



Rental Agreement

This agreement (Rent Agreement) is made on 14th February 2019 between:

Art Index Pty Ltd (ACN 126 414 551) (**Art Index**)

and **Superfund**
Deegan Superannuation Fund Pty Ltd

ATF Deegan Superannuation Fund (Owner)

C/- Stephen Deegan

219 Croudace Street

New Lambton Heights NSW 2305

For Rental Agreement Number **00003798**

Rent Agreement – Terms and Conditions

1 This document, including the Schedule, contains the entire terms and conditions of the Rent Agreement.

Rent of Works and payment of rent fees by Art Index

2 Owner agrees to rent out the Works to Art Index for the Rent Term in exchange for the Rent Fees.

3 Art Index agrees to rent the Works from Owner for the Rent Term and pay the Rent Fees to Owner. If GST is payable, the Rent Fees include GST.

4 Art Index must pay the Rent Fees to Owner by instalments monthly in arrears from the first day of the Rent Term. The Rent Term commences the 1st Day of the following month of the balance received.

Rent of Works by Customers

5 Subject to clause 12, Art Index may, during the Rent Term, rent out the Works to Customers.

6 Owner acknowledges and agrees that Owner has no title, right, interest or claim of any kind to any fee, reward or other benefit obtained by Art Index pursuant to its renting out Works to Customers pursuant to clause 5 or otherwise lawfully dealing with the Works.

7 For the avoidance of doubt, nothing in this agreement conveys ownership of the Works to Art Index or a Customer.

Delivery and collection of Works

8 Owner must deliver the Works to Art Index's registered place of business at Owner's expense before the Rent Term commences. The Works must be in a condition unaltered from when inspected by Art Index.

9 Within 30 days of the end of the Rent Term, Art Index must collect any Works located at any premises.

10 Within 45 days of the end of the Rent Term, Owner must collect the Works from Art Index's premises, or other premises as advised by Art Index, at its own expense. Owner may request that Art Index arrange collection of the Works on behalf of Owner. If Art Index agrees to arrange collection of the Works, Owner must reimburse Art Index all reasonable expenses Art Index incurs in making those arrangements and the collection.

Protection of Works, insurance and risk

11 At all times while the Works are in Art Index's custody (but not in a Customer's custody), Art Index must:

- (a) Use reasonable endeavours to preserve and secure the Works; and
- (b) Have a valid insurance policy insuring the Works for their full market value at the time of purchase in the event of theft, other loss or damage of the Works.

12 Before permitting any Work to leave Art Index's custody in favour of a Customer, Art Index must:

- (a) Satisfy itself to a reasonable degree, having made reasonable enquiries, that the Customer will use reasonable endeavours to preserve and secure the Works at all times while in the Customer's custody; and
- (b) Obtain a copy of a certificate of currency of the Customer's valid insurance policy insuring the Works at all times while in the Customer's custody for their full market value in the event of theft, other loss or damage of the Works, and recording the interests of Art Index.

13 If Art Index becomes aware that any Works have been lost or damaged while in the custody of Art Index or a Customer, Art Index must notify Owner in writing as soon as practicable after becoming aware. Subject to Clause 11 and 12, in the event of any claim that may be made under an Insurance Policy as it relates to the Owner's works, Art Index recognizes that the Owner of the works is the beneficiary of the claim.

14 Without limiting clause 17, at all times when the Works are not in Art Index's or a Customer's custody, Owner bears all risk in relation to the Works.

Art Index Pty Ltd - *The Art of Investment*
The Courtyard, Level 1, 348 Kent Street, Sydney NSW Australia 2000
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Commercial in Confidence

- 15 Subject to clause 17, at all times while the Works are in Art Index's custody, Art Index bears all risk in relation to the Works.
- 16 Subject to clause 17, at all times while the Works are in Customer's custody, Art Index does not bear any risk in relation to the Works.
- 17 While the Works are being delivered or collected under this agreement:
- (a) Owner bears all risk in relation to the delivery or collection of Works referred to in clauses 8 and 10;
 - (b) Art Index bears all risk in relation to the delivery of Works from Art Index to a Customer and the collection of Works referred to in clause 9.

Commencement, term and termination

- 18 This agreement commences on the date specified in the preamble to this agreement and continues until this agreement terminates or is terminated.
- 19 The Rent Term commences on the first day of the month after the month in which the date of this agreement falls. If this agreement is dated the first day of a month, the Rent Term commences that day.
- 20 Unless terminated sooner, or extended pursuant to clause 22, this agreement terminates at close-of-business on the End Date.
- 21 The Rent Term ends when this agreement terminates or is terminated.
- 22 Art Index may extend this agreement by a period of no more than 12 months by giving notice in writing to Owner. Except for this clause 22, an extension of this agreement pursuant to clause 21 will be on the same terms and conditions as the terms and conditions of this agreement except rental fees which may be renegotiated.

Release, exclusion, limitation of liability and indemnity

- 23 Subject to clauses 25 and 26, Owner releases Art Index from all liability for:
- (a) All claims or actions of any kind against Owner; and
 - (b) All loss or damage of any kind (including special or consequential damage), howsoever caused (including by negligence or breach of contract by Art Index), suffered by Owner, arising from Owner's or Art Index's exercising their rights and performing their obligations under this agreement.
- 24 Subject to clauses 25 and 26, Owner indemnifies Art Index against:
- (a) All claims or actions of any kind against Art Index; and
 - (b) All loss or damage of any kind (including special or consequential damage), howsoever caused, suffered by Art Index, arising from:
 - i) Owner doing any act or omission, including exercising its rights and performing its obligations under this agreement; or
 - ii) Art Index's lawfully exercising its rights and performing its obligations under this agreement.
- 25 The terms and conditions of this agreement do not exclude, restrict or modify Art Index's or Owner's rights where, pursuant to Australian law, those rights cannot or must not be excluded, restricted or modified by agreement.
- 26 To the extent that Australian law implies a condition or warranty into these terms and conditions in respect of the supply of the Works or services, Art Index limits its liability for breach of that condition or warranty to Art Index's doing any one or more of the following (at its election):
- (a) Replacing the Works, supplying equivalent works of art or resupplying the services or equivalent services;
 - (b) Repairing the Works;
 - (c) Paying the cost of replacing the Works, of acquiring equivalent works of art or of resupplying the services or equivalent services; or
 - (d) Paying the cost of having the Works repaired.

Interpretation and miscellaneous

- 27 Without limiting the effect of terms defined elsewhere in this document, the following definitions apply:
- a) **Customer** means a customer of Art Index;
 - b) **End Date** means the date specified in the Schedule as the last day of the Rent Agreement;
 - c) **Rent Fees** means the fees payable by Art Index as rent, specified in the Schedule;
 - d) **Rent Term** means the period of time commencing on a date determined in accordance with clause 19 and ending when that period of time terminates in accordance with clause 21 of this agreement;
 - e) **Schedule** means the document titled 'Schedule' and annexed to this document;
 - f) **Works** means the work(s) of art itemised in the Schedule.
- 28 In this document:
- a) Terms in the plural may be read in the singular and vice versa, as the context requires;
 - b) References to days and months are references to calendar days and months;
 - c) References to a person's custody include a reference to that person's possession or control;
 - d) References to Works being in the custody of Art Index or a Customer refer to the Works being in their custody, possession or control pursuant to this agreement;
 - e) References to 'this agreement' are references to this Rent Agreement;
 - f) References to Art Index in clauses 0 to 26 include all directors, shareholders, employees, contractors, representatives, agents and companies related to Art Index.
- 29 Time is of the essence.
- 30 If any provision, or part thereof, in this agreement is held to be void or unenforceable, the unaffected provisions, or parts thereof, continue to be valid and enforceable.
- 31 Clauses 9, 10, 17, 23 and 24 survive the termination of this agreement.
- 32 This agreement is governed by the laws of NSW.

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Executed as an agreement 00003798 by:

Owner



Signature of individual / director / sole director & secretary

STEPHEN J DEEGAN

Print name

15th FEBRUARY 2019

Date



Signature of director / secretary

SARAH RUTH APPLEBY

Print name

15th FEBRUARY 2019

Date

AND

Art Index

Signature of director

Print name

Date

Signature of director / secretary

Print name

Date

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