

## TERMS AND CONDITIONS

*Any capitalised terms not defined herein have the meaning ascribed in the Term Sheet.*

### 1. VENUE HIRE AND FEES

- 1.1. In consideration of the Hirer paying the Owner the Hire Fee as set out in Item 6, the Owner has agreed to hire the Venue to the Hirer.
- 1.2. The Hirer shall have access to the following Venue Areas as detailed on the map of the Venue attached to this Agreement as Schedule A:
  - (a) Room A; and
  - (b) Container Bar.

The Hirer acknowledges and agrees that access to Room B by the Hirer or its employees, agents, sub-contractors, patrons, guests, or invitees is strictly prohibited at all times.
- 1.3. The Hire Fee is due and payable in full within seven (7) days of event, unless otherwise agreed between the parties. Events held on a public holiday shall incur an additional loading fee equal to ten (10%) percent of the total Hire Fee.
- 1.4. The Hire Fee is inclusive of any goods and services tax (**GST**) as required under *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (the **Act**) which is payable in respect of a taxable supply made under this Agreement. For the purposes of this clause, "taxable supply" has the meaning given to that term by section 195 of the Act.

### 2. SECURITY DEPOSIT

- 2.1. The Hirer must pay the Security Deposit to the Owner on full execution of this Agreement. The Security Deposit is to be held by the Owner as security for the performance by the Hirer of its obligations under this Agreement. Upon receipt of the Security Deposit, the Owner shall reserve the Venue for the Operations Period for the Hirer to conduct the Event.
- 2.2. As soon as practicable after the conclusion of the Event but in any event not more than seven (7) days after the conclusion of the Event, the Owner will refund the Security Deposit to the Owner in full provided that the Owner has performed its obligations under this Agreement.
- 2.3. Subject to clause 3.2 **Error! Reference source not found.** and clause 10.1 herein, if the Hirer has failed to perform its obligations under this Agreement at the conclusion of the Event, the Owner shall notify the Hirer in writing and the Hirer shall have a period of seven (7) days from the date of notice to remedy such failure. In the event the Hirer is unable to remedy the failure, the Security Deposit shall be forfeited to the Owner.

### 3. CANCELLATION

- 3.1. If the Hirer cancels the Event:
  - (a) more than fourteen (14) days prior to the commencement of the Operations Period for any reason whatsoever, the Security Deposit shall be forfeited to the Owner and any portion of the Hire Fee which was paid to the Owner shall be refunded to the Hirer;
  - (b) less than fourteen (14) days prior to the commencement of the Operations Period for any reason whatsoever, the Security Deposit shall be forfeited to the Owner and fifty percent (50%) of the Hire Fee shall be payable to the Owner;
- 3.2. If the Event is cancelled due to any reason beyond the reasonable control of the parties including without limitation an act of war, epidemic, pandemic, adverse weather conditions, labour disputes, or as a result of any government order, law, rule, or regulation (**Force Majeure Event**), the Security Deposit shall be forfeited to the Owner. Any portion of the Hire Fee which

was paid to the Owner by the Hirer as at the date of cancellation due to a Force Majeure Event shall be refunded to the Hirer.

- 3.3. Notwithstanding the foregoing, if the Hirer wishes to cancel the Event prior to the commencement of the Operations Period or if the Event is cancelled due to a Force Majeure Event, the parties may negotiate in good faith to amend the dates of the Event and Operations Period (the **Postponed Event**). Any payments made by the Hirer shall be retained by the Owner and applied towards payments due in respect of the Postponed Event. If the parties fail to agree to the Postponed Event within seven (7) days from the date Hirer notifies Owner of such cancellation, the Owner may immediately terminate this Agreement without any liability and the Security Deposit shall be forfeited to the Owner.
- 3.4. The Owner may terminate this Agreement at any time without liability upon notice in writing to the Hirer if the Hirer commits a material breach of this Agreement and fails to rectify such breach within seven (7) days from the date of notice. In the event that the Owner terminates this Agreement due to a material breach by the Hirer, the Security Deposit shall be forfeited to the Owner.

#### **4. TICKETING**

- 4.1. The Owner hereby grants to the Hirer the exclusive right to organise, arrange and have sole care and conduct for all ticketing activities for the Event held at the Venue. Notwithstanding, the Hirer may grant the Owner the right to sell tickets to the Event directly through the Venue or via the Venue's website provided that any and all revenue derived from the ticketing activities for the Event shall be remitted directly to the Owner (less GST).
- 4.2. Each party will be solely liable and responsible for any GST applicable to the supply of tickets and hereby indemnifies and holds harmless the Owner, its agents and any related or associated companies from and against all actions, claims, demands, costs and expenses actually incurred by that party, its agents and any related or associated companies, in respect of any unpaid GST.

#### **5. OBLIGATIONS OF THE PARTIES**

- 5.1. The Owner undertake and agrees to:
  - (a) meet all costs and expenses incurred by any utility, authority, or company in relation to the provision of electricity, gas and water and all costs and expenses which relate to cleaning the Venue or in respect of consumables such as light bulbs, toilet paper, hand towels and soap;
  - (b) provide sound equipment and ensure such sound equipment is in good working order prior to and during the Event;
  - (c) liaise with the Hirer and all suppliers of the Hirer throughout the Operations Period to ensure they have adequate access to the Venue; and
  - (d) at the commencement of the Operations Period, ensure the Venue is clear of any pre-existing items that do not relate to, or assist the Owner to set up the Event, at the Venue.
- 5.2. The Hirer will:
  - (a) **ensure that the venue is left in the same condition that it was in prior to the Event;**
  - (b) comply with the reasonable directors of the Owner;
  - (c) comply with all laws (including occupational health and safety laws), regulations and government or regulatory orders which apply to the Venue or the Event;
  - (d) not attempt in any way to modify or physically tamper with any aspect of the Venue;
  - (e) make the necessary arrangements for, and be liable for the cost of:

- (i) any council licences or permits specifically required for the Event;
  - (ii) security in relation to running the Event;
  - (iii) all technical staff required for the Event;
- (f) at its own cost and expense,
- (i) remove all waste and other rubbish from the Venue;
  - (ii) install and remove all other lighting, décor, tables, seating, and any other equipment necessary for the proper conduct of the Event;
- (g) ensure all electrical equipment brought into the Venue is safe and will not overload electrical boards; and
- (h) take reasonable steps to ensure that its employees, agents, patrons, guests and invitees shall comply with the obligations contained in this clause 5.2.

## **6. FOOD AND LIQUOR**

- 6.1. The Hirer is entitled to provide any food and/or beverages as part of the Event at the Hirer's sole cost and expense. The Hirer shall be liable for any food standard requirements.
- 6.2. In the event alcohol is to be sold or served at the Event, the Owner shall be liable for obtaining and maintaining an appropriate liquor licence for the Venue and the duration of the Event. The Hirer must comply with the terms of the liquor licence and any applicable liquor laws at all relevant times. Under no circumstances is alcohol to be served to any person at the Venue who is under 18 years of age.
- 6.3. The Hirer and each of its patrons, guests, or invitees must only consume alcohol in the permitted area, as indicated on the map of the Venue Areas attached to this Agreement as Schedule A.
- 6.4. At the Hirer's written request, the Owner shall provide staff trained in the responsible service of alcohol (**RSA**) for the proper and efficient running of the Container Bar. If the Hirer elects to provide its own staff for the proper and efficient running of the Container bar, the Hirer warrants that each person serving alcohol shall have a valid RSA certificate and must provide a copy of such certificate to the Venue not less than seven (7) days before the Event.
- 6.5. The Hirer acknowledges and agrees that smoking is strictly prohibited in any part of the Venue at any time.

## **7. WARRANTIES**

- 7.1. The Owner warrants and represents that:
- (a) the Owner has the right to grant the Hirer access to and the rights in the Venue set out in this Agreement;
  - (b) the Venue, including without limitation its facilities, fittings, and fixtures, is in all material respects in good condition and repair, free from any defects and is suitable for conducting the Event;
  - (c) it holds and maintains, and will continue to hold and maintain, valid and comprehensive public liability and any other relevant insurance policy in respect of the Venue; and
  - (d) the Hirer's use of the Venue to conduct the Event will not violate any applicable laws or regulations.

## **8. LIABILITY AND INDEMNITY**

- 8.1. The Hirer occupies the Venue and enters and uses the Venue at the Hirer's own risk. The Hirer hereby releases the Owner and its employees, agents and contractors to the full extent permitted by law from all claims and demands of any kind and from all liability which may arise from or in connection with (i) breach by the Hirer of any warranty, representation or obligation under this Agreement (ii) any failure by the Hirer, its patrons, guests, or invitees to comply with any relevant law or regulations; or (iii) accident or negligence of any kind for damage to property or injury to any person in the Venue arising from the use of the Venue by the Hirer, its patrons, guests or invitees, which was not caused by the negligence of the Owner and did not arise from a breach of any term or warranty contained in this Agreement.

## **9. INSURANCE**

- 9.1. The Hirer is responsible for obtaining and maintaining their own public liability insurance policy and any other required insurances or licences noting the interests of the Owner and the Venue and must provide the Owner with a certificate of currency for product and public liability insurance coverage upon written request.

## **10. MAINTENANCE OF FACILITIES**

- 10.1. The Hirer must keep the Venue in a thoroughly clean and tidy condition and ensure that the Venue is in substantially the same condition at the end of the Operations Period as at the commencement of the Operations Period, subject to reasonable wear and tear.
- 10.2. If there is any damage to the Venue during the Operations Period, the Owner may withhold all or part of the Security Deposit to cover the cost of those repairs or replacements. The Hirer acknowledges and agrees that the Hirer's liability in respect of such damage is not limited to the Security Deposit.

## **11. VENUE ACCESS**

- 11.1. Any duly authorised representative of the Owner will at all times have full and free access to all parts of the Venue provided that such access does not conflict with the exclusive right to the Venue granted to the Hirer or interfere with the Hirer's use of the Venue during the Operations Period.
- 11.2. The Hirer may deliver equipment and other goods to the Venue from Monday to Thursday, provided that the Hirer notifies the Owner at least 24-hours prior to delivery. At the conclusion of the Event, the Hirer may store equipment and other goods at the Venue provided that such equipment and/or other goods are collected within three (3) business days, unless otherwise agreed in writing between the parties.
- 11.3. The Hirer acknowledges and agrees that the Owner shall not be liable at any stage for any loss or damage to equipment or other goods delivered to the Venue by the Hirer.

## **12. DIRECTIONS OF FIRE & OTHER AUTHORITIES**

- 12.1. The Hirer must comply with any directions given by a duly authorised representative of the Owner or by or on behalf of any competent authority including but not limited to Victorian Fire and Emergency Services, Victorian Police and any other authority concerned with public health or safety.

## **13. MISCELLANEOUS**

- 13.1. This Agreement is personal to the Hirer and the Hirer may not assign, transfer or novate its rights under this Agreement without the prior written consent of the Owner which the Owner may withhold in its sole discretion.
- 13.2. Any variation, or purported variation to this Agreement will not be binding and will be of no effect unless in writing and signed by both parties.
- 13.3. If any clause of this Agreement (whether in whole or part) is held to be invalid, illegal or unenforceable, then such clause (or relevant part thereof) will be severed from this Agreement and will not affect the continued operation of the remaining provisions of this Agreement and

the parties agree that they will (where necessary) negotiate in good faith to replace the invalid, illegal or unenforceable clause.

- 13.4. This Agreement is governed by the laws in force in the State of Victoria, Australia and the parties submit to the exclusive jurisdiction of the courts of that State. The parties submit to the non-exclusive jurisdiction of the courts of the Victoria in Australia in respect of any proceedings in connection with this Agreement.
- 13.5. This Agreement constitutes the entire agreement between the Owner and the Hirer and supersedes and merges all prior agreements, representations or other understandings, written or oral, between the parties.
- 13.6. Any notice required by a party under the Agreement must be sent to the email address set out in Item 1 of the Term Sheet (or other email address notified to the other party in writing). A notice sent by email is deemed to be given at the date and time the sender's email server confirms the successful delivery of the email to the other party and the sender must retain evidence in respect of the same.
- 13.7. This Agreement can be executed by electronic communications and in any number of counterparts and all such counterparts taken together will constitute one instrument. Each party can transmit to each other party's nominated email address a facsimile scan of the signature page of the Agreement executed by the sending party, in portable document format, which can be affixed by the receiving party to the final terms of this Agreement as evidence of the sending party's execution of this Agreement. The process above will constitute valid writing and signing this Agreement.

**SCHEDULE A**

“Venue Areas”

