

SCHEDULE 1 – STANDARD FORM

# Fixed term – residential tenancy agreement

All parties to this agreement should consider seeking legal advice about their rights and obligations

**Landlord:** (Landlord details must be completed even if an agent is acting for the landlord)

Insert full name/s:	
Address for service of documents (must not be agent's address):	
	Postcode:
Contact telephone number (only required if no agent is managing the property for the landlord):	

**AGENT:**

Insert name of registered agent or person managing the property for the landlord:		
Address (for service of documents):		RLA:
		Postcode:-
Telephone:	Mobile:	Email address for service of notice or document:-

**Tenant:**

Insert full name of <b>tenant 1</b> : DEFENCE HOUSING AUSTRALIA ABN 72 968 504 934	
Contact telephone number: 139342	Email address for service of notice or document: Leasing@dha.gov.au
Insert full name of <b>tenant 2</b> :	
Contact telephone number:	Email address for service of notice or document:
Insert full name of <b>tenant 3</b>	
Contact telephone number:	Email address for service of notice or document:-

**Address of premises:**

--

**Term of agreement:**

Starting on: / /	Ending on: / /	Term of (e.g. 6 or 12 months)
---------------------	-------------------	-------------------------------

**Rent:**

Payment of rent will be made on:

**Bond amount:**

Weekly amount: \$	Insert day of week rent is due First day	weekly/fortnightly/monthly of each month	
----------------------	---	---	--

Does the property meet minimum housing standards? (see Housing Improvement Act 2016) Yes  No Is there a rent control notice or order on the property? Yes  No 

(if yes, provide details in 'Additional terms of agreement')

**Method of payment of rent:** An option to pay the rent without attending the premises must be offered to the tenant.

How/where is the rent to be paid: In accordance with Additional Term 4 of this agreement.

**Domestic appliance requiring instruction:** Manufacturers' manuals, or written or oral instructions must be given.

List all appliances or devices provided as part of the agreement that the tenant should expect instructions for e.g. air conditioner:

.....

.....

.....

**Water use and supply:** Unless there is a specific agreement with the tenant, if the water supply is separately metered, the tenant is responsible to pay for **all water use and the water supply charge**.

Tick one box:

All water use and supply charge <input type="checkbox"/>	All water use only <input checked="" type="checkbox"/>	Supply charge only <input type="checkbox"/>	Other <input type="checkbox"/>	Insert details of other agreement:
--	--	---	--------------------------------	------------------------------------

The tenant is not required to pay charges for water unless the landlord asks for payment within 3 months of the issue of the bill, or the tenant requested a copy of the account and the landlord failed to provide it (at no cost) within 30 days.

**EXCLUSIONS:**

List parts of the premises that are not included in this agreement. Give as much detail as possible:

.....

.....

.....

## Terms of agreement

### 1. Application of the Act and Regulations

The *Residential Tenancies Act 1995* and related regulations apply to all residential tenancy agreements in South Australia. An agreement or arrangement that is inconsistent with the Act is invalid.

### 2. Maintenance of premises – landlord

The landlord will hand over the premises in a reasonably clean condition, maintain it in a reasonable state of repair and meet all health and safety legal requirements.

### 3. Maintenance of premises – tenant

The tenant will keep the premises in a reasonably clean condition and notify the landlord of any damage or repair. The tenant must not intentionally or negligently cause or allow damage to the premises.

### 4. Use of premises

The tenant will not use or allow the premises to be used for an illegal purpose, or cause or allow a nuisance. The tenant must not cause or allow an interference with the reasonable peace, comfort or privacy of another person who lives in the immediate vicinity of the premises.

### 5. Handing over possession of the premises without restrictions

At the start of the agreement the landlord will not restrict the tenant from having full use of the premises (except for any part reserved for the landlord's own use). The landlord is not aware of anything that would prevent the tenant from living in the premises for the term of the tenancy.

### 6. Tenant's right to peace comfort and privacy

The tenant is entitled to peace comfort and privacy without interference by the landlord or other tenants of the landlord.

### 7. Landlord's right of entry

All entry must be made between 8am and 8pm on any day other than a Sunday or public holiday. The landlord may enter the premises as listed in section 72 of the *Residential Tenancies Act 1995*.

### 8. Locks and security devices

The landlord will provide and maintain locks and other devices so that the premises are reasonably secure. Neither party will alter, remove, or add a lock or security device without the consent of the other. Neither party will unreasonably withhold consent to the alteration, removal or addition of a lock or security device by and at the expense of the other.

### 9. Alterations and additions

The tenant must not, without the landlord's written consent, make an alteration or addition to the premises. The landlord will not unreasonably withhold consent to an alteration or addition that is necessary to ensure the provision of infrastructure or a service of a prescribed kind.

### 10. Removal of an alteration or addition

The tenant may remove an item that was added with the landlord's consent, unless its removal would cause damage. If damage is caused by removing an item, the tenant must notify the landlord and, at the option of the landlord, repair the damage or compensate the landlord for the reasonable cost to repair the damage.

### 11. Subletting or assignment

The tenant has the right, with the landlord's written consent, to sublet or assign their interest of the premises to another. The landlord cannot unreasonably withhold consent but can charge reasonable expenses for giving consent.

**12. Termination at end of fixed term**

A landlord or tenant must give at least 28 days' notice to the other to end a fixed agreement at the expiry of the term. The agreement continues as a periodic tenancy if no notice is given.

**13. Termination by landlord or tenant for breach of agreement**

If a breach can be remedied, the landlord or tenant can issue a notice for the breach. The notice must be in a written form required by regulation, must detail the breach and that if the breach is not remedied within the specified period the tenancy will end.

**14. Termination for rent arrears**

If the tenant fails to pay rent, rent must be at least 14 days behind before the landlord can issue a notice of termination for the breach. The notice must be in a written form required by regulation.

**15. Termination on hardship grounds**

Either the landlord or the tenant can apply to the South Australian Civil and Administrative Tribunal (SACAT) to terminate a tenancy because the continuation of the tenancy would cause undue hardship.

**16. Termination before end of fixed term**

If the tenant moves out before the end of this agreement without the approval of the landlord they may need to pay for the costs associated with finding a new tenant, reletting the premises and loss of rent.

**17. Insurance**

If parties want to insure the property; the landlord would be responsible to insure their dwelling, fixtures and fittings. The tenant would be responsible to insure their personal belongings and furnishings.

**ADDITIONAL TERMS OF AGREEMENT**

*Insert any other terms of the agreement – a term must not contradict the tenancies legislation:*

See Schedule 2 - Additional Terms.

.....  
.....  
.....  
.....  
.....

*The landlord must give the tenant a copy of this agreement after it is signed.*

*Any variation to this agreement must be in writing and dated and signed by the landlord and tenant.*

*The landlord must keep a copy of this agreement and any variation – in paper or electronic form – for at least 2 years after the agreement ends*

**SIGNATURE OF LANDLORD/S OR AGENT:**

	/
	/

**Signature of tenant/s:** *Make sure you read all terms of this agreement before signing*

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 <i>Defence</i> ) <i>Housing Australia Act 1987 (Cth):</i> )	
..... Signature:	..... Signature of witness:
..... Name: (please print)	..... Name of witness: (please print)
..... Position:	..... Position of witness:
..... Date:	..... Address of witness:

For general tenancy information contact Consumer and Business Services on 131 882, or visit [sa.gov.au/tenancy/renters](http://sa.gov.au/tenancy/renters)

Marketing Version

## SCHEDULE 2 – ADDITIONAL TERMS

### 1. ACKNOWLEDGEMENTS

#### Lease terms

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

#### Landlord's acknowledgements

**1.2.** 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 1995 (SA)* and the *Residential Tenancies Regulations 2010 (SA)*; and
- c. there is no bond payable by the tenant to the landlord.

### 2. EXTENSION OF TERM

#### 2.1 The tenant's right to extend the Term

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

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

#### 2.2 Notice of extension of Term

A notice under this clause must:

- a. be given at least 3 months before the date, which but for that extension, would have been the terminating date of this agreement;
- b. specify which sub-clause of clause 2 of these Additional Terms is invoked;
- c. specify the period by which the Term is to be extended;
- d. specify the new Terminating Date; and
- e. be promptly signed and dated by the landlord and returned to the tenant.

#### 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. The tenant elects to pay Rent (other than the first and last payments) monthly in advance on the first day of each calendar month. The tenant elects to pay the Rent monthly in advance although it may have no obligation to do so under the *Residential Tenancies Act 1995 (SA)*.
- 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:

**Payment direct to Landlord** – \_\_\_\_\_ % of the Rent direct to the landlord in the account nominated by the landlord.

**Payment direct to Property Care Provider** - \_\_\_\_\_ % of the Rent direct to the Property Care Provider in the account nominated by the Property Care Provider.

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

- a. Subject to clause 4.3(c), the parties agree that the landlord may, from time to time, by notice in writing to the tenant, issue a new direction for Rent payment under clause 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 (a) of these Additional Terms is expressed as only having effect for a particular month, the tenant will revert to paying the Rent in accordance with clause of these Additional Terms for subsequent months (after giving effect to the direction for the relevant month).
- c. Any new direction for Rent payment issued under clause 4.3(a) must only involve an increase in the percentage of the Rent payable directly to the Property Care Provider under clause 4.2 and must not involve a decrease in that percentage.

## 5. RENT REVIEW

### 5.1 Review dates and method of Rent review

a. The Rent will be reviewed and assessed as follows:

Review Date	Method of review
<b><u>First Review Date:</u></b> 31 December of the year in which this Agreement commences, or if the Commencement Date is later than 30 September in that year, then 31 December in the following year.	The landlord must notify the tenant in writing of the Landlord's Assessment at least 60 days before the First Review Date.  Unless clause 5.4 of these Additional Terms applies, the new Rent payable from the First Review Date is the New Rent Amount stated in the Landlord's Assessment.
<b><u>Second and subsequent Review Dates:</u></b> Every 31 December for the Term	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).

### 5.2 When and how Rent will be reviewed

- a. The Rent will be reviewed by the landlord as at each relevant Review Date, in the manner shown in the table in clause 5.1 of these Additional Terms.
- b. Nothing in this clause 5 of these Additional Terms derogates from the landlord's obligations under the Residential Tenancies Act 1995 (SA).

### 5.3 Date from which new Rent applies

Subject to clause 5.4, if the Rent review:

- a. is completed by the relevant Review Date, then, subject to the terms of this agreement, the new Rent takes effect on the relevant Review Date; or
- b. is not completed by the relevant Review Date:
- (i) the tenant must continue to pay Rent at the rate applicable for the previous period until the Rent review process has been completed and the Landlord's Assessment has been issued; and
  - (ii) once the 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,

and the tenant elects to pay an increase in Rent with effect from the relevant Review Date even if the Landlord gives notice of the Rent increase after the time required by the *Residential Tenancies Act 1995 (SA)*.

### 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 they will refer all disputes in relation to the Landlord's Assessment or the Landlord's failure to issue a Landlord's Assessment (Lease Rent Review Dispute) to dispute resolution under this clause 5.4.
- c. In the event of any Lease Rent Review Dispute, the disputing party may request in writing the Chair of the Australian Property Institute or the Australian Valuation Institute of South Australia 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 South Australia (the Chair's Valuer) to determine the new current market Rent for the Premises, and in that case:



- (i) in making its determination, the Chair's Valuer must apply the valuation criteria set out in the Landlord's Valuation Guide;
  - (ii) the costs of the Chair's Valuer must be met by the landlord and tenant equally; and
  - (iii) any determination of the new Rent by the Chair's Valuer will be conclusive and binding on the parties.
- d. Once a Lease Rent Review Dispute has been concluded, having regard to the new Rent then being paid by the tenant and the amount assessed by the Chair's Valuer as being the new Rent:
- (i) without limiting section 55(6) of the *Residential Tenancies Act 1995 (SA)*, the parties agree the new Rent for the purposes of section 55(2a) and section 55(3) of the *Residential Tenancies Act 1995 (SA)*; and
  - (ii) 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
  - (iii) 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. If the valuer fails to decide the new Rent within 10 Business Days after its appointment, the parties may agree to appoint (or either party may request the appointment of) a further valuer under clause 5.4(c).

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

### **6.1 Payment by the landlord**

The landlord must pay:

- a. rates, taxes or charges payable under any law (other than charges payable by the tenant under this agreement);
- b. the installation costs and charges for initial connection to the residential premises of an electricity, water, gas, bottled gas or oil supply service;
- c. all charges for the supply of electricity, non-bottled gas or oil to the tenant at the residential premises that are not separately metered;
- d. the costs and charges for the supply or hire of gas bottles for the supply of bottled gas at the commencement of the tenancy;
- e. all charges (other than water usage charges) in connection with a water supply service to separately metered residential premises;
- f. all charges in connection with a water supply service to residential premises that are not separately metered;
- g. all charges for the supply of sewerage services (other than for pump out septic services) or the supply or use of drainage services to the residential premises; or
- h. 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
- i. 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 advanced meter, if the meter installation is required by the retailer to replace an existing meter because the meter is faulty, testing indicates the meter may become faulty or the meter has reached the end of its life.

### **6.2 Payment by the tenant**

The tenant must pay all charges for the supply of electricity, gas or water to the tenant at the premises if the premises are separately metered.

## **7. REPAIRS**

### **7.1 Urgent Repairs**

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

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

## **7.2 Tenant may arrange for urgent repairs**

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 premises (of the type set out below) so long as:

- a. the damage was not caused as a result of a breach of this agreement by the tenant;
- b. the tenant gives or makes a reasonable attempt to give the landlord notice of the damage;
- c. the tenant gives the landlord a reasonable opportunity to make the repairs;
- d. the tenant makes a reasonable attempt to have any appropriate tradesperson named in this agreement make the repairs;
- e. the repairs are carried out, where appropriate, by licensed or properly a qualified person and that person provides the landlord with a report on the work carried out and the apparent cause of the state of disrepair;
- f. 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.

## **8. OCCUPANCY**

### **8.1 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.

## **9. PROPERTY CARE CONTRACT**

### **9.1 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 meet its obligations under the DHA Act.
- b. The parties acknowledge and agree that:
  - (i) this agreement is interdependent with the Property Care Contract;
  - (ii) if this agreement is terminated or is surrendered, the Property Care Contract automatically (and without the need for any action to be taken, or any notice to be given, by either party) terminates on the date of termination or surrender of this agreement;
  - (iii) if the Property Care Contract is terminated:

- a. the tenant may give up possession of the Premises and the landlord will be deemed to have consented to the tenant giving up possession of the Premises for the purposes of section 79(h) of the *Residential Tenancies Act 1995* (SA);
  - b. in which case this agreement will terminate under section 79(h) of the *Residential Tenancies Act 1995* (SA); and
  - c. the tenant will not be obliged to pay any break fee to the landlord;
- (iv) in the event the landlord sells the Premises by way of Mid-Lease Sale, the landlord will ensure that any third party purchaser of the Premises (Third Party Purchaser) executes a deed of novation of the Property Care Contract in accordance with the terms of the Property Care Contract; and
- (v) if there is any inconsistency between the provisions in this agreement and the provisions in the Property Care Contract, the provisions in this agreement will prevail to the extent of the inconsistency.
- c. The parties acknowledge that
- (i) the Property Care Provider and the Tenant are the same entity;
  - (ii) DHA acts in 2 different capacities, namely as the tenant under this agreement and the Property Care Provider under the Property Care Contract; and
  - (iii) DHA will be referred to in this agreement by either the name "tenant" or "Property Care Provider" (as appropriate) to clarify the relevant capacity in which DHA is acting.

## **10. GENERAL PROVISIONS**

### **10.1 Lease Registration**

The tenant must, at the tenant's cost:

- a. register this agreement;
- b. register a variation of this agreement if the Term is extended under clause 2.2 of these Additional Terms; and
- c. deliver a copy of each registered document to the landlord within 12 months of the parties executing this agreement or any extension of Term.

### **10.2 Caveatable interest**

- a. The tenant may lodge a caveat to protect its leasehold interest in the Premises.
- b. The landlord will not raise any objection to the lodgement of the caveat.

### **10.3 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.

### **10.4 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.

## 10.5 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 per occurrence (or for such other reasonable amount which the landlord and the tenant agree).
- b. If, during the Term:
  - (i) a building on the Premises is damaged or destroyed by a risk against which the landlord is required by this agreement to insure;
  - (ii) the payment of insurance moneys under the insurance policy has not been refused in whole or in part because of any act or omission of the tenant; and
  - (iii) the tenant has notified the landlord within 20 Business Days after the date of the damage or destruction that it requires the landlord to reinstate the building,subject to any right of the landlord to terminate this agreement under section 83B of the *Residential Tenancies Act 1995* (SA), the landlord agrees to act promptly and do its best to reinstate the building, including:
  - (iv) claiming and obtaining payment of any insurance moneys to which it is entitled under the insurance policy for the damage or destruction;
  - (v) obtaining any permission, permits and consents that may be required under law to enable the landlord to reinstate the building; and
  - (vi) using all relevant insurance proceeds (except sums for loss of Rent) in reinstating the building, making up any difference between the cost of reinstating and the insurance proceeds.
- c. The landlord must provide evidence of the currency of its insurance policies to the tenant within 7 Business Days of a request in writing by the tenant.
- d. The landlord agrees to notify the tenant promptly if any of the insurances required by this clause lapse or become void, voidable or otherwise unenforceable.

## 10.6 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.

## 10.7 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.

## 10.8 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. and the Property Care Contract and any other documents or information required to be provided by the parties under the *Residential Tenancies Act 1995* (SA) constitutes the entire agreement between the landlord and the tenant as to their subject matter, subject to the *Residential Tenancies Act 1995* (SA).

## 10.9 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.

## 10.10 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.

## 10.11 Notices

- a. A notice given under this agreement must be in writing and, if there is an approved form, in the approved form.
- b. A notice may be given to a party to this agreement or (in the case of the landlord) to the landlord's agent:
  - (i) by giving it to the party or agent personally;
  - (ii) if an address for service for the party or agent is stated in this agreement for service of notices – by leaving it at the address or sending it by prepaid post as a letter to the address;
  - (iii) if a facsimile number for the party or agent is stated in this agreement for service of notices – by sending it by facsimile to the facsimile number in accordance with the *Electronic Communications Act 2001* (SA); or
  - (iv) if an email address for the party or agent is stated in this agreement for service of notices – by sending it electronically to the email address in accordance with the *Electronic Communications Act 2001* (SA).
- c. The parties agree that any communications delivered electronically through the tenant's and/or Property Care Provider's online portal will constitute a notice delivered via email for the purposes of this agreement.
- d. If no address for service is stated in this agreement for the tenant, the tenant's address for service is taken to be the address of the premises.
- e. A party or the landlord's agent may withdraw his or her consent to notices being given to them by a particular means only by giving notice to each other party that notices are no longer to be given to them by that particular means.
- f. A party or the landlord's agent may change his or her address for service, facsimile number or email address only by giving notice to each other party of a new address for service, facsimile number or email address, in which case the new address for service, facsimile number or email address is taken to be the address for service, facsimile number or email address for the purposes of this agreement from the date of the notice.
- g. Unless the contrary is proved:
  - (i) a notice left at an address for service is taken to have been received by the party to whom the address relates when the notice was left at the address;
  - (ii) a notice sent by post is taken to have been received by the person to whom it was addressed when it would have been delivered in the ordinary course of post;

- (iii) a notice sent by facsimile is taken to have been received at the place to which the facsimile was sent when the sender's facsimile machine produces a transmission report indicating all pages of the notice have been successfully sent; and
- (iv) a notice sent by email is taken to have been received by the recipient when the email enters the recipient's email server.

#### **10.12 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.

#### **10.13 Counterparts**

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

#### **10.14 Interpretation**

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

### **11. FEDERAL, STATE AND TERRITORY LAWS**

#### **11.1 Application of laws**

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

#### **11.2 Jurisdiction**

The parties acknowledge that the South Australian 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 South Australia Magistrates Court in accordance with the process described in Part 3A of the *South Australian Civil and Administrative Tribunal Act 2013* (SA).

#### **11.3 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 1995 (SA)* and/or the *Residential Tenancies Regulations 2010 (SA)*, except to the extent permitted by that Act.

#### 11.4 Agreement with respect to the Residential Tenancies Act

Where the *Residential Tenancies Act 1995 (SA)* and/or the *Residential Tenancies Regulations 2010 (SA)* 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.

#### 11.5 Mandatory Provisions

Where the *Residential Tenancies Act 1995 (SA)* and/or the *Residential Tenancies Regulations 2010 (SA)* implies Mandatory Provisions in this agreement:

- a. the Residential Tenancies Act 1995 (SA) and/or the Residential Tenancies Regulations 2010 (SA) 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.

#### 12. 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 A to this agreement.

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

**Commencing Date** means the date set out on page 2 of the Lease Form.

**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.

**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 Form L1 at pages 1 to 4 of this agreement.

**Mandatory Provisions** means provisions under the *Residential Tenancy Act 1995 (SA)* 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 market rent for the Premises payable for the period of 12 months from the relevant Review Date determined in accordance with the process set out in the table in paragraph 5 of Schedule 2 of the Property Care Contract.

**Premises** means the premises set out on page 3 of the Lease Form and page 5 of the Standard Form 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 South Australian residential tenancy agreement in Annexure A.

**Rent** means the amount set out on page 6 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 on page 2 of the Lease Form and page 6 of the Standard Form, starting on the Commencing Date and ending on the Terminating Date and includes any holdover period.

**Terminating Date** means the date set out on page 2 of the Lease Form and page 6 of the Standard Form, as extended under clause 2 of these Additional Terms.

Marketing Version



## 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 1886* (SA) by the Landlord.

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

\_\_\_\_\_  
Signature of Landlord

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

\_\_\_\_\_  
Residential address of witness

\_\_\_\_\_  
Business hours telephone of witness

\_\_\_\_\_  
*\*\* s267 RP Act requires that you must have personally known the signatory or are satisfied as to his or her identity*

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

Certified correct for the purposes of the *Real Property Act 1886* (SA) 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 2001* (Cth)

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

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

\_\_\_\_\_  
Name of authorised person

\_\_\_\_\_  
Name of authorised person

\_\_\_\_\_  
[Director, Secretary, Sole Director/Secretary]

Office held

\_\_\_\_\_  
[Director, Secretary, Sole Director/Secretary]

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 1987* (Cth):

.....  
Signature:

.....  
Signature of witness:

.....  
Name: (please print)

.....  
Name of witness: (please print)

.....  
Position:

.....  
Position of witness:

.....  
Date:

.....  
Occupation of witness:

.....  
Residential address of witness:

.....  
Business hours telephone of witness:

.....  
Date:

Marketing Version