

Child Care Services Agreement

1. Parties to this agreement

This agreement is between the University of Adelaide, of North Terrace, Adelaide 5005 ("we", "our", "us") and the University of Adelaide Child Care Services Inc, of North Terrace, Adelaide 5005 ("you", "your").

2. Period of this agreement

This agreement runs for 20 years from the 1st July 1995.

3. Child care services to be provided

You must manage and operate the following child care centres ("the centres"), and provide child care services at them, from the following dates:

Waite Campus Child Care Centre	1st July 1995
Observatory Child Care Centre (North Terrace Campus)	1st July 1995
Roseworthy Campus Child Care Centre	from the date it comes under your control
Extension to the Observatory Child Care Centre (to be built in the Johnson Laboratories)	from the date we make it available for use

To better define the centres, plans of them are attached.

4. Occupancy of the centres

We give you the right to occupy each centre from the date given in clause 3 for that centre until the date this agreement ends.

The terms of that occupancy are attached, and form part of this agreement.

5. Principles and values

In carrying out this agreement, you must at all times take reasonable steps to -

- provide safe, stimulating and secure places where children are cared for in a friendly and professional manner, through care which aims to meet their educational, development and emotional needs
- provide a safe working environment
- take account of equal opportunity principles
- facilitate the participation of staff and parents in decision making
- seek to encourage excellence, access, diversity and participation in management
- provide information to staff and parents about yourself, including enquiry and complaint procedures and
- consider the dignity, independence and basic human rights of individuals.

6. Priority rights to use the centres

As far as practicable, at each centre you must -

- provide a mixture of part time and full time care and
- give priority of access to the children of the staff and students of the University of Adelaide.

At the Waite Campus centre you must also give priority of access to the children of the staff and students of the CSIRO and the State Minister for Primary Industries.

However, you must not do anything which will result in any loss or reduction of funding provided by the Federal Department of Human Services and Health.

7. Reporting

In each October, you must give us a copy of your audited financial statements for the previous financial year.

You must also send a copy to the CSIRO and the South Australian Research and Development Institute ("SARDI").

You must also give us any other additional financial information as and when reasonably requested.

The financial statements must include or attach -

- details of all funds provided by us
- a chairperson's report detailing your activities under this agreement, and proposed activities for the following year
- a report on your level of accreditation from the National Child Care Accreditation Council

- a report on usage of centres by those persons mentioned in clause 6 and
- details of any change in your objectives or activities which might materially affect your ability to fully perform this agreement.

8. Accreditation

You must ensure that the centres at all time have current certificates of accreditation from the National Child Care Accreditation Council under the quality improvement and accreditation system.

You must use every effort to ensure that the level of accreditation is such that you have the maximum period of time between reviews.

9. Parents advisory group

You must immediately establish a Parent Advisory Group for each centre to provide -

- advice to the relevant centre directors
- a forum for raising suggestions for improvement or matters of concern and
- a forum for keeping parents informed of your activities and other matters of significance to the centre or its services.

You must ensure that each Parent Advisory Group meets regularly during the period of this agreement.

10. Our assets

Any of our assets, namely buildings, fixtures and building and site services, used in carrying out this agreement remain our property, and may not be altered, removed or added to without our approval.

11. Planning and evaluation

You must constantly plan, develop and self-evaluate your performance under this agreement at each centre.

You must do this in consultation with users of the centre, its staff and with us.

This must include -

- the ongoing assessment of management and operational activities
- the identification of emerging priority needs and target groups and
- the evaluation of achievements.

12. **Reviews**

We may carry out reviews in conjunction with you to determine the extent to which you are meeting the terms of this agreement.

We, and you, will consult and agree on the method of any such review. Failing agreement, we will nominate that method.

We will provide you with a written report on any such review.

13. **Access**

Upon reasonable written notice being given by us, you must provide us (or our nominees) with reasonable access to your records relating to your activities under this agreement.

14. **Confidentiality**

We will preserve the confidentiality of confidential information collected from you.

15. **Staff issues**

You must ensure that staff employed in the centres are qualified for, and experienced and trained in, the tasks they are required to do.

16. **Suspension of services**

You must tell us immediately of any decision to suspend your child care services in part or wholly, including the reasons for the decision.

Funding from us may be suspended for the period of any such suspension.

17. **Breach and termination**

If you breach this agreement, we must firstly notify you of the breach, and then consult with you about ways of dealing with the breach.

If within 60 days of notice this consultation fails to result in a joint resolution for rectifying the breach, an outside mediator must be engaged to assist with such resolution.

If the parties cannot agree on a mediator within 7 days, the mediator is to be an independent person appointed by the President of the Law Society of South Australia. His or her costs must be paid half each by the parties.

If there is still no resolution within a further 60 days, we may give 60 days' notice of termination of this agreement.

This clause does not affect either party's right to terminate this Agreement under common law at any time.

This clause also does not affect the right of termination under clause 26 of the attached terms of occupancy.

18. Notices

Any notices given in relation to this agreement must be in writing.

Any notice may be delivered personally.

Or may be sent by pre-paid security post or facsimile at the addresses (or fax numbers) nominated below (unless a different address or fax number has been notified by the entity concerned to the one giving notice).

If an entity named below changes its address, or fax number, it must notify all others.

<i>Party</i>	<i>Responsible person and address</i>	<i>Fax number</i>
University	The Registrar, University of Adelaide SA 5005	(08) 303 4343
UACCS	The Public Officer, UACCS, Observatory Child Care Centre, c/- University of Adelaide SA 5005	(08) 303 4404
CSIRO	Administration Manager, CSIRO Division of Soils, PMB 2, Glen Osmond SA 5064	(08) 303 8590
SARDI	Chief Executive, SARDI, GPO Box 397 Adelaide SA 5001	(08) 303 9403

SIGN HERE:

 For the University 	 Witness	14/5/96 Date of signing
 For UACCS	 Witness	28/5/96 Date of signing

Terms of occupancy of each centre

1. Contractual rights only

This agreement creates a licence to occupy, and not a lease.

Your rights are in contract only.

You have no proprietary rights in any centre.

2. You must pay the occupancy fee

The occupancy fee for each centre is \$1 per calendar month.

You must pay us the occupancy fee monthly in advance.

3. You must pay charges

You must pay any telephone charges, permit fees or other government fees relating to your activities at each centre.

You must pay these no matter who they are billed to.

4. You must pay outgoings

You must pay all costs or charges for redecorating and replacement of floor coverings during the period of this agreement, if necessary, and at the end.

You must pay the electricity and gas bills for each centre or, alternatively, a fair proportion (based on usage) of the electricity and gas bills for the campus.

You must pay the things mentioned in this clause no matter who they are billed to.

5. You must not sign over this agreement

You must not transfer this agreement, or use it as security for a loan. Or deal with it in any other way.

You must not transfer any of your rights or obligations under this agreement, or use them as security for a loan. Or deal with them in any other way.

You must not allow anybody else to share the possession of any centre.

However, you can do what this clause forbids if you first get our written consent.

We will not unreasonably refuse that consent.

6. Your use of each centre

You must not use any centre except as a child care centre.

You must not allow any unlawful thing to be done at any centre.

7. You must maintain each centre

You must keep each centre clean and in good repair and condition.

You must especially keep windows clean and keep security items (such as, for example, door and window locks) in good condition.

And you must replace any blown light bulbs or tubes, tap valves etc.

You must comply with all government rules which (now or in the future) affect your use of any centre.

"Government rules" are laws, by-laws, regulations, codes of practice and so on.

You must comply with any requirement to do with using any centre of the local council or any other government agency.

However, you do not have to arrange and pay for any structural work under this clause unless it is required because of any act (or failure to act) of yours or your visitors, or because of your use of any centre.

This clause is subject to clause 9.

8. You must tell us about defects

You must promptly give us written notice of any damage to or defect in any centre.

Or anything which could harm the centre or any person.

Or anything that needs repairing.

9. **We will maintain**

We will maintain the building fabric, and building and site services and fixtures, but not redecorating or replacement of fixtures or floor coverings. We will also maintain outside areas, including lawns, garden beds, fences and paths, but not play equipment. And we will remove your waste at no cost to you on the same basis that waste is removed for University departments.

10. **We can inspect**

You must allow us and our workers to come onto any centre at any time to check its condition.

However, we must give you reasonable notice beforehand (except in an emergency).

11. **We can do work if you don't**

By written notice given at any time, we can require you to arrange and pay for any work or repairs which are your responsibility under this agreement.

The notice may state a period for you to do the work or repairs, but it must be a reasonable period.

If you don't comply with the notice, then we may do the work or repairs on your behalf.

However, we don't have to do them if we do not wish to.

If we do them, then we and our workers can come onto any centre for that purpose.

All costs of doing them must be paid by you to us straightaway.

12. **Our right of entry to do work**

This clause applies to work or repairs which are not your responsibility under this agreement.

You must allow us and our workers to come onto any centre to carry out any work or repairs which we think are needed.

However, we must give you reasonable notice beforehand (except in an emergency).

So far as practical, we must not disturb you or your visitors when we do the work or repairs.

13. Use of plumbing facilities

"Plumbing facilities" means toilets, sinks, drains and pipes.

You must not use the plumbing facilities at any centre or in the campus except for their normal purpose.

You must not put any rubbish or other material in them.

You must not allow your visitors to likewise misuse such plumbing facilities.

14. Alterations to any centre

Unless you first get our written consent, you must not do any alterations or additions to any part of any centre to the fabric, finishes, services and fixtures of any centre, including the grounds.

Or install or alter any fixtures, fittings, fixed equipment or floor coverings.

We can give or refuse consent as we wish. We can give it on whatever terms we wish. We have total discretion in the matter.

15. Heavy or dangerous things

You must not bring anything heavy onto any centre if it could cause structural or other damage.

Or if it is noisy or vibrates or gives off harmful gases.

Otherwise, you must not bring anything heavy onto any centre unless it is reasonably required for your use of any centre as allowed under this agreement.

Unless you first get our written consent, you must not bring anything onto any centre which is dangerous, harmful, poisonous, explosive or inflammable.

16. Insurances you must get

You must insure all of your stock, equipment, materials and machinery in any centre for their full insurable value.

You must pay any Workcover levies which are your responsibility.

You must have public risk insurance of at least \$5m for each centre.

You must have these insurances in place throughout the period of this agreement.

You must pay all necessary premiums and levies for that purpose.

Whenever we require it, you must show us policies, certificates of currency, or other written evidence of these insurances.

17. You must not prejudice any insurance

You must not do anything which could prejudice any insurance mentioned in this agreement.

For example, you must not do anything which could make an insurance void, or cause an increase in premium, or give the insurer a right to cancel.

You have to make good any part of any claim which is refused because of any act (or failure to act) of yours or your visitors.

18. You indemnify us

If we have a liability to anybody which rises wholly or partly from any act or omission of yours or your visitors, you must pay us back everything we reasonably pay or owe as a result of that liability.

However, you don't have to pay us back anything which we can recover under any insurance taken out under this agreement.

19. Limits on our liability

You occupy and use each centre at your risk.

We have no responsibility for any loss of or damage to any of your stock, equipment, materials and machinery in any centre.

You release us from any costs or loss rising from any act (or failure to act) of ours or our workers.

That is, you cannot sue us.

However, this clause does not apply to costs or loss rising from any wilful or negligent act (or failure to act) of ours or our workers.

20. Limits on our liability for breakdowns

We have no responsibility for any costs or loss rising from the operation of, or any problem with -

- any lifts, automatic doors, escalators, air-conditioning equipment or other machinery or equipment at the campus or
- any services at the campus.

"Services" are things such as, for example, water, gas, electricity, lighting, air-conditioning, communication services and so on.

However, this clause does not apply to costs or loss rising from any wilful or negligent act (or failure to act) of ours or our workers.

21. We may modify a centre

At any time, we can carry out building work to modify any centre, including to reduce its size, provided it has no impact on the current licences and we give you reasonable notice of the work proposed.

At any time, we can modify any areas around any centre.

However, we cannot unreasonably restrict access to a centre.

22. We can relocate you

At any time after we give 90 days written notice, we can require you to move from a centre into an alternative area on a campus.

That new area will then become the "centre" in place of the previous area.

However, the new area must be suitable as a child care centre, and about the same size as the previous area and able to meet licensing requirements for the same number of children as accommodated in the previous area.

There will be no change to the occupancy fee due to the move.

23. You must yield up each centre

At the end of this agreement, you must give over each centre to us.

They must be repaired, and in a state, so as to comply with this agreement.

You must also remove from each centre everything you brought into them.

This includes things of yours which you have fixed to any centre.

You must also remove any signs and notices which you had painted or put up at any centre.

You must fix any damage caused in removing things under this clause.

24. Quiet enjoyment

If you fully and promptly comply with all your obligations under this agreement, you may quietly enjoy each centre for the period of this agreement.

And without interference from us, or anybody to whom we transfer any of our rights under this agreement.

25. We must insure

We must insure each centre against usual risks and for their full insurable value.

26. Re-entry

At any time after any event mentioned in this clause happens, we can re-enter the centres.

[This means we can take back the centres, and exclude you from them.]

This agreement then ends.

The events are -

- if any occupancy fee for any centre is unpaid for 14 days after it should have been paid (but only if we have demanded it be paid)
- if you disobey this agreement in any other way
- if someone else lawfully takes possession of any of your property
- if you enter any arrangement or composition with your creditors or
- if you become unable to pay your debts within the meaning of Section 41 of the Associations Incorporation Act.

27. What if the property is damaged?

This clause applies if any centre is wholly or partly unfit for use by you because it is destroyed or damaged for any reason.

For two months after the property is destroyed or damaged, we can end this agreement by written notice to you.

If we elect not to do so, the centre is to be made fit for use by us with all reasonable speed.

Until that happens, you need not pay the occupancy fee for that centre.

28. Rules

We can make rules and regulations, as we think fit, regulating any matters to do with any campus or any centre.

However, they must not be inconsistent with this agreement.

You must comply with those rules and regulations.

29. Refunding costs to us

You must immediately refund to us any legal costs, damages or penalties which we pay rising from your disobedience of this agreement.

30. Preservation of rights

If this agreement ends, that does not affect any right of either party.

Using a right (and especially the right of re-entry) given in this agreement does not affect any other right.

31. Losing rights

A party's action, or lack of it, on any disobedience of this agreement by the other does not affect the party's rights if the other -

- repeats or continues the disobedience or
- disobeys this agreement in another way.

32. **Interpreting this agreement**

Any example given in this agreement is not meant to show all possible cases.

Reference to a party includes the party's successors and transferees.

Any word indicating the singular includes the plural, and vice versa.

33. **Special meanings**

The campus: The property controlled by us of which any centre is part.

Your visitors: Your employees, agents, contractors, volunteers and sub-tenants.
Also anybody else you invite onto any centre, including parents and children.

Our workers: Our employees, agents, contractors and professional advisers.