

Commercial Tenancy Agreement

Fourth Edition

1/4

This Tenancy Agreement is made between the Lessor and the Tenant. The Lessor leases to, and the Tenant accepts a lease of, the Premises for the rent payable by the Tenant, subject to the terms of this Agreement.

THIS AGREEMENT COMPRISES THE REFERENCE SCHEDULE AND COMMERCIAL TENANCY AGREEMENT CONDITIONS.

DO NOT USE THIS DOCUMENT:

- FOR RESIDENTIAL TENANCIES.
- FOR PREMISES COVERED BY THE RETAIL SHOP LEASES ACT 1994 (Qld).
- WHERE THE TERM OF THE LEASE (INCLUDING OPTIONS) EXCEEDS THREE (3) YEARS.
- WHERE REGISTRATION UNDER THE LAND TITLE ACT 1994 (Qld) IS REQUESTED BY THE TENANT.
- WHERE A HIGH VALUE LEASE IS TO BE ENTERED INTO AS YOU MAY NOT OBTAIN THE PROTECTION OF A LEASE PREPARED BY A SOLICITOR.

INSTRUCTIONS TO COMPLETE

1. The parties should be advised to seek legal advice about the Tenancy Agreement. Reference should be made to Sections 24(3A) to (7) of the *Legal Profession Act 2007* (Qld) when preparing and completing this Agreement.
2. This Agreement provides for rent to be reviewed by either an index review or by fixed increases. It is not suitable for use where rent is to be reviewed to market except if the Agreement provides for an option (refer clause 15.1).
3. Only certain outgoings are recoverable in all circumstances (see the definitions of 'outgoings' in clause 1.2). Additional outgoings may be recovered by ticking the boxes at item 10(b).
4. Ensure that all items are completed in the Reference Schedule.

Item 1: Full name/s of the owner/s of the property and their address. If the Lessor is a company, include ABN. DO NOT use a business name.

Item 2: Full name/s of the Tenant. If the Tenant is a company, include its ABN. DO NOT use a business name.

Item 4: The Premises must be clearly identified e.g. "Suite 3, 45 John Street, Spring Hill" etc. If not able to be identified by name, a sketch plan must be attached to the Agreement and the address must be included at item 4.

Item 6: Insert the period of the further Tenancy, e.g. "6 months" or "1 year" or "not applicable". **The total term of the lease including any options is not to exceed three years. Plus insert the notice period to exercise the option.**

Item 8: Insert the date/s on which the rent is to be reviewed and the method of the rent review or "not applicable".

Item 9: The Permitted Use should be stated clearly.

Item 10(a): Insert the percentage of outgoings the Tenant is to pay, e.g. "25%" or "100%" or "Not applicable".

Item 10(b): Tick any additional outgoings the Tenant is to pay.

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REFERENCE SCHEDULE

1.	LESSOR:	2.	TENANT:	3.	GUARANTOR:	4.	PREMISES:	5.	TERM:	6.	OPTION OF RENEWAL (IF ANY):	7.	RENT:
	<p>NAME: 72 & GJ PAPPIN SUPERFUND</p> <p>ADDRESS: 3 BELAH COURT</p> <p>SUBURB: ALBANY GREEN</p> <p>STATE: QLD POSTCODE: 4035</p> <p>PHONE: 0401588220</p> <p>MOBILE: 0401588220</p> <p>FAX: 0401588220</p> <p>EMAIL: dannien@masssafety.com.au</p> <p>ABN: 49679911411</p> <p>ACN: 49679911411</p>	<p>NAME: KIRKRON PTY LTD T/A METAL REPAIRS & SMES</p> <p>ADDRESS: 1/4 COMBRETON STREET</p> <p>SUBURB: BRENDME</p> <p>STATE: QLD POSTCODE: 4500</p> <p>PHONE: </p> <p>MOBILE: </p> <p>FAX: </p> <p>EMAIL: dannien@masssafety.com.au</p> <p>ABN: 62010361083</p> <p>ACN: 62010361083</p>	<p>NAME: </p> <p>ADDRESS: </p> <p>SUBURB: </p> <p>STATE: POSTCODE: </p> <p>PHONE: </p> <p>MOBILE: </p> <p>FAX: </p> <p>EMAIL: </p> <p>ABN: </p> <p>ACN: </p>	<p>NAME: </p> <p>ADDRESS: </p> <p>SUBURB: </p> <p>STATE: POSTCODE: </p> <p>PHONE: </p> <p>MOBILE: </p> <p>FAX: </p> <p>EMAIL: </p> <p>ABN: </p> <p>ACN: </p>	<p>NAME: </p> <p>ADDRESS: </p> <p>SUBURB: </p> <p>STATE: POSTCODE: </p> <p>PHONE: </p> <p>MOBILE: </p> <p>FAX: </p> <p>EMAIL: </p> <p>ABN: </p> <p>ACN: </p>	<p>Level or Tenancy No. </p> <p>ADDRESS: 1/4 COMBRETON STREET</p> <p>SUBURB: BRENDME</p> <p>STATE: QLD POSTCODE: 4500</p> <p>RP/SP: 135158</p> <p>Description: Lot 1</p>	<p>The Term of the Agreement is: 3 <input checked="" type="checkbox"/> Months <input type="checkbox"/> Years</p> <p>Commencing on: 01/01/2020 DATE (dd/mm/yyyy)</p> <p>and ending on: 31/12/2022 DATE (dd/mm/yyyy)</p> <p>Note: The term of the lease (including options) should not exceed three (3) years.</p>	<p>Period of further term: </p> <p>Final date for exercise of option: DATE (dd/mm/yyyy)</p>	<p>RENT: \$1,600 + GST</p> <p>per: <input checked="" type="checkbox"/> month <input type="checkbox"/> year <input type="checkbox"/> Select applicable box</p>	<p>INITIALS</p>			

ABN:ACN:LICENCE NUMBER:

PHONE:MOBILE:FAX:EMAIL:

SUBURB:STATE:POSTCODE:

ADDRESS:

NAME:

12. LESSOR'S AGENT:

11. DEPOSIT:

\$

Other (insert details):

☐ Trade waste

☐ Common Area Electricity

☐ Provision and servicing of lifts and escalators

☐ Provision and servicing of Fire Detection and extinguishing equipment

☐ Security services

☐ Pest Control

☐ Cleaning the Building

☐ Provision and servicing of Air-conditioning to the Building

☐ Gardening and Landscaping

☐ Repair and maintenance of the Building

☐ Managing and operating the Building

10(b) Additional Outgoings including the costs of (tick if applicable):

10. OUTGOINGS:

10(a) Percentage of Outgoings:100%

Refer to clause 1.2(9)

9. PERMITTED USE:

Review Date	Type of Review
	<input type="checkbox"/> Index review
	<input type="checkbox"/> Fixed increase - amount of increase: %
	<input type="checkbox"/> Index review
	<input type="checkbox"/> Fixed increase - amount of increase: %

8. RENT REVIEW:

Refer to clause 3.3

Note: Failure to review on these dates does not waive the Lessor's right to review.

SPECIAL CONDITIONS

The parties should seek legal advice about any special conditions required. Please note sections 24(3A) to (7) of the *Legal Profession Act 2007* (Qld) when preparing and completing this Agreement.

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AGREEMENT MADE

DATE:

5 December 2019

EXECUTED as an Agreement.

EXECUTION BY LESSOR

(dd/mm/yyyy):

LESSOR 1

Executed by:

in accordance with Section 127 of the Corporations Act 2001 (Cth).

Director/Secretary

Director

Name of Director/Secretary (BLOCK LETTERS)

Name of Director (BLOCK LETTERS)

OR (only complete this part if signing as attorney for the Lessor)

the duly constituted attorney of the LESSOR (who states s/he has received no notice of revocation) under

power of attorney dated _____ in the presence of:

Name of Witness (BLOCK LETTERS)

AS LESSOR in the presence of:

Elizabeth Meikigau

Signature of Witness

SIGNED by

OR

Signature of Witness

SIGNED by

OR (only complete this part if signing as attorney for the Lessor)

the duly constituted attorney of the LESSOR (who states s/he has received no notice of revocation) under

power of attorney dated _____ in the presence of:

Name of Witness (BLOCK LETTERS)

AS LESSOR in the presence of:

Elizabeth Meikigau

Signature of Witness

LESSOR 2

Executed by:

in accordance with Section 127 of the Corporations Act 2001 (Cth).

Director/Secretary

Director

Name of Director/Secretary (BLOCK LETTERS)

Name of Director (BLOCK LETTERS)

OR (only complete this part if signing as attorney for the Lessor)

the duly constituted attorney of the LESSOR (who states s/he has received no notice of revocation) under

power of attorney dated _____ in the presence of:

Name of Witness (BLOCK LETTERS)

AS LESSOR in the presence of:

Elizabeth Meikigau

Signature of Witness

SIGNED by

OR

Signature of Witness

SIGNED by

OR (only complete this part if signing as attorney for the Lessor)

the duly constituted attorney of the LESSOR (who states s/he has received no notice of revocation) under

power of attorney dated _____ in the presence of:

Name of Witness (BLOCK LETTERS)

AS LESSOR in the presence of:

Elizabeth Meikigau

Signature of Witness

ADDRESS OF WITNESS

1454 Logan Rd

SUBURB:

Mt Gravatt

STATE: QLD POSTCODE: 4122

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EXECUTION BY TENANT

TENANT 1

Executed by:

in accordance with Section 127 of the Corporations Act 2001 (Cth).

Director/Secretary

Name of Director/Secretary (BLOCK LETTERS)

OR (only complete this part if signing as attorney for the Tenant)

SIGNED by

Signature of Witness

Name of Witness (BLOCK LETTERS)

OR

SIGNED by

AS TENANT in the presence of:

Signature of Witness

Name of Witness (BLOCK LETTERS)

TENANT 2

Executed by:

in accordance with Section 127 of the Corporations Act 2001 (Cth).

Director/Secretary

Name of Director/Secretary (BLOCK LETTERS)

OR (only complete this part if signing as attorney for the Tenant)

SIGNED by

Signature of Witness

Name of Witness (BLOCK LETTERS)

OR

SIGNED by

AS TENANT in the presence of:

Signature of Witness

Name of Witness (BLOCK LETTERS)

ADDRESS OF WITNESS:

SUBURB:

STATE:

POSTCODE:

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KARRIDON PTY LTD T/AS METAL APPAREL REPAIRS & SALES

GRETHER PAPPIN

DAMIAN PAPPIN

EXECUTION BY THE GUARANTOR

SIGNED by

Name of Guarantor (BLOCK LETTERS)

AS GUARANTOR in the presence of:

Name of Witness (BLOCK LETTERS)

Signature of Witness

ADDRESS OF WITNESS:

SUBURB: STATE: POSTCODE:

SIGNED by

Name of Guarantor (BLOCK LETTERS)

AS GUARANTOR in the presence of:

Name of Witness (BLOCK LETTERS)

Signature of Witness

ADDRESS OF WITNESS:

SUBURB: STATE: POSTCODE:

INITIALS

1. DEFINITIONS AND INTERPRETATION

1.1 Terms in Reference Schedule

Where a term used in this Agreement appears in bold type in the Reference Schedule, that term has the meaning shown opposite it in the Reference Schedule.

1.2 Definitions

Unless the context otherwise requires:

(1) **"Agreement"** means this document, including any Schedule or Annexure to it;

(2) **"Building"** means the building of which the Premises forms part;

(3) **"Business Day"** means a day that is not a Saturday, Sunday or any other day which is a Public Holiday or a Bank Holiday in the place where an act is to be performed or a payment is to be made;

(4) **"Claim"** includes any claim or legal action and all costs and expenses incurred in connection with it;

(5) **"Default Interest Rate"** means the Standard Default Contract Rate applying at the due date published by the Queensland Law Society Inc.;

(6) **"GST"** means a goods and services tax or similar value added tax;

(7) **"Land"** means the Land on which the Premises are situated;

(8) **"Lessor's Property"** means any property owned by the Lessor in the Premises or on the Land and includes the property identified in any inventory annexed to this Agreement;

(9) **"Outgoings"** means the following charges levied or expenses payable in respect of the Premises, the Land or the Building (as the case requires):

(a) Rates and charges that a local government imposes and levies collected by a local government on behalf of the State of Queensland;

(b) Insurance premiums (including building, fire, loss of rent, plate glass and public liability) payable by the Lessor;

(c) Land tax;

(d) Body Corporate fees and levies (including but not limited to Administrative Fund levies and Sinking Fund levies); and

(e) the additional outgoings referred to in Item 10(b) of the Reference Schedule;

(10) **"Premises"** means the premises described in Item 4 of the Reference Schedule and includes the Lessor's Property in the Premises;

(11) **"REIQ"** means The Real Estate Institute of Queensland Ltd;

(12) **"Tenancy"** means the tenancy between the Lessor and the Tenant created by this Agreement;

(13) **"Tenant's Employees"** means each of the Tenant's employees, contractors, agents, customers, subtenants, licensees or others (with or without invitation) who may be on the Premises, the Building or the Land;

(14) **"Tenant's Property"** includes all fixtures and other articles in the Premises which are not the Lessor's;

(15) **"Tenant's Services"** means all utilities and services in or provided to the Premises and without limiting the generality of the foregoing shall include provision of electricity, gas, water, waste disposal, sewerage, telephone and data services; and

(16) **"Term"** means either a periodic monthly tenancy or the period of months or years described in Item 5 of the Reference Schedule, as applicable, commencing on the date in Item 5 in the Reference Schedule.

1.3 Interpretation

(1) Reference to:

(a) one gender includes each other gender;

(b) the singular includes the plural and the plural includes the singular;

(c) a person includes a body corporate;

(d) a party includes the party's executors, administrators, successors and permitted assigns; and

(e) a statute, regulation or provision of a statute or regulation ("Statutory Provision") includes:

(i) that Statutory Provision as amended or re-enacted from time to time; and

(ii) a statute, regulation or provision enacted in replacement of that Statutory Provision.

(2) All monetary amounts are in Australian dollars, unless otherwise stated.

(3) If a party consists of more than one person, this Agreement binds them jointly and each of them severally.

(4) Headings are for convenience only and do not form part of this Agreement or affect its interpretation.

(5) A party which is a trustee is bound both personally and in its capacity as a trustee.

(6) "Including" and similar expressions are not words of limitation.

(7) Where a word or expression is given a particular meaning, other parts of speech and grammatical forms of that word or expression have a corresponding meaning.

(8) If an act must be done on a specified day which is not a Business Day, the act must be done instead on the next Business Day.

(9) Where this Tenancy permits or requires the Lessor to do something, it may be done by a person authorised by the Lessor.

(10) Sections 105 and 107 of the *Property Law Act 1974 (Qld)* do not apply to this Tenancy.

2. TERM AND HOLDING OVER

2.1 Term

The Lessor lets the Premises to the Tenant and the Tenant accepts the Premises as tenant for the Term.

2.2 The Tenant may exercise an option to renew this Agreement for the further term if clause 15 applies.

2.3 Monthly Tenancy

If the Tenant continues to occupy the Premises after the Term with the Lessor's consent then:

(1) the Tenant does so as a monthly Tenant on the same basis as at the last day of the Term; and

(2) either party may terminate the monthly tenancy by giving to the other one (1) month's notice expiring on any day.

3. RENT AND RENT REVIEWS

3.1 Rent

The Tenant must:

(1) pay the Rent by equal monthly instalments in advance on the first day of each month;

(2) pay the first instalment on the signing of this Agreement;

(3) if necessary, pay the first and last instalments apportioned on a daily basis; and

(4) pay all instalments as the Lessor directs.

- 5.1 Permitted Use**
The Tenant must only use the Premises for the Permitted Use.
- 5.2 Restrictions on use**
The Tenant must not:
- (1) disturb the occupants of adjacent premises;
 - (2) display any signs without the Lessor's written consent which must not be unreasonably withheld;
 - (3) overload any Tenant's Services;
 - (4) damage the Lessor's Property;
 - (5) alter the Premises, install any partitions or equipment or do any building work without the Lessor's prior written consent;
 - (6) do anything that may invalidate the Lessor's insurance or increase the Lessor's premiums; or
 - (7) do anything unlawful or illegal on the Premises.
- 5. USE OF THE PREMISES**

- 4. OUTGOINGS**
- (1) The Tenant must pay the Lessor the whole, or where a percentage is stated in Item 10(a) of the Reference Schedule that percentage of the Outgoings for the Premises, or the property of which the Premises is part as applicable.
 - (2) Outgoings are payable to the Lessor within fourteen (14) days of production to the Tenant of a copy of the Lessor's assessment notice or account.

- 3.2 Definitions**
In clause 3.3:
- (1) **"Index Number"** means the Consumer Price Index (All Groups) for Brisbane published by the Australian Bureau of Statistics. If that index no longer exists, "Index Number" means an index that the Chief Executive Officer of the REIQ decides best reflects changes in the cost of living in Brisbane; and
 - (2) **"Review Date"** means a date which is stated in Item 8 of the Reference Schedule as a date from which the rent is to be reviewed.
- 3.3 Rent Review**
- (1) **Application**
This clause 3.3 applies if there is a Review Date.
 - (2) **Review**
The Rent must be reviewed as from each Review Date to an amount represented by:
If an Index Review, then A where:
$$A = \frac{B \times D}{C}$$

Where B = the Index Number for the quarter ending immediately before the relevant Review Date.
Where C = the Index Number for the quarter one (1) year before the quarter in B; and
Where D = the Rent payable immediately before the Review Date.
Or if a Fixed Increase, then A where:
$$A = B + B \times C$$

Where B = the Rent payable immediately before the Review Date.
Where C = the percentage stated in Item 8 of the Reference Schedule.
 - (3) Time is not of the essence in respect of the review of Rent.

- 8. TENANT'S RELEASE AND INDEMNITY**
- 8.1** The Tenant occupies and uses the Premises at its own risk. The Tenant also carries out building work in the Premises at its risk.
 - 8.2** The Tenant releases the Lessor from and indemnifies it against all Claims for damages, loss, injury or death:
(1) if it:
(a) occurs in the Premises;
(b) arises from the use of the Services in the Premises; or
(c) arises from the overflow or leakage of water from the Premises,
except to the extent that it is caused by the Lessor's deliberate act or negligence;
 - 8.3** The Lessor must do everything reasonable to ensure the Tenant's Services operate efficiently during normal working hours.
The Lessor's deliberate act or negligence.
(2) if it arises from the negligence or default of the Tenant or the Tenant's employees, except to the extent that it is caused by the Lessor's deliberate act or negligence;

- 7. ASSIGNMENT AND SUBLETTING**
- 7.1** The Tenant must obtain the Lessor's consent before the Tenant assigns, sublets or deals with its interest in the Premises.
7.2 The Lessor must give its consent if:
(1) the Tenant satisfies the Lessor that the new tenant is financially secure and has the ability to carry out the Tenant's obligations under this Tenancy;
(2) the new tenant signs any agreement and gives any security which the Lessor reasonably requires;
(3) the Tenant complies with any other reasonable requirements of the Lessor;
(4) the Tenant is not in breach of the Tenancy; and
(5) the Tenant pays the Lessor's reasonable costs of giving its consent.

- 6. MAINTENANCE AND REPAIR**
- 6.1 Repair**
The Tenant must:
(1) keep the Premises clean and tidy; and
(2) keep the Tenant's Property clean and maintained in good order and condition.
 - 6.2 Cleaning and Maintenance**
The Tenant must:
(1) fix any damage caused by the Tenant or the Tenant's employees;
(2) keep the Premises in good repair and condition except for fair wear and tear, inevitable accident and inherent structural defects; and
(3) keep the Premises for inspection or to carry out maintenance, repairs or building work at any reasonable time after giving notice to the Tenant. In an emergency, the Lessor may enter at any time without giving the Tenant notice.
 - 6.3 Lessor's Right to Inspect and Repair**
(1) The Lessor may enter the Premises for inspection or to carry out maintenance, repairs or building work at any reasonable time after giving notice to the Tenant. In an emergency, the Lessor may enter at any time without giving the Tenant notice.
(2) The Lessor may carry out any of the Tenant's obligations on the Tenant's behalf if the Tenant does not carry them out on time. If the Lessor does so, the Tenant must promptly pay the Lessor's costs.
- 5.3 Tenant's Services**
The Tenant shall be responsible for payment for all Tenant's Services provided directly to the Premises.

- (1) vacate the Premises and give them back to the Lessor in the condition required by clause 6.1(1);
- (2) remove all the Tenant's Property from the Premises;
- (3) repair any damage caused by removal of the Tenant's Property and leave the Premises clean; and
- (4) return all keys, security passes and cards held by it or the Tenant's Employees.

10. TERMINATION OF TERM

(1) re-enter and take possession of the Premises;
 (2) by notice to the Tenant, terminate this Agreement;
 (3) by notice to the Tenant, convert the unexpired portion of the Term into a tenancy from month to month;
 (4) exercise any of its other legal rights;
 (5) recover from the Tenant any loss suffered by the Lessor due to the Tenant's default.

the Tenant defaults under this Agreement if:

(1) the Rent or any money payable by the Tenant is unpaid for fourteen (14) days;

(2) the Tenant breaches any other term of this Agreement;

(3) the Tenant assigns its property for the benefit of creditors;

(4) the Tenant becomes a bankrupt person within the meaning of the *Bankruptcy Act 1966* (Cth); or

(5) the Tenant becomes an externally-administered body corporate within the meaning of the *Corporations Act 2001* (Cth).

9. DEFAULT AND TERMINATION

(b) have no right to terminate this Agreement.

(a) have no right to claim compensation against the Lessor; and

11.1 Rent Reduction

11.2 Tenant May Terminate

(1) must reduce the Rent and any other money owing to the Lessor by a reasonable amount depending on the type, extent and effect of damage or destruction; and

(2) cannot enforce clause 6.1 against the Tenant; until the Premises are fit for use or accessible.

(1) within three (3) months of receiving the Tenant's notice of termination, notifies the Tenant that the Lessor will reinstate the Premises; and

(2) carries out the reinstatement works within a reasonable time,

Clauses 11.1 and 11.2 do not apply where:

- (1) the damage or destruction was caused by or contributed to, or arises from any willful act of the Tenant or the Tenant's Employees; or
- (2) an insurer under any policy effected by the Lessor refuses indemnity or reduces the sum payable under the policy because of any act or default of the Tenant or the Tenant's Employees.

impractical or undesirable to reinstaate the Premises renders it impossible for the Lessor to consider the damage to the Premises renders it impractical or undesirable to reinstaate the Premises or the Building, it may terminate this lease by giving the Tenant at least one (1) month's notice ending on any day of the month. At the end of that month's notice, this lease ends.

- (1) Any dispute under this clause 11 must be determined by an independent qualified Valuer appointed by the Chief Executive Officer of the REIQ at the request of either party.
- (2) In making the determination, the Valuer acts as an expert and the determination is final and binding on both parties.
- (3) The cost of the determination must be paid by the parties equally unless otherwise decided by the Valuer.

- (1) Nothing in this lease obliges the Lessor to reinstate the Building or the means of access to them.
- (2) When reinstating the Building or the Premises, the Lessor is entitled to change their design, fabric, character or dimensions to comply with any law or lawful requirement.

12. INTEREST FOR LATE PAYMENT

Without affecting the Lessor's other rights, if the Tenant does not pay any money owing to the Lessor under this Agreement within fifteen (14) days after the due date, the Tenant must pay interest on that money calculated at the Default Interest Rate from the due date for payment until payment is made.

13. DUTY

The Tenant must pay stamp duty on this lease, if applicable, and other government imposts payable in connection with this Agreement and all other documents and matters referred to in this Agreement when due or earlier if requested in writing by the Lessor.

14. GOODS AND SERVICES TAX

If a GST is imposed on any supply made to the Tenant under or in accordance with this Tenancy, the amount the Tenant must pay for that supply is increased by the amount of that GST.

15. OPTION FOR FURTHER TENANCY

15.1 This clause 15 applies if item 6 of the Reference Schedule is completed with a period of a further term.

15.2 If the Tenant:

- (1) wishes to lease the Premises for the further term; and
- (2) gives notice to that effect to the Lessor strictly in accordance with the timeframes in item 6 of the Reference Schedule; and
- (3) has not breached this Agreement or if breached such breach has been waived by the Lessor or remedied,

the Lessor must, subject to clause 15.6, grant to and the Tenant must take a further tenancy (**New Tenancy**) of the Premises on the terms and conditions set out in clause 15.3.

15.3 The New Tenancy will be on the same terms and conditions as this Agreement except that:

- (1) the Rent for the New Tenancy will be the amount agreed between the Lessor and the Tenant or, failing agreement by the date the Term expires, the market rent for the Premises determined by an independently qualified Valuer (acting as an expert) in accordance with clause 15.4;
- (2) the Commencement Date will be the day after the Term expires; and
- (3) the New Tenancy will omit this clause 15 unless there is more than one option of renewal set out in item 6 of the Reference Schedule.

15.4 If the Rent is to be determined according to the market under clause 15.3(1), the Valuer is to be nominated by the Chief Executive Officer of the REIQ at the request of either party. The following additional terms apply:

- (1) the Valuer's decision is final and binding on the parties;
- (2) the Valuer's costs must be paid by the Lessor and the Tenant equally. Either party may pay the Valuer's costs and recover one half of the amount paid from the other party on demand; and
- (3) if the Rent for the New Tenancy is not determined by the date the Term expires, then:
 - (a) until the Valuer determines the Rent for the New Tenancy, the Tenant must continue to pay the existing Rent; and
 - (b) when the Valuer's decision is made under this clause 15(4), the parties will make an adjustment for any over or under payment of the Rent.

15.5 Before transferring any interest in the Land, the Lessor must obtain a signed deed from the transferee containing covenants in favour of the Tenant that the transferee will be bound by the terms of this Agreement and will not transfer its interest in the Land unless it obtains a similar deed from its transferee.

15.6 If there is a Guarantor under this Agreement, the Lessor is not required to grant the New Tenancy unless the Tenant obtains a further guarantee on the same terms of the due and punctual performance of the Tenant's obligations under this Agreement by the Guarantor or any other replacement guarantor acceptable to the Lessor.

16. DEPOSIT AND COMMISSION

16.1 The Tenant must pay the Deposit to the Lessor's Agent on signing this Agreement.

16.2 The Deposit must be applied against the Rent payable by the Tenant on the commencement of the Term.

16.3 The Lessor agrees to pay the Agent's commission to the Lessor's Agent and authorises the Agent to draw the commission on the commencement of the Term from money received from the Tenant in payment of Rent.

17. NOTICES

17.1 Any notice given or required by this Agreement to be given to a party ("the addressee") must be in writing and, without prejudice to any other lawful method of service, shall be deemed to have been sufficiently given if it is sent to a facsimile number or email address which has been stated for the addressee in this Agreement or otherwise provided by the addressee to the sender.

17.2 Any such notice sent to a facsimile number shall be deemed to have been received by the addressee when the sender obtains a clear transmission report.

17.3 Any such notice sent to an email address shall be deemed to have been received by the addressee when it is capable of being retrieved by the addressee at the email address in accordance with section 24 of the *Electronic Transactions (Queensland) Act 2001*.

17.4 Any such notice may also be given in the manner provided in section 109X of the *Corporations Act 2001 (Cth)* as if it were being served for the purposes stated in that section or in accordance with the provisions of section 347 of the *Property Law Act 1974 (Qld)*.

18. GUARANTEE AND INDEMNITY

18.1 Where item 3 of the Reference Schedule is completed with the name or names of any person or persons then the succeeding provisions of this clause 18 shall apply.

18.2 The Guarantor (and jointly and severally where there is more than one Guarantor) guarantees to the Lessor the timely payment by the Tenant under this Agreement and the timely compliance with all the terms by which the Tenant is bound under this Agreement.

18.3 The Guarantor will at all times pay to the Lessor on demand and indemnify and keep the Lessor indemnified from and against all losses which the Lessor may suffer or incur consequent upon or arising out of any failure by the Tenant to comply with the terms in a timely manner.