

# Food Truck Vendor's Catering Agreement

Australian Mobile Food Vendors Group Pty Ltd  
ABN 19 163 764 047 ("**AMF**")

and

The party whose name appears in Item 2 of Schedule 1  
("**Food Truck Vendor**")

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**THIS AGREEMENT** is made on the date specified in Item 1 of Schedule 1 of this Agreement.

**BETWEEN**

1. **Australian Mobile Food Vendors Group Pty Ltd** ABN 19 163 764 047 of 29 – 31 Malua Street, Reservoir VIC 3073 (**AMF**)

and

2. The party named in Item 2 of Schedule 1 (**Food Truck Vendor**)

**RECITALS**

A. AMF intends conducting and managing the Event on the Event Date.

B. The Food Truck Vendor has submitted an expression of interest to AMF to conduct and operate its Food Truck Vending Business at the Event.

C. AMF has agreed to permit the Food Truck Vendor to occupy and use the Vendor Site to conduct its Food Truck Vending Business at the Event in accordance with the terms and conditions of this Agreement.

**IT IS AGREED AS FOLLOWS:**

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**1 Definition of Words and Interpretation**

**1.1 Meaning of Words**

The following definitions apply unless the context otherwise requires:

**Agreement** means this agreement and includes all annexures and Schedules.

**AMF** means the Australian Mobile Food Vendor Group Pty Ltd, AMF staff and any authorised person or persons who act on behalf of AMF.

**Cancellation Fee** means an amount payable by the Food Truck Vendor if the Food Truck Vendor cancels attending the Event.

**Daily Stock Sheet** means the daily report by the Food Truck Vendor detailing all products sold by the Food Truck Vendor at the Event.

**Default Rate** means a rate of interest of 10% per annum calculated daily.

**EFTPOS** means electronic funds transfer at point of sale facilities or system.

**Event** means the event described in item 4 of the Schedule.

**Event Date** means the period between the dates set out in Item 5 of Schedule 1, both dates inclusive.

**Fees** mean the Site Fee, the Site Service Fee, the Utility Fee, the Hire Fee and the cancellation fees and the amount by which, if any, the Turnover Fee exceeds the Site Fee.

**Food Truck** means any van, trailer, trolley or other mobile food unit that is registered with a local council or is fit to be registered under the requirements of "Mobile Food Cart Specifications" or "Mobile Food Vehicle Specifications" as provided by the local council and State government or authority within which the Venue is located.

**Food Truck Vending Business** means the business referred to in item 3 of the Schedule permitted by AMF to be conducted at the Event by the Food Truck Vendor on and from the Vendor Site.

**Food Truck Vendor** means the person named in Item 2 of Schedule 1 and, where the context permits, includes the Food Truck Vendor's Personnel and other persons claiming through or under the Food Truck Vendor.

**Food Truck Vendor's Property** means all property brought onto the Vendor Site by the Food Truck Vendor or its Personnel, including the Food Truck, fixtures, fittings, signs, equipment and goods.

**Goods and Services Tax (GST)** means any tax in the nature of a tax on, or on the supply of goods, real property, services or any other thing levied, imposed or assessed by the Commonwealth of Australia or any State or Territory of Australia or municipal authority which may operate at any time during the Term.

**Gross Sales** means the total GST inclusive sales (in dollars) of all products sold by the Food Truck Vendor at the Event, including the value of approved meal vouchers collected.

**Hire Fee** means the cost of supplying hire infrastructure set out in Item 8 of Schedule 1.

**Induction Form** means the induction form provided by AMF to the Food Truck Vendor to be completed by the Food Truck Vendor to the satisfaction of AMF and returned to AMF at least \_\_\_\_\_ days prior to the Event Date.

**Intellectual Property Rights** means all rights in the nature of intellectual and industrial property (which is to be understood in the broadest possible sense), and includes, without limitation:

- (a) inventions, discoveries and technical information;
- (b) patents;
- (c) trade and service marks;
- (d) copyright;
- (e) designs;
- (f) trade secrets;
- (g) confidential information;
- (h) domain names;
- (i) venue layouts;
- (j) business and trading names;
- (k) rights of any of the kinds mentioned in the preceding paragraphs, whether registered, registrable or not;
- (l) application and registrations for any of the kinds of rights mentioned in the preceding paragraphs; and
- (m) rights of the kind mentioned in the preceding paragraphs, irrespective of where geographically those rights may arise or subsist.

**Manager** means a person appointed by AMF to manage the Event and, where the context permits, any of the Manager's Personnel.

**Personnel** of a party means that party's employees, agents, contractors, consultants, directors and officers and any of them.

**Policies** means the AMF standards set out in Schedule 2 and any amendments to or revisions of those standards.

**Property** means the property upon which the Event is being held.

**Right of Occupancy** means the right to occupy granted by AMF to the Food Truck Vendor pursuant to clause 2.

**Schedules** mean the schedules attached to and forming part of this Agreement.

**Sign** means any and all signage exposure including any advertisement.

**Site Fee** means the amount set out in Item 6 of Schedule 1.

**Site Service Fee** means the amount set out in Item 6 of Schedule 1.

**Supplementary Stock Sheet** means an additional stock sheet detailing all products sold once the Daily Stock Sheet had been submitted to AMF.

**Tax** means a tax, levy or impost, sales tax and any other similar indirect tax or levy imposed by any Commonwealth, State or municipal authority excluding Goods and Services Tax but including any novel tax which may be introduced after the date of this Agreement.

**Term** means the period between the dates set out in item 7 of Schedule 1, both dates included.

**Turnover Fee** means the amount set out in Item 8 of Schedule 1.

**\$** means Australian dollars.

**Utility Fee** means the cost of supplying power calculated by AMF on the Food Truck Vendor's power requirements set out in Item 8 of Schedule 1 and the cost of collecting and removing sullage if required.

**Vendor Site** means the space allocated by AMF to the Food Truck Vendor to conduct its Food Truck Vending Business at the Venue.

**Venue** means the location of the Property described in item 11 of the Schedule at which the Event is held.

## **1.2 Interpretation**

In this Agreement, headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise.

- (a) The singular includes the plural and conversely.
- (b) A gender includes all genders.
- (c) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to "includes" or "including" should be construed without limitation.
- (e) A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.
- (f) A reference to a clause, Schedule or Annexure is a reference to a clause of, or a schedule or annexure to, this Agreement.
- (g) A reference to an agreement or document (including, without limitation, a reference to this Agreement) is to the agreement or document as amended, varied, supplemented, novated or replaced, except to the extent prohibited by this Agreement or that other agreement or document.
- (h) A reference to a party to this Agreement or another agreement or document includes the party's successors, permitted substitutes and assigns (and, where applicable, the party's legal personal representatives).

- (i) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (j) A reference to conduct includes an omission, statement and undertaking, whether or not in writing.
- (k) A reference to an "agreement" includes any undertaking, deed, agreement and legally enforceable arrangement whether or not in writing and a reference to a document includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind.
- (l) A reference to "writing" includes a facsimile transmission, e-mail and any means of reproducing words in a tangible and permanently visible form.
- (m) A reference to a "year" or to a "month" is to a calendar year or a calendar month respectively.
- (n) A reference to "party" is a reference to a party to this Agreement.
- (o) A promise or agreement by two or more persons binds each person individually and all those persons jointly.
- (p) Examples are descriptive only and not exhaustive.
- (q) No rule of construction applies to the disadvantage of a party only because that party was responsible for preparing this deed or a provision in this Agreement.
- (r) A reference to AMF includes the Manager and AMF's Personnel.
- (s) A reference to an "authority" means any State or local or federal government statutory or public authority or any person or body having jurisdiction over a matter offering, touching or concerning any of the terms or conditions of this Agreement.

## **2 Right of Occupancy**

AMF grants the Food Truck Vendor the right during the Term to occupy and use the Vendor Site to conduct its Food Truck Vending Business at the Event subject to the terms and conditions set out in this Agreement.

## **3 Nature of Right of Occupancy**

### **3.1 Food Truck Vendor's rights are Contractual and Personal**

The Food Truck Vendor's rights under this Agreement:

- (a) are contractual rights only and nothing in this Agreement shall be deemed to constitute the Food Truck Vendor or its Personnel as employees, servants or agents of AMF;
- (b) are personal to the Food Truck Vendor who cannot assign, license, sublicense, transfer, dispose of or otherwise deal with all or any part of its rights, benefits or obligations under this Agreement to or in favour of any other person;
- (c) are not exclusive and do not give the Food Truck Vendor any right to exclusive possession of the Vendor Site; and
- (d) do not create any tenancy or give the Food Truck Vendor any leasehold interest in the Vendor Site or any other rights except as provided for in this Agreement.

### **3.2 AMF's Rights**

AMF may, at all times, exercise all its rights including the right to possess, control and use the Vendor Site, except in so far as the exercise of those rights would prevent the Food Truck Vendor from enjoying the benefits of its Right of Occupancy.

### **3.3 Exercise of AMF Rights**

AMF may:

- (a) exercise its rights and perform its obligations under this Agreement itself;
- (b) sublicense, novate or assign some or all of its rights or obligations under this Agreement to a third party; or
- (c) permit a third party to exercise or perform some or all of its rights or its obligations under this Agreement.

### **4 What the Food Truck Vendor Must Pay**

#### **4.1 Fees**

- (a) In consideration for the Right of Occupancy granted to the Food Truck Vendor pursuant to clause 2 of this Agreement, the Food Truck Vendor shall pay Fees to AMF as provided for in this Agreement.
- (b) The Food Truck Vendor must pay to AMF the Site Fee regardless of whether the Food Truck Vendor occupies or uses the Vendor Site during the Venue.
- (c) The Site Fee and Site Service Fee is payable on the date or dates set out in Item 6 of Schedule 1.
- (d) The Turnover Fee, Utility Fee and Hire Fee is payable on the date or dates set out in item 8 of Schedule 1.
- (e) If the Turnover Fee is less than or equal to the Site Fee, the Food Truck Vendor shall pay the Site Fee plus Utility Fee, Hire Fee and Site Service Fee only.
- (f) The Food Truck Vendor must pay to AMF a cancellation fee based on:
  - (i) Cancellation at or within 14 calendar days before the Event commences.

#### **4.2 Bond**

- (a) The Food Truck Vendor must pay to AMF the Bond (if any) indicated in Item 6 of Schedule 1 by the date shown in Item 6.
  - (i) The Bond shall be refundable only if AMF is satisfied that:
  - (ii) the Vendor Site has been left in a clean and tidy state;
  - (iii) no damage has occurred;
  - (iv) the Fee has been paid in full;
  - (v) all other monies for which the Food Truck Vendor is responsible under this Agreement have been paid.

#### **4.3 Provision of Gross Sales Figures**

- (a) AMF reserves the right to provide cash registers to the Food Truck Vendor and, if provided, must at all times throughout the Term be used by the Food Truck Vendor at the Event.
- (b) If 4.3 (a) is not applicable, the Food Truck Vendor must install and make use of appropriate cash register(s) within the Vendor Site. All transactions executed throughout the Event must be recorded on the cash register(s). The cash register must produce daily reports including time, date and sequential cash register numbers (Z Read) as well as individual product sales breakdowns and daily totals.
- (c) The Food Truck Vendor must provide, with each Daily Stock Sheet, a Z read, showing details prior to opening for business and at close of business, for each cash register used at the Vendor Site.

- (d) If the Food Truck Vendor or any person acting on behalf or in association with the Food Truck Vendor sells further products after providing the Daily Stock Sheet and related Z reads from the Vendor Site, the Food Truck Vendor must provide AMF with a Supplementary Stock Sheet identifying the number and value of all further sales. Any Supplementary Stock Sheet must be provided to AMF no later than one (1) working day after the conclusion of the further Sales.
- (e) The Food Truck Vendor must complete a Daily Stock Sheet with full details of all products sold at the Vendor Site and hand the Daily Stock Sheet in to the AMF as requested.
- (f) The Daily Stock Sheet and related Z read and, where applicable, the Supplementary Stock Sheet must be certified as correct by a responsible officer of the Food Truck Vendor.

#### **4.4 AMF's Legal Costs and Stamp Duty**

Each party shall bear its own costs arising out of the negotiation, preparation and execution of this Agreement. All stamp duty (including fines, penalties and interest) which may be payable on or in connection with this Agreement and any instrument executed under this Agreement shall be borne by the Food Truck Vendor.

#### **4.5 Interest on late payments**

If the Food Truck Vendor fails to pay any amount payable by it under this Agreement by due date, the Food Truck Vendor must pay interest at the Default Rate on the unpaid amount accrued daily from the time it fell due until the amount has been paid in full.

#### **4.6 Adjustments and Errors**

If either the Food Truck Vendor or AMF proves an error in any calculation, the party in error must correct the error and any necessary adjusting payment must be made as soon as possible.

#### **4.7 GST**

- (a) In this clause, GST, Taxable Supply, Consideration, Tax Invoice, Input Tax Credit, Adjustment Note and Adjustment Venue each have the meaning given to those terms in Section 195-1 of the A New Tax System (Goods and Services Tax) Act 1999 (Cth).
- (b) The parties acknowledge that, unless expressed otherwise in this Agreement, all Consideration payable under this Agreement is expressed exclusive of GST.
- (c) If GST is payable on a Taxable Supply made under, by reference to or in connection with this Agreement by one party (Supplier) to another (Recipient), the Recipient providing Consideration for the Taxable Supply must also pay the GST payable in respect of that Taxable Supply as additional Consideration, unless the Consideration for the Taxable Supply is expressly agreed to be GST inclusive. No payment in respect of the Taxable Supply is required until the Supplier has provided a Tax Invoice or Adjustment Note, as the case may be, to the Recipient.
- (d) To the extent that any supply made under or in connection with this Agreement is a Taxable Supply, the Consideration for that Taxable Supply will be increased by an amount determined by the Supplier, not exceeding the amount of that Consideration (or its market value) multiplied by the rate at which GST is imposed in respect of the Taxable Supply. The amount so determined must be paid by the Recipient of the Taxable Supply even if the Recipient disputes the determination.
- (e) If an Adjustment Venue occurs following a determination under clause 4.7(d), the Supplier must make a further determination under clause 4.7(d) of the amount of Consideration payable and if the GST component of that Consideration differs from the amount originally determined, the amount of the difference must be paid by, refunded to or credited to the Recipient, as the case may be.
- (f) The Supplier must issue a Tax Invoice to the Recipient of a Taxable Supply to which this clause applies no later than fourteen (14) days following payment of the GST inclusive Consideration determined under clause 4.7(d).



- (g) Any reference in the calculation of Consideration or of any indemnity, reimbursement or similar amount to a cost, expense or other liability incurred by a party, must exclude the amount of any Input Tax Credit entitlement of that party in relation to the relevant cost, expense or other liability. A party will be assumed to have an entitlement to a full Input Tax Credit unless it demonstrates otherwise prior to the date on which the Consideration must be provided.
- (h) This clause will continue to apply after expiration or termination of this Agreement.

#### **4.8 Inspection of the Food Truck Vendor's Accounts, Records and Cash Registers**

- (a) During the Event, the Food Truck Vendor acknowledges that AMF, or their authorised representatives, have the right to enter the Vendor Site without notice to the Food Truck Vendor to inspect and/or audit the Food Truck Vendor's accounts, records and cash registers to ensure that the amounts payable by the Food Truck Vendor to AMF under this Agreement are correct. For this purpose, AMF is entitled to take copies of or extracts from any such records, and to have them inspected by its advisors. The Food Truck Vendor must fully disclose its accounts and records to AMF for this purpose.
- (b) Post the Event, the Food Truck Vendor acknowledges that AMF has the right, after giving reasonable notice to the Food Truck Vendor, to inspect and/or audit the Food Truck Vendor's accounts, records and cash registers to ensure that the amounts payable by the Food Truck Vendor to AMF under this Agreement are correct. For this purpose, AMF is entitled to take copies of or extracts from any such records, and to have them inspected by its advisors. The Food Truck Vendor must fully disclose its accounts and records to AMF for this purpose.

### **5 Food Truck Vendor's Obligations**

#### **5.1 Compliance with Laws, Regulations and Directions**

The Food Truck Vendor must, at its cost and expense, comply and ensure its Personnel comply with:

- (a) all reasonable directions, requirements or conditions that may from time to time be made or imposed by AMF or the Manager's Personnel;
- (b) all requirements of any authority having jurisdiction over the activities of AMF or the use or occupancy of the Property; and
- (c) all applicable laws and regulations affecting or applicable to the Food Truck Vendor's obligations provided for in this Agreement including, without limitation, those which require the Food Truck Vendor to do or not to do anything concerning the Vendor Site. (d) all applicable occupational, health and safety regulations;
- (d) all State and local government requirements;
- (e) without limitation to (d) and (e) above:
  - (i) relevant legislation, regulations and standards relating to the storage of dangerous goods and the connection and use of electrical equipment at the Venue and on the Vendor Site;
  - (ii) the relevant guidelines relating to the use and storage of gas and gas appliances at the Venue and on the Vendor Site; and
  - (iii) any fire authority guidelines as to fire safety at the Venue and on the Vendor Site.

#### **5.2 Notification & Compliance**

The Food Truck Vendor agrees:

- (a) To immediately pass on to the AMF all notices, orders or directions issued by any authority which affect or relate to the Venue or Event or to the provision of food or services at the Event, regardless of whether the notice, order or direction is addressed by or requires compliance by either or both the Food Truck Vendor and the AMF or any other person. A copy of each such

notice, order or direction (if an oral notice or, order or direction, details thereof), must be given by the Food Truck Vendor to AMF within 24 hours of receipt of the notice, order or direction. If the above notices, orders or directions issued by any authority relate directly to the Food Truck Vendor, they are forthwith to be fully complied with by the Food Truck Vendor.

- (b) To allow the relevant local council or any other relevant authority to notify AMF of any written or oral notice, order or direction issued to the Food Truck Vendor as it relates to the Food Truck Vendor's presence and/or performance at the Venue including the results of any tests undertaken by the council or authority.
- (c) Not to do or omit anything to be done that may in any way endanger the Property, or any person, equipment or goods (whether belonging to the Food Truck Vendor or any other person) at the Venue.

### **5.3 Food Safety Obligations**

- (a) When the Food Truck Vendor sells or samples food it must comply with the Food Truck Vendor's obligations under the relevant State and local legislation and regulations. The Food Truck Vendor must:
  - (i) Obtain and provide evidence to AMF of registration as a food premises under the relevant State and local legislation and regulations;
  - (ii) Lodge a completed and signed 'Statement of Trade' under Streatrader, and provide a copy to AMF and throughout the Term keep a copy available for inspection by AMF on the Vendor Site;
  - (iii) Comply with the requirements of State and local legislation and regulations and the relevant municipal health services guidelines with respect to the operation of the temporary food premises at special events;
  - (iv) Comply with all AMF standards set out in the Policies;
  - (v) Comply with AMF's food safety directions and complete any required food safety records as required by AMF;
  - (vi) Maintain and make available throughout the Term for inspection by AMF at the Vendor Site a current detailed list of each item of ingredients relating to the products on the Food Truck Vendor's menu including but not limited to compound ingredients used;
  - (vii) Maintain and make available throughout the Term for inspection by AMF at the Vendor Site an allergy listing as defined and known in the Food Standard Australian New Zealand Code in respect of products on the Food Truck Vendor's menu.
- (b) Without limitation to 5.3(a) (i), (ii) and (iii) above, the Food Truck Vendor must ensure that any food that is pre-packed for sale at the Venue by the Food Truck Vendor, complies with relevant compositional and labelling requirements of the Food Standard Australian New Zealand Code.

### **5.4 Exclusive Supply Rights**

- (a) AMF reserves, at its discretion, the right to appoint exclusive and preferred supply rights at the Event and will inform the Food Truck Vendor of any exclusive supply terms and conditions prior to the commencement of the Event.

### **5.5 Selling**

- (a) The Food Truck Vendor must confine the conduct of its Food Truck Vending Business at the Vendor Site to and in accordance with the description of its business as set out in item 3 of Schedule 1 and must not promote, distribute or offer for sample or sale any products or services from the Vendor Site other than in accordance with this clause 5.5.
- (b) All products to be sold by the Food Truck Vendor must first be approved by the ManagerAMF.

- (c) The Food Truck Vendor must promptly provide, upon request by AMF, any additional information regarding the product specifications.
- (d) The Food Truck Vendor must ensure that all products sold or given away from the Vendor Site are safe and fit for human consumption and are in accordance with all relevant health and food safety laws, rules and regulations.
- (e) The Food Truck Vendor may not, without AMF's prior written approval, offer products for sale if the purchaser does not intend to take immediate possession of those products. If the Food Truck Vendor wishes to otherwise accept orders for products, AMF may, at AMF's discretion and if it consents, require the Food Truck Vendor to pay for this right as a condition to obtaining AMF's approval.
- (f) The Food Truck Vendor will supply the Manager with a complete list of products and proposed pricing of products, to be sold by the Food Truck Vendor at the Vendor Site. The full product list is subject to approval by AMF. AMF may recommend (but not require) changes to the pricing. AMF reserves the right to delete items from product list and may, at its discretion, approve only part of the menu/ product submission.
- (g) The Food Truck Vendor must prominently display at the Vendor Site, a notice setting out the price (including GST) of all products for sale at the Vendor Site.
- (h) The Food Truck Vendor may not offer for sample or sale or sell any products that AMF has not approved in writing to the Food Truck Vendor.
- (i) The Food Truck Vendor may not solicit donations for any reason whatsoever at the Venue without the prior written approval of AMF.
- (j) The Food Truck Vendor must promptly notify AMF of any complaint relating to the products or services supplied by the Food Truck Vendor at the Event.

## **5.6 Cash Registers**

Where AMF has supplied the Food Truck Vendor with cash registers, the Food Truck Vendor must not:

- (a) Cause any undue damage to the cash registers and shall be responsible to pay all costs associated with the repair and/or replacement of any damaged or lost cash registers which were in its possession or under its control prior, during or after the Event Date;
- (b) Tamper with, or attempt to tamper with, the cash registers;
- (c) Access, or attempt to access, the software or internal mechanisms of the cash registers;
- (d) Attempt to code or re-code the cash registers;
- (e) Modify, or attempt to modify, the cash registers in any way including the:
  - (i) till rolls;
  - (ii) data;
  - (iii) cash register chip; or
  - (iv) wireless connectivity;
- (g) Use, or attempt to use, the cash registers in any way other than what it was designed for or how it was delivered to the Food Truck Vendor by AMF;
- (h) Modify or attempt to modify, any of the records produced by the cash registers; or
- (i) Attempt to alter the cash registers in any way.

## **5.7 EFTPOS**

- (a) The Food Truck Vendor must, at its own expense, provide EFTPOS facilities and ensure that EFTPOS facilities are available for use by customers at each point of sale location on the Vendor Site.

- (b) AMF reserves the right to install EFTPOS facilities (at the Food Truck Vendors expense) if the Food Truck Vendor fails to provide EFTPOS facilities. Associated costs and fees will be payable on demand by the Food Truck Vendor to AMF for, including but not limited to, hire and installation costs and merchant fees.
- (c) The Food Truck Vendor must:
  - (i) Ensure that the EFTPOS facilities are at all times during the Event in working order. Repairs to service or replacement facilities must be implemented within 24 hours; and
  - (ii) Clearly display on signage at each point of sale location on the Vendor Site that EFTPOS is available.
- (d) AMF will not be responsible or liable to the Food Truck Vendor for the consequences of any electronic or technical failure of third party equipment or services at the Event.

## **5.8 Staffing**

- (a) The Food Truck Vendor must ensure that the Vendor Site is staffed by a sufficient number of persons required to facilitate reasonable service at all times during the Event. If the Food Truck Vendor does not occupy and staff its Vendor Site to the satisfaction of AMF following notification from AMF, clause 5.8(e) shall apply.
- (b) The Food Truck Vendor will ensure that all of its Personnel maintain:
  - (i) appropriate standards of dress, and presentation; and
  - (ii) personal hygiene to ensure food safety and compliance with health legislation and regulations, and the Food Truck Vendor and its Personnel will comply with all reasonable requirements of AMF in this regard.
- (c) The Food Truck Vendor will ensure that its Personnel, who wish to smoke, shall only do so within smoking areas at the Venue designated by AMF.
- (d) The Food Truck Vendor will ensure that its Personnel are not involved in any serious misconduct while at the Venue, including but not limited to:
  - (i) Theft;
  - (ii) Fraud;
  - (iii) Assault;
  - (iv) Antisocial or unacceptable workplace behaviour
  - (v) Using illegal substances; and
  - (vi) Intoxication; and
  - (vii) Any other unlawful conduct.
- (e) Should the Food Truck Vendor fail to comply with any of the provisions set out in clauses 5.8(a) to 5.8(d) above and fail to rectify such default following receipt of a default notice, AMF shall be entitled to terminate the Agreement and the Food Truck Vendor's right to occupy the Vendor Site shall immediately revert to AMF who shall then be entitled to occupy, or offer the right to occupy, the Vendor Site to such other person as AMF sees fit. In the event of termination, the Food Truck Vendor will not be entitled to a refund of any Fees paid to AMF. AMF shall be entitled to terminate the Agreement forthwith without a default notice where the default referred to above is not capable of rectification.

## **5.9 Vehicle Access and Registration**

- (a) AMF reserves the right at its discretion to determine at any time the access and egress rights of vehicles into and from the Property and to refuse to permit any vehicle to access the Property and/or to order the removal of any vehicle from the Property.
- (b) The Food Truck Vendor acknowledges that no vehicle will be permitted to enter or leave the Property during the Event without the prior consent of AMF.

- (c) The Food Truck Vendor will ensure that any vehicle belonging to the Food Truck Vendor or delivering or collecting goods on behalf of the Food Truck Vendor enters and leaves the Property at specific times designated by AMF.
- (d) The Food Truck Vendor acknowledges and will ensure that any vehicle accessing the Property on the Food Truck Vendor's behalf must proceed directly to and from its destination and must be parked in a way so as to minimise inconvenience to any other person and as otherwise directed by the Manager.
- (e) The Food Truck Vendor acknowledges and will ensure that no vehicle, which accesses the Property on the Food Truck Vendor's behalf, is permitted within any building on the Property without AMF's prior approval.
- (f) The Food Truck Vendor acknowledges and agrees that, should it fail to comply with clause 5.9 of this Agreement, AMF may, at its discretion, cancel a pass issued to the Food Truck Vendor (or to a third party at the Food Truck Vendor's request) and/or remove from the Property any vehicle belonging to the Food Truck Vendor or any one acting on its behalf.
- (g) The Food Truck Vendor acknowledges and agrees that if AMF removes a vehicle from the Property pursuant to this clause 5.9(f), the Food Truck Vendor shall have no claim against AMF for any loss or inconvenience arising out of or in connection with such removal, and agrees to indemnify AMF against any claims made by the Food Truck Vendor or by any third parties in connection with such removal.
- (h) The Food Truck Vendor shall procure that its Food Truck on the Vendor Site shall throughout the Term be comprehensively insured for its full replacement value and currently registered by the relevant State road transportation authority.

#### **5.10 Signage**

- (a) The Food Truck Vendor agrees to comply with all terms and conditions of the AMF's signage standards set out in the Policies. In particular, the Food Truck Vendor agrees and acknowledges that:
  - (i) all Signs must be of a professional standard;
  - (ii) all Signs are subject to the prior written approval of AMF; and
  - (iii) no hand-written Signs are permitted.
- (b) Placement of Food Truck Vendor's Signs must not obscure the clear line of sight to emergency evacuation or warning signage. If required, the cost of temporary replacement or relocation of emergency signs will be at the expense of the Food Truck Vendor.
- (c) The Food Truck Vendor may only erect or display a Sign at the Venue if it conforms with the signage requirements set out in the Policies and if the Food Truck Vendor has the prior written approval of AMF.
- (d) AMF reserves the right to vary or amend Policies, including any Sign specifications, from time to time.
- (e) If AMF requires any Sign to be altered or removed then, upon being notified by AMF to alter or remove a Sign, the Food Truck Vendor must promptly take such action at the Food Truck Vendor's own cost and expense.
- (f) All the Food Truck Vendor's Signs must be located within the Vendor Site unless otherwise approved by AMF.
- (g) The Food Truck Vendor may not enter into, or hold itself out to any third party as being permitted to enter into, an agreement with a third party to advertise or promote the third party's products or services on or in proximity to the Vendor Site, unless the Food Truck Vendor has received AMF's prior written consent.

#### **5.11 Erection of any Structure, Stall, Market Umbrellas or Exhibit**

- (a) The Food Truck Vendor must submit to AMF all plans for any structure, stalls, market umbrellas or exhibit to be erected on the Vendor Site at least twenty one (21) days prior to the

commencement of the Event. The Food Truck Vendor must receive AMF's prior written approval prior to the commencing construction of any structure, stall, market umbrellas or exhibit on the Vendor Site prior to construction and the commencement of the Event Date.

- (b) The Food Truck Vendor acknowledges that AMF does not possess the required expertise in assessing the safety or fitness for the Food Truck Vendor's intended purpose of any proposed structure, stall, market umbrellas or exhibit, and that the Food Truck Vendor must ensure that all structures, stalls, market umbrellas or exhibits meet the Food Truck Vendor's needs, are safe, and comply with all applicable laws and regulations. The Food Truck Vendor agrees that the Food Truck Vendor shall have no claim of any nature whatsoever against AMF if AMF gives approval to the Food Truck Vendor pursuant to clause 5.11(a).
- (c) The Food Truck Vendor may arrange with AMF for a mutually convenient time for the Food Truck Vendor to inspect and measure the Vendor Site prior to the commencement of the Venue and the Food Truck Vendor acknowledges that it does not rely on any information provided by AMF in relation to the nature and condition of the Vendor Site.
- (d) AMF may direct the routing, installation and location of any structure, stall, market umbrellas or exhibit and the Food Truck Vendor must comply with AMF's directions.
- (e) The Food Truck Vendor must complete any structure, stall, market umbrellas or exhibit prior to the commencement of the Event. If the Food Truck Vendor does not complete any structure, stall, market umbrellas or exhibit by such time as directed by AMF, AMF may inform the Food Truck Vendor accordingly in writing, and upon that notice being given, the right to occupy the Vendor Site immediately reverts to AMF, who will then be entitled to occupy or offer the right to occupy the Vendor Site to such other person as AMF sees fit.
- (f) The Food Truck Vendor must not paint any surface of any structure, or drive any nails or screws into, or otherwise interfere with, any structure on the Property.
- (g) The Food Truck Vendor must take all reasonable precautions to ensure that no structure is damaged. For example, the Food Truck Vendor must cover any surface with protective material that may otherwise be marked by grease or dirt.
- (h) For any marquee, tent, market umbrellas or similar structure, Form 1507a "Certificate of Compliance – Design" must be completed by the manufacturer and submitted to AMF.
- (i) (i) Any marquee, tent, market umbrellas or similar structure must be secured by weights consistent with the recommendations of the HRIA "Temporary Structure/ Marquee Weighting Guide" and no penetration of the ground surface will be permitted.

#### **5.12 Removal of any Structure, Stall, Market Umbrellas, Exhibit or Sign**

- (a) Unless AMF directs otherwise, the Food Truck Vendor must not remove from or alter or interfere with any structure, stall, market umbrellas, exhibit or Sign at the Venue during the Term.
- (b) Without limiting 5.12(a), the Food Truck Vendor may only remove from the Venue any structure, stall, market umbrellas, exhibit or Sign belonging to the Food Truck Vendor, but this may only be done during times approved by AMF and as directed by AMF.
- (c) The Food Truck Vendor must clean and return to AMF the Vendor Site in the same condition that it was in prior to the Event.
- (d) The Food Truck Vendor must remove any structure, stall, market umbrellas, exhibit, Sign, waste material or other object to the satisfaction of AMF within such timeframe as directed by AMF and make good any damage caused by the removal.
- (e) Any object(s) not removed in accordance with 5.12(b) to (d) will become the property of AMF, who may:
  - (i) at the Food Truck Vendor's expense, remove and dispose of the objects as AMF sees fit and the Food Truck Vendor will have no claim against AMF in relation thereto and indemnifies AMF against any claim for any loss caused by such removal or disposal; or

- (ii) charge the Food Truck Vendor for the use of the Vendor Site for such time that any object remains on the Vendor Site subsequent to the expiration of the Term, at AMF's prevailing daily cancellation fee.

### **5.13 Flammable Substances**

- (a) The Food Truck Vendor must not:
  - (i) store any flammable goods at the Vendor Site other than gas bottles, nor do or permit any act to be done which may invalidate any insurance policy for the Property and the Event, of which the Vendor Site forms part;
  - (ii) erect any Sign made of flammable material; or
  - (iii) use any electrical stacking equipment or other heavy equipment except with the prior written permission of AMF.
- (b) All gas bottles stored or used by the Food Truck Vendor at the Vendor Site must be stored and used by the Food Truck Vendor and its Personnel in accordance with the relevant State and Territories Code of Practice for the safe storage and use of LP Gas at public events.

### **5.14 Connection to Services**

- (a) The Food Truck Vendor is responsible for connecting, at its own expense, any electrical, gas, water, drainage or other utility service connections from the nearest point at which the service is made available at the Venue by AMF. The connections must comply with all regulations of the relevant authority and all applicable laws and may not occur without the prior written approval of AMF.
- (b) The Food Truck Vendor must obtain AMF's prior written approval to operate any electrical apparatus that may use over four kilowatts on single phase or ten kilowatts on three phases and such electrical apparatus must be tested and tagged as current and safe for use prior to apparatus and equipment being used at the Event.
- (c) AMF has the right to disconnect any electrical or gas or other utility connection that it considers to be unsafe, or which may be overloading the service lines and the Food Truck Vendor releases AMF from all claims and liabilities in relation thereto.
- (d) The Food Truck Vendor acknowledges that AMF does not possess any expertise in assessing the safety or fitness for the Food Truck Vendor's purpose of the required service connection, and that the Food Truck Vendor must ensure that all service connections meet the Food Truck Vendor's needs, are safe, and comply with all applicable laws and regulations.
- (e) The Food Truck Vendor acknowledges that electricity, gas, water, drainage and other utility services are provided by third party service providers over whom AMF has no control, and who are solely responsible for the supply to the Food Truck Vendor of such services. Accordingly, the Food Truck Vendor acknowledges that AMF does not and cannot represent or guarantee to the Food Truck Vendor:
  - (i) the merchantability of any such services;
  - (ii) the fitness of any such services for the Food Truck Vendor's intended purposes; or
  - (iii) the supply or continued supply of any such services to the Food Truck Vendor during the Term or at any other time, and releases AMF from all claims and liabilities in relation thereto.

### **5.15 Cleaning**

- (a) During the Venue the Food Truck Vendor must, at the Food Truck Vendor's expense, keep the Vendor Site (and, where applicable, the surrounding area to a distance of three metres from the Vendor Site) clean and tidy, store all waste in proper receptacles and make sure it is removed regularly, and at a minimum, daily.
- (b) The washing down of any equipment or the cleaning of paint-brushes will not be permitted on the Property.

- (c) The Food Truck Vendor shall ensure that no spillage or overflow occurs in respect of sullage tanks. The cost of any cleanup in respect thereof and in respect of the use and spillage by the Food Truck Vendor of deep frying oil shall be born by the Food Truck Vendor.

#### **5.16 Maintenance and Repair**

- (a) The Food Truck Vendor must, at its cost and expense, throughout the Term keep the Vendor Site and the Food Truck Vendor's Property in good repair and condition and in compliance with the Food Standard Australian New Zealand Code.
- (b) During the Term the Food Truck Vendor must promptly report to AMF any damage to the Vendor Site or to any structure or thing at the Venue caused by the conduct of the Food Truck Vendor, its Personnel or any other person granted or permitted access to the Vendor Site by the Food Truck Vendor, and shall bear the cost of any necessary repairs.
- (c) On expiry of the Term the Food Truck Vendor must leave the Vendor Site in good repair and condition, except for fair and reasonable wear and tear, having regard to the condition of the Vendor Site at commencement of the Event.

#### **5.17 Avoid Damage and Danger**

- (a) The Food Truck Vendor will comply at all times with the provisions of the relevant occupational health and safety legislation, standards and codes of practice and as otherwise provided for in the Policies.
- (b) The Food Truck Vendor must not do or omit to do anything (including keeping anything on the Vendor Site) that may in any way endanger the Property, any person, or any equipment or goods (whether belonging to the Food Truck Vendor or anyone else) at the Venue.
- (c) AMF may require the Food Truck Vendor to remove any item or thing from the Venue that, in AMF's opinion, is or is likely to or may become dangerous to the Property or any person or thing at the Venue. If the Food Truck Vendor fails to remove such item or thing upon request, AMF may arrange for its removal at the Food Truck Vendor's expense.

#### **5.18 Notify Danger or Risk**

The Food Truck Vendor must:

- (a) promptly inform AMF if it is aware of any hazard or risk to the Vendor Site or the Property; and
- (b) promptly comply with any instructions given by AMF, the police, the fire brigade or any other emergency authority (for example, to leave the Vendor Site).

#### **5.19 Security**

- (a) The Food Truck Vendor must use its best endeavours to keep the Vendor Site and the Food Truck Vendor's Property safe and secure and to protect it against theft.
- (b) The Food Truck Vendor must obtain AMF's prior written approval for any night security person that the Food Truck Vendor intends to use.
- (c) AMF may enter the Vendor Site for any purpose concerning security, but this does not make AMF responsible in any way for its security.
- (d) The Food Truck Vendor accepts full responsibility for the security of the Food Truck Vendor's Property retained or stored on the Vendor Site and AMF will not be liable for any damage or loss to the Food Truck Vendor's Property or stock, exhibits or personal belongings and property stored on the Vendor Site resulting from any cause whatsoever, either prior, during or subsequent to the Term.



### **5.20 No Nuisance**

- (a) The Food Truck Vendor must not do or omit to do anything that is or may reasonably be deemed by AMF to be an annoyance, nuisance or disturbance to AMF other food truck vendors at the Venue or anyone else participating at or visiting the Event.
- (b) The Food Truck Vendor must not store any items on the Property outside of the Vendor Site.

### **5.21 Noise**

(a) The Food Truck Vendor may not use any amplifier, loud-speaker or similar appliance within or outside the Vendor Site without AMF's prior written approval. (b) AMF reserves the right to require the Food Truck Vendor to immediately stop any noise being emitted from the Vendor Site which AMF reasonably considers to be offensive or an annoyance, nuisance or disturbance.

### **5.22 Balloons**

The Food Truck Vendor must ensure that no balloons, whether inflated or not, are brought onto the Property.

### **5.23 People using Vendor Site**

The Food Truck Vendor must at all times ensure that all persons occupying or using the Vendor Site (including the Food Truck Vendor's Personnel) comply with the terms of this Agreement.

### **5.24 Acknowledgement by the Food Truck Vendor**

The Food Truck Vendor acknowledges and agrees with AMF that the Policies form part of this Agreement and that a breach of the provisions of any of the Policies constitutes a breach of this Agreement and may have an adverse environmental effect and impact on the Property and the surrounding inhabitants and that the Food Truck Vendor has:

- (a) read and understood the attached Policies; and
- (b) brought the terms of Policies to the attention of the Food Truck Vendor's Personnel and contractors.

### **5.25 Reputation of AMF**

The Food Truck Vendor and its Personnel must not do or omit to do any act or thing which might reasonably be expected to reduce or diminish the good name and reputation of AMF or any of its sponsors or any other food truck vendor, the business of AMF or the goodwill of any AMF event.

### **5.26 Induction Guidelines**

- (a) The Food Truck Vendor must ensure that it has completed the AMF's online Induction Form (link provided by AMF) and that all of its Personnel are familiar with the procedures set out in that portal.
- (b) The Food Truck Vendor and its Personnel must comply at all times with the Policies and all relevant OH&S legislation, Australian Standards and Compliance Codes.

### **5.27 Ambush Marketing**

The Food Truck Vendor must not engage in ambush marketing of the products or services of any other food truck vendor at the Venue or any sponsor of the Event or AMF (as advised by AMF prior to the Venue). AMF will be entitled, at its discretion, to terminate this Agreement, retain the Fees and remove the Food Truck Vendor from the Venue should the Food Truck Vendor engage in ambush marketing.

## **6 AMF's Rights**

### **6.1 AMF May Enter and Inspect**

AMF may enter the Vendor Site to inspect it and the Food Truck on the Vendor Site or to identify any necessary maintenance, repairs or work, at any reasonable time and with reasonable notice. If there is an emergency, AMF may enter at any time without notice.

### **6.2 AMF May Do Things On Food Truck Vendor's Behalf**

AMF may carry out any of the Food Truck Vendor's obligations on the Food Truck Vendor's behalf, if the Food Truck Vendor does not perform those obligations on time. The Food Truck Vendor must promptly reimburse AMF for the cost and expense of doing so. 6.3 Repairs and Work AMF must give the Food Truck Vendor notice of any proposed repairs, maintenance or works required to be carried out and cause as little obstruction to the Food Truck Vendor's use of the Vendor Site as is reasonably possible in the circumstances and shall not be liable to the Food Truck Vendor for any loss or inconvenience in relation thereto.

### **6.4 Removal of Food Truck Vendor's Property**

- (a) AMF, acting reasonably, may require the Food Truck Vendor to remove any of the Food Truck Vendor's property including its Food Truck and any structure, stall, market umbrellas or exhibit from the Vendor Site or the Property.
- (b) The Food Truck Vendor must promptly obey AMF's requirements under clause 6.4(a).
- (c) If the Food Truck Vendor fails to promptly obey AMF's requirements, AMF may arrange for the removal of the Food Truck Vendor's Property at the Food Truck Vendor's own cost and expense and the Food Truck Vendor will have no claim against AMF for any loss caused by the exercise of AMF's rights under this clause 6.4.

### **6.5 Relocating Vendor Site**

- (a) AMF reserves the right at its discretion to relocate part or all of the Vendor Site to another area on the Property at any time. Insofar as possible, AMF will endeavour to ensure that the relocated Vendor Site is of comparable convenience to the Food Truck Vendor and the Food Truck Vendor releases AMF from any claims or losses in relation thereto.
- (b) In the event AMF directs the Food Truck Vendor that the Vendor Site must be relocated, the provisions of the Agreement will continue to apply.

### **6.6 Making Rules**

- (a) AMF reserves the right at its discretion to make any rules as to the use of the Vendor Site and the Property provided that they are not inconsistent with the Food Truck Vendor's rights under this Agreement.
- (b) The Food Truck Vendor must comply with any rules AMF makes under clause 6.6(a) and notifies to the Food Truck Vendor.

## **7 Insurance**

### **7.1 Insurance Policies**

(a) The Food Truck Vendor must take out and keep current during the Term public and product liability insurance policies for at least the amount specified in Item 9 of Schedule 1, for any one occurrence and in the aggregate for products liability. (b) The Food Truck Vendor must, at its own cost and expense, effect and maintain throughout the Term an insurance policy to cover the Food Truck Vendor's Property in the possession, custody or control of the Food Truck Vendor which is to be used or, which is intended to be used, for the purposes of performing its obligations under this Agreement. (c) With respect to each insurance policy required under this clause 7.1: (i) The Food Truck Vendor must ensure that the policies are taken out with an APRA approved insurance

company; (ii) The Food Truck Vendor must produce to AMF for inspection as required by AMF the policies, certificates of currency and receipt for the payment of the last renewal of the premium at any time; (iii) The Food Truck Vendor must notify AMF of any cancellation or threatened cancellation of its insurance required under this clause 7.1 by giving AMF fourteen (14) days prior written notice; (iv) The Food Truck Vendor must ensure that AMF, and if required by AMF, the owner of the Property are included as insured parties on the insurance policies; and (v) The Food Truck Vendor must ensure that each insurance policy provides that: A. the insurer will treat notice of any occurrence given by one insured party as notice given by all insured parties; and B. failure by one insured party to disclose any material information or to comply with the conditions of the policy will not prejudice the rights of any other insured party.

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(d) If the Food Truck Vendor fails to comply with its insurance obligations under this clause 7.1, AMF by notice may require it to do so and if, within seven (7) days of the request by AMF, the Food Truck Vendor has not produced a current insurance policies, certificates of currency or receipts in respect of its insurance conforming with the requirements of this clause 7.1, AMF reserves the right to terminate Food Truck Vendor's Right of Occupancy in accordance with clause 10 of this Agreement. 7.2 Food Truck Vendor Not to Void Insurance The Food Truck Vendor must not, and it must procure that its Personnel must not, do or omit to do anything on the Vendor Site or on the Property, which may invalidate or render void or voidable any insurance policies of AMF or any other insurance policies taken out pursuant to this clause 7. 7.3 Statutory Compulsory Insurances The Food Truck Vendor must at its own cost and expense, effect and maintain and comply with the terms and all requirements at law of all statutory compulsory insurances, including those insurance policies required to be effected with respect to:

(a) workers compensation; and (b) the use of motor vehicles.

## **8 Risk, Release and Indemnity**

### **8.1 Risk**

The Food Truck Vendor acknowledges that it uses the Vendor Site at the Food Truck Vendor's sole risk.

### **8.2 Release**

The Food Truck Vendor releases AMF and its Personnel to the full extent permitted by law from all demands, actions, claims, liabilities, loss, damage, cost or expense for or resulting from:

(a) the cancellation by AMF of all or any part of the Event , or postponement of the Event ; (b) the exercise by AMF of any of its rights provided for under this Agreement; (c) any loss suffered by the Food Truck Vendor due to the failure of supply of electricity or any other services at the Event; (d) any loss of or damage to the Food Truck Vendor's property or to the property of a third party regardless of how the loss or damage was caused; (e) any loss suffered by the Food Truck Vendor as a result of the Food Truck Vendor occupying and using the Vendor Site; (f) the death of or injury to any person occupying, being present in or in proximity to, or using the Vendor Site; and (g) the theft of the Food Truck Vendor's property while on the Vendor Site, except to the extent that the loss, death, injury, loss or damage is proven to have been caused by or contributed to by AMF's negligence.

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### **8.3 Indemnity by Food Truck Vendor**

The Food Truck Vendor indemnifies AMF and its Personnel against all demands, actions, claims, liabilities, loss cost and expense that may be incurred or sustained by AMF and its Personnel as a result of any act, matter or thing done, permitted or omitted to be done by the Food Truck Vendor or its Personnel pursuant to or in connection with this Agreement including but not limited to: (a) the Food Truck Vendor's use or misuse of the Vendor Site; (b) the Food Truck Vendor's sale or supply of products or goods from the Vendor Site; (c) any act done (or anything omitted to be done) by or on behalf of the Food Truck Vendor: (i) at or in connection with the Vendor Site or the Venue; (ii) in connection with the Event; or (iii) arising out of or in connection with the exercise of the Food Truck

Vendor's rights pursuant to this Agreement, as a result of which any other person alleges that the act or omission (as the case may be) infringes the Intellectual Property Rights of that other person (whether or not that allegation is tenable); (d) any death, injury, loss or damage from any cause occurring within the Vendor Site or caused by or contributed to by the Food Truck Vendor or its Personnel, except to the extent that the death, injury, loss or damage is proven to have been caused by or contributed to by AMF's negligence; and (e) incorrect information in the Induction Form completed and provided by the Food Truck Vendor to AMF.

#### **8.4 Continuing Indemnity**

The parties agree that for the avoidance of doubt, the indemnities given by the Food Truck Vendor to AMF in this clause 8 survive the termination or any assignment or novation of this Agreement, irrespective of how the termination, assignment or novation occurs.

#### **9 Confidentiality**

**9.1** The terms and conditions of this Agreement and all information provided under or in connection with this Agreement (Confidential Information) are confidential.

**9.2** Each party undertakes to the other that it and its Personnel will not, without the consent of the other party, which consent may not be unreasonably withheld or delayed, disclose Confidential Information to any person, unless disclosure is required by law. **9.3** Each party must take all steps reasonably necessary to ensure that Confidential Information is disclosed only to such Personnel as require that knowledge in order to carry out their obligations in accordance with this Agreement.

#### **10 Ending the Right of Occupancy**

##### **10.1 Grounds for Termination**

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AMF may terminate the Right of Occupancy immediately by notice in writing to the Food Truck Vendor if: (a) the Food Truck Vendor fails to pay any part of the Fees payable under clause 4.1 by the due dates as directed by AMF; (b) the Food Truck Vendor becomes insolvent; (c) except for clause 10.1(e), the Food Truck Vendor breaches any other provision of this Agreement and such breach is not remedied within twenty-four (24) hours of receiving verbal or written notice from AMF requiring the Food Truck Vendor to remedy the breach; or (d) the Vendor Site is destroyed or damaged such that: (i) the Food Truck Vendor cannot conveniently use or access the Vendor Site; or (ii) it is not convenient to AMF for the Food Truck Vendor to use or access the Vendor Site; or (e) the Food Truck Vendor fails to comply with the provisions of clauses 4.3.

##### **10.2 Termination**

(a) Without limiting clause 10.1, if, in AMF's opinion, the Food Truck Vendor has committed a Serious Breach (as hereinafter defined) of this Agreement AMF may terminate the Right of Occupancy: (i) immediately, by written notice to the Food Truck Vendor; or (ii) at AMF's discretion, upon one (1) hours verbal or written notice to the Food Truck Vendor, calling upon it to remedy that Serious Breach of this Agreement. (b) For the purposes of this clause a Serious Breach is any breach that: (i) endangers or harms the safety of any person or animal at or in the immediate vicinity of the Venue; or (ii) endangers or causes damage to any property at or in the immediate vicinity of the Venue; or (iii) involves the commission of a criminal offence; or (iv) involves the intentional misuse of cash registers; or (v) involves failure to comply with the auditing or reporting requirements under this Agreement; or (vi) is likely to or intended to cause a material disruption to the Venue ; or (vii) is likely to or intended to bring the Event or AMF into disrepute.

##### **10.3 AMF's Rights upon Termination of Right of Occupancy**

(a) Termination of the Right of Occupancy is without prejudice to and will not affect the accrued rights or remedies of either of the parties arising in any way out of this Agreement up to the date of termination.

(b) If the Right of Occupancy is terminated pursuant to any of the provisions of this Agreement, AMF may recover damages from the Food Truck Vendor for any loss AMF suffers because of the Food Truck Vendor's breach. The loss may include professional fees incurred by AMF, loss of the Fees or any part thereof

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from the date AMF terminates the Right of Occupancy until the date the Right of Occupancy would have expired if AMF had not terminated it earlier or loss of other revenue. (c) AMF will not be liable to the Food Truck Vendor for any loss suffered by the Food Truck Vendor by reason of the termination of the Right of Occupancy and shall not be liable to refund any money received from the Food Truck Vendor. (d) If the Right of Occupancy is terminated, the Food Truck Vendor remains liable to forthwith pay AMF any unpaid amounts it owes to AMF, including any unpaid part of the Fees. (e) Upon termination of the Right of Occupancy: (i) the right to occupy the Vendor Site immediately reverts to AMF and AMF will be free to occupy or offer the right to occupy the Vendor Site to such other person or persons as AMF sees fit; and (ii) AMF reserves the right in its discretion to take whatever steps it deems necessary to remove the Food Truck Vendor from the Vendor Site and the Property, at the Food Truck Vendor's cost.

## **11 Privacy Notice**

(a) AMF may collect personal information (within the meaning of the Privacy Act 1988 and other applicable privacy legislation) about the Food Truck Vendor and its Personnel for the purpose of administering and providing services under or connected with this Right of Occupancy, including, if necessary, the recovery of any money owing under or in relation to this Agreement. (b) The personal information collected may be shared with other bodies such as sponsors, service providers (e.g. telecommunications providers), insurance providers or debt collection agencies, for the purposes mentioned in clause 11(a). The information may also be disclosed to any entity that may subsequently administer the Venue or if required or authorised by law. (c) Persons about whom such personal information is collected (including the Food Truck Vendor if the Food Truck Vendor is a natural person) have certain rights of access to their personal information held by AMF, and can enquire about obtaining such access by contacting AMF by telephoning 1300 162 636 or writing to Australian Mobile Food Vendors Group Pty Ltd, 29 Malua Street, Reservoir, Victoria 3073. (d) AMF may conduct surveillance of the Property and may use closed circuit television (CCTV) filming the Property for security and safety. A person entering the Property may be photographed, filmed, taped and/or subjected to monitoring by CCTV and it is deemed that a person, by entering the Property, consents to AMF or third parties appointed by AMF photographing, filming or taping.

## **12 General**

### **12.1 Application of this Agreement**

The terms of this Agreement bind AMF and the Food Truck Vendor to the extent applicable both prior to, during and after the Term.

### **12.2 Serving Notices**

- (a) A notice, demand, consent or other communication (Notice) given or made under this Agreement:
- (i) must be in writing and signed by a person duly authorised by the sender; and
  - (ii) must be either delivered to the intended recipient by prepaid post or by hand or fax or email to the address or fax number or email address specified in Item 10 of Schedule 1 as applicable or the address or fax number or email address last notified by the intended recipient to the sender.
- (b) A Notice will be taken to be duly given or made:

- (i) in the case of delivery by person, when delivered;
  - (ii) in the case of delivery by post, on the third day after the date it is posted;
  - (iii) in the case of fax, on receipt by the sender of a successful transmission control report from the dispatching machine showing the relevant number of pages, the correct destination fax machine number and the result of the transmission as "OK";
  - (iv) in the case of email, on the day that the email was sent provided no notice has been received by the sender of a delivery failure, but if the result is that a Notice is sent after 4.00pm (local time) it will be taken to have been duly given or made at 9 am (local time) on the next business day in that place.
- (c) Where any Notice under this Agreement is required or permitted to be given by AMF to the Food Truck Vendor, it may be given on behalf of AMF by the Manager.

### **12.3 AMF's Consents and Approvals**

Unless expressly stated in a particular provision:

- (a) where AMF's consent or approval or exercise of its discretion is required or permitted under this Agreement, AMF may:
  - (i) give or withhold the consent or approval or exercise the discretion in its sole and absolute discretion; and
  - (ii) (ii) give the consent or approval or exercise the discretion either conditionally or unconditionally; and
- (b) a consent or approval binds AMF only if it is in writing and signed by AMF or by its authorised representative.

### **12.4 Further Action by Food Truck Vendor**

Without limiting any other provision of this Agreement, the Food Truck Vendor must do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable and do anything else that is necessary or that AMF reasonably requests to give full effect to the provisions of this Agreement and the transactions contemplated by it.

### **12.5 Entire Agreement**

This Agreement contains the entire agreement of the parties with respect to its subject matter and supersedes all prior agreements and understandings between the parties.

### **12.6 Variation of Agreement**

No amendment or variation of this Agreement is valid or binding on a party unless made in writing and executed by both parties.

### **12.7 Survival of Provisions**

The rights and obligations of the parties will not merge on the completion of any transaction contemplated by this Agreement. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing any such transaction. Accordingly, a provision of this Agreement that has not been met when the Right of Occupancy ends, or can have effect after that date, continues to apply after the Right of Occupancy ends.

### **12.8 Severability of Provisions**

Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. That does not invalidate the

remaining provisions of this Agreement nor affect the validity or enforceability of that provision in any other jurisdiction.

#### **12.9 AMF's Right of Set-off**

If at any time AMF has any liability to pay money to the Food Truck Vendor, whether under this Agreement or otherwise, AMF may elect to set-off that liability (either in whole or in part) against any amount due or due and payable by the Food Truck Vendor to AMF under this Agreement.

#### **12.10 No Waiver**

No failure to exercise nor any delay in exercising any right, power or remedy by a party operates as a waiver. A single or partial exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.

#### **12.11 Governing Laws and Jurisdiction**

This Agreement is governed by the laws of the State within which the Event is held. Each party submits to the non-exclusive jurisdiction of courts exercising jurisdiction there in connection with matters concerning this Agreement and waives any rights to claim that those courts are an inconvenient forum.

#### **12.12 No Representation**

The Food Truck Vendor acknowledges that the AMF and its Personnel have made no representations, promises, warranties, guarantees or undertakings to induce the Food Truck Vendor to enter into this Agreement.