DEED OF LEASE

GENERAL address of the premises:
Part 70 Beach Road, Tahunanui, Nelson

DATE:

LANDLORD:
NELSON CITY COUNCIL a local authority having its principal office at 110 Trafalgar Street, Nelson

TENANT:

GUARANTOR:

DRAFT
The Law Association of New Zealand Incorporated
© Copyright
November 2024
DRAFT

THE LANDLORD leases to the Tenant and the Tenant takes on the lease of the premises and the car parks (if any) described in the First Schedule together with the right to use the common areas of the property for the term from the commencement date and at the annual rent (subject to review and adjustment if applicable) as set out in the First Schedule.

THE LANDLORD AND TENANT covenant as set out in the First, Second and Third Schedules.

THE GUARANTOR covenants with the Landlord as set out in the Fourth Schedule.

© THE LAW ASSOCIATION OF NEW ZEALAND INCORPORATED (TLANZ). All Rights Reserved. See full terms of copyright on the back page.

SIGNED by the Landlord

in the presence of:

Signature of Landlord

Print Full Name
Director / Trustee / Authorised Signatory / Attorney*
Delete the options that do not apply.
If no option is deleted, the signatory is signing in their personal capacity.

Witness Signature

Witness Name

Witness Occupation

Witness Address

Signature of Landlord

Print Full Name
Director / Trustee / Authorised Signatory / Attorney*
Delete the options that do not apply.
If no option is deleted, the signatory is signing in their personal capacity.

SIGNED by the Tenant

in the presence of:

Signature of Tenant

Print Full Name
Director / Trustee / Authorised Signatory / Attorney*
Delete the options that do not apply.
If no option is deleted, the signatory is signing in their personal capacity.

Witness Signature

Witness Name

Witness Occupation

Witness Address

Signature of Tenant

Print Full Name
Director / Trustee / Authorised Signatory / Attorney*
Delete the options that do not apply.
If no option is deleted, the signatory is signing in their personal capacity.

DRAFT
© The Law Association of New Zealand Incorporated
Copyright
November 2024
DRAFT

Note: If signing by a company or as an Attorney, please refer to the notes on page 3.

© TLANZ. All Rights Reserved

SIGNED by the Guarantor

in the presence of:

_____
Signature of Guarantor

_____
Print Full Name
Director / Trustee / Authorised Signatory / Attorney*
Delete the options that do not apply.
If no option is deleted, the signatory is signing in their personal capacity.

_____
Witness Signature

_____
Witness Name

_____
Witness Occupation

_____
Witness Address

_____
Signature of Guarantor

_____
Print Full Name
Director / Trustee / Authorised Signatory / Attorney*
Delete the options that do not apply.
If no option is deleted, the signatory is signing in their personal capacity.

DRAFT
© Copyright
November 2024
The Law Association of New Zealand Incorporated
DRAFT

* If this document is signed under:
(i) a Power of Attorney – please attach a **Certificate of non-revocation** (The Law Association of New Zealand Incorporated form code: 4098WFP); or
(ii) an Enduring Power of Attorney – please attach a **Certificate of non-revocation and non-suspension of the enduring power of attorney** (The Law Association of New Zealand Incorporated form code: 4997WFP).

Also, insert the following wording for the Attorney's Signature above:
Signed by [full name of the donor] by his or her Attorney [attorney's signature].

Note: **Signing by a company** – Companies must sign this document in accordance with section 180 of the Companies Act 1993 to ensure it is binding as a deed. In general, this means:
(a) if there are two or more directors of the company, two directors must sign and no witnessing is necessary;
(b) if there is only one director of the company, that director signs and the signature must be witnessed.
Other methods of signing may be permitted by the company's constitution or if an attorney has been appointed.

© TLANZ. All Rights Reserved

[***This page is deliberately blank. It is to be used to add any additional signatory blocks.***]

DRAFT
The Law Association of New Zealand Incorporated
©
Copyright
November 2024
DRAFT

FIRST SCHEDULE

1.	**PREMISES:** (Specify description of the Landlord's premises including the record of title, the address and show area on a plan.)	as shown on the plan(s) (if any) in the Eighth Schedule
2.	**CAR PARKS:**	car parks as shown on the plan(s) (if any) in the Eighth Schedule
3.	**TERM:**	Five (5) years
4.	**COMMENCEMENT DATE:**	1 July 2026
5.	**RIGHTS OF RENEWAL:**	Two (2) rights of five (5) years each
6.	**RENEWAL DATES:**	1 July 2031 and 1 July 2036
7.	**RENEWAL NOTICE PERIOD:** (clause 34.1) (Specify period. If no period is specified, the notice period for the purposes of clause 34.1 is 3 months.)	
8.	**FINAL EXPIRY DATE:**	30 June 2041
9.	**ANNUAL RENT:** (Subject to review and adjustment if applicable.)	Premises **$**TBC **plus** GST Car Parks **$** **plus** GST TOTAL **$**TBC **plus** GST
10.	**MONTHLY RENT:**	**$**TBC **plus** GST
11.	**RENT PAYMENT DATES:**	The day of each month commencing on the day of 20
12.	**RENT REVIEW AND ADJUSTMENT DATES:** (Specify review or adjustment type and insert dates for initial term, renewal dates and renewal terms. Unless dates are specified, there will be no reviews or adjustments. Where there is a conflict in dates, the market rent review date will apply.)	1. Market rent review dates: TBC 2. CPI rent adjustment dates: TBC 3. Fixed rent adjustment dates: TBC

DRAFT
The Law Association of New Zealand Incorporated © Copyright
November 2024
DRAFT

13. LOWER AND UPPER RENT LIMITS FOR A MARKET RENT REVIEW AND CPI ADJUSTMENT DATE:
(clauses 2.1(d), 2.5(d), 34.1(a) and 34.1(b))

(Select one of (1), (2) or (3) by deleting the other two or delete all three and complete (4).)

Option (4) should be used where the parties agree upper limits apply, and/or lower and upper limits apply in some other manner than (1), (2) or (3). If no option is deleted/completed, then option (1) applies.

(1) Notwithstanding any other provision of the Lease, the annual rent payable as from the relevant market rent review date and the relevant CPI rent adjustment date will not be less than the annual rent payable as at the commencement date of the then current lease term after the expiry of any rent free or rent reduced period, unless the rent or adjustment date is a renewal date in which case the annual rent payable will not be less than the annual rent payable as at the commencement date of the immediately preceding lease term after the expiry of any rent free or rent reduced period.

OR

(2) Notwithstanding any other provision of the Lease, the annual rent payable as from the relevant market rent review date and the relevant CPI rent adjustment date will not be less than the rent payable immediately prior to the relevant review or adjustment date.

OR

(3) Notwithstanding any other provision of the Lease, the annual rent payable as from the relevant market rent review date and the relevant CPI rent adjustment date will not be less than the rent payable as at the commencement date of the initial lease term after the expiry of any rent free or rent reduced period.

OR

(4) Other:

14. INTERIM RENT:
(clause 2.3)

(Delete one. If clause 2.3(b) is deleted or there is no deletion, clause 2.3(a) applies. If clause 2.3(a) is deleted, clause 2.3(b) applies.)

(1) Clause 2.3(a) applies (current rent is interim rent).

OR

(2) Clause 2.3(b) applies (interim rent is determined by registered valuer(s) certificates).

15. FIXED RENT ADJUSTMENT:
(clause 2.7)

(Specify for each fixed rent adjustment date either % or amount of increased rent.)

16. PROPORTION OF OUTGOINGS:
(clause 3.1)

100 %

DRAFT
The Law Association of New Zealand Incorporated
© Copyright
November 2024

17. OUTGOINGS:
(clause 3)

(1) Rates or levies payable to any local authority.

(2) Charges for water, gas, electricity, telecommunications and other utilities or services, including line charges and increases in charges attributable to increase in consumption of those utilities or services from the premises, but excluding any capital charges.

(3) Rubbish collection and recycling charges.

(4) Fire and Emergency levies and the maintenance charges in respect of all fire detection and firefighting equipment.

(5) Insurance premiums and related valuation fees, and any excess applied to the cost of repairs under clause 24.4.

(6) Service maintenance contract charges for air conditioning, lifts, other building services, security services, and roller doors and automatic doors, but excluding charges for inherent defects and renewal or replacement of building services.

(7) Cleaning, maintenance and repair charges including charges for repainting the exterior of the building and fences, decorative repairs and the maintenance and repair of building services to the extent that such charges do not comprise part of the cost of a service maintenance contract, but excluding charges for structural repairs to the building (more than minor repairs to the roof of the building are structural repairs), repairs due to defects in design or construction, inherent defects and renewal or replacement of building services.

(8) The provisioning of toilets and other shared facilities.

(9) The cost of maintenance of lawns, gardens and planted areas including plant hire and replacement.

(10) Yard, car parking area and accessway maintenance and repair charges and minor repairs to those areas (including repairs to potholes) but excluding charges for repaving or resealing.

(11) Body Corporate charges for any insurance premiums under any insurance policy effected by the Body Corporate and related valuation fees.

(12) Management expenses and, in the case of a body corporate, includes reasonable management administration expenses (subject to clauses 3.9 and 3.10).

(13) The costs incurred and payable by the Landlord in supplying to the territorial authority a building warrant of fitness and obtaining reports as required by sections 108 and 110 of the Building Act 2004 but excluding the costs of upgrading or other work to make the building comply with the Building Act 2004.

18. DEFAULT INTEREST RATE: % per annum
(clause 5.1)

19. BUSINESS USE: TBC
(clause 16.1)

DRAFT
The Law Association of New Zealand Incorporated © Copyright
November 2024
DRAFT

© TLANZ. All Rights Reserved

20. LANDLORD'S INSURANCE: (clause 24.1)

(Delete or amend extent of cover as appropriate.)

(Delete either (a) or (b). if neither option is deleted, then option (a) applies.)

(1) Cover for the building against damage and destruction by fire, flood, explosion, lightning storm, earthquake and volcanic activity on the following basis:

(a) Full replacement and reinstatement (including loss, damage or destruction of windows and other glass);

OR

(b) Indemnity to full insurable value (including loss, damage or destruction of windows and other glass).

(2) Cover for the following additional risks:

(Delete option (i) and complete option (ii) if required. If option (i) is not deleted and option (ii) is completed, then option (ii) applies.)

(a) (i) 24 months

OR

(ii) months

indemnity in respect of consequential loss of rent and outgoings.

(b) Loss, damage or destruction of any of the Landlord's fixtures fittings and chattels.

(c) Public liability.

21. INSURANCE EXCESS: (clauses 24.3 to 24.5)

(Insert amount. If no amount is inserted, the maximum amount for the purpose of clauses 24.3 to 24.5 is $5,000.)

$ **plus** GST

22. FAIR PROPORTION OF RENT: (clause 29.2)

(Delete option (1) and complete option (2) if required. If option (1) is not deleted and option (2) is completed, then option (2) applies.)

(1) 50%

OR

(2)

23. NO ACCESS PERIOD: (clause 29.6)

(Delete option (1) and complete option (2) if required. If option (1) is not deleted and option (2) is completed, then option (2) applies.)

(1) 9 months

OR

~~(2)~~

24. BANK GUARANTEE: (clause 38.1(a))

(Delete either "Yes" or "No". If "Yes" or neither is deleted, clauses 38.2 to 38.9 do not apply, unless a bank guarantee is required upon an assignment.)

YES / NO

25. BANK GUARANTEE AMOUNT: (clause 38.2)

(Insert amount. If no amount is inserted, the bank guarantee amount is equivalent to three months' rent plus GST.)

Total amount: **$** **plus** GST

DRAFT

© The Law Association of New Zealand Incorporated

Copyright

November 2024

DRAFT

26. **RENTAL BOND** (clause 38.9(a))

(Delete either "Yes" or "No". If "Yes" or neither is deleted, clauses 38.10 to 38.19 do not apply, unless a rental bond is required upon an assignment.)

YES / NO

27. **RENTAL BOND AMOUNT:** (clause 38.10)

(Insert amount. If no amount is inserted, the rental bond amount is equivalent to three months' rent plus GST.)

Total amount: **$** **plus** GST

28. **SEISMIC RATING**: (clause 39.1)

(Insert % and description of relevant standard. If left blank, or either % or standard is not inserted, clauses 39.1 to 39.3 do not apply.)

29. **MORTGAGEE'S CONSENT:** (clause 46.1)

(Delete either option (1) or (2). If neither option is deleted, then option (1) applies.)

(1) The Landlord is not required to obtain the consent of any mortgagee of the property in respect of the Tenant's interest under the Lease.

OR

(2) The Landlord must obtain the consent of any mortgagee of the property in respect of the Tenant's interest under the Lease.

30. **LIMITED LIABILITY TRUSTEE:** (clause 50.1)

31. **EMAIL ADDRESSES:** (clause 47.2(c))

(1) For the Landlord:

(2) For the Tenant:

DRAFT
The Law Association of New Zealand Incorporated © Copyright
November 2024
DRAFT

SECOND SCHEDULE

TENANT'S PAYMENTS

Rent

1.1 The Tenant must pay the annual rent by equal monthly payments in advance (or as varied pursuant to any rent review or adjustment) on the rent payment dates. The first monthly payment (together with rent calculated on a daily basis for any period from the commencement date of the term to the first rent payment date) must be paid on the first rent payment date. All rent and other moneys payable under the Lease must be paid without any deductions or set-off by direct payment to the Landlord or as the Landlord may direct.

Market Rent Review

2.1 The annual rent payable as from each market rent review date will be determined as follows:

(a) Either party may not earlier than 3 months prior to a market rent review date (or, in the case of a market rent review date that is a renewal date, at any time after the Tenant has given notice under clause 34.1) and not later than the next rent review or adjustment date (regardless of whether the next date is a market, CPI or fixed rent review or adjustment date) give written notice to the other party specifying the annual rent proposed as the current market rent as at the relevant market rent review date.

(b) If the party receiving the notice ("the Recipient") gives written notice to the party giving the notice ("the Initiator") within 30 working days after service of the Initiator's notice disputing the annual rent proposed and specifying the annual rent proposed by the Recipient as the current market rent, then the new rent must be determined in accordance with clause 2.2.

(c) If the Recipient fails to give such notice (time being of the essence), the Recipient will be deemed to have accepted the annual rent specified in the Initiator's notice and the extension of time for commencing arbitration proceedings contained in the Arbitration Act 1996 will not apply.

(d) Notwithstanding any other provision of this clause 2.1, the annual rent payable as from the relevant market rent review date will be no less than, nor will it be more than, respectively, any lower or upper amount specified in the First Schedule.

(e) The annual rent agreed, determined or imposed pursuant to clause 2.1 will be the annual rent payable as from the relevant market rent review date, or the date of service of the Initiator's notice if such notice is served later than 3 months after the relevant market rent review date but subject to clauses 2.3 and 2.4.

(f) The market rent review at the option of either party may be recorded in a deed.

Rent Determinations

2.2 Immediately following service of the Recipient's notice on the Initiator, the parties must endeavour to agree upon the current market rent, but if agreement is not reached within 15 working days, then the new rent may be determined either:

(a) By arbitration, if either party gives written notice to the other party requiring the new rent to be determined in that manner; or

(b) If the parties so agree by registered valuers acting as experts and not as arbitrators as follows:

(1) Each party must appoint a valuer and give written notice of the appointment to the other party within 20 working days of the parties agreeing to so determine the new rent.

(2) If the party receiving a notice fails to appoint a valuer within the 20-working day period, then the valuer appointed by the other party must determine the new rent and such determination will be binding on both parties.

(3) The valuers appointed before commencing their determination must appoint a third expert who need not be a registered valuer. If the parties cannot agree on the third expert, the appointment will be made on the application of either party by the president or vice president for the time being of The New Zealand Institute of Valuers.

(4) The valuers appointed by the parties must determine the current market rent of the premises but, if they fail to agree, then the rent must be determined by the third expert.

(5) Each party must be given the opportunity to make written or oral representations subject to such reasonable time and other limits as the valuers or the third expert may prescribe. The valuers or the expert must have regard to any of the representations but are not bound by them.

(6) The parties must jointly and severally indemnify the third expert for their costs. As between the parties, they will share the expert's costs equally unless the expert determines unequal cost allocation in which case the expert's determination as to costs is binding. A party may pay the other party's share of the costs and recover the payment on demand from the other party.

(7) If the parties agree, they may release the third expert from liability for negligence in acting as third expert in accordance with this clause 2.2.

When the new rent has been determined the person or persons determining it must give written notice of it to the parties.

Interim Market Rent

2.3 Pending determination of the new rent, the Tenant must from the relevant market rent review date, or the date of service of the Initiator's notice if the notice is served later than 3 months after the relevant market rent review date, until the determination of the new rent:

(a) continue to pay the current rent; or

(b) pay an interim rent as follows:

(1) if both parties supply a registered valuer's certificate substantiating the new rents proposed, the interim rent payable will be halfway between the new rents proposed by the parties; or

(2) if only one party supplies a registered valuer's certificate, the interim rent payable will be the rent substantiated by the certificate; or

(3) if no registered valuer's certificates are supplied, the interim rent payable will be the current rent; but

(4) any lower or upper limit specified in the First Schedule in relation to market rent applies also to the interim rent.

DRAFT
The Law Association of New Zealand © Copyright November 2024 Reproduced by permission

The interim rent will be payable with effect from the relevant market rent review date, or the date of service of the Initiator's notice if the notice is served later than 3 months after the relevant market rent review date and, subject to clause 2.4, will not be subject to adjustment.

2.4 Upon determination of the new rent, any overpayment must be applied in payment or part payment of the next month's rent and any amount then remaining must immediately be refunded to the Tenant. Any shortfall must immediately be paid to the Landlord.

CPI Rent Adjustment

2.5 The annual rent payable from each CPI rent adjustment date will be determined as follows:

(a) The Landlord must adjust the annual rent on the basis of increases (and not decreases) in the CPI by giving notice to the Tenant of the increase (if any) using the formula:

A = B x (C÷D)

Where:

A = the CPI reviewed rent from the relevant CPI rent adjustment date

B = the annual rent payable immediately before the relevant CPI rent adjustment date

C = CPI for the quarter year ending immediately before the relevant CPI rent adjustment date

D = CPI for the quarter year ending immediately before the last CPI rent adjustment date or, if there is no previous rent adjustment date, the commencement date of the then current term of this lease (and in the case where A is the CPI adjustment rent for a renewal date, then the last rent adjustment date of the immediately preceding lease term or, if there is no rent adjustment date, the commencement date of the preceding term)

where (C÷D) must not be less than 1.

(b) If the CPI is discontinued and not replaced, or if there is a material change to the basis of calculation of the CPI, an appropriate index which reflects the change in the cost of living in New Zealand as agreed by the parties and failing agreement to be determined by an expert appointed by the president or vice president of The Law Association of New Zealand Incorporated will be used.

(c) If the relevant CPI is not published at the relevant CPI rent adjustment date, as soon as the CPI is published, an appropriate adjustment will be made to the rent (if necessary) with effect from the relevant CPI rent adjustment date.

(d) Notwithstanding any other provision of clause 2.5, the annual rent payable as from the relevant CPI rent adjustment date will be no less than, nor will it be more than, respectively, any lower or upper amount specified in the First Schedule.

2.6 The new rent determined pursuant to clause 2.5 will be payable from the relevant CPI rent adjustment date once it is determined by the Landlord giving notice under that clause. Pending determination of the new rent, the Tenant must pay the rent that applies prior to the CPI rent adjustment date. On determination of the new rent, the Tenant must immediately pay any shortfall to the Landlord.

Fixed Rent Adjustment

2.7 The annual rent payable from each fixed rent adjustment date will increase by the percentage, or to the amount, specified in the First Schedule for the adjustment date.

Outgoings

3.1 The Tenant must pay the outgoings properly and reasonably incurred in respect of the property which are specified in the First Schedule. Where any outgoing is not separately assessed or levied in respect of the premises then the Tenant must pay such proportion of it as is specified in the First Schedule or if no proportion is specified then such fair proportion as will be agreed or failing agreement determined by arbitration.

3.2 The Landlord must vary the proportion of any outgoing payable to ensure that the Tenant pays a fair proportion of the outgoing, including to ensure fairness between all tenants of the property where the use or occupation by one tenant increases the outgoings incurred by the Landlord in respect of the property.

3.3 If any outgoing is rendered necessary by another tenant of the property or that tenant's employees, contractors or invitees causing damage to the property or by another tenant failing to comply with that tenant's leasing obligations, then that outgoing will not be payable by the Tenant.

3.4 The outgoings must be apportioned between the Landlord and the Tenant in respect of periods current at the commencement and termination of the term.

3.5 The outgoings will be payable on demand or if required by the Landlord by monthly instalments on each rent payment date of a reasonable amount as the Landlord will determine calculated on an annual basis. Where any outgoing has not been taken into account in determining the monthly instalments, it will be payable on demand.

3.6 Before each anniversary of the commencement date or before such other date in each year as the Landlord may specify to the Tenant in writing, the Landlord must provide to the Tenant in writing details of the Landlord's budgeted outgoings for the next following year.

3.7 In respect of each anniversary of the commencement date or such other date in each year as the Landlord may have specified, and after the end of the term, if requested by the Tenant, the Landlord must supply to the Tenant copies of the assessments, levies and accounts relating to the relevant outgoings as to enable the Tenant to verify the quantum and purpose of the relevant outgoings and a comparison to any budget previously notified by the Landlord to the Tenant under clause 3.6.

3.8 Any over payment of an outgoing by the Tenant must be credited or refunded to the Tenant and any deficiency will be payable to the Landlord on demand. No outgoing will be recoverable by the Landlord where an estimate or actual amount is notified more than 24 months after an outgoing has been incurred.

3.9 The Tenant's liability to pay management expenses is limited to reasonable administration expenses relating to the reasonable and proper management by the Landlord of the tenancy. Any profit derived by the Landlord and if a company by its shareholders either directly or indirectly from the management of the property will not comprise part of the management expenses payable as an outgoing.

3.10 However, clause 3.9 does not limit the Tenant's liability to pay a portion of body corporate management expenses properly allocated to the premises except where the Landlord controls the body corporate and appoints itself or a related party as manager of the body corporate.

DRAFT
The Law Association (C) Copyright Limited and Thomson Reuters (Professional) New Zealand Limited
DRAFT

Goods and Services Tax

4.1 The Tenant must pay to the Landlord or as the Landlord directs the GST payable by the Landlord in respect of the rent and other payments payable by the Tenant under the Lease. The GST in respect of the rent will be payable on each occasion when any rent payment falls due for payment and in respect of any other payment will be payable upon demand.

4.2 If the Tenant makes default in payment of the rent or other moneys payable under the Lease and the Landlord becomes liable to pay Default GST, then the Tenant must on demand pay to the Landlord the Default GST in addition to interest payable on the unpaid GST under clause 5.1.

Interest on Unpaid Money

5.1 If the Tenant defaults in payment of the rent or other moneys payable under the Lease for 10 working days, then the Tenant must pay on demand interest at the default interest rate on the moneys unpaid from the due date for payment to the date of payment.

5.2 Unless a contrary intention appears in the First Schedule or elsewhere in the Lease, the default interest rate is equivalent to the interest rate charged by the Inland Revenue Department on unpaid tax under the Tax Administration Act 1994 during the period for which the default interest is payable, plus 5 per cent per annum.

Costs

6.1 Each party must pay their own costs of the negotiation and preparation of the Lease and any deed recording a rent review or renewal. The Tenant must pay the Landlord's reasonable costs incurred in considering any request by the Tenant for the Landlord's consent to any matter contemplated by the Lease. Each party must pay the other party's reasonable legal costs (as between lawyer and client) of and incidental to the enforcement of the other party's rights remedies and powers under the Lease.

LANDLORD'S PAYMENTS

Outgoings

7.1 Subject to the Tenant's compliance with the provisions of clause 3, the Landlord must pay all outgoings in respect of the property not payable by the Tenant direct. The Landlord will be under no obligation to minimise any liability by paying any outgoing or tax prior to receiving payment from the Tenant.

MAINTENANCE AND CARE OF PREMISES

Tenant's Obligations

8.1 The Tenant must:

(a) **Maintain the premises**
In a proper and workmanlike manner and to the reasonable requirements of the Landlord, keep and maintain the interior of the premises in the same clean order, repair and condition as they were in at the commencement date of the Lease (or when the Lease is renewed, the commencement date of the initial term of the Lease). The premises condition report (if completed) will be evidence of the condition of the premises at the commencement date of the Lease. The Tenant will not be liable for fair wear and tear arising from reasonable use.

(b) **Breakages and minor replacements**
Repair or replace glass breakages with glass of the same or better weight and quality, repair breakage or damage to all doors, windows, light fittings and power points of the premises and replace light bulbs, tubes and power points that wear out with items of the same or better quality and specification.

(c) **Painting**
Paint and decorate those parts of the interior of the premises which have previously been painted and decorated as at the commencement date of the Lease (or where the Lease is renewed the commencement date of the initial term of the Lease) when they reasonably require repainting and redecoration to a specification as approved by the Landlord, such approval not to be unreasonably or arbitrarily withheld or delayed.

(d) **Floor coverings**
Keep all floor coverings in the premises clean and replace all floor coverings worn or damaged other than by fair wear and tear with floor coverings of the same or better quality, specification and appearance when reasonably required by the Landlord. If any part of a floor covering requires replacement, then the whole of the floor covering must be replaced, unless the part may be replaced without adversely affecting the appearance of the whole floor covering.

(e) **Damage or Loss**
Make good any damage to the property or loss caused by improper, careless or abnormal use by the Tenant or those for whom the Tenant is responsible to the Landlord's reasonable requirements.

8.2 Where the Tenant is leasing all of the property, the Tenant must:

(a) **Care of grounds**
Keep any grounds, yards, surfaced areas and accessways in a clean and tidy condition and maintain any garden or lawn areas in a tidy and cared for condition.

(b) **Water and drainage**
Keep and maintain the storm or waste water drainage system including downpipes and guttering clear and unobstructed.

(c) **Other works**
Carry out maintenance and repairs to the property in respect of which outgoings are payable by the Tenant and which have been notified by the Landlord in writing.

8.3 Notwithstanding clause 8.1(a), the Tenant will not be liable for the maintenance or repair of any building services but this clause will not release the Tenant from any obligation to pay for the cost of any service maintenance contract or charges in respect of the maintenance or repair of the building services if it is an outgoing specified in the First Schedule but only to the extent specified in the First Schedule.

DRAFT © The Law Association of New Zealand November 2024 Copyright Not to be reproduced DRAFT

8.4 The Tenant will not be liable to carry out or pay for the cost of carrying out (whether directly or as part of the outgoings):
(a) repairs to inherent defects in the premises or the building;
(b) structural repairs to the premises or the building, except as expressly provided for in clause 3.1 and clause 8.1(e) and as specified in the First Schedule.

The parties agree that, in the event of any conflict between this clause 8.4 and any other clause of the Lease, this clause will prevail.

8.5 If the Landlord gives the Tenant written notice of any failure on the part of the Tenant to comply with any of the requirements of clauses 8.1 or 8.2, the Tenant must with all reasonable speed so comply.

Toilets

9.1 The toilets sinks and drains must be used for their designed purposes only and no substance or matter will be deposited in them which could damage or block them.

Rubbish Removal

10.1 The Tenant must regularly cause all of the Tenant's rubbish and recycling to be removed from the property and must keep the Tenant's rubbish bins or containers in a tidy condition. The Tenant must also at the Tenant's own expense cause to be removed all trade waste boxes and other goods or rubbish not removable in the ordinary course by the local authority.

Landlord's Maintenance

11.1 The Landlord must keep and maintain the building, all building services and the car parks in good order and repair and weatherproof but the Landlord will not be liable for any:
(a) Repair or maintenance which the Tenant is responsible to undertake.
(b) Loss suffered by the Tenant arising from any want of repair or defect unless the Landlord has received notice in writing of that from the Tenant and has not within a reasonable time after that taken appropriate steps to remedy the same.

11.2 The Landlord may, without releasing the Landlord from liability under clause 11.1, keep and maintain service maintenance contracts for lifts, air-conditioning and at the Landlord's option any other building services supplied by the Landlord. Whenever building services cannot be maintained in good order and repair through regular maintenance, the Landlord will if reasonably required replace the services with services of a similar type and quality.

11.3 The Tenant will be liable to reimburse the Landlord for the cost of any such repair, maintenance or service maintenance contract pursuant to clauses 11.1 and 11.2 if it is an outgoing specified in the First Schedule but only to the extent specified in the First Schedule.

Notification of Defects

12.1 The Tenant must give to the Landlord prompt written notice of any accident to or defect in the premises of which the Tenant may be aware and in particular in relation to any pipes or fittings used in connection with the water, electrical gas or drainage services.

Landlord's Right of Inspection

13.1 The Landlord and the Landlord's employees, contractors and invitees may at all reasonable times and after having given reasonable prior written notice to the Tenant (except in the case of emergencies when no notice is required) enter upon the premises to view their condition.

Landlord may Repair

14.1 If default is made by the Tenant in the due and punctual compliance with any repair notice given by the Landlord pursuant to this lease, or if any repairs for which the Tenant is responsible require to be undertaken as a matter of urgency, then, without prejudice to the Landlord's other rights and remedies expressed or implied, the Landlord may by the Landlord's employees and contractors with all necessary equipment and material at all reasonable times and after having given reasonable prior written notice (except in the case of emergencies when no notice is required) enter the premises to execute the works. Any moneys expended by the Landlord in executing the works will be payable by the Tenant to the Landlord upon demand together with interest on the moneys expended at the default interest rate from the date of expenditure to the date of payment.

Access for Works

15.1 The Tenant must permit the Landlord and the Landlord's employees and contractors at all reasonable times and after having given reasonable prior written notice (except in the case of emergencies when no notice is required) to enter the premises for a reasonable period to inspect and carry out works to the premises or the property and to install, inspect, repair, renew or replace any services where they are not the responsibility of the Tenant or are required to comply with the requirements of any statutes, regulations, by-law or requirement of any competent authority. All repairs, inspections and works must be carried out with the least possible inconvenience to the Tenant subject to clauses 15.3 and 15.4.

15.2 If the Tenant's business use of the premises is materially disrupted because of the Landlord's works provided for in clause 15.1, then, during the period the works are being carried out, a fair proportion of the rent and outgoings will cease to be payable but without prejudice to the Tenant's rights if the disruption is due to a breach by the Landlord of the Landlord's obligation, under clause 15.1, to cause the least possible inconvenience to the Tenant.

15.3 If in the Landlord's reasonable opinion, the Landlord requires the Tenant to vacate the whole or part of the premises to enable the works referred to in clause 15.1 to be carried out, the Landlord may give the Tenant reasonable prior written notice requiring the Tenant to vacate the whole or part of the premises and specifying a reasonable period for which the Landlord requires possession. On the expiry of the notice, the Landlord may take possession of the premises or the part specified in the notice. A fair proportion of the rent and outgoings will cease to be payable during the period the Tenant vacates the premises as required by the Landlord.

15.4 The Landlord must act in good faith and have regard to the nature, extent and urgency of the works when exercising the Landlord's right of access or possession in accordance with clauses 15.1 and 15.3.

DRAFT
© The Law Association of New Zealand
Copyright
November 2024
Not to be reproduced
DRAFT

USE OF PREMISES

Business Use

16.1 The Tenant must not without the prior written consent of the Landlord use or permit the whole or any part of the premises to be used for any use other than the business use. The Landlord's consent must not be unreasonably or arbitrarily withheld or delayed in respect of any proposed use which is:

(a) not in substantial competition with the business of any other occupant of the property which might be affected by the use; and

(b) reasonably suitable for the premises; and

(c) compliant with the requirements of the Resource Management Act 1991 or any other statutory provisions relating to resource management.

If any change in use renders any increased or extra premium payable in respect of any policy or policies of insurance on the premises, the Landlord as a condition of granting consent may require the Tenant to pay the increased or extra premium.

16.2 If any change in use requires compliance with sections 114 and 115 of the Building Act 2004, the Landlord, as a condition of granting consent, may require the Tenant to comply with sections 114 and 115 of the Act and to pay all compliance costs.

16.3 If the premises are a retail shop, the Tenant must keep the premises open for business during usual trading hours and fully stocked with appropriate merchandise for the efficient conduct of the Tenant's business.

Lease of Premises and Car Parks Only

17.1 The tenancy relates only to the premises and the car parks (if any) and the Landlord will at all times be entitled to use, occupy and deal with the remainder of the property without reference to the Tenant and the Tenant will have no rights in relation to it other than the rights of use under the Lease.

Neglect of Other Tenant

18.1 The Landlord will not be responsible to the Tenant for any act or default or neglect of any other tenant or invitee of any other tenant of the property. The Landlord and the Tenant will each be responsible for their respective invitees.

Signage

19.1 The Tenant must not affix, paint or exhibit or permit to be affixed, painted or exhibited any name sign, nameplate, signboard or advertisement of any description on or to the exterior of the building without the prior approval in writing of the Landlord but approval must not be unreasonably or arbitrarily withheld or delayed in respect of signage describing the Tenant's business. If approved, the signage must be secured in a substantial and proper manner so as not to cause any damage to the building or injury to any person.

Consent to Additions and Alterations

20.1 The Tenant must neither make nor allow to be made any alterations or additions to any part of the premises or alter the external appearance of the building without first producing to the Landlord on every occasion plans and specifications and obtaining the written consent of the Landlord (not to be unreasonably or arbitrarily withheld or delayed in the case of non-structural alterations only) for that purpose. The Landlord may withhold consent if an alteration or addition would prompt a requirement to upgrade the building, unless the Tenant agrees to meet all of the associated costs.

20.2 The Tenant, when undertaking any "building work" to the premises (as that term is defined in the Building Act 2004), must comply with all statutory requirements including the obtaining of building consents and code compliance certificates and meet all associated costs pursuant to that Act and must provide copies of the building consents and code compliance certificates to the Landlord.

Compliance with Statutes and Regulations

21.1 The Tenant must comply with the provisions of all statutes, ordinances, regulations and by-laws relating to the use of the premises by the Tenant or other occupant and must also comply with the provisions of all licences, requisitions and notices issued by any competent authority in respect of the premises or their use by the Tenant or other occupant. The Tenant must promptly provide the Landlord with a copy of all licences, requisitions and notices received from a competent authority pursuant to this clause.

21.2 The Tenant will not be:

(a) Required to make any structural repairs alterations or additions nor to replace or install any plant or equipment except where required by reason of the particular nature of the business carried on by the Tenant or other occupant of the premises or the number or sex of persons employed on the premises.

(b) Liable to discharge the Landlord's obligations as owner under the Building Act 2004 unless any particular obligation is the responsibility of the Tenant as an occupier of the premises.

21.3 The Landlord warrants that allowing the premises to be open to members of the public and allowing the use of the premises by members of the public at the commencement date will not be a breach of section 363 of the Building Act 2004. This clause does not apply to any "building work" (as defined in the Building Act 2004) relating to the fit-out of the premises by the Tenant.

21.4 The Tenant, when undertaking any building work to the premises, must comply with all statutory requirements including the obtaining of building consents and code compliance certificates and must not allow the premises to be open to members of the public or allow use of the premises by members of the public if that would be in breach of section 363 of the Building Act 2004.

21.5 The Landlord must not give consent to or carry out any building work in any part of the property which may cause the Tenant to be in breach of section 363 of the Building Act 2004 by allowing the premises to be open to members of the public and allowing the use of the premises by members of the public.

21.6 Without limiting the foregoing:

(a) Each party must do all things reasonably necessary to comply with its obligations under the Health and Safety at Work Act 2015 and any approved codes of practice, standards or guidelines relating to health and safety in relation to the property, building, premises, fixtures, fittings, chattels and equipment.

(b) The parties must, so far as is reasonably practicable, consult with, co-operate with, co-ordinate activities with each other, and keep each other reasonably informed on health and safety matters relating to the premises, including informing each other as soon as possible if there is a notifiable event (as that term is defined in the Health and Safety at Work Act 2015) in the premises, the building or on the property.

DRAFT
The Law Association of New Zealand
© TLANZ
November 2024
Not to be reproduced without permission

No Noxious, Illegal or Offensive Use

22.1 The Tenant must not:

(a) Bring upon or store within the premises nor allow to be brought upon or stored within the premises any machinery, goods or things of an offensive, noxious, illegal or dangerous nature, or of a weight, size or shape as is likely to cause damage to the building or any surfaced area.

(b) Contaminate the property and must undertake all works necessary to remove any contamination of the property caused by the Tenant whether or not it took place prior to the commencement date of the lease term. Contamination means any change to the physical chemical or biological condition of the property by a "contaminant" as that word is defined in the Resource Management Act 1991.

(c) Use the premises or allow them to be used for any noisome, noxious, illegal or offensive trade or business.

(d) Allow any act or thing to be done which may be or grow to be a nuisance, disturbance or annoyance to the Landlord, other tenants of the property or any other person, and generally the Tenant must conduct the Tenant's business upon the premises in a clean, quiet and orderly manner free from damage, nuisance, disturbance or annoyance to any such persons but the carrying on by the Tenant in a reasonable manner of the business use or any use to which the Landlord has consented will be deemed not to be a breach of this clause.

REINSTATEMENT, REMOVAL AND MAKE GOOD

Reinstatement and Make Good of Premises

23.1 The Tenant must, at the end or earlier determination of the term, quietly yield up the premises in the same clean order, repair and condition as they were in at the commencement date of the Lease (or where the Lease is renewed or extended, at the commencement date of the initial term of the Lease). The Tenant will not be liable under this clause for any fair wear and tear arising from reasonable use.

Reinstatement and Make Good of Signage

23.2 The Tenant must at the end or sooner determination of the term remove any signage installed pursuant to clause 19.1 and make good any damage occasioned in connection with the signage.

Additions and Alterations Made During Term

23.3 If the Landlord authorises any alterations or additions which are made before the commencement date or during the term of the Lease pursuant to clause 20.1, or if the Tenant carries out any alterations or additions during the term of the Lease which have not been authorised by the Landlord, the Tenant must at the Tenant's expense if required by the Landlord no later than the end or earlier termination of the term remove any alterations or additions and reinstate the premises to the standard that the premises were in at the commencement date of the Lease (or where the Lease is renewed or extended, at the commencement date of the initial term of the Lease). The Tenant will not be liable under this clause for any fair wear and tear arising from reasonable use. Ownership of the alterations or additions that are not removed by the end or earlier termination of the Lease may at the Landlord's election pass to the Landlord without compensation payable to the Tenant. If the Tenant fails to reinstate, then any costs incurred by the Landlord in reinstating the premises whether in whole or in part within 6 months of the end or earlier termination of the term will be recoverable from the Tenant.

Removal of Tenant's Fixtures, Fittings and Chattels

23.4 The Tenant may, and must if required by the Landlord at any time before and no later than the end or earlier termination of the term, remove all of the Tenant's fixtures, fittings and chattels. In addition to the Tenant's obligations to reinstate the premises pursuant to clause 23.3, the Tenant must make good at the Tenant's expense all resulting damage and, if the Tenant's fixtures, fittings and chattels are not removed by the end or earlier termination of the term, ownership of them may at the Landlord's election pass to the Landlord or the Landlord may remove them from the premises and forward them to a refuse collection centre. Where clause 29.1 applies, the time by which the Tenant must remove the Tenant's fixtures, fittings and chattels and make good all resulting damage will be extended to 5 working days after access to the premises is available.

23.5 The cost of making good resulting damage and the cost of removal and disposal of the Tenant's fixtures, fittings and chattels will be recoverable from the Tenant and the Landlord will not be liable to pay any compensation nor be liable for any loss suffered by the Tenant.

INSURANCE

Landlord must Insure

24.1 The Landlord must at all times during the term keep and maintain insurance of the type shown and for the risks specified in the First Schedule. If insurance cover required under this clause becomes unavailable during the term of the Lease or any renewal other than because of the Landlord's act or omission, the Landlord will not be in breach while cover is unavailable, provided the Landlord uses all reasonable endeavours on an ongoing basis to obtain cover. The Landlord will advise the Tenant in writing, and consult with the Tenant, whenever cover becomes unavailable and provide reasons as to the unavailability. The Landlord will also provide the Tenant with reasonable information relating to the cover when requested by the Tenant.

Excess Payable under Insurance Policy

24.2 The parties acknowledge and agree pursuant to section 271 of the Property Law Act 2007 that, to the extent of any excess payable regarding any insurance policy held by the Landlord, the excess will represent an amount for which the Landlord has not insured or has not fully insured the premises or the property against destruction or damage arising from the events that the section applies to.

24.3 If the Landlord makes any claim against its insurance for any destruction or damage because of any act or omission of the Tenant, the Tenant must pay the Landlord the amount of the excess not exceeding the sum specified in the First Schedule. If destruction or damage is caused by an act or omission of the Tenant but the cost of repair will be less than the amount of excess, the Tenant must pay the Landlord for the cost of the repair not exceeding the sum specified in the First Schedule.

DRAFT
The Law Association of New Zealand © Copyright Document
November 2024
DRAFT

24.4 If the Landlord makes any claim against its insurance for any destruction or damage that is not caused by any act or omission of the Tenant or of any other tenant of the building, the amount of the excess applied to the cost of repair not exceeding the sum specified in the First Schedule is an outgoing for the purpose of clause 3.

24.5 If the excess is increased by the Landlord's insurers as a result of any act or omission of the Tenant such that it exceeds the sum specified in the First Schedule, in addition to any other remedies available to the Landlord, the Tenant must pay the Landlord the increased amount in respect of any future claim on the insurance policy.

Tenant not to Void Insurance

25.1 The Tenant must not carry on or allow upon the premises any trade or occupation or allow to be done any act or thing which:

(a) Will make void or voidable any policy of insurance on the property.

(b) May render any increased or extra premium payable for any policy of insurance except where in circumstances in which any increased premium is payable the Tenant has first obtained the consent of the insurer of the premises and the Landlord and made payment to the insurer of the amount of any such increased or extra premium as may be payable but the carrying on by the Tenant in a reasonable manner of the business use or of any use to which the Landlord has consented will be deemed not to be a breach of this clause.

(c) Will render any increase in excess payable for any policy of insurance on the property.

25.2 In any case where in breach of clause 25.1 the Tenant has rendered any insurance void or voidable and the Landlord has suffered loss or damage by that the Tenant must at once compensate the Landlord in full for such loss or damage.

When Tenant to have Benefit of Landlord's Insurance

26.1 Where the property is destroyed or damaged by fire, flood, explosion, lightning, storm, earthquake, volcanic activity or any risk against which the Landlord is (or has covenanted with the Tenant to be) insured, the Landlord will not require the Tenant to meet the cost of making good the destruction or damage to the property and will indemnify the Tenant against such cost where the Tenant is obligated to pay for making good such damage or destruction. The Landlord does not have to indemnify the Tenant and the Tenant will not be excused from liability under this clause if and to the extent that:

(a) the destruction or damage was intentionally caused by the Tenant or those for whom the Tenant is responsible; or

(b) the destruction or damage was the result of an act or omission by the Tenant or those for whom the Tenant is responsible and that act or omission:

(1) occurred on or about the property; and

(2) constitutes an imprisonable offence; or

(c) any insurance moneys that would otherwise have been payable to the Landlord for the damage or destruction are rendered irrecoverable in consequence of any act or omission of the Tenant or those for whom the Tenant is responsible.

DAMAGE TO OR DESTRUCTION OF PREMISES

Total Destruction

27.1 If the premises or any portion of the building of which the premises may form part are destroyed or so damaged:

(a) as to render the premises untenantable, then the term will at once terminate from the date of destruction or damage; or

(b) in the reasonable opinion of the Landlord as to require demolition or reconstruction, then the Landlord may within 3 months of the date of damage give the Tenant 20 working days' notice to terminate and a fair proportion of the rent and outgoings will cease to be payable as from the date of damage.

Any termination pursuant to this clause will be without prejudice to the rights of either party against the other.

Partial Destruction

28.1 If the premises or any portion of the building of which the premises may form part are damaged but not so as to render the premises untenantable and:

(a) the Landlord's policy or policies of insurance have not been invalidated or payment of the policy moneys refused in consequence of some act or default of the Tenant; and

(b) all the necessary permits and consents are obtainable,

the Landlord must with all reasonable speed expend all the insurance moneys received by the Landlord in respect of such damage towards repairing such damage or reinstating the premises or the building but the Landlord will not be liable to expend any sum of money greater than the aggregate amount of the insurance money received and any excess under the insurance policy.

28.2 Any repair or reinstatement may be carried out by the Landlord using such materials and form of construction and according to such plan as the Landlord thinks fit and will be sufficient so long as it is reasonably adequate for the Tenant's occupation and business use of the premises, having regard to the standard of the premises at the time of partial destruction so that the Tenant is in no worse position than before the destruction or damage occurred.

28.3 Until the completion of the repairs or reinstatement, a fair proportion of the rent and outgoings will cease to be payable as from the date of damage.

28.4 If any necessary permit or consent is not obtainable or the insurance moneys received by the Landlord will be inadequate for the repair or reinstatement, then the term will at once terminate but without prejudice to the rights of either party against the other.

No Reinstatement

28.5 If the term is terminated pursuant to clause 27.1 or clause 28.4:

(a) the Tenant's obligations under clauses 23.1 to 23.3 do not apply; but

(b) clauses 23.4 and 23.5 otherwise apply except for the Landlord's right to require the removal of the Tenant's fixtures, fittings and chattels.

DRAFT
© Copyright
The Law Association of New Zealand Incorporated
November 2024
DRAFT

NO ACCESS IN EMERGENCY

Rent abatement

29.1 If there is an emergency and the Tenant is unable to gain access to the premises to fully conduct the Tenant's business from the premises because of reasons of safety of the public or property or the need to prevent, reduce or overcome any hazard, harm or loss that may be associated with the emergency including:

(a) a prohibited or restricted access cordon applying to the premises; or

(b) prohibition on the use of the premises pending the completion of structural engineering or other reports and appropriate certifications required by any competent authority that the premises are fit for use; or

(c) restriction on occupation of the premises by any competent authority,

then a fair proportion of the rent and outgoings will cease to be payable for the period commencing on the date when the Tenant became unable to gain access to the premises to fully conduct the Tenant's business from the premises until the inability ceases.

29.2 For the purposes of clause 29.1, the fair proportion of the rent and outgoings which will cease to be payable is the percentage specified in the First Schedule.

Review of proportion

29.3 At any time after the period of 20 working days commencing on the date when the Tenant became unable to gain access to the premises to fully conduct its business from the premises and before the date that is 3 months after that access is restored, either party may, by giving written notice to the other, require the proportion to be reviewed, for the emergency in question only, on the grounds that it has become apparent that the percentage specified in the First Schedule is not a fair proportion having regard to the relative effect on each party's position as a result of the application of clause 29.1 and the inability to gain access.

29.4 Immediately following service of notice under clause 29.3, the parties must endeavour to agree upon whether the proportion specified by the First Schedule should be reviewed and, if so, the amount of the reviewed proportion, but if agreement is not reached within 10 working days, then either party may require the matter to be submitted to arbitration as a dispute under clauses 48.2 to 48.4.

29.5 Pending agreement being reached or the dispute being determined by arbitration, the Tenant must continue to pay rent at the amount determined by clauses 29.1 and 29.2. Upon agreement being reached or the dispute being determined by arbitration, any overpayment must be applied in payment or part payment of the next month's rent and any amount then remaining must immediately be refunded to the Tenant. Any shortfall must immediately be paid to the Landlord.

Termination

29.6 This clause 29.6 applies where clause 29.1 applies and the premises or building of which the premises form part are not totally or partially destroyed or damaged resulting in the Lease being cancelled as provided for in clauses 27.1 or 28.4. Either party may terminate the Lease by giving 10 working days written notice to the other if:

(a) the Tenant is unable to gain access to the premises for the period specified in the First Schedule; or

(b) the party that terminates the Lease can at any time prior to termination establish with reasonable certainty that the Tenant will be unable to gain access to the premises for that period.

Any termination pursuant to this clause will be without prejudice to the rights of either party against the other.

DEFAULT

Cancellation

30.1 The Landlord may (in addition to the Landlord's right to apply to the Court for an order for possession) and subject to section 245(2) of the Property Law Act 2007 cancel this lease by re-entering the premises at the time or at any time after that:

(a) If the rent is in arrears 10 working days after any rent payment date and the Tenant has failed to remedy that breach within 10 working days after service on the Tenant of a notice in accordance with section 245 of the Property Law Act 2007.

(b) In the case of a breach by the Tenant of any covenant or agreement on the Tenant's part expressed or implied in the Lease (other than the covenant to pay rent) after the Tenant has failed to remedy that breach within the period specified in a notice served on the Tenant in accordance with section 246 of the Property Law Act 2007.

(c) If the Tenant makes or enters into or endeavours to make or enter into any composition, assignment or other arrangement with or for the benefit of the Tenant's creditors.

(d) In the event of the insolvency, bankruptcy, statutory management, voluntary administration, receivership or liquidation of the Tenant.

(e) If the Tenant suffers execution to issue against the Tenant's property, goods or effects under any judgment against the Tenant in any Court for a sum in excess of five thousand dollars ($5,000).

The term will terminate on the cancellation but without prejudice to the rights of either party against the other.

Essentiality of Payments

31.1 Failure to pay rent or other moneys payable under the Lease on the due date will be a breach going to the essence of the Tenant's obligations under the Lease. The Tenant must compensate the Landlord and the Landlord will be entitled to recover damages from the Tenant for such breach. This entitlement will subsist notwithstanding any determination of the Lease and will be in addition to any other right or remedy which the Landlord may have.

31.2 The acceptance by the Landlord of arrears of rent or other moneys will not constitute a waiver of the essentiality of the Tenant's continuing obligation to pay rent and other moneys.

Repudiation

32.1 The Tenant must compensate the Landlord and the Landlord will be entitled to recover damages for any loss or damage suffered by reason of any acts or omissions of the Tenant constituting a repudiation of the Lease or the Tenant's obligations under the Lease. Such entitlement will subsist notwithstanding any determination of the Lease and will be in addition to any other right or remedy which the Landlord may have.

DRAFT
© The Law Association of New Zealand
November 2024
Prepared for personal use only

QUIET ENJOYMENT AND NON-DEROGATION

33.1 The Tenant paying the rent and performing and observing all the covenants and agreements expressed and implied in the Lease will quietly hold and enjoy the premises throughout the term without any interruption by the Landlord or any person claiming under the Landlord.

33.2 The Landlord must not derogate from the grant of the Lease.

RENEWAL OF LEASE

34.1 If the Tenant has given to the Landlord written notice to renew this lease at least 3 calendar months (or such other period as is specified in the First Schedule) before the end of the term and is not at the date of the giving of the notice nor at the renewal date in material breach of this lease, then the Landlord must grant a new lease for a further term from the renewal date as follows:

(a) If the renewal date is a market rent review date, clauses 2.1 and 2.2 apply.

(b) If the renewal date is a CPI adjustment date, the annual rent will be determined in accordance with clause 2.5.

(c) If the renewal date is a fixed adjustment date, the annual rent will be determined in accordance with clause 2.7.

(d) Subject to the provisions of paragraphs (a) to (c), the new lease will be upon and subject to the covenants and agreements expressed and implied in the Lease except that the term of the Lease plus all further terms will expire on or before the final expiry date.

(e) The annual rent will be subject to review or adjustment during the term of the new lease on the rent review and adjustment dates specified in the First Schedule.

(f) The Landlord as a condition of granting a new lease shall be entitled to:

(1) have the new lease guaranteed by any guarantor who has guaranteed the Lease on behalf of the Tenant who has given notice to renew; and

(2) the security of a bank guarantee that has been given on behalf of the Tenant who has given notice adjusted if required to cover any adjustment in the annual rent payable from the renewal date; and

(3) the retention and top up of any rental bond that has been provided by the Tenant who has given notice to renew, including all interest earned on it and adjusted if required to cover any adjustment in the annual rent payable from the renewal date.

(g) If the renewal date is a market rent review date, pending the determination of the rent, the Tenant must pay an interim rent in accordance with clauses 2.3 and 2.4.

(h) The parties will not be released by the renewal of the Lease from any liability for any breach under the Lease.

ASSIGNMENT OR SUBLETTING

35.1 The Tenant must not assign, sublet or otherwise part with the possession of the premises, the car parks (if any) or any part of them without first obtaining the written consent of the Landlord which must not be unreasonably or arbitrarily withheld or delayed if the following conditions are fulfilled:

(a) In the case of assignment, the assignment must not be of part of the premises.

(b) The Tenant proves to the reasonable satisfaction of the Landlord (having regard to any existing securities for the performance of the tenant's obligations available to the Landlord after the assignment or subletting) that the proposed assignee or subtenant is (and in the case of a company, that the shareholders of the proposed assignee or subtenant are) reputable, responsible and has the financial resources to meet the Tenant's commitments under the Lease and, in the case of the subtenant, the subtenant's commitments under the sublease. The Tenant must give the Landlord any additional information reasonably required by the Landlord.

(c) All rent and other moneys payable have been paid and there is no material subsisting breach of any of the Tenant's covenants.

(d) In the case of an assignment, a deed of covenant in customary form approved or prepared by the Landlord is duly executed and delivered to the Landlord by the assignee.

(e) In the case of an assignment to a company (other than a company listed on the main board of a public stock exchange in New Zealand or Australia), any one or more of the following securities are provided to the Landlord if required by the Landlord acting reasonably having regard to any existing securities for the performance of the Tenant's obligations that remain available to the Landlord after the assignment or subletting:

(1) a deed of guarantee in customary form approved or prepared by the Landlord duly executed by the principal shareholders of that company and delivered to the Landlord; or

(2) a bank guarantee from a registered trading bank in New Zealand for a reasonable amount (which may or may not be a bank guarantee amount previously required under the Lease) and on reasonable terms approved by the Landlord acting reasonably as security for the performance by the company of its obligations under the Lease (to which clauses 38.1 to 38.8 apply with all necessary modifications); or

(3) a rental bond for a reasonable amount (which may or may not be a rental bond amount previously required under the Lease) (to which clauses 38.9 to 38.19 will apply with all necessary modifications).

(f) The Tenant pays the Landlord's reasonable costs and disbursements in respect of the approval and the preparation of any deed of covenant or guarantee and (if appropriate) all fees and charges payable in respect of any reasonable inquiries made by or on behalf of the Landlord concerning any proposed assignee, subtenant or guarantor. All such costs will be payable whether or not the assignment or subletting proceeds.

35.2 Where the Landlord consents to a subletting, the consent will extend only to the subletting and, notwithstanding anything contained or implied in the sublease, the consent will not permit any subtenant to deal with the sublease in any way in which the Tenant is restrained from dealing without consent.

35.3 Where any Tenant is a company which is not listed on the main board of a public stock exchange in New Zealand or Australia, then any change in the legal or beneficial ownership of its shares or the shares of its shareholder or issue of new capital in the company or its shareholder where in any case there is a change in the effective management or control of the company will require the written consent of the Landlord which will not be unreasonably or arbitrarily withheld or delayed.

DRAFT
© The Law Association of New Zealand Incorporated Copyright November 2024

UNIT TITLE PROVISIONS

36.1 Clause 36 applies where the property is part of a unit title development.

Body Corporate

36.2 The expression "Body Corporate" means the Body Corporate under the Unit Titles Act 2010 (in clauses 36.2 to 36.7, "the Act") in respect of the property.

Act and Rules Paramount

36.3 The Lease is subject to the provisions of the rules of the Body Corporate and the provisions of the Act.

Insurance

36.4 Unless the Body Corporate has resolved that the Landlord is to insure the building, the Landlord's obligation to insure the building will be satisfied by the Body Corporate maintaining insurance cover in accordance with the Act.

Landlord's Obligations

36.5 The Landlord must observe and perform all of the Landlord's obligations as a member of the Body Corporate and must use the Landlord's best endeavours to ensure that the Body Corporate complies with its rules and the provisions of the Act.

Tenant's Obligations

36.6 The Tenant must comply with the rules of the Body Corporate and the provisions of the Act to the extent that they apply to the Tenant's use of the property.

Consents

36.7 Where in the Lease the consent of the Landlord is required in respect of any matter, then the like consent of the Body Corporate must also be required if the consent of the Body Corporate to the matter would be necessary under its rules or the Act.

CAR PARKS

37.1 The Tenant will have the right to exclusive possession of the leased car parks, but when any car park is not being used by the Tenant other persons will be entitled to pass over the same.

37.2 The Landlord may carry out repairs to the car parks and no abatement of rent or other compensation will be claimed by the Tenant except pursuant to clauses 27.1 or 28.3.

37.3 The Tenant must comply with the Landlord's reasonable requirements relating to the use of the car parks and access to them and in particular must only use the car parks for the parking of one motor vehicle per parking space.

37.4 The provisions of this Second Schedule will apply to the car parks as appropriate.

SECURITY AGAINST DEFAULT

Bank Guarantee

38.1 Clauses 38.2 to 38.8 apply:

(a) to the original Tenant if the First Schedule specifies that to be the case; and

(b) to an assignee who is required to provide a bank guarantee in accordance with clause 35.1(e)(2) (with all necessary modifications).

38.2 The Tenant must provide the Landlord with a bank guarantee from a registered trading bank in New Zealand, on a form and on terms acceptable to the Landlord acting reasonably, under which the relevant bank undertakes unconditionally to pay to the Landlord on demand any sum up to an aggregate equivalent to the bank guarantee amount specified in the First Schedule (or where a bank guarantee is provided in accordance with clause 35.1(e)(2), the relevant bank guarantee amount required under that clause). The Tenant who has provided a bank guarantee and is the tenant at a rent review or rent adjustment date will, if required by the Landlord, provide a replacement bank guarantee or additional bank guarantee for any increase in rent to preserve the proportion that the total bank guarantee amount bears to the rent).

38.3 If the Tenant defaults in the payment of the annual rent or other money, or the performance of any obligation under the Lease, the Landlord may at any time and without notice to the Tenant call upon the bank guarantee and apply it in satisfaction (in whole or in part) of the outstanding obligation of the Tenant and towards making good any loss or damage sustained by the Landlord as a result of the default.

38.4 Promptly following a call on the bank guarantee:

(a) in respect of unpaid rent or other money payable under the Lease, the Landlord must give the Tenant a written statement of the amounts unpaid; or

(b) in order to reimburse the Landlord for expenditure incurred in remedying any other default by the Tenant, the Landlord must give the Tenant relevant details of that expenditure (including, where appropriate, copies of the invoices and receipts for the amounts expended).

38.5 The Tenant must promptly ensure the bank guarantee amount secured by the bank guarantee is restored to the bank guarantee amount required under clause 38.2 following a call upon the bank guarantee and payment by the bank to the Landlord under clause 38.3 as a result of the Tenant's default.

38.6 No action under clause 38.3 will operate as a waiver of the relevant default.

38.7 The Landlord must notify the bank under the bank guarantee to release the bank guarantee on the last to occur of the following:

(a) the expiry of this lease (including any renewed term or period of holding over);

(b) the making good of all damage and yielding up the premises as required by the Lease;

(c) compliance by the Tenant of all of its obligations under the Lease.

38.8 If the Landlord transfers the Landlord's interest in the property, the Tenant must, if requested by the Landlord, provide a replacement bank guarantee for the same bank guarantee amount then secured under the bank guarantee to be replaced for the benefit of the transferee at the Landlord's cost. The Tenant must provide that replacement bank guarantee as soon as reasonably practicable after the request. The Landlord will contemporaneously provide a release of the bank guarantee that is replaced.

DRAFT
The Law Association of New Zealand Incorporated
© Copyright
November 2024
DRAFT

Rental Bond

38.9 Clauses 38.10 to 38.19 apply:
(a) to the original Tenant if the First Schedule specifies that to be the case; and
(b) to an assignee who is required to provide a rental bond in accordance with clause 35.1(e)(3) (with all necessary modifications).

38.10 The Tenant must provide the Landlord with a rental bond for the rental bond amount specified in the First Schedule (or where a rental bond is provided in accordance with clause 35.1(e)(3), the relevant rental bond amount required under that clause). The Tenant who has provided a rental bond and is the tenant at a rent review or rent adjustment date will, if required by the Landlord, provide a top up of the rental bond amount for any increase in rent to preserve the proportion that the total rental bond amount bears to the rent).

38.11 The rental bond will be held by the Landlord or the Landlord's solicitor as security for the performance by the Tenant of its obligations under the Lease. Any interest earned on the rental bond, while it is held by the Landlord or the Landlord's solicitor, will accrue and be added to the rental bond and may be used by the Landlord in accordance with clause 38.12.

38.12 If the Tenant defaults in the payment of the annual rent or other money or the performance of any obligation under the Lease, the Landlord may, without prior notice to the Tenant, deduct from the rental bond an amount required to satisfy the outstanding obligation of the Tenant and towards making good any loss or damage sustained by the Landlord as a result of the default.

38.13 Promptly following a deduction:
(a) in respect of unpaid rent or other money payable under the Lease, the Landlord must give the Tenant a written statement of the amounts unpaid; or
(b) in order to reimburse the Landlord for expenditure incurred in remedying any other default by the Tenant, the Landlord must give the Tenant relevant details of that expenditure (including, where appropriate, copies of the invoices and receipts for the amounts expended).

38.14 The Tenant must promptly pay to the Landlord an amount equal to the amount applied under clause 38.12 to restore the rental bond to the rental bond amount required under clause 38.10, following any permitted deduction under clause 38.12.

38.15 No action under clause 38.12 will operate as a waiver of the relevant default.

38.16 The Tenant agrees and acknowledges that the rental bond does not constitute rent in advance and that the Tenant must pay rent in accordance with this lease.

38.17 Subject to clauses 38.18 and 38.19 the rental bond less any deductions permitted under clause 38.12, and any interest earned on the rental bond, will be the property of the Tenant who provided the rental bond and must be released to it on compliance by the Tenant of all of its obligations under this lease.

38.18 On an assignment of the Lease, subject to the assignee complying with clause 35.1(e) as a condition of the assignment if required, the Landlord must promptly release any rental bond provided by the assignor less any deductions permitted under clause 38.12, and any interest earned on the rental bond, to the assignor.

38.19 If the Landlord transfers the Landlord's interest in the property, the Tenant must, if requested by the Landlord, provide a replacement rental bond for the same rental bond amount then secured under the rental bond to be replaced for the benefit of the transferee at the Landlord's cost. The Tenant must provide that replacement rental bond as soon as reasonably practicable after the request. The Landlord will contemporaneously provide a release of the rental bond that is replaced.

SEISMIC RATING

39.1 The parties record that the Landlord has provided the Tenant with a report or other information that assessed the seismic rating of the building at the rating specified in the First Schedule.

39.2 The Landlord must disclose to the Tenant any report or other information that the Landlord becomes aware of that contains a materially different assessment to the one provided under clause 39.1.

39.3 Further provisions (if any) relating to the status of the assessment or report and the seismic rating of the building are set out in the Third Schedule. Subject to anything to the contrary in the Third Schedule, the parties agree that clauses 39.1 and 39.2 do not constitute a representation or warranty about the seismic rating of the building and no consequences arise from the building being found to have a different seismic rating.

39.4 The parties' agreement (if any) in respect of other matters relating to the seismic rating of the building is set out in the Third Schedule.

GENERAL

Holding Over

40.1 If the Landlord permits the Tenant to remain in occupation of the premises after the expiration or sooner determination of the term, the occupation will be a periodic tenancy only terminable by at least 20 working days' notice given at any time with the tenancy terminating on the expiry of the notice at the rent then payable and otherwise on the same covenants and agreements (so far as applicable to a periodic tenancy) as expressed or implied under the Lease.

Access for Re-Letting or Sale

41.1 The Tenant must during the term permit the Landlord, the Landlord's representatives and prospective tenants or purchasers to have access to inspect the premises provided that:
(a) Any such inspection is at a time which is reasonably convenient to the Tenant and after reasonable prior written notice is given by the Landlord.
(b) The inspection is conducted in a manner which does not cause disruption to the Tenant.
(c) If the Landlord or the Landlord's representatives are not present, the persons inspecting have written authority from the Landlord to do so.

41.2 For the purposes of advertising the premises for lease or for sale, the Landlord may erect signage on the building as follows:
(a) Any signage must be reasonable in terms of quantity, size and location.
(b) Signage advertising the premises "for lease" may only be erected during the last 3 calendar months before the end of the term if the Tenant has not given to the Landlord written notice to renew this lease pursuant to clause 34.1 or if there is no right of renewal remaining.

DRAFT
The Law Association of New Zealand © Copyright reserved November 2024
DRAFT

Suitability

42.1 No warranty or representation expressed or implied has been or is made by the Landlord that the premises are now suitable or will remain suitable or adequate for use by the Tenant or that any use of the premises by the Tenant will comply with the by-laws or ordinances or other requirements of any authority having jurisdiction.

Affirmation

43.1 A party to the Lease is not entitled to cancel the Lease if, with full knowledge of any repudiation or misrepresentation or breach of covenant, that party affirmed the Lease.

Waiver

44.1 No waiver or failure to act by either party in respect of any breach by the other will operate as a waiver of another breach.

Registrable Interests

45.1 The Landlord is not required to do any act or thing to enable the Lease to be registered and the Tenant must not lodge a caveat in respect of the Tenant's interest under the Lease.

Mortgagee's consent

46.1 As specified in the First Schedule, the Landlord is either not required to, or must use reasonable endeavours to, obtain the consent of any mortgagee of the property in respect of the Tenant's interest under the Lease.

Notices

47.1 All notices must be in writing and must be served by one of the following means:

(a) In the case of a notice under sections 245 or 246 of the Property Law Act 2007 in the manner prescribed by section 353 of that Act; and

(b) In all other cases, unless otherwise required by sections 352 to 361 of the Property Law Act 2007:

(1) in the manner authorised by sections 354 to 361 of the Property Law Act 2007, or

(2) by personal delivery, or by posting by registered or ordinary mail, or by email.

47.2 In respect of the means of service specified in clause 47.1(b)(2), a notice is deemed to have been served:

(a) in the case of personal delivery, when received by the addressee; and

(b) in the case of posting by mail, on the second working day following the date of posting to the addressee's last known address in New Zealand.

(c) In the case of email, when sent to the email address specified in the First Schedule, or another address notified by one party to the other and acknowledged by the addressee orally or by return email or otherwise in writing except that return emails generated automatically will not constitute an acknowledgement.

47.3 In the case of a notice to be served on the Tenant, if the Landlord is unaware of the Tenant's last known address in New Zealand, any notice placed conspicuously on any part of the premises will be deemed to have been served on the Tenant on the day on which it is affixed.

47.4 A notice will be valid if given by any director, general manager, lawyer or other authorised representative of the party giving the notice.

47.5 Where two or more notices are deemed to have been served at the same time, they will take effect in the order in which they would have been served but for clause 52.1(t).

47.6 Any period of notice required to be given under the Lease must be computed by excluding the date of service.

Arbitration

48.1 The parties must first endeavour to resolve any dispute or difference by agreement and if they agree by mediation.

48.2 Unless any dispute or difference is resolved by mediation or other agreement within 30 days of the dispute or difference arising, the same must be submitted to the arbitration of one arbitrator who must conduct the arbitral proceedings in accordance with the Arbitration Act 1996 or any other statutory provision then relating to arbitration. The obligation to submit to arbitration arises even if a party did not endeavour to resolve the dispute or difference under clause 48.1.

48.3 If the parties are unable to agree on the arbitrator, an arbitrator will be appointed, upon request of any party, by the president or vice president of The Law Association of New Zealand Incorporated. That appointment will be binding on all parties to the arbitration and will be subject to no appeal. The provisions of Article 11 of the First Schedule of the Arbitration Act 1996 are to be read subject to this and varied accordingly.

48.4 The procedures prescribed in this clause will not prevent:

(a) the Landlord from taking proceedings for the recovery of any rent or other moneys payable under the Lease which remain unpaid or from exercising the Landlord's right to cancel the Lease pursuant to clause 30.1 for such non-payment; or

(b) the Tenant from applying to the Court for relief under sections 253, 258 and 261 of the Property Law Act 2007.

No Implied Terms

49.1 The covenants, conditions and powers implied in leases pursuant to the Property Law Act 2007 and sections 224 and 266(1)(b) of that Act will not apply to and are excluded from the Lease where allowed.

Limitation of Liability

50.1 If any person enters into the Lease as trustee of a trust, then:

(a) That person warrants that:

(1) that person has power to enter into the Lease under the terms of the trust; and

(2) that person has properly signed the Lease in accordance with the terms of the trust; and

(3) that person has the right to be indemnified from the assets of the trust and that right has not been lost or impaired by any action of that person including entry into the Lease; and

(4) all of the persons who are trustees of the trust have approved entry into the Lease.

DRAFT
The Law Association of New Zealand © Copyright November 2024 DRAFT

(b) If that person has no right to or interest in any assets of the trust except in that person's capacity as a trustee of the trust, that person's liability under the Lease will not be personal and unlimited but will be limited to the actual amount recoverable from the assets of the trust from time to time ("the limited amount"). If the right of that person to be indemnified from the trust assets has been lost or impaired as a result of fraud or gross negligence, that person's liability will become personal but limited to the extent of that part of the limited amount which cannot be recovered from any other person.

50.2 Notwithstanding clause 50.1, for a party to the Lease that is named in the First Schedule as a limited liability trustee, that person's liability will not be personal and unlimited but limited in accordance with clause 50.1(b).

Execution

51.1 The Lease may be executed in two or more counterparts, all of which will together be deemed to constitute one and the same lease. A party may enter into this lease by signing a counterpart copy and sending it to the other party, including by email.

51.2 The Lease may be executed by an electronic method and a party doing so represents and warrants to the other party that the means of creating the electronic signature complies with section 228 of the Contract and Commercial Law Act 2017.

DEFINITIONS AND INTERPRETATION

52.1 In this lease:

(a) "the building" means the building and other improvements of the Landlord on the property;

(b) "building services" means all services provided by the Landlord as an integral part of the building for the general use and enjoyment of the building by its tenants or occupants including water, gas, electricity, lighting, air conditioning, heating and ventilation, telecommunications, lifts and escalators whether or not they are located within the premises.

(c) "CPI" means the Consumer Price Index (All Groups) published by Statistics New Zealand or other government agency and any revised, replacement or substituted index.

(d) "default GST" means any additional GST, penalty (civil or otherwise), interest, or other sum imposed on the Landlord (or where the Landlord is or was a member of a GST group its representative member) under the GST Act or the Tax Administration Act 1994 by reason of non-payment of any GST payable in respect of the supply made under the Lease but does not include any sum levied against the Landlord (or where the Landlord is or was a member of a GST group its representative member) by reason of a default or delay by the Landlord after payment of the GST to the Landlord by the Tenant.

(e) "emergency" for the purposes of clause 29 means a situation that:

(1) is a result of any event, whether natural or otherwise, including an explosion, earthquake, eruption, tsunami, land movement, flood, storm, tornado, cyclone, serious fire, leakage or spillage of any dangerous gas or substance, infestation, plague, epidemic, pandemic, failure of or disruption to an emergency service; and

(2) causes or may cause loss of life or serious injury, illness or in any way seriously endangers the safety of the public or property; and

(3) the event is not caused by any act or omission of the Landlord or Tenant.

(f) "GST" means the Goods and Services Tax arising pursuant to the Goods and Services Tax Act 1985 and "GST Act" means the Goods and Services Tax Act 1985.

(g) "inherent defect" means any latent or inherent defect being a matter of disrepair in the structure of, or the installations of the plant and machinery in, the building which is attributable to:

(1) defective design of the building;

(2) defective workmanship or materials in the carrying out, or used in connection with, the construction of the building; or

(3) defective supervision of the construction of the building or the installation of anything in the building as part of the construction of the building,

having regard to standards of design, workmanship, materials, supervision and installation in relation to buildings similar to the building current at the time the building was designed and constructed.

(h) "premises" means the premises described in the First Schedule and includes all the Landlord's fixtures and fittings provided by the Landlord and those set out in the Fifth Schedule but does not include the Tenant's fixtures, fittings and chattels.

(i) "registered valuer" means a valuer registered pursuant to the Valuers Act 1948.

(j) "premises condition report" means the report as set out in the Seventh Schedule.

(k) "renewal" means the granting of a new lease as provided for in clause 34.1.

(l) "rules" in clause 36 means the Body Corporate operational rules under the Unit Titles Act 2010 and any amendments to those rules or replacement rules.

(m) "structural repair" means a repair, alteration or addition to the structure or fabric of the building but excluding building services.

(n) "Tenant's fixtures, fittings and chattels" means fixtures and fittings set out in the Sixth Schedule and any other fixtures and fittings and chattels belonging to the Tenant and installed or used in the premises before the commencement date or during the term of the Lease or any renewed lease.

(o) "term" includes, where the context requires, a further term if the Lease is renewed.

(p) "the common areas" means those parts of the property the use of which is necessary for the enjoyment of the premises and which is shared with other tenants and occupiers.

(q) "the Landlord" and "the Tenant" means where appropriate the executors, administrators, successors and permitted assigns of the Landlord and the Tenant.

(r) "property" means the land and building of the Landlord which comprises or contains the premises. Where the premises are part of a unit title development, the words "the property" mean the land and building(s) comprised in the development.

(s) "those for whom the Tenant is responsible" includes the Tenant's agents, employees, contractors or invitees.

DRAFT
The Law Association of New Zealand
Copyright
November 2024
Not to be copied or reproduced

(t) "working day" means any day of the week other than:
  (1) Saturday, Sunday, Waitangi Day, Good Friday, Easter Monday, Anzac Day, the Sovereign's Birthday, and Labour Day;
  (2) if Waitangi Day or Anzac Day falls on a Saturday or Sunday, the following Monday;
  (3) a day in the period commencing on the 24th of December in any year and ending on the 5th day of January in the following year, both days inclusive; and
  (4) the day observed as the anniversary of any province in which the property is situated;
  (5) the day on which a public holiday is observed to acknowledge Matariki, pursuant to the Te Kāhui o Matariki Public Holiday Act 2022; and
  (6) any other day that the Government of New Zealand declares to be a public holiday.

  A working day will be deemed to commence at 9.00 am and to terminate at 5.00 pm. Notices served after 5.00 pm on a working day, or on a day which is not a working day, shall be deemed to have been served on the next succeeding working day.

(u) A reference in the Lease to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.

(v) A reference to the words "include" or "including" are to be interpreted without limitation.

(w) If any inserted term (including any Further Term in the Third Schedule) conflicts with the covenants in the First, Second and Fourth Schedules, the inserted term will prevail.

(x) Whenever words appear in the Lease that also appear in the First Schedule then those words will mean and include the details supplied after them in the First Schedule.

(y) Where the context requires or admits, words importing the singular will import the plural and vice versa.

(z) Where the Landlord's consent or approval to any matter is required under the Lease, then, unless expressly stated to the contrary in the Lease, in each case the Landlord:
  (1) must not unreasonably withhold consent or approval;
  (2) may grant consent or approval subject to reasonable conditions; and
  (3) must, within a reasonable time of the Landlord's consent or approval being requested:
    (i) grant that consent or approval; or
    (ii) notify the Tenant in writing that the consent or approval is withheld.

DRAFT
© Copyright
November 2024
The Law Association of New Zealand Incorporated

THIRD SCHEDULE

FURTHER TERMS (if any)

DRAFT
The Law Association of New Zealand Incorporated
©
Copyright
November 2024
DRAFT

FOURTH SCHEDULE

GUARANTEE

IN CONSIDERATION of the Landlord entering into the Lease at the Guarantor's request, the Guarantor:

(a) Guarantees payment of the rent and the performance by the Tenant of the covenants in the Lease.

(b) Indemnifies the Landlord against any loss the Landlord might suffer should the Lease be lawfully disclaimed or abandoned by any liquidator, receiver or other person.

THE GUARANTOR covenants with the Landlord that:

1. No release delay or other indulgence given by the Landlord to the Tenant or to the Tenant's successors or assigns or any other thing by which the Guarantor would have been released had the Guarantor been merely a surety will release prejudice or affect the liability of the Guarantor as a guarantor or as indemnifier.
2. As between the Guarantor and the Landlord, the Guarantor may for all purposes be treated as the Tenant and the Landlord will be under no obligation to take proceedings against the Tenant before taking proceedings against the Guarantor.
3. The guarantee and indemnity are for the benefit of and may be enforced by any person entitled for the time being to receive the rent.
4. An assignment of the Lease and any rent review in accordance with the Lease will not release the Guarantor from liability.
5. Should there be more than one Guarantor, their liability under this guarantee and indemnity will be joint and several.
6. This guarantee and indemnity will extend to any holding over by the Tenant.

DRAFT
The Law Association of New Zealand Incorporated © Copyright November 2024
DRAFT

FIFTH SCHEDULE

LANDLORD'S FIXTURES AND FITTINGS

(Clause 52.1(h))

DRAFT
The Law Association of New Zealand Incorporated
© Copyright
November 2024
DRAFT

SIXTH SCHEDULE

TENANT'S FIXTURES AND FITTINGS

(Clause 52.1(n))

DRAFT
The Law Association of New Zealand Incorporated
© Copyright
November 2024
DRAFT

SEVENTH SCHEDULE

PREMISES CONDITION REPORT

(Clause 8.1)

DRAFT
The Law Association of New Zealand Incorporated
© Copyright
November 2024
DRAFT

EIGHTH SCHEDULE

PLAN OF PREMISES AND CAR PARKS (if any)

DRAFT
The Law Association of New Zealand Incorporated
© Copyright
November 2024
DRAFT

Dated

Between

Landlord

and

Tenant

and

Guarantor

DEED OF LEASE

General address of the premises:

© THE LAW ASSOCIATION OF NEW ZEALAND INCORPORATED (TLANZ)

IMPORTANT WARNING: All copyright in and associated with this form and its contents is owned by TLANZ. A user of this form only acquires a limited non-exclusive licence to use it *once within a single transaction only*. The standard TLANZ contract terms apply, which also prohibit any form of distribution, on-selling, or reproduction, including copying, digitising or recreating the form by any means whatsoever.

TLANZ monitors the use of this form and may take enforcement action against any person acting in breach of these obligations. Copying or digitising this form and altering its standard text, without clearly identifying the alterations, is prohibited, and, in addition to copyright infringement, may also be a breach of the Fair Trading Act 1986 and constitute misrepresentation.

DRAFT

The Law Association of New Zealand Incorporated © Copyright November 2024

DRAFT