

# 2019 STUDENT OCCUPANCY LICENCE AGREEMENT



## TERMS AND CONDITIONS

### 1. DOCUMENTS THAT COMPRISE THE AGREEMENT

A Student Occupancy Licence Agreement (Agreement) between you and the University is comprised of:

- a) these Terms and Conditions;
- b) the Information Table and Acceptance (Annexure 1); and
- c) the Schedule of Charges (Annexure 2).

### 2. ENTERING INTO THE AGREEMENT

You enter into this Agreement when you agree to the terms and conditions online via the UON Student Living Portal or, if you are executing this Agreement using a hard-copy document, when you sign the Acceptance in Annexure 1.

### 3. ELIGIBILITY

It is a condition to this Agreement commencing that:

- a) you have paid the University the:
  - i) Application Processing Fee;
  - ii) Room Deposit;
  - iii) Community Levy; and
  - iv) two weeks of Room Fees in advance;
- b) you have been admitted for full-time or part-time study at the University or the Hunter Institute of TAFE (Ourimbah); and
- c) you are either:
  - i) an Australian resident that has attained or will attain the age of eighteen years during the year in which accommodation will be provided; or
  - ii) an international student that is eighteen years of age at the time of entering this Agreement in accordance with Australian visa requirements.

### 4. TERM

Subject to clause 3, this Agreement commences on the Commencement Date and, unless otherwise terminated or extended in accordance with this Agreement, automatically terminates on the Expiry Date.

## 5. RE-ADMISSION

- a) If you intend to enter into a new Student Occupancy Licence Agreement with the University after the Expiry Date of your current Student Occupancy Licence Agreement, you must complete an on-line re-admission application via the UON Student Living Portal.
- b) The University may at any time decline to:
- i) consider your application;
  - ii) offer you accommodation; or
  - iii) permit you to make another application for accommodation, for any reason whatsoever, including if you:
    - iv) have a recorded Behavioural Breach;
    - v) are in breach of this Agreement;
    - vi) have any outstanding debts to the University;
    - vii) have a history of late fee payments;
    - viii) have been suspended or excluded from the University or the Student Living precinct by an authorised officer of the University;
    - ix) engage in behaviour that puts you or others at risk of harm; or
    - x) accrue Conduct Points during the period of your current Student Living Occupancy Agreement in accordance with the UON Student Living Standards
- c) Despite anything to the contrary in this Agreement, re-admission is at the absolute discretion of the University.

## 6. LICENCE TO OCCUPY

- a) The University grants to you a licence to occupy the accommodation specified in the Information Table for the Term.
- b) During the Term, the University permits you to:
- i) occupy the Room;
  - ii) use the Room Furnishings for their intended purpose;
  - iii) consume the Utilities connected to the Room and Building, in common with other Lodgers in the Building; and
  - iv) use the Common Areas, in common with other Lodgers in the Building, in accordance with the terms of this Agreement.
- c) You acknowledge that you occupy the Room on licence as a Lodger only and not as a tenant and do not acquire any estate, right or interest in the Room or the Building.

## 7. ROOM DEPOSIT

- a) The University will hold your Room Deposit for the duration of this Agreement.
- b) The University may either withhold or apply, or both, all or any part of your Room Deposit towards any monies you owe to the University under this Agreement, including:
- i) any unpaid part of the Room Fee or other unpaid charges, fees, costs or amounts;
  - ii) the final two weeks or more of Room Fees;
  - iii) replacement of any locks or non-returned security devices (including keys);
  - iv) the reasonable costs of carrying out any repairs to or cleaning of the Room or the Building;
  - v) any additional charges payable because you have left the accommodation early (except when clause 31 applies);
  - vi) any additional charges payable by you as a result of you breaching a term or condition of this Agreement (including a charge payable by you in accordance with Annexure 2); or
  - vii) any unpaid Termination Fee, for which you may be responsible under this Agreement.
- c) The University may also withhold or apply, or both, all or any part of your Room Deposit towards any monies you owe to the University for any unpaid student fees, including any expenses arising from your removal from accommodation by the University or relocation to alternative off-campus accommodation.

d) Subject to clauses 7 b) and 7 c), upon the termination or expiry of this Agreement your Room Deposit, or any remainder of your Room Deposit, will be refunded (as applicable):

- i) within 28 days of expiry or earlier termination to the Australian Credit Card you used to pay your Room Deposit; or
- ii) within 56 days of expiry or earlier termination to the international Credit Card you used to pay your Room Deposit; or
- iii) upon submission of a completed Refund Request Form, to your nominated Australian bank account within 28 days, or to your nominated international bank account within 56 days.

e) If a Credit Card was not used to pay your Room Deposit, the Room Deposit (or any remainder) will be held by the University until such time as you submit a Refund Request Form or make other refund arrangements with the University.

f) No interest is payable by the University on your Room Deposit.

## **8. ROOM FEE**

a) You agree to pay your Room Fee to the University by either:

- i) paying the total sum of the Room Fee for the Term in one payment by the Commencement Date; or
- ii) paying it fortnightly in advance for the duration of the Term in accordance with the University's fortnightly payment schedule.

b) Where a Room Fee payment contains a period which is less than one week, your Room Fee will be apportioned for that period on a daily rate.

## **9. OTHER FEES AND CHARGES**

You acknowledge and agree that if you breach any of the obligations in this Agreement, without limiting any other rights of the University, the University may issue charges in accordance with the University's Schedule of Charges attached as Annexure 2.

## **10. PAYMENT ARRANGEMENTS**

a) The University will:

- i) prior to the Commencement Date, provide you with access to the UON Student Living Portal;
- ii) process your payments made on the UON Student Living Portal through a secure payment server; and
- iii) advise you via the UON Student Living Portal once a payment has been processed.

b) If you elect to pay your Room Fee in advance for the full Term in accordance with clause 8 a) i), payment must be made via the UON Student Living Portal using a Credit Card or by contacting UON Student Living to enquire regarding alternative available payment options.

c) If you elect to pay your Room Fee in instalments in accordance with clause 8 a) ii):

- i) you must make the payment via the UON Student Living Portal using a Credit Card; or
- ii) you must complete and provide the University via the UON Student Living Portal a direct debit authority for an Australian financial institution in favour of the University prior to the Commencement Date, and you must immediately notify the University if your debit details or Credit Card details change.

d) Payment of the Room Deposit, Community Levy and two weeks of Room Fees in advance must be made by you via the UON Student Living Portal, using a Credit Card.

e) If the UON Student Living Portal facilitates payment, all other fees and charges incurred by you pursuant to this Agreement must be made to the University via the UON Student Living Portal using a Credit Card.

f) You acknowledge that your Credit Card details are processed by the University's bank and are not retained by the University.

g) All payments to be made by you under this Agreement must be made without set off or counterclaim.

h) Unless this Agreement sets out a timeframe for payment, a payment must be made on demand by the University.

## 11. GOODS AND SERVICES TAX (GST)

a) In this clause:

- i) GST means 'GST' as defined in A New Tax System (Goods and Services Tax) Act 1999;
- ii) Input Tax Credit means input tax credit as defined in section 195-1 of A New Tax System (Goods and Services Tax) Act 1999; and
- iii) Payment means the amount of any consideration payable by you for any supply made under or in connection with this Agreement.

b) In addition to any Payment due under this Agreement, you agree (except where the Payment is expressed to include GST) to pay the University an amount or amounts equal to any GST which the University is or becomes liable to pay for any supply made under or in connection with this Agreement.

c) Despite any other provision of this Agreement, if a Payment due under this Agreement is a reimbursement or indemnification by one party of an expense, loss or liability incurred or to be incurred by the other party, the payment will exclude any amount for which the other party is entitled to claim an Input Tax Credit.

## 12. OVERDUE ACCOUNTS

If you do not pay any of the amounts due in accordance with this Agreement, the University may elect to follow the process below:

STEP	ISSUE	ACTION	CONSEQUENCE
1	You do not pay to the University any of the amounts under this Agreement when they become due and payable.	The University will send you an email requesting payment of the outstanding amounts.	The University will apply to your account the Administration Default Fee. A Negative Service Indicator will be applied to your University of Newcastle student account.
2	You do not pay all outstanding amounts within 14 days of the email being sent to you in Step 1.	The University will send you a letter via email requiring payment of all outstanding amounts and stating that interest may accrue at the rate of 6% above the cash rate last published by the Reserve Bank of Australia.	The University will apply to your account a further Administration Default Fee and a Negative Service Indicator will remain on your University of Newcastle student account.
3	You do not pay all outstanding amounts within 14 days of the letter being sent to you in Step 2.	The University may terminate the Agreement by sending a notice to you via email.	You must vacate the Room and the Building as per the notice. The University will refer any outstanding amounts to the University's financial services division for possible further action. The University may commence debt recovery action against you for any outstanding amounts. A Negative Service Indicator will remain on your University of Newcastle student account. Your academic results may be withheld.

## 13. STUDENT PERFORMANCE

a) During the Term, you agree that you will:

- i) maintain a pass rate of 50% or more for units attempted each semester to remain eligible for the accommodation under this Agreement; and
- ii) comply with the University's rules regarding student conduct (published on the University's website) including the Student Conduct Rule, as amended from time to time.

b) If there is any change in:

- i) your academic status at the University or you do not meet the academic standard set out in clause 13(a)(i); or
  - ii) any of your other circumstances which would affect your ability or eligibility to occupy the Room,
- you must notify the University and/or Manager (if appointed) within 3 Business Days of such change.

## 14. YOUR OBLIGATIONS

a) You agree that you will comply with:

- i) the terms of this Agreement;
- ii) the UON Student Living Standards and any other rules, regulations or policies as implemented or amended by the University from time to time;
- iii) all laws and authorities in connection with your use and occupation of the Room, Building and/or Common Areas; and
- iv) any direction given by the Manager or other representative of the University, including by the Deputy Vice Chancellor (Academic).

b) You agree that you will complete any training, courses or induction modules regarding student accommodation as required by the University.

## 15. PROHIBITIONS

You agree that you will not:

- a) damage or destroy anything in the Room, Building and/or Common Areas;
- b) do anything dangerous, noxious, offensive or illegal in the Room, Building and/or Common Areas;
- c) without the University's approval, keep or use dangerous materials on the Premises;
- d) create any nuisance which, in the University's opinion, may adversely affect the other occupants of the Building;
- e) use the University's Trademarks (and the logos of each of the residences), except with the prior written consent of the University;
- f) negotiate or enter into any agreements on behalf of the University;
- g) represent, or purport to represent, the University in any media, except with the prior written consent of the University;
- h) park or leave an unregistered vehicle on campus;
- i) leave a vehicle in any part of the Common Areas or in a non-designated area, including any pick up or delivery area;
- j) manufacture, sell, store or use illegal substances;
- k) bring any Unauthorised Furniture into the Room, Building or Common Areas; or
- l) assign your rights under this Agreement, or part with or share your right to occupation of the Room.

## 16. THE UNIVERSITY'S OBLIGATIONS

The University agrees to:

- a) ensure the Room is vacant and in a reasonable state of cleanliness and repair as at the Commencement Date;
- b) ensure that the Building is reasonably secure;
- c) not cause or permit any unreasonable interference with your peace, comfort or privacy, subject to the rights of the University in this Agreement;
- d) in relation to Utilities and other services:
  - i) pay for the cost of providing the Utilities connected to the Room or the Building;
  - ii) pay for the costs of connection and operation of the University's wired (ethernet port/s) internet connection in the Room and wi-fi in the Common Areas, where such services are provided by the University; andPlease note: The wired and wireless networks available throughout the University's Student Accommodation precincts are part of the wider University corporate network. As such, access to this network is subject to the University's Information [Technology Conditions of Use policy](#).
  - iii) ensure that all University electrical equipment provided in the Room and Building have been tested for safety.

## 17. THE UNIVERSITY'S RIGHTS

a) The University and its authorised representatives may:

- i) appoint a Manager to manage the accommodation and authorise it to do all things necessary to give effect to the University's obligations and rights under this Agreement;
- ii) re-assign you from the Room to an alternative room which may be in the Building or another building, at the University's discretion, and your Room Fee will not be reimbursed or reduced in the event of any re-assignment;
- iii) without prior notice to you, enter the Common Areas or any other parts of the Building (other than the Room) for any purpose including emergency situations, cleaning, attendance to general repairs and maintenance, general inspections and inspections with prospective Lodgers;
- iv) enter and inspect the Room at any time when it is deemed necessary to:
  - (A) protect and maintain University property;
  - (B) ensure the safety and wellbeing of residents; and/or
  - (C) facilitate the maintenance of good order and discipline;
- v) enter the Room or any Common Areas and remove or confiscate any personal item which is deemed to be possibly hazardous or illegal, and any such items removed may be held by the University, the Manager (or other authorised representative of the University) or given to the police or other authorised government agency to aid in any investigation;
- vi) immediately and without notice remove from the Room or the Building and dispose of any:
  - (A) unsafe electrical equipment;
  - (B) electrical equipment that does not conform to Australian standards;
  - (C) double adapters;
  - (D) Unauthorised Furniture; or
  - (E) items that may pose a health and safety risk.
- vii) undertake maintenance, renovations and construction projects in and around the Room, Building and other areas of the grounds of the University.

b) You agree that any cost or expense incurred by the University arising from the removal and disposal of anything from your Room in accordance with clause 17 a) vi) may be passed onto you.

c) You agree that the University is not liable for any damage, theft or loss of any Unauthorised Furniture or other items removed from your Room in accordance with clause 17 a) vi).

d) You consent to the University operating and monitoring a CCTV system in and around University grounds and buildings in accordance with the University's policies and procedures.

## 18. NOTICE OF ENTRY

a) Reasonable notice will be provided to you where possible prior to any staff member conducting routine checks in the Room.

b) No notice is required to be provided to you in the case of an emergency, welfare or safety concern or where entry to your Room is required to respond to a maintenance request.

c) Without limiting the manner in which the University or its authorised representatives may give notices to you under this Agreement, the University may give notice to you by attaching written notice of its proposed entry into the Room on a Common Areas notice board or by sending an email to your NUmil Email Address.

## 19. SECURITY

a) You occupy the Room at your own risk and must ensure the security of your own property.

b) The University will provide and maintain locks or other security devices necessary to keep the Building reasonably secure.

c) You agree to comply with the UON Student Living Standards regarding safety and security.

d) You agree to not admit anyone to the Building unless that person is your personal guest.

e) In all matters concerning the security of the Room, the Building or occupants of the Building, you agree to comply with all reasonable directions of the University, including Security and police or emergency services personnel.

## 20. CLEANING

a) You agree to take reasonable care of the Room and Building and keep them in a clean and tidy state, and in particular, you agree to:

- i) maintain an acceptable standard of hygiene and general cleanliness in the Room, Common Areas and in the Building, particularly with respect to the kitchen and bathrooms;
- ii) not put anything down any sink, toilet or drain likely to cause obstruction or damage;
- iii) remove rubbish daily from the Building into appropriate rubbish receptacles; and
- iv) keep the grounds and gardens of the Building tidy and free from rubbish.

b) Without limiting any other right of the University, if the University is of the opinion that you have breached your obligations in clause 20 a), the University may charge you in accordance with the Schedule of Charges and/or require you to pay the costs of the cleaning, repair or replacement, as the case may be.

c) You agree to immediately report the presence or suspected presence of pests in the Room or the Building. Should pests be located in the Room or the Building, you must comply with the treatment methods and protocols prescribed by the University. Failure to do this may result in you being liable to cover the cost of further treatments, which may include relocation, cleaning and/or removal and disposal of furnishings or personal possessions. In such an event you will not be reimbursed by the University for any disruption, relocation, loss or loss of use of any personal possessions or furnishings.

d) The University, the Manager (if applicable) or the University's authorised representative may undertake cleaning inspections of the Rooms and Building and charges may be imposed if the Room and/or Building does not meet the required standard of cleanliness.

e) You agree that where, in the University's opinion, there is a need for the University to engage a cleaner to clean the Building or Room, then the University may do so and pass on the costs of the cleaner to you.

f) You agree that the cleaner has authorised access to the Building to carry out scheduled cleaning routines.

g) You agree that the cleaner's responsibility is limited to certain specified tasks only and within the Common Areas only and that:

- i) it is not the cleaner's responsibility to clean internally the refrigerator; and
- ii) it is not the cleaner's responsibility to clean the Room.

## 21. MEALS

a) If the University has agreed to supply meals to you, it will supply the meals in accordance with the Catering Options in Item 15 of the Information Table and you will pay any meal fees set out in Item 15.

b) A meal plan can be arranged for students residing in self-catered accommodation upon completion of the necessary application to UON Student Living.

c) If you are a resident in a catered Building, and are required to undertake a Placement as part of your studies, you may apply for a meal rebate for the period of time that you are on Placement during the Term. Your meal rebate application must be accompanied with supporting documentation and is subject to approval by UON Student Living.

## 22. CONDITION ON ARRIVAL AND DEPARTURE

a) You must complete and lodge with the University a Room Inventory Form at the time of check-in, directly to the University's accommodation reception office.

b) Unless the inventory lodged with the University in accordance with clause 22(a) states that any item of Room Furnishings is missing or that there is existing damage to any part of the Room, Room Furnishings, Common Areas or furnishings in the Building, you will be taken to have agreed with the University that:

- i) all of the Room Furnishings are in the Room; and
- ii) the Room, Room Furnishings, Common Areas, Building and furnishings, fittings, equipment and other articles in the Building, are clean and in good condition.

c) At the end of the Term you agree that you will ensure the Room, Room Furnishings, Common Areas and furnishings in the Building are in the same condition they were in as set out in the Room Inventory Form, subject to fair wear and tear.

## **23. DAMAGE TO THE ROOM AND ROOM FURNISHINGS**

a) You understand that damage to your Room or Room Furnishings may be subject to disciplinary action under the Student Conduct Rule.

b) You agree to pay to the University the reasonable costs determined by the University:

- i) of repairing all damage or loss, in respect of the Room, the Room Furnishings, its fittings, equipment and other articles provided to you by the University, however that damage or loss is caused;
- ii) of replacing any Room Furnishings, the Room's fittings, equipment or other articles which in the University's opinion require replacement as a result of any such damage or loss; and
- iii) of any administrative costs incurred in relation to clauses 23 b) i) and 23 b) ii).

## **24. DAMAGE TO COMMON AREAS**

a) You understand that damage to Common Areas may be subject to disciplinary action under the Student Conduct Rule.

b) Where damage or loss occurs, in respect of:

- i) the Common Areas, or any other part of the Building; or
- ii) any furnishings, fittings, equipment or other articles provided by the University in the Common Areas or any other part of the Building; or
- iii) the property of any other person,

as a result of anything which you do or fail or omit to do, you agree to pay the University the reasonable cost (including any administrative costs) determined by the University of repairing the damage or loss or replacing the damaged or lost item.

c) You accept equal responsibility with other Lodger(s) of the Building or shared unit (as applicable) and agree to pay the University equally with those other Lodger(s):

- i) the cost determined by the University of repairing the damage or loss to the Common Areas, furnishings, fittings, equipment and other articles provided by the University however that damage or loss is caused; or
- ii) the cost of replacing any such furnishings, fittings, equipment or other articles which in the University's opinion require replacement as a result of any such damage or loss,

where the University is not entitled to recover those costs from any other person or the person responsible cannot be identified using reasonable efforts.

## **25. RESPONSIBILITY FOR DAMAGE BY GUEST AND OTHER CAUSES**

a) You understand that damage by guests or invitees, or damage arising from other causes, may be subject to disciplinary action under the Student Conduct Rule.

b) Damage and loss for which you are responsible under this Agreement includes damage or loss arising from:

- i) an unintentional, accidental or negligent act or failure to act;
- ii) any act or failure to act by your guest or invitee;
- iii) theft; or
- iv) misuse of any item of furnishings, fittings, equipment or other articles including wrongful discharge of fire-fighting appliances, extinguishers, sprinkles or alarms,

except to the extent arising from the University's negligence.

## **26. REPORTING DAMAGE**

You agree to promptly report any damage and loss of which you are aware to the University via:

- a) the UON Student Living Portal;
- b) University staff; or
- c) if urgent and outside of normal office hours, to Security/After Hours Duty Officers.



## **27. CHARGES FOR MISUSE, DAMAGE, LOSS OR OTHER**

a) If you:

- i) need to be let into your Room on more than one occasion;
- ii) are found to have tampered with fire safety equipment;
- iii) are found to be in possession of unauthorised and/or unsafe electrical equipment in your Room;
- iv) are found to have jarred or propped your unit Main Door open and left the unit unattended, or you fail to close a unit Main Door that was left open by another student;
- v) are found to have left a physical obstruction in a doorway, hallway or in front of a fire exit; or
- vi) are found to have triggered a fire alarm without due cause,

you will be issued a notice via email for the payment of the relevant charge amount set out in the Schedule of Charges (Annexure 2).

b) Any amount charged to you under this clause, or any other charge set out in the Schedule of Charges, must be paid using the - UON Student Living Portal within 14 days of receipt.

c) Any outstanding charge not paid within 14 days of receipt will be deducted from the Room Deposit:

- i) at the end of the year;
  - ii) when this Agreement expires; or
  - iii) when this Agreement is terminated,
- whichever comes first.

d) You may appeal the imposition of a charge or fee under this Agreement (other than amounts imposed in relation to matters investigated under the Student Conduct Rule) in accordance with the UON Student Living Appeal Procedure located on the University's website.

## **28. REPAIRS AND ALTERATIONS**

The University or its contractors will undertake all repairs and alterations.

## **29. CONSTRUCTION AND MAINTENANCE**

a) You acknowledge there are or may be new and ongoing refurbishment maintenance, renovation and construction projects taking place in and around the Room, Building and other areas of the grounds of the University. Such works will typically take place during regular business hours, but may begin earlier or extend into evenings or weekends.

b) The University will take measures to ensure that prudent construction practices are followed, but there may be noise, dust, and temporary disruption to some services.

c) The University is not in breach of this Agreement, as a result of such works, and there will be no compensation or reduction to your fees payable under this Agreement or any right to terminate this Agreement due to disruption and/or relocation as a result of such works.

d) If the University is unable to fulfil an obligation under this Agreement as a result of an event or circumstance which is outside its control, or is necessarily due to building construction, maintenance, renovation, or refurbishment works that must be undertaken by the University or Manager, it will not be:

- i) in breach of a condition of this Agreement; or
  - ii) liable for costs, damages, expenses and/or losses incurred,
- as a result of its failure to fulfil that obligation.

e) In the event that building construction, maintenance, renovation, or refurbishment works affect the student's living circumstances, the University or Manager may elect to relocate you to alternative accommodation within the University's facilities.

## **30. BREACHES OF THIS AGREEMENT**

a) Without limiting its other rights under this Agreement, the University is entitled to withhold from you any or all academic results and is entitled to prohibit graduation, further enrolment and the issue of transcripts until you remedy any breach of your obligations under this Agreement.

b) You must pay any legal costs and other expenses which the University incurs in connection with any breach by you of your obligations under this Agreement, such amounts to be paid when requested by the University to do so.

### **31. TERMINATION FOR CONVENIENCE**

- a) Either you or the University may terminate this Agreement at any time prior to 14 days before the Commencement Date for any reason.
- b) If this Agreement is terminated in accordance with clause 31 a), the University will:
- i) not charge you a Termination Fee; and
  - ii) refund to you any Room Fees, Room Deposit and/or Community Levy you have paid in advance, but will not refund your Application Fee.

### **32. EARLY TERMINATION BY YOU**

- a) If you wish to terminate this Agreement before the Expiry Date, you may do so by providing 14 days' written notice to the University in a form reasonably required by the University.
- b) If you provide the written notice required in clause 32 a) then this Agreement will terminate 14 days from when you provide the notice to the University (Early Termination Date).
- c) The University is not required to refund the Application Processing Fee, Community Levy or two weeks Room Fees in advance if you terminate this Agreement.
- d) On or before the Early Termination Date, you must pay the Termination Fee at Item 9 of the Information Table as determined by the University. The Termination Fee represents the loss suffered by the University. The University will take steps to mitigate its loss by taking reasonable measures to find a replacement student to occupy the Room. The University may also charge you the costs of cleaning the Room in accordance with the Schedule of Charges.
- e) Subject to clauses 7 b) and 7 c), the University will refund the Room Deposit on the Early Termination Date.
- f) If you share the Room, when providing written notice pursuant to clause 32 a), you must also provide written evidence that you provided reasonable notice to your roommate of your intention to terminate your licence.
- g) If you temporarily return your Room keys to the University, you must give written notice to the University in a form reasonably required by the University that your absence is temporary and you intend to return to your Room shortly under this Agreement.

### **33. EARLY TERMINATION BY ROOMMATE**

You acknowledge that if the Room is a shared room, and your roommate terminates their licence, you will be required to pay the Single Occupancy Fee from the date of their departure. The University may, in its discretion, require you to increase the amount of your Room Deposit to reflect the increased fee.

### **34. TERMINATION BY UNIVERSITY**

- a) If:
- i) you breach any of your obligations under this Agreement and the breach is, in the University's reasonable opinion, a material breach or not capable of remedy;
  - ii) you breach any of your obligations under the University's rules, policies or procedures and the breach is, in the University's reasonable opinion, a material breach or not capable of remedy;
  - iii) you breach any of your obligations under the University's rules, policies or procedures and the breach is, in the University's reasonable opinion, a material breach or not capable of remedy;
  - iv) you fail to enrol as a Student of the University within 28 days of taking occupancy;
  - v) you fail to comply with any directions given by the Deputy Vice Chancellor (Academic); or
  - vi) you cease to be a Student whether by means of any alteration of enrolment status or otherwise,
- then the University or its authorised representative may terminate this Agreement immediately by notice in writing to you..
- b) If you breach any of your obligations under this Agreement (with the exception of overdue payments, which are addressed in clause 12) and the breach is capable of remedy, the University, the Manager or its authorised representative may terminate this Agreement immediately by notice in writing to you if you have failed to remedy the breach within 7 days of receipt of written notice from the University stipulating the breach and requiring it to be remedied.
- c) If this Agreement is terminated in accordance with this clause 34, you must pay the Termination Fee as determined by the University.

d) The University's right to terminate this Agreement for breach by you is in addition to any other rights the University may have arising from such breach.

### **35. END OF TERM**

a) On the Expiry Date or earlier termination of this Agreement, you agree to:

- i) Vacate the Room; and
- ii) leave the Room clean and in a state fit for immediate use and occupancy.

b) If you Vacate on any day other than a Business Day, you must for the purposes of calculation of the Room Fee and subject to the University having taken possession of the Room and facility key(s), be deemed to have Vacated on the following Business Day.

c) You are responsible for all Room and facility key(s) and other items on loan to you until they have been delivered to the possession of the University.

d) By 10:00am on the Expiry Date or earlier termination of this Agreement, you must return the Room and facility key(s) to the University.

e) You agree that the Room Fee and any other payments due under this Agreement will continue to be payable at a pro-rata rate until the Room and facility key(s) are delivered by you to the possession of the University in accordance with this Agreement.

f) You agree that if you do not comply with the provisions of this clause 35 then in addition to any other costs, you must pay for the University's costs arising from a failure to Vacate including the cost of providing a hotel and meals for any incoming resident scheduled to take possession of the Room after the Expiry Date.

g) The University may remove you and other persons and property and use such force and assistance as deemed reasonable and necessary.

h) If you and/or your possessions remain in the Room, Building and/or Common Areas after the Expiry Date or earlier termination, and this Agreement is not extended, no new right of occupation is created and the University has the right to re-enter and take possession of the Room

### **36. INSPECTION ON TERMINATION**

a) On the Expiry Date or earlier termination of this Agreement, a representative of the University will carry out an inspection of the Room and Building against the Room Inventory Form completed by you at the Commencement Date.

b) Any loss or damage or variance from the Room Inventory Form will be noted by the University and the cost of rectifying any such loss or damage must be paid by you (subject to reasonable wear and tear).

c) Any amount due to the University pursuant to this clause 36 may be deducted from your Room Deposit in accordance with clause 7(b), or may be directly charged to you.

### **37. ABANDONED PROPERTY**

a) Any of your possessions remaining in the Room, Building and/or Common Areas:

- i) after the Expiry Date or earlier termination; or
- ii) at any other time if the University has not received a response within 7 days of issuing a notice to you in relation to those possessions,

then those possessions will be treated as abandoned and the University may remove and dispose of those possessions without compensation to you.

b) The University is under no obligation to store your possessions or to sell them or otherwise recover their value.

### **38. SUMMER VACATION PERIOD AND EARLY ACCESS**

a) The University may offer you the opportunity to extend the Term into the Summer Vacation Period upon application by you.

b) If you accept an offer from the University to extend the Term into the Summer Vacation Period, this Agreement will continue until the end of the Summer Vacation Period or such earlier date as agreed with the University.

c) The University is under no obligation to extend the Term or grant a further Agreement at the end of the Summer Vacation Period.

d) You agree that the University may require you to move to another room in the Building or another building which will become the Room for the purposes of this Agreement, and the Room Fee may vary depending on the pricing allotted to the Room you occupy. The Room Fee and room inclusions may vary depending on the pricing allotted to the Room you occupy.

e) You agree that if the Agreement is extended, you will pay the Room Fee during the extended period in the same manner as set out in this Agreement.

### **39. PERSONAL INFORMATION**

By entering into this Agreement you consent to the University:

a) collecting your Personal Information, within the meaning of that expression in the Privacy and Personal Information Protection Act 1998 and the Health Records and Information Privacy Act 2002, in the administration of this Agreement;

b) sharing your Personal Information with staff or contractors (including security personnel) of the University for any purposes under this Agreement;

c) using and publishing your name, photograph and/or video footage taken of you, both in hard copy and electronically, in University promotional materials regarding student accommodation; and

d) the Manager or authorised representative contacting your emergency contact person(s) set out in Item 2 of the Information Table, at the University's discretion, in the event of any emergency or concern for your welfare.

### **40. NOTICES**

a) Without limiting the manner in which the University may give a notice to or otherwise communicate with you, any notice which the University wishes to give to you under this Agreement:

i) will be taken to be properly given if it is served personally on you or left for you at the Room addressed to you;

ii) may be given by the University's authorised representative, including but not limited to the Manager;

iii) may be posted on the notice board in the Common Areas; and

iv) may be sent to your NUmail Email Address or alternate email address provided by you on the UON Student Living Portal.

b) Where a notice is to be given by you to the University, unless otherwise expressly specified, it is to be provided to the address set out in Information Table or such other address notified to you by the University from time to time.

c) The University may issue all correspondence to you regarding the Room Fee, Community Levy, and all other fees and charges (including amounts under clause 12) to:

i) the email address registered by you at the time of application; and/or

ii) any other email address notified by you via the UON Student Living Portal; and/or

iii) your NUmail Email Address.

### **41. LEGISLATION**

a) The Room licensed to you in this Agreement is part of the University, an educational institution, and this Agreement is exempt from the provisions of the Residential Tenancies Act 1987 (NSW) and you expressly waive the benefit of the provisions of that Act.

b) Despite the provisions of Part 4 of the Civil Liability Act 2002 (NSW), you acknowledge that you are solely responsible for and indemnify the University in respect of any loss, damage, cost, claim, expense or proceeding suffered or incurred by the University arising out of or in connection with any breach of this Agreement or negligent act or omission on the part of you or your invitees.

### **42. NO WAIVER**

If the University:

a) accepts the Room Fee or any other money on any account (before or after termination); or

b) fails to exercise or delays exercising any right under this Agreement;

c) gives any concession or indulgence to you; or

d) attempts to mitigate its loss,

it is not a waiver of any breach or of the University's rights under this Agreement.

### 43. JURISDICTION

This Agreement is governed by the laws of New South Wales and each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of New South Wales and all courts of appeal from those courts.

### 44. VARIATION TO AGREEMENT

Any variation to this Agreement must be in writing signed by, or on behalf of, both you and the University. For the avoidance of doubt, a variation can be signed electronically in accordance with the Electronic Transactions Act 1999 (Cth).

### 45. PRECAUTIONARY ACTION

a) You agree that if it is alleged that you have committed a criminal offence or serious breach of this Agreement or University rule/policy, then the University may take precautionary action pending the outcome of criminal or disciplinary proceedings, including:

- i) moving you to an alternative Room or Building;
- ii) excluding you from certain Buildings and/or activities; or
- iii) suspending you from University accommodation.

b) No demands or claims can be made against the University (including claims for refunds of Room Fees or other amounts) in relation to any action taken by the University under clause 45 a).

c) Any precautionary action taken under this clause 45 does not preclude the University from taking any action under the Student Conduct Rule or imposing a charge under the Schedule of Charges (Annexure 2).

### 46. DEFINED TERMS

In this document:

**Academic Performance** means a pass rate of 50% or more for units attempted over two consecutive semesters.

**Administration Default Fee** means the amount payable referred to in the Schedule of Charges, which is due and payable in accordance with clause 12.

**Application Processing Fee** means the administration fee payable by you to the University for processing your application, as set out in Item 11 in the Information Table.

**Behavioural Breach** means any behaviour related breach of this Agreement or the UON Student Living Standards or the Student Conduct Rule during the Term.

**Building** means the property described in Item 3 of the Information Table, which forms part of an education institution and, where applicable, its external gardens and grounds.

**Business Day** means a day on which banks are open for business excluding Saturday, Sundays and public holidays in Sydney, New South Wales.

**CCTV** means closed circuit television.

**Commencement Date** means 9:00am on the date specified in Item 5 of the Information Table.

**Common Area** means any space you may have access to, including the Building, wing or block, kitchen, bathroom, lounge room, laundry facilities, entrance hall, passages, balconies, stairs and lifts (if any) in the Building and the car park (if any) and any other areas of the Building designated from time to time by the University for common use by Lodgers in the Building.

**Community Levy** means the amount set out in Item 10 of the Information Table, being for the provision of social, academic and pastoral support for the student residential community.

**Credit Card** means a credit card or a direct debit VISA or Mastercard.

**Expiry Date** means 10:00am on the date specified in Item 6 of the Information Table.

**Lodger** means the person described in Item 1 of the attached Information Table and where the context permits, includes your person's invitees.

**Main Door** means any door allowing access to your unit from outside, including front door, fire door and balcony door.

**Manager** means a manager appointed by the University to manage the accommodation services, as notified by the University from time to time.

**Negative Service Indicator** means a note or mark that will appear on your student record where you have an outstanding debt to the University, and it operates to limit your access to certain University services (e.g.. enrolments, graduations, printing an academic transcript) until you have paid the debt.

**NUmail Email Address** means your University email address given to you by the University.

**Personal Information** means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

**Placement** means a clinical placement, practicum, internship and any other like form of professional, industrial or vocational experience included in a course or required for a program.

**Refund Request Form** means the form required to be completed to process all non-Credit Card refunds, and can be requested from UON Student Living.

**Room** means the bedroom described in Item 4 of the Information Table located in the Building and, where applicable, includes the Room Furnishings.

**Room Deposit** means the amount referred to in Item 8 of the Information Table.

**Room Fee** means the amount referred to in Item 7 of the Information Table.

**Room Furnishings** means the furnishings and items provided by the University for the Room from time to time.

**Room Inventory Form** means the form completed by you when you take occupation of the Room showing the condition of the Room and Room Furnishings as at the Commencement Date.

**Schedule of Charges** means the schedule of charges set out in Annexure 2 and attached to this Agreement.

**Security** means the security firm engaged by the University from time to time.

**Semester One** means the period noted as Semester One in Item 13 of the Information Table.

**Semester Two** means the period noted as Semester Two in Item 13 of the Information Table.

**Single Occupancy Fee** means the fee payable for a shared room if there is only one occupant.

**Student** means a part-time or full-time student enrolled at the University.

**Student Conduct Rule** means the University's rule relating to student conduct titled Student Conduct Rule and available on the University's website.

**Summer Vacation Period** means the period set out in Item 14 of the Information Table.

**Term** means the period from the Commencement Date to the Expiry Date, unless terminated earlier in accordance with this Agreement.

**Termination Fee** means the termination fee calculated in Item 9 of the Information Table.

**Trademark** means the registered or established common law proprietary rights to the University name, logo, symbols, emblem, sign, mark, and crest, or other marks that contribute to the University's Intellectual Property.

**Unauthorised Furniture** means any furniture not provided by the University, including chairs, mattresses, lamps, beanbags, couches, and desks that you bring on campus and into your accommodation or your common area.

**UON Student Living** means the University personnel dedicated to the operation and management of University student accommodation on campus.

**UON Student Living Portal** means the University's on-line payment facility at <http://accommodation.newcastle.edu.au>.

**UON Student Living Standards** means the University's standards for the student living precinct created by the University and available on the University's website, as varied or added to by the University in accordance with this Agreement.

**Utilities** means gas (where supplied), water and electricity.

**Vacate** means to remove all of your possessions from the Room, Building and Common Areas.

## 47. INTERPRETATION

Unless the contrary intention appears:

- a) the singular includes the plural and vice versa;
- b) all dollar amounts are listed as, and payable in, Australian dollars;

c) an agreement, representation or warranty:

i) in favour of two or more persons, is for the benefit of them jointly and severally; and

ii) on the part of two or more persons, binds them jointly and severally;

a reference to:

d) **this Agreement** in this document or any annexure or schedule to this document is a reference to the Agreement constituted by this document and each of those annexures and schedules; and

e) **a person** includes the person's executors, administrators, successors and substitutes (including persons taking by novation); and

f) **a document** includes any variation or replacement of it; and

g) **a law** includes regulations and other instruments under it and amendments or replacements of any of them; and

h) **a thing** includes the whole and each part of it collectively and each of them individually; and

i) **a group of persons** includes all of them collectively, any two or more of them collectively and each of them individually; and

j) **including** (in any form) or **such as** when introducing a list of items does not limit the meaning of the words to which the list relates to those items or to items of a similar kind.