



SALAMANCA MARKET

STALLHOLDER LICENCE

AGREEMENT



City of HOBART

Issued date:		Licensee:	«Licensee»
Effective date:	when executed	ABN:	
Total pages:	26 including this one	Address:	
Summer site:		Guarantor:	
Winter site:		Address:	
Debtor number:	«DebtorNo»		

Stallholder Licence Agreement

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Schedule One: Details, Site Category & Site Fee

Item 1	Licensee	Name: ABN: Address: Email: Phone: Emergency Contact:
Item 2	Guarantor (if applicable)	Name: ABN: Address: Email: Phone:
Item 3	Stall Site	Site Number: Site Category:
Item 4	Term	5 years, commencing on 1 July 2023 and expiring on 30 June 2028
Item 5	Joint Licensees	Applicable / Not Applicable (strike out one)

Item 6: **Site Fee**

...for 32 weeks from the first Market Day in October (“Summer”): Site «F1» _____

20 weeks ending the last Market Day in September (“Winter”): Site «F1»

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In the first year of this Licence, the Site Fee as of \$ is made up of the following:

	Summer Base Site Fee (Ex GST)	Winter Base Site Fee (Ex GST)	Public and product Liability Insurance (Ex GST)	Marketing Levy (Ex GST)	Power <i>If required</i> (Ex GST)	Tables <i>If required</i> (Ex GST)	Current Payment Frequency	Trade Waste	Total Weekly Fee (Inc GST)	Fees per Invoice Period (Inc GST)
	\$	\$	\$	\$	\$«Power_weekly_ex_GST»	\$«Summer_trestles_weekly_rental_ex_GST»	«Payment_Frequency»		\$	\$

Annual total \$ Inc GST per annum (52 Market Days)

Site Fee (subject to annual increases in accordance with clause 33)	Summer Base Site Fee	Winter Base Site Fee
Site Fee Year 2	\$	\$
Site Fee Year 3	\$	\$
Site Fee Year 4	\$	\$
Site Fee Year 5	\$	\$

These figures are correct as at the date of preparation of this Agreement and are subject to change in accordance with the terms and conditions of this Agreement.

This amount is to be paid in advance in accordance with the invoice issued by the Council in accordance with the terms and conditions of this Agreement

Item 7: Special Arrangements

[eg: if Joint Licensees, include provisions about agreed rotations, roster, portion of site being licensed etc]

Stallholder Licence Agreement**Schedule Two: Approved Product Line****Schedule Three: Product Assessment Criteria**

“Product Assessment Criteria” means the ideal mix of activities, services and products as determined by the Council from time to time, traded at Salamanca Market to provide its customers with a diverse range of Approved Product Lines.

In making this determination the Council will give consideration to the way in which new and proposed activities, services and products:

1. Add value to the Market’s product mix, diversity, customer appeal and reputation.
2. Possess quality and innovation. This includes consideration of the product’s quality and packaging and/or presentation, innovation, its use of design, materials, fabrication/manufacture or other attributes, including the use of environmentally sustainable materials or production practices, including packaging. Consideration is also given to the use of correct labelling including place of manufacture.
3. Are designed, devised, grown, produced or manufactured or by the trader themselves (which can include their family or business, including employees).
4. Include Tasmanian content (defined as being the level to which the product is manufactured, grown or produced in Tasmania, or made from raw Tasmanian materials or materials sourced in Tasmania).
5. Are demonstrated to meet ethical, environmental or sustainability standards and which are promoted as such.
6. Are located relative to other stalls in the Market undertaking like activities or services or selling like products.
7. Conflict or otherwise with the requirements of the Licence Agreement, The By-Law and Legislative Requirements (including offensive or prohibited products, or products which infringe the intellectual property rights of another stallholder).

Schedule Four: Code of Stallholder Conduct

The Code of Conduct has been developed to ensure that the Licensee comply with a set of standards to ensure safety, inspire community confidence in Salamanca Market, to help maintain and raise the standards of the Market relative to other markets, to encourage the pursuit of excellence, and promote Salamanca Market’s positive reputation.

All Salamanca Market stallholders, staff, contractors, their employees and volunteers must comply with this Code of Conduct, the Work Health and Safety Act 2012 and the [Anti-Discrimination Act 1998](#), in addition to all relevant Acts, legislation, regulations and codes of practice relevant to their business.

Salamanca Market Stallholders are required to uphold: **Integrity, Professionalism, Community Citizenship, Safety, Respect and Courtesy**. Stallholders must *act* to provide a positive experience to market visitors, employees, contractors and agents and act to positively shape the Market’s future and its value within the community.

Stallholder Licence Agreement**1.1 *Stallholders must act with integrity, and:***

- Act responsibly and ethically through fairness, consideration and honesty in all dealings with others.
- Conduct their business in line with fair competition.
- Act honestly in serving business interests.

1.2 *Stallholders must act with Professionalism, and:*

- Provide quality service.
- Accept responsibility for their actions.
- Cooperate with other stallholders, and Hobart City Council.
- Refrain from actions that damage or bring the Salamanca Market brand, image or reputation into disrepute.
- Refrain from knowingly injuring or maligning the good name or business reputation of another Market stallholder.

1.3 *Stallholders must act with Community Citizenship, and:*

- Have awareness that stallholder behaviour and actions shape the Market's future and its value within the community.

1.4 *Stallholders must act with Safety, and:*

- Provide a safe environment for Market visitors, employees, contractors and agents.
- Work safely and take reasonable care of others, resources and property.

1.5 *Stallholders must act with Respect and Courtesy, and:*

- Act in a polite and respectful manner
- Adopt a welcoming and approachable attitude
- Refrain from rude, violent, aggressive, threatening, uncooperative or belligerent behaviour
- Refrain from any form of harassment, bullying, discrimination, taunting or intimidation.
- Refrain from any form of sexual innuendo or unwanted physical contact of others.
- Refrain from any form of discrimination.
- Act to protect and respect the privacy of customers and other stallholders.
- Respect the right of other stallholders to conduct business at the Market.
- Reject profanity or vulgarity towards any other person, either by actions or in any language.

Stallholder Licence Agreement**Parties**

- A. The party listed at Item 1 of Schedule One (“Licensee”).
- B. The Hobart City Council, ABN 39 055 343 428, of Town Hall, Macquarie Street, Hobart in Tasmania (“Council”).

Definitions

1. Unless the contrary intention appears:

“Absence” and “Absent” means a Market Day when the Licensee does not operate the Site Business from the Stall Site;

“Agreement” means this agreement;

“Approved Absence” means an Absence approved by the Council in advance of the particular Market Day or Market Days in accordance with the terms and conditions of this Agreement including clause 40;

“Approved Activity” means the Licensee offering for sale the Approved Product Line from the Stall Site;

“Approved Product Line” means the products, activities or services specified in Schedule Two;

“Business Day” means a day which is not a Saturday, Sunday or public holiday in Hobart, Tasmania;

“Calendar Year” means the period from 1 January to 31 December;

“Chief Executive Officer” means the CEO or General Manager of the Council appointed pursuant to section 61 of the *Local Government Act 1993* (Tas) or their delegate;

“Code of Stallholder Conduct” means the code set out in Schedule Four as amended from time to time;

“Compensation” includes but is not limited to any compensation claimed or loss incurred by the Licensee including in relation to any reduction in Site Fee or any other fees payable pursuant to this Agreement, any claim for damages or loss of income;

“Compliance Checking Fee” means the fee charged to the Council to recover the costs of undertaking gas, electrical, fire and/or structural audits of the Licensee’s applicable facilities at the Stall Site at the relevant time;

“Council” means the Hobart City Council and includes any employee, agent or contractor of the Council as the context requires;

“Covid-19” means the disease known as coronavirus disease 2019 declared under section 40 of the *Public Health Act 1997* (Tas) to be a Notifiable Disease.

“Credit Note” means any credit note issued by the Council to be applied towards a future invoice issued by the Council to the Licensee in accordance with this Agreement;

“Disease Related Factors” means factors arising from or related to:

- (a) Covid-19 or a Notifiable Disease;
- (b) actions taken or attempts made to reduce the risk of the spread of Covid-19, whether or not taken under the *Public Health Act 1997* (Tas) or the *Emergency Management Act 2006* (Tas) and whether or not the actions taken, or attempts made, occur within Tasmania or outside Tasmania or relate to matters within Tasmania; or
- (c) actions taken, or attempts made, to reduce the social and financial effects of the Covid-19, whether or not the actions taken, or attempts made, occur within Tasmania or outside Tasmania or relate to matters within Tasmania;

“Dispute Resolution Procedure” means the dispute resolution procedure for solving disputes between the Council and the Licensee specified in clauses 47 to 54 of this Agreement;

“Electoral signage” means any graphic, pictorial or written display which can be viewed from the Market Area or a public street and which promotes a candidate or political party vying for election in a Federal, State or local government election or any other elections that may from time to time be conducted and specifically excludes a political party bumper sticker affixed to motor vehicles or Stallholders’ infrastructure;

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“Exceptional Leave” means leave not to operate the Site Business from the Stall Site on a particular Market Day or Market Days granted by the Council to the Licensee in advance of such Market Days in accordance with the terms and conditions of this Agreement including clause 40;

“General Public” means people as a whole, not just those in a particular defined group, who attend the Market on a particular Market Day;

“GST” refers to goods and services tax under the GST Act;

“GST Act” means *A New Tax System (Goods & Services Tax) Act 1999* (Cth) and its regulations and includes any Commonwealth Act and any other law that introduces, imposes, deals with or is related to GST, as amended from time to time;

“Guarantor” means the person described as the guarantor in Item 2 of Schedule One;

“Intellectual Property” means all copyright, patents, registered and unregistered trademarks, registered designs, trade secrets and know-how and all other intellectual property rights resulting from intellectual activity;

“Joint Licensee” means a Council-approved licensee, if any, who is licenced to share the Stall Site with the Licensee during the Term;

“Legislative Requirements” means Acts, Ordinances, regulations, by-laws, orders, awards and proclamations of the Commonwealth or the State or the Council which apply to the subject matter of this Agreement;

“Licence” means the licence issued to the Licensee by the Council in accordance with this Agreement;

“Licensee” means the party described in Item 1 of Schedule One and their employees, contractors and agents as the context requires;

“Manager Salamanca Market” means any person who is authorised by the Chief Executive Officer to act in that capacity;

“Market” means the Salamanca Place Market, as constituted pursuant to section 189 of the *Local Government Act 1993* (Tas);

“Market Area” means that part of Salamanca Place which is closed on any day as specified in a Market Notice;

“Market Day” means the period of time on any day on which the Market Area is closed to provide a place for the sale of products and services, and for activities, notice of which has been given by a Market Notice;

“Marketing Levy” means the weekly levy payable by the Licensee to the Council specified in Schedule One for marketing services provided in relation to the Market by the Council during the Term as varied from time to time in accordance with clause 33;

“Market Notice” means a notice to operate a market in a newspaper published in the City of Hobart pursuant to section 189 (2) of the *Local Government Act 1993* (Tas);

“Market Supervisor” means any person who is authorised by the Chief Executive Officer to act in that capacity;

“Notifiable Disease” has the same meaning as in the *Public Health Act 1997* (Tas);

“Occupy” means to place on or in the Market Area, road or footpath any temporary or mobile structures, wares, products, chattels, items, tables and chairs, or build any structure for sale, to enable the handling and sale of food or beverages or for any other purpose or to fence off any part of the Market Area to exclude members of the public, or to undertake any other activity in the Market Area;

“Operating Hours” means the operating hours of the Market specified in clause 88 or as specified by the Council for an additional Market under clause 88(c);

“Operational Handbook” means the Salamanca Market operations manual as amended by the Council from time to time;

“Privacy Law” means any legislation or administrative requirement (as amended from time to time) imposing an obligation in relation to the collection, use, disclosure, storage and transmission of personal information which is applicable to a party in the performance of its obligations under this Agreement, including the *Privacy Act 1988* (Cth), the *Personal Information Protection Act 2004* (Tas), any codes, principles, or guidelines contained in or arising out of such legislation;

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“Product Assessment Criteria” means the ideal mix of activities, services and products as determined by the Council from time to time, traded at the Market to provide its customers with a diverse range of Approved Product Lines;

“Sale of Site Business Notification Form” means the Council’s form used to provide details of a licensee’s proposed sale of their Site Business including the proposed purchaser’s identification details and proposed product line, as amended by the Council from time to time;

“Site Business” means any part or portion of the Licensee’s business that is directly related to the Market;

“Site Category” means the category of the Stall Site specified in Item 3 of Schedule One as varied by any recategorisation of the Stall Site in accordance with clause 3;

“Site Fee” means the fee payable by the Licensee to the Council for the Licence specified Schedule One as varied from time to time in accordance with clause 33 and any recategorisation of the Stall Site in accordance with clause 3;

“Salamanca Market Stallholders’ Association Inc” means whichever body is recognised by the Council from time to time as the main body representing Stallholders at the Market;

“Special Arrangements” mean the additional clauses (if any) set out in Schedule One which form part of this Agreement;

“Stall Site” or “Site” means the trading area within the Market Area licensed by the Council to the Licensee under the terms and conditions of this Agreement and specified in Item 3 of Schedule One;

“Stallholder” means any party who is authorised by the Council to Occupy part of the Market Area on Market Day;

“Term” means the term specified in Item 4 of Schedule One and includes the Further Term and any extension or renewal of this Agreement; and

“The By-Law” means the Salamanca Market By-Law No 1 of 2022 (Hobart City Council) and any subsequent By-Law which governs the operation of the Market.

Interpretation

2. In this Agreement unless the context otherwise requires:

- (a) headings are for convenience only and do not affect the interpretation of this Agreement;
- (b) a reference to a party includes that person’s permitted assigns, or being a corporation its successors and permitted assigns and any other person deriving title under that person or corporation and for the avoidance of doubt does not include a party’s personal representatives or heirs;
- (c) a reference to the title of a particular Council officer’s position in this Agreement includes other similar or replacement positions if the specified position no longer exists at any time during the Term;
- (d) a reference to the singular includes the plural and vice versa;
- (e) a reference to a gender includes all gender;
- (f) a reference to an individual or person includes a corporation, partnership, joint venture, association, authority, trust, state or government and vice versa;
- (g) a reference to a thing (including a right) includes a part of that thing;
- (h) where an expression is defined, another part of speech or grammatical form of that expression has a corresponding meaning;
- (i) mentioning any thing after the words include, includes or including does not limit the meaning of any thing mentioned before those words;
- (j) no rule of construction applies to the disadvantage of a party merely because that party was responsible for the preparation of this Agreement or any part of it;

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- (k) a reference to any legislation or legislative provision includes subordinate legislation, regulation or statutory instrument, made under it and any amendment to or replacement for any of them;
- (l) a reference to a recital, clause, schedule or annexure is to a recital, clause, schedule or annexure of or to this Agreement; and
- (m) a reference to “dollars” or “\$” is to Australian lawful currency.

Application of Licence

- 3. The Licensee acknowledges and agrees that:
 - (a) the Licence applies to the Stall Site for the particular Site Category;
 - (b) the Council may recategorise the Site Category if and when additional services are provided by the Council for that Site Category including increasing the Site Fee to allow for the recategorisation;
 - (c) the Council reserves the right to change the Market Area and the Stall Site boundaries if prompted by legal requirements and/or workplace health and safety requirements; and
 - (d) the Council may apply other licence terms and conditions to any other area or space into which the Market may expand in the future.

Licence, Term and Obligation to Trade

- 4.
 - (a) In consideration of the Site Fee, the Council agrees to licence to the Licensee the non-exclusive right to Occupy the Stall Site in accordance with the terms and conditions of this Agreement.
 - (b) This Agreement operates during the Term and includes any extension or renewal of the Agreement, unless the Agreement is terminated prior to that date including if the Licence is cancelled.
 - (c) The Licensee agrees to trade at the Market from the Stall Site during the Term in accordance with the terms and conditions in this Agreement.

Option for Further Term

- 5. Not Used

Licence Renewal

- 6. The Council will, acting reasonably and in good faith, at least three (3) months before the expiration of the Term give notice in writing to the Licensee requesting the Licensee to notify the Council in writing within thirty (30) days of the date of the Council’s notice whether the Licensee wishes the Council to grant a new licence for the Stall Site on terms to be agreed between the parties.
- 7. If the parties do not agree to a new licence within the time period stipulated in clause 6 the Licence will expire at the end of the Term.
- 8.
 - (a) The Council may elect not to offer a new licence to the Licensee or issue a new licence to the Licensee if the Council is not satisfied, acting reasonably, with the Licensee’s performance of its obligations under this Agreement in relation to:
 - (i) payment of the Site Fee, Marketing Levy, Compliance Checking Fee and any other fees or monies payable under this Agreement when due;
 - (ii) compliance with the terms and conditions of the Licence and this Agreement;
 - (iii) sale of Approved Product Line(s) (including not selling items not listed on the Approved Product Line(s)) and the quality and standards of those products;

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- (iv) compliance with The By-Law and Legislative Requirements;
 - (v) adherence to the Code of Stallholder Conduct; and
 - (vi) compliance with the operational requirements for the Market specified in the Operational Handbook.
- (b) The Council will not act unreasonably or capriciously in deciding whether or not to offer and/or issue a new licence to the Licensee.
9. The Council will notify the Licensee of its concerns in writing if it is not satisfied with the Licensee's conduct under clause 8 and the Licensee will have fourteen (14) days to respond to the Council's concerns.
10. If the Licensee fails to address the Council's concerns to the Council's satisfaction within a period of fourteen (14) days from the date of the notice, the Council will not issue a new licence to the Licensee.

Sub-letting and Assignment

11. (a) Subject to clause 14, the Licensee must not assign, transfer, sublet, grant any licence or right to any person under this Agreement without the prior written consent of the Council.
- (b) For the purposes of clause 11(a), a change in 50% or more of the shareholding of the Licensee is deemed to be an assignment of this Agreement and will require the written consent of the Council.

Joint Licensees

12. If Item 5 of Schedule One states 'Applicable' then this clause 12 applies. The Licensee acknowledges joint stall holding arrangements are permitted by the Council but are subject to the Council approving the proposed joint stall holding arrangement and in accordance with any conditions set out in the Special Arrangements.
13. For the avoidance of doubt:
- (a) where one Joint Licensee is Absent, the other Joint Licensee or Joint Licensees may Occupy the remaining portion of that Stall Site; and
 - (b) unless all Joint Licensees are simultaneously Absent, Joint Licensees are not considered Absent for the purposes of this Agreement.

Transfer on Sale of Site Business

14. Subject to clauses 15 and 16, the Council will agree to consent to assign the Licence or issue a new licence on similar terms to the Licence upon the sale of the Licensee's Site Business to a purchaser if all of the following conditions are met:
- (a) if the purchaser intends to change the product line of products for sale at the Stall Site, the Council's approval of that product line is subject to the new product line of products corresponding in the Council's opinion with the Council's nominated Product Assessment Criteria, determination of which will be made in accordance with clauses 29 to 31;
 - (b) if the purchaser proposes to maintain the Approved Product Line for sale at the Stall Site, that the Council is reasonably satisfied that there will be no change in the product line to be offered for sale by the purchaser;
 - (c) not less than thirty (30) Business Days prior to the proposed completion date for the sale, the Licensee submits to the Council a completed Sale of Site Business Notification Form;

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- (d) the Licensee pays an administrative fee to the Council on or before the earlier of the day the purchaser commences trading at the Stall Site or thirty (30) days from the date of the Council's written notification that it has approved the transfer of the Licence or will issue a new licence. The transfer of the Licence or issue of the new licence will only be implemented upon payment of the fee. The fee will be set in accordance with Section 205 of the *Local Government Act 1993* (Tas) and will be levied by the Council. The fee is subject to review each year based on movement in the Consumer Price Index for Hobart for the previous period and will be advertised as part of the Council's annual Fees and Charges Schedule; and
 - (e) that the Licensee is not in default of the terms of this Agreement.
15. (a) The Licensee acknowledges and agrees that, subject to clause 15(b), a licensee and its Relatives or Related Entities may only hold one (1) licence for a site or a stall site within the Market or the Market Area at a time.
- (b) The Council may approve or reject a transfer of the Licence to an existing licence holder or a Related Entity or Relative of an existing licence holder, and in determining the decision the Council will utilise an assessment process similar or consistent with the Council's process utilised when considering all other production applications and by taking into consideration all relevant and reasonable factors relevant to the proposed transfer.
- (c) In this clause 15 "Related Entity" and "Relative" has the same or corresponding meaning as the terms defined in Section 5 of the *Bankruptcy Act 1966* (Cth).
16. If the Council approves the transfer of the Licence or the issue of a new licence it will prepare a new licence agreement for execution by the purchaser substantially on the same terms and conditions as this Agreement subject to changes to the Approved Product Line if any changes have been approved by the Council in accordance with clause 14. The Licensee agrees that the new licence or deed of assignment of licence must provide that:
- (a) clause 28 of this Agreement is deleted so that it does not apply following the assignment of this Agreement or to any new licence granted pursuant to this clause; and
 - (b) clause 14 of this Agreement will be varied to ensure that any subsequent transfer of the licence agreement that is assigned or granted to a purchaser will provide that the Council shall have the discretion in relation to whether or not a condition of any subsequent transfer of licence requires that the Approved Product Line must be varied.
17. This Agreement will terminate on the latter of the date of the completion of the sale of the Licensee's business or the purchaser enters into a licence agreement with the Council.

Transfer in Other Circumstances

18. Subject to clause 15, in the event of the death of a sole individual Licensee the Council will enter into a new licence agreement for a term not exceeding two (2) years (after which the new licence will expire and terminate) with the executor or administrator of the Licensee's estate or a person who is entitled under the will or as beneficiary under administration provided that they comply with the requirements in clause 29.

Suspension or Termination of Licence

19. Subject to clause 20, the Licensee will be in breach of this Agreement which may be suspended, cancelled or terminated by the Council at any time, regardless of whether the Licensee has commenced the Dispute Resolution Procedure, if the Licensee:
- (a) fails to comply with any of the terms and conditions of this Agreement;
 - (b) fails to comply with the lawful directions of the Council;

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- (c) fails to comply with Legislative Requirements including relevant Australian and New Zealand standards for temporary electrical installations requirements and temporary gas installation requirements;
 - (d) fails to comply with the terms of the Operational Handbook provided that if there is any ambiguity or inconsistency between the documents, the provisions of this Agreement will have precedence;
 - (e) fails to maintain the Approved Product Line(s) as determined and approved by the Council including selling items not listed on the Approved Product Line and/or failing to sell items listed on the Approved Product Line;
 - (f) fails to pay the Site Fee, Marketing Levy, any fees payable pursuant to clause 35 or any other fees or monies payable under this Agreement to the Council;
 - (g) fails to comply with the Code of Stallholder Conduct provided that if there is any ambiguity or inconsistency between the documents, the provisions of this Agreement will have precedence;
 - (h) undertakes activities or offers for sale products or services in breach of any Legislative Requirements;
 - (i) uses any of the Council's Trade Marks or any unauthorised image of the Market without the prior written permission of the Council or, if permission has been granted, otherwise than in accordance with the Council's permission;
 - (j) in the opinion of the Council acting reasonably, is acting in a way which jeopardises or may jeopardise the reputation, integrity and/or operation of the Market or the safety of any members of the General Public;
 - (k) becomes an insolvent under administration (as defined in section 9 of the *Corporations Act 2001* (Cth)), ceases or threatens to cease carrying on business or is otherwise unable to pay its debts as and when they fall due for payment;
 - (l) (being a company) becomes an externally administered body corporate (as defined in section 9 of the *Corporations Act 2001* (Cth)) or a person becomes a controller (as defined in section 9 of the *Corporations Act 2001* (Cth)) of any of its property; or
 - (m) proposes to enter into or enters into any composition, arrangement or moratorium with its creditors or any class of its creditors whether formal or not.
20. In the event that the Council claims the Licensee has breached clause 19, the Council will cause a notice in writing to be served on the Licensee specifying the nature of the breach and warning the Licensee if they do not remedy the breach within five (5) days from the date of the notice the Council may exercise its right to suspend or terminate this Agreement including cancellation of the Licence.
21. The Council may also suspend or terminate this Agreement if the Council pursuant to clause 55 of this Agreement ceases to operate the Market for a continuous period of more than one month by giving at least one month's notice in writing to the Licensee.
22. If the Council recommences operating the Market within one year of the date of termination of this Agreement under clause 21 it must at or before that time offer to the Licensee a new agreement including a licence to operate a stall at the Market on similar terms, at the Council's discretion acting reasonably, to the terminated Licence.
23. The Licensee may terminate this Agreement at any time with notice in writing to the Council of at least seven (7) days and this Agreement will terminate on expiry of the notice period and the Council will cancel the Licence.
24. On termination of this Agreement including cancellation of the Licence the Licensee will immediately pay to the Council all monies owing to the Council including the Site Fee, Marketing Levy and Compliance Checking Fee.

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25. The Council agrees to not unreasonably or capriciously terminate the Licence or cease to operate the Market.

Approved Product Line

26. The Licensee acknowledges and agrees the Council:
- (a) approval of all product lines is required to ensure maintenance of the Product Assessment Criteria for the Market;
 - (b) retains the right to amend the Product Assessment Criteria from time to time in consultation with the Salamanca Market Stallholders' Association Inc.
27. The Licensee agrees to not:
- (a) sell or offer for sale any material that may reasonably be considered by the Council or the Chief Executive Officer to be obscene or offensive;
 - (b) advertise or promote any product or service from the Stall Site other than advertising or promotion of the Licensee's own Site Business;
 - (c) display Electoral signage; and
 - (d) use or Occupy the Stall Site for any purpose other than for the sale of the Approved Product Line.
28. Nothing in this Agreement affects the Approved Activities or Approved Product Line if approved prior to 1 July 2012.

Change of Approved Product Line

29. If the Licensee wishes to change an Approved Product Line for sale at the Stall Site they must complete an application for change of product line form approved by the Council from time to time and submit it to the Council in writing who will review the Licensee's request and provide a written response within fourteen (14) days.
30. The Council will only approve a proposed product line that meets the Council's Product Assessment Criteria as determined by the Council to provide Market customers with a diverse range of Approved Product Lines.
31. The Licensee acknowledges and agrees the Council may review and amend the various product lines included in the Approved Product Line from time to time for the sole purpose of replacing broad descriptions of products with more specific descriptors by providing 30 days' written notice to the Licensee.

Site Fees and Adjustment

32. The Licensee agrees to pay:
- (a) the Site Fee to the Council in advance in accordance with clause 35;
 - (b) the Marketing Levy in advance in accordance with clause 35;
 - (c) the Compliance Checking Fee within thirty (30) days from the date of the Council's invoice;
 - (d) public liability and product liability insurance premiums charged and payable by the Council as specified in Item 6 of Schedule One;
 - (e) electrical supply fees (power) as specified in Item 6 of Schedule One;
 - (f) trade waste fees determined by the Council from time to time, if applicable to the Stall Site and as specified in Item 6 of Schedule One;
 - (g) any other fees or charges reasonably incurred by Council from time to time in relation to the Market which are applicable to the Stall Site.

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33. The Site Fee will be fixed by the Council effective from 1 July each year as follows:
- (a) indexed to the most recent available twelve month change in Consumer Price Index (All Groups – Hobart – December Quarter) published by the Australian Bureau of Statistics; and
 - (b) all other fees and charges set by the Council will be indexed from 1 July each year to the most recent available twelve month change in Consumer Price Index (All Groups – Hobart – December Quarter) published by the Australian Bureau of Statistics.
 - (c) If the parties agree to enter into a new licence agreement in accordance with clause 6, then the Site Fee payable under any new licence agreement will be determined by the Council as follows:
 - (i) the Council shall notify the Salamanca Market Stallholders' Association Inc that it is appointing a valuer and that the Salamanca Market Stallholders' Association Inc may make a submission to the valuer, providing a deadline for that submission being not less than forty two (42) days from the date of notification;
 - (ii) the Council shall appoint a registered valuer who will take into account the submission from the Salamanca Market Stallholders' Association Inc, current trading conditions at the Market, general retail activity in the Hobart context, and general commercial rentals in Hobart to determine the Council's estimated Site Fee payable for the new licence agreement ('Estimated Fee');
 - (iii) the Council will notify the Salamanca Market Stallholders' Association Inc of the Council's Estimated Fee and that the Salamanca Market Stallholders' Association Inc may appoint a registered valuer;
 - (iv) the Salamanca Market Stallholders' Association Inc may appoint a registered valuer to determine the Salamanca Market Stallholders' Association Inc's Estimated Fee;
 - (v) if the Salamanca Market Stallholders' Association Inc elects not to appoint a registered valuer to determine the Salamanca Market Stallholders' Association Inc's Estimated Fee then the new Site Fee will be the Council's Estimated Fee;
 - (vi) if the Salamanca Market Stallholders' Association Inc's Estimated Fee and the Council's Estimated Fee are different, then the Council and the Salamanca Market Stallholders' Association Inc may meet to determine a new fee by agreement that is no higher than the highest relevant Estimated Fee and no lower than the lowest relevant Estimated Fee;
 - (vii) if Council and the Salamanca Market Stallholders' Association Inc cannot reach an agreement on a new Site Fee within twenty one (21) days of the receipt by the Council of the Salamanca Market Stallholders' Association Inc's Estimated Fee the matter will be referred to mediation and if necessary arbitration on the same terms as under the Dispute Resolution Procedure;
 - (viii) no delay arising from compliance with this clause modifies the effective date of a change in the Site Fee under a new licence agreement; and
 - (ix) no interest is payable by either the Licensee or the Council on Credit Notes or additional fees owed for the period after the effective date and up to the fixing of the amount of the new Site Fee.
34. Any Council fees and charges which constitute cost recovery for goods or services provided by the Council to the Licensee (other than the issue of the Licence), the cost of which is beyond the Council's control (including insurance, supply of power to the Stall Site, gas, electrical, fire and/or structural compliance checking services and collection of trade waste) will be set by the Council at 1 July each year to meet the reasonable cost of providing those goods or services.

Stallholder Licence Agreement**Site Fee Payments**

35. The Licensee must pay the Site Fee and other fees payable pursuant to clause 32, apart from the Compliance Checking Fee, to the Council within thirty (30) days from the date of invoice, with such fees to be invoiced by the Council on a quarterly basis, or in accordance with the payment frequency previously elected by the Licensee pursuant to the terms of the Licensee's prior licence agreement with the Council in relation to the Stall Site.
36. The Council and the Licensee may voluntarily make agreements ancillary to this Agreement, for which the Council may levy additional fees, for voluntary or discretionary activities in which Stallholders may participate (including additional marketing or promotional activities with an attached fee).
37. The Council may charge a fee for or impose conditions on particular payment methods, including a percentage fee for credit card payments, consistent with general Council practice.
38. If the Licensee fails to pay an invoice on time strictly in accordance with this Agreement, daily interest may be charged on overdue amounts at the same rate as is payable in respect of outstanding rates, as determined in accordance with Section 128(2) of the *Local Government Act 1993* (Tas).
39. The Licensee agrees to pay any collection and legal costs incurred by Council in the recovery of fees which are not paid by the Licensee on time.

Approved Absences and Credit Notes

40. Subject to clause 41, the Licensee is permitted to take leave from its business at the Stall Site for up to eight Market Days in any Calendar Year (or five Market Days if the Licence is a Summer licence only) and for additional Market Days if Exceptional Leave is granted by the Council for special considerations including serious illness and bereavement.
41. At least ten (10) days prior to a proposed Absence, the Licensee must request in writing to the Council (email is sufficient) to obtain approval for being Absent from the Stall Site.
42. During an Approved Absence or any other absence of the Licensee for any other reason, the Council may licence the Stall Site to another person or utilise the Stall Site for any purpose whatsoever, including but not limited to keeping it vacant, allowing casual licensees or any other licensees to use or trade at the Stall Site, utilise it for setting up tables and chairs, pop up traders, buskers or any other purposes in the Council's sole discretion. The Council will issue a Credit Note to the Licensee for the Site Fees for an Approved Absence.
43. For the purposes of clauses 8(a)(ii) and 19, the Licensee will not be in breach of this Agreement where they are Absent without prior approval of the Council:
 - (a) for fewer than six (6) Market Days in any Calendar Year; or
 - (b) for six (6) or more Market Days in any Calendar Year and the Council is satisfied that the reasons for Absence were substantially beyond the Licensee's control and the Council at its sole discretion grants Exceptional Leave.
44. The Licensee acknowledges and agrees no Credit Note or reduction in any fees including the Site Fee will be provided to the Licensee due to inclement weather on a Market Day or other day affecting the Market including if a Market is not held due to that weather event.
45. The Council will in its absolute discretion decide whether to provide a Credit Note or reduce any fees including the Site Fee in circumstances where the Council lawfully directs the Licensee that their Stallholder Site cannot be used on a Market Day (for reasons other than a breach of this Licence and/or any other applicable law).

Stallholder Licence Agreement**Product Trials**

46. The Council may in its sole and absolute discretion permit the Licensee (upon request) to sell trial products outside of the scope of the Approved Product Line for such time frame and such quantities as determined by the Council. The Licensee shall not be permitted to sell trial products without the Council's written consent.

Dispute Resolution Procedure

47. If there is a dispute between the Council and the Licensee or any disputes arising from this Agreement, other than in relation a breach by the Licensee pursuant to clause 19, the dispute resolution procedure in clauses 48 to 54 apply.
48. Neither the Council nor the Licensee may commence legal proceedings (other than for injunctive relief) until it has complied with the Dispute Resolution Procedure.
49. In any matter arising on a Market Day the decision of the Market Supervisor will stand until at least the next Business Day at which time further action can be taken. The Council will not be liable for any loss suffered as a result of a decision of the Market Supervisor, even if that decision is later overturned, unless the Market Supervisor made such a decision knowing it to be inconsistent with this Agreement, the Licence, The By-Law or any Legislative Requirement. In particular, the Council will not be liable for any consequential damages arising from a decision of the Market Supervisor later found to be invalid.
50. (a) If there is a dispute between the Council and the Licensee, the Licensee may give notice in writing ("Dispute Notice") to the attention of the Chief Executive Officer :
- (i) succinctly setting out the details of the dispute; and
 - (ii) stating that it is a dispute notice given under this clause 50.
- (b) The Council and the Licensee will seek to resolve the dispute within fourteen (14) days of the date of the Dispute Notice with the Chief Executive Officer acting as a decision maker for the Council during the fourteen (14) day period.
51. If the Council and the Licensee cannot resolve the dispute within fourteen (14) days of the date of the Dispute Notice then either party may refer the dispute to a mediator agreed upon in writing by the parties for mediation in accordance with and subject to the Resolution Institute Mediation Rules. If no agreement can be reached on the mediator the Council and the Licensee agree to the President for the time being of the Law Society of Tasmania appointing the mediator.
52. In the absence of an agreement being reached within sixty (60) days of the dispute being referred to mediation under clause 51 either the Council or the Licensee may refer the dispute to an arbitrator agreed upon in writing by the Council and the Licensee for arbitration in accordance with and subject to the Resolution Institute Arbitration Rules. If no agreement can be reached on the arbitrator the Council and the Licensee agree to the President for the time being of the Law Society of Tasmania appointing the arbitrator. The decision of the arbitrator will be final and binding on the Council and the Licensee and the costs of the arbitration will be borne as the arbitrator may direct.
53. For the avoidance of doubt, pending resolution of a dispute under this Dispute Resolution Procedure the Council and the Licensee must continue their respective obligations under this Agreement (in particular in terms of the Approved Product Line and holding of a Licence) unless otherwise specified by the Council or agreed by the Council and the Licensee.
54. (a) The Council and the Licensee acknowledge and agree:
- (i) disputes between the Licensee and other Stallholders, buskers, Salamanca Place business operators and members of the public are not covered by the Dispute Resolution Procedure;

Stallholder Licence Agreement

- (ii) the Council may assist in the resolution of disputes between Stallholders, or disputes between Joint Licensees.
- (b) If the Council notwithstanding clause 54(a) does assist in the resolution of such a dispute between Stallholders or Joint Licensees it will be undertaken in accordance with the Dispute Resolution Procedure. In that situation any costs of any mediation or arbitration will be met by the participating parties and not the Council.

Market Operation/Non-operation/Cancellation

- 55.
 - (a) The Council or the Chief Executive Officer may, at their absolute discretion or for the purpose of or by reason of Covid-19, a Notifiable Disease, Disease Related Factors, epidemic, pandemic, disease or public health alert, safety (including of the General Public, Stallholders, employees, contractors and agents), security of the Market, extreme weather (including high winds), civil works (including repairs, alterations, renovations), public health, significant public discomfort, operational necessity or as otherwise required by law, resolve to cancel or not operate the Market or to close a part of the Market on a particular day or days or for a particular period of time.
 - (b) The Council or the Chief Executive Officer will notify the Licensee of the decision made pursuant to clause 55(a) and the Council shall not take any action under clause 55(a) unreasonably or capriciously.
 - (c) In the event of the Council exercising its rights under clause 55(a) the Council may issue a Credit Note for the Site Fee to the Licensee.
- 56. The Licensee hereby acknowledges the right of the Council or the Chief Executive Officer to take the action under clause 55 and hereby agrees that in the event that the Council or the Chief Executive Officer does so then the Licensee will not seek or have any right to claim any Compensation of any nature whatsoever from the Council.

Relocation

- 57.
 - (a) The Council reserves the right to move the Licensee permanently or temporarily from their Stall Site to another Site and/or to amend the boundaries of the Stall Site for any reason in the Council's sole discretion, including but not limited to the purpose or by reason of Covid-19, a Notifiable Disease, Disease Related Factors, epidemic, pandemic, disease or public health alert, safety (including of the General Public, Stallholders, employees, contractors and agents), security of the Market, extreme weather (including high winds), civil works (including repairs, alterations, renovations), public health, significant public discomfort, emergency management, operational necessity or as otherwise required by law.
 - (b) The Council will notify the Licensee of the decision made pursuant to clause 57(a) and the Council shall not take any action under clause 57(a) unreasonably or capriciously.
 - (c) If the Licensee is relocated to another location within the Market Area for a period exceeding three (3) months the Council may increase or decrease the Site Fee payable by the Licensee to reflect the new Site and must give written notice to the Licensee specifying that new Site Fee.
 - (d) In the event of relocation of the Stall Site in accordance with this clause 57 the Council will use its best endeavours to assist with a 'no detriment' outcome for the Licensee, including consultation with the Licensee to find an available Site that best suits their needs.
 - (e) The Licensee hereby acknowledges the right of the Council to take the action under clause 57 and hereby agrees that in the event that the Council does so then the Licensee will not seek or have any right to claim any Compensation of any nature whatsoever from the Council.

Stallholder Licence Agreement**Operational Guidelines**

58. (a) The Licensee must comply with the operational requirements set out in the Operational Handbook.
- (b) The Licensee acknowledges and agrees that a breach of the operational requirements is a breach of this Agreement.
- (c) If there is a conflict between a term of the Operational Handbook and this Agreement, the terms of this Agreement take precedence.

Insurance

59. The Council will obtain and maintain public liability and products liability insurance policies on behalf of the Licensee in relation to the subject matter of this Agreement, subject to the Licensee complying with the following conditions:
 - (a) the Licensee must not do anything that adversely impacts on the insurance coverage;
 - (b) (i) the Licensee must give the Council notice in writing of any event that may give rise to a claim under an insurance policy as soon as reasonably practical after the event occurs;
 - (ii) the Licensee must immediately forward to the Council any demand, writ, summons, proceeding or other legal document which relates to an event that may give rise to a claim under an insurance policy;
 - (c) the Licensee must use its best endeavours to preserve all property, products, appliances, plant and all other things including photographic records where applicable which may assist the Council's insurers in the investigation or defence of any claim made under an insurance policy.
 - (d) the cost of public liability and products liability insurance policies will be levied as an additional fee to the Site Fee and subject to fluctuations in the insurance market.
60. The Council will provide a brochure or similar document, with details of the insurance policies obtained by Council referred to in clause 59, to the Licensee on written request from the Licensee.

General Conditions

61. The Licensee must ensure the Stall Site is set up at least thirty minutes before the official opening time of the Market on Market Day as set out in clause 88. If the Licensee's Stall Site is not set up and occupied by this time it may be reallocated to another person by the Market Supervisor.
62. On a Market Day, where the Licensee is not Absent, the Licensee is required to undertake the Approved Activity during the Operating Hours of the Market, unless otherwise approved by the Market Supervisor.
63. The Licensee must make all reasonable endeavours to vacate their Stall Site as quickly as practicable after the official closing time of the Market as set out in clause 88.
64. Vehicles are not permitted to park within the Market Area or enter the Market Area to load or unload products, other than at the discretion of the Market Supervisor, during the Operating Hours of the Market on any Market Day.
65. The Licensee must ensure the Stall Site is left clean, with all waste material being removed.
66. The Licensee must comply with waste management strategies as set out in the Stallholder Operational Handbook.

Stallholder Licence Agreement

67. (a) The Licensee must obtain any and all licences and/or permits required by Government, or Statutory Authorities, to be held in respect of the conduct of the Licensee's business conducted in the Market Area.
- (b) If the Licensee's Approved Product Line includes any food items and/or beverages which are to be prepared and/or sold, the Licensee must obtain and display on Site a Temporary Food Outlet Licence from a Local Government Authority and all other licences and permits required by the *Food Act 2003* (Tas).
- (c) If the Licensee's Approved Product Line includes any alcoholic beverage which is to be sold, the Licensee must obtain and display on Site a Special Permit for Salamanca Market from the Tasmanian Government Department of Liquor and Gaming Commission.
- (d) The Licensee must comply with all Legislative Requirements, any Public Health Orders made under the *Public Health Act 1997* (Tas) and all directives, notices, guidelines and recommendations issued by any regulatory authority in relation to Covid-19 and any other Notifiable Disease.
- (e) The Licensee must comply with any reasonable direction of the Council in relation to the Stall Site.
68. The Licensee must comply with all Legislative Requirements, and without limiting the applicability of this clause, including:
- (a) in respect of second hand goods, the Licensee must comply with the *Second Hand Dealers and Pawnbrokers Act 1994* (Tas), including provision of required information to the Council under section 12 of that Act;
- (b) in respect of the sale of used electrical appliances and/or equipment, the Licensee must comply with the *Electricity Industry Safety & Administration Act 1997* (Tas), including appropriate labelling under section 55 of that Act; and
- (c) the *Competition and Consumer Act 2010* (Cth), including compliance with The Australian Consumer Law in Schedule 2 of that Act.
69. In the event of the Licensee transferring its Site Business in accordance with this Agreement, the Licensee will, prior to transferring this Agreement:
- (a) pay the Council's administrative fee for approving the assignment of this Agreement including transfer of the Licence or the issue of a new licence to the incoming Licensee; and
- (b) ensure the incoming Licensee pays any Stamp Duty payable on the transfer of the Licence or issue of a new licence.
70. Any provision in this Agreement on the part of two or more person binds all of those persons jointly and severally.

Privacy

71. Any information the Licensee provides to the Council may be used for any and all purposes by the Council during the Term and indefinitely in the future, provided that:
- (a) the Council does not breach the confidentiality of any information provided by the Licensee on a commercial-in-confidence basis; and
- (b) any personal information is dealt with in accordance with Privacy Law and the Council's privacy policy as amended from time to time.
72. (a) The Licensee gives permission and warrants to the Council it has obtained the necessary approval and consents from its employees, contractors and agents for the Council to take photographs of the Licensee and any of their employees, contractors or agents and

Stallholder Licence Agreement

- any activities or services they undertake, or products that they sell at the Market for specific marketing campaigns, and to the publication and use of those photographs (in any form), in whole or in part including for use on social media platforms for advertising or marketing purposes for the Market and subsequent Council events and publications by the Council or its agents unless and until the Licensee notifies the Council in writing that they revoke such permission.
- (b) The Licensee hereby releases the Council from and against all actions, proceedings, claims and demands for damages, loss of profit, loss, costs, interest, injunctive relief or other remedies or other liabilities arising from the use of the photographs by the Council or by any person with the authority or permission of the Council.
 - (c) The Licensee acknowledges that they have agreed to the taking of photographs on a voluntary basis and that the use of the photographs for advertising, marketing or promotional purposes does not give the Licensee any right to require payment or participation in the proceeds of the use of the photographs. The Licensee may withdraw the consent pursuant to this clause 72 or any part of it at any time by providing written notification to the Council.

Intellectual Property

73. The Licensee acknowledges and agrees that:
- (a) the name 'Salamanca Market' is a registered Business Name of the Hobart City Council;
 - (b) the words 'Salamanca Market' and the Salamanca Market logo including the image of an umbrella and the words 'Salamanca Market Est 1972' are registered trade marks of the Council. The trade mark registration for the word mark covers the following uses:
 - (i) Paper and cardboard printed merchandise, marketing and promotional publications, being goods in class 16;
 - (ii) Clothing, footwear and headgear branded merchandise, being goods in class 25;
 - (iii) Retail services, retailing of goods by any means, marketing and promotional activities including online marketing sales, being services in class 35; and
 - (iv) Entertainment and cultural events and activities providing information including online about entertainment and cultural events and activities, being services in class 41; and
 - (c) in this clause 73, 'class' means the trade mark class classification of goods and services set out in Schedule 1 of the *Trade Marks Regulations 1995* (Cth) as amended.
74. The Licensee must not without the prior written consent of the Council in the Council's sole and absolute discretion, market their Site Business or any products or services or otherwise use any of the Council's Intellectual Property (whether specific to the Market or not) including the business names and trade marks specified in clause 73.
75. The Licensee must not purport to represent the Council or the Market in a manner that may be construed that the Licensee is a contractor or agent of the Council; nor engage in any business or conduct that does or may bring the Council or the Market into disrepute or damages the Council's Intellectual Property.
76. For the avoidance of doubt, enforcement of the Licensee's Intellectual Property rights is the sole responsibility of the Licensee. Nothing in this Agreement constitutes an undertaking by the Council to provide protection for the Licensee's Intellectual Property.

Limitation of Liability

77. The Licensee acknowledges and agrees the Council will not be responsible for any direct, indirect or consequential loss or damage suffered by the Licensee, its employees, contractors

Stallholder Licence Agreement

or agents as a result of any breach of this Agreement or its termination, or the suspension or cancellation of the Licence.

78. The Council, to the extent permitted by law, will not be liable for any injury (including death), loss or damage occasioned to or suffered by the Licensee, its employees, contractors or agents as a result of the use and occupation of the Stall Site or in connection with any business conducted by the Licensee no matter how that injury, loss or damage is caused unless it is caused by a negligent act of the Council its employees, contractors or agents.
79. The Licensee acknowledges and agrees the Council has not made any representations that the Licensee will have a particular level of sales or profitability from conducting their business at the Market and the Council does not warrant that the Licensee will have a particular level of sales or profitability. The Licensee waives any right to hold the Council liable for any failure to meet their expected sales or levels of profitability, nor to seek from the Council any lost income, expenses, damages or the like arising from the Licensee's participation in the Market.

Waiver & Indemnity

80. By failing to make any claim for a remedy for a breach of this Agreement or the Licence, the Council does not waive its right to claim such a remedy.
81. By suspending or terminating this Agreement for a breach by the Licensee the Council does not waive any claim to damages.
82. The Licensee agrees to indemnify and keep indemnified and to hold harmless the Council including its employees, contractors and agents, from and against all actions, costs, charges, expenses and damages whatsoever which may be brought or claimed against them, arising out of or in relation to the operation of the Licensee's Stall Site provided that this indemnity will not apply:
 - (a) where such actions, costs, charges, expenses and demands have arisen due to the negligence of the Council, its employees, contractors and agents; or
 - (b) where the costs, expenses or damage is covered and paid for in full by the Council's insurance coverage required by clause 59.

Variation and Termination Right

83. The Council, acting reasonably, may amend or vary the terms and conditions of this Agreement at any time at the Council's discretion provided that the proposed variations are reasonable and provided that the Council has undertaken prior consultation for a period not less than thirty (30) days with Stallholders regarding the terms of licence agreements and will take into account the views of Stallholders before deciding what amendments if any will be made.
84. The Council will provide written notice to the Licensee of the changes to the terms or conditions of this Agreement at least thirty (30) days prior to the commencement of these changes.
85. The Operational Handbook and Code of Stallholder Conduct may be varied by the Council from time to time by providing written notice to the Licensee of at least thirty (30) days prior to the commencement of the changes.
86. The Licensee may terminate this Agreement by written notice to the Council within seven (7) days of receipt of the Council's notice of a variation to any of the terms and conditions of this Agreement, the Operational Handbook or Code of Stallholder Conduct without any penalty or other payment required on the grounds of the Licensee's early termination of the Agreement.

Non-Exclusivity

87. The Licensee acknowledges their right to use the Stall Site for the Approved Product Line(s) are not exclusive to the Licensee and that the Council may permit other Licensees or Stallholders with the same or similar Approved Product Line(s), to operate their business at the Market.

Stallholder Licence Agreement**Operating Hours**

88. (a) The Licensee acknowledges that subject to clause 88(b) and (c), the Market is operated by the Council every Saturday of the year from 8:30am to 3pm.
- (b) Notwithstanding clause 88(a), the Market does not operate on ANZAC Day or Christmas Day and in the event ANZAC Day or Christmas Day falls on a Saturday, the Council reserves the right to transfer the Market to Sunday or another suitable day.
- (c) Notwithstanding clause 88(a), the Council reserves the right to operate the Market on any day and at whatever times it chooses and by notifying the Licensee.

Personal and Business Information

89. When requested by the Council to update or confirm their contact details and their product line details, the Licensee must provide the requested information within seven (7) days from the date of the request.

GST

90. (a) Unless GST is expressly included, the consideration to be paid or provided under any other clause of this Agreement for any supply made under or in connection with this Agreement does not include GST.
- (b) To the extent that any supply made under or in connection with this Agreement is a taxable supply, the GST exclusive consideration otherwise to be paid or provided for that taxable supply is increased by the amount of any GST payable in respect of that taxable supply and that amount must be paid at the same time and in the same manner as the GST exclusive consideration is otherwise to be paid or provided. A party's right to payment under this clause is subject to a valid tax invoice being delivered to the recipient of the taxable supply.
- (c) To the extent that one party is required to reimburse or indemnify another party for a loss, cost or expense incurred by that other party, that loss, cost or expense does not include any amount in respect of GST for which that other party is entitled to claim an input tax credit.
- (d) To the extent that any consideration payable to a party under this Agreement is determined by reference to a cost incurred by a party, or is determined by reference to a price, value, sales, revenue or similar amount, the GST-exclusive amount of that cost, price, value, sales, revenue or similar amount must be used.
- (e) For the purposes of this clause, unless the context otherwise requires, expressions defined in the GST Act when used in this clause have the meanings given to those expressions in the GST Act.

Change of Licensing Entity

91. The Council may novate this Agreement to any Council-owned entity (including an entity established under Part 3 Division 4 of the Local Government Act 1993 (Tas)) by notice to the Licensee. Under such an arrangement:
- (a) any reference to the Council or its officers, delegates, agents, appointees etc may be replaced by a reference to the relevant entity or its officers, delegates, agents, appointees. For the avoidance of doubt, the entity which replaces the Council may specify which individuals or roles replace named individuals or roles within this Licence (including Chief Executive Officer and Market Supervisor) and the Council;
- (b) any reference to payment methods, account details and like information may be replaced by a reference to the details specified by the new entity, provided that there is no reduction in the number or mode of payment options available.

Stallholder Licence Agreement**Guarantee**

92. (a) In consideration of the Council entering into this Agreement, the Guarantor unconditionally and irrevocably guarantees to the Council the due and punctual performance by the Licensee of all its obligations under this Agreement.
- (b) As a separate undertaking, the Guarantor unconditionally and irrevocably indemnifies the Council against all liabilities arising from or in connection with any breach of this Agreement by the Licensee.
- (c) The Guarantor agrees and acknowledges that no release, forbearance, delay or other indulgence given by the Council to the Licensee shall release, prejudice or affect the liability of the Guarantor as guarantor, or under their indemnity obligations under this Agreement and that this guarantee is not in any way altered, prejudiced or affected by any assignment, variation or alteration of this Agreement (even if this results in the Guarantor incurring additional liabilities or obligations), any other transaction or arrangement whatsoever, any failure to demand from, give notice to or first pursue the Licensee or any inability to enforce against the Licensee.
- (d) As between the Guarantor and the Council, the Guarantor's obligations under this Agreement both as guarantor and in respect of their indemnity obligations under this Agreement are those of a principal obligator and not merely a surety.
- (e) For the avoidance of any doubt, the Council may elect to demand payment from the Licensee or the Guarantor and their obligations at all times are joint and several to the Council.

Stallholder Licence Agreement**Execution**

Executed as an agreement.

The Common Seal of the Hobart City Council was hereunto affixed in the presence of:

Signature and Position

Signature and Position

Declaration by Licensee:

In signing this Agreement the Licensee confirms:

- (a) I/we have read and understood this Agreement and will abide by the Operational Handbook;
- (b) I/we warrant that I/we, and any staff working at the Stall Site, will at all times observe and comply with all Legislative Requirements and requirements of local government and other statutory authorities and with all notices, orders and directions given by any statutory or public authority in respect of the Stallholder's use and occupation of the Stall Site including, but not limited to, all workplace and industrial laws, consumer protection, sale of goods, fire safety, gas safety, public health laws and regulations (especially those relating to preparation and sale of food and beverages such as Food Safety Standards and liquor licensing);
- (c) I/we will follow and/or comply with any reasonable direction given by us during the Term;
- (d) I/we will comply with the Stallholder Code of Conduct outlined in Schedule Four and ensure that any staff, volunteers, or agents that may represent the Site Business at Salamanca Market are aware of and comply with the Stallholder Code of Conduct; and
- (e) I/we have read this Agreement closely and have had the opportunity to obtain independent legal advice prior to signing this Agreement.

Signed by the Licensee:

Signature on behalf of Licensee

Signature of Witness

Name of signatory

Name of witness

Date

Address of witness

Stallholder Licence Agreement

Signature on behalf of Licensee

Signature of Witness

Name and position of signatory

Name of witness

Date

Address of witness

Executed by in)
accordance with section 127(1) of the)
Corporations Act 2001)

.....
Director of Licensee

.....
Secretary/Director of Licensee

.....
Name of Director (print)

.....
Name of Secretary/Director (print)

Signed by the Guarantor in the presence of:)
)

Witness signature

Full name (print)

Witness occupation

Witness address