



Properties Corporation of  
the Churches of Christ

## User Guide for Church Agreements

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## USER GUIDE

### Introduction

This User Guide is designed to assist you in understanding and completing the Properties Corporation of the Churches of Christ standard template Licence Agreements.

The sections of the agreements that you will need to complete are the Signing Clause and Schedule 1. A plan may be required to be inserted in Schedule 2 and if there are any further schedules they should be included in Schedule 3 and beyond.

This User Guide **does not** form part of the Licence Agreement, but you will probably find it useful as a reference as you complete the agreement.

### Properties Corporation obligations

The Properties Corporation of the Churches of Christ is the trustee of most Church of Christ properties in Victoria and Tasmania. The Properties Corporation is obliged to ensure that its properties are used in a way that is for the benefit of the Church Conference as a whole and achieving the aims of the Church. It is also under an obligation to ensure that risks associated with property ownership are properly managed. For this reason, The Properties Corporation allows Churches to licence the use of their buildings to other users, but requires the parties enter into an agreement in order to ensure that the buildings are used for a proper and legal purpose and are kept in good condition.

### Type of Agreement

The agreement between the Church and a user of Church property may take the form of a Hire Agreement, Licence Agreement or a Lease.

The first decision to be made is what type of agreement is appropriate.

#### Lease

A lease is an agreement in writing that grants the tenant the right to exclusive possession of a certain area for a period of time, subject to certain terms and conditions. "Exclusive possession" includes the ability to exclude the owner of the premises.

A lease is different to a licence and a hire agreement in the following ways:

- A lease provides exclusive possession

There can only be one tenant of a certain area of land for a certain period. Where a Church wishes to allow multiple parties to use a building during a period, a lease would not be the appropriate document. A lease gives the tenant the sole right to use and occupy the leased property during the term of the lease, provided the tenant abides by the terms and conditions of the lease. A licence is often preferable when only part of a property is intended to be used.



- The owner retains only a limited right of entry in a lease

Under a lease, the owner still retains a limited right of entry to the property, but this is restricted (for example, entry is permitted for the purpose of carrying out works or inspection of the premises). Under a licence, the owner retains a right of entry to the property at any time, even without the licensee's permission.

- Regaining possession is not automatic

When a lease ends, a landlord must actually give notice and require the tenant to vacate the premises and hand back possession. If notice is not given, the lease will usually continue on a 'casual' basis. In the case of a licence, the licensee has no right to remain on the property after the end of the agreement. A licensee does not have exclusive possession, so there is no obligation on the owner to take formal legal steps to regain possession.

**IMPORTANT** - It is the policy of the Properties Corporation that any lease of Church property be contained in a written lease, signed and approved by persons authorised to sign on behalf of the Properties Corporation.

### Licence

A licence provides permission to enter and use property for a specific purpose. A licence will be given when exclusive possession is not required and others may be using the buildings from time to time. Examples of times when it might be appropriate to grant a licence over land would be:

- to allow a person to cross across land for a specific purpose (eg, a right of way);
- to allow a person to place something on land for a specific time and/or for a specific purpose (eg, to park a vehicle or to have a stall or kiosk in a market or other area);
- to allow a person to use and occupy a facility at specific times on a regular basis (eg, to hire a hall or to run a program in a Church-owned facility), when others may have access to that same area at other times.

### Hire Agreement

A hire agreement will usually be given where the hirer wishes to use the building on a one-off occasion for a short period of time.

### **The licensee's obligations under the licence**

The licensee's obligations are set out in the Agreement. These include an obligation to pay the licence fee, to repair and maintain the premises (except for structural repairs), to keep the premises clean and to take out various insurance policies.

If the licence fee is not paid under the licence for a period of more than 14 days, the licensor can terminate the Agreement. If the licensee does not fulfil other obligations under the Agreement, the licensor may give notice requiring the licensee to "remedy the breach". This might mean, for example, repairing damage caused to the premises. If

the licensee does not remedy the breach within 14 days, the licensor may terminate the Agreement.

### **Hire Agreement, Licence or Lease?**

**Answering the following questions will help you decide the type of Agreement you should adopt.**

1. How many groups will be using the premises?

☐ More than one group → (Go to question 5)

☐ One group (Go to question 2)

2. Does you require the right of entry to the premises at any time (without the user's permission)?

☐ Yes → (Go to question 5)

☐ No (Go to question 3)

3. Do you want to have the option to allow others to use the premises as long as it does not interfere with the other users' agreement?

☐ Yes → (Go to question 5)

☐ No (Go to question 4)

4. Do you want possession of the premises immediately at the expiration of the agreement?

☐ Yes → (Go to question 5)

☐ No (Contact the Properties Corporation to arrange a Lease)

5. Is the premises to be used on a regular basis or on a one-off occasion?

☐ Regular → Licence Agreement

☐ One-Off Occasion → Hire Agreement



## GUIDE TO COMPLETING THE LICENCE AGREEMENT

<b>Signing Clause</b>	
<p>The signing clause is the place in the Licence Agreement where the parties sign the document to indicate their agreement. If the person taking the licence is an individual, he or she must personally sign the document. If the person taking the licence is an incorporated body (eg, an Incorporated Association or a Company), the licence must be signed by persons who are authorised to sign on behalf of the incorporated body.</p>	
<b>Schedule</b>	
<b>Item 1</b>	<b>Licensor</b>
	Include the relevant contact details for the Church, including name, address, phone numbers and email addresses.
<b>Item 2</b>	<b>Licensee</b>
	<p>The Licensee must be properly identified.</p> <ul style="list-style-type: none"> <li>• If the Licensee is an <b>individual</b>, you will only need to state the full name and address.</li> <li>• If the Licensee is a <b>corporation</b>, ensure that the correct name, ACN and ABN is used.</li> <li>• If the Licensee is an <b>association</b>, ensure that the correct name and ABN is used.</li> <li>• DO NOT use a registered business name for the Licensee name. Instead, give the name of the <b>owner</b> of the registered business name.</li> </ul>
<b>Item 3</b>	<b>Date of Agreement</b>
	This date is the date when all parties have signed the Agreement.
<b>Item 4</b>	<b>The Property</b>
	The street address of the Church property.
<b>Item 5</b>	<b>The Premises</b>
	<p>This is the area within the Property which is to be licensed, such as a part of a building in the Property.</p> <p>It is critical to ensure that the Premises are described accurately. A plan should be attached at the Appendix if the area needs to be identified. The licensed area should be easily identified on the plan, including being hatched and coloured, with an arrow pointing to the Premises.</p>

<b>Item 6</b>	<b>Permitted Use</b>
	<p>It is usually better to be specific when describing the Permitted Use.</p> <p>Describing a permitted use in this Agreement does not make the use permitted under the relevant Planning Scheme. Depending upon the proposed use of the Property and the current zoning of the Property, the licensee may need to obtain a planning permit authorising the use.</p> <p>Specific enquiries as to whether the proposed use will require a planning permit can be directed to the Planning Department of your local Council.</p>
<b>Item 7</b>	<b>Licence Times</b>
	<p>The licence times are the times during the day when the Licensee has permission to enter the property. Entry to the property outside these times without consent may be trespass. Consider limiting the licence times to only that which is reasonably necessary for the licensee to exercise the Permitted Use.</p> <p>Select only one of the options. If you select specific days ensure that starting and finishing times for each day are clearly stated.</p>
<b>Item 8</b>	<b>Commencement Date</b>
	<p>The Commencement Date is usually the date on which the licensee is allowed to enter the Property. Therefore the Commencement Date may be earlier or later than the date of signing.</p>
<b>Item 9</b>	<b>Term of the Licence</b>
	<p>The Term of the Licence is the length of the licence and should be expressed precisely in years, months or days as appropriate. From the Church's perspective, a shorter term is usually preferable as it may be appropriate to review licence arrangements periodically.</p>
<b>Item 10</b>	<b>Licence Fee</b>
	<p>This is the agreed fee to be paid for the licence. There are several ways in which a Licence Fee may be expressed. For example, it may be expressed as a yearly fee which is paid in instalments each month. You should also express whether payment is to be paid in advance (being paid prior to use for that payment period) or arrears (being paid after the premises has been used for that period).</p>
<b>Item 11</b>	<b>Review of Licence Fee</b>
	<p>An annual licence fee increase can be implemented for licences longer than twelve months. If you choose an increase, you must specify the method by which the licence fee will increase each year (ie, either by a fixed percentage or by a fixed amount increase).</p>



<b>Item 12</b>	<b>Special Conditions</b>
	<p>Item 12 allows the parties to include any special conditions that may be required for a particular Licence Agreement.</p> <p>Each special condition should be numbered. Should more space be required, insert the necessary number of pages after the Schedule.</p>
<b>Further Schedules</b>	
<p>If you have any other information that needs to form part of the Licence, such as a maintenance schedule or a memorandum of understanding please include them as Schedules following Schedule 1.</p>	
<b>Appendix A</b>	
<p>You will need to attach a plan at Appendix A.</p> <p>A plan of the Premises should clearly show:</p> <ul style="list-style-type: none"> <li>• which areas are licensed to the Licensee (including car parks);</li> <li>• areas over which the Licensee is granted access; and</li> <li>• the location of any landmarks (such as roads).</li> <li>• the licensed area should be identifiable when printed in black &amp; white</li> </ul>	