give at least 21 days notice.

### 5. Other grounds for ending agreement

The *Residential Tenancies Act 2010* also authorises the landlord and tenant to end this agreement on other grounds. The grounds for the landlord ending the agreement include sale of the residential premises requiring vacant possession, breach of this agreement by the tenant, due to hardship or if the agreement is frustrated because the premises are destroyed, become wholly or partly uninhabitable or cease to be lawfully usable as a residence or are appropriated or acquired by any authority by compulsory process.

The grounds for the tenant include breach by the landlord of information disclosure provisions under section 26 of the Act (not revealed when this agreement was entered into), breach of this agreement by the landlord, due to hardship or if the agreement is frustrated because the premises are destroyed, become wholly or partly uninhabitable or cease to be lawfully usable as a residence or are appropriated or acquired by any authority by compulsory process.

For more information refer to that Act or contact NSW Fair Trading on 13 32 20.

### 6. Warning

It is an offence for any person to obtain possession of the residential premises without an order of the Civil and Administrative Tribunal or a judgement or order of a court if the tenant does not willingly move out. A court can order fines and compensation to be paid for such an offence.

**THE LANDLORD AND THE TENANT ENTER INTO THIS AGREEMENT AND AGREE TO ALL ITS TERMS.**

**Note.** Section 9 of the Electronic Transactions Act 2000 allows for agreements to be signed electronically in NSW if the parties consent. If an electronic signature is used then it must comply with Division 2 of Part 2 of the Electronic Transactions Act 2000.

**SIGNED BY THE LANDLORD/AGENT**

Name of landlord/agent

Signature of landlord/agent

on the          day of                                  20\_\_

**LANDLORD INFORMATION STATEMENT**

The landlord acknowledges that, at or before the time of signing this residential tenancy agreement, the landlord has read and understood the contents of the **Landlord Information Statement** published by NSW Fair Trading that sets out the landlord's rights and obligations.

Signature of landlord/agent

on the          day of                                  20\_\_

**SIGNED BY THE TENANT (1)**

Name of tenant

Defence Housing Australia

Signature of tenant

on the          day of                                  20\_\_

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 Defence Housing Australia Act (Cth) 1987

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## TENANT INFORMATION STATEMENT

The tenant acknowledges that, at or before the time of signing this residential tenancy agreement, the tenant was given a copy of the **Tenant Information Statement** published by NSW Fair Trading.

Signature of tenant

on the          day of                                  20\_\_

For information about your rights and obligations as a landlord or tenant, contact:

- (a) NSW Fair Trading on 13 32 20 or [www.fairtrading.nsw.gov.au](http://www.fairtrading.nsw.gov.au), or
- (b) Law Access NSW on 1300 888 529 or [www.lawaccess.nsw.gov.au](http://www.lawaccess.nsw.gov.au), or
- (c) your local Tenants Advice and Advocacy Service at [www.tenants.org.au](http://www.tenants.org.au)

Marketing Version

## SCHEDULE 2 – ADDITIONAL TERMS

### 1. ACKNOWLEDGEMENTS

#### 1.1. Lease terms

The parties acknowledge and agree that this agreement comprises the Lease Form, the Standard Form and these Additional Terms.

#### 1.2. Landlord's acknowledgements

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 2010* (NSW) and the *Residential Tenancies Regulations 2019* (NSW); 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, and in addition to the rights and obligations of the landlord and tenant under, the Standard Form, the tenant may, by written notice to the landlord, exercise each of the following rights once (in any order):

- a. extend the Term by a period up to \_\_\_\_\_; and
- b. extend the Term by a period 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 even if such extension is not registered.

### 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. Rent payments (other than the first and last) will be paid 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 2010* (NSW).
- 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:

$$\text{monthly Rent} = \text{weekly Rent} \times 4.3482$$

- 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:

$$\text{daily Rent} = \text{weekly Rent} \times 0.1429$$

## 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:

- a. of the rent to the bank account nominated by the **Landlord**
- b. of the rent to the bank account nominated by the **Property Care Provider**

### 4.3. New directions to pay from time to time

- a. 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 4.3a 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).

## 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><b><u>First Review Date:</u></b></p> <p>31 December of the year in which this agreement commences, or if the Commencing Date is after 20 April in that year, then 31 December in the following year</p>	<p><b>Greater of market rent or the rent at the which this agreement commencement</b></p> <p>The landlord must notify the tenant in writing of the Landlord's Assessment before the First Review Date or as soon as reasonably practicable thereafter.</p> <p>Unless clause 5.4 of these Additional Terms applies, the new Rent amount payable from the First Review Date is the amount stated in the Landlord's Assessment.</p> <p>Nothing in this clause 5.1 of these Additional Terms derogates from the landlord's obligation under clause 5 of the Standard Form or the Act.</p>
<p><b><u>Second and subsequent Review Dates:</u></b></p> <p>Every 31 December for the Term</p>	<p><b>Market Rent</b></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

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.

## 5.3. Date from which new Rent applies

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 day after 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 new Rent has been assessed; and
  - (ii) once the new Rent is assessed:
    - A. the tenant must pay the landlord the amount of any underpayment within 10 Business Days of such assessment; or
    - B. the landlord must refund to the tenant the amount of any overpayment within 10 Business Days of demand by the tenant.

## 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:
  - (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:
  - (i) 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; and
  - (ii) clause 8 (Jurisdiction) of these Additional Terms will not apply unless the valuer appointed under clause 5.4.c of these Additional Terms is unwilling or unable to make a determination within 20 Business Days from the date the dispute is referred to him or her.
- c. In the event of any Lease Rent Review Dispute, the disputing party may request in writing the President of the Australian Property Institute or the Australian Valuation Institute of New South Wales 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 New South Wales (the **President's Valuer**) to determine the new Rent amount on the basis of the greater of market rent (as determined by the President's Valuer) or the Rent for the period before the Lease Rent Review Dispute, and in that case:
  - (i) in making its determination, the President's Valuer must apply the valuation criteria set out in the Landlord's Valuation Guide;
  - (ii) the costs of the President's Valuer must be met by the landlord and tenant equally; and
  - (iii) any determination of the new Rent amount by the President's Valuer will be conclusive and binding on the parties.



- d. Once a Lease Rent Review Dispute has been concluded, having regard to the new Rent amount then being paid by the tenant and the amount assessed by the President's Valuer as being the new Rent amount:
  - (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 Rent and initiating a Lease Rent Review Dispute on the basis that the landlord served the Landlord's Assessment.
- f. Despite the existence of a Lease Rent Review Dispute, the tenant will begin to pay the amount of the new Rent stated in the Landlord's Assessment pending resolution of the Lease Rent Review Dispute.

## 6. OCCUPANCY

### 6.1. 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.

## 7. PROPERTY CARE CONTRACT

### 7.1. Relationship between 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 carry out its statutory functions 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, the tenant may terminate this agreement by providing vacant possession of the Premises to the landlord, in which case:
    - a. the landlord will be deemed to have consented to the termination of this agreement for the purposes of section 81(4)(e) of the *Residential Tenancies Act 2010* (NSW); and
    - b. the tenant will not be obliged to pay any break fee to the landlord (including under **clause 51 of the Standard Form** of the Standard Form);
  - (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.

## 8. JURISDICTION

The parties acknowledge that the NSW Civil and Administrative 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 the NSW local or district court in accordance with the process described in Part 3A of the *Civil and Administrative Tribunal Act 2013* (NSW).

## 9. GENERAL PROVISIONS

### 9.1. Lease Registration

a. The tenant must, at the tenant's cost:

- (i) register this agreement;
- (ii) register a variation of this agreement if the Term is extended under clause 2.2 of these Additional Terms; and
- (iii) deliver a copy of each registered document to the landlord within 4 weeks of the parties executing this agreement or any extension of Term.

### 9.2. Caveatable interest

Subject to any requirements of Federal, State or Territory legislation, if, for any reason, this agreement (or its variation to extend the Term) is not registered by the date for delivery referred to in clause 9.1.a(iii) of these Additional Terms:

- 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; and
- c. the tenant may recoup its costs in preparing, lodging, registering and removing the caveat, from the landlord.

### 9.3. 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 Attachment A and in any other form required to register this agreement.

### 9.4. 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.

### 9.5. 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 (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,

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. Notwithstanding anything contained or implied in this agreement, the tenant is only liable for damage or destruction caused by the tenant (or an occupant of the tenant) to a building on the Premises to the extent that the landlord:

- (i) is not entitled to receive indemnity under an insurance policy which the landlord is required to effect under this clause; or
- (ii) would not have been so entitled had the landlord insured in accordance with that clause.

d. 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.

e. 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.

#### 9.6. 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.

#### **9.7. 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.

#### **9.8. 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. subject to the *Residential Tenancies Act 2010* (NSW), constitutes the entire agreement between the landlord and the tenant as to its subject matter.

#### **9.9. 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.

#### **9.10. 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.

#### **9.11. Notices**

- a. A notice given under this agreement must be:
  - (i) in writing;
  - (ii) signed by the party giving the notice, or on that party's behalf by its manager, secretary, other authorised officer, or solicitors; and
  - (iii) directed to the recipient's address for service as specified on the Front Page of this lease (or as varied by written notice from time to time), by hand delivery or by express post.
- b. The landlord must promptly notify the tenant in writing of any change of address for service.
- c. A notice given in accordance with paragraph a is taken to be received:
  - (i) if hand delivered, on delivery; and
  - (ii) if sent by express post, 3 Business Days after the date of posting.

#### **9.12. 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.

### 9.13. Counterparts

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

### 9.14. Interpretation

Unless the context otherwise precludes it:

- a. where any expressions are defined in the text of this agreement, those expressions shall have the meanings ascribed to them;
- b. the singular includes the plural and vice versa, and a reference to one gender includes all genders;
- c. 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;
- d. a covenant, agreement or undertaking on the part of two or more parties shall bind those parties jointly and each of them severally;
- e. 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;
- f. headings are for guidance only and do not affect interpretation;
- g. 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;
- h. anything to be done on a day which is not a Business Day will be due on the immediately following Business Day; and
- i. mentioning anything after "includes", "including", "for example" or similar expressions does not limit what else might be included.

## 10. FEDERAL, STATE AND TERRITORY LAWS

### 10.1. 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 2010* (NSW) and/or the *Residential Tenancies Regulations 2019* (NSW), except to the extent permitted by that Act.

### 10.2. Agreement with respect to the Residential Tenancies Act

Where the *Residential Tenancies Act 2010* (NSW) and/or the *Residential Tenancies Regulations 2019* (NSW) 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.

### 10.3. Mandatory Provisions

Where the *Residential Tenancies Act 2010* (NSW) and/or the *Residential Tenancies Regulations 2019* (NSW) implies Mandatory Provisions in this agreement:

- a. the *Residential Tenancies Act 2010* (NSW) and/or the *Residential Tenancies Regulations 2019* (NSW) 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.

## 11. DEFINITIONS

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

**Additional Terms** means these additional terms in Schedule 2 of Annexure B to this agreement.

**Body Corporate** means the owner's corporation, governing body or relevant body of a Strata Scheme.

**Business Day** means a day that is not a Saturday, Sunday or public holiday in New South Wales.

**Commencing Date** means the date set out in Item (G)2 on the Front Page.

**Defence Housing Australia** ABN 72 968 504 934.

**DHA Act** means the *Defence Housing Australia Act 1987* (Cth).

**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.

**Front Page** means the front page of the Lease Form.

**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.

**Landlord's Valuation Guide** means the Landlord's Valuation Guide on the DHA website (as may be amended from time to time).

**Lease Form** means pages 1 and 2 of this agreement.

**Mandatory Provisions** means provisions under the *Residential Tenancies Act 2010* (NSW) 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.

**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.

**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 Property Care Contract paragraph 5 of Schedule 2;

**Premises** means the premises set out in Item (A) on the Front Page and includes any Fixtures and Fittings and improvements.

**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.

**Property Care Provider** means DHA, acting in its capacity as contractor for the landlord under the Property Care Contract.

**Standard Form** means the NSW residential tenancy agreement in Annexure A.

**Rent** means the amount set out on the second page of the Standard Form, as reviewed in accordance with clause 5 of these Additional Terms.

**Review Date** has the meaning given to that term in clause 5.1 of these Additional Terms.

**Strata Scheme** means a title system giving ownership rights over a lot or lots, however described, in a registered strata plan, building units plan, group titles plan or neighbourhood plan, or a similar strata title or community title scheme.

**Term** means the term of this agreement as set out in Item (G)1 on the Front Page, starting on the Commencing Date and ending on the Terminating Date and includes any holdover period.

**Terminating Date** means the date set out in Item (G)3 on the Front Page, as extended under clause 2 of these Additional Terms.



## 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]

Certified correct for the purposes of the Real Property Act 1900 by the Landlord.

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of Lessor

\_\_\_\_\_  
Name of witness

\_\_\_\_\_  
Address of witness

*\*\* s117 RP Act requires that you must have known the signatory for more than 12 months or have sighted identifying documentation.*

### **[Execution clause for corporate Landlord]**

Certified correct for the purposes of the Real Property Act 1900 and executed on behalf of the corporation named below by the authorised person(s) whose signature(s) appear(s) below pursuant to the authority specified.

Corporation:

Authority: Section 127 of the Corporations Act

\_\_\_\_\_  
Signature of authorised person

\_\_\_\_\_  
Signature of authorised person

\_\_\_\_\_  
Name of authorised person  
[Director, Secretary, Sole Director/Secretary]

\_\_\_\_\_  
Name of authorised person  
[Director, Secretary, Sole Director/Secretary]

\_\_\_\_\_  
Office held

\_\_\_\_\_  
Office held

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 *Defence Housing Australia Act (Cth)* 1987:

\_\_\_\_\_  
Signature:

\_\_\_\_\_  
Name: (please print)

\_\_\_\_\_  
Position:

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Signature of witness:

\_\_\_\_\_  
Name of witness: (please print)

\_\_\_\_\_  
Occupation of witness:

\_\_\_\_\_  
Address of witness:

Marketing Version