



# WILLIAMSTOWN PRIMARY SCHOOL

## Hire of School Facilities Policy

### 1. BACKGROUND

School Councils are authorised to hire and licence school facilities where these are not required for ordinary school purposes and are to be used for recreational, sporting or cultural activities. Schools can join with local government, community and business organisations in combining their resources to share facilities.

The Minister's approval is required for all licence agreements which are established for purposes other than recreational, sporting or cultural. A licence agreement does not grant exclusive use to the licensee. Revenue from licences is directed to the school concerned.

Williamstown Primary School (WPS) is proud to have a range of facilities and buildings, which it can share with outside bodies when these are not required for school purposes. The hiring of these facilities strengthens partnerships between WPS and the local community and provides added benefits for WPS students as well as members of the broader community. Community partners include sport and recreation providers, other educational and trainer providers and the local council.

Facilities available include, but are not limited to, the school hall, the 5/6 Gallery, the Library, the Music Room, the Red Brick Hall and the outdoor playing areas. These facilities may be hired on a one-off or on a regular basis. The facilities would normally be hired outside of normal school hours but from time to time facilities may be used during school hours, e.g. lunchtimes, in which case the programs would be for WPS students only.

School Council has the authority to allow the use of school facilities by outside bodies and has the responsibility to establish the terms and conditions of use. The hiring of facilities needs to be formalised in a written agreement to ensure that all parties know their responsibilities and obligations. Any Hire arrangement will be in accordance with this Policy.

### 2. PURPOSE

To ensure schools comply with the Department's policies and legal agreements for hiring, licensing and shared use of school facilities.

The aim of this policy is to:

- Clearly outline the procedures, requirements and regulations, including public liability insurance arrangements, relating to the hire and use of school facilities by community or other groups.
- Ensure that school facilities are protected and maintained according to school requirements when used by hirers.
- Encourage the use of and promote the facilities the School has for hire to assist local community groups operate their activities and strengthen social networks between WPS and the community.
- Ensure that requests received are formalised and assessed according to this policy and that any hiring arrangements are consistent with, and not detrimental to, the school's goals and programs.
- Ensure that all hirers are aware of and accept their responsibilities.
- Ensure that parents and teachers are kept informed about hiring arrangements.
- Provide avenues to give feedback and address issues and concerns in relation to the hiring of school facilities.

### 3. DEFINITIONS

This table provides definitions of the standard agreement types schools may use.

- *"Facilities"* are the buildings and grounds of WPS. They include, but are not limited to, the school hall, the 5/6 Gallery, the Library, the Music Room, the Red Brick hall, PE hall and the outside playing areas.
- *"Hire Agreement"* is a legal document signed by both parties used when the facility is hired on a one-off basis e.g. for a seminar or regular basis, eg Oshclub, Karate, Jude Fina Foods, ABC music, Kelly Sports– refer to Appendix 1.
- *"School"* means Williamstown Primary School.

## Agreement Type Descriptions

<b>Hire</b>	Is used when the community uses a facility on a one-off basis, such as a youth group hiring a school hall for its annual presentation night.
<b>Licence</b>	Is used when the community uses a school facility on a regular basis such as a: local drama group hiring out the school performing arts centre every Wednesday evening; or local football club hiring the school oval for the season.
<b>Community Joint Use</b>	Is a more detailed agreement which applies when a school and/or a third party contribute to the construction of a new building or upgrade of an existing facility; such as: the construction of a new sports stadium at a school, funded by both the school and local council, to be used by the school and local community sporting groups. Schools wanting to enter into this agreement must complete a community joint use proposal.

The Australian Electoral Commission and the Victorian Electoral Commission are empowered to use schools as polling places during an election. If there is a conflict of demand with respect to the use of school premises on election day, the facilities must be made available for use as a polling place.

For State elections, there is no Polling Place Licence for schools to complete.

For more information see:

- [School Infrastructure Online Portal - Manage](#) (staff access only) - to access template agreements as well as the following documents:
- School as Community Facilities: Policy Framework and Guidelines
- Shared Facility Partnerships: A Guide to Good Governance for Schools and the Community
- For information about the 2018 caretaker conventions and obligations for all school staff, see: [2018 Victoria State Elections - Information for Schools](#)

## 4. PROCEDURES FOR IMPLEMENTATION

### 4.1 School Council

The School Council has the responsibility of determining rules and regulations pertaining to the hire of school facilities. The School Council has responsibility for assessing requests and setting fees.

The School Council will not be liable for any loss, damage or legal liability incurred by any hirer's activities and therefore insists that Public Liability Insurance is a requirement for any hiring agreement.

School Councils are not authorised to independently enter into lease agreements to augment their own school sites or facilities. A lease provides exclusive use for the holder of the lease. Ministerial approval is required for a grant of leasehold to construct a childcare facility on a school site.

### 4.2 Application and Approval for Hire/License

The Assistant Principal and the Business Manager will be responsible for administering the Hire of School Facilities Policy and will be the contact for initial enquiries regarding facility usage and for groups hiring school facilities.

Any request for hire or license must be made on the School Council Hire Agreement form – see Appendix 1. School Councils must use the department's agreement templates for hire, licensing, and community joint use agreements with third parties

The Department's Polling Place Licence should be used for arrangements with the Australian Electoral Commission, see: [Legal Services, School Council - Shared Use of Facilities](#)

A risk management assessment will be conducted by the School which will involve consideration of such factors as police checks, safety of equipment and credentials of providers before the application is passed onto School Council for approval or otherwise.

As guiding principles, the hire of facilities should:

- cause no interruption to the normal day to day operation of the school.
- not create excessive noise or pose a nuisance to nearby residents.
- have minimal impact on the School's administration staff.
- not present unreasonable wear and tear to the school facility or equipment.

Priority will normally be given to hirers who provide programs which:

- provide benefit for students of WPS.
- improve ties between WPS and the wider community.
- offer variety.
- do not create competition between stakeholders in our community.
- Regular bookings are also normally prioritised over one-off bookings.

The School Council reserves the right not to hire facilities to groups without explanation.

Once approved, the hirer must enter into a formal contract with the School Council for the hire of the facilities and agrees to adhere to the terms and conditions of this Policy.

#### 4.3 Hiring Charges

A schedule of hiring charges will be set annually by School Council to cover utilities and maintenance costs and which are comparable to those of other local providers hiring out similar facilities. A specific hiring charge may be varied at the discretion of School Council. Current Hire Charges can be obtained from the School Office.

***Regular hirers will be invoiced each term and accounts must be settled within fourteen (14) days. Any one-off hiring fees must be paid in advance.***

The School reserves the right to request a refundable bond on acceptance of approval for hire by either casual or regular users. A bond will always be required where keys are issued.

#### 4.4 Terms and Conditions of Hire/License

- 4.4.1 All community users must satisfy requirements in respect of full public liability/indemnity insurance. Where applicable, Workers Compensation insurance requirements must also be met. The School requires to sight the original insurance policy and a copy of the policy must be kept on school records.
- 4.4.2 All hired facilities, including toilets, must be left in clean condition. The cost of any necessary cleaning will be charged to the hirer.
- 4.4.3 When it is necessary to displace any furniture or equipment the hirer shall obtain permission from the School and do so at his/her own expense, time and risk and shall replace such furniture or equipment at the end of the period of hire.
- 4.4.4 The hirer will be responsible for any damage to hire facilities. The hirer must notify the School within 24 hours of any damage or breakages and will be charged for any resulting replacement and repairs, other than those caused by reasonable wear and tear.
- 4.4.5 Adequate adult supervision must be provided at all times when using the facilities.
- 4.4.6 Unless there has been prior approval by School Council or the Principal, the hirer is not to use any school equipment other than classroom furniture.
- 4.4.7 Should the School require the use of a regularly-booked facility, the School undertakes wherever possible to give a minimum of four (4) weeks' notice to the hirer.
- 4.4.8 A Facility Hire Agreement must be completed by both parties – the School and the hirer – prior to the hire occurring. This agreement can be terminated by either party by giving two weeks' notice in writing. All bookings are subject to availability.
- 4.4.9 The hirer shall not sublet any booking or part thereof to any other club or group.
- 4.4.10 Neither smoking nor gambling is permitted on the school premises (including the outside grounds). Alcohol is not permitted at any events at which WPS students will be present. Where alcohol is to be consumed, a special license is normally required.
- 4.4.11 The School Principal is responsible for ensuring a safe school environment and will promptly respond to any occupational health and safety concerns made by the hirer in regard to unsafe or dangerous buildings or facilities.
- 4.4.12 If an accident occurs, it is the responsibility of the hirer to provide the School office with an accident report within seven (7) days of the event. Report forms are available from the School office.
- 4.4.13 Security arrangements, e.g. locking up of buildings, must be agreed between the School Principal and the hirer prior to the hire occurring.

4.4.14 The School Principal or a Principal's delegate has access to the school facilities at any time for inspection.

#### 4.5 Termination of Hire Agreement

In the event of any or all of the above conditions being breached, the School Council shall have the right to vary or cancel all or part of the hire agreement.

#### 4.6 Feedback

Customer feedback is valued by WPS to help continually improve the facilities provided. Feedback should be provided to the School Principal or to the School Office.

### 5. REVIEW AND POLICY HISTORY

This policy is due for formal review in March 2022 although it may be changed at any time as required after approval by School Council and the Principal or if guidelines change.

Version Approval Date	Summary of changes	VRQA Requirement	DET Mandated Policy	School Council Input
December 2012	New Policy	No	No	Approval required
August 2014	Update	No	No	Approval required
March 2019	Update	No	Yes	Approval required
February 2020	Update	No	Yes	Approval required

# School Council Hire Agreement

## Between

The School Council listed in Item 1 of Schedule 1 (**School Council**)

and

The Hirer listed in Item 2 of Schedule 1 (**Hirer**)

## Background

- A. The Hirer wishes to use the Hired Area for the Permitted Use.
- B. The School Council has agreed to hire the Hired Area to the Hirer in accordance with the terms and conditions set out in this Agreement.

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## Agreed terms

### 1. Hire of Hired Area

- (a) The School Council grants the Hirer a right to use the Hired Area, subject to the terms and conditions of this Agreement.
- (b) The parties agree that:
  - (i) *this Agreement does not confer a right of exclusive occupation of the Hired Area to the Hirer; and*
  - (ii) *the School Council may, at any time, exercise rights on behalf of the Minister as owner of the Hired Area including the right to use, possess and enjoy the whole or any part of the Hired Area (provided that such rights will not prevent the Hirer's right to use the Hired Area under this Agreement).*

### 2. Use of Hired Area

#### The Hirer:

- (a) may only use the Hired Area on the date and time listed in Item 8;
- (b) must not use or allow the Hired Area to be used for any purpose other than the Permitted Use;
- (c) acknowledges that no promise, representation, warranty or undertaking has been given by or on behalf of the School Council regarding the suitability of the Hired Area for the conduct of the Permitted Use otherwise than as expressly contained in this Agreement, or for any other use; and
- (d) must provide the School Council with any information reasonably requested by the School Council relating to this Agreement, including but not limited to the use of the Hired Area by the Hirer.

### 3. Hire Fee

The Hirer must pay the Hire Fee to the School Council within 14 days of receipt of the School Council's invoice.

### 4. Security Deposit

- (a) To secure the performance of the Hirer under this Agreement the Hirer must pay the Security Deposit to the School Council on or before the Commencement Date.

- (b) If the Hirer breaches any of the Hirer's obligations under this Agreement and the School Council incurs any Losses (or acquires any other entitlement to payment from the Hirer), the School Council may, if the default remains unremedied 10 Business Days after Default Notice has been given to the Hirer, draw on the Security Deposit without further Notice to the Hirer to make good such Loss.
- (c) If the School Council draws on the Security Deposit, the Hirer must replace the amount drawn down within 10 Business Days to maintain the Security Deposit at the level specified in Item 6.
- (d) Subject to any right the School Council has to draw on the Security Deposit, the School Council must return the Security Deposit to the Hirer when each of the following have been satisfied:
  - (i) *60 days have elapsed since the expiry or termination of this Agreement;*
  - (ii) *the Hirer has vacated the Hired Area in accordance with this Agreement, including satisfying all of its reinstatement obligations; and*
  - (iii) *the Hirer has no outstanding obligations under this Agreement or subsisting breach of this Agreement or any actual or potential liability for any breach or non-performance of any of the Hirer's obligations under this Agreement.*

#### **5. Cancellation or Postponement by Hirer**

**If, for any reason, the Hirer is unable to use the Hired Area on any date or time of use specified in Item 8 then the Hirer must immediately notify the School Council in writing. The Hire Fee will remain payable unless:**

- (a) the Hirer gives the School Council at least 7 days prior written Notice to the relevant date or time of use under Item 8; or
- (b) the Hired Area is re-hired for that same period.

#### **6. Cancellation or Postponement by School Council**

- (a) If, for any reason, the School Council is unable to provide the Hired Area to the Hirer at the date and/or time of use specified in Item 8, then the School Council will give the Hirer Notice of:
  - (i) *cancellation whereby, if the Hirer has paid the Hire Fee (whether in part or in full), then the School Council will refund to the Hirer that part (or whole) of the Hire Fee paid by the Hirer, which the School Council, acting reasonably, represents the unused portion of that amount: or*
  - (ii) *postponement, whereby the School Council and the Hirer will act reasonably to seek to postpone the use of the Hired Area to a mutually agreed alternate time and/or date. If no agreement can be reached, the School Council will refund to the Hirer that part (or whole) of the Hire Fee paid by the Hirer, which the School Council, acting reasonably, represents the unused portion of that amount.*
- (b) Other than the refund of Hire Fee (if any) payable under clause 6(a)(i) or 6(a)(ii), the Hirer will not be entitled to any other payment and/or compensation for the School Council's cancellation or postponement under this clause

#### **7. Termination by School Council**

- (a) The School Council may terminate this Agreement at any time without cause and without needing to provide reasons by giving the Hirer reasonable written notice.
- (b) If the Agreement is terminated pursuant to clause 7(a), the School Council will pay the Hirer the unavoidable and substantiated costs incurred by the Hirer as a direct result of the termination, excluding any loss of profit, and the School Council has no other liability to the Hirer in relation to that termination.
- (c) When the School Council issues a notice under clause 17.1(a), the Supplier will immediately comply with any directions given in the notice and do all that is possible to mitigate its losses arising from the termination of this Agreement.

#### **8. Hirer's Obligations**

The Hirer must:

- (a) at its own cost in all respects observe and comply with all Laws that apply to this Agreement and all directions, notices and Requirements of any Government Agency relating to its use and occupation of the Hired Area;
- (b) keep available for inspection by the School Council upon request, all licences, permits and registrations required for the carrying on of any activity by the Hirer in or upon the Hired Area;
- (c) not install any fixtures or fittings;
- (d) not use the Hired Area for any illegal purpose;
- (e) ensure the Hired Area is kept secure, clean and free from debris and rubbish;
- (f) not do anything in or near the Hired Area or the Land which is noxious, offensive or a nuisance and not cause any injury or nuisance to neighbours or other occupiers of, or surrounding, the Hired Area;

- (g) not keep or use chemicals, inflammable liquids, acids or other hazardous things on the Hired Area except for the Permitted Use, or create fire hazards;
- (h) not overload the floor of the Hired Area;
- (i) comply with all Department, School and School Council policies and/or guidelines which deal with safety or health of persons on the Hired Area or otherwise under its control;
- (j) not erect, display, affix or exhibit on or at the Hired Area any signs except for signs that comply with all Laws and then only after obtaining the School Council's written approval and all necessary planning and building permits from the relevant Government Agency;
- (k) observe fire precautions;
- (l) at all times exercise due care, skill and judgement and act with the utmost good faith; and
- (m) ensure that all external doors and windows are secured and locked and all lights extinguished daily at the end of its use of the Hired Area.

#### **9. Repairs and Damage to the Hired Area**

- (a) The Hirer must keep the Hired Area clean and in the same condition as at the Commencement Date and properly repaired and maintained.
- (b) If the Hired Area is damaged, the Hirer must promptly repair such damage to the extent that it is caused or contributed to by the Hirer.
- (c) If the Hirer fails to properly repair any damage it is responsible for in accordance with clause 9(b)9(b) within a reasonable time then the School Council may do so and the Hirer must immediately reimburse the School Council the cost of such repairs.

#### **10. Representatives**

- (a) The School Council and the Hirer each appoint the person listed as such in Item 10 as their respective representative (Representatives) who will be responsible for communications under this Agreement.
- (b) Either party may replace its representative by giving Notice to the other party.
- (c) The Hirer must comply with any instruction or direction given by the School Council's representative.

#### **11. Insurance, Release and Indemnity**

##### **11.1 Insurance**

- (a) The Hirer must obtain and maintain the insurances set out in Item 9 in force during the Agreement.
- (b) The Hirer must not do or permit anything to be done which may invalidate any insurance, make any insurance void or voidable or increase the rate of premium of any insurance of the School Council or any other person.
- (c) Within 10 Business Days of the Commencement Date, and immediately upon request by the School Council from time to time, the Hirer must provide the School Council with evidence of the currency of any insurance the Hirer is required to maintain under this Agreement.
- (d) Clauses 11.1(a), 11.1(c), 11.2 and 11.3 do not apply if the Hirer is insured by VMIA or is a municipal council within the meaning of the *Local Government Act 1989* (Vic) and is insured by Liability Mutual Insurance.

##### **11.2 Release**

The Hirer will occupy, use and keep the Hired Area at the risk of the Hirer and releases, to the fullest extent permitted by Law, the School Council and its Associates from all claims and demands of any kind for or resulting from any accident, damage, Loss or injury occurring in or on the Hired Area, except to the extent that any accident, damage, injury or Loss is caused by the negligent or unlawful act omission or default of the School Council.

##### **11.3 Indemnity**

- (a) Subject to clause 11.3(c), the Hirer at all times indemnifies and will continue to indemnify, hold harmless and defend the Department, the School Council and their respective Associates (in this clause, each an Indemnified Party) against any Losses which any Indemnified Party suffers or incurs as a result of any demand, suit, action, claim or proceeding against an Indemnified Party where the Losses arise as a direct or indirect result of any of the following:
  - (i) *personal injury, including sickness and death;*
  - (ii) *property damage;*
  - (iii) *a breach of an obligation of confidence or privacy, whether under this Agreement or otherwise;*
  - (iv) *fraudulent acts or omissions of the Hirer or its Associates;*

- (v) *any wilful misconduct or unlawful act or omission by the Hirer or its Associates; or*
  - (vi) *any third party claim arising out of a breach of this Agreement by the Hirer or its Associates (including breach of warranty) or any negligent act or omission of the Hirer or its Associates.*
- (b) To the extent that the indemnity in this clause refers to persons other than the School Council, the School Council holds this clause on trust for those other persons.
- (c) The Hirer will not be liable under the indemnity in clause 11.3(a) to the extent that the Loss results from:
- (i) *any fraudulent, negligent or deliberate act or omission of an Indemnified Party;*
  - (ii) *any breach of this Agreement by an Indemnified Party; or*
  - (iii) *the condition of the Hired Area or the Land before the Commencement Date.*

## **12. Default and Termination**

### **12.1 Insolvency Event**

The School Council may immediately terminate this Licence by Notice to the Licensee if the Licensee suffers an Insolvency Event.

### **12.2 Default**

If:

- (a) the Hirer has failed to pay the Hire Fee on the due date set out in clause 3; or
  - (b) the Hirer fails to perform or observe its obligations (whether express or implied) under this Agreement; or
- then, without limiting any other right of the School Council, the School Council may, by Notice in writing to the Hirer:
- (c) remedy the breach or default at the cost of the Hirer; and/or
  - (d) terminate this Agreement,

and the School Council's exercise of any right under this clause 12 is without prejudice to any other right, remedy or liability which it has or may have for any other non-payment or non-performance by the Hirer under this Agreement.

## **13. Consequences of expiry or termination of Agreement**

- (a) At the expiration or the earlier termination of this Agreement, the Hirer must remove all its property from the Hired Area and ensure that the Hired Area is in a condition consistent with the requirements in this Agreement.
- (b) The expiry or termination of this Agreement does not affect:
  - (i) *the School Council's rights in relation to a breach of this Agreement by the Hirer before the expiry or termination; and/or*
  - (ii) *the Hirer's obligation to make a payment under this Agreement for periods before the expiry or termination.*

## **14. Notices**

A Notice must be in writing, signed by or on behalf of the party giving it and delivered to the Representative of the other party set out in Item 10.

## **15. Negation of Warranties**

- (a) The Hirer acknowledges that it has entered into this Agreement solely on the basis of the terms and conditions in this Agreement and that no warranties, representations or promises have been made by the School Council or its agents.
- (b) Without limiting clause 15(a) the Hirer acknowledges that:
  - (i) *no warranties have been given by the School Council that the Hired Area is suitable for the Permitted Use; and*
  - (ii) *subject to the terms and conditions of this Agreement, the Hirer must do all things necessary to enable the Hired Area to be used for the Permitted Use.*

## **16. GST**

### **16.1 Definitions**

Terms used in this clause have the same meanings given to them in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

### **16.2 Consideration is inclusive of GST**

Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under or in accordance with this Agreement are inclusive of GST. If GST is imposed on any supply made under or in accordance with this Agreement which is not expressed to be inclusive of GST, the recipient of the taxable supply must pay to the party making



the taxable supply an amount equal to the GST payable on or for the taxable supply. Subject to the recipient first receiving a valid tax invoice, payment of the GST amount will be made at the same time the consideration for the taxable supply is to be paid or provided in accordance with this Agreement.

### 16.3 Reimbursement

If this Agreement requires a party to pay for, reimburse or contribute to any expense, loss or outgoing (Reimbursable Expense) suffered or incurred by another party, the amount required to be paid, reimbursed or contributed by the first party will be the amount of the Reimbursable Expense net of input tax credits (if any) to which the other party is entitled in respect of the Reimbursable Expense plus any GST payable by the other party.

### 16.4 Adjustment Event

If an adjustment arises in relation to a taxable supply made under this Agreement, the Hirer must recalculate the amount payable on account of GST under clause 16.2 to take account of the adjustment event. The Hirer must issue an adjustment note to the School Council within 28 days of becoming aware of the adjustment event. A corresponding payment to reflect the adjustment must be made by the Hirer to the School Council, or by the School Council to the Hirer, as the case may be.

### 16.5 Other taxes

Subject to the other provisions of this Agreement, the Hire Fee includes all taxes (other than GST), duties (including stamp duty), charges, fees and other imposts of whatever kind (including any fine or penalty imposed in connection with them) that may be levied, assessed, charged or collected in connection with this Agreement, to the extent applicable.

## 17. Requirement for Working with Children and Police Checks

- (a) The Hirer must (and must ensure that all persons engaged or used by it to work at the Hired Area and/or carry out the Permitted Use under this Agreement, including its Associates):
  - (i) *have undertaken a satisfactory working with children check if required pursuant to the Working With Children Act 2005 (Vic) or as otherwise requested by the School Council;*
  - (ii) *if required by the School Council, have undertaken a satisfactory police records check; and*
  - (iii) *have met any additional relevant legal requirements and policies of the School Council, School and/or Department in relation to the suitability of persons to work with children or within the precinct of the School as advised by the School Council.*
- (b) The Hirer must ensure the terms and conditions of employment of any staff or of engagement of any contractor for the purpose of carrying out work at the Hired Area and/or carrying out the Permitted Use under this Agreement are consistent with the above obligations.

## 18. Child Safe Standards

- (a) The parties acknowledge and agree that Victorian government schools are committed to:
  - (i) *creating child safe environments;*
  - (ii) *protecting students from abuse or harm in the school environment, managing the risk of child abuse, providing support to a child at risk of child abuse and responding to incidents or allegations of child abuse in accordance with their legal obligations, including Child Safety Laws.*
- (b) This clause only applies to the extent that the Hirer (and its Associates) are engaged in Child-connected work.
- (c) The Hirer acknowledges that the School Council and School Staff are required to comply with Child Safety Laws, the Ministerial Order and School Council Child Safety Policies.
- (d) If the Hirer is an Applicable Entity, it warrants to the School Council that it:
  - (i) *is compliant and will continue to comply with Child Safety Laws; and*
  - (ii) *will immediately provide the School Council with copies of any documents or information in respect to any compliance action taken by any regulatory authority in connection with child safety against the Hirer (or its Associates).*
- (e) The Hirer (and its Associates) must:
  - (i) *if applicable (whether or not the Hirer must itself comply with Child Safety Laws), comply with any relevant School Council Child Safety Policies; and*
  - (ii) *comply with any reasonable direction by the School Council in respect to compliance by the School Council, School Staff and/or the Hirer with any Child Safety Laws or any relevant School Council Child Safety Policies.*
- (f) The School Council may terminate this Agreement immediately if, in the School's Council's reasonable opinion, it determines at any time that:

- (i) *there is a breach of any Child Safety Laws caused by, or in any way connected with, the Hirer or its Associates; or*
- (ii) *the Hirer or any of its Associates are not suitable to engage in Child-connected work for the purposes of the School Council and School Staff's compliance with the Child Safety Laws or relevant School Council Child Safety Policies.*

## 19. General

### 19.1 Amendment

This Agreement may only be varied or replaced by agreement in writing.

### 19.2 Severability

Any provision of this Agreement which is invalid or unenforceable is to be read down, if possible, so as to be valid and enforceable, and, if that is not possible, the provision will, to the extent that it is capable, be severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions.

### 19.3 Set off

The School Council may set off against any sum owing to the Hirer under this Agreement any amount then owing by the Hirer to the School Council.

### 19.4 Governing law and jurisdiction

This Agreement is governed by and is to be construed in accordance with the laws applicable in Victoria and the parties submit to the exclusive jurisdiction of the courts of Victoria.

### 19.5 Assignment of rights

The Hirer must not assign any right under this Agreement without the prior written consent of the School Council.

### 19.6 Publicity

The Hirer must not make any public announcement or media release in respect of any aspect of this Agreement without the prior written approval by the School Council. Without limitation, if permission to publish is granted pursuant this clause 19.6, the Hirer must, in all publications, promotional and advertising materials and public announcements, acknowledge the contribution of the School Council.

### 19.7 Entire understanding

- (a) This Agreement is comprised of the following documents:
  - (i) *the Special Conditions;*
  - (ii) *clauses 1 to 20 (inclusive);*
  - (iii) *Schedule 1 to this Licence (other than the Special Conditions); and*
  - (iv) *any other documents or representations referred to in this Licence or incorporated by reference.*
- (b) In the event and to the extent of any inconsistency between the documents listed in clause 19.7(a), the provisions of the earlier mentioned document will prevail to the extent of the inconsistency. If the inconsistency remains incapable of resolution by reading down, the inconsistent provisions will be severed from the document lower in the order of precedence without otherwise diminishing the enforceability of the remaining provisions of that document.
- (c) This Agreement contains everything the parties have agreed in relation to the subject matter it deals with. No party can rely on an earlier written document or anything said or done by or on behalf of another party before this Agreement was executed.

## 20. Definitions and Interpretation

### 20.1 Definitions

In this Agreement, unless the context otherwise requires:

**Agreement** means this agreement and includes all schedules, appendices, attachments, plans and specifications, annexures and exhibits to it.

**Associates** means, in respect of a party, any officer, employee, agent, delegate, contractor, subcontractor, consultant, advisor, invitee, licensee or servant of that party to the extent that such person or entity is performing an act or a function directly related to the Agreement.

**Business Day** means any day that is not a Saturday, Sunday or a public holiday (being a public holiday appointed as such under the *Public Holidays Act 1993* (Vic)) in Melbourne.

**Child-connected work** has the meaning given to it in section 4 of the Ministerial Order.

**Child Safety Laws** means any Laws that in any way relate to child safety, including the *Child Safety and Wellbeing Act 2005* (Vic).

**Commencement Date** means the date the last party signs this Agreement.

**Default Notice** has the meaning given to that term in clause 4(b).

**Department** means the Department of Education and Training in the State of Victoria.

**Government Agency** means any government or any public, statutory, governmental, semi-governmental, local governmental or judicial body, entity or authority and includes a Minister of the Crown or the Commonwealth of Australia and any person, body, entity or authority exercising a power pursuant to an Act of Parliament.

**Hired Area** means part of the Land shown hatched on the Plan and as described in Item 3.

**Hire Fee** means the amount specified in Item 5.

**Insolvency Event** means if the Hirer:

- (a) being a partnership, company or other composite body undergoes a change in its structure which, in the reasonable opinion of the School Council, precludes or adversely affects the Hirer's ability to carry out its obligations and duties under this Agreement; or
- (b) goes into liquidation or a receiver and manager or mortgagee's or chargee's agent is appointed or becomes subject to any form of insolvency administration or arrangement, or in the case of an individual, becomes bankrupt or enters into a scheme or arrangement with creditors.

**Item** means an item of Schedule 1.

**Land** means the land of which the Hired Area forms part, being as described in Item 4 and includes all rights, easements and appurtenances usually enjoyed with that land.

**Law** means:

- (a) the law in force in the State and the Commonwealth of Australia, including common law, legislation and subordinate legislation; and
- (b) ordinances, regulations and by-laws of relevant Government Agencies.

**Loss** means any liability, loss, damage, claim, action or expense (including all legal costs determined on a full indemnity basis) of any kind whatsoever.

**Minister** means the Minister for Education in the State of Victoria.

**Ministerial Order** means Ministerial Order 870 entitled "Child Safe Standards – Managing the risk of child abuse in schools" (as amended from time to time).

**Notice** means a notice, consent, approval or other communication given under this Agreement.

**Permitted Use** means the permitted use of the Hired Area as specified in Item 7.

**Plan** means the plan attached as Annexure A.

**Representative** means the representative defined in clause 10 and Item 10.

**Requirement** includes any lawful notice, order or direction received from or given by any Government Agency or pursuant to any Law, in writing or otherwise, and notwithstanding to whom such a requirement is addressed or directed but if not addressed to the School Council then the School Council must be given a copy.

**Schedule** means any schedule(s) to this Agreement.

**School** means the school that the School Council represents and within which the Hired Area is located.

**School Council Child Safety Policies** means any relevant School Council policies, codes, guidelines or associated documents that in any way relate to child safety, including any policies, codes, guidelines or associated documents that the School produces for the purpose of meeting its minimum child safety standards pursuant to section 5 of the Ministerial Order.

**School Council's Representative** means the School Council's representative nominated pursuant to clause 10 from time to time.

**School Staff** has the meaning given to it in section 4 of the Ministerial Order.

**Security Deposit** means the security deposit referred to in clause 4 and specified in Item 6.

**Special Conditions** means the special conditions (if any) contained in Item 11.

20.2 **Interpretation**

Unless expressed to the contrary, in this Agreement:

- (a) 'includes' means includes without limitation;
- (b) no rule of construction will apply to a clause to the disadvantage of a party merely because that party put forward the clause or would otherwise benefit from it;
- (c) a reference to:
  - (i) *a person includes a partnership, joint venture, unincorporated association, corporation and a government or statutory body or authority;*
  - (ii) *a person includes the person's legal personal representatives, successors, assigns and persons substituted by novation;*
  - (iii) *any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced;*
  - (iv) *if the date on or by which any act must be done under this Agreement is not a Business Day, the act must be done on or by the next Business Day.*

**Executed as an agreement.**

**School Council**

**Date:** <Insert date that School Council signs>

<b>Signature of President</b>		<b>Signature of Witness</b>
<b>Name of President (print)</b>		<b>Name of Witness (print)</b>

**Hirer**

**Date:**

<Insert date that Hirer signs>

<Use this signing clause when the Licensee is a company incorporated in Australia with more than one director, delete if Licensee is not a company or is a company incorporated in Australia with a sole director>

<b>Executed by</b> .....  <b>ACN</b> .....		
in accordance with s 127 of the <i>Corporations Act 2001</i>		
<b>Signature of director</b>		<b>Signature of director/company secretary</b>
<b>Name of director (print)</b>		<b>Name of director/company secretary (print)</b>

<Use this signing clause when the Licensee is an incorporated association, delete if Licensee is not>

<b>Executed by</b>  .....  Registered Association Number .....  in accordance with the <i>Associations Incorporation Reform Act 2012</i>		
<b>Signature of authorised person</b>		<b>Signature of authorised person</b>
<b>Name of authorised person (print)</b>		<b>Name of authorised person (print)</b>
<b>Position of authority (print)</b>		<b>Position of authority (print)</b>

<Use this signing clause when the Licensee is a company incorporated in Australia with a sole director, delete if Licensee is an individual or is a company incorporated in Australia with more than one director>

<b>Executed by</b>  .....  ACN .....		
<b>Signature of Sole Director and Company Secretary</b>		<b>Signature of witness</b>

<b>Name of Sole Director and Company Secretary (print)</b>

<b>Name of witness (print)</b>

<Use this signing clause when the Licensee is an individual, delete if the Licensee is not>

<b>Signed by</b> ..... in the presence of:		
<b>Signature of witness</b>		<b>Signature of Licensee</b>
<b>Name of witness (print)</b>		

## Schedule 1     Details

<b>Item 1</b>	<b>School Council's Name &amp; Address</b>  <Insert name of School Council, ABN and address>	
<b>Item 2</b>	<b>Hirer's Name &amp; Address</b>  <Insert name of Hirer, ABN and address>	
<b>Item 3</b>	<b>Hired Area</b>  <Insert a description of the part of the Land to be hired >	
<b>Item 4</b>	<b>Land</b>  <Insert full address of the school (of which the Hired Area forms part)>	
<b>Item 5</b>	<b>Hire Fee</b>  <Insert Hire fee payable by the Hirer and whether it is per annum, per month, per day etc >	
<b>Item 6</b>	<b>Security Deposit</b>  <Insert amount of security deposit (if any). If a security deposit is not required, insert "Nil">	
<b>Item 7</b>	<b>Permitted Use</b>  <Describe the Hirer's permitted use of the Hired Area >	
<b>Item 8</b>	<b>Date and Time of Use</b>  <Insert the date and time the Hirer may use the Hired Area>	
<b>Item 9</b>	<b>Insurance</b>	Public Liability Insurance of \$10 million for each event.
<b>Item 10</b>	<b>School Council Representative</b>  <Insert as applicable >	Authorised Officer: Address: Tel: Fax: Email:



Schedule 1

	<b>Hirer Representative</b>	Authorised Officer: Address: Tel: Fax: Email:
<b>Item 11</b>	<b>Special Conditions</b>  <If special conditions are needed, delete the words 'Not applicable' and insert details >	Not Applicable

**Annexure A      Plan**

<insert or attach a clear plan showing the area to be hired marked in hatched lines>