



# Melbourne Cake Expo

## SCHEDULE 1 – STALL HOLDER TERMS AND CONDITIONS

These Terms and Conditions are binding on all Exhibitors. The Organiser retains the right to amend or add to these Terms and Conditions in its sole discretion provided that any such changes are notified to the Exhibitor.

### 1. GLOSSARY

In these Terms and Conditions, the following definitions shall apply:

**"Booking Form"** means the booking form for Exhibition Space provided by the Organiser and attached at Annexure A.

**"Commercial Trade Stands"** refers to the commercial trade stands and the surrounding area where the Exhibitor and other exhibitors are entitled to sell products/services in accordance with this agreement.

**"Contract"** means the agreement entered into between the Organiser and the Exhibitor to purchase or otherwise occupy the Exhibition Space according to these Terms and Conditions.

**"Confirmation Pack"** shall mean the material supplied by the Organiser to the Exhibitor which contains information relating to the Event and Commercial Trade Stands and the use of the Exhibition Space.

**"Event"** means to the event known as the Melbourne Cake Expo 2014 to be conducted from **9:30am on 13 September 2014 to 5:00pm on 14 September 2014 at the RASV Centre, Melbourne Showgrounds, Langs Road, Ascot Vale, Victoria 3032** and also includes the bump in/out times scheduled by the Organiser.

**"Event Imagery"** means any trademarks, logos, patents, copyrights, photographs, videos and designs associated with the Event or with the Organiser.

**"Exhibition Space"** means the space allocated to the Exhibitor by the Organiser for its stand at the Event.

**"Exhibitors"** includes all employees and agents of any company, partnership, firm, government agency, business, undertaking or individual to whom Exhibition Space has been allocated for the purpose of exhibiting, selling or promoting at the Event.

**"Fees"** shall mean the amount payable by the Exhibitor to the Organiser for the use of the Exhibition Space, resources or services .

**"Organiser"** means Lien Truong and her employees, agents, representatives, contractors and volunteers.

### 2. APPLICATION FOR PARTICIPATION

All applications for participation shall be made on the booking form provided by the Organiser (attached in Annexure A) and are expressly subject to this Contract and Terms

and Conditions. On receipt of the duly completed and signed booking form and deposit, the Organiser will assess the application for Exhibition Space. The Organiser will offer the Exhibitor the Exhibition Space by providing it with the Contract. The Exhibitor will accept the offer for Exhibition Space by signing the Contract and returning to the Organiser and/or agreeing via online registration form. The Organiser reserves the right to accept or refuse any application without giving any reason thereof.

### **3. LICENSING AND ALLOCATION OF EXHIBITION SPACE**

The Exhibition Space is licensed to the Exhibitor only. The Exhibitor is not permitted to sub-license the Exhibition Space, either wholly or in part, without the prior written consent of the Organiser. The Exhibitor shall ensure that any such permitted sub-licensees comply with these Terms and Conditions and shall be responsible for any default of such sub-licensees. The Organiser will take all reasonable steps to optimise Exhibitor exposure but has the sole and exclusive right to allocate the Exhibition Space and reserves the right to refuse, amend, change the position, withdraw or otherwise deal with the allocation of Exhibition Space should it, in its opinion, be in the general interest of the Event. The Organiser may also transfer or close entrances and exits to the Event and reserves the right to undertake any other structural changes to the Commercial Trade Stands or allocated Exhibitor Space. The Organiser reserves the right, at any time, to order the alteration or removal of any stand or structures which differ from the approved specifications or which do not conform to the rules and regulations of the Commercial Trade Stands. The cost of such alteration and removal shall be entirely borne by the Exhibitor. The Exhibitor must comply with any design and build rules relating to structures or stands.

### **4. PAYMENT**

- (a) The Exhibitor must pay to the Organiser, immediately following the execution of the Contract and within **14** days of receiving an invoice or other payment directions from the Organiser;
- (b) If the Exhibitor does not pay any amount when it is due, the Organiser shall be entitled to terminate the Contract and cancel the Exhibition Space and the Contract and the Exhibitor's right to participate in the Event shall lapse and cease to be of any effect. In such event, the Exhibitor shall not be entitled to recover any amount paid to the Organiser.

### **5. PROVISIONS PERTAINING TO THE EXHIBITION SPACE**

All fire, electrical and safety laws and regulations relating to the Commercial Trade Stands must be strictly observed. All electrical equipment and leads must be tagged prior to the exhibitor commencing activities at the event and in compliance with applicable regulations. The Exhibitor is obliged during the construction and dismantling of its stand to observe the time periods scheduled for such activities as set out in the Confirmation Pack.

Any solicitation of business or any offering of advertising material, samples or publications by the Exhibitor may take place only within the Exhibition Space allocated to the Exhibitor. The Exhibitor is solely responsible for processing payment of any items purchased from it during the Event.

Exhibitors will not, without the prior consent of the Organiser, make use of any microphone, sound amplifications, musical instrument machine or demonstrations.

The Exhibitor shall ensure that its stand is manned at all times during which the Event is open to visitors and remains continuously open to visitors for the aforesaid periods. The Exhibition Space must also be kept in a clean and tidy manner by the Exhibitor.

The Exhibitor shall, after the end of the Event or such time thereafter as may be specified in the Confirmation Pack, leave the Exhibition Space in the state and condition as it was before the Event and to the satisfaction of the Organiser. If the Exhibitor fails to restore the Exhibition Space to the condition as aforesaid, the Organiser may restore the same and recover from the Exhibitor the costs of such restoration. The Organiser reserves the right to order the removal of goods, signage or collateral material that does not conform to relevant health, safety or consumer protection laws or which in the opinion of the Organiser may be considered to be offensive or distasteful. A failure to obey such an order will constitute a breach of contract and will result in the immediate closure of the Exhibition Space.

## **6. CHANGES TO EVENT**

The Organiser shall not be liable for any loss sustained by the Exhibitor directly or indirectly attributable to the cancellation, suspension, rescheduling or reduction of the scheduled Event from the period advertised for reasons including acts of war, military activity, municipal, statutory or civil authority requisition, any 'Act of God', fire, flood, tempest, inclement weather, earthquake or combinations of the same, damage caused by an aerial object or aircraft, strikes or lockouts.

## **7. PRODUCTS AND SERVICES**

The Exhibitor may only exhibit, demonstrate or offer samples of the products and services directly associated with their primary business as set out in the Booking Form. The Exhibitor may also offer for sale products or services directly associated with their primary business. All products, services, display materials and samples of products and services must be contained within your Exhibition Space area. No staples, nails, etc. are permitted on the stand walls.

## **8. CONDUCT AND SECURITY IN THE COMMERCIAL TRADE STANDS**

Participation in the Event takes place entirely at the Exhibitor's risk and the security of the contents of exhibits and of the Exhibition Space shall be the responsibility of the Exhibitor at all times. The Organiser will take measures to ensure the security of exhibits and of the Exhibition Space outside operating hours, however, shall not be held liable or responsible for any loss or theft during the construction, Event or dismantling period. Nor will the Organiser be held liable or responsible for any loss or damage to exhibits or Exhibition Spaces or to articles belonging to Exhibitors (including personal belongings). During the Event, the Exhibitor shall be responsible for the good conduct of its employees, agents, contractors and sub-contractors who shall be bound by and must observe these Terms and Conditions in all respects. Exhibitors will pay the cost of making good any damage caused to the Commercial Trade Stands, its fixtures, or equipment and material owned or hired by the Organiser by themselves and/or their contractors or sub-contractors. The Organiser reserves the right to refuse admittance to any visitor to the Event.

## **9. INSURANCE & LIABILITY**

The Exhibitor shall insure, indemnify and hold the Organiser harmless in respect of all costs, claims and expenses to which they may be subject as a result of loss or injury arising to any persons howsoever caused during the Event. The liability or risks of the Exhibitors' employees, agents or exhibits shall be the responsibility of the Exhibitors. Exhibits/displays/equipment or any items brought onsite shall be placed at the Exhibitor's own risk and the Organiser shall not be held responsible for insurance or for any loss of the exhibits or equipment. It is recommended that all goods and belongings or equipment belonging to the Exhibitor are insured.

The Organiser requires the Exhibitor to submit their Certificate of Currency for public liability insurance relating to the Event, noting the Organiser as an insured party, with a minimum of

\$10,000,000. The Certificate of Currency must be submitted to the Organiser on or before 1 October 2014.

## **10. LIMITATION OF LIABILITY**

Without limiting paragraph 6, the parties agree and acknowledge that:

- (a) the Organiser is not liable for any loss or damage to any person or property howsoever caused including the negligence of the Organiser;
- (b) the Organiser is not responsible for any lack of attendance at the Event or loss of profit to any Exhibitor;
- (c) except as expressly set out in the Contract or these Terms and Conditions, the Organiser makes no representations and gives no warranties in relation to the Event;
- (d) the Organiser is not liable for any indirect, special or consequential damages caused by or arising out of the Event or its cancellation, and the Exhibitor shall indemnify the Organiser against all costs, damages, claims or proceedings whatsoever in respect thereof.

## **11. NON-COMPLIANCE AND TERMINATION**

This Contract may be immediately terminated by the Organiser by notice to the Exhibitor upon the occurrence of any of the following events:

- (a) the Commercial Trade Stands and/or the Exhibition Space becomes unfit for occupancy and use or the Event is cancelled;
- (b) the holding of the Event or the performance of this Contract by the Organiser is substantially or materially interfered with due to any cause or causes not reasonably within the control of the Organiser;
- (c) the Organiser is not satisfied that proper use is being made of the Exhibition Space during the installation period or at any time during the Event;
- (d) in the opinion of the Organiser, the Exhibitor or its officers, servants, employees, contractors or agents act in a manner which prejudices or brings into disrepute the Event or the Organiser;
- (e) payment of Fees is not made by the Exhibitor in accordance with paragraph 4;
- (f) the Exhibitor is, for any reason, unable to utilise the Exhibition Space allocated to it; or
- (g) the Exhibitor is in breach of any of the Contract or any applicable legislation, rules or regulations.

Upon termination of this Contract for whatever reason, any allocation of Exhibition Space shall automatically be cancelled forthwith. All payment made in respect to the Exhibition Space shall be forfeited and the Organiser shall have the right to claim for the balance of the Fees and for any loss or damages suffered by them as a consequence thereof. All of the Exhibitor's property should be removed by the Exhibitor from the Exhibition Space immediately, failing which such property shall be removed and the Exhibition Space cleared by the Organiser at the Exhibitor's expense. If the termination of this Contract results other than from cancellation of the Event, the Organiser shall be entitled forthwith to re-licence the Exhibition Space. If the Organiser is able to re-licence the Exhibition Space, they may,

at their sole discretion, waive all or part of the Exhibitor's liability for payment of the balance of the Fees.

## **12. CANCELLATION**

Without prejudice to the rights of the Organiser in respect of any breach of the Contract on the part of the Exhibitor, the Organiser may, at its discretion, allow the Exhibitor to withdraw from the Event subject to the following conditions:

- (a) the Exhibitor must give written notice to the Organiser that the Exhibitor desires to withdraw and if the Organiser allows such withdrawal it will notify the Exhibitor of its decision in writing;
- (b) any such notification by the Organiser to the Exhibitor will constitute a cancellation of the Contract subject to the payment by the Exhibitor to the Organiser of a cancellation fee being a percentage of the Fees payable in accordance with paragraph 4:
  - (i) 20% for notification prior to July 30 April 2014;
  - (ii) 50% for notification prior to 31 May 2014;
  - (iii) 75% for notification prior to 30 June 2014;
  - (iv) 100% will be payable for notification on or after 31 July 2014,

which cancellation fee will be retained by the Organiser from the amount of Fees (if any) to be otherwise refunded to the Exhibitor on cancellation. The Organiser will pay any Fees refundable to the Exhibitor via Direct Deposit payment to an account nominated in writing by the Exhibitor.

Upon settlement of such an amount to the Organiser by the Exhibitor, the Contract shall be cancelled and neither party shall have any further claim against the other. In the event of any failure on the part of the Exhibitor to observe any of these Terms and Conditions and perform any of the provisions of the Contract, the Organiser shall have the right to terminate the Contract forthwith by written notice to that effect, in which event fees paid by the Exhibitor shall be forfeited and retained by the Organiser. The Exhibitor shall indemnify the Organiser in respect of any or all costs, losses, damages and expenses (including any consequential loss or damage) incurred as a result of such failure.

## **13. RESTRICTIONS**

Exhibitors will not be permitted to display, give away, sell, advertise or otherwise promote products or services at the Event that conflict with the Events official sponsors and the Organiser's official sponsors. Exhibitors are advised to discuss this with the Event Manager before booking.

## **14. COMPETITIONS/PROMOTIONS**

The Organiser reminds Exhibitors that any promotional competitions/giveaways must comply with any relevant laws. Please advise the Organiser of any promotional competitions/giveaways that will be conducted during the Event.

## **15. AUCTIONING**

No auctioning of goods is to take place at the Event by Exhibitors at any time.

## **16. EVENT IMAGERY AND INTELLECTUAL PROPERTY**

Exhibitors acknowledge and agree that:

- (a) title to and ownership of all Event Imagery remains at all times vested in the Organiser;
- (b) title to and ownership of any intellectual property relating to the Event remains at all times vested in the Organiser;
- (c) all Event Imagery, sponsorship and marketing rights in the Event belong to, or are otherwise under the control of, the Organiser and can be used and otherwise applied by the Organiser in its sole discretion;
- (d) Exhibitors must not use any intellectual property relating to the Event or any Event Imagery without first obtaining written permission from the Organiser;
- (e) Exhibitors must not use or authorise any third party to use any Event Imagery without first obtaining written permission from the Organiser;
- (f) Exhibitors must not act in any way or manner which is, in the reasonable opinion of the Organiser, prejudicial or otherwise detrimental to the Event;
- (g) at all times Exhibitors must use all reasonable efforts to preserve the goodwill and reputation attaching to the Event, and the goodwill and reputation of the Organiser;
- (h) Exhibitors will comply with any reasonable requirements and directions specified by the Organiser from time to time in relation to any aspect of the Event or the Event Imagery;
- (i) Exhibitors will never directly or indirectly challenge, contest or call into question the validity or ownership of the Event or Event Imagery or other associated rights;
- (j) Exhibitors will use their best endeavours to preserve and protect the value and validity of the Event and Event Imagery; and
- (k) Exhibitors must not, nor permit any of its officers, servants, employees, contractors or agents to do or perform any act which prejudices or brings into disrepute the Event, the Organiser or any of the Organiser's officers, servants and agents.

## **17. NON-WAIVER**

No failure or delay by the Organiser to exercise any right, power or privilege or other provisions of the Contract shall operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege of the Organiser.

## **18. COMPLIANCE WITH LOCAL LEGISLATION AND RULES**

Any Exhibitor who takes part in the Event must comply with the relevant legislation rules and regulations of the state/country where the Event is held and shall be solely responsible for observing and complying with the same and for obtaining all consents, approvals, authorities, licences and the like as may be requisite to its participation in the Event. This includes, but is not limited to, complying with food handling regulations and obtaining the appropriate permits (including through STREATRADER). Exhibitors must include the appropriate documentation with their Booking Form.

Exhibitors must not supply or sell alcohol at the Event.

**19. SUCCESSORS AND ASSIGNS**

The Contract shall benefit and be binding on the parties, their respective successors and subject to the provisions of the Contract, any permitted assignee or transferee of some or all of the Exhibitor's rights or obligations under the Contract. The Exhibitor may not assign or transfer all or part of its rights or obligations under the Contract except with the Organiser's prior written consent. The Organiser shall be entitled to transfer all or part of its rights, benefits and obligations under the Contract to any party as it shall in its absolute discretion deem fit.

**20. RELATIONSHIP**

Nothing contained in this Agreement shall create a joint venture, partnership or agency relationship between the Exhibitor and the Organiser and neither party shall represent that it is the joint venturer, the partner or the agent of the other party.

**21. GOVERNING LAW**

This Agreement shall be subject to the laws of the State of Victoria and the Commonwealth and the parties hereby submit to the non-exclusive jurisdiction of the courts of the State of Victoria and the Commonwealth of Australia.

**22. SEVERABILITY**

If the whole or any part of a provision of this Contract is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of this Contract has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This paragraph has no effect if the severance alters the basic nature of this Contract or is contrary to public policy.

**23. SPECIAL CONDITIONS**

Nil.