

## TERMS AND CONDITIONS FOR SEASONAL SPORTING PERMITS

### 1. Definitions

**Claims** – liabilities, losses, penalties, payments, costs, charges, expenses including in negligence, trespass, some other tort, contract, under statute or otherwise and whether direct, indirect or consequential in relation to:

- (a) the use or occupation of the Site by you or Your People; or
- (b) any personal injury to, death of or property damage suffered by, any of Your People when on the Site; or
- (c) your breach of this permit.

**Consumables** – payments for facilities and services listed in the Permit Details.

**Council** – Ipswich City Council.

**Delegate** – a staff member from Council with the authority to discuss and approve your permit/licence

**Local Laws** – Ipswich City Council Local Laws

**Priority Use Hours** – the Hours of Use during the Periods Covered during the Term if any Hours of Use are specified in the Permit Details, or otherwise all hours during the Term.

**Schedule of Fees and Charges** – the schedule of fees and charges forming part of Council's adopted budget from time to time.

**Term** – the period from the Start Time on the Start Date until the Finish Time on the Finish Date or the earlier date on which this permit is revoked or cancelled.

**You/your** – the Permittee.

**Your People** – your employees, members and volunteers, and any other person who comes to the Site at your express or implied invitation.

### 2. Overview

- 2.1 Council gives you the right to use the Premises during the Term on the terms and conditions of this permit.
- 2.2 Council retains possession of the Premises. This permit does not give you any interest in, nor does it give you exclusive possession of, the Premises. You cannot exclude Council or its employees or agents from the Premises at any time.
- 2.3 The rights given to you by this permit are personal to you. You cannot transfer or mortgage those rights to any other person.

### 3. Payments

- 3.1 At the start of each Permit Fee Period, you must pay the Permit Fee Amount to Council. Each of these payments is the Permit Fee in advance for that Permit Fee Period.
- 3.2 You are not entitled to any refund of a Permit Fee paid in advance for a Permit Fee Period, even if this permit is revoked or cancelled or ends before the end of that Permit Fee Period, unless Council in its discretion decides to give you a refund.
- 3.3 You must pay for Consumables for the Premises during the Term. If a Consumable for the Premises during the Term covers a period during which the Premises were used by you and by someone else, Council will apportion the amount of the Consumable on a fair basis decided by Council and you must pay your share as apportioned by Council.

### 4. Bond Amount

- 4.1 You must pay the Bond Amount to Council before the Start Date. Council may deny you and Your People the exercise of any rights under this permit until you do so.
- 4.2 Council may use the Bond Amount to:
  - (a) satisfy your obligation to make a payment under this permit that you have not paid on time; or
  - (b) compensate Council for any cost, loss or expense paid or incurred by Council due to a breach by you of this permit; or
  - (c) deduct an amount payable by you to Council and referred to in subclause 7.5; or
  - (d) satisfy any Claims against Council which are covered by your release or indemnity under subclause 8.2.
- 4.3 If Council uses any of the Bond Amount under subclause 4.2 and gives you notice requiring you to do so, you must restore the Bond Amount by paying to Council the amount used. Council may deny you and Your People the exercise of any rights under this permit until you do so.
- 4.4 Council will refund the Bond Amount to you if and to the extent that:
  - (a) there is a Bond Amount; and
  - (b) you have paid the Bond Amount to Council; and
  - (c) the End Date has arrived; and
  - (d) the inspection referred to in subclause 7.2 has occurred; and
  - (e) Council has not used and is not entitled to use the Bond Amount under subclause 4.2; and
  - (f) Council does not have a legal obligation to pay the Bond Amount to anyone else.
- 4.5 You agree with Council to contract out of sections 95 (to the extent it would require Council to give a notice to the Applicant), 96, 117, 118 (to the extent it allows Council to give a notice to you), 120, 121(4), 123, 125, 126, 128, 129, 130 (to the extent it allows Council to give a notice to you), 132(3)(d), 132(4), 134(l), 135, 142, 143 and 157(l) of the *Personal Property Securities Act 2009* so that those sections will not apply in respect of the Bond Amount or any security interest in the Bond Amount held by Council.
- 4.6 Council may, on its own initiative and at any time, lodge and register a financing statement or a financing change statement under the *Personal Property Securities Act 2009* in relation to any security interest created by this permit.

## 5. Use of the Premises

- 5.1 Subject to clause 10, you and Your People may use the Premises during the Priority Use Hours for the conduct of Permitted Activities. During the Priority Use Hours, you and Your People may use the other parts of the Site that are set apart for access to the Premises, to access the Premises.
- 5.2 You must not use the Premises at any time:
  - (a) for a purpose other than the conduct of Permitted Activities; or
  - (b) outside the Priority Use Hours (except under clause 11).
- 5.3 You must not obstruct public access to and use of the Site.
- 5.4 You must ensure that:
  - (a) any electrical equipment that you or Your People use on the Premises is regularly inspected (at three-monthly intervals at a minimum) and is safe and fit for its purpose; and
  - (b) any extension cord that you or Your People use on the Premises does not exceed 25 metres in length; and
  - (c) you and Your People do not use any double adaptors or "piggy back" plugs on the Premises; and
  - (d) any generator that you or Your People use on the Premises is fitted with a working residual-current device (RCD).
- 5.5 All fixtures to the Site (buildings and things that are fixed to the land or a building, such as light towers, lights, coldrooms, gas control units and pipes, bars, carpets and so on) become the property of Council as soon as they become fixtures.
- 5.6 In accordance with Council's smoke free environment policy, smoking is prohibited within all buildings owned by or under the trusteeship of Council. You must not allow, and must do your best to prevent or stop, smoking by any of Your People in any building on the Site.
- 5.7 You must not apply for, or change (including by extending the hours of operation), a liquor licence or liquor permit for the Site unless you have the approval of the Delegate to do so.
- 5.8 You must not carry out any gaming or gambling activities on the Site.
- 5.9 Unless you have the approval of the Delegate to do so, you must not:
  - (a) construct anything, or install a fixture, on the Site; or
  - (b) alter or fence the Site; or
  - (c) display any signs on the Site; or
  - (d) carry out any earthworks or building work on, or modify, the Site; or
  - (e) destroy, damage or remove any trees, shrubs or landscaping on the Site.
- 5.10 You must comply with all laws (including Council's local laws and subordinate local laws) in relation to the use of the Premises, for example:
  - (a) you must comply with the *Environmental Protection Act 1994* and the Environmental Protection (Noise) Policy 2008 in relation to noise levels, operating hours and other matters concerning the use of sound amplification equipment; and
  - (b) you must comply with the *Food Act 2006* and the Food Regulation 2006 in relation to the sale of food; and
  - (c) you must comply with the *Electrical Safety Act 2002* and the Electrical Safety Regulation 2002.
- 5.11 You must not use the Site in a way that causes unreasonable annoyance, disturbance or nuisance to other users of the Site, neighbours of the Site, Council or the community.
- 5.12 If Council has set aside any part of the Premises for the use of another person or organisation for the storage of goods, you must not use or access that part of the Premises or move or interfere with any goods stored there.

## 6. Maintenance and Management

- 6.1 You must ensure that:
  - (a) during the Term you keep, and at the end of the Term you leave, the Premises (and any part of the Site used or accessed by Your People) clean and tidy and in the same condition as at the start of the Term; and
  - (b) you fix any damage done to the Premises (and any part of the Site used or accessed by Your People) during the Term, except to the extent that the damage was due to fair wear and tear or was done by someone other than Your People.
- 6.2 In addition to your general obligations under subclause 6.1, if there is a maintenance schedule attached to this permit which sets out specific maintenance obligations, you must comply with the obligations set out in the maintenance schedule.
- 6.3 You must not perform any other maintenance at the Site unless you have the approval of the Delegate, or you are obliged by this permit, to do so. If you perform any maintenance at the Site:
  - (a) you must perform the maintenance to a standard satisfactory to Council; and
  - (b) Council may recover from you, as a debt, any expense incurred by Council in rectifying any maintenance that was not performed to that standard.
- 6.4 At the end of the Term, you must remove all of your goods, and those of Your People, from the Site. If any of those goods remain on the Site:
  - (a) Council may remove, store, sell or deal with the goods and treat them as Council's property; and
  - (b) Council may recover from you, as a debt, any expense incurred by Council in doing so; and
  - (c) you will be liable for any Claims made against Council for doing so; and
  - (d) Council does not have to give you any proceeds from selling or dealing with the goods.
- 6.5 You must ensure that no glass containers are used by you or Your People on the Site and that all cans and ring tops are disposed of properly.

## 7. Condition Reports

- 7.1 On or about on the Start Date, representatives of yours and Council are to jointly prepare and sign a condition report that describes the condition of the Premises, lists any goods belonging to Council which are included with the Premises and describes the condition of those goods. If a representative of yours does not jointly prepare the condition report with Council or does not sign it, Council may itself prepare and sign the condition report and give it to you. The condition report referred to here is called the Entry Condition Report.
- 7.2 At the Finish Date, you must arrange for a representative of yours to carry out an inspection of the Premises with a representative of Council. The purpose of the inspection is to:
- compare the current condition of the Premises with their condition as documented in the Entry Condition Report; and
  - ascertain whether any goods listed in the Entry Condition Report are still in the Premises and compare their current condition with their condition as documented in the Entry Condition Report; and
  - jointly prepare a condition report documenting those matters and recording any points of disagreement.
- 7.3 If at the time of the inspection the condition of the Premises is not the same as their condition as documented in the Entry Condition Report, you must pay for any repairs required by Council to restore the Premises to that condition.
- 7.4 If at the time of the inspection:
- any goods listed in the Entry Condition Report are missing from the Premises, you must pay Council to replace them; or
  - the condition of any goods is not the same as their condition as documented in the Entry Condition Report, you must pay for any repairs required by Council to restore the goods to that condition (or to replace the goods if, in Council's reasonable opinion, the goods can't be economically repaired).
- 7.5 The amounts payable by you under subclause 7.3 or 7.4 are the amounts reasonably estimated by Council as the cost of the repairs or replacement.

## 8. Your Liabilities and Insurance

- 8.1 You are responsible for the acts, omissions and conduct of Your People. For the purposes of this permit, an act, omission or conduct of any of Your People has the same effect as if it was your own act, omission or conduct.
- 8.2 Both during the Term and after the end of the Term:
- you release Council and its employees and agents from all Claims, except to the extent that the Claims arise from their negligence; and
  - you indemnify Council and its employees and agents from and against all Claims, except to the extent that the Claims arise from their negligence.
- 8.3 You must hold, and maintain throughout the Term, public liability insurance:
- in your name and with Council's interest noted; and
  - which covers you per claim in at least the amount of the Minimum Public Liability Insurance Cover; and
  - which covers you for claims made against you in relation to all activities comprised in the Permitted Activities; and
  - which is held with an insurer on the register of insurers authorised to conduct new or renewal insurance business in Australia kept by APRA under the *Insurance Act 1973* or else is approved by Council; and
  - which is on terms that are usual for the type of insurance concerned in the Australian market or else are approved by Council.
- 8.4 Before the Start Date, you must give Council evidence satisfactory to Council of the currency of the insurance required by subclause 8.3 as at the Start Date. Council may deny you and Your People the exercise of any rights under this permit until you do so.
- 8.5 If required (both during the Term and after the end of the Term), you must give Council evidence satisfactory to Council of the currency of the insurance required by subclause 8.3 as at any date during the Term. Council may deny you and Your People the exercise of any rights under this permit during any period of the Term for which Council is not satisfied that you hold the insurance required by subclause 8.3.
- 8.6 Any goods that you or Your People store on the Premises or at the Site are there entirely at your risk and:
- both during the Term and after the end of the Term, you must release and indemnify Council and its employees and agents from all Claims relating to the goods or their storage, except to the extent that the Claims arise from their negligence; and
  - it is your responsibility to insure the goods against the risk of any loss, damage or destruction while they are on the Premises or at the Site.

## 9. Keys

- 9.1 Council will lend you a maximum of the Number of Key Sets for accessing the Premises, when you pay the key deposit specified in the Schedule of Fees and Charges for each key.
- 9.2 Council may lend you a replacement key or extra keys if you make a written request to the Delegate. Council may do so on the condition that you forfeit a key deposit, pay another key deposit or both.
- 9.3 You must keep the keys under your control and tell Council immediately if you lose a key.
- 9.4 You must return to Council all keys that Council has lent to you, within 14 days after the end of the Term. If you do not return a key, you forfeit the key deposit for it. If you return a key, Council will refund the key deposit for it.

## 10. When you cannot use the Premises during the Priority Use Hours

- 10.1 Council may require you and Your People not to use the Premises during specified hours on a specified date or dates during the Priority Use Hours.
- 10.2 Council will exercise this right only if Council requires:
- the use of the Premises to conduct an event; or
  - exclusive access to the Premises to conduct maintenance or other work; or
  - to allow another person or group to use the Premises to conduct an event.
- 10.3 For any hours during which Council requires you not to use the Premises under subclause 10.1, you and Your People must not use the Premises other than for:
- storing goods in any part of the Premises or on the Site that Council has set aside for your exclusive use for the storage of goods; or
  - accessing that part of the Premises or Site to put away, collect or check on the goods stored there without disrupting any event or work being conducted at the Premises.

**11. When you can use the Premises outside the Priority Use Hours**

- 11.1 You and Your People may use the Premises during the Term outside the Priority Use Hours for Permitted Activities with Council's permission during specified hours on a specified date or dates.
- 11.2 The terms of this permit apply to any such use of the Premises as if the specified hours were part of the Priority Use Hours.

**12. Your Obligation to Comply with Council Policies**

- 12.1 You must comply with the Council Policies during the Term.
- 12.2 It is intended that copies of the Council Policies will be attached to this permit. If a copy of a Council Policy is not attached to this permit, you must nevertheless comply with it and therefore you should ask Council for a copy before signing this permit.
- 12.3 If there is any inconsistency between the Council Policies and this permit, this permit prevails to the extent of the inconsistency.

**13. Administration of Permit**

- 13.1 You must nominate a contact person for the purposes of this permit. You may change the nomination of the contact person by giving notice to Council. The contact person is taken to have your authority to deal with Council for the purposes of this permit (including receiving notices to you). Until and unless you notify Council otherwise, the contact person is the Nominated Contact Person. You must notify Council if the contact person you have nominated ceases to be an officeholder, employee or nominee of yours or otherwise associated with the conduct of your activities.
- 13.2 You must maintain a post office box during the Term and notify Council of the post office box number and any changes. Council may give you a notice under this permit by sending it by mail to the post office box.
- 13.3 Council may conduct an audit about your use of the Premises at any time. If Council requires you to give information to Council or to allow Council to access, review and copy any records for the purpose of such an audit, you must comply with Council's requirement.
- 13.4 If this permit provides for Council or the Delegate to give an approval:
- (a) if you want the approval, you must apply in writing for it; and
  - (b) the approval is given only if it is in writing; and
  - (c) Council or the Delegate (as the case requires) may give or refuse the approval, or give it conditionally, in their discretion; and
  - (d) if the approval is given conditionally, you must comply with the conditions.

**14. Revocation and Cancellation of Permit**

- 14.1 Council may revoke this permit without giving you any prior notice if:
- (a) you cease to be incorporated under the law under which you were incorporated when you entered into this permit; or
  - (b) you become subject to any form of external administration (such as liquidation or the appointment of a receiver of any of your property); or
  - (c) you are insolvent; or
  - (d) you cease to be an entity whose primary object is not directed at making a profit; or
  - (e) you fail to comply with Council's local laws.
- 14.2 On the revocation or cancellation of this permit, Council can still enforce your obligations under this permit:
- (a) to pay money to Council; or
  - (b) that accrued before the end of the Term; or
  - (c) that are expressed to apply after the end of the Term.

**15. Other Provisions**

- 15.1 If the Site is freehold land:
- (a) Council may, by written notice to you, revoke this permit for contravention of a condition of this permit; and
  - (b) before revoking this permit, Council must written notice inviting you to make written representations about the proposed revocation within a reasonable time fixed in the notice and, if you make written representations within the time allowed in the notice, take the representations into account.
- 15.2 If the Site is a reserve or trust land:
- (a) this permit is a trustee permit under section 60 of the *Land Act 1994*; and
  - (b) section 65 of the *Land Act 1994* provides that Council or the Minister administering the *Land Act 1994* may cancel this permit if you do not comply with the provisions of this permit, and that the Minister may cancel this permit if satisfied cancellation would be in the public interest; and
  - (c) Council or the Minister must give you 28 days' notice of their intention to cancel this permit and under section 65 of the *Land Act 1994* no person has a right to a claim for compensation for the cancellation; and
  - (d) you may not construct any structural improvements on the Site; and
  - (e) you must hold this permit so that the Site may be used for the community purpose for which it was reserved or granted in trust without undue interruption or obstruction; and
  - (f) you do not have any right to renew this permit or to be given a more secure tenure over the Site.
- 15.3 Headings in the Permit Conditions are for reference purposes only and must be ignored in the interpretation of this permit.
- 15.4 Any Special Conditions prevail over anything inconsistent in the Permit Conditions, but only to the extent of the inconsistency.