

## BACKGROUND

- A. Council intends to conduct and manage the Event.
- B. The Sponsor has offered to sponsor the Event.
- C. In consideration of the Sponsorship Fee, Council has agreed to grant to the Sponsor sponsorship rights to the Event on the terms and conditions of this Agreement.

## 1. DEFINITION AND INTERPRETATION

### 1.1. Defined Terms

In this Agreement, unless the contrary intention appears the following words have the following meanings:

<b>Term:</b>	<b>Definition:</b>
<b>Agreement</b>	this agreement and any schedules, annexures and attachments to it, as amended by the Parties in writing.
<b>Benefits</b>	the benefits and entitlements that are attached to the type of sponsorship category that the Sponsor has applied for and accepted by Council (e.g. Platinum, Gold, Silver).
<b>Business Day</b>	a day that is not a Saturday, public holiday or bank holiday in Sydney.
<b>Commencement Date</b>	the date in which Council notifies the Sponsor that its application for Sponsorship has been accepted.
<b>Confidential Information</b>	means the terms of this Agreement and all information, material and technology disclosed or provided in any form by either Party to the other Party in connection with the subject matter of this Agreement.
<b>Council</b>	Liverpool City Council (ABN 84 181 182 471).
<b>Employees and Agents</b>	each of the employees, officers, agents, contractors, service suppliers and licensees of a Party.
<b>Event</b>	the National Economic Development Conference (NEDC20) to be held at the William Inglis Hotel by Sofitel.
<b>Material</b>	all reports, specifications, documents, papers, information, data and disks (in whatever form or medium or format), wherever such Material is located or stored, and all copies of the Materials.
<b>Month</b>	a calendar month.
<b>Notice</b>	a notice, demand, consent, approval, request or other communication served, given or made under this Agreement.
<b>Party</b>	a party to this Agreement.
<b>Person</b>	includes a natural person, partnership, joint venture, government agency, association, corporation or other body corporate.
<b>Sponsor</b>	the Person who has applied for a Sponsorship that is accepted by Council.
<b>Sponsorship</b>	the sponsorship granted pursuant to this Agreement.
<b>Sponsorship Fee</b>	the fee paid by the Sponsor (as determined by Council) which corresponds to a particular Sponsorship category.
<b>Termination Date</b>	the date that is the later of: (a) the day after the conclusion of the Event; (b) the day after the conclusion of the last day of the Event (if multiple days); or (c) the date of conclusion of the Benefits provided to the Sponsor.
<b>Trade Mark(s)</b>	has the same meaning given to that term in the <i>Trade Marks Act 1995</i> (Cth) which a Party authorises the other to use for the purposes of this Agreement.

## 2. GRANT OF SPONSORSHIP

### 2.1. Term of Agreement

This Agreement will commence on the Commencement Date and terminate on the Termination Date, unless terminated earlier in accordance with this Agreement (**Term**).

### 2.2. Grant of Sponsorship

In consideration of the payment of the Sponsorship Fee, Council appoints the Sponsor as a sponsor for the Term and grants the Benefits to the Sponsor.

### 2.3. Non-Exclusive Sponsorship

Council discloses that other Persons, groups, organisations (and the like) may be sponsors of, or suppliers to, the Event.

- 2.4. No Legal Obligations**  
Despite any other provision in this Agreement, the Sponsor agrees and acknowledges that the grant of Sponsorship is subject to and conditional upon Council CEO/Executive Management approval and satisfaction of Council's sponsorship policy conditions.
- 3. SPONSORSHIP FEE**
- 3.1. Payment of Sponsorship Fee**  
In consideration of the receiving the Benefits from Council, the Sponsor must pay to Council the Sponsorship Fee in the manner and form required by Council within the timeframe required by Council.
- 3.2. Deposit**  
As and when required by Council, a 50% deposit of all payments due under this Agreement is payable by the Sponsor prior to any Council providing any Benefits to the Sponsor. Council may, but is not obliged to, make special arrangements as regards to payment on a case by case basis, in its absolute discretion.
- 3.3. Final Balance**  
The final balance of the Sponsorship Fee (and/or any other amounts payable under this Agreement) is due by 16 October 2020 (or on any other date as notified by Council to the Sponsor from time to time).
- 3.4. Australian Dollars**  
The Sponsorship Fee (and/or any other amounts payable under this Agreement) are in Australian dollars and unless otherwise specified in this Agreement, are exclusive of GST.
- 4. COUNCIL'S SPONSORSHIP OBLIGATIONS**  
In consideration of receiving the Sponsorship Fee, Council shall:
- (a) provide the Benefits to the Sponsor (including any Benefits to be provided after the Event;
  - (b) give the Sponsor reasonable notice of any promotional activity planned by Council in relation to the Event;
  - (c) ensure all agreed publications (including but not limited to invitations, banners, signage, promotional products and merchandise) relating to the Event acknowledge the Sponsorship of the Sponsor; and
  - (d) recognise as agreed from time to time, the promotional requirements and interests of the Sponsor.
- 5. MUTUAL OBLIGATIONS**
- 5.1. Obligations**  
Each Party shall exercise the rights and opportunities granted under this Agreement to that Party in a manner consistent with the good name, goodwill, reputation and image of the Event.
- 5.2. Acknowledgments**
- (a) The Sponsor agrees and acknowledges that:
    - (i) Council has a responsibility to ensure that the Event proceeds in a manner consistent with the public interest. Council has the unfettered and sole discretion regarding the preparation and production of the Event;
    - (ii) it shall promptly advise Council of:
      - (A) any change of circumstances relating to the Sponsor's reputation;
      - (B) any association or parent company directly or indirectly involved in the sponsorship of the Event; and
      - (C) the existence of this Agreement when dealing with Council in any other capacity including but not limited to Council as a local government authority or as a purchaser of goods and services.
  - (b) Council agrees and acknowledges that:
    - (i) the Sponsor may identify itself as a corporate sponsor of the Event during the Term; and
    - (ii) Council shall promptly advise the Sponsor of any fact, matter or circumstance that is reasonably likely to adversely impact the Event.
- 6. MARKETING MATERIALS**
- (a) As soon as reasonably practicable after the Commencement Date, the Parties will discuss and agree to branding guidelines relating to promotional Materials (including all advertising material, media releases and the use of a Party's Trade Mark) for the Event (**Brand Guidelines**).
  - (b) The Parties must conform to the Brand Guidelines for all promotional Materials.
  - (c) The Parties must only release promotional Materials (including all advertising material, media releases and the use of a Party's Trade Mark) for the Event, provided there is prior written consent from the other Party before the intended use of those Materials.
- 7. TERMINATION**  
Without prejudice to any other rights it may have, either Party may terminate this Agreement by Notice in writing to the other in the following circumstances:
- (a) the other Party is in breach of any of the terms of this Agreement and fails to remedy such breach within 14 days after the date on which written Notice of the breach has been served on the other Party; or
  - (b) if, for any reason, either Party, in the reasonable opinion of the other Party, comes into general disrepute or is the subject of criticism that may adversely reflect upon the other Party, the Party forming this opinion may terminate this Agreement by giving 14 days written Notice to the other Party; or
- 8. CANCELLATION OF EVENT**
- 8.1. Notice of Cancellation**  
Council may cancel the Event (by Notice in writing to the Sponsor) at any time prior to the Event, but must provide reasons for doing so.
- 8.2. Effect of Cancellation**  
If the Event is cancelled, this Agreement is terminated on the date of Notice of cancellation and all rights and obligations granted or imposed under this Agreement will cease (except any clause which survives completion or termination of this Agreement).
- 8.3. Repayment of Sponsorship Fee**  
If the Event is cancelled by Council, Council agrees to repay the Sponsorship Fee paid by the Sponsor, less a reasonable amount (if any) to account for any marketing efforts already made and expended by Council for the Event, within a reasonable time.

- 8.4. No Claim for Cancellation**  
The Sponsor cannot make any Claim against Council for any liability or loss suffered or incurred by the Sponsor for reason of the cancellation (including consequential loss). This clause will not merge on completion or termination of this Agreement.
- 9. CANCELLATION OF SPONSORSHIP BY SPONSOR**
- 9.1. Cancellation Fees**  
If the Sponsor wishes to cancel its Sponsorship prior to the Event, the Sponsor shall be entitled to a refund of the Sponsorship Fee, however the following provisions apply:
- (a) a 25% cancellation fee will apply for cancellations received prior to 30 June 2020;
  - (b) a 50% cancellation fee will apply for cancellations received prior to 30 July 2020;
  - (c) a 75% cancellation fee will apply for cancellations received prior to 25 September 2020; and
  - (d) for cancellations received on and from 25 September 2020, the entire Sponsorship Fee is non-refundable.
- Notice of cancellation must be submitted in writing to [shanna@premiereventconcepts.com.au](mailto:shanna@premiereventconcepts.com.au).
- 9.2. Application of Cancellation Fee**  
The cancellation fee specified in clause 9.1 may be deducted from the deposit or Sponsorship Fee (or so much as is then paid by the Sponsor) prior to any monies being refunded to the Sponsor. Cancellation fees will be a liquidated debt due and payable by the Sponsor if the cancellation fee (or any part thereof) exceeds the amount in Council's possession that has been paid by the Sponsor prior to the cancellation.
- 10. RESCHEDULING/POSTPONEMENT**
- 10.1. Rescheduling or Postponement**  
Despite any other provision in this Agreement, Council may reschedule or postpone the Event in its absolute discretion (including for reason of a Force Majeure Event pursuant to clause 14). In these circumstances, the Sponsor agrees and acknowledges that the Sponsorship Fee will not be refundable.
- 10.2. No Claim for Rescheduling or Postponement**  
The Sponsor cannot make any Claim against Council for any liability or loss suffered or incurred by the Sponsor for reason of the rescheduling or postponement (including consequential loss). This clause will not merge on completion or termination of this Agreement.
- 11. RELEASE AND INDEMNITY**
- 11.1. Sponsor's release and indemnity**  
To the extent permitted by law, the Sponsor releases and indemnifies Council against any Liability incurred or suffered by Council in connection with or arising in any way out of the Sponsorship, including but not limited to any breach by the Sponsor of the terms of this Agreement including:
- (a) any loss of or damage to Council's real and personal property and any other property caused or contributed to by the Sponsor or that of its Employees and Agents;
  - (b) any accident, personal injury, disability or death;
  - (c) any loss to Council of the benefit of the Sponsor performing its obligations under this Agreement if the Agreement is terminated by reason of default by the Sponsor, from the date of termination until the Terminating Date;
  - (d) any Claim that the use or possession of the Sponsor's Trade Marks by Council infringes a third party's intellectual property rights;
  - (e) any Claim that the use or possession of another Person's Trade Marks by the Sponsor infringes a third party's intellectual property rights;
  - (f) any Claim in relation to the transportation, placing, removal or display of exhibits, unless caused or contributed to (to the extent of such contribution) by the act or negligence of Council or the that of its Employees and Agents.
- 11.2. Exclusion of Liability**  
Notwithstanding any other provisions of this Agreement, neither Party will be liable to the other for any indirect, incidental, special, Consequential Loss or punitive loss or damages howsoever arising (including in negligence).
- 11.3. Continuing obligation**  
Each indemnity in this Agreement is a continuing obligation, separate and independent from the other obligations of the Parties and remain in full force and effect after the expiry of the Term or earlier termination of this Agreement. It is not necessary for a Party to incur expense or make payment before enforcing a right of indemnity under this Agreement. A Party must pay, as a debt due and payable, on demand any amount it must pay under an indemnity in this Agreement.
- 11.4. Public Liability Insurance**  
The Sponsor must have current public liability insurance in place to adequately cover the Sponsor's business and activities at the venue and for the duration of the Event.
- 11.5. Non merger**  
This clause 11 will not merge on completion or termination of this Agreement.
- 12. CONFIDENTIALITY**
- 12.1. Confidential Information**  
Each Party must maintain the confidentiality of the other Party's Confidential Information.
- 12.2. Exception**  
Clause 10.1 does not apply to:
- (a) in respect of the Sponsor, information which is required to be disclosed to any:
    - (i) Minister or employee or officer of the Commonwealth or a Commonwealth Body; or
    - (ii) department, agency, employee or officer of any State or Territory of Australia;
  - (b) information which is permitted by the terms of this Agreement to be disclosed, or otherwise with the other Party's prior written consent;
  - (c) information after it becomes generally available to the public other than because of a breach of any part of this Agreement or because of any other misuse or unauthorised disclosure by a Party;
  - (d) use or disclosure of information by a party after that party has received or receives it from a third person free of restrictions who is legally entitled to such information and to provide it to that Party; or
  - (e) the disclosure of information in order to comply with any applicable law.

### 13. NOTICES

#### 13.1. Service and Notices

A Notice under this Agreement must be:

- (a) in writing, in English and signed by a Person duly authorised by the sender; and
- (b) hand delivered or sent by prepaid post or e-mail to the recipient's address for Notices specified by the Party from time to time, as varied by Notice given by the recipient to the sender.

#### 13.2. Effective on receipt

A Notice given in accordance with clause 13.1 takes effect when taken to be received (or a later time specified in it), and is taken to be received:

- (a) if hand delivered, on delivery; or
- (b) if sent by prepaid post, on the second Business Day after the date of posting; or
- (c) if sent by e-mail, at the time the email was sent unless the sender receives an automated message that the email has not been delivered,

but if the delivery, receipt or transmission is not a Business Day or is after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the next Business Date.

#### 13.3. Change of address

A Party may change its Address for Service or e-mail address by giving Notice of that change to the other Party.

### 14. FORCE MAJEURE

(a) Neither Party shall be liable for any failure to carry out any obligation under the Sponsorship if the failure was caused by circumstances beyond its reasonable control, including but not limited to, acts of God, inclement weather, fire, tempest, flood, tsunami, accident, interruptions to energy supplied, strike, riot, civil commotion or war whether declared or not, Government action, orders by any statutory authority (e.g. forced shut downs), disease or infection including but not limited to epidemic and pandemics (**Force Majeure Event**).

(b) Each Party shall do all things reasonably necessary to mitigate the effect of the Force Majeure Event on the performance of its obligations under this Agreement.

(c) Notwithstanding any other provision in this Agreement, the obligations of each Party are suspended so long as the Force Majeure Event continues.

(d) If a Force Majeure Event affecting a Party is likely to or does continue for 60 days or more, the other Party may terminate this Agreement within immediate or later effect by giving the affected Party written Notice.

### 15. MISCELLANEOUS

#### 15.1. Entire Agreement

This Agreement constitutes the entire agreement between the Parties in relation to its subject matter and supersedes any previous agreement of the Parties, or any other communication or representation made, in relation to its subject matter.

#### 15.2. Severability

If a provision of this Agreement is invalid, illegal or unenforceable, then to the extent of the invalidity, illegality or unenforceability, that provision must be ignored in the interpretation of this Agreement. All other provisions remain in full force and effect.

#### 15.3. Disrepute

A Party must not do anything which, in the other Party's reasonable opinion would bring the other Party's reputation into disrepute or deemed detrimental to the success of the Event.

#### 15.4. Limited Relationship

Nothing contained or implied in this Agreement constitutes a Party the partner, agent or legal representative of the other Party for any purpose, or creates any partnership, employment, agency or trust. Neither Party has the authority to bind the other Party in any way.

#### 15.5. Variations

Except as otherwise provided in this Agreement, any variation of this Agreement will not be effective unless evidenced in an agreement executed by both Parties.

#### 15.6. Good Faith

Each Party must act in good faith and use its best endeavours to comply with the spirit and intention of this Agreement.

#### 15.7. Assignment

Neither Party will assign or deal with its interest under this Agreement without the prior written consent of the other Party.

#### 15.8. GST and Taxation

(a) Unless the context requires otherwise, words defined in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) (or if that Act does not exist for any reason, any similar legislation) have the same meaning in this clause).

(b) Each Party warrants to the other that it is registered and entitled to be registered for GST under the ABN cited in this Agreement and shall retain this registration while the Agreement is in force. If a Party ceases to be registered for GST, it must immediately notify the other of that fact.

(c) Unless expressly provided otherwise, all amounts referred to in this Agreement are stated on a GST exclusive basis but are inclusive of all other taxes.

(d) A recipient of a taxable supply made under or in connection with this Agreement must pay to the supplier, in addition to the consideration payable or to be provided for the taxable supply, an additional amount on account of GST.

#### 15.9. Acceptance of Agreement

By completing an application to be a Sponsor for the Event, the Sponsor is deemed to have accepted entry into, and to be bound by the terms and conditions of, this Agreement.

#### 15.10. Governing law and jurisdiction

This Agreement is governed by and is to be construed in accordance with the laws in force in New South Wales and each Party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales.