

CONDITIONS OF HIRE

OF

COMMUNITY CENTRES

& HALLS FOR HIRE

DECEMBER 2020

CITY OF MITCHAM | CONDITIONS OF HIRE

1. DEFINITIONS

In this Hire Agreement:

Booking Request means a Written request to hire the Facility by the Hirer or any person acting on the Hirer's behalf in the form prescribed by the Council and submitted on line to the Council.

Business Day means a day that is not a Saturday, Sunday, or public holiday in South Australia.

Charges means any of the charges relating to the Hirer's use of the facility identified in the Hire Confirmation or otherwise in any Special Condition.

Council means the City of Mitcham.

Damage includes loss arising from destruction or damage to the Facility or any part thereof and/or to any Council property located at the Facility and includes property that is lost or stolen, that arises in connection with or as a result of the Hirer's use of the Facility.

Facility means the Council premises identified in the Hire Confirmation.

Fee means any of the fees relating to the Hirer's use of the facility identified in the Hire Confirmation.

Hire Agreement comprises the following documents:

- Booking Request;
- Hire Confirmation (including any Special Conditions); and
- these Conditions of Hire.

Hire Confirmation means the Written confirmation authorising the Hirer to hire the Facility for the Hire Period on the terms and conditions specified, provided by or on behalf of the Council upon approving a Booking Request.

Hire Period means dates and times specified in the Hire Confirmation during which the Hirer is authorised to Hire the Facility.

Hirer Representative means the person/s named in the Hire Confirmation.

Hirer means the party named in the Hire Confirmation and where the context permits, includes the employees, contractors, agents, customers and other invitees of the Hirer.

Permitted Use means the activity or activities that the Hirer is permitted to carry out at or on the Facility under the Hire Agreement that is specified in the Hire Confirmation. The Hirer is responsible for specifying with reasonable particularity in the Booking Request the activities that the Hirer wishes to conduct at the Facility.

Special Conditions means the Special Conditions (if any) set out in the Hire Confirmation or otherwise separately notified to the Hirer by Written notice from the Council prior to the commencement of the Hire Period.

Written includes hard copy or electronic communication.

2. GENERAL CONDITIONS

2.1 The Hirer acknowledges and agrees that its hire and use of the Facility is subject at all times to the Hire Agreement.

2.2 In the event of any inconsistency between the documents comprising the Hire Agreement, the following order of priority will prevail, to the extent of any inconsistency:

2.2.1 any Special Condition;

2.2.2 the Hire Confirmation;

2.2.3 these Conditions of Hire; and

2.2.4 the Booking Confirmation.

2.3 The Hire Agreement is personal to the Hirer and not transferable.

2.4 The Council retains the right to cancel the Hire Agreement at its absolute discretion, on reasonable prior Written notice to the Hirer, in which case:

2.4.1 the Council will refund any Fees paid by the Hirer to the Council (on a pro-rata basis where relevant); and

2.4.2 the Hirer agrees to release the Council from any claim for damage, loss or costs incurred by the Hirer as a consequence of the cancellation.

2.5 The Council retains the right to move or relocate the Hirer between Council facilities without negotiation, but subject to the Council having regard to the Permitted Use and Hire Period, and upon providing prior Written notice to the Hirer. Where the Council exercises its rights under this clause:

2.5.1 it will not increase the Fee payable, where the replacement facility usually attracts a higher fee for hire; and

2.5.2 it will reimburse the Hirer any difference between the Fee paid and any lesser fee usually charged for the hire of the replacement facility.

2.6 The Council does not warrant that the Facility is fit for the Permitted Use and the Hirer's use of the Facility is at the Hirer's own risk in all things.

2.7 The Hirer must:

2.7.1 be a natural person and must be eighteen (18) years of age or over; or

2.7.2 if a body corporate, the signatory for the Hirer must be an authorised person of the Hirer, who is eighteen (18) years of age or

over.

- 2.8 For the avoidance of doubt, to the extent that the Hire Agreement permits the Hirer to undertake activities that require permission under the Council's *By-law No. 3 – Local Government Land*, then the Hire Agreement constitutes permission for the activity to be undertaken.

3. FEES AND CHARGES

- 3.1 The Hirer must pay all Fees, according to the payment terms prescribed within the Hire Confirmation. Failure to make payment in accordance with the Hire Confirmation will result in the Hire Agreement not being issued or, if this has already occurred, in the immediate cancellation of the Hire Agreement.
- 3.2 Subject to clauses 3.4, any money paid towards the Bond or Key Deposit will be refunded within 15 Business Days of the conclusion of the Hire Period if:
- 3.2.1 the Hirer has fulfilled all of the Hirer's obligations under the Hire Agreement and has returned any keys and/or swipe cards; and
- 3.2.2 in the case of any Bond, upon the Council being satisfied that there is no Damage and that the Facility has been left in a clean and tidy state.
- 3.3 The Council may apply any part of the Bond to pay any Charges the Council incurs in connection with the Hirer's use of the Facility.
- 3.4 Any attendance by SA Police or the Metropolitan Fire Service will result in the Bond being forfeited in its entirety.

4. HIRE PERIOD

- 4.1 The Hire Period includes the set up and cleaning time.
- 4.2 Access to the Facility is subject to the Hirer Representatives (or other key personnel nominated by the Hirer) undertaking a site induction by the Council. The site induction will cover safety, security, emergency, waste and cleaning procedures.
- 4.3 Amplified sound must cease at 10pm and guests must depart by 10.30pm. The Facility must be vacated by all persons by 11.30pm.
- 4.4 The Council, including any staff, contractors or security and maintenance officers shall have free access to the Facility at all times. Any access will be subject to reasonable necessity, will be respectful, and will be subject to any reasonable

request or direction of the Hirer.

5. BOOKING REQUESTS AND CANCELLATIONS

- 5.1 A Booking Request must be received at least 10 Business Days prior to the commencement of the Hire Period.
- 5.2 Any Booking Request received less than 10 Business Days prior to the commencement of the Hire Period will be accepted at the Council's discretion, subject to Council's operational capacity to process the Booking Request within the timeframe available.
- 5.3 The Hirer may cancel the Hire Agreement by giving Written notice to the Council. If notice of cancellation of the Hire Agreement is received by the Council:
- 5.3.1 at least 10 Business Days prior to the commencement of the Hire Period, any Fees paid shall be refunded and returned in full to the Hirer; or
- 5.3.2 less than 10 Business Days prior to the commencement of the Hire Period, any Bond or Key Deposits paid will be returned to the Hirer but the Hirer forfeits any other Fees paid.
- 5.4 The Council reserves the right to refuse a Booking Request where the Council considers that the activities the Hirer wishes to undertake are not suitable at the Facility or, are otherwise contrary to the public interest.

6. KEYS

- 6.1 Keys will be issued to the Hirer prior to the commencement of the Hire Period by arrangement with the Council where the Hirer has paid all Fees.
- 6.2 Keys must be collected from Council Facilities during normal business hours as agreed and must be returned within 48 hours of the end of the Hire Period, unless otherwise agreed with or directed by Council staff. Keys can be returned in the after-hours locked box located at the Civic Centre 131 Belair Road, Torrens Park.

7. CARE AND USE OF FACILITY

- 7.1 The Hirer is authorised to use the Facility for the Permitted Use only.
- 7.2 The Hirer acknowledges that the Council's properties are shared community spaces, and the Facility may include access to shared spaces, including kitchens, toilets and hallways with other users. For exclusive use of shared spaces, the Hirer may also need to hire additional facilities (in

addition to the Facility).

- 7.3 The Hirer must leave the Facility in a clean and tidy condition at the end of the Hire Period. The Hirer is responsible for removing all rubbish from the Facility and ensuring all Council's equipment (including chairs and tables) is stored in its proper place.
- 7.4 The Hirer must also clean and tidy the immediate area around the Facility, including to clear it of rubbish and cigarette butts.
- 7.5 If the Facility is not left in a clean and tidy manner and additional cleaning is required to be undertaken by the Council, the Council will deduct the cost incurred in connection with such cleaning from the amount of the Bond that is returned to the Hirer. If the Bond is insufficient, the Hirer must pay the additional costs and the Council will invoice the Hirer for same.
- 7.6 The Hirer agrees to indemnify the Council for any Damage.
- 7.7 The Council will determine at the end of the Hire Period whether Damage has occurred and if so, the Hirer is liable to pay for the remediation of it. The Council will deduct the necessary amount from the Bond for the cost of making good any Damage. If the Bond is insufficient, the Hirer must pay the additional costs and the Council will invoice the Hirer for same.

8. SECURITY

- 8.1 The Hirer is responsible for the security of the Facility and the Hirer's property during the Hire Period. Depending upon the use permitted by the Hire Agreement, the Council may require a Council security officer to be present for the duration of any event held during the Hire Period, the costs of which will be borne by the Hirer.
- 8.2 It is the Hirer's responsibility to ensure that at the end of the Hire Period all windows and doors are closed and locked (where applicable) and lights, heaters and air conditioners are turned off.

9. HIRER CONDUCT

- 9.1 The Hirer must at its cost and expense, comply with all applicable laws (including but not limited to, the *Food Act 2001* (SA), the *Environment Protection (Noise) Policy 2007*, *Covid-19 requirements* and the *Council's By-Law No. 3*) relating to the Hirer's use of the Facility.
- 9.2 The Hirer must, at its own cost and expense, cooperate and comply with all reasonable directions issued by a Council employee in relation to the Hirer's use of the Facility, including (but not limited to) a direction to remedy a breach of the Hire Agreement. Failure to comply with a Council

direction may result in the immediate cancellation of the Hire Agreement.

9.3 The Hirer must:

9.3.1 ensure that any electrical equipment:

- (a) has been notified and approved by the Council before the commencement of the Hire Period; and
- (b) has been tested and tagged, with any tag being unexpired;

9.3.2 ensure that any incidents or damage are reported to the Council immediately;

9.3.3 take the appropriate measures to clean up any spillage as quickly as possible;

9.3.4 ensure that polished floors are swept after use;

9.3.5 ensure that the maximum number of persons permitted to occupy the Facility (which will be notified to the Hirer by the Council) is not exceeded at any time;

9.3.6 ensure that persons under the age of 18 years are not left unsupervised at the Facility;

9.3.7 ensure that at all times that the Facility is occupied, the exit doors remain unlocked from the inside and all doors, aisles and passageways are kept clear;

9.3.8 clean, tidy and secure the Facility prior to the end of the Hire Period, and

9.3.9 ensure that all of the Hirer's property brought onto the Facility is removed at the end of the Hire Period. The Council is not liable and does not take responsibility for any property left at the Facility.

9.4 Where applicable, all equipment and furnishings shall be stacked away in designated storage spaces, except where approved or instructed by Council.

10. PROHIBITED ACTIVITY

10.1 Emergency Exit doors must not be blocked by furniture or equipment at any time. Any failure to comply with this requirement may result in the suspension of the Hire Agreement until such time that a re-induction of the Facility is performed by the Council.

10.2 The Hirer must not:

10.2.1 sub-let the Facility or any part of it;

10.2.2 transfer or purport to transfer the Hire Agreement;

10.2.3 use candles, incense, or smoke machines;

10.2.4 attach decorations by nails, screws, adhesive tape or contrivances to any part of the Facility, other than at those places provided for this purpose by the Council;

10.2.5 install fixtures or fittings on the Facility or any part of it without prior written approval of the Council;

10.2.6 use confetti, glitter or similar at the Facility

10.2.7 use roller skates, skateboards or similar at the Facility or on any adjacent land unless approved by Council;

10.2.8 use bicycles inside any building;

10.2.9 advertise on or at the Facility without the Written approval of Council;

10.2.10 carry on or allow to be carried on any offensive, unlawful or dangerous activities at or from the Facility or create a nuisance or disturbance either for the Council or for the owners or occupiers of any adjoining premises;

10.2.11 move existing furniture (including pool tables, lecterns etc) from its location in the Facility without prior Written approval from the Council. Any furniture approved to be relocated in accordance with this clause 10.2.11, must be returned to their prior location at the end of the Hire Period;

10.2.12 use any substance that could result in a slip or fall or injury to a member of the public;

10.2.13 store any of the Hirer's equipment at the Facility without prior Written approval from the Council; and

10.2.14 remove any Council property from the Facility.

11. WASTE

11.1 The Council provides the three-bin system and has an expectation that the Hirer will appropriately recycle materials such as cans, bottles, cardboard and paper.

11.2 Failure to comply with these waste conditions to satisfaction of Council may affect the Hirer's future eligibility for use of the facility.

11.3 The Council takes its commitment to sustainability seriously. Failure to comply with correct waste practices may result in cancellation or suspension

of this Hire Agreement.

12. ALCOHOL AND SMOKING

12.1 The consumption of alcohol on the Facility is permitted subject to the Hirer complying with the requirements of the *Liquor Licensing Act 1997* (SA).

12.2 Where a licence is required to be obtained by the Hirer in connection with the supply or sale of liquor at the Facility, the Hirer must provide a copy of the licence to the Council prior to the commencement of the Hire Period.

12.3 All Council premises (including the Facility) are non-smoking environments, including a 10-metre radius outside the building. The Hirer is responsible for the collection of and disposal of cigarette butts in and around the Facility at the end of Hire Period.

12.4 Anyone deemed by the Council staff to be under the influence of excessive alcohol or any drugs will be asked to leave and not return to the Facility for 24 hours.

13. INDEMNIFICATION AND RELEASE

13.1 The Hirer indemnifies the Council against all actions, liabilities, penalties, claims or demands for any loss, damage, injury or death incurred or suffered directly or indirectly as a result of or in connection with any act or omission of the Hirer or the Hirer's use of the Facility.

13.2 The Hirer releases the Council from all actions, liabilities, penalties, claims or demands for any damage, loss, injury or death arising as a result of or in connection with the Hire Agreement except to the extent that they are caused by the Council's negligence.

14. PUBLIC LIABILITY INSURANCE

14.1 Unless otherwise indicated in the Hire Confirmation, the Hirer must take out and keep current during the Hire Period, public liability insurance in the amount specified in the Hire Confirmation.

14.2 The Hirer must provide a Written copy of any certificate of currency of insurance to the Council prior to the commencement of the Hire Period, to demonstrate compliance with this clause 14.

15. FIRST AID AND EMERGENCIES

15.1 During the Hire Period, the Hirer must:

15.1.1 ensure that a first aid kit is available for use

by the Hirer;

15.1.2 appoint a first aid officer; and

15.1.3 follow the emergency evaluation procedures for the Facility in the event of an emergency.

15.2 The Hirer Representative is responsible for emergency evacuations during hire and needs to ensure that staff and volunteers know how to evacuate the facility safely.

15.3 For fire, police attendance or ambulance call 000. City of Mitcham after hours contact telephone 83728888.

16. BUSHFIRE DANGER DAYS

16.1 The Council's Fire Danger Policy outlines that all on extreme and catastrophic fire danger days that workers, volunteers and contractors are to cease working from the Council's community centres and libraries.

16.2 It is the Hirer's responsibility to manage their own risk however the Council strongly supports the cancellation of hire and may at times make a decision to cease hire at facilities due to potential risk (refer to 4.2). We will arrange for a refund of hall hire fees in these occasions.

17. SPECIAL CONDITIONS

The Special Conditions form part of this Hire Agreement.

SPECIAL CONDITIONS:

PART 1 – Regular Hirers

18. REGULAR HIRE

18.1 This Special Condition will apply to any hire that is for more than a once-off Hire Period. A Hirer to whom this Special Condition applies is a **Regular Hirer**.

18.2 The Regular Hirer wishing to permanently cancel any future Hire Period must provide Written notice to the Council at least 10 Business Days prior to the date on which the Regular Hirer seeks to end the Hire Period.

18.3 The Regular Hirer must pay all Fees and/or Charges in accordance with the Hire Confirmation. If a Regular Hirer fails to make any payment of any Fee or Charge as and when it is due (**Outstanding Amount**), the Council may, in its

discretion:

18.3.1 suspend the use of the Facility until such time that the Outstanding Amount is paid; and/or

18.3.2 issue a notice to the Regular Hirer requiring it to pay the Outstanding Amount within 10 Business Days of the date of the notice, failing which the Council may immediately terminate the Hire Agreement.

18.4 The Regular Hirer is responsible for informing and ensuring their staff, employees, volunteers and members understand and adhere to the Hire Agreement

18.5 The Regular Hirer will be issued a swipe/key once all Regular Hire requirements have been met. Any key/swipe card is the responsibility of the Regular Hirer with the replacement for any lost or damaged key/swipe card to be invoiced to the Regular Hirer as a Charge.

18.6 Subject to availability, the Council may make storage facilities available to the Regular Hirer (either within the Facility or nearby, within Council property) ("Storage Space"). Any Storage Space must be subject to any terms and conditions set by the Council.

18.7 The Council is short on storage available across Council sites, and the Regular Hirer agrees not to store any items that are not used regularly in the Storage Space.

18.8 The Council accepts no responsibility for loss or damage to the Hirer's goods or equipment kept in any Storage Space.

PART 2 – Specific Special condition

19. ADDITIONAL CLEANING OBLIGATIONS

19.1 This Special Condition operates in addition to any cleaning obligations in the Conditions of Hire.

19.2 The Facility must be cleaned and tidied to the pre-hire condition before vacating the building.

19.3 The Hirer must ensure that soiled floors are swept, mopped and vacuumed and all tables and chairs wiped and cleaned.

19.4 All Council furniture must be returned to the correct positioning at the end of the Hire Period.

19.5 All Hirer furniture and equipment must be removed from the Facility at the end of the Hire Period.

20. HEATERS, BARBEQUES AND OPEN FIRES

20.1 Barbecues and heaters other than those owned by the Council are permitted on the Facility but, in the case of barbecues, not inside any building subject

to the barbecue being operated by a competent adult and the Council being satisfied that the barbecue comprises safe gas temperature controls, hoses and regulators.

- 20.2 Notwithstanding anything in the Hire Agreement, the Hirer must not bring an LPG cylinder onto the Facility where more than ten (10) years have passed since the stamp test date marked on the cylinder.
- 20.3 All barbecues and heaters on the Facility must be located on level ground away from flammable sources and sheltered from wind.
- 20.4 Open fires are strictly prohibited on or at the Facility.

21. AMUSEMENT STRUCTURES

- 21.1 Amusement rides, or similar structures are strictly prohibited and must not be brought on to the Facility without the prior Written approval of Council. Such approval may be specified in the Hire Confirmation and subject to any special

conditions that the Council sees fit to impose.

- 21.2 The Hirer shall ensure that all approved amusement structure operators take out and keep current during the period of the hire agreement a public liability insurance policy for a minimum sum of twenty million dollars (\$20,000,000) per claim.
- 21.3 The Hirer must ensure all amusement structures are currently registered with SafeWork SA. Interstate registrations are not acceptable in SA.
- 21.4 Copies of all amusement structure operators' public liability insurance certificates of currency and SafeWork SA registration certificates must be provided to Council prior to the commencement of the Hire Period.