

# Terms and Conditions

It is a condition of participation that you carefully read and adhere to all the information provided in the Terms and Conditions, as this forms a part of your agreement with Regional Development Australia Far North. If you are not clear at any point, it is your responsibility to ask. If you fail to comply with any of the above stated information and regulations, you will be required to forfeit your stall allocation with no refund.

“Market” refers to the Augusta Markets.

“Organiser” refers to the organiser of the Augusta Markets, which is Regional Development Australia Far North (RDAFN) and its associates.

“Stallholder” refers to the stallholder or any person authorised to trade at the Market.

## **Organiser’s exclusion of liability**

The Stallholder acknowledges and agrees that the Organiser makes no warranty or representation in relation to or in connection with the Stallholder’s occupation or use of the Market. Without limiting the generality of this clause, the Stallholder acknowledges and agrees that the Organiser has made no warranty or representation in relation to or in connection with:

- the prospects of the Stallholder for selling Approved Products at the Market;
- the Stallholder’s access to people visiting the Market or the access those people have to the Stallholder;
- the existence, number or quality of products that will compete with the Approved Products
- the existence or extent of services and/or facilities of any kind at the Market;
- the position within the Market that the Stallholder will occupy;
- the suitability of the Market for any particular purpose or the existence of any latent or patent defect at the Market;
- the extent, if any, to which other visitors to the Market might interfere with the Stallholder’s use of the Market;
- the existence or extent of any advertising or promotional activity or material that may or may not be published or undertaken by the Organiser;
- the existence or extent of any security measures undertaken to protect the Stallholder, the Approved Products and/or the Market against terrorist or other criminal activity; or
- the existence or extent of any security at the Market.

## **Organiser’s representations**

The Organisers’ consent to the Stallholder to trade at the Market does not convey to the Stallholder any ongoing rights in relation to the Market into the future and such consent can be terminated by the Organiser at any time in writing and without any period of notice. The Organiser reserves the right to undertake any of the following actions without notice:

- relocate a Stallholder to another site within the Market;
- require the Stallholder to remove from sale any good or service offered by the Stallholder which are not Approved Products; or

- request that the Stallholder undertake any reasonable measure which in the opinion of the Organiser will improve the safety of the Stall.

### **Organiser's right of termination**

The Organiser reserves the right to withhold consent to a Stallholder to Trade at the Market, to remove or to have removed from the Market, a Stallholder who is in breach or does not comply with the Regulations, including where a Stallholder:

- fails to pay their Stall Fee in a timely manner;
- fails to abide by the Market's set up or pack up conditions;
- fails to abide by the Market's Trading Hours;
- fails to abide by the terms and conditions of the Market's Traffic Plan;
- fails to limit the products offered for sale to Approved Products;
- commits a criminal act at the Market; or
- behaves in a manner that breaches the Market's Code of Conduct or otherwise behaves in a manner that the Organiser considers is inappropriate or may bring the Market in disrepute.

### **Alter dates of the Market**

We reserve the right to postpone or amend the stated date of the Market to a date which is, in our opinion, most applicable for such a Market, utilising this right only where circumstances necessitate such action, and without any liability to us and the sponsors for any losses, damages or expenses which you may incur as a result.

### **Best endeavours to supply**

We will use our best endeavours to ensure the supply of the services mentioned in this agreement but will not be liable for any losses, damages or expenses arising out of total or partial failure of such services caused by a cause beyond our reasonable control.

In such event of a total or partial failure of any services you will not be entitled to a refund of any moneys paid nor will you be relieved of the obligation to pay any amount due under this agreement. We will not be liable in any way for any expenditure or liability or losses including consequential loss incurred or sustained by you.

### **Stallholder indemnity**

Without limiting the generality of any other provision of these Regulations, the Stallholder hereby indemnifies and holds the Organiser harmless from and against all Claims for Loss arising in connection with or in relation to:

- the Stallholder's occupation of the Market;
- the sale or attempted sale of the Approved Products or any other products or services;
- any injury or harm suffered by the Stallholder;
- any injury or harm caused to any property or suffered by any person as a direct or indirect consequence, in whole or in part, of any act or omission by the Stallholder;
- any loss of or damage to the Stallholder's property regardless of the cause of that loss or damage;
- the death of any person of a consequence, in whole or in part, of any act or omission by the Stallholder;
- any breach of these Regulations by the Stallholder; or

- any legal costs on a full indemnity basis incurred by the Organiser as a result of the Stallholder's breach of these Regulations.

### **Stallholder's obligations & responsibilities**

The Stallholder agrees that at any time while the Stallholder is at the Market, the Stallholder will:

- respond cooperatively to any direction given by the Organiser's staff in relation to the operation and occupation of their stall, equipment, goods and vehicle during set up and pack up out activities and any direction of a security or safety nature;
- ensure that their activities do not endanger the safety or security of any people at the Market;
- not cause any damage, make alterations or additions of any nature to, or carry out any works of any nature to equipment supplied to the Stallholder and that, if any such damage is caused, the costs of any repairs, making good or replacement are borne by the Stallholder;
- leave the site in the condition in which it was before the stall was set up for the day and that if any damage is caused to the site, then costs of making good shall be borne by the stallholder;
- not operate or use any amplified sound equipment of any nature without the express permission of the Organiser;
- keep the Market and its immediate surrounds clean, tidy, presentable and free from waste and rubbish;
- ensure that nothing is done at the Market which is illegal, obscene, offensive, dangerous or otherwise creates a nuisance or causes damage, disturbance, annoyance, injury or obstruction to any owner, occupier or user of any nearby land or premises;
- report to the Organiser any incident or accident to any person or property that involves loss or could be expected to give rise to a Claim;
- ensure that any accident involving any injury to any person, or any loss of or damage to any property within the Market (including any defect, failure or lack of repair at the Market) which may give rise to a danger or risk to others, is reported directly to the Organiser;
- vacate the Market immediately after being requested to do so by the Organiser;
- not use the Market for any purpose other than the display and sale of Approved Products; and
- not place or affix any product or signage to any permanent building, structure, play apparatus or vegetation.

Stallholders are responsible for the:

- safety of all equipment brought by the Stallholder to the Market;
- safety of their employees, staff, agents or representatives that may occupy the Stallholder's Stall; and
- cost of all repairs or replacement of any items belonging to the Organiser that is damaged by the Stallholder.

The Stallholders acknowledges that the Organiser may revoke the Stallholder's consent to Trade at the Market in the case that the Stallholder fails to comply with the obligations detailed above.

### **Your rights and responsibilities**

#### **Cancellation or withdrawal from Augusta Markets**

If you cancel or withdraw from the Market for any reason within seven (7) days or less of the stated commencement date of the Market any monies paid for an exhibit site/s is forfeited.

## **Insurance**

It is your responsibility as the stallholder to have public liability insurance with a minimum of \$10 million cover. Please contact your insurance company and make any arrangements to ensure your activities at Augusta Markets are covered. If you do not have public liability insurance you must organise it ASAP, as you will not be able to have a stall at the market without insurance. For more information contact the Event Coordinator.

## **Price and payment**

The stallholder fee must be paid in the amount and at the times specified in our correspondence to you. If you fail to pay on time, we will cancel your application and give your allocated space to someone on the wait list.

## **Exhibitor to comply with applicable Acts and Regulations**

You must at all times:

- comply with all Acts of Parliament and Regulations and By-Laws made under such Acts.
- comply with all Work Health and Safety Policies, Procedures and Directives as may be issued by us and take all reasonable practical measures to ensure your own safety and that of all other site personnel, visitors and the general public including the provision and use of all appropriate safety equipment and clothing.
- acknowledge, if you employ labour, that you are independent employers in relation to the requirements of the provisions of the *Work Health & Safety Act 2012 (SA)* and associated Regulations.
- agree that you are an independent contractor and that nothing in this agreement creates between us a partnership or a relationship of employer and employee.

## **Occupation of the stall during the Market**

During the Market you must:

- only use and occupy the exhibit site/s assigned to you solely for the purpose stated in this agreement.
- not sublet your exhibit site/s or any portion of your exhibit site/s or assign any of your rights under this agreement without written approval from us.
- not conduct or operate any gambling, game/s of chance and/or dispose of any property by lot or chance without our prior written approval.

You must not bring or permit to be brought onto the stallholder site/s:

- anything or do or permit any activity which may be or become offensive or dangerous or give rise to undue noise or smell; or
- any item or material not specifically detailed in this document as being permitted; or
- anything which in our opinion may cause annoyance or offence or may constitute a danger to members of the public, traders or other stallholders.

## **Operation of stalls**

You must at all times:

- Ensure no rubbish is left at the stall site/s and that any rubbish is disposed of as directed by us;
- Ensure there is no damage to any areas of the stallholders site/s;
- Not obstruct or interfere with aisles, passageways, entrances, exits or emergency equipment at the Market;
- Not giveaway or sell any food and beverage without our prior written consent;
- Not supply, either by give-away or sale, any liquor without our prior written consent and without the requisite liquor licence being in place.
- Comply with all directions of our authorised staff, traffic marshals, security, police or emergency services;
- Conduct your stall at, and strictly within, the confines of the stallholder site licensed to you under this agreement and not distribute any handouts, printed matter or any other material from any location outside the confines of your site;
- Only use equipment, demonstrations or other sales presentations or getting attention devices which do not disrupt neighbouring sites or impede crowd movement. We will determine appropriateness at our sole discretion.
- If your site/s will be sponsored by, or likely to be sponsored by, another person or organisation, you must disclose this in your application and obtain our written approval prior to the Augusta Market.

## **WARRANTIES & INDEMNITIES**

### **Intellectual Property**

You warrant that you will not sell goods at the Market which are in any way a misrepresentation or an infringement of another person's intellectual property rights. You indemnify us from and against any claims, damages, losses and costs suffered or incurred by us which arise from any breach on your part.

### **Indemnify the Augusta Markets and its officers, contractors, members, etc**

To the maximum extent permitted by law, you must indemnify and keep indemnified us and our officers, employees, contractors, members and agents from and, against all actions, claims, demands, losses, damages, costs, expenses and liabilities including without limitation, consequential loss and loss of profits for which we are, or may become, liable in respect of or arising from:

- loss, damage or injury to any person in connection with the stall or the relevant event;
- loss, damage or injury to any other stall or stallholder, his or her family, invitees, agents, or to our property, or our members, or to the general public, caused or contributed to or by any act or omission of an act or display by you, your family, invitees or agents; and
- loss, damage or injury to the stall, or you, your family, invitees, or agents caused or contributed by an act or omission of an act or display of yours or by the transportation or housing of a display of yours.

### **Privacy**

You agree to give us your consent under privacy laws to:

- Use your personal information for internal purposes, including accounts processing, stallholder analysis and event invitations;
- We will not use or give your personal information to anyone for any other purpose.

## **Miscellaneous**

### **Cancellation of Market**

If for any reason whatsoever, the Market is not held, the agreement will be deemed cancelled and we will return all monies paid by you to us for this agreement. We will not be liable for any expenditure or loss including consequential loss incurred or sustained by you as a result of the cancellation.

### **Stallholder Warranties & Representations**

The Organiser permits the Stallholder to attend the Market in reliance on the following warranties and representations hereby made by the Stallholder:

- the Stallholder is the owner of the Approved Products with full power and capacity to sell absolute legal and beneficial ownership of the Approved Products to a third party without any encumbrance;
- the Stallholder is not in reliance on any representation or statement made by the Organiser that is not expressly contained in these Regulations;
- the Stallholder is responsible for obtaining all relevant permits and permits required to operate the Stallholder's business and that all merchandise sold complies with all relevant safety and compliance standards and retails laws currently in force;
- the Stallholder does not bring into the Market any hazardous materials or substances; and
- the Stallholder will comply with all of the terms contained in these Regulations and will comply with any changes to the Fair Regulations, or any relevant local government and other statutory laws and Regulations.

Without limiting the generality of these terms, the Stallholder acknowledges and agrees the Organiser is not liable for any Claim or Loss suffered or incurred by the Stallholder in relation to or in connection with:

- theft or damage of Approved Products, equipment or goods under the control of the Stallholder or any other property of the Stallholder at any time including times when the Fair is not trading;
- any failure by the Stallholder to sell the Approved Products;
- any journey from or to the Market; or
- damage or injury to any property or person.

It is a condition of participation that you adhere to all the terms and conditions, as this forms a part of your agreement with Regional Development Australia Far North. If you are not clear at any point, it is your responsibility to ask. If you fail to comply with any of the stated conditions and regulations, you will forfeit your stall allocation with no refund.