

# Lease of Commercial Premises

(where the period is for 3 years or less (including any option period) and to which the Retail Leases Act 1994 does not apply)



1. This form should not be used if the term of the lease (including the period of any option of renewal) exceeds three years.
2. Delete whichever of alternate clauses 23A/23B and 24A/24B are not to apply- See clause 26.

**This Deed of Lease is made the** \_\_\_\_\_ **day of** \_\_\_\_\_ **20** \_\_\_\_\_

## PARTIES

### LESSOR ["the Lessor"]

**Registered for GST** Yes/No \_\_\_\_\_ **ACN|ABN** \_\_\_\_\_  
**Name/s:** \_\_\_\_\_  
**Or Corporation Name:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
**Phone:** \_\_\_\_\_ **Mobile:** \_\_\_\_\_  
**Fax:** \_\_\_\_\_ **Email:** \_\_\_\_\_

### LESSOR'S AGENT

**ACN** \_\_\_\_\_ **ABN** 35 048 903 932  
**Name:** Ideal Realty Advisors  
**Address:** Suite 8, Level 1 \_\_\_\_\_ 13-15 Wentworth Ave \_\_\_\_\_ Sydney \_\_\_\_\_ 2000  
**Phone:** 0414 088 089 \_\_\_\_\_ **Mobile:** 0414 088 089  
**Fax:** 0 0 \_\_\_\_\_ **Email:** alexkim2000@msn.com

### LESSEE ["the Lessee"]

**Registered for GST** Yes/No \_\_\_\_\_ **ACN|ABN** \_\_\_\_\_  
**Name/s:** \_\_\_\_\_  
**Or Corporation Name:** \_\_\_\_\_  
**Address:** \_\_\_\_\_  
**Phone:** \_\_\_\_\_ **Mobile:** \_\_\_\_\_  
**Fax:** \_\_\_\_\_ **Email:** \_\_\_\_\_

### GUARANTOR ["the Guarantor"]

**Name:** \_\_\_\_\_  
**Address:** \_\_\_\_\_

### Item 1 - PREMISES ["the Premises"]

Known as \_\_\_\_\_  
and any attached inventory signed forming part of this lease.

### Item 2 - PERMITTED USE [clause 2]

The premises must only be used for: \_\_\_\_\_

### Item 3 - TERM OF LEASE [subject to Clause 27]

A term of \_\_\_\_\_ Commencing on \_\_\_\_\_ Ending on \_\_\_\_\_

### Item 4 - RENT [clause 30]

An initial base rent (GST inclusive) of \_\_\_\_\_ per \_\_\_\_\_ commencing on \_\_\_\_\_  
and payable on the \_\_\_\_\_ day of each \_\_\_\_\_ in advance to the Lessor/Agent and  
upon the terms and conditions set out in this Lease.

### Item 5 - OPTION TO RENEW [clause 32]

For a further period of \_\_\_\_\_ year/s.  
Select one method for renewal rent review see clause 32(b) (i), clause 32 (b)(ii) and clause 32(b)(iii).

#### Tick applicable box

Fixed Amount (clause 32(b)(i)) [ ] Amount of \$ \_\_\_\_\_  
Fixed Percentage of Rent (clause 32(b)(i)) [ ] Percentage of \_\_\_\_\_ %  
CPI (clause 32(b)(ii)) [ ]  
Current Market Rent (clause 32(b)(iii)) [ ]

If using a fixed percentage, the initial rent referred to in clause 32 (b)(i) is \$ \_\_\_\_\_ (GST inclusive) per \_\_\_\_\_

### Item 6 - SECURITY DEPOSIT/BANK GUARANTEE

The amount of the security deposit referred to in clause 22 is \$ \_\_\_\_\_  
The amount of the bank guarantee referred to in clause 29 is \$ \_\_\_\_\_

**Item 7 - OUTGOINGS** [clause 25]

The percentage of outgoings referred to in clause 24A is \_\_\_\_\_ %, or

The percentage of increases in outgoings referred to in clause 24B is \_\_\_\_\_ %

**Item 8 - REVIEW OF RENT**

Select one method for review of rent see clauses 23A and 23B.

**Tick applicable box**

CPI (clause 23A) [  ]  
 Fixed Amount (clause 23B) [  ] Amount of \$ \_\_\_\_\_  
 Fixed Percentage of Rent (clause 23B) [  ] Percentage of \_\_\_\_\_ %

If using a fixed percentage, the initial rent referred to in clause 23B is \$ \_\_\_\_\_ (GST inclusive) per

**Item 9 - INSURANCE** [clause 9]

Public Liability Insurance required is \$ \_\_\_\_\_

**Item 10 - INTEREST** [clause 16(b)]

\_\_\_\_\_ %

**Item 11 - GUARANTOR** [clause 28]

The guarantor referred to in clause 28 is \_\_\_\_\_  
 of \_\_\_\_\_

**THE LEASE TERMS AND CONDITIONS****1 Interpretation**

- (a) **"the premises"** includes any fixtures, fittings, furnishings, plant, equipment and chattels owned by the Lessor and in or at any time installed in the premises.
- (b) **"the Lessee"** includes the Lessee's successors and permitted assigns and, where the context permits, includes the Lessee's servants, agents, contractors and invitees.
- (c) **"the Lessor"** includes the Lessor's successors and assigns and, where the context permits, includes the Lessor's contractors, employees and agents.
- (d) Words importing the singular number include the plural, and the masculine gender includes the feminine or neuter genders and vice versa, and a reference to a person shall include a corporation.
- (e) Any covenant or agreement on the part of two or more persons shall bind them jointly and severally.

**2 Use**

- (a) The premises must only be used for the purposes as set out in Item 2.
- (b) The Lessee will not do or suffer to be done in or near the premises anything which might annoy or disturb the occupiers of nearby premises.

**3 Statutory Covenants**

The covenants and powers implied in every lease by virtue of Sections 84,84A and 85 of the Conveyancing Act 1919 shall not apply to or be implied in this lease.

**4 Damage to Premises**

- (a) If the premises are, or the building (if any) of which they form part is damaged, the Lessor is not obliged to repair or reinstate the premises or that building.
- (b) If the premises (or the building, if any, of which they form part) shall be destroyed or damaged so as to render the premises unfit for occupation and use by the Lessee for the purposes of the Lessee's business then:
  - (i) the Lessor may at any time thereafter by written notice to the Lessee terminate this lease without compensation; and
  - (ii) if the Lessor shall fail to rebuild or reinstate the premises (or the building, if any, of which they form part) within a reasonable time after having received written notice from the Lessee requiring the Lessor so to do then the Lessee may at any time thereafter by written notice to the Lessor terminate this lease without compensation.
- (c) Any such termination shall be without prejudice to the rights of either party in respect of any antecedent breach matter or thing;
- (d) Upon the happening of any such destruction or damage the rent payable under this lease or a proportionate part thereof according to the nature and extent of the damage sustained shall abate until the premises have been made fit for occupation and use by the Lessee for the purposes of the Lessee's business or until this lease has been terminated pursuant to Clause 4(b).
- (e) If the Lessor and the Lessee do not agree as to the amount of rent to be so abated that amount shall be determined by a person appointed by agreement between the Lessor and the Lessee or, failing such agreement, appointed by the President of the NSW Division of the Australian Property Institute.
- (f) The person making such determination shall be acting as an expert and not as an arbitrator and the costs of the determination shall be paid as to one half by the Lessor and as to one half by the Lessee.

**5 Subletting etc.**

The Lessee will not

- (a) grant a sublease, licence or concession in respect of the whole or any part of the premises; or
- (b) part with possession of the whole or any part of the premises; or
- (c) mortgage or otherwise charge or encumber the Lessee's estate or interest in this lease.

**6 Assignment**

The Lessee will not assign or transfer this lease without the written consent of the Lessor (which is not to be unreasonably withheld).

**7 Care of the premises****The Lessee will**

- (a) keep, and upon vacating the premises yield up, the premises in a clean state and free from rubbish
- (b) keep, and upon vacating the premises yield up, the premises in good repair (having regard to their condition at the commencement of this lease), reasonable wear and tear, damage by fire not attributable to any act or omission on the part of the Lessee, flood, lightning, storm and tempest only excepted
- (c) promptly replace all glass (including exterior window glass) in the premises which becomes damaged or broken and all light globes and fluorescent tubes which become worn out or damaged
- (d) promptly notify the Lessor of any circumstance which arises which might cause any damage or risk to the premises or to any person or property
- (e) keep the premises free of rodents, vermin, insects and pests
- (f) keep all doors and windows securely fastened when the premises are unoccupied.

**8 The Lessee will not**

- (a) without the prior written consent of the Lessor (which may be given subject to reasonable conditions and may not be unreasonably withheld)
  - (i) make or allow to be made any alteration or addition (including partitioning) to the premises
  - (ii) affix an aerial or antenna to the premises
  - (iii) paint, display or affix any sign, advertisement or notice on the exterior of the premises
- (b) do or allow to be done anything which might constrict, block or damage any plumbing facilities in, or used in association with, the premises;
- (c) damage or deface the premises, or
- (d) sleep or allow anyone to sleep on the premises.

**9 Insurance**

The Lessee will keep in force a policy of public risk insurance with respect to the premises and the Lessee's business in the premises for a cover of not less than the amount set out in Item 9, in respect of any one event or claim, and whenever requested by the Lessor so to do will furnish to the Lessor evidence of the currency of that policy. The Lessee will keep in force an insurance policy for replacement of plate glass located in or around the premises.

**10** The Lessee will not knowingly do or allow to be done anything whereby any insurance policy relating to the premises or to the building (if any) of which they form part may be prejudiced or rendered void or voidable or anything which might increase the premium payable in respect of that policy.

**11 Statutory notices**

The Lessee will comply with all statutes, ordinances and regulations (present and future) relating to the premises and to the Lessee's use or occupation of the premises and will promptly comply with all notices and orders given by any authority the necessity or ground for which relates to the Lessee's use or occupation of the premises.

**12 Lessor's Access**

The Lessor may at all reasonable times enter the premises to view their state of repair or to comply with any requirement of any authority or to carry out repairs or maintenance provided that the Lessor shall not cause any undue inconvenience to the Lessee.

**13** The Lessor may affix and retain on the exterior of the premises a "For Sale" sign (at any time) and a "To Let" sign (during the last three months of the term of this lease) and may at reasonable times and on reasonable notice show the premises to prospective purchasers and to prospective tenants.

**14 Release and Indemnity**

The Lessee occupies and uses the premises at the risk of the Lessee and completely releases the Lessor from, and agrees to keep the Lessor indemnified against, all claims relating to any death of or injury to any person or to damage to or loss of property occurring in or near the premises or related to the Lessee's use or occupation of the premises and not caused by the negligence or wilful act of the Lessor.

**15 Removal of Fixtures**

- (a) The Lessee may, and if so required by the Lessor will, before the expiration or termination of this lease or of any extension of or holding over under this lease, remove from the premises all trade or tenant's fixtures installed by the Lessee and will promptly repair any damage caused during the removal.
- (b) Any trade or tenant's fixtures and all chattels brought onto the premises by the Lessee which are not so removed will become the property of the Lessor.

**16 Default**

- (a) If any rent or other money payable under this lease remains unpaid for 14 days after becoming due for payment, or if the Lessee fails to observe or perform any covenant or provision on the part of the Lessee in this lease, then the Lessor may re-enter the premises whereupon this lease will terminate.
- (b) The Lessee will pay to the Lessor on demand interest on any money (including rent) due and payable under this lease but unpaid calculated at the rate set out in Item 10, per annum from the day on which it became payable to the date of payment.

**17 Costs**

The Lessee will pay all stamp duty and reasonable costs (including any mortgagee's costs of consent) incurred by the Lessor in connection with the preparation and completion of this lease and in connection with any application for the Lessor's consent and in connection with any default by the Lessee under this lease.

**18 Approvals**

The Lessee acknowledges that no representation or warranty has been made by the Lessor as to the suitability of the premises for the Lessee's use and that the Lessee is aware of the possible need for the lessee to obtain approvals of authorities to that use.

**19 Quiet enjoyment**

For so long as the Lessee fully complies with the Lessee's obligations under this lease the Lessor will not interfere with the Lessee's occupation and use of the premises.

**20 Notices**

- (a) Any notice given by the Lessor or the Lessee to the other of them shall be sufficiently given if in writing (signed, if given by a company, by a director or secretary of the company) and served on that other personally or left at or sent by prepaid post to the residential, or to a business, address of that other last known to the party giving the notice.
- (b) A notice served by post shall be deemed to be served 2 business days after it has been posted.

**21 Usage Charges**

The Lessee will pay to the Lessor on demand any amount separately charged in respect of the premises for water usage or for sewerage usage (excluding fixed charges) or for the removal of trade waste.

**22 Security Deposit**

Upon the signing of this deed the Lessee will pay to the Lessor a security deposit in the amount (if any) stated in Item 6. At the expiration or sooner determination of this lease the Lessor shall be entitled to deduct from that deposit, or apply that deposit in or towards satisfaction of, any amount that may be or become payable by the Lessee to the Lessor pursuant to the provisions of this lease.

**23A\* Rent Review**

The base rent for each year or part of a year commencing on an anniversary of the commencing date of the term of this lease (appropriately apportioned if necessary to apply to the part of a year) shall be the base rent for the then previous year multiplied by the Consumer Price Index (Sydney - all groups) number for the last quarter before that anniversary divided by that Index number for the same quarter in the previous calendar year.

**OR**

**23B\*** The base rent for each year or part of a year commencing on an anniversary of the commencing date of the term of this lease (appropriately apportioned if necessary to apply to the part of a year) shall be the base rent for the then previous year increased by the amount or the percentage stated in Item 8.

**24A\* Outgoings**

By way of further rent the Lessee will pay to the Lessor on demand an amount equal to the percentage stated in Item 7 of the outgoings (as defined in clause 25)

**OR**

**24B\*** By way of further rent the Lessee will pay to the Lessor on demand an amount equal to the percentage stated in Item 7 of all increases in the outgoings (as defined in clause 25) over the respective amounts assessed, charged or paid for the relevant rating, taxing or insurance period current at the commencement of the term of this lease.

- 25** (a) For the purposes of clause 24A or clause 24B, whichever is applicable, "the outgoings" means all local council rates and charges, water sewerage and drainage rates and charges not referred to elsewhere in this lease, land tax as assessed, and all insurance premiums payable, in relation to the premises (or if the premises are only part of a property then in relation to that property).
- (b) For the purposes of this clause 25 land tax shall be taken to be the tax which would have been payable if it had been assessed on the basis that
  - (i) the premises (of if the premises are only part of a property then that property) were the only land owned by the Lessor and were not subject to a special trust (within the meaning of the Land Tax Management Act 1956), and
  - (ii) the Lessor was not a company classified under Section 29 of that Act as a non-concessional company.

- 26** (a) If neither of clauses 23A and 23B is deleted then clause 23A has effect and clause 23B does not form part of this lease.
- (b) If neither of clauses 24A and 24B is deleted then neither of them has effect and neither of them forms part of this lease.

**27 At end of lease**

If this lease is not renewed or if its term is not extended and if the Lessee holds over after the expiration of the lease with the consent of the Lessor then the Lessee will become a monthly tenant (the tenancy being terminable by one months written notice given by either party and expiring on any day) at the same rent per month as is then payable and on the same terms and conditions as are contained in this lease so far as they can be applied.

**28 Guarantee**

The guarantor (if any) named in Item 11 guarantees to the Lessor the due performance by the Lessee of the Lessee's obligations (including obligations to pay rent or damages) under this lease both during the term of this lease and after that term has ended.

The liability of the guarantor will not be affected by

- (i) the Lessor giving the Lessee extra time to comply with an obligation or waiving, or not insisting on strict compliance with, any term of this lease;
- (ii) the payment by the Lessee of a security deposit or the Lessor receiving any benefit from a security deposit;
- (iii) the rent being increased or the terms of this lease being altered, or
- (iv) the bankruptcy, or if the Lessee is a company the winding up, of the Lessee.

If the Lessee does not pay any money payable to the Lessor by virtue of this lease (including rent and damages or compensation following default) then the guarantor will pay that money to the Lessor on demand even if the Lessor has not tried to recover payment from the Lessee or out of a security deposit.

**29** If an amount is set out in Item 6 then before the term of this lease begins the Lessee will give to the Lessor, and maintain, an irrevocable and unconditional bank guarantee of payment on demand to the Lessor of that amount by a bank, on terms acceptable to the Lessor. Acceptance by the Lessor of any payment under such guarantee will not affect the rights of the Lessor nor operate as a waiver of any breach by the Lessee.

**30 Payment of rent**

The Lessee will pay rent as set out in Item 4, punctually on the due dates and will not withhold or be entitled to withhold any part of such payment by way of deduction, set off or counterclaim in respect of any claim for damages or for compensation which the Lessee might at any time have against the Lessor.

**31 Rules**

If the premises form part of a building the Lessor may from time to time promulgate Rules relating to that building not inconsistent with the rights of the Lessee under this lease relating (inter alia) to

- (a) the use, safety, care and cleanliness of that building
- (b) the closure of that building outside all normal business hours; and
- (c) the external appearance of that building

And upon the Lessor giving to the Lessee written notice thereof such Rules shall bind the Lessee as if they were set out in this lease and were the subject of an express covenant herein by the Lessee to observe them.

**32 Option of Renewal**

- (a) If not more than six months or not less than three months prior to the expiration of the term of this lease (in which respect time shall be of the essence) the Lessee notifies the Lessor in writing that the Lessee wishes to take a renewal of this lease for further period set out in Item 5 of this Lease from that expiration, and if at that expiration the Lessee is not in default under this lease (or is in default but the default has been waived by the Lessor), the Lessor will at the cost of the Lessee grant to the Lessee and the Lessee will take a further lease of the premises for that further period upon the same terms and conditions (except as stated in this clause) as are contained in this lease except this renewal clause.
- (b) The initial base rent (inclusive of any GST) payable under such further lease shall be:
  - (i) the fixed amount or percentage set out in Item 5 of this Lease.

**OR**

- (ii) the base rent payable immediately prior to the expiration of the term of this lease multiplied by the Consumer Price Index (Sydney - all groups) number for the last quarter before that expiration divided by that index number for the same quarter in the previous calendar year.

**OR**

- (iii) the current market rent at that expiration, and if the Lessor and the Lessee do not agree as to that current market rent it is to be determined by a person appointed by agreement between the Lessor and the Lessee or, failing agreement, appointed by the President of the NSW Division of the Australian Property Institute. Such person shall be acting as an expert and not as an arbitrator, and the costs of the determination shall be paid as to one half by the Lessor and as to one half by the Lessee.
- (c) The base rent for the second year at the term of such further lease shall be the base rent for the first year of that term multiplied by the Consumer Price Index (Sydney - all groups) number for the last quarter before the expiration of that first year divided by that index number for the same quarter in the previous calendar year.
- (d) If none of clause 32 (b)(i), clause 32 (b) (ii) or clause 32 (b) (iii) are deleted or a method of renewal selected in Item 5, then clause 32 (b) (ii) has effect and clauses 32 (b) (i) and 32 (b) (iii) do not form part of this lease.

**33 GST**

- (a) All monies (including base rent and further rent) payable by the Lessee under or in relation to this lease are inclusive of any Goods and Service Tax.
- (b) In addition to those monies the Lessee will pay to the Lessor (as and when those monies fall due for payment or are paid) the amount to the GST which the Lessor is or will become liable to pay in respect of any taxable supply made by the Lessor under or in relation to this lease.

**34 Conversion to Strata Title**

It is agreed between the Lessor and the Lessee that should the Lessor during the term of this Lease propose to register a Strata Plan in respect of the whole or any part of the building in which the Premises are situated, the Lessee will consent to such registration if requested by the Lessor and furnish such consent in writing to give effect to such registration with the relevant authority or authorities. Upon registration of the strata plan the Lessor and Lessee will comply with the relevant legislation relating to the registration of the Strata Plan including by-laws except in so far as they are inconsistent with the terms of this Lease.

## SPECIAL CONDITIONS

**For special conditions please use attachment "Annexure to Lease"**

**Signed by the Lessor**

in the presence of: \_\_\_\_\_  
Name of Witness

\_\_\_\_\_  
Signature of Witness

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

Executed on behalf of \_\_\_\_\_  
ABN \_\_\_\_\_ pursuant to Section 127 of the Corporations Act 2001:

\_\_\_\_\_  
Name of Director

\_\_\_\_\_  
Name of Secretary/Director

\_\_\_\_\_  
Signature of Director

\_\_\_\_\_  
Signature of Secretary/Director

**OR**

The Common Seal of \_\_\_\_\_  
was hereunto duly affixed \_\_\_\_\_ in the presence of

\_\_\_\_\_  
Name of Director

\_\_\_\_\_  
Signature of Director

**Signed by the Lessee**

in the presence of: \_\_\_\_\_  
Name of Witness

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Lessee

Executed on behalf of \_\_\_\_\_  
ABN \_\_\_\_\_ pursuant to Section 127 of the Corporations Act 2001:

\_\_\_\_\_  
Name of Director

\_\_\_\_\_  
Name of Secretary/Director

\_\_\_\_\_  
Signature of Director

\_\_\_\_\_  
Signature of Secretary/Director

**OR**

The Common Seal of \_\_\_\_\_  
was hereunto duly affixed \_\_\_\_\_ in the presence of

\_\_\_\_\_  
Name of Director

\_\_\_\_\_  
Signature of Director

**Signed by the Guarantor**

in the presence of: \_\_\_\_\_  
Name of Witness

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Guarantor