



ACT
Government

Chief Minister, Treasury and
Economic Development

Freedom of Information Publication Coversheet

The following information is provided pursuant to section 28 of the *Freedom of Information Act 2016*.

FOI Reference: CMTEDDFOI 2019-0166

Information to be published	Status
1. Access application	Published
2. Decision notice	Published
3. Documents and schedule	Published
4. Additional information identified	No
5. Fees	N/A
6. Processing time (in working days)	5
7. Decision made by Ombudsman	N/A
8. Additional information identified by Ombudsman	N/A
9. Decision made by ACAT	N/A
10. Additional information identified by ACAT	N/A

From: [REDACTED]
To: [CMTEDD FOI](#)
Subject: FOI request - ACT Property Group
Date: Thursday, 18 July 2019 2:45:28 PM
Attachments: [image001.png](#)

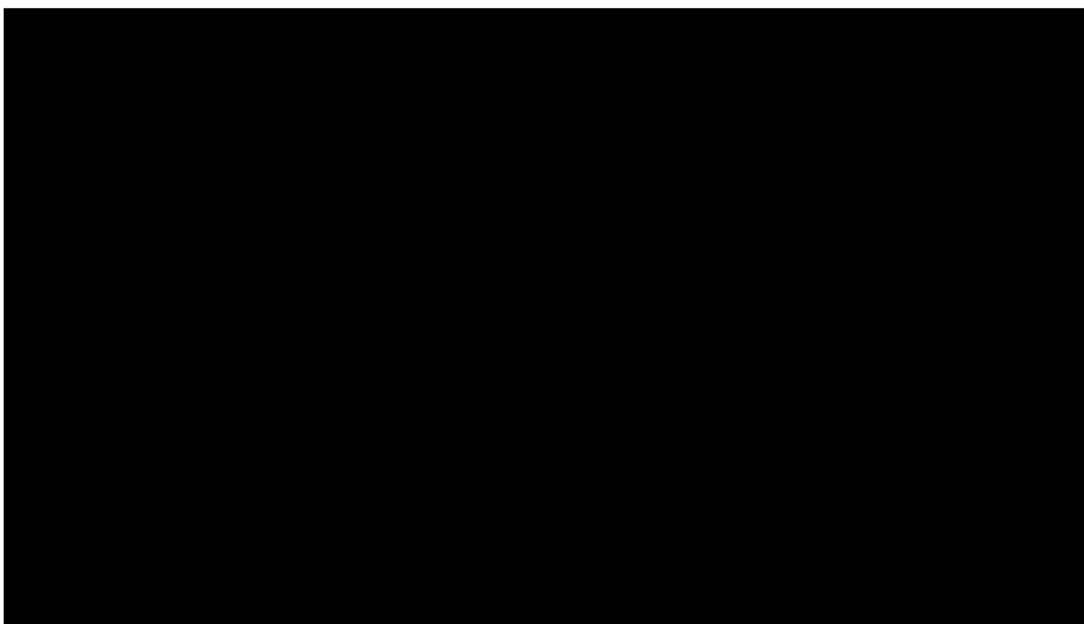
Dear FOI Officer

I seek access to the following information:

A copy of the standard lease or licence agreement the ACT Government uses for properties that are leased to arts groups

Kind regards,

[REDACTED]





ACT
Government

Chief Minister, Treasury and
Economic Development

Our ref: CMTEDDFOI 2019-166

[REDACTED]

via email: [REDACTED]

Dear [REDACTED]

FREEDOM OF INFORMATION REQUEST

I refer to your application under section 30 of the *Freedom of Information Act 2016* (the Act), received by the Chief Minister, Treasury and Economic Development Directorate (CMTEDD) on 18 July 2019.

Specifically, you are seeking: "A copy of the standard lease or licence agreement the ACT Government uses for properties that are leased to arts groups."

Authority

I am an Information Officer appointed by the Director-General under section 18 of the Act to deal with access applications made under Part 5 of the Act.

Timeframes

In accordance with section 40 of the Act, CMTEDD is required to provide a decision on your access application by 15 August 2019.

Decision on access

Searches were completed for relevant documents and one document was identified that falls within the scope of your request.

I have included as **Attachment A** to this decision a schedule outlining the relevant document that falls within the scope of your request and the access decision for that document.

I have decided to grant full access to the document, and it is provided as **Attachment B** to this letter.

Charges

Pursuant to *Freedom of Information (Fees) Determination 2017 (No 2)* processing charges are not applicable for this request because the total number of pages to be released to you does not exceed the charging threshold of 50 pages.

Online publishing – Disclosure Log

Under section 28 of the Act, CMTEDD maintains an online record of access applications called a disclosure log. Your original access application, my decision and the document released to you in response to your access application will be published in the CMTEDD disclosure log three days after the date of my decision. Your personal contact details will not be published. You may view the CMTEDD disclosure log at:

<https://www.cmtedd.act.gov.au/functions/foi/disclosure-log>.

Ombudsman Review

My decision on your access request is a reviewable decision as identified in Schedule 3 of the Act. You have the right to seek a review by the Ombudsman of this outcome under section 73 of the Act within 20 working days from the day that my decision is published in the CMTEDD disclosure log, or a longer period allowed by the Ombudsman.

If you wish to request a review of my decision you may write to the Ombudsman at:

The ACT Ombudsman
GPO Box 442
CANBERRA ACT 2601

Via email: actfoi@ombudsman.gov.au

ACT Civil and Administrative Tribunal (ACAT) Review

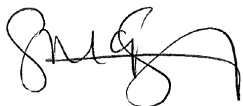
Under section 84 of the Act, if a decision is made by the Ombudsman under section 82(1), you may apply to the ACAT for a review of the Ombudsman decision. Further information may be obtained from the ACAT at:

ACT Civil and Administrative Tribunal
Level 4, 1 Moore St
GPO Box 370
Canberra City ACT 2601
Telephone: (02) 6207 1740

<http://www.acat.act.gov.au/>

Should you have any queries in relation to your request please contact me by telephone on (02) 6207 7754 or by email at CMTEDDFOI@act.gov.au.

Yours sincerely,



Sarah McBurney
Information Officer
Information Access Team
Chief Minister, Treasury and Economic Development Directorate

25 July 2019



ACT
Government

Chief Minister, Treasury and
Economic Development

FREEDOM OF INFORMATION REQUEST SCHEDULE

NAME	WHAT ARE THE PARAMETERS OF THE REQUEST	Reference NO.
	A copy of the standard lease or licence agreement the ACT Government uses for properties that are leased to arts groups	CMTEDDFOI 2019-166

Ref No	Page number	Description	Date	Status	Reason for Exemption	Online Release Status
1	1-46	Licence agreement	July 2015	Full release	N/A	Yes
Total No of Docs						
1						



LICENCE

Date

_____ 201X

Parties

AUSTRALIAN CAPITAL TERRITORY

ORGANISATION

ABN: xxx

**LICENCE FOR USE OF TERRITORY
LAND SUBJECT TO CROWN LEASE
(EXISTING BUILDING)**

Prepared by

artsACT, in accordance with standard Government Licence
Ref: 2015/15

Version

July 2015

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PARTIES: **AUSTRALIAN CAPITAL TERRITORY**, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth) (**Licensor**) represented by artsACT being an administrative unit of the Chief Minister, Treasury and Economic Development Directorate.

ORGANISATION, ABN: of ADDRESS (Licensee).

IT IS AGREED by the parties as follows:

1. Interpretation

1.1 Definitions

In this Licence unless the context otherwise requires:

Air-Conditioning System means the plant, equipment, machinery or ducting for heating, cooling and/or circulating air supplied by the Licensor.

Building means any building on the Land in which the Premises are located.

Commencement Date means the date set out in Item 5.

Common Area means those parts of the Building and Land which are not let or licensed and are intended by the Licensor to be for the common use of occupiers of the Land.

Contact Officer means, in relation to each party, the representative whose name and contact details are specified in Item 15, or as notified in writing from time to time by one party to the other.

Disclosure Statement means a disclosure statement referred to in the Leases Act.

General Charges means those items set out in section 3 of Schedule 2.

Guarantor means the person or persons set out in Item 16.

Insolvency Event means:

1. in respect of a natural person:
 - (a) any orders or agreements made in respect of the affairs of the person in accordance with the *Bankruptcy Act 1966*; or
 - (b) in the reasonable opinion of the Territory the

person is likely to be declared bankrupt or lose control of the management of their financial affairs; or

2. in respect of all other entities:
 - (a) any of the events listed in s459C of the Corporations Act 2001 occur in respect of the entity; or
 - (b) any other event occurs which, in the reasonable opinion of the Territory is likely to result, or has resulted, in the:
 - (i) insolvency;
 - (ii) winding up; or
 - (iii) appointment of a controller (as that term defined in the Corporations Act 2001) in respect of part or all of the assets.

Item	means an item in Schedule 1.
Land	means the land described in Item 2.
Leases Act	means the <i>Leases (Commercial and Retail) Act 2001</i> (ACT) as amended or varied from time to time.
Licence	means this licence and includes all schedules and attachments.
Licence Fee	is the licence fee per annum in Item 7 as varied from time to time in accordance with this Licence.
Licence Fee Review Dates	means the dates set out in Item 8(a).
Licensee	means the person or organisation named in Item 1 and, if a natural person or persons, their respective executors, administrators and permitted assigns, and if a company or incorporated association, its successors and permitted assigns.
Licensee's Property	means each of the following, as applicable: <ol style="list-style-type: none">(1) any improvements including buildings or other structures:<ol style="list-style-type: none">(a) constructed or placed in or on the Premises

- by the Licensee; or
- (b) constructed or placed in or on the Premises at the Licensee's expense and/or direction;
- (2) any fittings, fixtures or goods erected, installed or placed in or on the Premises by the Licensee including any partitions or devices for heating or cooling or fire prevention;
- (3) any light bulbs, light fittings, fluorescent tubes or other illuminating devices in the Premises; or
- (4) anything in or on the Premises which is not Licensor's Property.

Licensor means the Territory, its successors and assigns.

Licensor's Property means each of the following, as applicable:

- (1) the physical structure of the Buildings comprising the Premises supplied by the Licensor, including the roof, walls, ceilings and lifts;
- (2) any improvements forming part of the Premises erected at the expense of the Licensor;
- (3) any fittings, fixtures, or goods in or on the Premises erected, installed or placed by the Licensor; or
- (4) any systems installed in or servicing the Premises by the Licensor including the Air-Conditioning System and fire and sprinkler systems.

Option Term means a Licence for a further term for the period set out in Item 13.

Premises means the premises described in Item 3.

Prescribed Insurer means an insurer that is authorised by the Australian Prudential Regulation Authority to conduct new or renewal insurance business in Australia and is rated AA or better by Standard and Poors.

Rules means the rules attached in Schedule .

Schedule means any schedule forming part of this Licence.

Service Charges means those items set out in section 2 of Schedule 2.

Statutory Outgoings means those items set out in section 1 of Schedule 2.

Term means the term specified in Item 4, or if extended under clause 2.2, the initial term and the extended term.

Territory means:

- (2) when used in a geographical sense, the Australian Capital Territory; and
- (3) when used in any other sense, the body politic established by section 7 of the *Australian Capital Territory (Self-Government) Act 1988* (Cth).

1.2 General

In this Licence, unless a contrary intention is expressed:

- (1) references to legislation or to provisions in legislation include references to amendments or re-enactments of them and to all regulations, determinations and instruments issued under the legislation;
- (2) words importing a gender include the others; words in the singular number include the plural and vice versa; and where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (3) “include” is not to be construed as a word of limitation;
- (4) headings have no effect on the interpretation of the provisions;
- (5) an obligation imposed by this Licence on more than one person binds them jointly and severally;
- (6) words and expressions importing natural persons include body corporates, associations, government and local authorities and agencies;
- (7) any provisions in a Schedule form part of this Licence; and
- (8) the parties will not be bound by the standard provisions referred to in section 20(3) of the Leases Act.

2. Licence

2.1 Grant

From the Commencement Date, the Licensor grants a Licence over the Premises to the Licensee for the Term, at the Licence Fee on the terms set out in this Licence.

2.2 Holding Over

- 2.2.1 If the Licensee continues to occupy the Premises after the Expiry Date with the consent of the Licensor, the Licensee:

- (1) is a monthly Licensee at the monthly Licence Fee then applying; and
- (2) otherwise occupies the Premises upon the conditions of this Licence.

2.2.2 The monthly occupancy arrangement may be ended by either party giving one month's written notice to the other and the notice may be given at any time.

3. Option to renew

3.1.1 This clause applies if Item 13 has been completed with an Option Term.

3.1.2 The Licensor will grant to the Licensee a new Licence on the Expiry Date to commence the next day if:

- (1) the Licensee wishes to take a further Licence of the Premises for that Option Term after the Expiry Date;
- (2) the Licensee has punctually paid the Rent and observed the covenants throughout the Term;
- (3) the Licensee is not in breach of the Licence at the time of exercise of the option or continually breached the Licence during the Term; and
- (4) the Licensee serves on the Licensor, written notice no more than six months but no less than three months before the Expiry Date stating that it wishes to exercise the option.

3.1.3 The new Licence will be identical to this Licence except that :

- (1) at the commencement of the Option Term the Rent will be reviewed to market in accordance with the provisions of Schedule 4;
- (2) this clause and Item 13 will be deleted;
- (3) the Licence will be amended to reflect any changes in law that occurs during the Term that requires a change to the Licence terms; and
- (4) the Commencement Date, Expiry Date and Rent Review Date will be amended accordingly.

4. Licence Fee

4.1 Licence Fee

4.1.1 The Licensee must pay the Licence Fee by equal monthly instalments in advance from the Commencement Date and thereafter on the first day of every month for the Term.

4.1.2 If an instalment is for a period of less than one month, then that instalment is equal to the amount calculated by dividing the Licence Fee by the number of

days in the Licence year in which the period commences and multiplying the result by the number of days in the period.

4.2 Review of Licence Fee

The Licence Fee will be reviewed on the Licence Fee Review Dates in accordance with the corresponding method of licence fee review in Item 8(b) and in accordance with Schedule 4.

4.3 Interest on Overdue Monies

4.3.1 If the Licence Fee or any other monies payable by the Licensee are not paid by the due date, then the Licensee must pay to the Licensor interest at the rate per annum shown in Item 14 on those monies from the date on which they fall due until the date of payment or recovery.

4.3.2 The Licensor is entitled to recover the interest from the Licensee as if it was Licence Fee in arrears. Nothing in this clause restricts or prejudices any right of the Licensor in respect of the monies due.

5. Other Payments

5.1 Statutory Outgoings, Service Charges, General Charges

5.1.1 The Licensee must promptly pay;

- (1) all charges for gas, electricity, oil and water separately metered or supplied and consumed in or on the Premises;
- (2) all charges in respect of any telephone or other communication services connected to the Premises; and
- (3) all other charges for the supply of any service separately supplied to the Premises.

5.1.2 If water and/or electricity consumption is not separately metered to the Premises, the Licensee must pay a proportion of the amount of consumption charges metered to the Land as the Licensor deems reasonable, having regard to the size of the Premises, other occupants on the Land, the respective use by all occupants on the Land (including the Licensee) and any other factor which is relevant.

5.1.3 The Licensee must, within 30 days of receipt of a written request from the Licensor, pay to the Licensor all charges and expenses for Statutory Outgoings, Service Charges and General Charges that are payable by the Licensee as set out in Schedule 2. For convenience, the respective percentage of contributions to be met by each party is specified in Schedule 2. Where there is any discrepancy between the provisions of this clause and Schedule 2, the provisions of Schedule 2 will apply.

5.2 Licensor's report

The Licensor must, if required by the Leases Act, give the Licensee a report, within three months after the end of each accounting period in accordance with the Leases Act, which:

- (1) details the Licensor's expenditure for that accounting period on account of applicable Services Charges or General Charges to which the Licensee is required to contribute; and
- (2) complies with the provisions of section 66 of the Leases Act.

5.3 After hours use of Air-Conditioning System

If the Licensee uses the Air-Conditioning System outside the hours stated in the Rules, the Licensee must pay the Licensor, on demand, the Licensor's costs of operating the Air-Conditioning System during those additional hours, such costs to be calculated using the hourly rate notified by the Licensor to the Licensee from time to time and reflecting the Licensor's reasonable costs of operating the Air-Conditioning System including, without limitation, allowances for maintenance, repair and replacement of the Air-Conditioning System.

6. Air-Conditioning and Heating

6.1 No interference

The Licensee will at all times comply with the reasonable requirements of the Licensor in relation to the Air-Conditioning System. The Licensee will not do or permit or suffer to be done, anything which, in the reasonable opinion of the Licensor, might interfere with or impair the efficient operation of the Air-Conditioning System including the use of any heating or cooling devices or any other devices.

6.2 Failure of Air-Conditioning System

Should the Air-Conditioning System fail to function for any reason, the Licensee will not, by reason of any such failure, be entitled to terminate this Licence, nor will the Licensee have any right of action or claim for compensation or damages against the Licensor, except in accordance with section 81 of the Leases Act.

6.3 Maintenance and repair of Air-Conditioning System

The Licensor must maintain and repair the Air-Conditioning System.

6.4 Licensee air-conditioning or heating

The obligations imposed on the Licensor by this clause will not apply to any plant, machinery, ducting or unit for air-conditioning and/or heating purposes installed by the Licensee.

7. Legal Costs and Disbursements

7.1 Cost of Licence preparation

The Licensor and Licensee will each bear their own costs (including legal costs and disbursements) in relation to the negotiation, preparation and execution of this Licence.

7.2 Stamp duty

The Licensor will pay all stamp duty (if any is payable) assessed with respect to the Licence.

7.3 Licensee's additional costs

In addition to all costs and expenses for which the Licensee is liable at law or in equity to pay, the Licensee will pay to the Licensor, on demand, the Licensor's reasonable costs and expenses (including reasonable legal costs assessed on a solicitor and client basis and registration fee and taxes, which may be payable):

- (1) for, and incidental to, any variation, surrender or termination of this Licence by or at the request of the Licensee;
- (2) in respect of any consent by the Licensor required under this Licence;
- (3) incurred by or on behalf of the Licensor in consequence of, or arising out of, any default in the due observance or performance of any covenant or obligation on the part of the Licensee;
- (4) incurred by the Licensor in consequence of any request of, or application by, the Licensee; or
- (5) incurred by the Licensor as a result of the exercise, or attempted exercise, of any of the Licensor's rights or powers.

8. Licence Only

8.1 No interest in Land

Nothing contained in this Licence will create, or is to be construed as creating any estate or interest in the Land or the Premises in favour of the Licensee.

8.2 Rights Personal to Licensee

The rights granted by this Licence are personal to the Licensee.

9. Use of Premises

9.1 Use of Premises

The Licensee must only use and occupy the Premises for the use set out in Item 9 or any such other purpose consented to by the Licensor in writing.

9.2 Crown lease

The Licensee must not use the Premises for any purpose other than as permitted by the Crown lease for the Land or any superior occupancy agreement in respect of the Premises.

9.3 No interference

The Licensee must not do anything in or about the Premises or the Building which, in the reasonable opinion of the Licensor:

- (1) is not appropriate in the context of a public access arts facility;
- (2) may be the cause of damage or vibration; or
- (3) interferes with the orderly operation of the Building.

9.4 No warranty as to suitability

9.4.1 The Licensee acknowledges that no promise, representation, warranty or undertaking has been given by or on behalf of the Licensor as to the suitability of the Premises, the Building or the Land for any purposes or as to the fittings, finishing, facility and amenities of the Premises, the Building or the Land, except as contained in this Licence. The Licensee must satisfy itself in respect to the use to which the Premises may be put and acceptance of this Licence acknowledges full knowledge of any prohibitions or restrictions on the use of the Premises, including any imposed by law.

9.4.2 Where the permitted use of the Premises requires the consent of any authority, the Licensee must obtain that consent at its own expense. The Licensee must keep current the licenses and permits required to carry on its activities from the Premises.

9.5 Signs

The Licensee must not fix or place any sign, notice, advertisement or other thing on any part of the Premises or the Building without the consent in writing of the Licensor and then only in such colour, size and style and in such places as approved by the Licensor, such approval not to be unreasonably withheld.

9.6 Compliance with laws

The Licensee must comply, at its expense, with all laws and the requirements of any authority in connection with the Licensee's use or occupation of the Premises.

9.7 Keep clean

The Licensee must:

- (1) keep the Premises and immediate surroundings clean and tidy, and free from refuse and vermin; and
- (2) allow reasonable access to the Premises by the Licensor, and its employees, agents and contractors, to enable it to carry out any obligation required by this Licence.

9.8 Statutory notices

9.8.1 If the Licensee receives a notice from any authority in respect of the Premises, the Licensee must immediately notify the Licensor in writing.

9.8.2 The Licensee must comply promptly with all notices received from any authority in respect of the Premises except such notices as would have been given irrespective of the Licensee's use and occupation of the Premises.

9.9 Notice of defect

The Licensee must immediately give notice to the Licensor of any damage to the Premises and any accident affecting water, gas or oil pipes, electrical wiring, the Air-Conditioning System or any defect in them and any other fittings, fixtures or facilities provided by the Licensor.

9.10 Infectious illnesses

If any infectious illness occurs in the Premises, the Licensee must immediately notify the Licensor and have the Premises fumigated and disinfected by a suitably certified contractor, at the expense of the Licensee, to the satisfaction of any relevant authority.

9.11 Rubbish

The Licensee will keep the Premises free from rubbish including placing all rubbish in proper receptacles that the Licensee will install. The Licensee will arrange for the regular clearing of the receptacles and the regular removal of all rubbish. The Licensee will not create any rubbish or deposit any rubbish on the Common Area except for collection in such proper receptacles as are approved by the Licensor from time to time.

9.12 Flammable liquids and substances

9.12.1 The Licensee must not store or use chemicals or flammable, volatile or explosive substances on the Premises and must not in any way create any actual or potential fire hazard in the Premises, except where storage or usage is reasonable to allow the Premises to be used in accordance with Item 9, and then only in accordance with the *Dangerous Substance Act 2004* and *Dangerous Substances (General) Regulations 2004*.

9.12.2 The Licensee must permit the Licensor to enter the Premises at any time to control any actual or potential fire hazard and if the hazard, in the reasonable opinion of the Licensor, results from the use of the Premises by the Licensee, the Licensee must pay to the Licensor immediately on notification, the costs of the Licensor in carrying out that work.

10. Alterations and Fitout

10.1 No alterations without consent

10.1.1 The Licensee will not, without the prior written consent of the Licensor, make any alterations or additions in or to the Premises or permit or suffer the same to be made. The Licensor may, in its absolute discretion, refuse to consent to any proposed alterations or additions.

10.1.2 The Licensee will not mark, paint, drill or in any way deface or damage the walls, partitions, ceiling, floor or surrounds of the Premises.

10.1.3 The Licensee must, in the course of any alterations or additions:

- (1) comply with the requirements of the Licensor and all relevant authorities; and
- (2) if required, use persons nominated or approved by the Licensor to carry out the work.

10.2 Installing equipment

The Licensee will not, without the prior written consent of the Licensor, install any water, electrical or gas fixture or appliance or any apparatus for light, air, heating or cooling.

10.3 Heavy installation

The Licensee will not bring in or on the Premises any fixtures or goods:

- (1) of such nature, weight or size; or
- (2) creating such noise or vibration in their operation,

such as to cause or, in the reasonable opinion of the Licensor, be likely to cause, any structural or other damage to the floors or walls or any other part of the Premises. Any damage to the Premises caused by the movement or placement of any such items will be made good at the Licensee's expense.

10.4 Grease trap

10.4.1 If the Premises are at any time connected to a grease trap or a triple interceptor, the Licensor must regularly clean, service, maintain, repair and empty it. The Licensee must pay the Licensor the cost of any cleaning, servicing, maintenance, repair or emptying of the grease trap or triple inceptor within 14 days of receiving a request for payment from the Licensor.

10.4.2 If the Premises are not connected to a grease trap, triple interceptor or similar device and the Licensee's use of the Premises requires them to be connected to such a device, then the Licensee must, at its' expense, promptly install such a device, upon receiving the consent of the Licensor (which may be reasonably withheld where installation is, in the opinion of the Licensor, impractical or may interfere with other users of the Land) and otherwise comply with this clause.

10.4.3 The Licensor will not be liable for any loss or damage sustained by the Licensee arising from the Licensor's decision not to consent to the installation of a grease trap, triple inceptor or similar device.

10.5 No obstruction of light or air

The Licensee must not obstruct the flow of air to or from or the admission of light to the Premises except for curtains or blinds approved by the Licensor, which approval will not be unreasonably withheld.

11. Repairs, Maintenance and Replacement

11.1 Inconsistency

Where there is an inconsistency between this clause and Schedule 2, Schedule 2 will prevail.

11.2 Acknowledgement

The Licensee acknowledges that, at the Commencement Date and the date of first occupation of the Premises by the Licensee (if applicable), the Premises and the Licensor's Property in it were in good repair and condition.

11.3 Repair obligations

11.3.1 Subject to clauses 11.3.3, 11.3.4 and 11.3.5, the Licensor must keep the Licensor's Property in good and tenantable repair and condition having regard to the condition of the Premises at the Commencement Date.

- 11.3.2 The Licensee must maintain and keep the Licensee's Property in good and tenable repair and condition.
- 11.3.3 The Licensor's obligation to repair under subclause 11.3.1 will not apply when the requirement for repair arises as a result of the negligence or act or omission of the Licensee or the Licensee's employees, agents, contractors or invitees. The Licensee must repair or replace any item of Licensor's Property requiring repair or replacement as a result of the negligence or act or omission of the Licensee or the Licensee's employees, agents, contractors or invitees.
- 11.3.4 The Licensor may require the Licensee to contribute an amount for each item of repair of the Licensor's Property as set out in Item 12. The Licensor will be under no obligation to repair unless and until the required contribution is made by the Licensee to the Licensor.
- 11.3.5 The Licensee must maintain the Licensor's Property to a standard equivalent to that at the date of first occupation by the Licensee (or, if the Licensor has upgraded the Licensor's Property, to the upgraded standard) fair wear and tear excepted.

11.4 Replacement obligations

- 11.4.1 Subject to subclause 11.4.2, the Licensor will replace any Licensor's Property which, in the Licensor's reasonable opinion, requires replacement.
- 11.4.2 The Licensor's obligation to replace the Licensor's Property will not apply when the requirement to replace arises as a result of the negligence or act or omission of the Licensee, or the Licensee's employees, agents, contractors or invitees or the failure of the Licensee to maintain the Licensor's Property (fair wear and tear excepted).
- 11.4.3 The Licensee will be responsible for the replacement of the Licensee's Property.

11.5 Make Good

The Licensee must, at the time of, or immediately before, the expiration of the Licensee's occupancy (and in this regard time is of the essence);

- (1) carry out repairs as required by this clause;
- (2) reinstate all floor coverings, light and power outlets, switches, telephone outlets, fire sprinklers and air-conditioning and any other fixtures or fittings of the Licensor;
- (3) remove all signs, notices, advertisements, ornaments or other things placed by the Licensee on the Premises;
- (4) remove the Licensee's Property and make good any damage arising as a result of the removal;

- (5) leave the Premises in a clean and tidy condition, free from all rubbish;
and
- (6) peaceably surrender and yield up the Premises.

11.6 Notices to repair

- 11.6.1 The Licensor may, at any time, serve on the Licensee a notice in writing of any defect which the Licensee is required to repair. The Licensee will repair the defect within 21 days of the date of service of the notice (or such other period as agreed). The Licensor may specify a period of less than 21 days within which to repair the defect if the defect is likely to cause damage to the Premises or Building or may cause injury to any person.
- 11.6.2 Where the Licensor is required to repair, due to the default of the Licensee, the Licensee must pay to the Licensor the cost of those repairs and any associated expenses within 7 days of notification of the amount.

11.7 Leaving Licensee's Property, goods or fixtures behind

To the extent permitted by law, if the Licensee leaves any Licensee's Property, goods or fixtures in the Premises for more than 21 days after the Expiry Date or earlier termination of this Licence, the Licensor may dispose of them in any way the Licensor sees fit. In addition, any such Licensee's Property, goods or fixtures will, at the Licensor's election, become the Licensor's property absolutely and the Licensor may deal with them without accounting to the Licensee or being required to compensate the Licensee for the same.

11.8 Other services

- 11.8.1 During the Term, and any extension or renewal of it, the Licensor must maintain in good working order the lifts, fire services and any other services within or servicing the Premises and the Building which are the responsibility of the Licensor.
- 11.8.2 If any of the services specified in this subclause:
 - (1) malfunction;
 - (2) become unsafe; or
 - (3) are otherwise incapable of being operated as a result of any cause,the Licensor will, within a reasonable time after receipt of written notification from the Licensee, repair or replace the services (or part of the services) with services of an equivalent type and quality.
- 11.8.3 The Licensor will not be required to repair or replace any of the services referred to in subclause 11.8.1 where the repair or replacement arises as a result of the negligence or default of the Licensee or the Licensee's employees, agents, contractors or invitees.

11.9 Licensor's right to enter

The Licensor and persons authorised by the Licensor have the right to enter the Premises with necessary materials and equipment at reasonable times, and on reasonable notice (but without any notice in any case which the Licensor considers an emergency):

- (1) to view the state of repair and condition of the Premises and conduct investigations;
- (2) to carry out any work or make any repairs or alterations or additions to the Premises or the Building;
- (3) to carry out repairs as the Licensor thinks fit;
- (4) where the Licensee has failed to repair any defect in accordance with any notice served by the Licensor; or
- (5) to comply with the terms of any present or future law affecting the Premises or any notice served on the Licensor or the Licensee by the Territory or any competent authority.

12. Insurance

12.1 Public Liability

The Licensee, during the Term and any holding over under this Licence, must keep current a public risk liability policy with a Prescribed Insurer for an amount for any single occurrence of not less than the amount referred to in Item 11. The policy must be on usual terms reasonably acceptable to the Licensor (including any exclusions) and note the Licensor's interest.

12.2 Other Insurance

The Licensee will be responsible for insuring the Licensee's Property and all other property of the Licensee in the Premises.

12.3 General obligations not to increase Licensor's insurance

The Licensee must not do, or permit to be done, anything that would result in any insurance in relation to the Premises being:

- (1) unenforceable;
- (2) voidable; or
- (3) likely to increase the rate of premium on any insurance taken out by the Licensor (except with the approval of the Licensor in writing).

12.4 Fire regulations

12.4.1 The Licensee must comply with the insurance, sprinkler and fire alarm regulations in relation to any partitions and other permitted fixtures or fittings which may be erected by or on behalf of the Licensee on the Premises.

12.4.2 The Licensee must pay the Licensor the cost of any alterations to the sprinkler or fire alarm installations that may become necessary by reason of any non-compliance by the Licensee with the relevant Australian Standards (determined by Standards Australia or any substituted body), directions or orders of any relevant authority and/or the requirements of the insurer.

12.5 Production of policy

The Licensee, in respect of any policy of insurance to be taken out by the Licensee, must, on request, produce to the Licensor either a:

- (1) policy of insurance; or
- (2) certificate of currency for the policy.

13. Indemnity and Release

13.1 Risk

The Licensee will occupy, use and keep the Premises at its own risk.

13.2 Indemnity

The Licensee indemnifies the Licensor, its employees, agents and contractors against liability in respect of all claims, costs and expenses and for all loss, damage, injury or death to persons or property caused or contributed to by the breach of this Licence, negligence or wilful act or omission of the Licensee, its employees, agents, contractors or invitees in connection with this Licence, except to the extent that the Licensor has, through its breach of this Licence, negligence or wilful act or omission, caused or contributed to the relevant loss, damage or injury.

13.3 Claims to be made good

The Licensee must, at its expense, make good the amount of all claims, loss, damage, costs and expenses, the subject of the indemnity in clause 13.2.

13.4 Release

To the full extent permitted by law, the Licensee hereby releases the Licensor, its employees, agents and contractors from all claims and demands of every kind and from all liability which may arise in respect of any death or injury to any person or any accident or damage to property of any kind or nature, in or near the Premises or the Land, except to the extent the relevant claim or demand is caused or contributed to by the Licensor's breach of this Licence or the wilful or negligent act or omission of the Licensor, its employees, agents or contractors.

14. No Compensation

At the Expiry Date or termination of this Licence, the Licensee will not be entitled to receive any form of compensation from the Licensor in respect of any Licensee's Property on the Premises.

15. Damage or Destruction to the Premises

15.1 Damage or destruction to the Premises

If the Premises or the Building or both are materially damaged or destroyed, and as a result, the Licensee cannot use or access the Premises, then the Licensor must, within 2 months, tell the Licensee whether or not the Licensor proposes to repair the Premises or the Building and if so, the approximate start and finish dates for the work. Meanwhile the Licensee must continue to use any part of the Premises that is useable, safe and accessible, and to obey this Licence as far as possible.

15.2 Termination by Licensor

If:

- (1) the Licensor gives the Licensee a notice under subclause 15.1 that the Licensor does not intend to repair the Premises or Building; and
- (2) one of the following applies:
 1. the Premises or Building has to be, or has been, demolished because of the damage;
 2. the damage extends to more than 50% of the Premises or Building;
 3. it is impracticable to repair or reinstate the Premises or Building within one year of the date of damage; or
 4. the Licensee cannot use the Premises and this Licence expires within 2 years of the damage occurring and there is no option for a further term;

then the Licensor may terminate this Licence by 30 days' written notice to the Licensee.

15.3 Termination by Licensee

If one of the following applies:

- (1) the Licensor gives the Licensee a notice under subclause 15.1 that the Licensor does not intend to repair the Premises or Building;

- (2) the Licensor gives the Licensee a notice under subclause 15.1 that the Licensor does intend to repair the Premises or Building but the Licensor unreasonably departs from the proposed start and finish dates; or
- (3) the Licensee will not be able to use the Premises within a reasonable period or for more than one year after the day, or last day, the damage happened;

then the Licensee may give a written notice terminating the Licence on 30 days' notice and specifying the reason for that termination.

15.4 No payment of Licence Fee

While the Licensee cannot use the Premises due to damage to the Premises or the Building, the Licensee is not required to pay the Licence Fee and any other money payable under this Licence unless the Licensor and the Licensee otherwise agree or unless the Court orders otherwise.

15.5 Payment of Licence Fee continues

If the Premises or the Building are damaged but the Licensee is still able to use the Premises (in full or in part), then the Licensee must continue to pay the Licence Fee and other money payable under this Licence unless the Licensor and the Licensee otherwise agree or unless the Court orders otherwise.

15.6 Agreement to end Licence

The Licensor and the Licensee may also agree to end this Licence without the Licensor giving the notice under subclause 15.1.

15.7 Obligation to repair or reconstruct

Other than as set out in this clause, nothing in this Licence imposes an obligation upon the Licensor to repair or reconstruct the Premises or the Building in the event of damage to or destruction as described in this clause.

16. No Assignment

No assignment

16.1 The Licensee may not assign, transfer, or mortgage its rights in respect of this Licence or the Premises.

16.2. The Licensee may sub-licence part of the Premises with the written consent of the Licensor.

17. Default and Re-entry

17.1 Default by Licensee

Where the Licensee is in breach of any condition in this Licence and has been given a reasonable time to remedy the breach, the Licensor may remedy the breach at any time without notice to the Licensee and without limiting the rights of the Licensor as a consequence of that breach. Where the Licensor so acts, all reasonable costs and expenses incurred by the Licensor (including reasonable legal costs on a solicitor and client basis) in remedying any breach, must be paid by the Licensee to the Licensor immediately upon written notification of the amount and, in default, the amount may be recovered in a court of competent jurisdiction.

17.2 Termination for breach

Where:

- (1) any instalment of the Licence Fee or other money payable by the Licensee to the Licensor is 21 days in arrears (in case of the Licence Fee whether or not demand has been made for it);
- (2) a notice has been served on the Licensee by, or on behalf of, the Licensor specifying a breach of this Licence and, if applicable, that breach has not been remedied or compensated for in accordance with the notice, provided the notice has allowed at least 21 days in which to remedy or compensate; or
- (3) the Licensee:
 - (a) becomes bankrupt or is subject to an Insolvency Event; or
 - (b) makes any assignment for the benefit of creditors, or makes any arrangement with creditors for liquidation of the debts of the Licensee by composition or otherwise; or
 - (c) being a company or an incorporated association, goes into liquidation either voluntarily or compulsorily (except for the purpose of reconstruction or amalgamation) or is wound up or dissolved or placed under official management or a receiver or manager of any of its assets is appointed or an inspector is appointed under the *Corporations Act 2001* (Cth),

the Licensor may, at any time thereafter give written notice to the Licensee that the Licensor intends to terminate this Licence (the "Termination Notice").

17.3 Date of termination

- 17.3.1 The termination referred to in the Termination Notice takes effect on the earlier of:

- (1) the date that the Licensee agrees to the termination by notice in writing to the Licensor; or
- (2) the date 14 days after the service of the Termination Notice (the “time period”) provided that the Licensee does not contest the termination by application to the Magistrate’s Court within the time period.

17.3.2 If the Licensee contests the termination in accordance with subclause 17.3.1(2), the termination has effect on the date ordered to be the date on which the termination takes effect by the Magistrate’s Court.

18. Fixtures Remaining after Breach

18.1 Application

This clause applies:

- (1) where this Licence has been terminated or the Licensor has re-entered the Premises; and
- (2) in relation to any fixtures or goods in the Premises which do not, on termination or re-entry, pass to the Licensor and which remain in the Premises for 14 days after the date of termination or re-entry.

18.2 Removal by Licensor

The Licensor may:

- (1) remove any fixtures or goods to which this clause applies from the Premises and store them in such place and manner as the Licensor thinks fit;
- (2) on reasonable notice to the Licensee, place any fixtures or goods outside the Premises; and/or
- (3) sell the fixtures and goods and deduct from the proceeds, the Licensor’s costs in removing, storing and selling them, and account to the Licensee for the balance.

18.3 Payment of costs

The Licensee must pay to the Licensor, on demand, all reasonable costs and expenses of the Licensor in removing or storing fixtures or goods.

19. Essential Terms

19.1 Essential Terms

Each of the following covenants by the Licensee is an essential term of this Licence:

- (1) subclause 4.1 relating to payment of Licence Fee and subclauses 5.1 and 5.3 regarding other payments to be made by the Licensee;
- (2) clauses 9.1 and 9.2 relating to use of the Premises;
- (3) clause 10.1 relating to alterations and additions;
- (4) clauses 11.3 and 11.5 relating to repair, maintenance and make good;
- (5) clauses 12.1 and 12.3 relating to insurance;
- (6) clause 16 relating to assignment and underletting; and
- (7) clause 24.2 relating to payment of GST.

19.2 Acceptance of arrears

The acceptance by the Licensor of arrears or the late payment of Licence Fee or other monies does not constitute a waiver of the essential and continuing obligation of the Licensee to pay Licence Fee and other moneys during the Term on the dates specified in the Licence.

19.3 Breach of an essential term

The Licensee must compensate the Licensor in respect of any breach of an essential term of this Licence and the Licensor is entitled to recover damages from the Licensee in respect of such breaches. The Licensor's entitlement under this clause is in addition to any other remedy or entitlement (including the right to terminate this Licence).

19.4 Loss on repudiation or breach

Where the Licensee's conduct (whether acts or omissions) constitutes:

- (1) a repudiation of the Licence; or
- (2) a breach of any covenant contained in the Licence,

the Licensee will compensate the Licensor for the loss or damage suffered by reason of the repudiation or breach.

19.5 Quantum of damages recoverable

The Licensor is entitled to recover damages against the Licensee in respect of repudiation or breach of covenant for the damage suffered by the Licensor during the entire Term.

19.6 Certain events of no effect

The Licensor's entitlement to recover damages is not affected or limited by any of the following:

- (1) if the Licensee abandons or vacates the Premises;
- (2) if the Licensor elects to re-enter or to terminate the Licence;
- (3) if the Licensor accepts the Licensee's repudiation; or
- (4) if the party's conduct constitutes a surrender by operation of law.

19.7 Licensor may remedy defaults

If the Licensee does not remedy the default within a reasonable time (determined by the Licensor), the Licensor may remedy without notice, any default by the Licensee under this Licence and whenever the Licensor elects to do so, all costs and expenses incurred by the Licensor (including legal costs and expenses) are to be paid by the Licensee immediately on notification.

20. Early Termination

This Licence may be terminated, without cause, by either party giving the other party six months written notice or such shorter period as agreed by the parties in writing. Subject to clause 11.5, neither party will have an action against the other party in respect of termination of this Licence pursuant to this clause. The right to terminate early will not prejudice a claim by a party in respect of any breach of the Licence occurring prior to termination.

21. Rules

21.1 Rules

The Licensee must comply with the Rules and the Licensee acknowledges that, if it fails to comply with any of the Rules, the failure constitutes a breach of this Licence.

21.2 Compliance with Rules

The Licensee must take all reasonable steps to ensure that its employees, agents, contractors and invitees comply with the Rules.

21.3 Variation of Rules

The Licensor may delete, vary or add to the Rules provided that the Licensor notifies the Licensee of the changes within 30 days of making the changes. Any variation of the Rules is not inconsistent with or amount to a material variation from the Licence terms.

22. Common Area

22.1 Common Area

Subject to subclause 22.2, the Licensee and all persons authorised by it, will, at all times, have the right to use the Common Area as ancillary to its occupation of the Premises and, in common with other persons having rights to be on the Land:

- (1) to enter and leave the Premises;
- (2) to load or unload vehicles in any area designated for the purpose by the Licensor;
- (3) to park private motor vehicles or cycles in such a place and for such a time as the Licensor designates from time to time;
- (4) to use the toilets and washrooms as allocated by the Licensor from time to time; and
- (5) to place rubbish in such proper receptacles as are approved by the Licensor from time to time.

22.2 Control of Common Area

The Common Area will, at all times, be subject to the control of the Licensor who has, subject to this Licence, the right from time to time to establish, modify and enforce reasonable rules in this regard.

23. Variations

23.1 Variation of provisions

The parties agree that the provisions of this Licence are varied as set out in Item 17.

23.2 Inconsistency

Where there is any inconsistency between the terms of this Licence and Item 17, the provisions of Item 17 will prevail.

24. GST

24.1 GST definitions

In this clause:

Act means the *A New Tax System (Goods and Services Tax) Act 1999 (Cth)* (as amended) and any regulation made under that Act;

GST, Taxable Supply, Input Tax Credit, Supply and Tax Invoice have the same meaning as in the Act;

GST Rate means 10% or if the rate at which GST is calculated under the Act changes, the rate applicable at the relevant time.

Payment includes consideration in the form of money given or received and in a form other than money given or received.

24.2 Payment of GST

A party making Payment to another party for a Taxable Supply under this Licence must pay to the other party at the same time, an additional amount equal to the amount of the Payment multiplied by the GST Rate.

24.3 Reimbursements

When calculating the amount of:

- (a) any reimbursement to a party under this Licence; and
- (b) the indemnification under this Licence of an expense, loss or liability incurred or to be incurred by that party,

the other party may include the GST paid or payable on the Supply giving rise to the amount, but if that party includes the GST that party must deduct the amount of any Input Tax Credit from the amount paid.

24.4 Tax invoice

A party receiving a Payment of GST under this clause must provide a Tax Invoice to the party making the Payment before or at the same time as the Payment is received.

25. Leases Act

25.1 Application of Leases Act

Subject to clause 25.4, the parties agree that the provisions of the Leases Act apply to this Licence. Where there is an inconsistency between the provisions of this Licence and the Leases Act, the Leases Act will prevail.

25.2 Disclosure Statement

The Licensee warrants that a Disclosure Statement complying with the Leases Act, was supplied to the Lessee at least 14 days before the Licence was entered into.

25.3 Approved handbook

The Licensee warrants that the Licensee was advised of the existence of the approved handbook and of its availability, as early as practicable in negotiations relating to this Licence.

25.4 Standard provisions

The standard provisions in any regulations prescribed under the Leases Act do not apply to this Licence.

25.5 Term of Lease less than 5 years

Where the Term (including any prior option period or option contained in this Licence) is less than 5 years (as is otherwise required by the Leases Act), the Licensee warrants:

- (1) that it has been independently advised by a lawyer (as defined in the Leases Act and not acting for the Licensor) of the Licensee's rights pursuant to section 104 of the Leases Act; and
- (2) that the lawyer has provided a certificate, as required by section 104 of the Leases Act.

26. Guarantee and Indemnity

This clause applies if, and only if, a Guarantor is set out in Item 16.

26.1 Guarantee

The Guarantor, and each of them jointly and severally, guarantees to the Licensor the due payment of all moneys due under this Licence and the due performance by the Licensee of all the covenants and terms of this Licence by the Licensee.

26.2 Indemnity

- (1) The Guarantor indemnifies the Licensor and agrees to keep the Licensor indemnified from all damages and all costs, losses and expenses which the Licensor may suffer or incur from any breach or non-observance by the Licensee of any of the covenants and terms in this Licence.
- (2) The Guarantor agrees that this indemnity continues and the Guarantor remains liable to the Licensor notwithstanding that as a consequence of breach or non-observance by the Licensee the licensor has exercised any of its rights including its right of re-entry and notwithstanding that the Licensee (being a company) may be wound up or (being a natural person) may be declared bankrupt and notwithstanding that the guarantee now given may for any reason be unenforceable.

26.3 Not affected by time or other indulgence

The liability of the Guarantor is not affected by the granting of time or other indulgence or concessions to the Licensee or by the compounding, compromise, release, abandonment, waiver, variation, relinquishment or renewal of any of the rights of the Licensor against the Licensee or by any neglect or omission to enforce such rights or by anything, which under the law relating to sureties would or might but for this clause release the Guarantor from his obligations.

26.4 Continuing guarantee

The guarantee and indemnity now given are to continue until the due performance and observance by the Licensee of all the terms and conditions of this Licence.

27. Miscellaneous

27.1 No waiver

Failure or omission by the Licensor at any time to enforce or require strict or timely compliance with any provision of this Licence will not:

- (1) affect or impair that provision in any way;
- (2) affect the right or remedy that the Licensor may have in respect of that provision; or
- (3) act as a waiver of any other breach by the Licensee.

27.2 Entire Agreement

This Licence contains the entire agreement between the parties in relation to the Premises and supersedes any prior representation, negotiations, writing, memoranda and agreements.

27.3 Variation

This Licence may be varied only by the written agreement of the parties prior to the Expiry Date.

27.4 Severability

Any provision of this Licence that is illegal, void or unenforceable will not form part of this Licence to the extent of that illegality, voidness or unenforceability. The remaining provisions of this Licence will not be invalidated by an illegal, void or unenforceable provision.

27.5 Governing law

This Licence is governed by and construed in accordance with the law for the time being in force in the Territory and the parties submit to the non-exclusive jurisdiction of the courts of the Territory.

27.6 Compliance with laws

The Licensee must comply with the laws from time to time in force in the Territory.

27.7 Notices

27.7.1 Any notice, including any other communication, required to be given or sent to either party under this Licence must be in writing and addressed to the recipient party or their solicitor. A notice will be deemed to have been given:

- (1) if delivered by hand, on delivery;
- (2) if sent by prepaid mail, on the expiration of two business days after the date on which it was sent; or
- (3) if sent by facsimile, on the sender's facsimile machine recording that the facsimile has been successfully and properly transmitted to the recipient's address.

27.7.2 In addition, where a notice is given by either party to repair or replace, the notice may be sent by electronic mail to an electronic mail address provided to the transmitting party and is deemed to be served at the time the email was sent.

27.8 Authority to complete

The Licensee authorises the Licensor and its solicitors to complete any blanks with a proper date or details and to make any formal correction necessary to this Licence.

Schedule 1

Item 1:	Licensee:	Organisation
Item 2:	Land:	Block X Section xx Division of xx
Item 3:	Premises:	The whole of the Premises annexed at Schedule 5 known as the xx Arts Centre .
Item 4:	Term:	date to date
Item 5:	Commencement Date:	On signing
Item 6:	Expiry Date:	Xx date
Item 7:	Licence Fee:	\$0.10c per annum (exclusive of GST) for the period from commencement date. To xx date and thereafter the Licence Fee payable as determined by clause 4.
Item 8:	(a) Licence Fee Review Dates:	Not applicable
	(b) Method of review:	
Item 9:	Use of Premises:	Public access xx arts facility and ancillary activities.
Item 10:	Outgoings:	As per Schedule 2
Item 11:	Public Liability Insurance:	\$20 million
Item 12:	Repair contribution:	\$500
Item 13:	Option Term:	Nil
Item 14:	Interest Rate:	Nil
Item 15:	Address for Notices:	Licensor: artsACT Chief Ministers, Treasury and Economic Development Directorate GPO Box 158 CANBERRA CITY 2601 Contact Officer: Manager, Arts Support

Licensee:

xx Arts Association Inc

xx suburb ACT 260x3

Contact Officer: **Director/CEO, XX Arts Association**

Item 16: Guarantor

N/A

Item 17: Special conditions:

Refer Schedule 6

Schedule 2

DISTRIBUTION OF LICENSOR AND LICENSEE RESPONSIBILITIES IN RELATION TO STATUTORY OUTGOINGS, SERVICE CHARGES AND GENERAL CHARGES

Details of Charges	Percentage of Licensor responsibility (A)	Percentage of Licensee responsibility (B)
SECTION 1 - STATUTORY OUTGOINGS		
Land Tax	N/A	N/A
General rates	Nil	N/A
Water and Sewerage rates	Nil	100%
SECTION 2 - SERVICE CHARGES		
Electricity	Nil	100%
Gas	Nil	100%
Water Usage	Nil	100%
Telephone and Communications	Nil	100%
Cleaning - General	Nil	100%
Cleaning – Toilet requisites	Nil	100%
Cleaning - windows Internal	Nil	100%
Cleaning - windows external	Nil	100%
Rubbish removal/tradewaste bins	Nil	100%
Grease trap/triple inceptor – cleaning and emptying	Nil	100%
Insurance - Plate glass	100%	Nil
Insurance - Public Liability		100%
Landscaping/Gardening		100%
After hours Air-Conditioning		100%
Air-Conditioning Repairs	100%, with Lessee contributing \$500 per repair	Lessee to contribute \$500 per repair
Security system – Premises – Monitoring	Nil	100%
Pest Control	Nil	100%

SECTION 3 - GENERAL CHARGES		
Insurance - Building	100%	Nil
Fire Brigade Monitoring	100%	Nil
Fire Protection & Fire Extinguishers	100%	Nil
Security System - Building	100%, with Lessee contributing \$500 per repair	Lessee to contribute \$500 per repair
Signage - Internal	Nil	100%
Painting	100% to meet fair wear and tear	100% to meet Lessee's needs with Lessor's written consent
Lifts	N/A	N/A
Locks and Keys	Nil	100%
Floor coverings	100% to meet fair wear and tear	Nil

Schedule 3 – Rules

1. All requests for consents or approvals required from the Licensor, all notices required to be given by the Licensee to the Licensor and all enquiries, complaints and suggestions which the Licensee may wish to communicate to the Licensor, are to be in writing to the Contact Officer named in Item 16.
2. The Licensee must keep all doors and other means of access to the Premises securely fastened when the Premises are left unoccupied. The Licensor reserves the right to enter the Premises and fasten them if they are left insecurely fastened.
3. The Licensee must ensure that, at all times, the Licensor has a current address and telephone number at which the Licensee, or a responsible representative of the Licensee, can be reached when the Licensee or representative is not in the Premises.
4. No curtains, window blinds, window screens or awnings may be erected without the approval of the Licensor.
5. No rubbish or waste may, at any time, be burnt on the Premises or in the Building.
6. The Licensee must, at the Licensee's own expense, replace all electrical light bulbs and globes and tubes which may become damaged or broken or fail to light in the Premises.
7. The Licensee must not use the Premises as a residence or sleeping place.
8. The Licensee must not keep on the Premises, or allow onto the Premises, any animals, fishes, reptiles or birds, except a guide dog.
9. In respect of the Premises where air-conditioning is supplied by the Licensor, the Licensor must endeavour to keep the Air-Conditioning System in working order between the hours of 8:00am and 5:30pm Monday to Friday excluding public holidays.
10. The Licensee and its agents may not smoke or permit any person to smoke any form of tobacco or similar substance in the Premises, Building or Grounds.
11. The Licensee must comply with any fire management plan produced by the Licensor which is made known to the Licensee or, if reasonably required by the Licensor, the Licensee will produce its own fire management plan.
12. The Licensee will participate in any fire management exercise conducted by the Licensor, of which the Licensee has received reasonable notice.
13. Should the Licensee enter into any arrangements for other persons or entities to occupy the premises for periods exceeding three months, then the Licensee requires the written consent of the Licensor.

14. For the purposes of the exhibition spaces, the Licensee may make temporary and minor alterations appropriate to the activity.

Schedule 4 – Licence Fee Review

1. The Licence Fee will be reviewed effective from each Licence Fee Review Date in accordance with the method of Licence Fee review noted next to the relevant Licence Fee Review Date in Item 8.
 2. Each method of review will have the meaning and procedure set out in this Schedule.
- A. (1) **“WPI Review”** means a licence fee adjustment in accordance with the following Wage Price Index formula:

$$\text{NYLF} = \text{OYLF} \times \frac{\text{NWPI}}{\text{OWPI}}$$

Where:

- “NYLF” is the new licence fee payable by the Licensee to the Licensor commencing from the Licence Fee Review Date;
- “OYLF” is the Licence Fee payable by the Licensee to the Licensor immediately preceding the Licence Fee Review Date;
- “NWPI” is the last published Wage Price Index prior to the Licence Fee Review Date;
- “OWPI” is the Wage Price Index as published prior to the date upon which the Licence Fee was most recently reviewed, varied or set pursuant to the terms of the Licence or any previous licence (or previous licences) which contained an option to renew (or a chain of options to renew) which gave rise to this Licence.

- (2) **“Wage Price Index”** means the Wage Price Index for the Australian Capital Territory as published by the Australian Statistician (or such person or office which fulfils the relevant function fulfilled by the Australian Statistician at the commencement of the Licence). In the event that the Wage Price Index is adjusted (for example by changing the base index number or changing the year of the base index number), or there is any suspension or discontinuance of the Wage Price Index by the Australian Statistician, then the Wage Price Index will mean such index figure or statistic published at the relevant dates in the Australian Statistician’s summary of Australian statistics which reflects fluctuations in the wages in Canberra and which the parties may mutually agree upon, and if they are unable to agree then such index figure or statistic as may be determined by the President for the time being of the Australian Property Institute or some person nominated by the President whose decision will be conclusive and binding. This definition will apply notwithstanding that there may be significant changes over time in the composition and weighting of the items by reference to which the Wage Price Index is calculated.
- (3) The Licensee must continue to pay the current instalments of the Licence Fee due until the new licence fee is determined. Within 21 days after the Licensor has notified the Licensee of the new licence fee, the Licensee

must adjust and pay the amount due to the Licensor as Licence Fee from the Licence Fee Review Date.

- B. (1) **“CPI Review”** means a licence fee adjustment in accordance with the following Consumer Price Index formula:

$$\text{NYLF} = \text{OYLF} \times \frac{\text{NCPI}}{\text{OCPI}}$$

Where:

- “NYLF” is the new licence fee payable by the Licensee to the Licensor commencing from the Licence Fee Review Date;
- “OYLF” is the Licence Fee payable by the Licensee to the Licensor immediately preceding the Licence Fee Review Date;
- “NCPI” is the last published Consumer Price Index prior to the Licence Fee Review Date;
- “OCPI” is the Consumer Price Index as published prior to the date upon which the Licence Fee was most recently reviewed, varied or set pursuant to the terms of the Licence or any previous licence (or previous licences) which contained an option to renew (or a chain of options to renew) which gave rise to this Licence.

- (2) **“Consumer Price Index”** means the Consumer Price Index for Canberra (All Groups) as published by the Australian Statistician (or such person or office which fulfils the relevant function fulfilled by the Australian Statistician at the commencement of the Licence). In the event that the Consumer Price Index is adjusted (for example by changing the base index number or changing the year of the base index number), or there is any suspension or discontinuance of the Consumer Price Index by the Australian Statistician, then the Consumer Price Index will mean such index figure or statistic published at the relevant dates in the Australian Statistician’s summary of Australian statistics which reflects fluctuations in the cost of living in Canberra and which the parties may mutually agree upon, and if they are unable to agree then such index figure or statistic as may be determined by the President for the time being of the Australian Property Institute or some person nominated by the President whose decision will be conclusive and binding. This definition will apply notwithstanding that there may be significant changes over time in the composition and weighting of the items by reference to which the Consumer Price Index is calculated.

- (3) The Licensee must continue to pay the current instalments of the Licence Fee due until the new licence fee is determined. Within 21 days after the Licensor has notified the Licensee of the new licence fee, the Licensee must adjust and pay the amount due to the Licensor as Licence Fee from the Licence Fee Review Date.

- C. (1) **“Licence Fee Increase by X%”** (where X% is a specified percentage figure) means a licence fee adjustment in accordance with the following formula:

$$\text{NYLF} = \text{OYLF} \times \frac{100 + X}{100}$$

Where:

- “NYLF” is the new licence fee payable by the Licensee to the Licensor commencing from the Licence Fee Review Date;
 “OYLF” is the Licence Fee payable by the Licensee to the Licensor immediately preceding the Licence Fee Review Date;
 “X” is the specified percentage in Item 8.

- (2) The Licensee must continue to pay the current instalments of the Licence Fee due until the new licence fee is determined. Within 21 days after the Licensor has notified the Licensee of the new licence fee, the Licensee will adjust and pay the amount due to the Licensor as Licence Fee from the Licence Fee Review Date.

D. (1) **“Market Review”** means an adjustment to the Licence Fee that could reasonably be expected to be paid for the Premises if unoccupied and offered for occupation for the use set out in Item 9.

- (2) Either party may at any time, but not earlier than 4 months prior to the Licence Fee Review Date to which Market Review applies, give notice in writing to the other party stating the amount which, in that party’s opinion, is the market licence fee for the Premises as at that Licence Fee Review Date.

(3) If:

- (a) 2 months after a party has given a notice under subclause (2), the parties have not agreed upon the market licence fee applicable from the Licence Fee Review Date; or
 (b) 14 days after either party tells the other party that it disputes the proposed licence fee applicable from the Licence Fee Review Date;

either party may notify the Magistrates Court that that party wishes to have the matter referred to mediation under section 52(2) of the Leases Act.

- (4) If a market licence fee cannot be agreed, the parties agree to follow the procedure set out in Part 8 of the Leases Act regarding determination of the market licence fee.

- (5) If, 14 days after the Licensee tells the Licensor that the Licensee disputes the proposed Licence Fee applicable from the Licence Fee Review Date either party may ask the President of the Australian Property Institute (Canberra Chapter) to appoint a valuer with at least 5 years’ experience to determine the Market Licence Fee having regard to the current market rental.

- (6) The valuer must act as an independent expert and not as an arbitrator, and give written reasons for the decision. The parties must share the valuer's costs equally.
- (7) The valuation of the Market Licence Fee must take into account:
 - (a) the terms of the Licence;
 - (b) other matters relevant to the assessment of current market rental;
 - (c) the use of the Premises under the Licence; and
 - (d) rent concessions or other benefits frequently or generally offered to prospective lessees of similar Premises,and must assume that the Premises are unoccupied, but it must not take into account the value of any goodwill or the Licensee's Improvements.
- (8) Until the dispute is resolved, or a right is lost, the Licensee must pay the old Licence Fee. Any adjustment is calculated from the Market Review Date. The Licensee must pay any adjustment, or the Licensor must credit the Licensee with it, when the next monthly payment is due.

Schedule 5 – Plan of the Premises

[Insert Details Here]

SCHEDULE 6- SPECIAL CONDITONS

1 LICENCE CONDITIONAL ON DEED OF GRANT

The Licensor's grant of a Licence of the Premises is conditional on the Licensee performing its obligations pursuant to the Deeds of Grant executed on **xx date**. If the Deed of Grant is terminated then the Licence will also terminate immediately.

2 ASSETS

The Licensee will maintain and keep updated on an annual basis, a register of the Assets (**Asset Register**) in the form of **Annexure A**. The register should be included as part of the annual acquittal report. The Licensee cannot dispose of the Licensor's assets without the prior written consent of the Licensor.

Any Assets that have been purchased by the Licensee where the original purchase price is more than \$1,500, the Licensee must notify the Licensor within 7 days of purchase and not dispose of such Assets without the written consent of the Licensor. At the expiration of the Term or termination of the Licence, the Licensee must yield up any unencumbered Assets to the Licensor and title in the Assets shall pass to the Licensor for the consideration of \$1, receipt of which is acknowledged by the Licensor.

3 USE

The **XXX Arts Centre** is a public access **xx** use arts facility and ancillary activities, as designated in Item 9 of Schedule 1. The Licensee shall provide a business plan as part of the Deed of Grant that describes all activities proposed in the facility. Where any non arts or cultural activities are being proposed, particularly any commercial activities, these must be agreed by the Licensor and be of overall benefit to the facility and without unduly detracting from its intended use or priority for the arts.

CERTIFICATE

I.....

of.....

certify:

1. I am a solicitor of the Supreme Court of the Australian Capital Territory.
2. I do not act for the Licensor.
3. In this Certificate a reference to a Licensee when a Licensee is an Association, is a reference to an authorised representative of that Association.
4. Before the Licensee executed this Licence, at the request of the Licensee I explained:
 - i. the effect of this clause 25.2 in this Licence and of this Certificate;
 - ii. how section 30 of the Leases Act would apply in relation to the Licence if the Licence did not include this clause;
 - iii. the effect of section 104 of the Leases Act and that the giving of this Certificate will result in the Licence being for a term (including any options for renewal) of less than five years.
5. The Licensee told me that:
 - (a) the Licensee was not acting under coercion or undue influence in asking for or agreeing to the inclusion of this clause 25.2 (including this Certificate) in this Licence;
 - (b) the Licensee was not required by the Licensor to use a lawyer acting for or nominated by the Licensor;
 - (c) the Licensee was aware of, and had chosen to waive, the time limits under section 30 of the Leases Act; and
 - (d) the Licensee was aware that it would not use section 104 to increase the total Term of the Licence to 5 years.

DATED this.....day of201**X**

Signed

.....
Solicitor, ACT.

Executed as an Agreement

DATE OF THIS AGREEMENT201x

SIGNED for and on behalf of the)
AUSTRALIAN CAPITAL TERRITORY)
in the presence of:) Signature of Territory delegate

.....
Signature of witness Print name

.....
Print name

SIGNED by or for and on behalf of)
ORGANISATION)
ABN: xx) Signature of director/ authorised
in the presence of: officer/ individual*
*DELETE whichever is not applicable (see note below)

.....
Signature of director/ secretary/ witness*
*DELETE whichever is not applicable (see note below)

.....
Print name

.....
Signature of second authorised
representative*
*only use if Incorporated Association (see note below)

.....
Print name

.....
Print name



GUARANTOR

SIGNED by)
)
in the presence of:)
)
)
)
.....)
Signature of Witness) Signature of Guarantor
)
)
.....)
Print name) Print Name

SIGNED by)
)
in the presence of:)
)
)
)
.....)
Signature of Witness) Signature of Guarantor
)
)
.....)
Print name) Print Name

- Note:**
- Date: Must be dated on the date the last party signs the Agreement or, if signed counterparts of the Agreement are exchanged, the date of exchange. Also date the cover page.
 - Individual: Must be signed by the individual and witnessed.
 - Incorporated Association: Must be signed in accordance with the Association’s constitution, which may or may not require the common seal to be affixed. As a minimum, 2 authorised officers must sign.
 - Company: Must be signed in accordance with section 127 of the *Corporations Act 2001* (Cth), for example, by 2 directors or a director and a secretary. Common seal may be affixed if required under the constitution but is generally not required.

Annexure A – Asset Register

XX Arts Centre

Item	Ownership	Maintenance	Insurance	Replacement	Disposal
xx	artsACT	XX org	artsACT	Xx org or artsACT*	artsACT

*Subject to budget