



## LICENCE AGREEMENT

**DATE** The date set out in Item 1 of the form of Licence Acknowledgement

**BETWEEN** Swinburne University of Technology ABN 13 628 586 699 of John Street, Hawthorn, Victoria, Australia ("**Swinburne**")

**AND** The Party described in Item 2 of the form of Licence Acknowledgement ("**Licensee**")

### WHEREAS

- A. Swinburne is the owner of the Premises described in Item 3 of the form of Licence Acknowledgement ("**Premises**").
- B. The Licensee has requested Swinburne to grant a licence to the Licensee to use the Premises for the purpose described in Item 8 of the form of Licence Acknowledgement ("**Purpose**") from the date set out in Item 4 of the form of Licence Acknowledgement ("**Occupation Date**") until the end date set out in Item 5 of the form of Licence Acknowledgement ("**End Date**") and Swinburne has agreed to grant such a licence on the terms and conditions in this Agreement.

### THE PARTIES AGREE AS FOLLOWS:

#### 1 GRANT OF LICENCE AND PAYMENT

- 1.1 Swinburne grants to the Licensee a licence to use the Premises which includes the shared facilities described in Item 6 of the form of Licence Acknowledgement that are accessible to the Premises ("**Shared Facilities**") for the Purpose from the Occupation Date until the End Date under the terms and conditions of this Agreement.

1.2 The Licensee shall pay to Swinburne a licence fee of the amount and in the manner specified in Item 7 of the form of Licence Acknowledgement ("**Residential Fee**") from the Occupation Date until the End Date or until earlier termination of this Agreement.

## 2 FEES

### 2.1 Residential Fee

The Residential Fee includes the room rate and other fees set out in the schedule of fees ("**Schedule of Fees**") received by the Licensee prior to execution of this Agreement.

### 2.2 Legal Fees and Costs

The Licensee will pay the reasonable legal costs and fees incurred by Swinburne for any legal proceedings it may be required to take arising out of any breach on the part of the Licensee of the terms and conditions of this Agreement.

### 2.3 Security Deposit

2.3.1 The Residential Fee includes a security deposit which the Licensee must pay for the purpose of ensuring due and proper performance of this Agreement.

2.3.2 Swinburne may at any time have recourse to the security deposit if the Licensee:

2.3.2.1 does not pay any part of the Residential Fee by the due dates set out in the Schedule of Fees; or

2.3.2.2 causes any damage to the Premises, Shared Facilities or property, equipment or facilities of Swinburne within or connected to the Premises or Shared Facilities.

2.3.3 Swinburne will return to the Licensee any remaining amount of the security deposit within 60 business days after the End Date or earlier termination of this agreement.

### 3 USE AND OCCUPATION OF THE PREMISES

#### 3.1 Licensee Responsibilities

##### 3.1.1 The Licensee agrees to comply with:

- 3.1.1.1 all relevant policies, statutes and regulations of Swinburne as published at <http://www.swinburne.edu.au/policies-regulations/> and updated from time to time;
  - 3.1.1.2 Swinburne's Information Technology Acceptable Use Guidelines located at <https://www.swinburne.edu.au/about/policies-regulations/it-acceptable-use/> and updated from time to time; and
  - 3.1.1.3 the Swinburne Student Residences Code of Conduct and the Swinburne Student Residences Handbook located at <https://www.swinburne.edu.au/current-students/student-support-services/accommodation/on-campus/handbook/> and updated from time to time, and acknowledges and agrees that Swinburne may exercise all rights set out in those documents.
- 3.1.2 The Licensee must complete any online training modules required by Swinburne. Swinburne will provide the Licensee with key card access to the Premises on completion of the modules.
- 3.1.3 The Licensee acknowledges and agrees that they must be enrolled as a full-time student on campus at Swinburne from the Occupation Date to the End Date.
- 3.1.4 The Licensee must notify Swinburne within 3 business days of ceasing or changing their enrolment status and upon request, provide Swinburne with any information relating to the cessation or change. If Swinburne is satisfied that the Licensee is no longer entitled to occupy the Premises by reason of the cessation or

change, Swinburne may terminate this Agreement pursuant to clause 4.1.2(b).

**3.1.5** The Licensee acknowledges and agrees that prior to entering into occupation of the Premises, the Licensee has inspected the Premises and accepts it in its order and condition as at the Occupation Date as set out in the condition report completed by the parties on or around the Occupation Date.

**3.1.6** The Licensee acknowledges and agrees that Swinburne may at any time enter the Premises or Shared Facilities and/or remove any of the Licensee's personal property from the Premises or Shared Facilities:

**3.1.6.1** in an emergency;

**3.1.6.2** where Swinburne has health or safety concerns that, in Swinburne's reasonable opinion, would require such action; or

**3.1.6.3** to carry out any necessary or urgent repairs or maintenance to the Premises, Shared Facilities, or utilities connected to, or Swinburne's property within, the Premises or Shared Facilities; or

**3.1.6.4** to carry out any repairs, maintenance or other tasks requested by the Licensee.

**3.1.7** The Licensee agrees and acknowledges that Swinburne may, by giving reasonable written notice, enter the Premises or Shared Facilities between 8am and 6pm on any day to carry out routine inspections of the Premises or Shared Facilities, provided that such inspections take place no more than once a month or, where Swinburne, acting reasonably, is not satisfied with the results of a routine inspection and considers it necessary to carry out further inspections, no more than three times a month.

**3.1.8** The Licensee agrees and acknowledges that Swinburne may enter the Shared Facilities between 8am and 6pm on any day to gain access to any other premises within the building in which

the Premises are located.

**3.1.9** The Licensee must not make any alterations, additions, repairs or improvements to the Premises or Shared Facilities without Swinburne's prior written consent.

**3.1.10** The Licensee must notify Swinburne in writing of any defect or damage to the Premises, Shared Facilities or any property belonging to Swinburne within the Premises or Shared Facilities immediately upon becoming aware of it.

**3.1.11** The Licensee must pay for all costs that Swinburne incurs in cleaning or making good any defect or damage to the Premises, Shared Facilities or property belonging to Swinburne within the Premises or Shared Facilities caused by any act, omission, want of care or misuse by the Licensee or their guests.

**3.1.12** The Licensee acknowledges that Swinburne does not warrant or represent that the Premises, Shared Facilities or utilities connected to the Premises and the Shared Facilities will be free from disruption.

**3.1.13** The Licensee must comply with any reasonable direction of Swinburne in relation to the use or occupation of the Premises and Shared Facilities.

## **3.2 Licensee Property**

The Licensee acknowledges that Swinburne assumes no responsibility for the theft, destruction or loss of money, valuables or other personal property brought onto the Premises, Shared Facilities or any other Swinburne premises by the Licensee or their guests regardless of cause.

## **3.3 Illegal Substances**

The Licensee shall not sell, possess or use any illegal substance on the Premises or any other premises of Swinburne.

## **3.4 Criminal Activity**

Swinburne will report all criminal activity to the Victorian Police. The Licensee acknowledges that any involvement in criminal activity may result in their exclusion from Swinburne and termination of this Agreement.

### 3.5 Privacy

The Licensee consents to Swinburne collecting, using and disclosing their:

- (a) Personal Information and Health Information in accordance with Swinburne's Privacy Statement available at <http://www.swinburne.edu.au/privacy/>; and
- (b) Personal Information to other accommodation or rental providers for the purpose of responding to their requests for references for the Licensee.

## 4 TERMINATION

### 4.1 Termination by Swinburne

**4.1.1** Swinburne may immediately terminate this Agreement by giving written notice if:

- (a) the Licensee has, without providing reasons, failed to take occupancy of the Premises within 3 business days from the Occupation Date;
- (b) after proceeding with the complaints, sanctions and/or appeals processes (as the case may be) set out in sections 14, 15 and 16 of the Swinburne Student Residences Code of Conduct, Swinburne decides to terminate this Agreement;
- (c) the Licensee has breached a term of this Agreement and the breach is incapable of remedy;
- (d) the Licensee has engaged in general misconduct as set out in the [Student General Misconduct Regulations 2012](#);
- (e) the Licensee has been suspended or excluded from

Swinburne;

- (f) in Swinburne's reasonable opinion, the Licensee's behaviour or actions may:

- (A) bring Swinburne's reputation into disrepute; or

- (B) be prejudicial to the health, safety or wellbeing of the Licensee or another person and Swinburne has, after using reasonable endeavours, not been able to address the issue by other means; or

- (g) the Premises have been destroyed or damaged so as to be unfit for habitation.

**4.1.2** Swinburne may terminate this Agreement by giving 21 days' written notice if the Licensee has:

- (a) failed to make payment of any part of the Residential Fee by the due date set out in the Schedule of Fees;
- (b) ceased or changed their enrolment as a full-time student on campus at Swinburne; or
- (c) failed to comply with any reasonable direction of Swinburne.

## **4.2 Termination by Licensee**

**4.2.1** The Licensee may terminate this Agreement:

- (a) by giving at least 5 business days' written notice before the Occupation Date;
- (b) after the Licensee has taken occupancy of the Premises:
  - (i) if the Licensee wishes to cease occupation of the Premises for health reasons, by giving at least 3 business days' written notice and a letter from a medical practitioner setting out those reasons;

(ii) if the Licensee wishes to cease occupation of the Premises for compassionate reasons, by giving at least 3 business days' written notice and documents supporting those reasons; or

(iii) for any other reason:

(A) by giving 8 weeks' written notice; or

(B) if the Licensee is unable to give 8 weeks' written notice, by giving written notice and making payment of an amount equivalent to the Residential Fee payable for 8 weeks.

#### **4.3 Consequences of Termination**

**4.3.1** On the End Date or on earlier termination of this Agreement, the Licensee must:

- (a) by 10am vacate the Premises, leaving the Premises in good order and repair having regard to the order and condition of the Premises at the Occupation Date as described in the condition report completed by the parties on or around the Occupation Date, fair wear and tear excepted; and
- (b) return to Swinburne any temporary access cards used to access the Premises.

**4.3.2** If the Licensee does not comply with clause 4.3.1, Swinburne may:

- (a) require the Licensee to reimburse Swinburne's costs of cleaning or repairing the Premises;
- (b) remove the Licensee's personal property from the Premises and store it for 14 days from the date that Swinburne notifies the Licensee of the property left in the Premises;
- (c) require the Licensee to pay a fee to cover Swinburne's reasonable expenses of removing and storing the Licensee's personal property; and



- (d) if the Licensee does not reclaim the Licensee's personal property within 14 days of receiving the notice in clause 4.3.2(b), sell or dispose of it.

**4.3.3** The Licensee acknowledges and agrees that Swinburne will not be responsible for any damage to, or loss of, the Licensee's personal property removed from the Premises under clause 4.3.2(b).

**4.3.4** If this Agreement is terminated under this clause 4, Swinburne may charge the Licensee a termination fee of \$500.

**4.3.5** If this Agreement is terminated under this clause 4, Swinburne will refund a pro rata amount of the Residential Fee for the period after the date of termination.

## **5 CHANGE OF PREMISES**

**5.1** Swinburne may at any time require the Licensee to move from the Premises to other accommodation if:

- (a) Swinburne is required or wishes to undertake construction, renovation, maintenance or repairs to the Premises, Shared Facilities or any utilities or services connected to the Premises or Shared Facilities, provided that Swinburne provides 5 business days' written notice;
- (b) there is an emergency; or
- (c) Swinburne has health, safety or other concerns related to the Licensee's use and occupation of the Premises or Shared Facilities that, in Swinburne's reasonable opinion, would require moving the Licensee to other accommodation.

**5.2** If Swinburne requires the Licensee to move to other accommodation under clause 5.1, Swinburne will use reasonable endeavours to provide or arrange alternative accommodation similar to the Premises.

**5.3** The Licensee may request that they be moved to other accommodation. If Swinburne agrees to the Licensee's request and other suitable accommodation is available and the Licensee wishes to move into that accommodation, the Licensee must pay the room change fee set out in the Schedule of Fees. The Residential Fee for such other accommodation may be different from the Residential Fee for the Premises.

**5.4** Swinburne is not liable for any costs of moving to other accommodation under this clause 5.

## **6 DISPUTE RESOLUTION**

**6.1** The parties must cooperate with each other and use reasonable endeavours to resolve, by mutual agreement, any disputes relating to this Agreement.

**6.2** Any dispute not resolved under clause 6.1 must be dealt with in accordance with the complaints and appeals processes set out in the Swinburne Student Residences Code of Conduct.

## **7 NOTICES**

### **7.1 Notices to the Licensee**

Notices to the Licensee must be in writing and delivered to the Licensee by hand, by leaving the notice at the Premises or by email to the Licensee's Swinburne student email address.

### **7.2 Notices to Swinburne**

Notices to Swinburne must be in writing and delivered to Swinburne:

- (a) by hand to the Manager, Swinburne Student Accommodation;
- (b) by leaving the notice at the office of the Manager, Swinburne Student Accommodation located at 24 Wakefield St, Hawthorn VIC 3122; or
- (c) by email to the Manager, Swinburne Student Accommodation at [residences@swin.edu.au](mailto:residences@swin.edu.au).

### 7.3 Notices are deemed delivered:

- (a) if delivered by hand or left at the party's address set out in this clause 7, when delivered or left at the address; or
- (b) if sent by email, at the time the email containing the notice left the sender's email system, unless the sender receives notification that the email containing the notice was not received by the recipient,

provided that if a notice is received on a day which is not a business day or after 5pm on a business day, it will be deemed delivered on the next business day.

## 8 GENERAL

- (a) **Governing law:** This Agreement is governed by the laws of Victoria, Australia and the parties submit to the exclusive jurisdiction of the courts of that place.
- (b) **Entire agreement:** This Agreement constitutes the entire agreement of the parties with respect to its subject matter and supersedes all prior oral or written representations and agreements.
- (c) **Amendment:** This Agreement may only be amended in writing signed by the parties.
- (d) **Waiver:** A party's failure to exercise, or delay in exercising, a right, power or remedy does not operate as a waiver of that right, power or remedy. To be effective, a waiver of a right, power or remedy must be in writing and signed by the party or an authorised representative of the party granting the waiver.
- (e) **Severance:** If any provision of this Agreement is invalid or unenforceable, such provision will be deleted but only to the extent necessary and the remaining provisions will remain in full force and effect.
- (f) **Counterparts and execution:**
  - (i) This Agreement may be executed in any number of counterparts, all of which taken together constitute one instrument.

- (ii) A party may sign this Agreement by electronic means where permitted by law. The other party consents to that party signing by electronic means.