

SECTION D – CONDITIONS OF HIRE (SINGLE USE)

Definitions

Administrator means the Church contact arranging the hiring of the Facility, whose details are specified in Section A4 or as subsequently advised to the Hirer.

Agreement means this agreement

Church means the church group or association identified in Section A4.

Directions mean any directions issued pursuant to sections 200(1)(b) and (d) of the *Public Health and Wellbeing Act 2008* (Vic) or any replacement legislation or by any other Relevant Authority.

Facility means those parts of the Property used by the Hirer during the Hire Period, as specified in Section A5.

Infectious Disease has the same meaning as in the *Public Health and Wellbeing Act 2008* (VIC) or any replacement legislation.

Positive Case means a person who has tested positive for an Infectious Disease and, in the opinion of a Relevant Authority, was potentially infectious during the Hire Period whilst attending the Property.

Property means the church property containing the Facility.

Relevant Authority means any authority having jurisdiction over the Church or the Property (including their use or occupation), including any governmental, municipal, statutory or public body, department, agency or entity.

All other capitalised terms have the meanings given to them in Section A.

Effect of Agreement

1. This Agreement becomes binding on the parties upon signing by the last party to sign.

Hire fee

2. The Hire Fee must be paid to the Church upon receipt of an invoice from the Church and in accordance with the payment terms therein.

3. If a Deposit is required, the Hirer must pay the Deposit upon receipt of an invoice from the Church in accordance with the payment terms therein. The hire will not proceed unless the Deposit has been paid.

Use of Facility

4. Subject to its compliance with the terms of this Agreement, the Hirer will have use of the Facility during the Hire Period for the purpose stated in Sections A2/A3 (as applicable) and Section A6. Any change to the purpose of the hire or the activities conducted by the Hirer at the Facility must be approved by the Church in writing prior to the change.

5. The Hirer warrants, and the Church agrees, that to the extent that the Hirer's use of the Facility is connected to the charitable purposes of the Church, that connection is as recorded in section A2 (for Registered company/association hirers) or section A3 (for individual hirers). The Hirer must promptly upon request provide any information or documents reasonably required d by

the Church to enable the Church to establish the Hirer's charitable status and/or link to the Church's mission.

6. The Hirer acknowledges that:

(a) the Church retains full possession and control of the Facility at all times and the Hirer must comply with any directions given by a representative of the Church as to the use of the Facility or the other areas of the Property;

(b) the Church's representatives may enter the Facility at reasonable times to conduct any necessary maintenance or inspection (or any time in the case of an emergency);

(c) the Church or others may be using other parts of the Property during all or part of the Hire Period; and

(d) the Church retains authority to control public access to the Property.

7. Before commencing use of the Facility, the Hirer must conduct a risk assessment of the activities to be undertaken at the Facility.

8. The Hirer must immediately report to the Church any Infectious Disease affecting persons attending the Facility during the Hire Period, including, but not limited to, reporting a Positive Case. The Hirer indemnifies the Church against any loss which may be occasioned by the Church arising out of or in relation to a breach of this obligation, including a delay in reporting.

9. The Hirer's rights of use are limited to the Facility and any ancillary areas used to access the Facility. The Hirer must not access, and must ensure that no person under the direction or control of the Hirer accesses, any other part of the Property.

10. The Hirer must not permit any activity at the Facility which is inconsistent with the ethos of the Church except with the prior written approval of the Church.

11. The Hirer must:

(e) not damage, and must ensure that no person under the direction or control of the Hirer damages, the Facility or any other part of the Property;

(f) immediately report any damage to the Church and/or Administrator and comply with the Church's directions as to any steps to be taken to remedy the damage or to minimise or prevent further damage; and

(g) pay to the Church as a liquidated debt payable upon demand the costs of rectifying any such damage.

12. The Hirer must, at its own cost, comply with all Directions or other requirements of any Relevant Authority which relate to the Hirer, the Church or the Facility during the Hire Period.

13. The Hirer may use the Facility only within the Hire Period or such other times as may be approved by the Church in its absolute discretion. Access to the Facility is not permitted outside the Hire Period and the Church may at its election charge an hourly rate determined by the Church (which may be invoiced on 7 day terms) for any additional time outside the Hire Period when the Hirer or any person under its direction or control is present at the Facility.

14. The number of people attending the Facility must not exceed the number specified in Section A6, except with the prior written approval of the Church, and in any case, must not exceed the number mandated in any Directions (notwithstanding the number specified in Section A6).

15. The Hirer must not make the Facility, any part of it or any other part of the Church available or accessible to another organisation, group or individual with or without charge without the prior written approval of the Church.

16. The Hirer may not advertise its use of the Facility without the prior written approval of the Church.

17. The Hirer must ensure that noise is kept to acceptable levels as specified under any applicable legislation.

18. All equipment, valuables and personal effects brought onto the Property by the Hirer or in connection with the use of the Facility by the Hirer remain the full responsibility of the Hirer and the Church accepts no liability for those items.

19. At least 14 days prior to the commencement of the Hire Period, the Hirer must provide the Church with a list of equipment which it proposes to bring on to the Property. The Hirer must not bring into the Facility any item of equipment which the Church advises in writing must not be brought onto the Property.

20. The Hirer must ensure all equipment brought onto the Property is safe and only used for its intended use. Electrical and gas equipment must be appropriately tested and tagged with PASS tags prior to use in accordance with applicable laws.

Safety and instructions

21. The Hirer must at all times comply with all laws applicable to the Hirer's use of the Facility, any directions given by representatives of the Church as to the use of the Facility and any Church policies and procedures notified to the Hirer.

22. Without limiting the foregoing and notwithstanding any other provision of this Agreement, where the Church believes on reasonable grounds that there is a threat to health and safety associated with the Hirer's use of the Facility, the Church may, at any time, require the Hirer to take any action which the Church considers reasonably necessary, including bringing its use of the Facility to an immediate end.

23. The Hirer must comply with any instructions given by emergency services personnel with respect to the use of the Facility.

Completion of hire

24. The Hirer must remove all debris, decorations, foodstuffs, drink containers and other waste prior to completion of the Hire Period and place it in the marked bins provided. The Church may recover from the Hirer as a liquidated debt the cost of cleaning or removing any soiling, marking or excessive dirt or rubbish not placed within a marked bin.

25. The Hirer must reinstate any existing furniture or equipment to its original position prior to completion of the Hire Period.

Car parking

26. Parking is permitted only in the areas of the Property notified to the Hirer as available for that purpose.

27. The Hirer must ensure that:

(a) no vehicles are parked or driven on paved or grassed areas within the Property except with the prior written approval of the Church;

(b) only people with disabled parking permits park in those areas marked for the disabled; and

(c) posted speed restrictions and any other parking instructions are adhered to at all times.

Child safety

28. If the Hirer engages in activities which involve or have present people under the age of 18 years of age ('children'):

(a) The Hirer must have a child safety policy or policies in place prior to and throughout the Hire Period and must provide a copy of the policy upon submitting the signed Agreement to the Church.

(b) The Hirer must have screening processes in place for the appointment/engagement of persons (all directors and officers, employees, volunteers, agents, contractors who are involved in the operations of the Hirer in any capacity) which would preclude inappropriate persons from working with or being involved in activities involving children.

(c) The Hirer must promptly advise the Church's Administrator of any concerns about child safety in connection with the Hirer's use of the Facility.

(d) The Hirer must provide the Church's Administrator with names, addresses and contact details for all persons involved in delivery of the Hirer's program at the Facility prior to those persons entering upon the Property and must ensure that all such persons who are required by law to have passed a Working With Children Check have done so prior to entering upon the Property.

Safety

29. The Hirer must ensure that a mobile phone with adequate charge is carried at all times throughout the Hire Period by a staff member present at the Facility and provide the contact phone number to the Church's Administrator prior to commencement of the Hire Period.

30. The Hirer must all ensure that all persons involved in service of food in connection with the Hirer's program at the Facility hold appropriate food handling qualifications and authorisations as required by law.

31. Where required by law or Direction, the Hirer must maintain an attendance register, in a form and with details reasonably required by the Church or a Relevant Authority, for all persons attending the Facility in connection with an event facilitated by the Hirer during the Hire Period. The register must be kept (either electronically or in hard copy) for the period required by the relevant law or Government direction after the Hire Period is completed and, if requested by the Church or any Relevant Authority, be provided to the Church or the Relevant Authority. The Hirer acknowledges that the

register may be used for contact tracing purposes in the event of the reporting of a Positive Case.

Prohibited Activities or Activities Requiring Permission

32. The following activities are prohibited on, in and around the Facility and the Property and the Hirer must comply with, and ensure that any person under the control or direction of the Hirer complies with, the following prohibitions:

- (a) Smoking – the Property is a "smoke free" zone.
- (b) Possession or consumption of alcohol - unless as part of an agreed event activity and the Church has provided prior written approval.
- (c) Possession or consumption of drugs, unless used by a person under a prescription or medical action plan - the Property is a "drug free" zone.
- (d) Fixing of nails, screws or other fittings to any building or other structure.
- (e) Alterations to electrical, gas or plumbing installations.
- (f) Lighting of fires or discharge of fireworks.

33. The following activities must not be carried out on, in and around the Facility and the Property except with the prior written approval of the Church and only then in accordance with any conditions imposed under that approval:

- (a) Erection of any temporary structure (e.g. staging, marque, sunshade, portable toilet etc.)
- (b) Use of a portable barbecue or other cooking equipment.
- (c) Use of flammable material, liquid, fuel or other flammable source of energy.
- (d) Displaying of any sign, hoarding or notice for the purpose of advertising.

Insurance and indemnity

34. The Hirer must have and maintain throughout the Hire Period a public liability insurance policy providing for a minimum cover of \$20 million for any one event with a reputable insurer and provide the Church with a certificate of currency upon request.

35. The Hirer:

- (a) uses the Facility and the Property at its own risk and releases the Church from any liability arising out of or in connection with the exercise by the Hirer of the rights granted under this Agreement or the Hirer's use of the Facility, except to the extent to which a claim is caused or contributed to by the negligent act or default of the Church or its employees, agents or contractors;
- (b) indemnifies the Church from and against any action, claim, demand, loss, damage, cost or expense, including legal costs and disbursements incurred in settling a claim on a full indemnity basis ("Claim") for which the Church becomes liable arising from any loss, damage or injury (including fatal injury) to property or persons associated with the Hirer's use of the Facility, except to the extent that such Claim was caused or contributed to by the negligent act or default of the Church or its employees, agents or contractors; and

(c) indemnifies the Church against any additional cost, tax, charge or loss incurred as a result of the Hirer's use of the Facility or the Property in a manner inconsistent with the terms of this Agreement.

Rescheduling

36. If the Facility (or any relevant part thereof) is or is reasonably anticipated to be:

- (a) required during any part of the Hire Period for the delivery of the mission or purposes of the Church ("Church Use"), the Church may require the Hirer to change the Hire Period so as to allow the Church Use to proceed;
- (b) unavailable for any part of the Hire Period due to a need for maintenance or repairs, the Church may require the Hirer to change the Hire Period to the satisfaction of the Church; or
- (c) unavailable for any part of the Hire Period due to circumstances beyond the Church's reasonable control, including civil commotion, terrorism, sabotage, war, bushfire, flood, drought, heat wave, wind, land slide, snow storm and any other natural event which poses a material risk to persons or property, the Church may require the Hirer to change the Hire Period to the satisfaction of the Church.

37. The Church will not be liable for any loss of income or costs associated with the Church's change to the Hire Period under Condition 36.

Termination by Hirer

38. The Hirer may terminate this Agreement at any time prior to the Hire Period. Termination must be by written notice to the Church and will take effect on the date specified in the notice.

39. In the event that the Hirer elects to terminate this Agreement within 14 days prior to the Hire Period, the Hirer must upon request by the Church pay 20% of the Hire Fee as compensation for loss of the booking.

40. If the parties are unable to agree on a change to the Hire Period under Condition 36, the Hirer may terminate this Agreement by written notice to the Church and Condition 39 will not apply in the event of such a termination.

Termination by Church

41. The Church may terminate this Agreement in the following circumstances:

- (a) If the Hirer fails to pay the Hire Fee in accordance with Condition 2;
- (b) If the Hirer otherwise defaults in the performance of its obligations under this Agreement and does not remedy that default within a reasonable time after being notified of it (having regard to the nature and consequences of the default);
- (c) If the Church reasonably considers that the Hirer has failed to maintain or comply with appropriate child protection practices or policy;
- (d) If the Church reasonably considers that the Hirer has failed to comply with any Directions or mandated requirements and restrictions issued by any Relevant Authority;

(e) If the parties are unable to agree on a change to the Hire Period under Condition 36; or

(f) If the Facility (or any relevant part thereof) is or is reasonably anticipated to be unavailable during any part of the Hire Period due to circumstances beyond the Church's reasonable control, including civil commotion, terrorism, sabotage, war, bushfire, flood, drought, heat wave, wind, land slide, snow storm and any other natural event which poses a material risk to persons or property. If this Agreement is proposed to be terminated under this sub-clause, the Church will give the Hirer as much notice as is reasonably possible having regard to the circumstances and any payment received from the Hirer under this Agreement will be promptly returned.

42. Termination will be by written notice and will have immediate effect unless otherwise specified in the notice.

43. The Church will not be liable to the Hirer for any loss of income or costs associated with the Church terminating this Agreement.

44. If this Agreement is terminated during the Hire Period:

(a) the Hirer must immediately vacate (and must ensure that any person under its direction or control immediately vacates) the Facility and the Property;

(b) the Hirer must pay upon demand any amounts incurred by the Church in complying with the Hirer's obligations under Conditions 24 or 25; and

(c) if the termination was pursuant to Condition 41(f), the balance of the Hire Fee will be refunded to the Hirer on a proportionate basis having regard to the period when it was unable to use the Facility. No refund will be provided for a termination made pursuant to Conditions 41(a)-(e) inclusive.

Suspension of Hire Period

45. The Church may immediately, and without the need to give prior written notice to the Hirer, but without terminating this Agreement, suspend the use of the Facility during the Hire Period if required to do so in order to comply with a Direction or other requirement of any Relevant Authority.

Dispute resolution

46. If a dispute arises between the parties relating to the performance of this Agreement:

(d) Either party may serve written notice on the other ("dispute notice") stating the nature and details of the dispute.

(e) The parties must jointly request appointment of a mediator within 7 days of the dispute notice being served. If they fail to agree on the appointment within that time, either may apply to the President of the Law Institute of Victoria or the nominee of the President to appoint a mediator.

(f) Once the mediator has accepted the appointment, the parties must comply with the mediator's instructions.

(g) If the dispute is not resolved within 30 days of the appointment of the mediator, or any other period agreed by the parties in writing, the mediation ceases.

(h) The mediator may fix the charges for the mediation which must be paid equally by the Hirer and the Church.

(i) If the dispute is settled, the Hirer and the Church must sign the terms of agreement and the signed terms are binding.

(j) The mediation is confidential and:

(i) statements made by the mediator or the parties, and

(ii) discussions between the participants to the mediation, before after or during the mediation, cannot be used in any legal proceedings.

(k) It must be a term of the engagement of the mediator that the parties release the mediator from any court proceedings relating to this lease or the mediation.

Changes to Hire Period

47. If the Hirer wishes to vary the Hire Period, it must notify the Church as soon as possible. The Church will not unreasonably withhold consent to such a request, provided that the Facility is not already scheduled for use by the Church or a third party during the new proposed Hire Period.

General

48. Where these Conditions require the Hirer to do or refrain from doing something, the Hirer is required to ensure that the Hirer's employees, agents, contractors, customers and visitors do or refrain from doing the thing, as the case may be.

49. The Church and the Hirer are independent entities and this Agreement does not create a partnership, joint venture or agency relationship or other arrangement of a similar nature between them.

50. No failure to exercise or delay in exercising any right under this Agreement constitutes a waiver and any right may be exercised in the future. Waiver of any of this Agreement must be in writing and is only effective to the extent set out in that written waiver.

51. The Agreement may only be amended or varied by written agreement.

52. This Agreement constitutes the entire agreement between the Church and the Hirer in respect of the Hirer's use of the Facility. The Hirer acknowledges that it does not rely on any representation not contained within this Agreement and that the Church makes no representation that the Facility is suitable for the Purpose of Hire.

53. This Agreement is governed by the laws of the State of Victoria, Australia.

Frankston Church of Christ Facilities Conditions of Use

ALCOHOL: The Frankston Church of Christ is an Alcohol free property.

Alcohol is not permitted on the premises, it is not to be consumed in the Church Buildings or surrounds.

CLEANING: It is the responsibility of those hiring, to ensure the property is left in a clean condition as when the hire commenced.

If commercial cleaning is required after a hire, this will be discussed with the hirer & charges may apply.

The room/s hired must be returned to the state prior to use.

INSURANCE: On-going (generally not one off hires) are required to provide a copy of their current Public Liability Insurance.

Indemnity Insurance to the value of \$10,000,000 is required

&

Product Liability Insurance to the value of \$10,000,000 is also required.

On-going hirers must ensure that when their insurance is renewed that a copy of their new Insurance Certificate is supplied to the Property Hire Coordinator.

LIABILITY: Frankston Church of Christ does not accept liability for loss of property, damage or personal injury arising from the use of their premises.

PAYMENT: All hires are invoiced on a GST invoice prior to the hire.

Payment is required as per the payment details noted on the Tax Invoice prior to the hire..

PROPERTY DAMAGE & LOSS:

All breakages and losses to the Church Property or equipment are to be reported to the Property Hire Coordinator & will be invoiced to the hirer.

It is the responsibility of the hirer to ensure that access to only the rooms that are being hired are accessed (including toilet facilities). All other areas of the Church are not to be accessed.

RUBBISH REMOVAL:

Rubbish bins are located in the kitchen. If there are excessive food scraps or the bins are filled, please empty them using the council bins located outside the kitchen window. Replacement garbage bags are located under the kitchen benches.

SAFETY: Building hirers agree not to use the property in any way that could cause a risk to the health and safety of themselves and others.

SMOKE FREE ENVIRONMENT:

The Frankston Church of Christ has a Smoke Free policy.

Smoking is not permitted anywhere within the building.

TECHNICAL SUPPORT:

For technical support with the audio/data projector systems in either the Chapel or Hall must be arranged at the time of booking.

OTHER CONDITIONS:

Specific conditions of Hire will be noted at time of enquiry and booking.