contract to lease commercial / industrial premises by offer and acceptance (other than retail premises)

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CONTRACT TO LEASE COMMERCIAL / INDUSTRIAL PREMISES BY OFFER AND ACCEPTANCE (OTHER THAN RETAIL PREMISES)

To: Iconic Commercial Property Pty Ltd Licensed Real Estate and Business Agent ABN 65 167 171 977

Suite 11, 50 Oxford Close, West Leederville WA 6007
Phone: 08 9228 9111 - Bruno: 0419 195 039 Email: bruno@iconic.property

(agent's name and address) As Agent for the Lessor

I/We ("the Lessee")

Full Name: Kevin Joseph Burdin

Address: C/- 43A Vera Street Morley WA 6062

Tel: Work: | Mobile: 0457 206 292 | Fax:

Email: kjburdin@hotmail.com | ACN/ABN: ABN 93 196 886 214

Full Name:

Address:

Tel: Work: | Mobile: | Fax:

Email: | ACN/ABN:

Trading as: Kwiksmart

hereby offer to lease the premises known as

UNIT 4, 2 TRADE RD, MALAGA

as described in the Schedule on the terms and conditions set out in the Schedule

From the Lessor:

Full Name: Gerard Francis Moulton & Gavin John Costello

Address: C/- Iconic Commercial Property
11/50 Oxford Close
West Leederville WA 6007

Tel: Work: | Mobile: 0419 195 039 | Fax:

Email: | ACN/ABN:

Trading as:

GUARANTORS (full names)

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SCHEDULE

1. PREMISES TO BE LEASED including fixtures, fittings and accessories

UNIT 4, 2 TRADE RD, MALAGA WA 6090

having an area of 158 + 45(covered Yard) m2 approximately, shown on the Plan annexed (if any), together with a licence to use the car bays as indicated on the Plan.

2. LAND

Lot 4 on ~~Survey~~ /Strata ~~/Deposited~~ /Plan ~~/Diagram~~ SP32847

and being the whole ~~/part of~~ the land in Certificate of Title Volume 2104 Folio 541

3. LEASE TERM

12 months commencing on the 1st day of September 20 20

and expiring at midnight on the 31st day of August 20 21

4. PAYMENT OF RENTAL

(i) Monthly Rent (Rent is exclusive of GST, see clause 27)

Fixed rental payable one (1) month in advance on the First day of each calendar month will be

$ 1,625.00 (In words) one thousand six hundred & twenty five dollars

(ii) **Deposit**

Payment of two (2) months rent and pro rata outgoings and car parking or $ 4,500.00, of which $ nil is paid herewith and $ 4,500.00 shall be paid within 3 days of acceptance. The deposit will be held by the Lessor's Agent as stakeholder, and will be refundable in full in the event that this offer is not accepted.

(iii) **Rent Review Method and Dates**

On the relevant rent review date referred to below the annual rental will be increased by the Method of Rent Review referred to below ("Method").

During the Term:

Method	Review Date	Method	Review Date

During the Further Term:

Method	Review Date	Method	Review Date
C	1st September 2021		

Insert **A, B, C, D** or **E** for the Method of Rent Review.

A. Market Rent

B. Consumer Price Index (Perth All Groups) ("CPI")

C. 4 % increase of the previous year's rental

D. Greater of Market Rent and CPI;

E. Other Method:

A. Market Rent

The rental is to be agreed between the Lessor and Lessee and failing agreement the Lessor will give the Lessee a notice setting out the new rent that is to apply from the relevant review date. If the Lessee does not agree to the proposed new rent then the Lessee has ten (10) Business Days after service of the Lessor's notice in which to dispute the new rent. If the Lessee does not dispute the new rent the Lessee is taken to have agreed the Lessor's proposed new rent. If disputed then the Market Rent will be determined by a valuer of appointed by the President for the time being of the Australian Property Institute (Inc) (WA Division) at the request of either the Lessor or the Lessee. The valuer's costs will be shared equally.

B. CPI

The rent will be determined in accordance with the following formula:

CPI Rent = $R \times \frac{C}{P}$ Where R = the Rent payable immediately prior to the relevant Rent Review Date
C = the Current CPI
P = the Previous CPI

C. Percentage Increase

The reviewed rental will be the rent applicable immediately before the rent review date increased by the percentage specified above on that rent review date.

D. Greater of Market or CPI

The reviewed rental will be the greater of the Market Rent and CPI Rent on that rent review date.

E. Other

The Rent applicable immediately before the rent review date will be increased by that method on that rent review date.

The reviewed rental cannot be less than the rental payable in the immediately preceding period.

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5 OPTION OF RENEWAL

(i) The Lessee will have the option to renew the Lease for a further term of 12 months at the expiry of the initial term and then the following further options to renew for a further term of - months and a further term of - months.

Should a rent review be required at the expiry of the initial term or renewed term, then such rental will be reviewed by the methods referred to in clause 4. The option will be exercised not more than six (6) months (inclusive) nor less than three (3) months (inclusive) prior to the expiration of the initial term or each renewal term (as applicable).

(ii) In the event that the option is not granted or is not exercised the Lessee will remain in occupation as a monthly tenant under the same terms and conditions if the Lessor consents to the holding over.

6. OUTGOINGS

The Lessee agrees to pay the Outgoings set out below. Where the leased premises represent a proportion of the building described above, such Outgoings will be apportioned in the ratio that the nett lettable area occupied by the Lessee bears to the total nett lettable area of the building unless otherwise stated plus GST if applicable.

Payment of Outgoings

(i) The Lessor may invoice the Lessee the Outgoings to be paid by the Lessee within ten (10) Business Days after demand.

(ii) The Lessor may estimate the Outgoings and issue equal calendar monthly instalments of Outgoing items in accordance with a statement forwarded by the Lessor or the Lessor's Agent on an annual basis which will be adjusted at the expiration of the year ending 30 June each year and pro-rated should the period be less than a full twelve (12) months.

		THE LESSOR AGREES TO PAY	THE LESSEE AGREES TO PAY
(a)	Water Drainage and Sewerage Rates	☐	☑
(b)	Local Authority Rates including fire services levy	☐	☑
(c)	Land Tax and MRIT	☐	☑
(d)	Interest Charges on Outstanding Rates and Taxes	☐	☑
(e)	Water Consumed Beyond Allowance	☐	☑
(f)	Fire Services	☐	☑
(g)	Cleaning, Including Window and Rubbish Removal	☐	☑
(h)	Grounds Repairs and Maintenance	☐	☑
(i)	Building Repairs and Maintenance of a Non-Structural Nature	☐	☑
(j)	Building Insurance	☐	☑
(k)	Plate Glass Insurance	☐	☑
(l)	Public Liability Insurance (to a minimum of $10 million).	☐	☑
(m)	Property Management Fees	☐	☑
(n)	Common Area, Lighting and Power	☐	☑
(o)	Security	☐	☑
(p)	Toilet Requisites	☐	☑
(q)	Hot Water Systems Running and Repairs and Maintenance	☐	☑
(r)	Electricity and Gas and Telephone Services Consumed in the leased Premises	☐	☑
(s)	Air-conditioning Running and Repairs and Maintenance	☐	☑
(t)	Escalator & Lift: Running and Repairs and Maintenance	☐	☐
(u)	Strata Company Levy	☐	☑
(v)	Pest Control	☐	☑
(w)		☐	☐
(x)		☐	☐
(y)		☐	☐

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7. VOIDING INSURANCE POLICIES

The Lessee will not do or permit to be done any act or thing which makes void existing insurance policies of the Lessor in respect of the premises or the adjoining building improvements.

8. MAINTENANCE OF PREMISES

The Lessee will at all times maintain the premises and plant in the same condition as existing on the date of occupancy except in respect of fair wear and tear or damage caused by acts or negligence of the Lessor or by events for which the Lessor has undertaken insurance and the Lessee will make good any damage done by the Lessee.

9. STRUCTURAL ALTERATIONS

No structural alterations will be made without written consent of the Lessor or the Lessor's Agent and the Lessee will reinstate the premises, if required by the Lessor, at the expiration of the agreed term or extension thereof.

10. SIGNS

The Lessee will not affix any sign to the premises without the prior written consent of the Lessor and any relevant Authorities and such Lessor's consent will not be unreasonably withheld.

The Lessee will be responsible for:

(a) Ensuring that the erection of any signs has the prior approval of any relevant Authorities.

(b) The removal of such signs at the expiration of the lease period or prior to delivering up possession of the premises and making good of any damage caused by removal.

(c) Maintain signs to a standard required by the Lessor and any relevant Authorities.

11. NATURE OF BUSINESS AND USE OF PREMISES

The nature of the business will be Minor panel & paint including hydrographics

and the use of the premises will be for purposes conforming to all State and / or Local Authority laws, by-laws, regulations or requirements currently in force as the case may be, the onus being on the Lessee, its clients or suppliers, to obtain the necessary approvals.

12. COMMON AREAS

The Lessee will be permitted gratuitous use of all common areas and in turn will do nothing which will inhibit or prevent the use of those areas by other lessees, their clients or suppliers.

13. NUISANCES

The Lessee will cause no nuisance to the Lessor or other lessees adjoining or adjacent to the leased premises.

14. DEFAULTS

If the Lessee defaults in payment of the rental referred to in this contract or any part of it is at any time in arrears or unpaid for fourteen (14) days after the same has become due (whether any formal or legal demand has been made or not) or if the Lessee will at any time default, fail or neglect to duly perform or observe any of the terms and conditions of this contract or on the part of the Lessee to be observed and performed and if the default will continue for fourteen (14) days after notice in writing will have been delivered or posted to the Lessee by the Lessor or the Lessee (or assigns in accordance with clause 20 of this Lease) will become subject to or take advantage of any law relating to bankruptcy or insolvency, or being a corporation shall go into liquidation whether compulsory or voluntary (except for the purpose of reconstruction) then and in such cases it will be lawful for the Lessor or any person or persons duly authorised by the Lessor in that behalf to enter into or upon the premises or any part thereof without liability for trespass to have again repossess and enjoy as of the former estate of the Lessor as if this Lease had not been made, the cost of such re-entry or repossession to be a cost to be borne by the Lessee, but without prejudice to the right of action or remedy of the Lessor in respect of any antecedent breach of any of the terms by the Lessee herein contained.

15. INTEREST

Whenever pursuant to this document the Lessee is required to make payment to the Lessor and payment has not been made by the due date then and until the full amount has been paid interest will accrue on the unpaid moneys at the rate of fifteen per centum (15%) per annum.

16. PROPERTY CONDITION STATEMENT

The Lessee will if required by the Lessor sign and deliver to the Lessor or the Lessor's Agent within fourteen (14) days of execution of this document a property condition statement.

17. SECURITY BOND

The Lessee will deposit with the Lessor's Agent a Bond of

$ 7,000.00

as security for the Lessee's compliance with this document which Bond may be applied to compensate and pay the Lessor for any breach or default of this Lease by the Lessee and any costs of the Lessor relating to the same.

18. ACCESS TO PREMISES

The Lessee will permit the Lessor, the Lessor's Agent or consultants or contractors to have access to the leased premises at all reasonable times.

19. NOTICES

Notices will be deemed to be served if served in accordance with Section 135 of the Property Law Act 1969 (as amended).

20. ASSIGNMENT AND SUBLETTING

The Lessee will not assign, sublet or part with the possession of the leased premises unless with the prior written approval of the Lessor or his agent, such approval not to be unreasonably withheld.

21. PREMISES DESTROYED

If at any time during the tenancy the building the subject of this Lease will be destroyed or damaged so as to become unfit for habitation and use (provided the monies payable under any policy of insurance effected by the Lessor will not have been rendered through any act or default of the Lessee) the rent hereby reserved or a fair and just proportion thereof according to the nature and extent of the damage sustained (to be ascertained in case the parties cannot mutually agree by reference to a Licensed Valuer appointed by the Real Estate Institute of WA (Inc.) will be suspended and cease to be payable until the said premises will again have been rendered fit for habitation and use.

22. CHATTELS

The Lessor's chattels described below or in any attached annexure will be included in this Lease:

23. QUIET ENJOYMENT

Provided always that all terms and conditions of the Lease have been complied with the Lessee will be entitled to enjoy peaceful occupancy of the premises.

24. LEASE DOCUMENTATION

The Lessee will on demand by the Lessor execute a REIWA Standard Commercial/Industrial Property Lease (Part A & B) or a lease prepared by the Lessor's solicitors incorporating all the details and agreements noted in this Offer and such other terms and covenants as the Lessor's solicitors consider reasonable and necessary in the circumstances. The Lessee will pay the Lessor's solicitors' fees and disbursements for preparation of the lease and all applicable stamp duty.

This Contract is executed as a deed

25. PRIORITY OF TERMS

In the event of a draft lease being appended to this Offer, the covenants of the draft lease appended to this Lease take priority over the terms of this Lease with the exception of those principal terms and conditions which are physically entered upon this Lease.

.6. PEST CONTROL

The Lessee will take all proper precautions to keep the leased Premises free of cockroaches, insects, rodents and other vermin and will, if it becomes necessary, but at the cost of the Lessee, employ from time to time or periodically professional pest controllers for that purpose.

27. GST

(i) In this clause the term "GST" means any goods and services tax imposed under A New Tax System (Goods and Services Tax) Act 1999 ("GST Act") and its transitional and amending acts and regulations which is or may be levied or assessed or becomes payable in respect of rent, outgoings or in connection with the supply of theleased premises or any goods or services, facilities or others things by the Lessor to the Lessee under this contract or any extension, renewal or holding over.

(ii) The Lessee will pay to the Lessor any GST payable by the Lessor in accordance with the requirements of the GST Act. Such payments will be made by the Lessee prior to the date for payment of the GST by the Lessor or on the dates for the payment of rent, which ever is the earlier. The Lessee hereby indemnifies the Lessor in relation to the payment of any GST.

(iii) Any rent or other payment obligation stated or referred to in this contract does not include GST unless it is expressly included and GST must be paid in addition to that rent or payment obligation. Unless GST is expressly included, the consideration for any supply by the Lessor to the Lessee in increased by an amount equal to the amount of that consideration multiplied by the rate at which GST is imposed in respect of that supply.

(iv) The Lessor must provide to the Lessee a GST tax invoice as required by the GST Act

28. INDEMNITY

The Lessee indemnifies the Lessor against any claims whatsoever, for any loss or damage or injury to persons, including any costs, claims or losses resulting from this Lease.

29. SPECIAL CONDITIONS

(if insufficient space refer to annexure)

(i) The Lessor agrees to give access on the 31st August 2020 provided lease is signed, deposit and bond have been paid.

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30. GUARANTEE

(i) In consideration of the Lessor accepting the Lessee's Offer to lease at the request of the Guarantors, the Guarantors named below (jointly and severally if more than one) unconditionally guarantee the due and punctual payment to the Lessor and performance of the Lessee's obligations pursuant to this contract and will indemnify the Lessor and keep the Lessor indemnified in respect of all monies which the Lessee becomes liable to pay to the Lessor and the performance of all terms, covenants, conditions and stipulations by the Lessee pursuant to this contract.

(ii) This guarantee and indemnity will not be affected by:

(a) any indulgence or concession given by the Lessor to the Lessee or the Guarantors;

(b) any variation of the provisions of this contract;

(c) the death or bankruptcy of the Lessee or the Guarantors;

(d) the Lessee's liability under this contract becoming invalid, illegal or unenforceable through any act or omission.

(Guarantor's full name, address and telephone numbers)

SIGNED BY THE GUARANTOR
(Individual)

SIGNED by

Signature

in the presence of:

Signature of Witness

Full name of Witness

Address of Witness

Occupation of Witness

(Corporation)

Full name of Corporation

ACN/ABN

EXECUTED BY THE GUARANTOR PURSUANT
TO ITS CONSTITUTION AND THE CORPORATIONS ACT

Sole / Director

Full Name of Director

SIGNED BY THE GUARANTOR
(Individual)

SIGNED by

Signature

in the presence of:

Signature of Witness

Full name of Witness

Address of Witness

Occupation of Witness

(Corporation)

Full name of Corporation

ACN/ABN

EXECUTED BY THE GUARANTOR PURSUANT
TO ITS CONSTITUTION AND THE CORPORATIONS ACT

Director / Secretary

Full Name of Director / Secretary

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ACCEPTANCE

~~I~~/We (the Lessor) Gerard Francis Moulton & Gavin John Costello

accept this offer and acknowledge the Agent's leasing fees shall be due and payable by us upon the Lessee taking possession of the leased premises, or upon the execution of this contract whichever is the earlier and shall be payable from any monies held by the Agent and any balance owing shall be payable within seven (7) days of invoice.

Dated the 20TH day of JULY 20 20.

SIGNED BY THE LESSOR OR THE LESSOR'S AGENT
(Individual)

SIGNED by

Gerard Francis Moulton

(FULL NAME)

Signature

in the presence of:

Signature of Witness

Bruno Fazio

Full name of Witness

11/50 Oxford Close,
West Leederville WA 6007

Address of Witness

Real Estate Agent

Occupation of Witness

SIGNED BY THE LESSOR OR THE LESSOR'S AGENT
(Individual)

SIGNED by

Gavin John Costello

(FULL NAME)

Signature

in the presence of:

Signature of Witness

Bruno Fazio

Full name of Witness

11/50 Oxford Close,
West Leederville WA 6007

Address of Witness

Real Estate Agent

Occupation of Witness

(Corporation)

Full name of Corporation

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EXECUTED BY THE LESSOR PURSUANT
TO ITS CONSTITUTION AND THE CORPORATIONS ACT

Sole / Director

Full Name of Director

(Corporation)

Full name of Corporation

ACN/ABN

EXECUTED BY THE LESSOR PURSUANT
TO ITS CONSTITUTION AND THE CORPORATIONS ACT

Director / Secretary

Full Name of Director / Secretary

A true copy of this document has been received by each of the signatories hereto -

×

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on the 17 day of JULY 20 20

SIGNED BY THE LESSEE (Individual)

SIGNED by

Kevin Joseph Burdin

(FULL NAME)

× KB

Signature

in the presence of:

×

Signature of Witness

× BRUNO FAZIO

Full name of Witness

× 11/56 OXFORD CLOSE
× WEST LEEDERVILLE 6007

Address of Witness

× REAL ESTATE AGENT

Occupation of Witness

(Corporation)

Full name of Corporation

ACN/ABN

EXECUTED BY THE LESSEE PURSUANT TO ITS CONSTITUTION AND THE CORPORATIONS ACT)

Sole / Director

Full Name of Director

SIGNED BY THE LESSEE (Individual)

SIGNED by

(FULL NAME)

Signature

in the presence of:

Signature of Witness

Full name of Witness

Address of Witness

Occupation of Witness

(Corporation)

Full name of Corporation

ACN/ABN

EXECUTED BY THE LESSEE PURSUANT TO ITS CONSTITUTION AND THE CORPORATIONS ACT)

Director / Secretary

Full Name of Director / Secretary