

## PHILIP STREET COMMUNITIES AND FAMILIES PRECINCT

### Conditions of Hire

#### 1. Defined Terms & Interpretation

##### 1.1 Defined terms

In these Conditions of Hire, Terms in bold type in the Reference Schedule have the meaning shown opposite;

“**Claim**” means any claim or legal action and all costs and expenses incurred in connection with it;

“**Equipment**” means any equipment provided by GRC from time to time for use in the Venue (e.g. tables, chairs, desks, telephones etc)

“**GRC**” means Gladstone Regional Council;

“**GRC’s Property**” means any assets owned or operated by the GRC in the Venue including the Equipment;

“**Hire Fee**” means the applicable fees and charges for the Hire of the Venue as set by GRC from time to time and included in GRC’s Fees and Charges Register.

“**Hire Period**” means the dates and times specified in Item 3 of the Venue Hire Agreement Form;

“**Hirer**” means the entity In Item 2 of the Venue Hire Agreement Form;

“**Hirer’s Agents**” means each of the members, employees, contractors, agents, customers, ticket holders and volunteers of the Hirer or others (with or without invitation) who may be on the Hire Area due to the Hirer’s use of the Hire Area;

“**Hirer’s Property**” means all property brought by the Hirer onto the Venue;

“**Keys**” mean any keys, locks or security devices associated with the Hirer’s use of the Venue provided to the Hirer by GRC;

“**Precinct**” means the Philip Street Communities and Families Precinct owned and controlled by Council located at 1 Pengelly Street, West Gladstone in the State of Queensland more particularly described as Lot 1 on SP 312053;

“**Purpose**” means the purpose of the Hire identified in Item 3 of the Venue Hire Agreement Form;

“**Safety Laws**” include all laws (including but not limited to *Work Health and Safety Act 2011* and *Work Health and Safety Regulation 2011*), Codes of Practice and policies, corporate standards and procedures relating to work health and safety, and all laws and directions relating to COVID19;

“**Services**” means all electricity, water, sewerage, fire prevention and all other utilities, services or systems provided in or to the Venue;

“**Severe Weather Event**” means tropical cyclone, severe thunderstorm, strong winds or hail.

“**Venue**” means the venue identified in Item 1 of the Venue Hire Agreement Form;

“**Venue Criteria**” means the following criteria that the Hirer must satisfy in order to Hire the Venue:

- (1) The Hirer aligns with the Precincts vision of “*a vibrant and evolving space that supports and enhances community wellbeing for all*”; and
- (2) The Hirer aligns with the Precincts values:
  - a. Wellbeing: creating opportunities for people to improve their physical and mental wellbeing, to improve health, literacy and access services they need;
  - b. Learning: promoting lifelong learning and assisting children and young people and their families to transition through learning stages; and
  - c. Connection: creating a sense of connectedness, access to current information and opportunities to build social and cultural capacity.

##### 1.2 Interpretation

In this Conditions of Hire, except where the context otherwise requires:

- (1) a word of a particular gender includes each other gender;
- (2) reference to the singular includes the plural and the plural includes the singular;
- (3) a derivative of an expression defined in this Agreement has a corresponding meaning;
- (4) any Act includes all amendments or substitutions for that Act and the Regulations made under that Act.
- (5) reference to a person includes:
  - (a) a corporation and government body; and
  - (b) the legal representatives and successors of that person;
- (6) 'including' and other similar expressions are not words of limitation;
- (7) reference to a right includes a remedy, authority or power;



(8) a covenant by a person not to do a thing includes a covenant by that person not to allow, attempt, obtain, permit or suffer the doing of that thing; and

(9) any covenant, agreement or liability by two or more persons shall bind them jointly and each of them severally.

### 1.3 Severability

If any provision of this Conditions of Hire is invalid or unenforceable it shall be severed from the balance of the Conditions, but all other provisions of this Conditions of Hire shall remain in full force and effect.

### 1.4 Entire Understanding

This Conditions of Hire together with the Venue Hire Agreement Form contains the entire agreement and understanding between the parties on everything connected with the subject matter of this Agreement and supersedes any prior agreement or understanding on anything connected with that subject matter.

### 1.5 Obligations

Every obligation of the Hirer under this agreement is taken to include an obligation on the Hirer to ensure that the Hirer's Agents comply with that obligation.

## 2. **Licence to Use and Access Venue**

### 2.1 Subject to:

- (1) Council receiving an application on the required form signed by the Hirer undertaking to comply with these Conditions of Hire,
- (2) Council being satisfied that the Hirer meets the Venue Criteria,
- (3) Council approving (at its sole discretion) the application submitted by the Hirer, and
- (4) the Hirer holding and maintaining all necessary insurances,

GRC grants to the Hirer and the Hirer accepts a non-exclusive licence to use the Venue for the Hire Period for the Purpose subject to the terms of this Conditions of Hire.

### 2.2 The Hirer agrees that this licence is personal to the Hirer and the Hirer:

- (1) has no tenancy, estate or leasehold interest in the Venue; and
- (2) cannot transfer, sublet, assign, mortgage or dispose of any part of its interest.

### 2.3 The Hirer acknowledges that:

- (1) GRC gives no warranties as to the condition of the Venue; and
- (2) the Hirer has relied on its own investigations as to the suitability of the Venue for use by the Hirer and has not relied on any representations made by GRC.

### 2.4 The Hirer agrees that the Hirer must, at the Hirer's cost, obtain any consents, permits or licences required to conduct the Purpose and must provide copies to GRC on request.

## 3. **Fees and Security Deposit**

3.1 The Hirer must pay the Hire Fee and any applicable security deposit upon submitting the application. Non-payment will mean the proposed hire is not accepted by GRC.

3.2 Subject to having received the payments under this clause 3, GRC will provide the Hirer with all necessary Keys required to access the Venue.

## 4. **Change or Cancellation**

4.1 If payment is not received under clause 3.1, GRC may cancel the booking and hire the venue to any other person.

4.2 If for any reason GRC (acting reasonably) has concerns for the safety of the Hirer or the Hirer's Agents, GRC may cancel the booking. If the booking is cancelled due to no fault of the Hirer, GRC will refund to the Hirer the Hire Fee and any Security Deposit paid by the Hirer. No compensation will be payable by GRC to the Hirer for any costs incurred by the Hirer in relation to the Hire of the Venue.

4.3 The Hirer may cancel a booking by providing notice to GRC. If notice is given at least 14 days prior to the commencement of the Hire Period, GRC will refund the Booking Fee. If a booking is cancelled within 14 days of the commencement date of the Hire Period GRC may at its discretion retain the Booking Fee.

## 5. **Facilities and Services**

5.1 The Hirer may use the Services and Equipment as reasonably required for the Purpose in accordance with any directions provided by GRC.

5.2 GRC is not liable to the Hirer for any breakdown or failure to function of GRC's Property or any Services for any reason. The Hirer will have no claim against GRC for any compensation for any such breakdown or failure.

5.3 The Hirer must not misuse or overload the Equipment or Services.

5.4 If equipment, facilities or Services in excess of those contained within the Venue are required for the Purpose, such additional equipment, facilities and services must be provided by the Hirer at the Hirer's cost and must comply with relevant laws.



5.5 Any electrical equipment used in the Hire Area by the Hirer or the Hirer's Agents must comply with relevant Australian standards, be tested and tagged under *Electrical Safety Regulation 2013* and be used only in accordance with manufacturer's directions.

## 6. **Hirer's obligations**

6.1 The Hirer must:

- (1) undertake a Venue specific induction prior to the commencement of the Hire Period;
- (2) use the Hirer's best endeavours to participate in collaboration forums held by GRC;
- (3) keep the Venue and GRC's Property in good repair and condition;
- (4) leave the Venue, GRC's Property and Equipment in a clean and tidy state;
- (5) comply with all laws relating to the use of the Hire Area and conduct of the Purpose, including but not limited to the terms of any permits, licence or consents;
- (6) notify GRC within 24 hours should any damage be caused to the Venue and GRC's Property and complete an accident/damage report as directed by GRC;
- (7) ensure the security of the Venue at all times;
- (8) familiarise themselves and keep themselves and the Hirer's Agents informed of emergency evacuation procedures for the Venue;
- (9) comply with any directions of GRC's Representative in respect to the operation of GRC's Property, the Venue and the Precinct;
- (10) remove all rubbish from the Venue; and
- (11) ensure no smoking within the Venue other than in designated smoking areas.

6.2 The Hirer must not:

- (1) store any of the Hirer's Property within the Venue outside of the Booking Period;
- (2) damage the Venue or damage or remove GRC's Property;
- (3) undertake any repairs to or modifications of the Venue or GRC's Property;
- (4) do anything that may invalidate or increase the premiums for GRC's insurance;
- (5) cause any damage to any other property or injury to any person as a result of use of the Venue;
- (6) do anything which might cause nuisance, damage or disturbance to other occupiers or users of neighbouring land;
- (7) empty or spill oil or any chemical on any part of the Venue;
- (8) use the Venue for any illegal purpose;
- (9) camp on the Venue
- (10) obstruct or restrict access to any designated exit;
- (11) infringe any copyright or performance right;
- (12) erect any signs without the prior written approval of GRC;
- (13) allow any parking or access to the Venue other than as approved in writing by GRC; and
- (14) duplicate any Keys provided by GRC.

## 7. **Safety**

7.1 The Hirer must:

- (1) ensure the safety of the Hirer's Agents and the security of the property of the Hirer and the Hirer's Agents during the Hire Period; and
- (2) comply with Safety Laws.

## 8. **Insurance and Indemnity**

8.1 The Hirer:

- (1) uses the Venue at the Hirer's own risk; and
- (2) releases GRC from and indemnifies GRC against all Claims for damages, loss, injury or death arising from the use of the Venue by the Hirer and the Hirer's Agents, any negligent act of the Hirer or the Hirer's Agents and any breach of this agreement by the Hirer or the Hirer's Agents.

8.2 The Hirer is responsible for ensuring the safety of the Hirer's Agents and the safety and security of the Hirer's Property at all times.

8.3 The Hirer is responsible for obtaining its own insurance for any activity for which the Hirer uses the Venue. At a minimum the Licensee must maintain at all times during its use of the Hire Area:

- (1) insurance for public risk for at least \$20,000,000.00 per claim; and



(2) suitable Workcover insurance or equivalent personal accident insurance for any employees, subcontractors or volunteers of the Hirer.

8.4 The Hirer must on signing and return of this agreement provide copies of certificates of currency for the insurances required under clause 8.3, with effect until after the conclusion of the Hire Period.

## 9. End of Hire

9.1 The Hirer must return all Keys to GRC at location nominated by GRC before the conclusion of the Hire Period.

9.2 The Venue must be left clean and in good repair and all the Hirer's Property must be removed from Venue. GRC may deduct from the Security Bond any costs of cleaning and/or repair of the Venue or Keys.

9.3 GRC's representative will inspect the Hire Area and, if it is in a satisfactory state as required by this Agreement, the Security Bond will be refunded to the Hirer.

9.4 Unless an extension of the Hire Period is first agreed with GRC, if the Hirer fails to return the keys by the conclusion of the Booking Period, a further Hire Fee of \$50.00 per day or part of a day will be payable by the Hirer to GRC.

9.5 Following inspection of the Hire Area GRC and completion of cleaning and reinstatement works under this clause 9 GRC will refund to the Hirer any balance Security Bond after deduction of any payments due under this clause. If the Security Bond is not sufficient to meet all the costs, GRC may recover the balance from the Hirer as a liquidated debt.

## 10. Default

10.1 The Hirer will be in default if it:

- (1) fails to return the Keys by the conclusion of the Booking Period; or
- (2) fails to carry out or breaches any other obligation under this Agreement.

10.2 In the event of default under clause 11.1 GRC may:

- (1) take possession of the Hire Area;
- (2) cancel the booking without being liable to pay compensation to any person;
- (3) remove and store the Hirer's Property at the Hirer's risk and expense and can recover the cost of doing so from the Hirer as a liquidated debt;
- (4) if the Hirer fails to collect the Hirer's Property and pay the removal and storage charges within 7 days of notice from GRC, treat the Hirer's Property as abandoned and deal with it as GRC thinks fit; and
- (5) sue the Hirer for damages for breach.

## 11. Governing Law

This Agreement and the hire of the Hire Area is governed by the laws of Queensland and the parties submit to the jurisdiction of Queensland Courts.

## 12. Notices

12.1 Notices under this Agreement must be in writing and may be signed by a party or its solicitor.

12.2 Notices are effectively given if delivered or posted to the other party at the addresses specified in this Agreement or at such other address as may be notified from time to time and when posted will be deemed to have been received on the second business day after posting.

## 13. Waiver

No waiver by GRC is effective unless it is in writing.