

NOËL SYDNEY STALLHOLDER TERMS 2022 VENDOR AGREEMENT



- A. AGB Events Pty Ltd** (ABN 52 105 122 512) ("**AGB**") has set out in this document its standard Term and Conditions of business, which apply to all arrangements with **Vendors** (Stallholders/Traders/Owners), and constitute the 'Vendor Agreement'.
- B.** Vendors must comply with this Vendor Agreement (which may be amended and updated from time to time by email), any directions of AGB and any statutory or similar obligations placed upon them.
- C.** Only Vendors approved by AGB are permitted to operate at the Event. Vendor approval by AGB is non-transferrable.

1. Fees:

- 1.1. The Vendor must pay the Fee on the due date set out in the Vendor Application or on the invoice issued for the application. At the discretion of AGB, the Vendor Application may be terminated if the Vendor defaults in the payment of the Fee by the dates specified in the Vendor Application or on the invoice.

2. AGB Events Responsibilities

- 2.1. The location and allocation of stalls is at the absolute discretion of AGB.
- 2.2. AGB reserves the right to move the position of any stall.
- 2.3. Set-up and operational details and times may vary and AGB will provide this information to Vendors before trade begins.

3. Vendor Responsibilities

- 3.1. Vendors will be given an allocated time to bump-in/out and a site map of their stall position. Vendors must bump-in/out during their time slot.
- 3.2. Vendors must operate within their allocated space.
- 3.3. Public thoroughfares must be kept clear at all times and packaging/transport material should be stored under tables or away from sight. Presentation of stalls must be of the highest standards.
- 3.4. Vendors can only sell the range of goods agreed to with AGB Events and must not take on other traders' goods for sale without prior approval.
- 3.5. Vendors must bring all their own equipment.
- 3.6. Vendors must only provide its customers EFTPOS payment. No cash trade is permitted.
- 3.7. No amplified music or un-silenced generators are permitted.
- 3.8. No alcoholic beverages are permitted to be served/sold, unless approved by AGB.
- 3.9. No counterfeit goods to be sold.
- 3.10. No single-use and other plastic products (as per NSW EPA regulations).
- 3.11. Vendors must remove and dispose of their own waste.
- 3.12. Vendors cannot pack up and vacate the area until the completion of the Event each day.
- 3.13. No vehicle access is possible during Event days. Products can be walked/trolleyed in/out.
- 3.14. Vendors are to have all their leads and equipment tagged in accordance with the statutory requirements, and ensure any leads and generators are placed in such a manner so as not to create trip, heat or exhaust hazards to any person.

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- 3.15. Electrical cables are to be heavy-duty construction standard and must have a circuit breaker.
- 3.16. Vendors using gas or flammable liquids must contact AGB Events prior to the market.
- 3.17. Vendors to provide what information they will need with regards to basic requirements such as power supply and waste disposal, if any.

4. Legal and Venue Compliance

- 4.1. The Vendor must comply with all laws and other legal requirements, including relevant legislation, regulations and Australian standards including (without limitation) occupational health and safety, environmental and planning laws and must ensure that its employees, agents, other associated persons and sub-contractors also comply.
- 4.2. The Vendor and its associates acknowledge that it is responsible for the safety of its employees, contractors, invited guests and other individuals attending the Event and agrees to comply with all policies or directions issued by AGB or its representatives. The Vendor must notify AGB or its nominated representatives immediately of any safety concerns.
- 4.3. All operational and marketing activities within the Venue are subject to Royal Botanic Garden and City of Sydney approval and/or its rules and regulations. Vendor understands that there may be operational requirements from City of Sydney that are not contained within this Agreement or that may differ to any clause in this Agreement. In any instance, the requirements from City of Sydney will apply to the Vendor and take precedent over any clause in this Agreement.
- 4.4. The Vendor will be liable for any damage caused by the Vendor to any equipment supplied by AGB and/or to the Venue (including paving, monuments, sculptures or water features, footpaths, grass, trees, plants and public benches).
- 4.5. AGB will make regular inspections during the Event and may, at any time, instruct the Vendor to make changes to the way they are operating, storing goods, receiving goods or disposing of waste. AGB reserves the right to terminate this Agreement immediately if the Vendor refuses to implement any reasonable instructions of AGB.

5. Supply of Services, Equipment and Facilities

- 5.1. AGB may supply certain services, equipment and facilities at the Event for the Vendor's use/benefit, including electrical power, security staff, and bins for general public access areas in and around the Event. The supply of such services, equipment and facilities will be at the discretion of AGB.
- 5.2. Services, equipment and facilities will be provided on an 'as is' basis and the Vendor utilises such services, equipment and facilities at their own risk. AGB will not be liable for any loss or damage relating to or arising from the supply or use of such services, equipment or facilities.
- 5.3. Requests for special or additional services, equipment or facilities must be made to AGB prior to the Event and may be provided at a cost to the Vendor.
- 5.4. Otherwise, all goods and other services, equipment, and facilities required by the Vendor including equipment hire, dedicated security, etc must be procured and paid for by the Vendor. The Vendor must comply with the directions of AGB in relation to all operational aspects of the Event, including logistics, storage of goods, cleanliness and waste management.

6. Make Good

- 6.1. The Vendor must leave the Venue in a good condition and make good any damage to the Venue at the end of the Term at the Vendor's own expense including removal of any rubbish generated by the Vendor.

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- 6.2. If AGB forms the view, acting reasonably, that the Vendor has not satisfactorily complied with the obligations under the Make Good section:
- 6.2.1. AGB may undertake such works as are necessary to make good any damage to the Venue; and
 - 6.2.2. The Vendor must pay AGB reasonable costs (as applicable) associated with the works undertaken to make good any damage to the Venue.

7. Employees and Contractors

- 7.1. The Vendor must ensure that, at all times:
- 7.1.1. all employees are neat, uniformed and courteous;
 - 7.1.2. all employees' outer garments are clean;
 - 7.1.3. all employees maintain their hands in a clean and sanitary condition, and that their hands are washed immediately after going to the rest room, or soiling their hands in any manner.

8. Insurance and Certification

- 8.1. The Vendor and its sub-contractors must maintain the following insurance policies and certification:
- 8.1.1. public and product liability insurance which shall at all times cover liability to the public (including the Event) for an amount not less than \$10 million per occurrence; and
 - 8.1.2. workers' compensation insurance in respect of all employees and contractors as required by law.
- 8.2. Without limitation, the public and product liability insurance must cover liability in respect of personal injury to or death of any person, and liability for any loss or damage to property (including property belonging to the Vendor, AGB or any third party), where the injury, death, loss or damage arises out of or is caused by the Vendor's participation in the Event, including the operation of the concessions and the use or consumption of products supplied by the Vendor.
- 8.3. The Vendor must supply AGB with a copy of the Certificates of Currency for the insurance policies, with the public and product liability insurance policy certificate.

9. Adverse Weather

- 9.1. All Vendors are to be adequately secured against adverse weather including wind and rain.
- 9.2. Vendors should consider wearing sunscreen and hat and enclosed shoes are mandatory.
- 9.3. Adverse weather is NO excuse for non-attendance. Vendors must make provision to ensure that their stalls are always operational.
- 9.4. The Event will proceed during adverse weather unless as otherwise determined by AGB at its sole discretion.

10. Liability and Indemnity

- 10.1. The Vendor acknowledges that AGB does not make any representation or give any warranty with respect to the Event, including the number of attendees or the success of the Event. the Vendor participates in the Event at their own risk.
- 10.2. The Vendor acknowledges that AGB is not responsible for, and accepts no liability in relation to, the Vendor's participation in the Event. In no circumstances will AGB be liable to the Vendor for

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any indirect, incidental, special and/or consequential losses or damages (including loss of profits or opportunity) arising in connection with the Event.

- 10.3. Each Party indemnifies the other, and their representative, employee, contractor or office holder from and against any claim, demand, action, loss, cost, damage, or expense whatsoever (including, without limitation, legal fees) as a result of:
 - 10.3.1. any acts or omissions (including negligence or unlawful conduct) of the Party; and
 - 10.3.2. any breach of this Agreement by the Party.
- 10.4. Nothing in these conditions excludes, restricts or modifies the application of provisions of any statute (including the Trade Practices Act 1974) where to do so would contravene the statute or cause any part.

11. Termination

- 11.1. AGB reserves the right to terminate a Vendor's participation at any time.
- 11.2. Both Parties acknowledge and agree that if this Agreement is terminated for any reason:
 - 11.2.1. each party shall negotiate and act in good faith and in a timely manner to terminate their relationship on equitable and reasonable terms;
 - 11.2.2. within thirty (30) days of the date of termination, each party shall return to the other party any materials or other property which belong to that party;
 - 11.2.3. all rights and licenses granted by one party to the other party under this Agreement will revert automatically to the grantor;
 - 11.2.4. termination of this Agreement shall be without prejudice to the rights of any party against any other party for any other breach of this Agreement; and
 - 11.2.5. AGB shall retain any Fees paid by the Vendor.

12. Force Majeure

- 12.1. Neither party shall be liable for any failure to perform or delay in performing its obligations under this Agreement (other than any obligation to pay money) if that failure or delay is due to anything beyond that party's reasonable control including fire, storm, flood, earthquake, explosion, war, invasion, rebellion, terrorism, sabotage, pandemic and epidemic, or any other reasons of a like nature not the fault of either party ("Acts of God") which prevents the effective and safe conduct of the Event and the other party may terminate this Agreement with immediate effect by giving notice to the other party and neither party shall be liable to the other party for any breach of any term of this Agreement if such breach arose by such a reason and AGB shall not be obligated to return any Fees received if the Event is delayed, hindered in or prevented from performance by any Acts of God.

13. Intellectual Property Rights

- 13.1. The Vendor grants to AGB and its representatives the right to use the Vendor's name and trademarks, including the Vendor's Logo, to promote the Event.
- 13.2. The Vendor is prohibited from using any of the intellectual property rights of AGB, without the written consent of AGB, which may be withheld in its absolute discretion.
- 13.3. The Vendor acknowledges and agrees that:
 - 13.3.1. title to and ownership of the Event remains at all times vested in AGB; and

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- 13.3.2. all imagery, sponsorship and marketing rights in the Event belong to, or are otherwise under the control of AGB and can be used and otherwise applied by AGB in its sole discretion.

14. Confidentiality

- 14.1. Both parties must treat the Confidential Information of the other party confidentially.
- 14.2. Both parties must not use, attempt to disclose to any third party for any reason the Confidential Information of the other party without the written permission of that party, other than:
 - 14.2.1. where the information disclosed is already in the public domain other than due to a breach of this Agreement;
 - 14.2.2. to the Recipient's Consultants, advisors, employees, officers and agents; or
 - 14.2.3. where the disclosure is required by law.
- 14.3. All personal information of the Vendor and its officers, employees, contractors and agents, will be handled in accordance with any applicable Privacy Laws, and the AGB Privacy Policy.

15. Promotion

- 15.1. Vendor acknowledges that AGB may film, photograph and/or record the Vendor's operation in any way for the Event (with the resulting materials being referred to in this Agreement as the "Recordings").
- 15.2. Vendor acknowledges that, for the purposes of the Event marketing or promotion, AGB has the right to use the Recordings in any media, worldwide in perpetuity, royalty free, including without limitation, live broadcast, in the Event's website and social media channels.

16. Assignment

- 16.1. AGB Events may transfer any of its rights and obligations under this agreement. AGB will promptly give notice in writing to the Vendor of any such transfer.

17. Governing Law

- 17.1. The laws of New South Wales and Australia will be applicable to this Agreement and the parties agree to submit to the non-exclusive jurisdiction of the courts of New South Wales and Australia.

18. Entire Agreement

- 18.1. If any term or part of a term of this Agreement is deemed illegal or unenforceable, it may be severed from this Agreement and the remaining terms or part of a term of this Agreement continue in force.
- 18.2. This Agreement constitutes the entire Agreement between the parties for the subject matter referred to in this agreement and any prior verbal or written arrangements, agreements, representations or undertakings are not valid or binding, and this Agreement shall supersede any previous Agreement between the parties.