

THE MITRE

TERMS AND CONDITIONS OF VENUE HIRE

1. INTRODUCTION

- 1.1 The Mitre is owned by the School. Access to and use of the Venue to Users is managed and controlled by the OD Union, which is authorised to act on behalf of the School.
- 1.2 These Terms and Conditions regulate the use of the Venue by Users from time to time.

2. DEFINITIONS AND INTERPRETATION

- 2.1 In this Agreement, unless clearly inconsistent with or otherwise indicated by the context:
- 2.1.1 "**Agreement**" means the Booking Form, once accepted in terms of clause 3.2, together with these Terms and Conditions, as well as the Policies and Procedures;
- 2.1.2 "**Booking Deposit**" means the 50% (fifty per cent) deposit of the Fees due and payable by the User in order to secure the date and booking of the Event;
- 2.1.3 "**Booking Form**" means the booking form to be completed by the User containing information used for the purpose of recording the initial specifications, functionality, purpose, configuration and details of the Event;
- 2.1.4 "**Breakage Deposit**" means the breakage deposit required by the OD Union as security for damages, losses and the like suffered by the OD Union;
- 2.1.5 "**Business Day**" means any day other than a Saturday, Sunday or a public holiday as gazetted by the government of the Republic of South Africa from time to time;
- 2.1.6 "**Equipment**" means any equipment provided by the OD Union, a Preferred Service Provider and/or the School in relation to the Event or as specified in the Booking Form;
- 2.1.7 "**Event**" means the function on a specific date or period of time as specified in the Booking Form;
- 2.1.8 "**Fees**" means the consideration payable by the User to the OD Union for the use of the Venue, which may include, but not be limited to, costs and expenses incurred by the OD Union for security, catering and cleaning and the like;
- 2.1.9 "**Guests**" means the User, its guests, staff and invitees;
- 2.1.10 "**Policies and Procedures**" means the OD Union's and the School's Policies and Procedures issued by the OD Union and/or the School from time to time, including, but not limited to policies relating to internal security and emergency evacuation procedures, all of which are available on the OD Union and the School website;
- 2.1.11 "**Preferred Service Providers**" means *inter alia*, caterers, security service providers and other

contractors the services of which are preferred and recommended by the OD Union to Users;

- 2.1.12 "**Responsible Person**" means the natural person, who must be an OD, that takes ultimate responsibility for the duties and obligations of the User, in the event that the User is a legal entity;
- 2.1.13 "**User**" means the person contracting with the OD Union, who must be an OD, and in the event of the User being a legal entity, the Responsible Person must be an OD, in which event a reference to User shall include a reference to the Responsible Person;
- 2.1.14 "**Venue Manager**" means any officer of the OD Union or the School with the requisite authority, which shall be presumed, to exercise authority over and in relation to the Venue, for the purposes of and during the Event.

2.2 The User agrees to pay the OD Union such additional expenditure on presentation by OD Union of an invoice in respect of such Additional Expenditure.

2.3 The Fees exclude any charges of the Preferred Service Providers. The OD Union will procure quotes from Preferred Service Providers upon request.

3. BOOKING PROCEDURE AND PAYMENT

- 3.1 In order to book the Venue, the User shall submit a completed Booking Form to the OD Union no later than 10 (ten) Business Days prior to the Event.
- 3.2 The OD Union shall confirm or reject its acceptance of the User's hire of the Venue within 2 (two) Business Days ("**Acceptance**") of receipt of the Booking Form.
- 3.3 Upon confirmation of the Acceptance, the User shall return to the OD Union a signed copy of these Terms and Conditions and pay the Booking Deposit. The Booking Deposit shall, unless otherwise specified by the OD Union, be paid within 5 (five) Business Days of submission of the signed Terms and Conditions.
- 3.4 The OD Union shall, as soon as reasonably possible following receipt of the signed Terms and Conditions, issue a tax invoice for the Fees to the User.
- 3.5 The balance of the Fees shall be due 5 (five) Business Days prior to the Event taking place. The OD Union will not permit the Use of the Venue without full payment of the Fees being received by the OD Union prior to the Event.
- 3.6 The User shall pay the Booking Deposit, the Breakage Deposit and the Fees by electronic funds transfer into the OD Unions' bank account, the details of which are reflected on the Booking Form.

4. USER'S OBLIGATIONS AND UNDERTAKINGS

In relation to the Event, the User and/or Responsible Person undertakes and shall be obliged to:

- 4.1 pay for any losses or damages to the Venue or the property of the OD Union, howsoever caused;

- 4.2 take care of the Venue and leave it in a clean and tidy condition at the end of the Event;
- 4.3 to permit the Venue Manager access to the Venue;
- 4.4 refrain from causing an annoyance or becoming a nuisance to learners, the School, occupants of adjoining and/or adjacent properties, including St Thomas Anglican Church;
- 4.5 ensure that the Policies and Procedures are adhered to by the User and Guests;
- 4.6 ensure compliance with all reasonable instructions issued by the Venue Manager, whose authority shall be presumed;
- 4.7 ensure that the maximum number of persons permitted in the Venue at any one time is not exceeded;
- 4.8 appoint only those Preferred Service Providers notified by the OD Union, from time to time;
- 4.9 provide the OD Union with all details of the Event set-up, including guest list, table plans, floor plans, audio visual or presentation requirements, temporary staffing requirements and the like, including any variations thereto;
- 4.10 exercise effective control over and supervision of the Event and Guests in accordance with this Agreement.

5. PREFERRED SERVICE PROVIDERS

- 5.1 The OD Union engages a number of Preferred Service Providers who are familiar with the Policies and Procedures and the OD Union's internal operational requirements.
- 5.2 Upon request, the OD Union will facilitate the process of arranging catering, audio visual, staffing and other services for the Event and will provide the User the contact details of the relevant persons.

6. ALCOHOL AND CONDUCT

- 6.1 Neither the OD Union nor the School holds a liquor license.
- 6.2 The User shall be required to make its own temporary liquor licence arrangements. All alcohol arrangements, including but not limited to licence fees, bar set up and staff and provision of supplies, are to be effected and paid for by the User, subject to clause 5.
- 6.3 Under no circumstances may school pupils (regardless of which school they attend and whether they are older than 18 years) be served alcohol or serve Guests alcohol. The use of alcohol must be restricted to the Venue booked by the User. The User shall take full responsibility of ensuring that this clause is observed by the User and Guests, and the User indemnifies the OD Union accordingly.
- 6.4 The User shall be responsible for the conduct of the Guests using the Venue. If a Guest behaves in a manner deemed unacceptable by reasonable

standards, the Guest(s) may be required to immediately vacate the Venue. For these purposes, it is unacceptable to act in a lewd and/or abusive manner or to make excessive noise, including playing music loudly after 10pm. Such conduct will not be tolerated as the Venue is located in a residential area and on School property.

- 6.5 The User and the Guests are required to comply with any reasonable requests or instructions that may be provided to them by the Venue Manager, either prior to or during the Event.

7. GOOD REPUTATION

- 7.1 The Responsible Person and the User individually acknowledge and accept that each of the OD Union and the School ("**Beneficiaries**"):

- 7.1.1 is an organisation that enjoys a good reputation;
- 7.1.2 has an interest in ensuring that it is not brought into disrepute;
- 7.1.3 is entitled to protect and preserve its reputation, the dignity and reputation of its members and those of its future members.

- 7.2 The Responsible Person and the User individually warrant and undertake to each of the Beneficiaries that:

- 7.2.1 the Event, conduct or proceedings thereat will not bring the Beneficiaries or their members into disrepute;
- 7.2.2 no conduct or proceedings at the Event will result in reflections being cast on the probity, reputation or integrity of the Beneficiaries or their members;
- 7.2.3 the Event, as well as the conduct or proceedings thereat are lawful, and in no way designed to circumvent or induce others to circumvent the law or good standards of moral behaviour;
- 7.2.4 they shall not represent to any person, in any way whatsoever, that the conduct or proceedings at the Event, or the Event itself, is endorsed by, affiliated to or associated with the Beneficiaries, in any way, manner or form; and
- 7.2.5 each of them, as well as their representatives, officers, employees and the like shall refrain, without exception, from any and all communications, whether written or oral, whether express or implied, that impugn or bear negatively on the reputation, good standing or goodwill of the Beneficiaries, their members, officers, employees, agents and the like.

- 7.3 The Responsible Person and the User individually warrant and undertake to the Beneficiaries that:

- 7.3.1 none of the Guests are the recipients of an open invitation issued to members of the public by the User or Responsible Person to attend the Event;
- 7.3.2 each of the Guests is known to and/or associated with the Responsible Person and/or the User; and

7.3.3 the object, purpose and/or reason of the Event is not to solicit business, custom, interest of any nature whatsoever the Guests, whether directly or indirectly.

8. SECURITY

8.1 If the Event is scheduled to take place in the evening, and during a period of darkness, the User shall be required to engage the services of a security guard, arranged by the OD Union, the costs of which shall be for the account of the User.

8.2 The OD Union does not accept any liability whatsoever for loss of or damage to any valuables or property belonging to User and Guests, the User indemnifies the OD Union accordingly.

8.3 The Venue Manager will open the Venue and lock up after the Event. The User must arrange this with the OD Union prior to the Event.

9. BREAKAGE DEPOSIT

9.1 A Breakage Deposit, in addition to the Fee, is required in the event that the number of Guests exceeds 10 (ten).

9.2 The Breakage Deposit is R5 000 unless otherwise stated, and shall be held by the OD Union against the cost of any damage or breakages to the Venue or its contents ("**Damage**").

9.3 Any amounts to be deducted from the Breakage Deposit will be notified to you within 5 Business Days of the Event, after which the remainder of the Breakage Deposit shall be returned.

9.4 The OD Union reserves the right to charge a 5% administration fee for the rectification of Damage.

10. CLEANING

10.1 The OD Union will ensure that the Venue is clean and in a suitable condition before the Event and will arrange the cleaning of the Venue after the Event.

10.2 If, after the Event, it is discovered that the Venue is vacated in an unacceptably and/or untidy condition, the Venue shall be deemed to be Damaged, in which case, a surcharge of R500 shall be deducted from the Breakage Deposit, subject to notification and photographic proof of such Damage.

11. PARKING

User and Guests must use the designated parking areas only.

12. CANCELLATION OF THE EVENT

12.1 In the event of any cancellation of the Event for any reason, the OD Union shall not be liable for any loss sustained or expenses incurred by the User or any other person as a result thereof.

12.2 The OD Union may cancel or terminate this Agreement, at any time and with immediate effect without prejudice to its rights, if:

12.2.1 the Event is likely, in the sole estimation of the OD Union (acting reasonably), to lead to a breach of the Policies and Procedures or result in Damage;

12.2.2 the Event, conduct or proceedings thereat, may possibly, in the sole estimation of the OD Union (acting reasonably), bring the OD Union and/or the School into disrepute, or constitute a breach of clause 7;

12.2.3 the Event or any act in relation thereto contravenes any applicable legislation or statutory regulations including, without limitation, the Occupational Health and Safety Act 85 of 1993; or

12.2.4 there is a reasonable apprehension of an anticipated breach of this Agreement which will be incapable of being remedied in accordance with clause 9 or clause 10,

in which event, any Deposits held by the OD Union will be reimbursed to the User, save in the event that User is liable to the OD Union for damages, costs, expenses and losses incurred by the OD Union as a result of such cancellation or termination.

12.3 The OD Union may cancel or terminate the Agreement on 30 (thirty) days written notice to the User, if:

12.3.1 the Venue or building is under refurbishment, reconstruction and/or alterations and the Venue or building is, in the opinion of the OD Union, unsuitable to host the Event; or

12.3.2 the Venue is required by the OD Union for an internal OD Union or School Event,

in which event, any Deposits and Fees held will be refunded to the User.

12.4 If the User cancels the Event:

12.4.1 more than 60 (sixty) days prior to the Event, no cancellation fee shall be applied, and the Deposits shall be refunded;

12.4.2 less than 10 (ten) Business Days prior to the Event, a cancellation fee equal to 50 % (fifty per cent) of the Fees will be levied, in which case the Booking Deposit shall not be refunded, but the balance of the Fees (if any) and the Breakage Deposit will be refunded;

12.4.3 less than 5 (five) Business Days prior to the Event, a cancellation fee equal to 100 % (one hundred per cent) of the Fees will be levied, but the Breakage Deposit will be refunded.

13. LIMITATION OF LIABILITY

The OD Union and the User agree that:

13.1 the Venue is made available by the OD Union without any representation or warranty as to its condition or fitness for the Event whatsoever, whether express, tacit or implied;

- 13.2 the OD Union reserves the right of admission in or upon the Venue in regard to any of the User's Guests or other person in connection with any Event;
- 13.3 the OD Union will not be responsible or liable in respect of any loss, theft or damage, howsoever or by whomsoever caused, of or to any goods or property whatsoever of the User in or upon the Venue;
- 13.4 the User shall be responsible for any Damage caused to the Venue or to any of the equipment, furniture or property of the OD Union or otherwise, whether by any act, omission, default or neglect of the User or its Guests, and shall, after the application of the Breakage Deposit to such Damage, pay to the OD Union, on demand, any further amounts required to make good or remedy such Damage;
- 13.5 the OD Union shall not be liable or responsible for and assumes no liability for the acts and omissions of the Preferred Service Providers, including but not limited to any arrangements or payments between the User and Preferred Service Providers.

14. INDEMNITY

The User, hereby assuming personal liability in respect of any act performed by its Guests, indemnifies and holds the OD Union, its officers, members, committee members, directors, employees and/or agents (collectively, the "Indemnified") harmless from and against, and shall, on demand, pay to the Indemnified the amount of any and all damages, claims, losses, expenses, costs, obligations and liabilities, including, without limiting the generality of the foregoing, attorney's fees on the scale as between attorney and own client ("Claim") suffered directly or indirectly by an Indemnified by reason of, arising out of, resulting from or incurred in connection with:

- 14.1 the death or bodily injury of such person caused by the Indemnified;
- 14.2 any equipment and/or goods supplied and/or services rendered by the OD Union in connection with or pursuant to this Agreement, including any defects thereto;
- 14.3 the damage, loss or destruction of any real or tangible personal property of such person caused by the Indemnified;
- 14.4 any litigation, proceedings or claims by any third party, for whatsoever cause and howsoever arising in connection with or pursuant to this Agreement,
- other than in circumstances where such death, damage, loss or destruction is caused by the gross negligence of the Indemnified.

15. CONSEQUENCES OF BREACH AND REMEDIES

If the User and/or the Responsible Person should breach the provisions of this Agreement, which include the Policies and Procedures, the OD Union shall, without prejudice to any of its rights, be entitled

to bar the User and/or the Responsible Person from hiring the Venue for up to 24 (twenty-four) months.

16. GENERAL PROVISIONS

- 16.1 This Agreement records the entire agreement with the User and supersedes all other writings or documents, which may previously have been exchanged, and shall be governed by and interpreted in accordance with South African law.
- 16.2 Any dispute arising out of or in connection with the Agreement shall be finally resolved by arbitration, held at Cape Town, in accordance with the Rules of the Arbitration Foundation of South Africa ("AFSA") by an arbitrator(s) appointed by AFSA. In the event of urgent relief being sought, the User submits to the exclusive jurisdiction of the High Court of South Africa, Western Cape Division.
- 16.3 The User shall not be entitled to cede or assign, all or any of its rights and/or obligations in terms of the Agreement to any third party whatsoever, unless by prior written consent of the OD Union.
- 16.4 The User chooses as its *domicilia citandi et executandi* for all purposes under the Agreement, notices or other documents or communications of whatsoever nature the address set out in the Booking Form.
- 16.5 No latitude, extension of time or other indulgence which may be given or allowed by the OD Union to the User in respect of the performance of any obligation hereunder or enforcement of any right arising from the Agreement and no single or partial exercise of any right by the OD Union shall under any circumstances be construed to be an implied consent by the OD Union or operate as a waiver or a novation of, or otherwise affect any of the OD Union's rights in terms of or arising from the Agreement or estop the OD Union from enforcing, at any time and without notice, strict and punctual compliance with each and every provision or term hereof.
- 16.6 No addition to or variation of the Agreement shall be of any force and effect unless in writing and signed in manuscript by the OD Union.
- 16.7 In the event that any provision of the Agreement is held to be invalid or unenforceable by any competent tribunal having jurisdiction, such holding shall not invalidate or render unenforceable any other provision of the Agreement.
- 16.8 The Agreement may be executed in several counterparts, each of which shall together constitute one and the same instrument.

Signed at _____

On this _____ day of _____ 20____

User: _____

Responsible Person: _____

Signature: _____