

2020 Sanctuary Cove Boating Festival - Terms and Conditions

This is an agreement between Mulpha Events Pty Ltd ACN 098 660 336 (**we, us and our**) and the person named in an application to be an exhibitor at the 2020 Sanctuary Cove Boating Festival (**Exhibition**). Capitalised words have the meanings given to them in this agreement.

1. Applications

- 1.1 Any person (except individuals under 18 years of age) may apply to be an exhibitor at the Exhibition by submitting an application in the form on <https://sanctuarycoveboatshow.com.au/boating-festival/> (**Website**) by the deadline set out in the details for the Exhibition published on the Website (**General Information**) and by paying the non-refundable application fee set out in the General Information. Applications are subject to our approval and we have no obligation to accept an application. We may contact applicants to discuss their application, including to discuss alternative display space if their preferred space is not available.
- 1.2 If an application is accepted by us, we will offer the applicant named in an application (**Exhibitor**) a licence of display space at the Exhibition by sending details of the display space allocated to the Exhibitor (**Display Space**) and the applicable fees determined in accordance with the General Information (**Display Space Fee**) together with an invoice for the full amount set out in the General Information. The Exhibitor may accept our offer by completing full payment within 14 days of the date of our invoice. Our offer will automatically lapse if we have not received payment in full by the due date. We may withdraw our offer any time prior to acceptance.

2. Licence of Display Space

- 2.1 Upon the Exhibitor paying the balance of the Display Space Fee, we grant the Exhibitor a licence to enter the part of Sanctuary Cove Resort where the Exhibition is held (including temporary structures, open areas and marina berths) (**Site**) to install and display the Exhibitor's exhibit in the Display Space, and to remove the Exhibitor's exhibit from the Display Space, during the period from the start of the installation period for exhibits set out in the General Information (**Installation Period**) until the end of the removal period for exhibits set out in the General Information (**Removal Period**). The Exhibitor is not permitted to allow any other person or entity to display or advertise goods or services in the Display Space without our prior written approval (which approval may be subject to conditions including an additional application fee).
- 2.2 We reserve the right to change the size, shape, position or other characteristics of the Display Space at any time. If the Exhibitor does not agree to our changes, the Exhibitor can terminate this agreement under section 9.1 and may be entitled to a refund under section 9.4. If we change the Display Space and the applicable fees (determined in accordance with the General Information) would be lower than the Display Space Fee the Exhibitor has paid or is due to pay, then the lower fees will apply and we will refund any overpayment to the Exhibitor. If we change the Display Space and the applicable fees (calculated in accordance with the General Information) would be higher than the Display Space Fee the Exhibitor has paid or is due to pay, then the higher fees will apply only if the changes were made at the request of the Exhibitor or the Exhibitor agrees to pay the higher fees.

3. Fees

- 3.1 All fees exclude GST. Where GST is payable by an entity in relation to a supply that it makes under or in connection with this agreement, and the consideration for that supply excludes GST, the party providing the consideration will pay an additional amount equal to the GST when any part of the consideration is first payable. All fees must be paid in Australian dollars, and (unless we require payment by a particular method) may be paid by credit card or electronic funds transfer. If the Exhibitor does not pay fees by the due date, we may charge the Exhibitor a late payment fee (if any) as set out in the General Information. Except as set out in sections 2.2 and 9.4, fees paid by the Exhibitor are not refundable.
- 3.2 The Exhibitor is not permitted to access the Display Space while there are any fees outstanding under this agreement. If the Exhibitor accesses the Display Space while there are fees outstanding, we may require the Exhibitor to immediately leave the Site and to remove its property from the Site, and if the Exhibitor fails to do so within a reasonable time, we may remove the Exhibitor's property from the Site at the Exhibitor's expense.

4. Insurance

- 4.1 The Exhibitor is solely responsible for its property and ensuring that its property is adequately secured and insured while on the Site. We accept no liability for loss or damage to the Exhibitor's property, including loss or damage resulting from storms, fire, flooding, vandalism, theft or any other cause whatsoever. The Exhibitor must have public liability insurance of at least \$20 million covering liability for injury, death or loss of or damage to property that arises in connection with any part of the Display Space, and provide us with evidence of the insurance on request. The Exhibitor must have workers' compensation insurance as required by law.

5. Entry to Exhibitions, installation and removal of exhibits and Exhibitor obligations

- 5.1 Entry to the Site is subject to any Conditions of Entry for Sanctuary Cove Resort, as notified to the Exhibitor from time to time. The Exhibitor must comply, and ensure that its Personnel comply, with any Conditions of Entry. We reserve the right to refuse entry to, or remove from, the Site, any person on any reasonable grounds that we determine.
- 5.2 We will issue the Exhibitor with the number of exhibitor passes determined in accordance with the General Information once the Exhibitor has paid all fees in full. During the Installation Period and Removal Period, we may refuse entry to the Site to any person who does not have an exhibitor pass. During the period of the Exhibition set out in the General Information (**Exhibition Period**), each exhibitor pass permits one person to enter the Site once per day. We may confiscate exhibitor passes that are not used in accordance with this agreement.
- 5.3 The Exhibitor must, at its own expense and risk, deliver, install, construct and prepare its exhibit in the Display Space during the Installation Period, and dismantle and remove its exhibit from the Site during the Removal Period. We will not accept responsibility for the delivery or storage of any property on behalf of the Exhibitor.
- 5.4 If the Exhibitor has an open-area display, it must submit a plan of the layout and construction of its proposed display to us no later than 60 days before the start of the Exhibition Period and must not put in place any part of its proposed display unless and until we have approved it. If the Display Space is on the Sanctuary Cove Resort marina, then prior to the Installation Period we will notify the Exhibitor of the schedule for the delivery and removal of boats. The Exhibitor must comply with this schedule. If the Exhibitor fails to comply with the schedule, it may not be able to access its allocated marina berth.
- 5.5 The Exhibitor must comply with our schedule if it requires a crane, forklift or other machine to install or remove its exhibit. Exhibitors who cause delays to the Exhibition timetable or obstruct any other exhibitors may be required to pay for any charges relating to additional labour, overtime or equipment hire that we deem necessary. Only cranes, forklifts and other machinery booked through our official logistics contractor will be permitted onto the Site for installing and removing exhibits. Cranes may only be used at times approved by us.
- 5.6 The Exhibitor must ensure that:
 - (a) during the installation and removal of its exhibit, it has a representative available at the Site at all times and keeps all the stands, gangways and thoroughfares in the Site clear and tidy;
 - (b) its vehicles only use the authorised routes within the Site;
 - (c) its use of the Display Space complies with any display regulations published on the Website (**Display Regulations**);
 - (d) it promptly notifies us of any accident on the Site, or any defect to the water, electrical fittings or other services on, from or to the Display Space; and
 - (e) it does not damage the Site (including surfaces and landscaping) or any property belonging to us, our Personnel or our tenants or licensees, and at the end of the Removal Period it leaves the Display Space clean and in substantially the same condition as it was in at the start of the Installation Period;
 - (f) it and its Personnel comply with all applicable laws, regulations and ordinances in connection with its use of the Display Space and participation in the Exhibition, including the Transport Operations (Marine Safety) Act 1994 and relevant fire and occupation, health and safety laws and regulations; and
 - (g) it and its Personnel comply with all reasonable directions given by us (including directions to help stop the spread of COVID-19).
- 5.7 The Exhibitor may be asked to complete a goods removal form which will be issued to the Exhibitor prior to the opening of the Exhibition. The Exhibitor must not begin to dismantle or remove its exhibit before the start of the Removal Period. Any part of the Exhibitor's exhibit which is not removed from the Site by the end of the Removal Period will be deemed forfeited to us without compensation or liability for damage or loss of any kind.
- 5.8 If the Exhibitor wishes to host a social function on the Site outside the Exhibition opening hours, it may apply in writing giving us full details of the proposed function, not less than 30 days before the start of the Exhibition Period. We reserve the right to refuse such a request at our discretion.
- 5.9 The Exhibitor must not conduct a transport service carrying visitors to and from the Exhibition without our prior written approval. The Exhibitor must apply in writing for such approval not less than 30 days before the Exhibition Period.

- 5.10 Without limiting our other rights, we may require the Exhibitor to make changes or remove any part of an exhibit which does not comply with this agreement or where we have other reasonable grounds, and the Exhibitor must promptly comply with this request.

6. Changes to the Exhibition

At our discretion we may cancel all or any part of the Exhibition, postpone the Exhibition or make changes to the format, timing, location or other aspects of all or any part of the Exhibition (including due to COVID-19) by notifying the Exhibitor. If the Exhibitor is not satisfied with a change to the Exhibition, the Exhibitor can terminate this agreement under section 9.1 and may be entitled to a refund under section 9.4. If we cancel the Exhibition, this agreement will automatically terminate.

7. Exhibition Materials

We reserve exclusive broadcast rights, photographic rights, and audio and video rights relating to the Exhibition. The Exhibitor and its Personnel must not make or permit to be made any broadcast, photograph or audio or audio visual recording of the Exhibition (**Exhibition Material**) without our prior written consent. If the Exhibitor breaches this section then, without limiting our rights, to the extent the Exhibitor owns intellectual property rights in any Exhibition Material, the Exhibitor assigns those rights to us, and, to the extent a person other than the Exhibitor owns intellectual property rights in any Exhibition Material, the Exhibitor will obtain an assignment of intellectual property rights from that person to us in a form acceptable to us.

8. Liability

- 8.1 To the extent permitted by law, all consumer guarantees and implied conditions and warranties are excluded from this agreement. Without limiting the foregoing, we do not represent or warrant that we will undertake any particular level of advertising or promotion of the Exhibition, the Exhibition will attract any particular number of exhibitors or visitors or the Exhibitor will achieve any particular results or outcomes by participating in the Exhibition.
- 8.2 For breach of a consumer guarantee or implied condition or warranty which cannot be excluded, at our option, to the extent permitted by law, our liability is limited to: for goods, the replacement of the goods or the supply of equivalent goods, the repair of the goods, the payment of the cost of replacing the goods or of acquiring equivalent goods, or the payment of the cost of having the goods repaired; and for services, the supplying of the services again or the payment of the cost of having the services supplied again.
- 8.3 To the extent permitted by law, we will not be liable for any loss of profit, savings, contracts, revenue, interest or goodwill or for any consequential, indirect, incidental, special or punitive loss, damage or expenses or loss of data or for any amounts payable by the Exhibitor to any third party, even if we have been advised of their possible existence. Subject to section 8.4, our liability, other than that addressed in section 8.2, in relation to this agreement, howsoever caused, including negligence, is limited to the amount of fees paid by the Exhibitor under this agreement (after taking into account any refunds paid by us to the Exhibitor).
- 8.4 We will not be liable to the Exhibitor in respect of any claim whatsoever arising under this agreement or relating to the Exhibition, unless such a claim is made in writing to us within 30 days after the end of the Exhibition Period.
- 8.5 The Exhibitor indemnifies us and our Personnel, and our related companies and their Personnel, (**Those Indemnified**) against claims, liabilities, losses, damages, costs and expenses made against, or suffered or incurred by, Those Indemnified as a result of the Exhibitor's participation in the Exhibition, a breach of this agreement, or negligence relevant to this agreement, by the Exhibitor, or any claim against Those Indemnified by the Exhibitor's sublicensees or Personnel (including relating to any infection with COVID-19). In conducting a claim, suit or action in respect of which the Exhibitor indemnifies Those Indemnified, the Exhibitor will, at the Exhibitor's expense, comply with our reasonable directions.

9. Termination

- 9.1 The Exhibitor may terminate this agreement at any time by notifying us. We may terminate this agreement or restrict or suspend the Exhibitor's use of the Display Space if the Exhibitor breaches any term of this agreement, any information supplied to us by the Exhibitor is false or misleading or we reasonably consider the Exhibitor's exhibit to be unsuitable or of an inadequate standard.
- 9.2 Termination or expiry of this agreement does not affect the operation of sections 7, 8, 9.3, 9.4 and this section 9.2, or any rights or remedies already accrued to either party under, or in respect of any breach of, this agreement. If this agreement is terminated during the Exhibition Period, the Exhibitor must comply, and ensure its Personnel comply, with any directions from us about the immediate removal of the Exhibitor's exhibit from the Site. If no directions are given by us, section 5 as it relates to the removal of the exhibit from the Site during the Removal Period will apply despite the termination of this agreement.

- 9.3 If the Exhibitor terminates this agreement under section 9.1 before the final payment date set out in the General Information, we will refund all fees paid by the Exhibitor (except the application fee and after we deduct the cancellation fee (if any) set out in the General Information) if we are able to license the Display Space to another exhibitor on terms reasonably acceptable to us.
- 9.4 We will refund all fees paid by the Exhibitor (except the application fee) if:
- (a) the Exhibitor terminates this agreement under section 9.1 within 7 days after we notify the Exhibitor of a material change to this agreement, the Display Space or the Exhibition due to circumstances within our reasonable control and the change is adverse to the Exhibitor; or
 - (b) we cancel the Exhibition under section 6 due to circumstances within our reasonable control.

10. General

- 10.1 We may change the terms of this agreement at any time at our absolute discretion and will notify the Exhibitor of relevant changes. If the Exhibitor is not satisfied with a change to this agreement, the Exhibitor can terminate this agreement under section 9.1 and may be entitled to a refund under section 9.4.
- 10.2 Where this agreement requires or permits us to notify the Exhibitor, we will use our reasonable endeavours to do so, but we will not be liable for any failure to do so. We may notify the Exhibitor in any way including by making the information available on the Website or by contacting the Exhibitor directly by any means (including telephone, mail or email).
- 10.3 To the extent of any inconsistency between this agreement, the General Information, the Display Regulations, our offer to the Exhibitor under section 1.2 or the Exhibitor's application, the document listed earlier in this section prevails.
- 10.4 We will not be liable for any delay or failure to perform this agreement where such delay or failure was caused by circumstances beyond our reasonable control (including fire, flood, earthquake, storm, war, terrorism, government regulation, strike, civil disturbance, infectious disease or pandemic).
- 10.5 In this agreement, **Personnel** of a person means that person's directors, officers, employees, agents, contractors, sub-licensees and their respective Personnel; "person" includes an individual, a corporation, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust; and the word "includes" in any form is not a word of limitation.
- 10.6 The Exhibitor is responsible for the acts or omissions of its Personnel as if they were the acts or omissions of the Exhibitor. The Exhibitor may not assign, transfer or otherwise deal with its rights under this agreement without our prior written consent. If any term of this agreement is held unenforceable or illegal for any reason, the agreement will remain otherwise in full force apart from that provision. The laws of Queensland govern this agreement and the Exhibitor submits to the jurisdiction of the courts of Queensland in any action or legal process concerning this agreement. We may exercise our rights at any time within the limits of the law. If we delay in exercising our rights, this does not mean we give up those rights.