

**PLEASE READ CAREFULLY – THESE TERMS AND CONDITIONS AND THE EVENT DETAILS ARE LEGALLY BINDING**

## Terms and Conditions

### Definitions

**Adelaide Hills Convention Centre, AHCC, we, us, our** means Discovery Holiday Parks Pty Ltd ABN 50 111 782 846 of Level 7, 60 Light Square Adelaide SA 5000 trading as Adelaide Hills Convention Centre;

**Business Day** means a day other than a Saturday, Sunday or public holiday in South Australia;

**Contract** means the Event Details and these Terms and Conditions which together constitute the legally binding agreement between the parties for the provision of the Venue hire and Event services set out in the Event Details;

**COVID-19 Restriction** means any governmental regulations, requirements, directives, restrictions or quarantine requirements relating to the novel coronavirus or the disease known as COVID-19 which have the effect of:

- (a) preventing AHCC from providing use of the Venue for the Event or the Event services;
- (b) preventing the Event from being held; or
- (c) restricting a significant number of your guests from attending the Event.

**Deposit** means a payment by you to AHCC of \$3,000.00 or 20% of the anticipated Total Event Charges, whichever is the greater;

**Event** means the wedding, conference, function, workshop or other event for which you have made a booking to use our Venue and Event services, specific details of which are set out in the Event Details;

**Event Details** means the written material provided to you by AHCC setting out the nature of the Event services being provided and the details of the Venue, including any quote and price list;

**Total Event Charges** mean all fees and charges outlined in the Event Details or these Terms and Conditions including any venue hire fee, catering fees, extras, Deposit and any other fees or charges payable by you to AHCC pursuant to the Event Details or these Terms and Conditions;

**Venue** means that part of the AHCC premises referred to in the Event Details named and identified for use by you to conduct the Event, and may include accommodation rooms, event space, or other facilities; and

**You, you or your, Hirers** means the person(s) or legal entity responsible for commissioning the Event and paying the Total Event Charges, named at the end of these Terms and Conditions.

### 1. Interpretation

In these Terms and Conditions unless the context indicates a contrary intention:

- 1.1 words importing the singular shall include the plural and vice versa and reference to one gender shall include all genders;
- 1.2 where two or more persons are Hirers, these Terms and Conditions shall bind the Hirers jointly and each of them severally;
- 1.3 headings are for convenient reference only and shall not in any way control or affect the construction of these Terms and Conditions; and
- 1.4 if there is any inconsistency between these Terms and Conditions and the Event Details then the Event Details will prevail to the extent of the inconsistency.

### 2. Booking Procedure

- 2.1 A tentative booking, being a booking without payment of any amount (**Tentative Booking**), may be held without obligation for either you or AHCC for up to 14 days from the date the Tentative Booking was made. A Tentative Booking will only be held beyond 14 days if AHCC agrees to do so in writing.
- 2.2 In order to confirm a booking, you must:
  - (a) pay either the Deposit or the anticipated Total Event Charges where they are less than the Deposit;
  - (b) provide a completed and signed copy of these Terms and Conditions to AHCC; and
  - (c) provide a copy of a valid credit card from which you are authorised to make payments, to AHCC.

2.3 Once you have completed the requirements in clause 2.2, AHCC will issue a written confirmation to you. Upon AHCC issuing the written confirmation, the booking will become a confirmed booking (**Confirmed Booking**).

### **3. Payments**

3.1 You will pay to AHCC the amount specified in these Terms and Conditions and the Event Details at the time and in the manner specified. For the avoidance of any doubt, any amounts specified in these Terms and Conditions are in addition to any amounts set out in the Event Details.

3.2 You will pay the Deposit upon the signing of these Terms and Conditions. We may apply the Deposit for or towards the discharge or payment of any liability by you to AHCC.

3.3 Payment of any outstanding balance owed under the Contract including full payment of all catering services and any extras agreed with AHCC is required to be made by you to us no later than fourteen (14) days prior to the Event date and strictly in accordance with the time limits set out in the Event Details and these Terms and Conditions.

3.4 AHCC accepts payment by cash, major credit cards (excluding AMEX), EFTPOS and bank cheques. AHCC's direct debit details are set out in the Event Details.

3.5 You authorise AHCC to charge your credit card with the Deposit, Total Event Charges, Liquidated Damages and any other amounts payable to AHCC under this Contract.

### **4. Menus**

4.1 Prices and menu offerings are subject to change without prior notice.

4.2 You must finalise and advise AHCC of your guest numbers, menu selections, and dietary requirements no later than four (4) weeks prior to the Event. You must pay for catering services for all guests who are scheduled to attend the Event unless otherwise agreed by AHCC.

## **5. Cancellations**

### **5.1 Cancellation by AHCC**

- (a) AHCC reserves the right to cancel a Tentative Booking at any time for any reason.
- (b) AHCC may cancel a Confirmed Booking or withhold hiring of the Venue if:
  - (i) you fail to make a payment to us when due under the Contract; or
  - (ii) AHCC is prevented from hiring the Venue or providing the Event services due to a Force Majeure Event as defined in clause 17 or a COVID-19 Restriction.
- (iii) AHCC is not responsible for the interruption or cancellation of a booking or the Event due to a Force Majeure Event or a COVID-19 Restriction and is not liable to you in any way where your booking or the Event is interrupted or cancelled due to a Force Majeure Event or COVID-19 Restriction.

### **5.2 Cancellation by You**

- (a) If you wish to cancel a booking, you must notify AHCC in writing as soon as possible. The notice you provide must be given in accordance with clause 25. Any cancellation will not take effect until AHCC receives your written notification.
- (b) The rates offered by AHCC in the Event Details and these Terms and Conditions are based in part upon the total revenue anticipated by us from your agreement to hold the Event at the Venue with the agreed number of guests.
- (c) You guarantee that your Event will provide the anticipated Total Event Charges.
- (d) You agree and understand that in the event of a full cancellation or a reduction in the number of guests (other than due to a Force Majeure Event or COVID-19 Restriction), AHCC may have lost the opportunity to offer the Venue and any other facilities booked pursuant to the Contract to another party and will incur additional costs both in planning the Event, staffing costs and attempting to

- book an alternative Event and resell inventory that was already sold to you.
- (e) As AHCC's actual damage would be difficult to determine, you agree to pay to us reasonable liquidated damages for full cancellation or a reduction in the number of guests as described in the following clauses.
- (f) You agree that the Liquidated Damages provided in these Terms and Conditions are not a penalty and represent a reasonable agreement in advance of the damages that AHCC will suffer due to full cancellation by you or a reduction in the number of guests.
- (g) If your booking or the Event is cancelled by you (other than by reason of a Force Majeure Event or COVID-19 Restriction), you agree that you will be liable for a percentage of the Total Event Charges (**Liquidated Damages**) as follows:
- (i) cancellation between 0-30 days prior to the Event: 100% of the Total Event Charges;
  - (ii) cancellation between 30-60 days prior to the Event: 70% of the Total Event Charges; and
  - (iii) cancellation more than 60 days prior to the Event: 20% of the Total Event Charges,
- to cover costs already incurred by AHCC to administer or plan the Event. You agree that AHCC is authorised to retain the Deposit to meet all or part of these Liquidated Damages.
- (h) If there is a reduction in the number of guests attending the Event (other than by reason of a Force Majeure Event or COVID-19 Restriction), you agree that you will be liable for a percentage of the catering fees relating to those guests as follows:
- (i) a reduction between 0-30 days prior to the Event: 100% of the catering fees for the reduced guests;
  - (ii) a reduction between 30-60 days prior to the Event: 70% of the catering fees for the reduced guests; and

- (iii) a reduction more than 60 days prior to the Event: 20% of the catering fees for the reduced guests, to cover costs already incurred by AHCC to administer or plan the Event. You agree that AHCC is authorised to retain the Deposit to meet all or part of these Liquidated Damages.

## **6. Re-allocation of Rooms or change of Event location**

- 6.1 AHCC reserves the right to re-allocate rooms hired as part of the Event booking due to circumstances beyond its control.
- 6.2 In the event that numbers of guests of the Event increase or decrease significantly from those advised at the time of booking, AHCC may substitute a more appropriate room selection of our choice.
- 6.3 AHCC will discuss any changes to room bookings with you before making a final decision, but AHCC will have sole discretion to make any change.
- 6.4 AHCC also reserves the right, in its absolute discretion, to require the location of the Event to be moved indoors or to another part of the Venue in the event of extreme weather.

## **7. Conduct of Event and Liability for Damage**

- 7.1 To the fullest extent permitted by law, you assume:
- (a) full responsibility for the conduct of all persons in attendance at the Event; and
  - (b) full liability for all loss and/or damage done to any part of the Venue during the time of the Event where such loss or damage is caused by you, your employees, temporary workers, agents, contractors, sub-contractors or by guests of the Event. This liability for loss and/or damage extends to any loss suffered by AHCC where subsequent bookings of the Venue are affected.
- 7.2 For the safety of persons and property, no fireworks or incendiary devices may be used indoors at the Venue. You also agree that the

Event will not create any unreasonable disturbance to other guests, meetings or events, such as excessive noise, smoke or fog machines, dry ice, confetti, incense, or any activity that generates offensive smells or creates any damage to the Venue. AHCC reserves the right to end the Event immediately if you do not comply with our reasonable request to reduce or eliminate any such disturbance or activity, in which case you will remain responsible for payment of the Total Event Charges and no refund will be issued to you by us.

## **8. Indemnity by You**

8.1 To the fullest extent permitted by law, you shall at all times be liable for, indemnify, defend and hold harmless AHCC (together with their respective owners, managers, partners, subsidiaries, affiliates, officers, directors, employees and agents) (collectively the **AHCC Indemnified Parties**) from and against any and all demands, claims, suits, actions, damages, liabilities, losses, costs and expenses (including legal costs on an actually incurred basis) which may be made or brought against or suffered or incurred by the AHCC Indemnified Parties (collectively, **Claim(s)**), arising out of or in any way connected with your Event, including, but not limited to, Claims arising out of the negligence or wilful misconduct of you, your guests, employees, agents and contractors; provided, however, that nothing in these Terms and Conditions shall require you to indemnify the AHCC Indemnified Parties for that portion of any Claim arising out of the sole negligence or wilful misconduct of the AHCC Indemnified Parties.

## **9. Insurance**

9.1 You shall not, without the prior consent of AHCC, store or permit the storage of any article in or at the Venue, which may result in the insurance premiums in respect of the Venue or AHCC being increased.

9.2 You shall not do or permit to be done, anything in or upon the Venue which could or may render any insurance policy taken by AHCC void or voidable, or otherwise vitiated,

and must pay on demand any increased premium payable by AHCC in respect of AHCC's insurance policies as a result of your activities at the Venue.

9.3 You are responsible for arranging your own public liability insurance and any other insurance that may be required for your Event.

## **10. Limitation of Liability**

10.1 Nothing in the Contract is intended nor shall it be construed as an attempt by any party to exclude or limit any liability:

- (a) which cannot be excluded or limited under applicable law;
- (b) for death or personal injury where caused by that party's negligence; or
- (c) arising from a party's fraud.

10.2 Subject to any statutory rights (including under the Competition and Consumer Act 2010 (Cth)) and notwithstanding any other term in the Contract, AHCC's aggregate liability for loss or damage of any kind arising out of or related to the Contract, whether for breach of contract, warranty or undertaking or under any indemnity, in tort, for negligence or otherwise, is limited to the amount paid by you to AHCC under the Contract at the date when the liability arises.

10.3 Without limiting clauses 10.1 or 10.2, AHCC will not be liable to you for any consequential, indirect, exemplary or punitive loss or damage (including any reputational damage or loss of revenue or profits) howsoever arising and whether or not such loss or damage was contemplated by you and AHCC at the time of entering into the Contract.

## **11. Deliveries**

11.1 Arrangements for delivery of packages should be made through AHCC's designated Event manager or an employee of AHCC. No packages will be accepted by us that require us to pay shipping costs. Deliveries will only be accepted within 48 hours prior to the date of your Event and during office hours, unless otherwise agreed by us in advance. To the fullest extent permitted by applicable law, we

shall not be responsible for any damage to or loss of your packages.

## **12. Event Hours and Access**

12.1 Event hours and Venue access will be determined and advised to you by AHCC. Any access outside of these hours must be arranged in advance and approved by AHCC. A fee of \$200.00 plus GST per hour will be payable by you to AHCC for any access or use of the Venue outside these hours.

12.2 Additional fees will also apply if you wish to either set up a room prior to an Event or leave equipment or materials in a room after the Event. A charge of \$50.00 plus GST per hour will apply in these circumstances.

12.3 If excess rubbish is left at the Venue following an Event, a cleaning fee of \$50.00 plus GST per hour will be charged for disposal.

## **13. Food and Beverage and External Contractors**

13.1 You may not bring any food or drink into the Venue for use during the Event or engage any external contractors, unless agreed by us in writing and in advance of the Event. Except as otherwise agreed by AHCC, all catering at any Event conducted at the Venue is only to be provided by AHCC and its employees and contractors.

## **14. Liquor Licensing**

14.1 You and all persons in attendance must comply with relevant liquor licensing laws.

14.2 AHCC will not supply or allow alcohol to be supplied:

- (a) to any person under 18 years of age; and
- (b) at any part of the Venue not appropriately licensed.

## **15. Safety and Security**

15.1 You and all persons in attendance must comply with all reasonable safety directions provided by staff and management of AHCC.

15.2 You acknowledge and agree that AHCC may use and operate Closed Circuit TV or other recording or surveillance devices in and around the Venue for safety and security.

15.3 Where the persons in attendance at an Event exceed one hundred (100), AHCC may be legally required to provide security during defined hours. Any additional costs will be set out in the Event Details and included in the Total Event Charges.

## **16. Promotional Considerations**

16.1 We have the right to review and approve any advertisements or promotional materials you wish to use in connection with your Event.

## **17. Force majeure**

17.1 Where a party is unable, wholly or in part, to carry out any obligation under the Contract by reason of an act of God; strike, lockout or other interference with work; war declared or undeclared; blockade, disturbance, lightning, fire, bushfire, earthquake, storm, hail event, flood, explosion; governmental or quasigovernmental restraint, expropriation, prohibition, intervention direct or embargo; unavailability or delay in availability of equipment or transport; inability or delay in obtaining governmental or quasi-governmental approvals, consents, permits, licenses, authorities or allocations; and any other cause whether of the kind specifically enumerated above or otherwise which is not reasonably within the control of the party affected (**Force Majeure Event**), and that party:

- (a) gives the other party prompt notice of that Force Majeure Event with reasonably full particulars thereof, and, insofar as known, the probable extent to which it will be unable to perform or be delayed in performing that obligation; and
- (b) uses all possible diligence to remove that Force Majeure Event as quickly as possible (provided that due diligence does not require the settlement of strikes, lockouts or other labour disputes, or claims or demands by any government on terms contrary to the interests of the party affected),

that obligation is suspended so far as it is affected by the Force Majeure Event during the continuance of the event.

17.2 Clause 17.1 is subject to the proviso that an obligation to pay money is never excused by a Force Majeure Event.

17.3 If AHCC accepts that the Event is able to be properly cancelled by either party due to a Force Majeure Event as described above, and no suitable alternative date or venue can be found to conduct the Event (which is to be agreed by the parties), then AHCC agrees to refund any Deposit paid by you.

## **18. COVID-19 Restrictions**

18.1 Notwithstanding clause 17.1, a COVID-19 Restriction will not be considered a Force Majeure Event and instead is addressed through this clause 18.

18.2 If a COVID-19 Restriction prevents AHCC from providing you with use of the Venue or the Event services, then the Event will be cancelled.

18.3 An Event may only be cancelled due to a COVID-19 Restriction within the 10 Business Days prior to the Event.

18.4 If you wish to cancel your Event or reduce the number of guests attending your event due to a COVID-19 Restriction, then you must demonstrate to AHCC's reasonable satisfaction that it is necessary to cancel the Event or reduce the number of guests due to the COVID-19 Restriction.

18.5 You acknowledge that in order for AHCC to administer, plan and cater for your Event, AHCC will expend effort and incur costs and expenses prior to the Event.

18.6 If a COVID-19 Restriction necessitates the cancellation of your Event, then the following arrangements will apply with respect to amounts you have paid as part of the Total Event Charges:

(a) for cancellations occurring at least 5 Business Days prior to the Event, 100% of any amount you have paid for catering services will be refunded, less a \$500

administrative fee which will be retained by AHCC;

(b) for cancellations occurring more than 2 Business Days but less than 5 Business Days prior to the Event, 70% of any amount you have paid for catering services will be refunded, less a \$500 administrative fee which will be retained by AHCC;

(c) for cancellations occurring less than 2 Business Days prior to the Event, 30% of any amount you have paid for catering services will be refunded, less a \$500 administrative fee which will be retained by AHCC.

18.7 If a COVID-19 Restriction necessitates a reduction in the number of guests attending your Event, then the following arrangements will apply with respect to amounts you have paid as part of the Total Event Charges:

(a) for reductions occurring at least 5 Business Days prior to the Event, 100% of any amount you have paid for catering services for the guests unable to attend will be refunded, less a \$500 administrative fee which will be retained by AHCC;

(b) for reductions occurring more than 2 Business Days but less than 5 Business Days prior to the Event, 70% of any amount you have paid for catering services for the guests unable to attend will be refunded, less a \$500 administrative fee which will be retained by AHCC;

(c) for cancellations occurring less than 2 Business Days prior to the Event, 30% of any amount you have paid for catering services for guests unable to attend will be refunded, less a \$500 administrative fee which will be retained by AHCC.

## **19. Governing Law**

19.1 These Terms and Conditions are governed by the laws of South Australia and the Commonwealth of Australia which are in force in South Australia.

19.2 The parties submit to the exclusive jurisdiction of the courts having jurisdiction in South Australia. Any proceedings brought in

a Federal Court must be instituted in the Adelaide registry of that court.

## **20. Dispute resolution**

20.1 If a dispute arises between the parties in relation to the Contract, the dispute must be dealt with in accordance with this clause.

20.2 Any party claiming that a dispute exists must notify the other party to the dispute in writing of the nature of the dispute.

20.3 The parties agree to use commercially reasonable endeavours to resolve any dispute by way of discussions between the parties. All discussions pursuant to this clause are confidential and shall be treated as being for the purpose of settlement and shall be without prejudice.

20.4 If the dispute is not resolved by agreement within four (4) weeks of notification in accordance with clause 20.2, either party may then commence such legal proceedings as it thinks fit in relation to the dispute.

## **21. Assignment upon written consent only**

21.1 You must not assign, whether in whole or part, the benefit of the Contract or any rights or obligations hereunder, without our prior written consent.

21.2 A purported assignment by you without written consent will be deemed to be void and convey no rights.

21.3 AHCC may assign, whether in whole or part, the benefit of the Contract or any rights or obligations hereunder, without requiring your prior consent.

## **22. Entire Agreement**

22.1 A complete inspection of the Venue is recommended to confirm suitability prior to confirming your booking. AHCC makes no warranty that the Venue will be suitable for your Event.

22.2 The parties hereby acknowledge that no warranties have been made other than those expressly recorded in the Contract and that no party has relied upon any representations

or information which are not recorded in the Contract.

22.3 The Contract is the entire agreement between the parties and supersedes any communications, negotiations, arrangements or agreements which are not part of these Terms and Conditions or the Event Details.

## **23. Illegality**

23.1 Any provision in the Contract that is held to be illegal or unenforceable in any jurisdiction shall be ineffective to the extent of such illegality or unenforceability without invalidating the remaining provisions of the Contract.

## **24. Waiver**

24.1 The provisions of the Contract shall not be taken (either in law or in equity) to have been waived discharged or released by AHCC unless by its express written consent.

## **25. Notice**

25.1 Without prejudice to any other means of giving notice, any notice given under the Contract shall be sufficiently given to you if:

(a) you are an individual person - by addressing the notice to you and either:

- (i) giving you the notice personally;
- (ii) posting the notice to your address;
- or
- (iii) emailing the notice to your email address; or

(b) you are a company or another form of legal entity other than an individual person – by addressing the notice to you and either:

- (i) giving the notice personally to one of your employees, directors, managers, executive officers or representatives;
- (ii) posting the notice to your address;
- or
- (iii) emailing the notice to the email address of one of your employees, directors, managers, executive officers or representatives.

25.2 Any notice given under the Contract to us shall be sufficiently given if:

- (a) giving the notice personally to our designated manager for your Event or one of our other staff members that have provided you with the Event Details;
- (b) posting the notice to our address; or
- (c) emailing the notice to the email address of our designated manager for your Event or one of our other staff members that have provided you with the Event Details.

25.3 A notice given:

- (a) personally will be deemed to have been given at the time it is handed to the person;
- (b) by post will be deemed to be given 3 Business Days after it is posted; or
- (c) by email, will be deemed to be given at the time of sending provided that such time is between 9am and 5pm on a Business Day however where the sender of an email receives a bounce-back message indicating that the email was not received, the notice will not be deemed to have been given.

25.4 Where two or more persons are Hirers, notice given to any of them will be deemed to be notice given to all of them.

SIGNED ACCEPTANCE

**I HAVE READ AND UNDERSTOOD AND ACCEPTED THESE TERMS AND CONDITIONS AND ACKNOWLEDGE AND ACCEPT THAT THESE TERMS AND CONDITIONS TOGETHER WITH THE EVENT DETAILS FORM A LEGALLY BINDING CONTRACT.**

Name of Hirer(s):

.....

Phone:

.....

Email:

.....

Date: .....

Signed by the Hirer(s) (or on behalf of the Hirer):

.....