

# SPORTS PARK CASUAL BOOKING GENERAL TERMS AND CONDITIONS

Please ensure you have fully read and understood the following Terms and Conditions. These are your responsibilities as the Hirer when booking a Christchurch City Council Sports Park for casual hire.

By confirming your booking you agree to adhere to these terms and conditions as follows:

## 1. DEFINITIONS/INTERPRETATION

### 1.1 Unless the context otherwise requires:

“**Activity**” means the activity for which the Sports Park is hired as described in the Specific Terms;

“**Agreement**” means the Sports Park Hire Agreement, including the Site Plan, Specific Terms, Terms and Conditions and any schedules;

“**Areas**” means those areas within the Sports Park or any area surrounding or adjacent to the Sports Park to be hired or used by the Hirer either exclusively or in common with others, as detailed in the Site Plan;

“**Bond**” means the bond payment (if any) detailed in the Specific Terms required by the Council in terms of clauses 8.1-8.3 of the Terms and Conditions;

“**Council**” means the Christchurch City Council and its employees, agents, consultants and contractors and references to **we** or **us** is a reference to the Council;

“**Hire Period**” means that period during which the Hirer will hire the Sports Park as specified in the Specific Terms;

“**Hirer**” means the person named as Hirer in the Sports Park Hire Agreement and also referred to as “you” in these Terms and Conditions;

“**Other Charges**” means the charges payable by the Hirer in addition to the Sports Park Hire Fee and Services Fee;

“**Rules of Use**” means the Sports field user guidelines pertaining to the use of the Council’s Sports Parks available at [www.ccc.govt.nz/rec-and-sport/sports-grounds/sports-field-guidelines.co.nz](http://www.ccc.govt.nz/rec-and-sport/sports-grounds/sports-field-guidelines.co.nz)

“**Services**” includes services (if any) to be provided by the Council as detailed in the Specific Terms or as otherwise agreed between the parties;

“**Services Fee**” means the fee to be paid by the Hirer for the Services;

“**Specific Terms**” means that part of the Sports Park Hire Agreement referred to as ‘Specific Terms’ setting out the terms for each hire of the Sports Park for an Activity and will include a payment schedule and the Services;

“**Sports Parks**” means all sports parks managed and maintained by the Council which are available for hire;

“**Sports Park/Sports Field/Space/Area**” means the location specified in the Specific Terms and includes the Areas;

“**Sports Park Hire Agreement**” means the Agreement;

“**Sports Park Hire Fee**” means the fee to be paid by the Hirer to hire the Sports Park as detailed in the Sports Park Hire Agreement;

“**Site Plan**” means the plan of the Sports Park and Areas (if applicable) outlining the area of the Sports Park being hired; and

“**Terms and Conditions**” means these General Terms and Conditions;

“**Working Day**” means any day other than a Saturday, Sunday, or a public holiday applying in the city where the Sports Park is located.

## 2. APPLICATION OF AGREEMENT

**2.1 Agreement:** The Agreement is between the Hirer and the Council and applies to your access to, and your use of Sports Parks.

**2.2 Changes to Agreement:** We may need to make changes to the Agreement or the Rules of Use from time to time. We will give you notice of any changes by e-mail, text, social media or by notification within our Sports Parks. Where we reasonably believe that a change will be detrimental to you (unless that change is required by law) we will offer you the right to cancel the Agreement.

### 3. THE ACTIVITY AND HIRE OF THE SPORTS PARK

- 3.1 Activity Description:** The Hirer warrants and agrees that the Activity is accurately described in the Agreement. Should the Hirer wish to change any details about the Activity, this will be subject to the Council's prior consent and the Council may impose further charges, terms, and/or conditions before accepting any proposed changes.
- 3.2 Hire of Sports Park:** The Council agrees to allow the Hirer to use the Sports Park for the Activity during the Hire Period in accordance with the terms of the Agreement.
- 3.3 Performance Standard:** Without limiting clause 3.1 the Hirer warrants and agrees that the Sports Park will not be used for any performance or activity that is of an objectionable nature, is in breach of reasonable standards of public decency, or is likely to create a nuisance (also see clause 10). If there is any likelihood of objectionable content of any kind then the Hirer must disclose this to the Council as soon as practicable after becoming aware of this, in which case clause 15.1.2 may apply.

### 4. BOOKING CONFIRMATION AND POLICY

- 4.1 Confirmation:** No booking for hire of Sports Parks is confirmed until an Agreement has been fully executed and the Sports Park Hire Fee, Services Fee and Other Charges are paid by the Hirer (as applicable).
- 4.2 Sports Park Booking Policy:** Until a booking is confirmed in accordance with clause 4.1, Sports Parks will be deemed to be available for hire.
- 4.3 Method of Booking:** A booking for the hire of Sports Parks can be made via <https://ccc.govt.nz/rec-and-sport/sports-grounds/sports-field-bookings>.

### 5. SPORTS PARK HIRE FEE

- 5.1 Sports Park Hire Only:** The Sports Park Hire Fee covers the hire of a Sports Park only. Any Services provided by the Council will be included in the Services Fee, to be paid in addition to the Sports Park Hire Fee.
- 5.2 Payment:** The Hirer will pay the Council the Sports Park Hire Fee for the hire of the Sports Park.
- 5.3 Balance:** The Sports Park Hire Fee is to be paid by the Hirer in accordance with the payment schedule in the Specific Terms, or where there is no payment schedule or payment dates are not specified in the Specific Terms, the Hirer will pay the Sports Park Hire Fee 10 days prior to commencement of the Hire Period.

### 6. SERVICES AND SERVICE FEE

- 6.1 Services:** The Council will provide the Hirer with the Services in accordance with the provisions of the Agreement.
- 6.2 Services Fee:** The Hirer will pay the Council the Services Fee for the provision of the Services.
- 6.3 Payment:** The Hirer will pay the Services Fee in accordance with the payment schedule in the Specific Terms. Where there is no payment schedule in the Specific Terms, then the Hirer will pay an estimated Services Fee 10 days prior to the commencement date of the Hire Period (such estimated Services Fee to be reasonably determined by the Council in its sole discretion). As soon as reasonably practicable after the end date for the Hire Period, the Council will provide you with a tax invoice for the actual Services Fee. Where the amount of the Services Fee is greater than the estimated Services Fee, the Hirer will pay the balance to the Council within 10 working days of date of invoice. Where the Services Fee is less than the estimated Services Fee a refund of the difference will be paid as soon as reasonably practicable after the end date of the Hire Period.

### 7. OTHER CHARGES

- 7.1 Other Charges:** In addition to the Sports Park Hire Fee and the Services Fee, the Hirer will be charged for any:
- 7.1.1** Damage to the Sports Park or theft of any of the Council's property from the Sports Park during the Hire Period caused by the Hirer, its employees, contractors, agents or invitees or arising from the Hirer's lack of care or any other breach of these Terms and Conditions. The Hirer may inspect the Sports Park with the Council prior to the Commencement Date of the Hire Period to take note of any existing damage;
- 7.1.2** Extra cleaning, rubbish removal, repair or reinstatement of the Sports Park that the Council reasonably considers is required after the Activity;

- 7.1.3 Services provided by the Council in addition to the Services that you require or use or which the Council considers necessary for the safe and efficient conducting of the Activity;
- 7.1.4 Costs, expenses or losses incurred by the Council as a result of a breach or nonobservance of these Terms and Conditions by the Hirer, its employees, contractors, agents or invitees including where the Council exercises its right of cancellation pursuant to clause 15.1.

## 8. BONDS

- 8.1 **Bond Payment:** The Council may require a Bond to be paid to ensure the due and proper performance by the Hirer of its obligations under the Agreement. The Hirer agrees to pay the Council a Bond of an amount and on the date specified in the Specific Terms.
- 8.2 **Return of Bond:** Where the Hirer has properly complied with all its obligations under the Agreement, then within a reasonable time following the conclusion of the Activity and the Hire Period, the Council will refund the Bond to the Hirer.
- 8.3 **Retention of Bond:** Where in the reasonable opinion of the Council the Hirer has not properly complied with its obligations under the Agreement the Council will notify the Hirer of any amounts to be deducted from the Bond to meet any additional charges incurred or loss suffered by the Council as a result of the Hirer's non-compliance with any of the Hirer's obligations under the Agreement. The Council will be entitled to make any deductions from the Bond in accordance with this clause and will refund the balance (if any) to the Hirer within a reasonable time following the conclusion of the Activity.

## 9. OVERDUE AND UNPAID AMOUNTS

- 9.1 **Payment by Due Date:** The Hirer must pay all amounts due under the Agreement.
- 9.2 **Recovery Costs:** The Council may recover from the Hirer, all costs and expenses (including debt collection fees and legal fees) the Council incurs trying to recover any overdue amount under the Agreement from the Hirer.

## 10. USE AND CARE OF THE SPORTS PARK

- 10.1 **Restrictive Use:** Without limiting clause 3.1 the Hirer may only use the Sports Park to stage the Activity as described in the Agreement and approved by the Council.
- 10.2 **Proper Conduct:** During the Hire Period the Hirer shall conduct and manage its use of the Sports Park in an orderly and lawful manner, and shall remain responsible for the conduct of its employees, contractors, agents and invitees and shall ensure that none of them behave in any riotous, offensive or disorderly manner (including drunken behavior) or in such a manner that is likely to cause danger or annoyance to other members of the public, the Council or damage the reputation of the Sports Park or the Council. The Hirer acknowledges that the Council may reject or refuse admission to any person who fails to behave in accordance with the standards required by this clause, in which case the Hirer indemnifies the Council to the fullest extent permitted by law for any claims that may be made against the Council as a result of such action.
- 10.3 **Licenses, Permits, Consents, and Authority:** The Hirer must at the Hirer's expense obtain all licenses, permits, and consents that may be required for the Activity and the Hirer will provide the Council with copies of these documents pursuant to clause 11.1. In addition, the Hirer will obtain the relevant authorisation in relation to the use of any third party intellectual property and will not use the Sports Park for the public performance of any literary, dramatic, musical, or other work or entertainment in breach of copyright.
- 10.4 **Compliance with Laws and Council's Directions:** During the Hire Period, the Hirer shall ensure that its employees, contractors, agents and invitees comply with all applicable statutes, bylaws and rules of conduct for the Activity and the Sports Park and any directions of the Council and that they do not do or omit to do anything that may cause the Hirer to be in breach of the Hirer's obligations under this Agreement. The Hirer shall also take all steps required of the Hirer to comply with the requirements of and preserve the continuity of all licenses held in relation to the Sports Park.
- 10.5 **Reasonable Care Required:** During the Hire Period, the Hirer shall ensure that all reasonable care is taken in the use and occupation of the Sports Park so that, with the exception of fair wear and tear, the Sports Park will be left in the same condition upon completion of the Hire Period, as it was at the commencement. In this regard the Hirer shall not permanently mark, paint, drill or otherwise deface any part of the Sports Park or make any alteration to the Sports Park without the prior written consent of the Council.

- 10.6 Notification of damage:** The Hirer must immediately notify the council of any damage to the Sports Park during the Hire Period. If damage does occur it is essential that the Hirer make detailed notes and take photographs of the damage.
- 10.7 Prohibited Goods/Activities:** During the Hire Period the Hirer must ensure that:
- 10.7.1 Dangerous goods:** Neither the Hirer nor any of its employees, invitees, contractors or agents bring to or into the Sports Park any firearms, explosives, flammable liquids or other hazardous or dangerous substances (including dry ice, smoke machines, fireworks or pyrotechnics) which may cause damage or pose a health and safety risk, except with the prior written consent of the Council and then only in accordance with the conditions of that consent. Notwithstanding any such consent, the Hirer will indemnify the Council to the fullest extent permitted by law in respect of any liability or expense it incurs as a result of any damage;
- 10.7.2 Prohibited Goods:** the Hirer will not, nor allow or permit any person to;
- 10.7.2.1 bring any vehicle of any kind onto the Sports Park without prior approval of the Council;  
or
- 10.7.2.2 bring glass bottles onto the Sports Park without prior approval of the Council.
- 10.7.3 Illegal Use:** The Hirer will not, nor allow or permit any person to, use the Sports Park in any noisy, noxious, illegal or offensive manner or for any illegal purpose.
- 10.8 No Smoking:** The Sports Park is a strictly 'no smoking' Sports Park (including electronic cigarettes or any other artificial cigarettes or smoking devices) and the Hirer must strictly adhere to and enforce this policy and the requirements of the Smoke Free Environments Amendment Act 2003 and amendments at all times.
- 10.9 Electrical Use and Installation:** The Hirer:
- 10.9.1** Must not bring or permit any electrical devices to be brought into the Sports Park unless suitable evidence is first provided to the Council that such device has been inspected by a suitably qualified electrician or trained person and complies with New Zealand standards. Further the Hirer shall not connect any electrical installation or equipment or fitting to the electricity supply of the Sports Park without obtaining the prior approval of the Council to such connection or installation and provided always that such installation or connections approved by the Council is carried out by a suitably qualified and certificated person as required by current New Zealand legislation at the Hirer's cost. Any equipment not tagged as being tested is not permitted at the Sports Park;
- 10.9.2** will be liable for any costs or damages that arise out of the use of electrical devices or any electrical installation or connection that has not been approved and inspected in accordance with this Agreement, and to the fullest extent permitted by law the Hirer will indemnify the Council in respect of any liability or expense either incurs as a result of the Hirer failing to comply with this clause 10.9.
- 10.10 Temporary Structures:** The Hirer shall not construct or erect any rigging, scaffolding or other temporary structure in the Sports Park without obtaining the prior approval of the Council. It shall be a condition of any such approval that such work be carried out by a suitably competent or qualified person.
- 10.11 Repairs and Reinstatement:** Upon completion of the Hire Period the Hirer shall leave the Sports Park in the same condition as it was on the Commencement Date of the Hire Period and in a clean and tidy condition. In particular, but without limitation, the Hirer must ensure that:
- 10.11.1** All rubbish and garbage is removed from the Sports Park and that any rubbish bins or containers are left in a tidy condition; and
- 10.11.2** All of the Hirer's items and equipment brought into the Sports Park are removed from the Sports Park by the end of the Hire Period or by prior written arrangement with the Council.

The cost of any repairs and additional cleaning required by the Council to reinstate the Sports Park to such clean and tidy condition will be charged to the Hirer in addition to the Sports Park Hire Fee, Services Fee and Other Charges (as applicable).

## 11. INFORMATION REQUIRED FROM HIRER AND CONSEQUENCES OF NON-SUPPLY

- 11.1 Information Requirements:** If required by the Council, the Hirer will no later than 10 Working Days prior to the commencement of the Hire Period provide to the Council in writing, and to the level and detail required by the Council, the Activity and Sports Park set up requirements and responsibilities requested for the Activity, based at a minimum on the following information:
- 11.1.1 the Hirer's health and safety plan for the Activity and any other information required by the Council under clause 14.3.3;
  - 11.1.2 Sports Park layout;
  - 11.1.3 Activity programme/timetable including all breaks/meals requirements (noting that the Council has the right to play a pre-recorded emergency and evacuation audio message prior to commencement of the Activity and may require or play other health and safety announcements as considered necessary for the Activity or the Sports Park from time to time (acting reasonably));
  - 11.1.4 equipment and technical requirements;
  - 11.1.5 equipment being brought to the Sports Park, subject to clauses 10.7.1, 10.7.2, 10.9 and 10.10;
  - 11.1.6 all requirements as to the Services to be provided by the Council;
  - 11.1.7 a copy of all licenses, permits and consents required for the Activity (see clause 10.3); and
  - 11.1.8 proof of public liability cover and evidence that all premiums due are fully paid as required by clause 17.
- 11.2 Consequences of Information not being supplied:** The Hirer will not be permitted to access the Sports Park during the Hire Period until such time as clause 11.1 has been complied with to the Council's satisfaction in all respects, time being of the essence. Without limiting any other rights it may have under this Agreement the Council may charge the Hirer additional costs if additional or further administrative time or other arrangements are incurred due to the Hirer's failure to comply with clause 11.1.
- 11.3 Removal/Storage:** Unless it is agreed in advance that pack down services will be provided by the Council, all equipment and supplies relating to the Activity must be removed at the end of the Hire Period. The Council may dispose of any equipment and supplies that have not been removed within a reasonable time after the Hire Period (provided that the Council has given reasonable written notice to the Hirer to remove such equipment and supplies) and apply any proceeds to discharge the costs of disposal and/ or any money owing to the Council. The Council accepts no responsibility for equipment left in the Sports Park by the Hirer.

## 12. SERVICES

- 12.1 Services Offered:** In addition to providing the Sports Park the Council is able to provide the Services.

## 13. CATERING (FOOD AND BEVERAGE)

- 13.1 Alcohol:** If alcohol is supplied or sold during the Activity, the Hirer must comply with all conditions and requirements of any applicable liquor licence and obtain any additional licenses that may be required for the Activity. The Council may close any bar and/or cease any supply of alcohol if it considers that a breach of the Sale and Supply of Alcohol Act 2012 or any other legislation, regulation, licence, permit or consent is likely or it is otherwise concerned as to the safety of any person or the security of the Sports Park or any other property.
- 13.2 Food:** If food is supplied or sold during the Activity, the Hirer must comply with all relevant conditions and requirements of the Council and/or any other regulatory authority and/or pursuant to the Food Act 2014 that may be required for the Activity. The Council may close any food service area and/or cease any supply of food if we consider that a breach of the Food Act 2014 or any other legislation, regulation, licence, permit or consent is likely or it is otherwise concerned as to the safety of any person or the security of the Sports Park or any other property.

## 14. HEALTH AND SAFETY

- 14.1 Compliance:** The Hirer will comply at all times with the Council's health and safety policies and procedures for the Sports Park as advised to the Hirer from time to time and the requirements of the Health and Safety at Work Act 2015 (and any amendments). In particular, the Hirer will:
- 14.1.1 not obstruct or interfere with any Sports Park signage, wayfinding signage, walk ways, entrances, exits, or common areas; and

- 14.1.2 not park any vehicle or moving plant in any place including any car parking area forming part of the common areas other than those designated by the Council (if any). If the Council becomes aware of any vehicle or moving plant parked in breach of this sub clause it may immediately and without notice have the vehicle towed away or the moving plant removed and the cost of removal and recovery will be paid by the Hirer; and
- 14.1.3 be prepared for an emergency evacuation, evacuate the Sports Park if there is a fire or other emergency and direct all persons to assembly areas, keep fire and emergency exit areas clear from obstruction at all times, provide first aid facilities during the Hire Period, and provide a cell phone for emergency purposes.
- 14.2 **Notification:** The Hirer will immediately notify the Council of any risk or hazards which the Hirer observes or becomes aware of at the Sports Park and/or any near miss, notifiable event, incident, injury, illness, or accident it becomes aware of at the Sports Park whether or not the same involves any equipment or any of the Council's employees. The Hirer will provide the Council with such assistance as may be necessary to conduct any health and safety review or investigation.
- 14.3 **Hirer Responsibility:** The Hirer will:
  - 14.3.1 consult, cooperate and coordinate activities and facilitate engagement with the Council and any other persons (including without limitation all other hirers, users, suppliers, service providers, and contractors to the Sports Park) to the extent that the parties have overlapping duties in relation to health and safety, including in relation to ticket holders, its employees, contractors, agents or invitees to the Sports Park; and
  - 14.3.2 ensure that during the Hire Period it, its employees, contractors, agents or invitees of the Hirer working or otherwise at the Sports Park during the Hire Period, acts in accordance with and at all times complies with:
    - i. the Council's Rules of Use and policies and procedures regarding health and safety including but not limited to evacuation procedures, maximum number of persons at the Sports Park, no smoking policy, etc; and
    - ii. all of the Council's directions; and
  - 14.3.3 without limiting anything else in this clause 14 or in clause 11.1.1, provide its health and safety policy and a detailed health and safety plan for the Activity (including all Activity risk assessments) that is acceptable to the Council in all respects as soon as possible after the Agreement is signed and in any event no later than 10 Working Days prior to the commencement of the Hire Period. The Hirer will not be permitted to access the Sports Park during the Hire Period until such time as this clause 14.3.3 has been complied with to the Council's satisfaction and clause 15.1.1 may apply.

## 15. CANCELLATION

- 15.1 **Cancellation by Council:** The Council may cancel the Hirer's booking and terminate the Agreement by immediate notice in writing to the Hirer if-
  - 15.1.1 the Hirer has not complied with clause 11.1; or
  - 15.1.2 the Hirer has not complied with either clause 3.1 or 3.3, or new information about the Activity supplied to the Council is not acceptable to the Council; or
  - 15.1.3 the Council considers that the staging of the Activity or the nature of the Activity will, or might contravene any statute, order, regulation, rule of law or any other requirement of a public or local authority or otherwise be in breach of reasonable standards of public decency; or
  - 15.1.4 the Council reasonably considers that the management control of the Activity by the Hirer is deficient or inadequate and/or the behaviour of the guests or attendees of the Activity is such that it would lead to danger or injury to any person or material damage to any property, including the Sports Park itself; or
  - 15.1.5 the Hirer fails to pay any sum of money payable to the Council pursuant to the Agreement, on the due date for payment; or
  - 15.1.6 the Hirer is in default in the observance or performance of any of its obligations under the Agreement; or

**15.1.7** any secured creditor of the Hirer goes into possession of any business or undertaking of the Hirer either by itself or by any agent or any receiver is appointed over any business or undertaking of the Hirer, if the Hirer (being a natural person) has an order of bankruptcy made against him or her, if an application for the liquidation of the Hirer (being a company) is made or if a resolution is passed by the creditors or members of the Hirer (being a corporation) resolving or requiring that the Hirer be put into liquidation; or

**15.1.8** If the Hirer enters into any arrangement, composition or assignment under the Insolvency Act or becomes unable to pay debts as they fall due, and the Hirer will immediately remove all the Hirer's property, vacate the Sports Park and immediately deliver to the Council all property belonging to the Council. The Hirer will have no entitlement to claim compensation or damages from the Council on account of any inconvenience or loss to the Hirer as a result of termination under clause 15.1.

**15.2** Termination pursuant to clause 15.1 shall be without prejudice to the Council's right to recover the Sports Park Hire Fee and other money payable by the Hirer under the Agreement and the rights of either party against the other in respect of an earlier breach of any of the provisions contained or implied in the Agreement.

## **16. CLOSURE OF SPORTS PARKS**

**16.1 Closure:** From time to time, we may have to or choose to close parts of or all of our Sports Parks for repairs, general maintenance, refurbishment, health and safety emergencies (including any changes relating to Covid-19 alert levels) or official national or Council events. In the event of a closure, at the Council's discretion we will endeavor to provide alternative Sports Parks or provide a refund to the Hirer for the Sports Park Hire Fee, Services Fee and Other Charges (as applicable).

## **17. INSURANCE**

**17.1 Public Liability Insurance:** The Hirer must maintain and keep in force during the Hire Period, adequate public liability insurance cover providing indemnity against loss, damage, costs and expenses for which the Hirer may become liable under the Agreement.

**17.2 Policy:** The public liability policy will be with an insurer acceptable to the Council and on terms acceptable to the Council and shall have a minimum policy limit of \$2,000,000 (two million dollars) for any one occurrence but be unlimited in aggregate unless agreed otherwise and specified in the Specific Terms. The Hirer will upon request provide the Council with proof of public liability cover and evidence that all premiums due are fully

## **18. LIABILITY AND INDEMNITY**

**18.1 Indemnity:** To the fullest extent permitted by law the Hirer indemnifies the Council from and against all claims, damages, liabilities, costs, fines, levies, penalties, losses and expenses (including legal fees on a solicitor and client basis) however arising out of any breach of the Hirer's obligations under the Agreement or the termination of the Agreement, including without limitation any claim, loss or damage caused or contributed to by the Hirer or any of its employees, contractors, agents or invitees to the Sports Park or any property or facilities located or stored in the Sports Park.

**18.2 Hirer's Property:** The Hirer acknowledges and agrees that the Council are not responsible for loss or damage to any of the Hirer's property in the Sports Park, except where that loss or damage is caused by the Council's negligence.

**18.3 Indirect/Consequential Loss:** The Council shall not be liable to the Hirer under contract or tort or otherwise, for any indirect or consequential loss arising under or in connection with the Agreement.

**18.4 Total Liability:** Despite anything else contained in the Agreement, the extent of the Council's total aggregate liability to the Hirer under the Agreement for any loss, damage, claim, or expense (whether due to the Council's negligence or otherwise) is limited to the amount of the Sports Park Hire Fee.

## **19. NOTICES**

**19.1 Form:** Any notice under the Agreement between the parties must be made in writing and may be personally delivered, posted or emailed to the addresses set out in the Agreement or to such other addresses as agreed between the parties.

**19.2 Delivery:** Notices will be deemed to be given:

**19.2.1** Where served personally, upon delivery;

**19.2.2** Where served by post, 5 Working Days after posting;

**19.2.3** Where served by email, upon the email being sent to the email address provided by the Hirer and the Council to the other in the Agreement.

## **20. FORCE MAJEURE**

If the Council is unable to perform or discharge its obligations under the Agreement by reason of any fire, flood, earthquake or similar catastrophic event, outbreak of state of emergency, Act of God, warlike hostilities, an Act of Parliament, regulation or direction or any strike or industrial action or epidemic (together "Force Majeure Event") which is beyond the reasonable control of the Council, then the Council's rights and obligations shall be suspended and the Council shall be relieved of its obligations during the Force Majeure Event.

## **21. INCONSISTENCY**

Where the Terms and Conditions and the Specific Terms are inconsistent, the Specific Terms will prevail to the extent of the inconsistency.

## **22. NO TENANCY RIGHTS**

Nothing in this Agreement shall create any tenancy rights in respect of the Sports Park.

## **23. NO WAIVER**

No waiver or any breach, or failure to enforce any provision of the Agreement at any time by either party shall in any way effect, limit or waive such party's right to enforce and compel strict compliance with the provisions of the Agreement.

## **24. ENTIRE AGREEMENT**

The Agreement constitutes the entire Agreement, understanding and arrangement (express or implied) between the parties and supersedes all prior and contemporaneous communications and any prior agreements between the parties regarding a subject matter of the Agreement.

## **25. ASSIGNMENT**

The Hirer shall not be entitled to directly or indirectly assign or otherwise dispose of (including by way of subcontract) any of its rights or interests in, or any of its obligations or liabilities under, or in connection with or arising out of the Agreement, except with the prior written consent of the Council, which consent may be withheld in the Council's absolute discretion.

## **26. SEVERABILITY**

If at any time any part of the Agreement is held by a court of competent jurisdiction to be unreasonable, illegal, invalid or unenforceable for any reason whatsoever, that term will be enforced to the maximum extent permissible so as to effect the parties' intent, and the remainder of the Agreement will continue in full force and effect.

## **27. RELATIONSHIP**

Nothing contained in the Agreement shall be construed as creating an employer-employee relationship, a partnership, an agency or a joint venture between the parties. Neither party shall have authority to make any statements, representations or commitments nor to take any action binding the other except as provided in the Agreement or as authorised in writing by the other.

## **28. COSTS**

Each party shall bear its own costs relating to the negotiation and preparation of the Agreement and related documentation and any issue arising out of the Agreement.

## **29. APPLICABLE LAW**

The laws of New Zealand shall govern the Agreement and both parties submit to the non-exclusive jurisdiction of the Courts of New Zealand.



### **30. GOODS & SERVICES TAX**

Where the Council is obliged to account for goods and services tax (“**GST**”) imposed under the Goods and Services Tax Act 1985 on any goods and services supplied under the Agreement, the Council will render a GST invoice to the Hirer and the Hirer will be obliged to pay GST in addition to the consideration for those good and services supplied under the Agreement at the same time as that consideration is payable.

### **31. INDEMNITIES AND EXCLUSIONS**

Each indemnity in the Agreement is a continuing obligation, separate and independent from the other obligations of the Council and the Hirer and survives termination of the Agreement. It is not necessary for the Council to incur expenses or make payment before enforcing a right of indemnity conferred by the Agreement, except that where an event occurs that may lead to the Council enforcing a right of indemnity conferred by the Agreement the Council will use reasonable endeavors to mitigate any damages, costs, loss or expenses incurred by the Council.

### **32. DISPUTE RESOLUTION**

In the event of any dispute or difference between the parties in relation to or arising out of the Agreement, then it will be determined by a single arbitrator. The arbitrator will be agreed between the parties or, failing agreement, will be appointed by the President for the time being of the Canterbury Branch of the New Zealand Law Society. The arbitration will otherwise be conducted in accordance with the Arbitration Act 1996 or any statute enacted in substitution for the time being in force.

### **33. DESPITE ANYTHING ELSE CONTAINED IN THIS AGREEMENT**

- 33.1** The Council does not warrant or represent that the Sports Park is suitable for the Activity or the Hirer’s specific purposes in holding the Activity, and the Hirer acknowledges that the Hirer has relied on its own enquiries and judgement in selecting the Sports Park and the Services and entering into the Agreement;
- 33.2** The parties agree and acknowledge that they are both in trade, and the goods and services supplied by the Council and acquired by the Hirer under the Agreement are supplied or acquired in trade, and that the provisions of the Consumer Guarantees Act 1993 will not apply to the Agreement;
- 33.3** Unless the Agreement expressly provides otherwise, to the fullest extent permissible by law all warranties, conditions or other terms implied by law are excluded; and
- 33.4** The Hirer acknowledges that the Hirer had a reasonable opportunity to review the Agreement, discuss it with the Council, and receive advice from the Hirer’s legal advisor, if the Hirer wished to do so.

### **34. PERSONAL INFORMATION**

Where the Council collects any personal information in relation to the Hirer, the Hirer authorises the:

- 34.1** collection of such personal information; and
- 34.2** use of such personal information for the purposes of enabling the Hirer to hire the Sports Park; and
- 34.3** disclosure of the personal information to such third parties as is necessary for the purposes of enabling the Council to administer and manage the hire of the Sports Park by the Hirer, including but not limited to recovery of any monies owed by the Hirer or costs incurred by the Council pursuant to the Agreement.

### **35. COUNCIL ACTING AS A TERRITORIAL AUTHORITY**

The Hirer acknowledges that:

- 35.1** The Council, in its capacity as a territorial authority, is required to carry out its statutory functions under the Resource Management Act 1991 and the Local Government Act 2002 in accordance with the provisions of those statutes.
- 35.2** The granting by the Council of any consent or approval by the Council as territorial authority under either of those Acts will not of itself be deemed to be a consent or approval by the Council under this agreement.
- 35.3** The Council is bound by statutory obligations to exercise its powers, including discretionary powers and duties under either of those Acts without regard to any relationship it may have with the Hirer under this Agreement.