



**Stellenbosch**

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## Longer-term Rental Policy

<b>Type of Document:</b>	Policy
<b>Purpose:</b>	To formulate a policy for regulating Longer-term Rentals of Stellenbosch University facilities
<b>Approved by:</b>	SU Council
<b>Date Approved</b>	02/12/2021
<b>Date of Implementation:</b>	02/12/2021
<b>Date of Next Revision:</b>	Every five years
<b>Date of Previous Revision(s):</b>	None (new policy)
<b>Owner<sup>1</sup>:</b>	Chief Operating Officer
<b>Curator<sup>2</sup></b>	Chief Director: Innovation and Business Development
<b>Keywords:</b>	Lease Agreement, Longer-term Rentals, SU Space, Tenants
<b>Validity:</b>	The English version of this regulation is the operative version, and the Afrikaans version is the translation.

SU Governance and Management Documents are available at [www.sun.ac.za/policies](http://www.sun.ac.za/policies)

<sup>1</sup> Owner: Head(s) of Responsibility Centre(s) in which the policy functions.

<sup>2</sup> Curator: Administrative head of the division responsible for the implementation and maintenance of the policy

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## **1. Introduction**

Stellenbosch University (SU) owns various properties and facilities including four campuses in the Western Cape. Space has become an increasingly valuable resource, globally as well as locally; a fact recognised in SU's current Space Management and Procedures document.

Although most SU facilities have been designed for academic and research uses (core functions of a university), many of its facilities are multi-functional and can fulfil academic, residential and commercial needs. Optimising these commercial opportunities is an important opportunity to contribute to SU's long-term sustainability.

SU has entered Longer-term Rentals of multi-use Spaces over many years to support academic, research, sport and recreational activities, as well as community initiatives. These contracts have also generated fifth-stream income for SU. Longer-term Rentals can be differentiated from Short-term Rentals (which are governed by SU's Short-term Rental Policy) and the concept of long-term leases in South African law.

Historically, SU's Facilities Management Division and SunCom have shared the management and procurement of tenants and Lease Agreements for Longer-term Rentals. It is an important objective of this policy to remove duplication of functions with the associated risks. Outlining the roles and responsibilities of all stakeholders in this policy will provide the platform for collaboration to use the opportunities for Longer-term Rentals while minimising financial, legal and reputational risks for the University.

## **2. Implementation of the policy**

This document and the principles that it contains serve as an institutional policy directing, guiding and regulating the management of all Longer-term Rentals and the use of the Spaces to which they relate.

This policy takes immediate effect on the date of approval and applies to all SU staff and students as well as any tenant or user involved in a Longer-term Rental of SU facilities.

## **3. Scope and range of the policy**

The scope of this policy includes Longer-term Rentals of all SU facilities, whether by way of ownership, by lease or otherwise. Longer-term Rentals include all new and existing Lease Agreements with parties external to SU, as well as MOU's.

3.1 Categories of **Spaces that may be utilised** for Longer-term Rentals:

3.1.1 shop or office Spaces in SU student centres, such as the Neelsie (Langenhoven Student Centre) and the Tygerberg Student Centre;

3.1.2 SU houses or flats available for rental to the public, such as Waldenhof;

3.1.3 Spaces within SU facilities not currently used for academic or research purposes;

3.1.4 academic Spaces used for collaboration with industry partners; and

3.1.5 residential property leased to SU staff under a Lease Agreement that does not form part of an employment contract.

3.2 Instances that are **excluded** from the policy:

3.2.1 Short-term Rentals as per the definition in paragraph 4, “Definitions”, which refers to SU’s Short-term Rental Policy;

3.2.2 student accommodation, such as residences, where students stay during the academic year;

3.2.3 residential Lease Agreements that form part of SU staff employment contracts; and

3.2.4 agreements to which SU is the lessee, not the lessor.

Lease Agreements concluded under this policy may not be extended or renewed beyond the period stated in the Agreement.

Where SU is both the lessor and lessee, a Lease Agreement is not applicable; instead, an MOU must be signed. Where the lessee is a wholly-owned SU entity, the principles of this policy do apply.

## 4. Definitions

For the purpose of this policy the following definitions apply unless otherwise indicated.

<b>Area</b>	An SU Space, measured and determined according to Facilities Management’s sole judgement, and expressed in square metres
<b>Contract Owner</b>	SunCom
<b>Dedicated Commercial Space</b>	An SU Space that has as its sole purpose commercial activities, and that is not influenced by the academic curriculum

<b>Facilities Management</b>	From the wide range of responsibilities executed by this Division, its responsibility for all long-term planning and allocation of SU Spaces is relevant to the purposes of this policy.
<b>Facility Occupants</b>	Persons who occupy or have access to assigned and/or dedicated SU Spaces for a certain period; Facility Occupants must maintain the premises concerned in accordance with the applicable Lease Agreement.
<b>Lease Agreement</b>	A contractual agreement signed by both parties – SU and a tenant – for the exclusive use of an agreed-upon Space for a specified period and subject to the terms and conditions of the Agreement
<b>Letting Office</b>	A unit within SunCom that is responsible for commercial leasing
<b>Longer-term Rental</b>	Lease Agreements in which Stellenbosch University is the lessor, and of which the term is longer than thirty days. Longer-term Rentals are not to be confused with the legal concept “long leases”, which involve a period of ten years or longer.
<b>MOU</b>	The short form of “Memorandum of Understanding”, which includes collaboration agreements; a contractual agreement regarding the use of Spaces in cases where a Lease Agreement would be inapplicable
<b>Short-term Rental</b>	As per the definition in SU’s Short-term Rental Policy, rental of an SU venue or venues, typically for a short period or recurring short periods, for the use of the whole or part of a facility; i.e. rentals that do not fit the definition of “Longer-term Rental” above
<b>Space</b>	An SU Area inside or outside a building on campus
<b>Space Management Unit</b>	A unit within the Division of Facilities Management that is responsible for assigning SU Spaces
<b>SunCom</b>	The commercial services unit of Innovus, responsible for commercialisation and SU’s fifth-stream revenue on all campuses; SunCom concludes all commercial rentals on SU’s behalf.

## 5. Purpose and aim of the policy

The purpose of this document is to provide a Policy framework for Longer-term Rentals of SU facilities. This includes the process of allocating and assigning Spaces, the management of Lease Agreements and the implementation of procedures regarding Longer-term Rentals.

- 5.1 This framework includes the roles and responsibilities of the various parties involved in Longer-term Rentals, in order to achieve the following **objectives**:
- 5.1.1 Clarify and outline the respective roles and responsibilities of the various SU divisions involved with the management of the University's facilities (especially Facilities Management and SunCom) with a view to the effective and optimal management of Longer-term Rentals at SU.
  - 5.1.2 Clarify the role of academic departments with respect to Longer-term rentals regarding Space allocation within Spaces that they are occupying.
  - 5.1.3 Protect SU's external image as an academic institution and the various trademarks that reflect its image and reputation.
  - 5.1.4 Maximise SU's fifth revenue stream by generating new rental income through appropriate procurement and effective management of Longer-term Rentals.
- 5.2 The objectives under 5.1 are to be achieved by the following **means**:
- 5.2.1 Provide clear processes and guidelines that will ensure responsible and effective management of Longer-term Rentals.
  - 5.2.2 Assign clear roles for all stakeholders involved in Longer-term Rentals.
  - 5.2.3 Balance the commercialisation of SU assets with academic, research and formal recreational and cultural activities as well as community engagement with a view to furthering purposeful partnerships and inclusive networks.

## 6. Policy principles

The following principles form the foundation of this policy:

- 6.1 SU has ownership of all SU Spaces, in which it is represented by Facilities Management, who allocates and assigns SU Spaces according to the University's needs.
- 6.2 Longer-term rental activities offer opportunities for commercialisation and the growth of fifth stream income at SU.
- 6.3 All parties to Lease Agreements or MOUs must comply with the provisions of the relevant contract.
- 6.4 SU facilities are used mainly for academic and research purposes, including sports activities. Except in the case of Dedicated Commercial Spaces, any other uses – such as for partnerships and

commercialisation – are secondary and subordinate to main activities related to the academic curriculum.

6.5 This policy recognises the objectives of academia on one hand and commercialisation on the other.

6.6 SunCom, a unit of Innovus, is mandated to generate fifth-stream income for SU and, with respect to Longer-term rentals, is supported in this by Facilities Management.

6.7 Longer-term Rentals must align with the principles and values contained in SU's *Vision 2040*.

## 7. Policy provisions

### 7.1 Roles

#### 7.1.1 Facilities Management

Facilities Management plays a key role ensuring adherence to institutional priorities regarding the use of Spaces; therefore, all Space allocation is managed by Facilities Management. The Facilities Management Division has a broad scope of functions and responsibilities, among which the following are pertinent to this policy:

- a) all short-term and long-term Space planning and allocation,
- b) maintenance of infrastructure,
- c) risk management,
- d) campus security, and
- e) environmental sustainability.

It is the responsibility of Facilities Management to notify SunCom of Spaces that are available for commercialisation, and Facilities Management will assign a category to Spaces according to their availability for rentals and the maximum duration of potential rentals. Refer to 7.1.5, "Allocation of Spaces".

#### 7.1.2 SunCom

SunCom is the unit by means of which Innovus exercises its mandate to manage and commercialise all non-intellectual property and business opportunities at SU, including the use of facilities. This excludes all activities regarding which valid contracts have been concluded via the Division of Research Development. SunCom concludes all Longer-term Rentals on SU's behalf.



### 7.1.3 All other SU environments

If an SU environment identifies an opportunity for a Longer-term Rental of its own or with an industry partner, and which does not qualify for a contract under the Division of Research Development, must approach Facilities Management to enquire about Space availability. If a Space is available, the Space will be formally allocated by Facilities Management and assigned to a category as per *Annexure A: Classification of SU Spaces for Allocation for Longer-term Rentals*, SunCom must be informed by Facilities Management to manage the Lease Agreement. SunCom will engage with Facilities Management and the relevant SU environment to formalise terms and conditions of agreement before securing the industry partner at competitive rates.

### 7.1.4 Legal Services

Within the context of this policy, SU Legal Services is responsible for overseeing all contractual agreements between SU and third parties.

### 7.1.5 Allocation of Space

Facilities Management allocates SU Spaces, and have the mandate to re-assign Space for a different use or reassign a Space to another SU environment to serve institutional needs. With a view to accommodate SU's changing the utility of a Space and to honour Lease Agreements with tenants, Facilities Management has introduced a classification system. With the exception of Dedicated Commercial Spaces, the availability and duration of Longer-term Rentals of Spaces is managed by Facilities Management as per *Annexure A: Classification of SU Spaces for Allocation for Longer-term Rentals*.

### 7.1.5 Space measurement

All SU facilities and venues have a specific measured Useable Area, which is calculated according to various criteria and determined by Facilities Management.

## 7.2 Lease Agreements

### 7.2.1 Categories

Lease Agreements may take more than one form, depending on the capacity in which a tenant rents a Space. Rentals are categorised as follows:

- a) non-consumer leases – concluded with juristic persons – which are not subject to the provisions of the Consumer Protection Act 68 of 2008 (CPA);

- b) consumer Lease Agreements are subject to the provisions the CPA and involve one or more consumers or natural persons as one of the parties;
- c) monthly Lease Agreements – condensed Lease Agreements containing the essential and salient terms for monthly tenants;
- d) residential Lease Agreements;
- e) third-party Lease Agreements; and
- f) beneficial occupation periods and options to renew.

Lease Agreements may be negotiated between SunCom (Contract Owner) and the prospective tenant before being signed. Existing Lease Agreements with tenants must be honoured before Spaces may be reassigned. Facilities Management assigns Spaces according to *Annexure A: Classification of SU Spaces for Allocation for Longer-term Rentals*, and must always be consulted when new Lease Agreements are being considered, that will endure beyond the classification period, or has no classification assigned to it.

### 7.3 Contract Owner

Various types of Lease Agreements and MOUs regarding the usage of SU-owned Spaces are concluded across the University, for a variety of reasons. The Contract Owner negotiates these agreements on SU's behalf. SunCom is the Contract Owner and administrator for all Longer-term Rentals.

### 7.4 Tenants

#### 7.4.1 Procurement

Tenants are procured by SunCom, who may approach suitable tenants directly. Tenants may also be sourced through an intermediary or agent appointed by the Letting Office. If the effective cause of a transaction or introduction is an external source, an agreed fee (if any) is payable.

#### 7.4.2 Relocation

Preserving SU's reputation as landlord is important. Therefore, relocating tenants before the term of their lease has expired is strongly discouraged. Where this is unavoidable, the matter must be negotiated with the tenant. Refer to 7.1.5, "Allocation of Spaces". Facilities Management will determine the use and time frame of the availability of Spaces allocated to Longer-term Rentals with a view to implementing institutional priorities without dishonouring Lease Agreements.

## 7.5 Rental

The cost of Longer-term Rentals to internal SU tenants (when one SU environment rents from another SU environment) is calculated as per the internal rate of recovery and is excluded from this policy. In the case of external tenants and Dedicated Commercial Spaces the rental is determined by the Contract Owner.

## 7.6 Cost recovery

In accordance with SU's Finance Policy the full-cost approach applies to all Longer-term Rentals; i.e. all direct and indirect costs must be recovered from the rental fee for a leased Space. ICRR is applied as per the Finance Policy: Indirect-cost Recovery Rate (ICRR) with Regard to Third-stream Income at Stellenbosch University.

## 7.7 Maintenance

Maintenance of facilities will be handled as follows:

*Type 1 – Facility is free-standing and all associated costs can be clearly ring-fenced.*

In this instance all maintenance directly relating to the usage of the facility, will be borne by the Letting Office from the point where the services enter the facility. Upon transfer of the facility to the Letting Office, the allocation will be accompanied by a full condition assessment and costing to bring the facility to a standard sufficient for letting purposes. The Letting Office will then determine the viability of the capex requirement in relation the letting opportunities. Cost of the condition assessment to be borne by the Letting Office.

*Type 2 – Facility is not free standing and associated costs cannot be clearly ring-fenced*

The Letting Office will be responsible for the general maintenance of the inside of the facility. The Assigned Square Meter (ASM) method will be used and the relevant rate stated in the allocation form, See *Annexure A: Classification of SU Spaces for Allocation for Longer-term Rentals*, and must be paid to FM to fund other services and maintenance to the surrounding areas.

## 7.8 Legal aspects

### 7.8.1 Agreements

All parties must sign a Lease Agreement, or an MOU if a Lease Agreement is not applicable, in order to make use of SU Spaces for Longer-term Rentals.

### 7.8.2 Liability and insurance of facilities

SU has general public liability cover. In addition, tenants must take out additional insurance covering their property or equipment in use in SU Spaces.

### 7.8.3 Branding and usage of SU logo or trademarks

Permission to use SU logos, trademarks, banners and other symbols associated with the University is not implicitly included in a Longer-term Rental. *SU's Use and Licensing of Stellenbosch University Trademarks Policy* governs the use of SU trademarks and provides guidance for the approval for co-branding, endorsements and licencing.

## 8. Conflict settlement

The Contract Owner shall manage all disputes that may arise between the parties to a Longer-term Rental according to the contractual provisions. Should the Contract Owner fail to resolve the dispute within 20 business days of such referral, the matter must be referred to a legal forum of litigation.

## 9. Policy control

### 9.1 Roles

This policy was approved by the SU Council. The Rector has governing responsibility for its implementation, and delegated the management of the policy to the Chief Operating Officer (COO).

The COO is the owner of this policy and therefore responsible for its formulation, revisions and ensuring effective curatorship and complementary functionaries.

The curator of this policy is the Chief Director: Innovation and Business Development, who must ensure the effective formulation, evaluation and implementation of the principles and provisions of this policy.

### 9.2 Revision

The policy must be reviewed every five years or sooner, if circumstances so dictate, or as deemed necessary.

### 9.3 Non-compliance

Instances of non-compliance with the principles and provisions of this policy are referred to the policy owner for final decision-making according to the disciplinary policy and procedures that may apply at the time.

## 10. Supporting documents

Item No	Name of Document	Status <i>(e.g. identified, in process or approved)</i>
	Guidelines on the Use of University Spaces	In process
	Annexure A: Classification of SU Spaces for Allocation for Longer-term Rentals	In process

## 11. Related documents

Item No	Name of Document	Status <i>(e.g. identified, in process or approved)</i>
	Innovus Mandate	Approved
	Finance Policy: Indirect-cost Recovery Rate (ICRR) with Regard to Third-stream Income at Stellenbosch University	Approved
	SU Policy in Respect of the Use and Licensing of Stellenbosch University Trademarks	Approved
	SU Financial Policy	Approved
	SU Risk Management Policy	Approved
	Finance Policy: Costing and Pricing of Research and Research-related Contracts	Approved
	SU Short-term Rental Policy	Approved

## 12. Revision and publication history

Revision and dates	Audience
Rev 1.0: March/April 2021	Published to Writing Team
Rev 1.1: 14 Apr 2021	Published to Curator Team
Rev. 1.1: Apr/May 2021	Published to Writing Team
Rev 1.1: 30 April 2021	Published to Curator Team

Rev 1.2: 5 May 2021	Published to Reference Team
Rev 1.3: 2 June 2021	Published to Language Centre for Editing
Rev 2.1: 16 June 2021	Published to COO
Rev 2.2: 16 July 2021	Published to Rectorate
Rev 2.3: 13 Aug 2021	Published to General Manager's Meeting
Rev 2.4: 23 Aug 2021	Published to Language Centre for Translation
Rev 2.5: 23 Sept 2021	Published to Institutional Forum
Rev 2.5: 23 Sept 2021	Published to Senate
Rev 2.5: 23 Sept 2021	Published to SU Council

### 13. Guidelines and Manuals

The guidelines and manuals supplemental to the policy are only available for internal use by SU staff. Please follow this [link](#) to view the documents.