

RESIDENT AGREEMENT

WELCOME

Welcome to the Exchange Christchurch (XCHC), a special place and space for creative people.

XCHC is committed to helping creative individuals and groups to develop their creative enterprise by enabling and supporting them to share knowledge, experiment and test ideas and develop commercially viable creative practices.

To achieve this XCHC has established a shared space, which we call our Maker Space, which is available to creative people whose practice is not just a hobby but the passionate pursuit of a sustainable livelihood. These people include individuals or groups from diverse creative disciplines and who are:

- seeking to test the edges of their creative practice,
- open to working collaboratively with other like-minded people in a shared space,
- willing to exchange ideas and share their expertise and experience with others
- seeking to make their creative practice sustainable.

XCHC believe that developing and sustaining the creative energy within the Maker Space requires an ongoing influx of fresh ideas and perspectives. This is why there is a preference for residencies to be short to medium term allowing for an ongoing change in the mix of creative disciplines that are present at any time.

XCHC also has an expectation that the creative people who occupy the Maker Space share our purpose of 'cultivating a creative ecology' and make a meaningful contribution to XCHC by participating positively and productively within the community, attending and contributing to events and helping to build the creative community networks that will sustain the future of XCHC.

The XCHC Board hopes that your time within this community is enjoyable and productive and that during your residency you achieve your objectives for the development of your creative practice.

AGREEMENT

The purpose of this Agreement is to ensure that XCHC and its Resident community share a common understanding of the specific terms and conditions, including the mutual obligations and responsibilities, that apply to residencies within XCHC's Maker Space. Residents are encouraged to read the Agreement carefully and to clarify and resolve any areas of concern before signing.

PARTIES

This agreement (the 'Agreement') is between:

The Exchange Christchurch Limited, a limited liability company with its registered office and place of business in Christchurch, New Zealand ('**XCHC**'), and

(Creative), an (Entity) based in Christchurch ('the **Resident**')

SPACE

XCHC will provide each Resident with their own defined space (Resident Space) within the shared creative space (Maker Space) and the opportunity to use agreed common spaces and to make use of any services provided as part of your residency. XCHC asks that Residents respect the shared nature of the Maker Space space and operate within their Resident Space in a manner that is considerate, helpful and supportive of other residents and are always mindful of the wider XCHC community, especially the people who attend XCHC events or hire the showcase space and the café-bar customers.

- 1 XCHC agrees to sublet, and the Resident agrees to rent, that part of XCHC's shared creative space ('Maker Space'), with included common areas, as defined in Schedule One as the Resident Space and subject to the provisions of this Agreement.
- 2 The Resident shall not occupy any additional part of the Makers Space, including the common areas, or any other space within the XCHC tenancy, without the express permission of XCHC.
- 3 The Resident will take all reasonable and practicable steps to ensure that their occupancy of their Resident Space does not encroach upon, or otherwise obstruct or frustrate, the occupancy of any other Resident of the Maker Space.
- 4 The Resident will, as far as reasonably practicable considering the nature of their creative practice, ensure that their Resident Space is maintained in a clean and tidy state.
- 5 XCHC will ensure that the Resident has 24 hour access to the Resident Space, except for times when XCHC may need to restrict access to make alterations to, or perform maintenance on the building
- 6 Unless specifically authorised in writing by XCHC, the Resident may not carry on any business or activity in the Resident Space other than the Business or Activity for which that space was provided and which is generally described in Schedule Two of this Agreement.
- 7 The Resident agrees to comply with all reasonable requests of XCHC to maintain the security of the XCHC building including but not limited to ensuring that the building is locked if they are last to leave and not providing their building keys or security codes to any other person without the express permission of XCHC.
- 8 XCHC shall have the right to enter the Resident Space for any purpose that XCHC considers is reasonably necessary to ensure compliance with this Agreement provided that such entry does not unreasonably disrupt the Resident's productive use of the Resident Space.

RENTAL

XCHC has a primary objective to minimise the tenancy costs for its resident community of creative people – that is a fundamental proposition of our existence – and to act equitably to accommodate the different circumstances of our Residents whenever we can. However, to sustain the Maker Space opportunity, XCHC must also remain financially viable and so from time to time we may need to review the rent that Residents pay.

- 9 The Resident will pay XCHC a rental for the occupancy of their Resident Space.
- 10 The Term of the tenancy and the Rental Payable is agreed as defined in Schedule Two of this Agreement.
- 11 The Rental Payable includes the following outgoings and use of facilities:
 - Kitchen facilities;
 - Electricity and heating;
 - Internet;
 - Security system;
 - General cleaning;
 - Repairs and maintenance of common equipment and facilities;
 - Management of the building and other building relate costs.
- 12 The Rental payable does not include the following costs, which if incurred by XCHC, will be payable by the Resident to XCHC within 10 working days of receiving a demand for payment from XCHC:
 - Any legal or consent costs incurred by XCHC relating to the granting or extension of the of the residency provided that XCHC undertakes to use its best endeavours to minimise these costs;
 - Any costs relating to the Resident's occupancy of the Resident Space that are not included in the Rental Payable as detailed in clause 10 and 11 above;

- Any security call-out charges or fees that are incurred due to the actions of the Resident;
 - Any costs incurred as a result of the Resident breaching the terms and conditions of this Agreement.
- 13 XCHC may review the Rental Payable at any time and make any adjustment that it considers reasonably necessary to achieve its organisational objectives provided that XCHC shall give the Resident a minimum of 30 days notice in writing of its intention to do so.
- 14 XCHC may agree to a Rental Guarantee Period as specified in Schedule Two, within which period the Rental Payable will not be increased.
- 15 The Term of the residency may be extended subject to terms and conditions that are mutually agreed between the Resident and XCHC. XCHC has no obligation to extend the Term.
- 16 The residency is subject to a Provisional Period as defined in Schedule Two of this agreement at the end of which period the Resident or XCHC may terminate this agreement by giving notice in writing prior to the end of the Provisional Period.
- 17 The Resident understands and agrees that the principle of XCHC maker space is a “grow and go” model so that it is appropriate that the tenancy is reviewed from time to time and XCHC reserves the right to end an agreement in consultation with the Resident.

XCHC COMMUNITY

The XCHC community includes Residents, all of the people who attend events in the showcase space and visit the café-bar, the staff, volunteers, funders and supporters and the wider Christchurch creative community. Residents are a valued, visible and influential member of that community – a community that can be helpful and supportive for Residents; a community that is vital to the future of XCHC. It is important that XCHC and Residents collaborate to ensure that the XCHC community is engaged, proud of their association, and supportive of the XCHC objectives. By being an active and positive ambassador for XCHC, Residents can make a significant contribution to developing and sustaining that community.

- 18 XCHC will use its best endeavours to ensure that the Resident can enjoy productive use of the Resident space.
- 19 The Resident acknowledges that, due to the shared nature of the Makers Space and its proximity to the adjacent XCHC Showcase space and XCHC Café-Bar, they will be reasonably tolerant of any noise and other disruptions caused in the normal course of business by other Residents, the staging of events and visitors to XCHC.
- 20 XCHC will respect the Resident’s work and property (both physical and intellectual) and requires that the Resident respect the work and property (both physical and intellectual) of XCHC and any other Residents within the Maker Space or any person or organisation utilising the Showcase space.
- 21 XCHC will use its best endeavours to co-develop with Residents a positive, supportive and collaborative-learning community within its Maker Space and to ensure as far as practicable that XCHC staff and the people who use the Showcase space act in ways that support that endeavour.
- 22 Residents are expected to work co-operatively with each other and with XCHC to co-create a shared space environment that enables them to achieve their individual and collective objectives and to further the purpose of XCHC.

COMPLIANCE

In making this Agreement, XCHC is accepting obligations imposed by the landlord. While XCHC is willing to accept these obligations, there are some areas where Residents need to help XCHC to comply with the head lease conditions. This Agreement is designed to keep these compliance obligations to a minimum.

- 23 The following conditions apply to the Resident as part of XCHC's obligations under the headlease agreement:
- 23.1 Acknowledging that the Term of this Agreement is subject to the term of XCHC's tenancy by way of its head lease of the building, and therefore agreeing that:
- The Term of this Agreement and any extension of that Term must expire before the date on which term of XCHC's tenancy of the building expires and that any decision to extend tenancy shall be at the sole discretion of XCHC; and
 - If for any reason XCHC's tenancy of the building is terminated, then this Agreement will terminate on the same date and the Resident shall have no claim against XCHC for early termination of this Agreement.
- 23.2 ACCESS FOR WORKS
The Resident shall permit the Landlord's employees and contractors to enter the premises to inspect or carry out works. If the landlord requires the Resident to vacate the premises to enable works to be carried out, the landlord may give the XCHC reasonable written notice to vacate the whole or part of the premises and specifying a reasonable period for which the landlord requires possession. XCHC will extend this notice to the Resident, and the Resident must comply with the landlord's notice to XCHC. (refer 15.1/15.3)
- 23.3 INSURANCE
The Resident will not bring on to the premises any trade or occupation or allow to be done any act or thing which would increase the premiums or make void any policy of insurance or the property. The Resident shall compensate in full the landlord any loss or damage due to a breach in this agreement. (refer to 24.1/24.2)
- 23.4 DAMAGE TO OR DESTRUCTION OF PREMISES
If any portion of the premises should be destroyed or so damaged to the point the premises is untenable then the terms should at once terminate from the date of destruction. (refer to 26.1)
- 23.5 NO ACCESS IN EMERGENCY
If there is an emergency and the Resident is unable to gain access to the premises to fully conduct the Resident's business because of reasons of safety to the public or the property or the need to reduce or overcome any hazard, harm or loss that may be associated to the emergency then a fair portion of the rent shall cease to be payable on the date when the Resident became unable to gain access to the premises. (refer to 27.5)

TERMINATION

XCHC enters into this agreement in good faith and expects that Residents do the same. However both parties should recognise that the 'best laid plans of mice and men often go awry' and thus the Agreement needs to provide sensibly for a situation where any party, for whatever reason, no longer see value in this residency arrangement. Hopefully any termination of this agreement will be mutually beneficial but it is important to provide for situations where that is not the case.

- 24 Either the Resident or XCHC may terminate this agreement by giving 30 days notice in writing of their intention to do so.
- 25 XCHC may terminate this agreement by giving the Resident 10 days notice in writing of its intention to do so in the event that:
- 25.1 The Rent Payable by the Resident under this agreement is in arrears for a period exceeding 30 days;

- 25.2 The Resident, on being notified in writing by XCHC of a breach of this Agreement, has failed to rectify that breach to the satisfaction of XCHC within 30 days of being notified;
- 26 This Agreement shall be terminated with immediate effect in the event that:
- 26.1 The Resident is declared bankrupt or enters into any arrangement with their creditors to pay their debts;
- 26.2 The Resident is charged or convicted of any criminal offence;
- 26.3 The Resident becomes of unsound mind;
- 27 This Agreement may also be terminated in accordance with the provisions of clause 24.1

COVENANTS

It is important for Residents to be clear about aspects of their tenancy that XCHC is not responsible for and where Residents must assume the primary or at least collaborative responsibility. XCHC is happy to assist Resident's understanding of these responsibilities and to use its best endeavours to help find practicable solutions, but Residents will understand that it is not feasible for XCHC to take responsibility for things over which it has no control. A good example is the Resident's requirement to contribute to the health and safety of the XCHC working environment.

- 28 INDEMNITY: The Resident indemnifies XCHC against all actions, proceedings, calls liabilities, costs, expenses, claims, demands damages or losses on account of a breach of any of the Residents obligations expressed or implied in this Agreement
- 29 INSURANCE: The Resident acknowledges that they are responsible for their own belongings and chattels. It is the Residents responsibility to mitigate any losses arising from damage or theft of the their belongings including arranging appropriate insurance.
- 30 SAFETY: The Resident agrees to take all necessary actions to ensure that they maintain a safe work environment and comply with all XCHC Health and Safety policies and the relevant New Zealand Health and Safety laws and regulations.
- 31 WARRANTY: The Resident warrants that:
- 31.1 They have the capacity to perform the business or activity described in Schedule 2;
- 31.2 They have no criminal record or pending convictions or any medical or addiction history or condition that would affect their ability to comply with the terms and conditions of this Agreement including but not limited to their ability to operate as a collaborative member of the Resident community.

DISPUTES

It is important that XCHC and Residents embrace a collaborative working relationship that facilitates the positive resolution of any residency issues. This will require the early identification and communication of any issues by XCHC or the Resident and the adoption of an equitable resolution approach that expects a timely win-win outcome. However, this Agreement must also provide for circumstances where differences of opinion may preclude a collaborative resolution that is acceptable to XCHC or the Resident.

- 32 Neither XCHC or the Resident shall commence any legal proceedings relating to a dispute or difference arising out of, or related to, this Agreement unless they have complied with clauses 33-34.
- 33 XCHC and the Resident agree to mediate any dispute or difference arising out of or in connection with this Agreement, or the subject matter of this Agreement.
- 34 Should XCHC and the Resident not be able to agree the selection of a mediator, including terms and/or fees, within 5 working days of the date either party delivers written notice to the other party that they wish the dispute or difference to be resolved by mediation, then either party may request the appointment of a mediator, including terms, by the Chair for the time being of

LEADR New Zealand. Any party failing to attend the mediation joint meeting will be liable for all of the costs of the mediation.

SIGNATURES

Signed for and on behalf of the **Resident**:

Name:

Position: Resident

Signature:

Date:

Signed for and on behalf of **XCHC**:

Name:

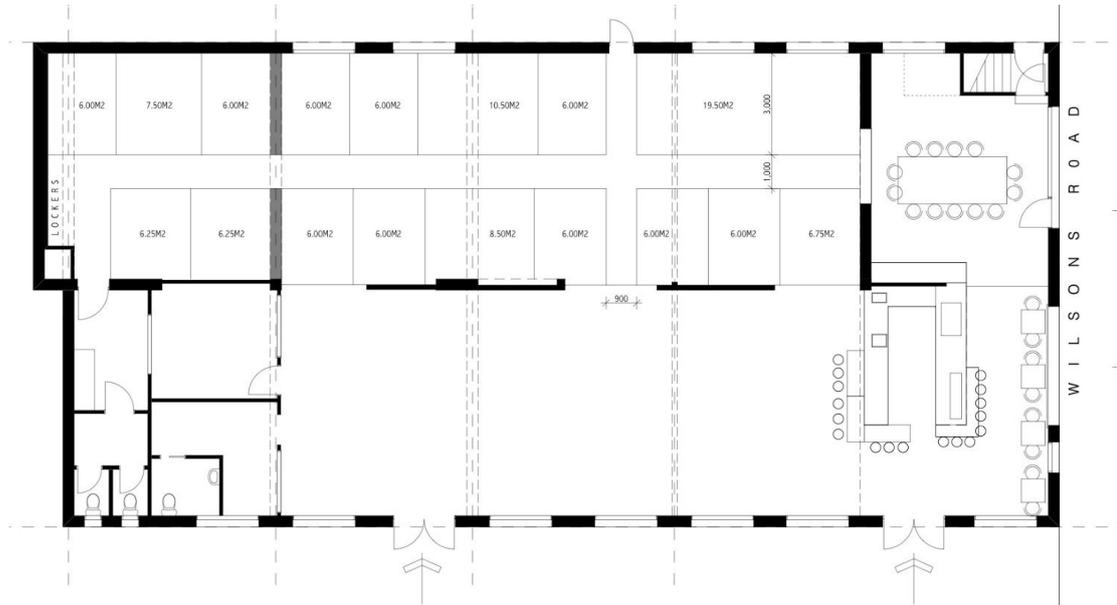
Position:

Signature:

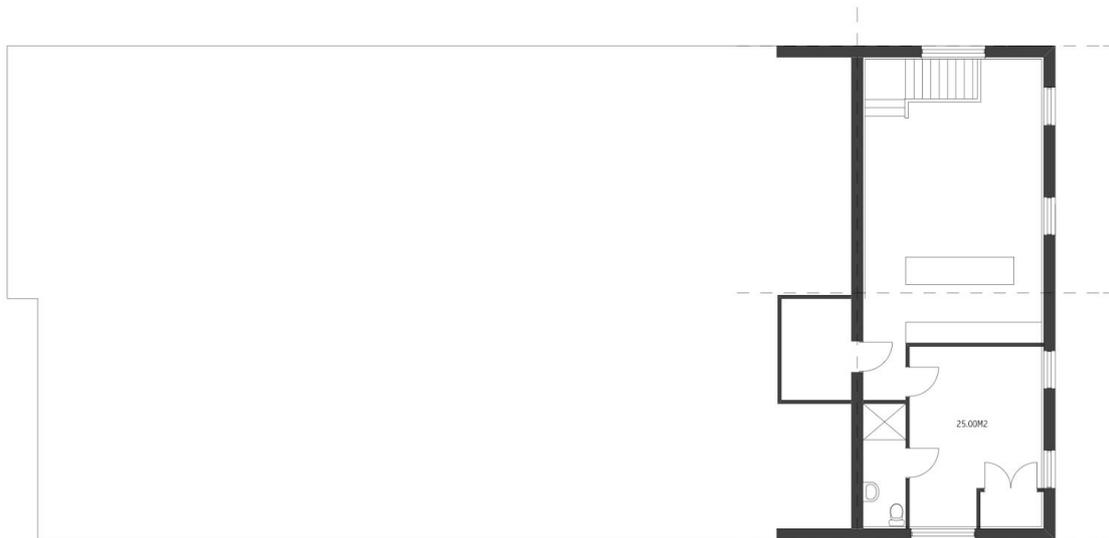
Date:

SCHEDULE ONE: RESIDENT SPACE

Resident Space & Common Areas within XCHC Makers Space



Level 1



LEVEL 2
Level 2

SCHEDULE TWO: RENTAL & TERM

Term	From the date of this agreement to xx.xx.xxxx
Provisional Period	
Space Occupied	xxm ²
Rental Rate	[\$10.00] (exclusive of GST) per square metre of space occupied per week.
Rent Payable	The sum of [\$xx.00](exclusive of GST), payable fortnightly / four weekly / monthly <u>in advance</u> by direct credit to a bank account nominated by XCHC. Unless otherwise advised by XCHC the nominated bank account is Kiwibank Limited: 38-9017-0281401-01: Exchange Christchurch Limited
Rental Guarantee Period	(or None)
Business or Activity Description	<i>Please fill this in with a description</i>