

# **RENTSMART RENTAL TERMS AND CONDITIONS**

GENERAL RS3 (01/08/2008) RENTSMART PTY LTD ATF RENTSMART UNIT TRUST ABN 62 233 046 288

## **In this agreement:**

**You** means the person or persons renting the Equipment and named as Renter on the Cover Page. If there is more than one person so named as Renter, you are bound jointly and individually, and every reference to you will be taken to apply to you and each of you. If you, or any of you, are a trustee, you are liable both personally and in your capacity as trustee.

**You** includes your, and each of your, executors, administrators, successors and permitted assigns, and each of them.

**We and us** includes our and means RentSmart Pty Limited (ACN 073 225 457) as trustee for RentSmart Unit Trust (ABN 62 233 046 288), its successors and assigns and, if RentSmart Pty Ltd enters into this agreement as an agent, means the Principal, its successors and assigns.

**Code of Banking Practice** means the Code of Banking Practice published by the Australian Bankers Association as released on 1 August 2003 and modified in May 2004.

**Cover Page** means the cover page to this agreement.

**Discount Rate** means the Overdue Rate less the figure of 2% p.a.

**Equipment** means the items specified on the Cover Page including any accessories, parts or other items which may be incorporated with the Equipment during the Term.

**Guarantors** mean the person or persons named on the Cover Page (if any). If there is more than one person named, they are bound jointly and individually, and every reference to them will be taken to apply to them and each or any of them. If they, or any of them, are trustees, they are liable both personally and in their capacity as trustee.

Guarantors includes their, and each of their, executors, administrators, successors and permitted assigns.

**Initial Term** means the period specified on the Cover Page.

**Location** means the usual equipment location set out on the Cover Page.

**Overdue Rate** means the cost of funds employed by us, or where we enter into this agreement as agent, means the Principal's rate of return, in funding the rental of the Equipment under this agreement, expressed as a percentage rate per annum.

**Related Agreement** means each and every lease agreement, rental agreement, hiring agreement, loan agreement, funding arrangement and any other financial or credit agreement or arrangement you, or any Guarantor, enter into at any time with us, or if we enter into this agreement as an agent for another person, with that person, and/or any of our or that person's Related Corporations.

**Related Corporation** has the meaning given to "related body corporate" in the *Corporations Act*.

**Service Provider** means any person other than us who may provide any goods or services relating to the Equipment or to you.

**Tax** means a tax, levy, impost, deduction, charge, or duty of any kind (together with any interest, fine, penalty or expense relating to it).

**Term** means the Initial Term plus any extension or renewal of it, or any period of holding over in accordance with the terms of this agreement.

**Termination Amount** means the aggregate of:

(a) The net present value as at the date of termination of each Rent Instalment that is not yet due for payment (excluding stamp duty, GST and any part of a Rent Instalment which relates to payment for insurance or an extended warranty and which is not a continuing expense), calculated by discounting each Rent Instalment back from the date on which it would otherwise have fallen due for payment at the Discount Rate; and

(b) If we are unable to take possession of the Equipment, the value of the Equipment as at the date of termination, calculated by discounting back to that date the fair market value of the Equipment at the end of the Term (assuming that this agreement ran its full term) as we estimate, (at the date of termination) at the Discount Rate.

The singular includes the plural and vice versa; Includes and including are not words of limitation; any reference to:

(1) Anything includes any part of it;

(2) A person includes a corporation or other entity; and

(3) Repossession or return of the Equipment includes a reference to a repossession or return of the whole or a substantial part of the Equipment.

No provision of this agreement will be construed adversely to us on the grounds that we prepared this agreement or that provision. If we decide to exercise, or not to exercise, any rights we may have under any provision of this agreement, this does not limit or prejudice any other rights we may have; If any provision of this agreement contravenes the provision of any law (including, if applicable, the Consumer Credit Code), this agreement is to be read as if that provision were varied to the extent necessary to comply with the law or, if necessary, omitted.

## **1. This agreement**

(a) This agreement sets out everything that you and we have agreed in relation to you renting the Equipment. (b) You may not waive or vary its provisions. (c) If we waive our rights at any time this has no effect in relation to any other continuing or further breach or right. (d) This agreement:

(1) Replaces any previous agreement between you and us in relation to the Equipment; and

(2) Is governed by the laws of Western Australia.

(e) You agree that you have not relied on any statement, document or promise made by us or on our behalf not contained in this agreement.

(f) We are not responsible for any statement or promise made by a third person introducing you to us.

(g) We may complete any blanks in the Cover Page and correct any errors.

(h) We may issue notices about amounts that you owe us, dates on which the Equipment was delivered and the fair market value of the Equipment.

(i) You must provide financial information to us as we may require from time to time.

(j) We may pay or receive a commission in relation to this agreement or the Equipment.

(k) You have no option, right or obligation to purchase the Equipment.

(l) We may:

(1) Assign or otherwise deal with our rights under this agreement (including to any guarantee or indemnity) or to the Equipment; and

(2) Exercise any of our rights through any agent.

(m) If any provision of this agreement is or becomes unenforceable then that provision will be removed from this agreement without affecting the remaining provisions of this agreement.

(n) If you enter this agreement as a trustee, you promise that:

(1) The trust is validly formed and any relevant trust document is valid and complies with the law;

(2) You are properly appointed as sole trustee of the trust and will remain so;

(3) You have always complied with the terms of the trust and your duties as trustee and will continue to do so and no one has said that you have not complied;

(4) You have done everything required under the terms of the trust to enter into this agreement and entering into this agreement is for a proper purpose under the terms of the trust; and

(5) The trust has not been terminated and you have a full right of indemnity from the trust assets in respect of your obligations under this agreement.

## 2. Commencement

(a) We agree to rent the Equipment to you from commencement to the end of the Initial Term.

(b) This agreement commences when you and we have signed it.

(c) If you receive any Equipment before this agreement commences then you do so at your own risk and not as our agent but you must comply with clauses 8, 11 and 12 of these terms and conditions.

## 3. The Equipment

You agree that:

(a) You must obtain delivery of the Equipment and arrange any necessary installation.

(b) We will:

- (1) Own the Equipment unencumbered; and
- (2) Always hold all rights to and title in the Equipment.

(c) The Equipment will:

- (1) Remain our property; and
- (2) Not become a fixture.

(d) Before taking delivery of the Equipment you examined the Equipment and satisfied yourself that it is suitable for the purposes for which you chose it and intend to use it. (e) You have not relied on our skill or judgment in any way when choosing the Equipment.

## 4. Computer Equipment

(a) The following subclauses apply where the Equipment is computer or other information technology equipment.

(b) You must ensure that there are installed upon the Equipment all such enhancements or upgrades to any software or firmware required for the use of the Equipment as from time to time are generally made available by the manufacturer of the Equipment to other users.

(c) If any amount which we have paid relates to software which forms part of or is supplied for use with the Equipment, then we give you a right to possess the relevant copy of that software during the Term to the extent that we are entitled to do this, but you are responsible for ensuring that you are licensed to use that software and we do not provide you with any right to use or otherwise deal with any copyright in that software.

(d) Upon our retaking possession of the Equipment, we will give you such opportunity to download any data and delete any software from it as we consider reasonable in the circumstances, but we will not be liable for any loss of such data and you indemnify us against any claim made by any person in relation to our possessing the Equipment when there is another person's data or software on it or our deletion of any such data or software.

## 5. Rent and Taxes

No matter what else happens, you must pay us:

(a) Each Rent Instalment on or before the due date; and

(b) All the Taxes payable in respect of the Rent Instalments and this agreement.

## 6. Payment

(a) You must pay all payments to us either by credit card or by direct debit or in another manner as we may tell you.

(b) You must pay us on demand interest on any amount that is payable under this agreement but is overdue. This interest is calculated on a daily basis by applying the Overdue Rate (divided by 365) to the overdue amount until you actually pay the overdue

amount and may be capitalised by us at monthly intervals. You must repay on demand any money that we incur or spend in enforcing this agreement, or protecting or recovering our rights under this agreement.

(c) If any payment you make by direct debit is dishonoured, we may charge you a dishonour fee equivalent to the dishonour fee we charge in the same circumstances to our other customers from time to time. In this situation, we will treat the payment as if it had never been made.

(d) We may change any of the terms and conditions in this agreement. If we decide to introduce a fee or charge, vary the method by which interest is calculated or vary the frequency with which interest is debited or credited, we will give you notice in writing of the change at least 30 days before the change takes effect. For any other change to the terms and conditions (including the right to vary the amount of the dishonour fee referred to in clause 6(c)) other than the introduction or variation of a government charge payable by you, we will give you notice of the change by advertisement in a newspaper circulating in your state or territory or in writing to you not later than the day on which the change takes effect. We will also notify you of the introduction or variation of a government charge payable by you by advertisement in a newspaper circulating in your state or territory or in writing to you unless the introduction or variation is publicised by a government, government agency or representative body.

(e) If you make payments to us by direct debit or by credit card, we will take and promptly process your:

- (1) instruction to cancel your direct debit request or your credit card payment request (as the case may be); and
- (2) complaint that a direct debit or credit card payment (as the case may be) was unauthorised or otherwise irregular.

If your payment request is cancelled and you still have to make payments to us, you must still pay us the amount due in another manner that is acceptable to us.

## 7. Delivery

You must take delivery of the Equipment within what we decide is a reasonable time.

## 8. Use and maintenance of Equipment

(a) You must:

- (1) Keep the Equipment in first class working order, repair and condition (fair wear and tear excepted);
- (2) Follow all the manufacturer's instructions; and
- (3) Notify us immediately if it is damaged, lost or destroyed.

(b) You must further:

- (1) Keep the Equipment under your control; and
- (2) Only allow properly qualified (or licensed) people to use it.

(c) You must not:

- (1) Sell or attempt to sell the Equipment, give possession of it, give any interest in it, or transfer or assign this agreement to any person;
- (2) Remove the Equipment, or permit or allow it to be removed, from the Location; or
- (3) Make any alteration or addition to the Equipment which may adversely affect its market value, without our prior written consent.

(d) You must let us enter any premises to inspect the Equipment whenever we ask to.

(e) You must comply with all laws at any time in force relevant to the use of the Equipment.

## 9. Return of Equipment

At the end of the Term, or when this agreement is terminated, you must return the Equipment and the copy of any software supplied for use with the Equipment to us:

- (a) In full;
- (b) At your own cost;

- (c) In first class condition; and
- (d) With anything that belongs with it.

#### **10. Damages on failure to return**

If you fail to comply with clause 9 you must pay us a monthly rent equal to the average monthly rent during the Term until you return the Equipment in accordance with clause 9 or you pay us in accordance with clause 19 or 20.

#### **11. Insurance**

(a) You must take out and maintain property insurance against loss or damage to the Equipment for all risks and for its replacement value (and we may notify you of what this amount should be) and any other insurance policies we may reasonably require.

(b) The terms of each insurance policy must bind you and protect our interests as owner of the Equipment.

(c) You must:

- (1) Hand each policy of insurance to us or provide us with details of the insurance;
- (2) Promptly pay all the premiums; and
- (3) Comply with the provisions of each insurance policy so that the insurance company will honour any claim.

(d) You must not, without our prior written consent:

- (1) Make any admission of liability or
- (2) Settle any claim, relating to any of these insurance policies.

(e) You irrevocably appoint us, and each of our officers and managers, jointly and severally to be your attorneys to make and settle any insurance claims relating to the Equipment.

(f) If we arrange any insurance for you or approve any insurance:

- (1) The terms of the insurance policy may have exclusions and not necessarily cover "all risks", in which event you will be deemed to act as a self insurer for those risks not covered and the provisions of clause 11(g) will apply; and
- (2) You are ultimately responsible for also approving that insurance and you, not we, must ensure that that insurance meets your requirements including covering the risks required to be covered under this clause 11.

(g) We may consent in writing to you acting as a self insurer for some or all of the risks set out in clause 11(a). If any event occurs which, had you insured under clause 11(a), would have given rise to a claim under the relevant insurance policy, you must pay to us the amount that the insurer would have paid to us if you had taken out that insurance.

#### **12. Do not attach Equipment without consent**

You must not attach, fix or secure the Equipment to any land or premises unless you first obtain our written consent. If we request it, you must provide us with a consent in such form as we may reasonably require from the owner of any premises in which the Equipment is located for us to exercise our rights to the Equipment under this agreement or at law, If we require it, you must also affix notices or other markings on the Equipment to indicate our rights in the Equipment in such form and manner as we may direct.

#### **13. We may act to protect the Equipment**

We may use your name and act on your behalf in exercising any rights, or in relation to any legal proceedings to:

- (a) Protect our rights in the Equipment;
- (b) Recover or compromise any claim for loss or damage under any insurance policy; or
- (c) Give effective releases and receipts for any money payable under any insurance policy.

#### **14. Recovering possession of Equipment**

(a) If the Consumer Credit Code applies to this agreement: we will not enter onto any part of residential premises to recover possession of the Equipment unless:

- (1) We have a Court order that authorises us to do so; or
- (2) The occupier of the premises, after being informed of their rights, consented to us entering.

(b) If the Consumer Credit Code applies to this agreement: we will not recover possession of the Equipment unless we have first given you 30 days written notice that we intend to do so. However, we need not give such notice if:

- (1) We are recovering the Equipment at the end of the Term;
- (2) We have reason to believe that you have, or intend to, dispose of the Equipment;
- (3) We have tried to locate you without success;
- (4) You become bankrupt; or
- (5) We are authorised by the Court to do so; or

(c) If the Consumer Credit Code does not apply to this agreement, we have the right to enter onto your premises without notice and without your consent in order to recover possession of the Equipment in any of the circumstances described in paragraphs 14(b)(1) to (b)(5) or if this agreement is terminated early for any reason.

#### **15. Appropriation**

(a) If we owe you any money, and at the same time you owe us money, or the Equipment has been lost or damaged in any way, we may deduct the amount you owe us, and/or the amount equal to the cost of replacement or repair of the Equipment from what we owe you.

(b) We may also apply any money that you pay to us or we receive under this agreement to any debt or liability of you to us or to any person. We may enter into this agreement as an agent for a principal under any Related Agreement.

#### **16. Renewal**

(a) If you intend to return the Equipment to us on the last day of the Initial Term, you must notify us of this intention in writing 3 months before that day. If you do not do so, you will be deemed to hold over the Equipment for a period of 3 months after the end of the Initial Term, or until any sooner termination of the agreement (to which we may consent). If you wish to terminate this agreement at the end of the three month holding over period or at the end of any subsequent month, you may do so by giving us one month's prior written notice. Following the expiry of the three month holding over period and until we receive such a notice you will be deemed to hold over the Equipment monthly. This agreement will terminate on the due date of your next Rent Instalment following after the expiry of your notice.

(b) If you hold over Equipment for any period, whether in accordance with sub-clause (a) or if we otherwise in our sole discretion permit you to do so, you must pay the same rent at the same times as set out in this agreement and all the provisions of this agreement will continue to apply to you except that we may terminate that holding over at any time by giving you one month's written notice.

#### **17. Indemnities**

(a) You and the Guarantors must indemnify us, and keep us indemnified, against all claims, costs, charges, taxes, assessments, money payable and any other liability that we may or will suffer or incur in relation to:

- (1) The Equipment (including its loss, damage or destruction), its use, operation or keeping, or the renting of it to you;
- (2) Any failure by you or the Guarantors to comply with any of your or their obligations under this agreement;
- (3) Any statements, representations or warranties that you or the Guarantors made or make to us, whether in this agreement or otherwise, being or becoming false, inaccurate, incomplete or in any way misleading.

#### **18. Fundamental provisions**

If any of the following events occurs:

- (a) The Equipment is damaged, lost or destroyed;
- (b) You do not take delivery of the Equipment within what we decide is a reasonable time;
- (c) You have made or make any false representation to us;

(d) You fail to pay any payment due on the day it is payable and you fail to comply with a notice from us requesting payment of that overdue amount or you fail to comply with a subsequent undertaking (written or oral) given by you to us that you will remedy that default;

(e) You die, or become subject to any law or regulation relating to mental health or incapacity (physical or mental);

(f) An application is made or a resolution is passed to wind you up;

(g) You are or become, or any action is taken to make you, insolvent within that meaning as specified in section 95A(2) or section 922 of the Corporations Act;

(h) You have a controller or administrator appointed, as defined in section 9 of the Corporations Act;

(i) Any insurance policy in relation to the Equipment is refused, cancelled or not renewed;

(j) You do, omit to do or permit or allow to be done anything that threatens the safety, condition or safe keeping of the Equipment or our rights to it;

(k) You cease to carry on or control your business;

(l) Your conduct indicates to us that you no longer intend to be bound by this agreement,

it is a fundamental breach of this agreement and you will be deemed to have repudiated this agreement.

### 19. Termination

(a) If you repudiate this agreement, we may at any time choose to accept that repudiation and terminate this agreement:

(1) By written notice to you, effective from the date we give you that notice; or

(2) By retaking possession or attempting to retake possession of the Equipment; but

(3) If the Consumer Credit Code applies to this agreement, we may only terminate this agreement by giving you 30 days' written notice of our intention to do so or by repossessing the Equipment in the circumstances provided for in the Code.

(b) If we terminate this agreement you must pay us the Recoverable Amount as liquidated damages. These amounts must be paid immediately where they are capable of calculation at termination, and on demand, where the amounts are not then capable of calculation, but can be calculated later.

(c) The Recoverable Amount comprises:

(1) The total of any rent instalments and any other money that is due at that termination date that you have not paid;

(2) The costs of any repairs we choose to make to the Equipment to put it in first class working order, repair and condition or our estimate of the difference between the fair market value of the Equipment and what that value would have been if it had been so repaired;

(3) The costs of us retaking possession of it and storing it;

(4) Interest calculated at the Overdue Rate on:

(i) the total of any Rent Instalments and any other money due, as referred to in paragraph (1); and

(ii) the costs referred to in paragraphs (2) and (3) calculated from the dates that we incurred them, until they are paid in full;

(5) The Termination Amount in respect of the Equipment on the termination date; and

(d) If the Consumer Credit Code applies to this agreement, and you wish to end this agreement before the end of the term, you may do so by returning the Equipment to us. If you do, you will be liable to pay us the Recoverable Amount calculated in accordance with sub-clause (c).

### 20. Payment of Our Loss

(a) If the Equipment is lost or destroyed or we form the opinion that it is so damaged as to make its repair uneconomical, we may terminate this agreement by sending you a written notice. You must then pay Our Loss, which is the aggregate of:

(1) The total of all Rent Instalments and any other moneys then accrued due at that termination date that you have not paid together with interest on them at the Overdue Rate from their due dates for payment until they are paid in full together with any Tax, including any GST, payable in respect of that total; and

(2) The greater of:

(i) The Termination Amount in respect of the Equipment on the termination date, together with an amount equal to any Tax, including any GST, payable in respect of that Termination Amount; and

(ii) Fair market value of the Equipment immediately prior to the happening of that damage, loss or destruction as we estimate;

but, in calculating these amounts, where Tax has already been included in an amount, we will not add it again.

(b) You must pay us Our Loss no later than 7 days after you receive our notice.

(c) If you pay to us Our Loss, we must pay or give you credit for any insurance money or proceeds of salvage that we receive (if and when received) but only to the extent of Our Loss.

### 21. Trade Practices

Where we supply any goods or services and an applicable law prohibits or renders void any exclusion, restriction or modification of the conditions and warranties implied by law, but permits us to limit our liability for breach of any such condition or warranty, then our total liability for that breach (including any consequential loss that you may suffer) will be limited to any one of the following as we may decide:

(a) In the case of goods:

(1) The replacement of those goods or the supply of equivalent goods;

(2) The repair of those goods;

(3) The payment of the cost of replacing those goods, or of acquiring equivalent goods; or

(4) The payment of the cost of having those goods repaired; and

(b) In the case of services:

(1) The supply of those services again; or

(2) The payment of the cost of having those services supplied again, and the provisions of clause 26 will continue to apply.

### 22. GST

If any goods and services or similar tax is payable, or becomes payable, on any supply of goods or services by us under this agreement, then we may recover from you the amount of that tax, in addition to, at the same time and in the same manner as you are obliged to pay for, that supply.

### 23. Related Agreements

(a) If you breach any term or condition of this or any Related Agreement you commit a default under this and every other Related Agreement.

(b) We, or any of our Related Corporations, may, in our absolute discretion, grant you (or a Guarantor) any indulgence under that Related Agreement. If we do so, this does not prejudice any other rights or interests we may have under this or any Related Agreement.

(c) You agree that we, or any of our Related Corporations may set off any surplus that may arise from dealing under any Related Agreement to satisfy any loss, damage, shortfall, cost or expense that we, or any of our Related Corporations may suffer or incur under this or any other Related Agreement.

### 24. Set-off

You may not withhold any payments or make any deductions from any payment due to us, for any reason.

### 25. No lien

You must not involve us in any liability or create any lien over the Equipment.

## 26. Third Party Services

If any part of the rent that you must pay us relates to any goods or services to be provided by a Service Provider then:

- (a) We are not obliged or required to provide those goods or services, even if the Service Provider fails to provide those goods or services;
- (b) You are not entitled to any abatement of the rent or any other money that you may owe us, nor to any deduction set off or counterclaim by reason of that failure, nor to claim any damages or other compensation from us for any loss or damage you may suffer or incur, relating directly or indirectly to that failure;
- (c) Your sole rights and remedies will be against the Service Provider; and
- (d) You must continue to pay us, on time, all money payable to us.

## 27. Agency

- (a) We may enter into this agreement on our own behalf, or as an agent for another person. References to us include that other person.
- (b) You may not object to any of the consequences flowing from that.

## 28. Code of Banking Practice

- (a) This clause 28 applies if RentSmart Pty Limited enters into this agreement as an agent and the Principal has adopted the Code of Banking Practice. If this clause applies, and you are an individual or small business (as defined in the Code of Banking Practice), the relevant provisions of the Code of Banking Practice apply to the rental arrangements provided to you under this agreement.
- (b) In addition to these RentSmart Rental Terms and Conditions, if you ask, we will provide you with general descriptive information regarding:
  - our obligations in respect of the confidentiality of your information that we hold;
  - our complaint handling procedures;
  - the advisability of you informing us promptly when you are in financial difficulty;
  - the advisability of you reading these RentSmart Rental Terms and Conditions;
  - the identification requirements of the Financial Transaction Reports Act 1988 (Cth); and
  - the options available to you under tax file number legislation.You can ask us for this information by contacting us:
  - by phone on 1300 855 555 during normal business hours;
  - by email at [customerqueries@rentsmart.com.au](mailto:customerqueries@rentsmart.com.au); or
  - by post at RentSmart Pty Ltd, PO Box 991, West Perth WA 6872.

## 29. Delivery of Guarantee and Indemnity

- (a) If we require a Guarantee and Indemnity, you must ensure that the Guarantor properly signs the Guarantee and Indemnity and delivers it to us at the same time as you deliver this agreement to us.
- (b) If we sign this agreement when the Guarantee and Indemnity has not yet been signed, it does not constitute a waiver.

## 30. Guarantee and Indemnity

- (a) In this clause 30 references to 'you' are references to the Guarantors.
  - (1) You guarantee to pay to us all amounts that become owing to us by the Renter under this agreement or any Related Agreement.
  - (2) You give this Guarantee and Indemnity because we have agreed, at your request, to enter into this agreement with the Renter.
  - (3) We may enforce this Guarantee and Indemnity against you before exercising our rights against the Renter.
  - (4) This Guarantee and Indemnity is a continuing guarantee and indemnity and remains enforceable even if something occurs that would otherwise release you.

- (5) You agree to reimburse us for all expenses we incur in exercising our rights under this Guarantee and Indemnity.
- (6) You covenant to us that you will indemnify us against all losses suffered by us as a consequence of:

- The Renter's failure to comply with its obligations under this agreement;
- The Renter not being bound by its obligations under this agreement for any reason;
- The Renter not owing for any reason any amount which would otherwise be an amount payable by you under this Guarantee and Indemnity.

- (7) Where you enter this Guarantee and Indemnity as a trustee, you must provide us with a copy of any relevant trust document including the trust deed and any documents varying the terms of the trust. You also give us the representations and warranties set out in clause 1(n) as if references to 'this agreement' were references to this Guarantee and Indemnity.

- (b) This clause 30(b) applies if RentSmart Pty Limited enters into this agreement (including the Guarantee and Indemnity) as an agent and the Principal has adopted the Code of Banking Practice.

- (1) If you are an individual and the Renter is an individual or a small business (as defined in the Code of Banking Practice), the relevant provisions of the Code of Banking Practice apply to this Guarantee and Indemnity.

- (2) Your liability under this Guarantee and Indemnity is limited to the total of:

- the amount specified in the total of all amounts payable over the Initial Term including the total stamp duty payable during the Initial Term and the GST included in the upfront charge as contained in the Rental Agreement;
- the interest due and payable under clause 6(b) (if any);
- our expenses referred to in clause 30(a)(5) (if any); and
- our losses referred to in clause 30(a)(6) (if any).

- (3) You may, by written notice to us, limit the amount or nature of the liabilities guaranteed under the Guarantee and Indemnity. We do not have to accept such a limit if it is below the Renter's liability under this agreement at the time plus any interest or fees and charges which may be subsequently incurred in respect of that liability.

## (4) Warning:

- You should seek independent legal and financial advice on the effect of the Guarantee and Indemnity.
- You can refuse to enter into the Guarantee and Indemnity.
- There are financial risks involved.
- You have a right to limit your liability in accordance with the Code of Banking Practice and as allowed by law.
- You can request information about the transaction or facility to be guaranteed (Facility) (including any facility with us to be refinanced by the Facility).

## 31. Notice

We or our solicitors may serve any certificate, notice or demand on you or the Guarantors (subject to any law to the contrary) by delivering it or posting it to you at your last known address. Alternatively, if we have your agreement to do so, we may serve you with a certificate, notice or demand by facsimile or other form of electronic transmission. If we, or our solicitors, deliver or post it to you or the Guarantors, it will be deemed to have been served on the date it bears or the date when it would have been delivered in the ordinary course of post, whichever is the later (even if you do not receive it). If sent by facsimile (or some other form of electronic transmission), it will be deemed to have been served on the date it bears or the date on which the machine from which the transmission was sent produces a report indicating that the notice or other document was sent to the facsimile or other number

of the addressee, whichever is the later (even if you do not receive it).

### 32. Complaints

(a) If you have a complaint, you should contact us promptly to let us know where you believe we have made a mistake or failed. You can do this by contacting us:

- (1) by phone on 1300 855 555 during normal business hours;
- (2) by email at [solutions@rentsmart.com.au](mailto:solutions@rentsmart.com.au) ; or
- (3) by post at Solutions Officer, RentSmart Pty Ltd,  
PO Box 991, West Perth WA 6872.

(b) To assist us in resolving your complaint, you should provide us with all of the relevant information relating to your concern. We may also require that you confirm in writing the information that you have provided us with.

(c) If we receive a complaint from you, we will try to resolve the complaint to your satisfaction immediately when practical. Where this is not possible, we will promptly investigate your complaint internally and decide what course of action should be taken. We will also notify you of the name and contact number of the person who is investigating your complaint.

(d) Within 21 days of receiving your complaint, we will either:

- (1) complete our investigation and inform you of the outcome of the investigation; or
- (2) let you know that we need for more time to complete our investigation.

(e) If we are unable to resolve the complaint within 45 days of receiving your complaint, we will:

- (1) inform you of the reasons for the delay;
- (2) provide you with monthly updates on the progress of your complaint; and
- (3) specify a date when we reasonably expect a decision will be made, unless we are waiting for a response from you that we have told you we require.

(f) Only in exceptional circumstances will we be unable to complete our investigation within 45 days of receipt of your complaint.

(g) When we have completed our investigation of your complaint, we will provide you with our written reasons for our decision regarding the complaint.

(h) Our dispute resolution process is available for all complaints other than those which have been resolved to your satisfaction at the time we receive them.

(i) If we have not resolved your complaint to your satisfaction or we have taken more than 45 days to resolve your complaint, you can contact the national Financial Ombudsman Service (FOS):

- (1) by calling 1300 780 808 during normal business hours;
- (2) by visiting [www.fos.org.au](http://www.fos.org.au);
- (3) by faxing 03 9613 6399; or
- (3) by writing to:  
Financial Ombudsman Service  
GPO Box 3  
Melbourne VIC 3001.

The Financial Ombudsman Service is a free and independent dispute resolution scheme external to us.

### 33. Non-rental Fees and Charges

Your rental agreement constitutes a valid tax invoice, however should you ask us to prepare a separate tax invoice each month; a preparation charge of \$5 is levied per invoice produced.

As per clause 6 (c) of these terms and conditions, the standard dishonour fee is \$35 per instance of dishonour.

These fees are subject to change. You can find out more by contacting us:

- by phone on 1300 855 555 during normal business hours;
- by email at [customerqueries@rentsmart.com.au](mailto:customerqueries@rentsmart.com.au); or
- by post at PO Box 991, West Perth WA 6872.