

Casual Hire Licence

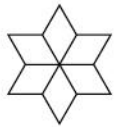
Parks & Reserves

Under sections 200 & 202 of the *Local Government Act 1999*.

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City of
Norwood
Payneham
& St Peters

Terms and Conditions

BETWEEN The Corporation of the City of Norwood Payneham and St Peters of 175 The Parade Norwood SA 5067 (**Council**)

AND

The **Licence Holder** as described in Item 1 of the Schedule.

TERMS

1. INTERPRETATION

In this Licence Agreement, the terms below have the following meaning:

Act means the *Local Government Act 1999*.

Area means the Area on the Council Park or Reserve as specified in Item 3.

Event is classified as an 'Event' in Item 6 which is where major hired equipment is included in the application (eg large community event, markets, festival with amusements / rides, portable toilets, generators, etc).

Mobile Food Vendor Permit means a Permit granted to a 'Mobile Food Vendor Business' as defined under the *Local Government Act 1999*.

2. GRANT OF LICENCE

- 2.1 The Council grants, and the Licence Holder accepts, a non-exclusive and revocable licence of the Area for the Term and during the Times of Use as set out in this Licence.
- 2.2 The Council, to the extent that the Area is community land, approves and grants a licence to the Licence Holder under sections 200 and 202 of the Act to use the Area for the Permitted Use.
- 2.3 The rights conferred by this Licence shall rest in contract only and shall not create or confer upon the Licence Holder any tenancy, estate or interest in or over the Area.
- 2.4 The Council may grant a licence to other parties at any time during the Times of Use. The Licence Holder may be required to share the public facilities at the Area, including (without limitation) public playgrounds and barbeques.
- 2.5 The Licence Holder is responsible for ensuring that its employees, contractors, agents, authorised representatives and other invitees that are engaged in connection with the Licence comply with the terms and conditions under the Licence.

3. PAYMENT OF FEE

- 3.1 The Licence Holder must pay to the Council the Fee set out in Item 8 in the manner directed by the Council, and in any case, not more than fourteen (14) days from the Start Date stated in Item 4.
- 3.2 At Council's discretion, a refundable bond maybe charged for the use of the Council Park or Reserve. As specified in Item 8.3, the Licence Holder, at its own cost, is responsible for repairing any damage to the Land or property to the satisfaction of the Council. However, if the Licence Holder fails to repair the damage, pursuant to clause 8.3, the Council may undertake the repairs and the Council is then entitled to recover the cost for the repair works from the bond.

4. TERM NOT TO EXCEED 6 MONTHS

The parties agree that notwithstanding any other provision of this Licence, the Term will not exceed six (6) months from the Start Date.

5. USE OF PREMISES

5.1 Permitted Use

The Licence Holder must only use the Area for the Permitted Use as specified in Item 6, unless otherwise agreed with the Council in writing.

5.2 Times of Use

The Licence Holder is only entitled to use and access the Area during the Times of Use as specified in Item 5, unless otherwise agreed with the Council in writing.

5.3 Nuisance and Offensive Activities

5.3.1 Notwithstanding clause 5.1, the Licence Holder must not undertake any offensive or dangerous activities at the Area or cause a nuisance or disturbance to the public, and must take all reasonable steps to minimise noise, dust and vibration from the Area.

5.3.2 The Licence Holder must ensure that all entertainment provided at the Area under the Licence involving sound and lighting complies with the *Environment Protection (Noise) Policy 2007*, and other industry standards.

5.4 Notification of Event

Where the Permitted Use is classified as an Event, the Licence Holder must notify adjacent property owners to the Area and emergency services of the Event at least fourteen (14) days prior to the Start Date (unless otherwise specified by the Council).

5.5 Cleaning

5.5.1 The Licence Holder must keep the Area clean, tidy and free from rubbish, and must not cause any other part of the Council Park or Reserve to be left in an untidy state or condition.

5.5.2 All waste consumed at the Area in connection with the Permitted Use, including (without limitation) fats, oil and charcoal, must be disposed off-site and must not be disposed on in the Council Park or Reserve.

5.6 Hazards

The Licence Holder must immediately notify the Council if becoming aware of any hazards, risks and obligations relating to the Area.

5.7 Food Storage, Service and Disposal

5.7.1 The Licence Holder agrees to comply (and to ensure compliance by any mobile food vendor listed in Item 6) with legislative requirements relating to the storage, service and disposal of food and beverages in connection with the Permitted Use under the *Food Act 2001* and any directions or guidelines issued by the Eastern Health Authority.

5.7.2 The Licence Holder acknowledges that Environmental Health Officers from the Eastern Health Authority may inspect the Area at any time for the purposes of ensuring compliance with legislative requirements under the *Food Act 2001*, and agrees to comply with any reasonable directions of Environmental Health Officers.

5.8 **Power and Electrical Appliances**

- 5.8.1 It is the responsibility of the Licence Holder to arrange and manage power supply at the Area in connection with the Permitted Use.
- 5.8.2 The Council will not be liable for any loss or damage suffered in connection with the use or management of this power supply by the Licence Holder.
- 5.8.3 The Licence Holder must ensure that all electrical appliances, equipment and cabling in use at the Area is tested and tagged, and is placed, maintained and covered in accordance with relevant Australian Standards and work, health and safety requirements.
- 5.8.4 The Licence Holder must provide the Council evidence of compliance with the above obligations upon request.

5.9 **Alcohol**

- 5.9.1 Unless the Licence Holder obtains the written consent of the Council, the Licence Holder must not apply for a liquor licence under the *Liquor Licensing Act 1997*.
- 5.9.2 If a liquor licence is obtained, the Licence Holder must comply with the terms and conditions under the *Liquor Licensing Act 1997*.

5.10 **Entertainment and Music**

The Licence Holder must obtain the required licences for playing live music or film at the Area as part of the Permitted Use, including the Australasian Performing Right Association and the Phonographic Performance Company of Australia

5.11 **Smoking Prohibited**

The Licence Holder acknowledges that smoking is prohibited at the Area and at the Council Park or Reserve at all times in accordance with the Council's Smoke-Free Policy.

5.12 **Vehicles**

Unless prior approval has been obtained from the Council, the Licence Holder must not cause or permit vehicles to be driven or parked on the Area or the Council Park or Reserve.

5.13 **Signs and Banners**

The Licence Holder must not place any signs, advertisements or banners at the Area, unless Council approval has been obtained. Approved signs, advertisements or banners must be removed within five (5) days of the End Date as stated in Item 4, or as otherwise agreed with the Council.

5.14 **Pegging and Moveable Structures**

The Licence Holder must not cause or permit pegs to be placed at the Area and must ensure that all moveable structures are weighted in accordance with relevant industry standards, including the *Hire and Rental Industry Association (HRIA) Marquee Weighting Guide* (as amended from time to time), and otherwise to Council specifications.

5.15 **Council Right to Enter**

The Council may enter the Area at any time without prior notice, and may close or restrict access to the Area in an emergency.

5.16 Council Directions

The Licence Holder must comply with all reasonable directions by any employee or officer of the Council in connection with the Licence.

5.17 Statutory Requirements

The Licence Holder must comply with legislation, regulations, by-laws, codes of practice, guidelines and Council policies relating to the Permitted Use of the Area, including any applicable industry or health and safety standards in relation to the Permitted Use.

5.18 Declaration of an Emergency Health Event by State Government

The Licence Holder, and its agents must comply (including by all persons attending the Area in connection with the Permitted Use) with all legislative requirements and emergency management directions in force at the time.

6. INSURANCE

6.1 If the Council determines that insurance is required, the Licence Holder must keep during the Term, and must ensure that any of its contractors (including parties that supply and/or install equipment or infrastructure on the Area, and any mobile food vendor listed in Item 6) hold:

6.1.1 public risk insurance for the amount specified in Item 9 (or any other amount the Council reasonably requires) for each claim; and

6.1.2 other insurance required under legislation and which the Council reasonably requires.

6.2 The Licence Holder must, prior to the Start Date of the Term, or as requested by the Council, submit to the Council certificates of the policies the Licence Holder or other parties hold in accordance with clause 6.1.

7. INDEMNITY AND RELEASE

7.1 The Licence Holder occupies and uses the Area at its own risk and releases the Council from any liability to the extent permitted by law.

7.2 The Licence Holder is liable for and indemnifies the Council against, and releases the Council from, all actions, liabilities, penalties, claims or demands for any loss, damage, injury or death incurred or suffered directly or indirectly with the Licence, including the service of food or beverages by any mobile food vendor listed in Item 6, or its agents.

7.3 This indemnity is reduced by the extent to which the Council contributes to the event giving rise to the claim of indemnity.

8. DAMAGE

8.1 The Licence Holder must not cause or contribute any damage to Council Land in the immediate vicinity of the Area (including any roads), or any of the Council's Equipment or Services, in carrying out the Permitted Use in connection with this Licence.

8.2 The Licence Holder must immediately notify the Council in writing if any damage occurs to Council land or Council property during the Term of the Licence.

8.3 The Licence Holder, at its own cost, is responsible for repairing the damage to the Land or property to the satisfaction of the Council.

8.4 If the Licence Holder fails to repair the damage pursuant to clause 8.3, the Council may undertake the repairs, without notice to the Licence Holder. The Council is entitled to recover the cost for the repair works from the Licence Holder.

9. LICENCE HOLDER'S EQUIPMENT, MAINTENANCE AND REMOVAL

- 9.1 The Licence Holder must obtain written approval from the Council for the Licence Holder's Equipment as set out in Item 7 or equipment to be installed in or brought on the Area by the Licence Holder or its agents under the Licence.
- 9.2 The Licence Holder must, at its own cost and expense during the Term, keep and maintain its equipment in accordance with applicable industry or health and safety standards, and otherwise to the Council's satisfaction.
- 9.3 The Licence Holder must remove equipment installed or brought to the Area by the End Date of the Term, or as otherwise agreed with the Council. Any equipment that is not removed from the Area may be removed by the Council and all costs incurred by Council in removing the equipment (including storage costs) are recoverable by the Council from the Licence Holder.

10. TERMINATION AND EXPIRY OF LICENCE

10.1 Termination of Licence

The Licence will expire at 23:59 hours at the End Date of the Term, unless terminated earlier by the Council in writing.

10.2 Handover of Area

- 10.2.1 Before the End Date of the Licence, the Licence Holder will cease using the Area and at its own cost return the Area to its condition prior to obtaining the Licence, including but not limited to removing the Licence Holder's Equipment and repairing any damage to the Area and in the vicinity of the Area.
- 10.2.2 If the Licence Holder fails to carry out the works required under clause 10.2.1, the Council may without notice undertake the work required and may recover the cost or expense incurred in connection with the works from the Licence Holder.

11. BREAK CLAUSE

Notwithstanding the Term, the Licence Holder acknowledges that the Council may cancel the Licence by giving written notice to the Licence Holder in the following circumstances:

- work, health and safety
- the condition of the Area
- weather conditions

and that if the Council exercises the right to cancel the Licence in these circumstances, the Council will refund the Licence Fee to the Licence Holder, unless the Licence has been cancelled as a result of the Licence Holder's actions, omissions, negligence or default, in which case, the Council is not required to refund or repay the Licence Fee.

12. BREACH OR CANCELLATION OF LICENCE

- 12.1 If the Licence Holder breaches its obligations under this Licence, the Council and anybody authorised by the Council may:
- 12.1.1 give notice to the Licence Holder specifying the breach and requiring the Licence Holder to remedy the breach within fourteen (14) days, unless the Council determines that a shorter period is required for community safety;
- 12.1.2 if the Licence Holder fails to remedy the breach within the timeframe or to the satisfaction of the Council, the Council may cancel the Licence by giving written notice to the Licence Holder. The Licence is terminated from the date of such notice by the Council;

- 12.1.3 the Council reserves its right to enter the Area without notice and do all things necessary to remedy the breach. The Licence Holder will be liable to reimburse the Council for all costs and expenses incurred.
- 12.2 The Licence Holder must notify the Council in writing if it breaches any provision of this Licence.
- 12.3 The Licence Holder acknowledges that if the Licence is cancelled less than fourteen (14) days prior to the Start Date, the Council may retain the Licence Fee in full.

13. GENERAL

13.1 Execution of Licence

This Licence does not take effect until the Licence Holder has received a copy of the Licence signed by the Council.

13.2 Waiver

If the Council accepts or waives any breach by the Licence Holder or its agents, that acceptance or waiver cannot be taken as an acceptance or waiver of any future breach of the same obligation or of any other obligation under this Licence.

13.3 Written Notice

13.2.1 A notice under this Licence must be in writing and may be given by post, by email, or by delivery to:

- (a) the Council at the address or email address of the Council appearing at the header on the first page of the Licence Agreement.
- (b) the Licence Holder at the address or email address stated in Item 1.

13.2.2 Posted notices will be taken to have been received two (2) Business Days after posting with postage prepaid.

13.2.3 Notices delivered by hand will be taken to have been received when delivered.

13.2.4 Notices sent by email will be taken to have been received four (4) hours after the time sent (as recorded on the device from which the sender sent the email), unless the sender receives an automated message that the email has not been delivered.

13.2.5 However, notices delivered by hand after 5.00p.m. will be taken to have been received at 9.00a.m. on the next Business Day at the place where it is received.