

MARKET APPROVAL AND CONDITIONS

LICENCE OVER PUBLIC RESERVE

THE COUNCIL OF THE CITY OF SYDNEY (ABN 22 636 550 790) of Town Hall House, 456 Kent Street, Sydney, New South Wales, fax02 9265 9222 ("**City**")

[INSERT NAME OF MARKET OPERATOR] (Operator)

RECITALS

- A. The City is the owner of the Land.
- B. The City has the authority to grant leases and licences over the Land.
- C. The City has agreed to grant to the Operator and the Operator has agreed to accept a licence to use the Licensed Area in accordance with the terms of this Licence.

SCHEDULE 1

1. Name of Market	
2. Site - Reserve	
3. Description of Market	
4. Commencement Date	
5. Expiry Date	
6. Term	
7. Frequency of Market	
8. Market Hours	
9. Bump in Time	
10. Bump out Time	
11. Market Fee	
12. Performance Bond	
13. Operator's Onsite Contact	
14. City representative	
15. Summary of Market Infrastructure	



1. Definitions and interpretation

Definitions

In this Licence:

Approval means any certificate, licence, consent, permit, approval or other requirement of any authority having jurisdiction in connection with the activities contemplated by this Consent.

Authority means any government, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity.

Commencement Date means the date in Item 4 of Schedule 1.

Development Consent means the development consent [**attach DA if applicable**]

Expiry Date means the date in Item 5 of Schedule 1.

Force Majeure Event means in relation to a party an act, omission or circumstance which:

- (a) is beyond the reasonable control of that party; or
- (b) constitutes a fire, flood, earthquake, terrorism, riot, explosion or war, communicable disease for which the World Health Organisation or Department of Foreign Affairs and Trade have issued affected area or travel warnings, state-wide or national strike or other state-wide wide or national industrial action (except where caused by the Service Provider).

GST means goods and services tax under *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Local Pedestrian, Cycling and Traffic Calming Committee means the Local Pedestrian, cycling and Traffic Calming Committee, consisting of representatives of the City and the State Government which provides for the co-ordination of transport and traffic management in the Sydney CBD.

Market Fee means the fee payable by the Operator to the City in respect of the market set out in Item 11 of Schedule 1.

Market Infrastructure means any structures required for the market including but not limited to stalls (including Stallholders stalls), portaloos, tables, chairs, generators, refrigeration, signage and any other infrastructure necessary for the operation of the market.

Market Operator of Conduct means the Market Operator Code of Conduct provided by the City to the Operator outlining the minimum obligations of the Market Operator.

Operator and persons under its control means the Operator and each of its servants, agents, workmen, visitors, invitees, and any other person on or about the Site (with or without invitation) or under the control or discretion of the Operator.

Operator's Property means all Stalls, plant, equipment, fixtures, fittings, furnishings and other property on or installed in the Site, by or on behalf of the Operator, owned or leased by the Operator in the Site.

Performance Bond means either a security deposit or an unconditional undertaking issued by a qualifying financial institution.

Site means that part of the public reserve on which the market is to be held, as specified in Item 2 of Schedule 1.

Special Event means any scheduled significant event and includes any additional or unforeseen events which may be notified to the Operator by the City from time to time.

Stall means a stall on the Site.

Stallholder means each person running a Stall.

Stallholder's Code of Conduct means the Stallholders Code of Conduct provided by the City to the Operator outlining the minimum obligations of the Stallholders

Temporary Road Closure means road closures nominated or prescribed by the City or any other authority from time to time.

Term means the term specified in Item 6 of Schedule 1.

1.1 Licence subject to the provisions of the Environmental Planning and Assessment Act 1979

The Operator must ensure that all necessary development consents under the Environmental Planning and Assessment Act 1979 are in place and operative at all times, including but not limited to the Development Consent, and that the Environmental Planning and Assessment Act 1979 is complied with at all times.

1.2 Development Consent

The Operator must at all times comply with the conditions of the Development Consent, if applicable, and acknowledges that a breach of the conditions of the Development Consent will be a breach of this Licence.

1.3 No interest in the Site

The Operator has a personal right of occupation on the terms and conditions contained in this Licence and has no interest in the Site. The legal right to possession of and control over the Site remains vested in the City at all times.

2. Key Performance Indicators

The parties acknowledge that:

- a) The Operator has made an application under the Markets Policy to operate the Market on the Site, and the City has made the Site available to the Operator under the terms and conditions of the Markets Policy;
- b) The Market Fee payable under this Licence is the amount stated in Item 11 of Schedule 1;
- c) The availability of the Site to operate the Market is subject to the Operator:
 - (i) signing and returning this Licence in a timely manner;
 - (ii) submitting quarterly reports which will be used by the City to assess the Operator's performance against the specific criteria set out in Schedule 1 of this Licence, and any other reports or documentation reasonably requested by the City from time to time.
 - (iii) compliance with the instructions from the City in respect of performance criteria.

The period of reporting will be agreed by the City and the Operator at the Commencement Date

- d) If the Operator fails to meet the general or specific criteria or the requirements of this Licence the City may issue the Operator with a notice requesting that the Operator remedy the failure (**Notice to Perform**).
- e) If the Operator receives 3 Notices to Perform in a single Term, then the City reserves the right to terminate this Licence without further notice to the Operator.
- f) However if the Operator has not managed to meet the criteria but can adequately demonstrate that it is implementing various actions to meet the general and specific performance criteria, the City will take this information into account in considering whether to permit the continuing operation of the Market.

- g) The ultimate decision to permit the continuing operation of the Market will be made by the City in its absolute discretion.

3. Term

3.1 Term

The City grants the Licence for the term specified in **Item 6** of Schedule 1.

3.2 Extension of Term

- a) With the City's prior written consent the Operator may hold over after the expiry date of the Term. The Operator acknowledges that the Site may not be available for the Operator to occupy after the Expiry Date.
- b) Each party may end this monthly hold over arrangement by giving the other party at least one month's written notice.

3.3 Option for a Further Term

The City may notify the Operator in writing not less than 6 months before the end of the Term that the City will permit the Operator to continue the operation of the Market for a further term. The parties agree that the terms of the licence for the further term will be the terms of this Licence.

4. Market Fee and other payments

4.1 Payment of Market Fee

- a) The Operator must pay the Market Fee specified in Item 11 of Schedule 1. The Market Fee is payable in accordance with the City's Schedule of Fees and Charges.
- b) The Operator must pay the Market Fee by equal monthly instalments in advance of the first day of the month (and proportionately for any part of the month).

4.2 Review of Market Fee

- a) The Market Fee will be the fee agreed by the City and the Operator at the start of the Market Term.
- b) The unit price component of the Market Fee will be reviewed annually on the anniversary of the Commencement Date of the Term.
- c) The volume price component of the Market Fee will be reviewed quarterly throughout the Term.

4.3 Other Payments

- a) The Operator must pay all charges for Services relating to the Operator's use of the Site.
- b) The Operator is responsible for the payment of all fees/charges associated with the obtaining of any necessary consents required for the operation of the market,

including any road closure fees, and any other fees necessary to comply with the requirements of any other governmental and other like authorities.

4.4 Cancellation Fees

- a) If the City and the Operator agree that a market will be cancelled, for example due to inclement weather, then the Operator will not be responsible for the payment of the Market Fee for that market.
- b) The Operator must use its best endeavours to contact the City at least 24 hours prior to the market to request such a cancellation, and the City must agree with the Operator that the market should not take place.
- c) If the Operator cancels the market without the prior agreement of the City then the Operator will be responsible for the Market Fee for that market.

5. Use and care of the Site

5.1 Operator to obtain consents and comply with legal requirements and authorities

The Operator must obtain and comply with:

- a) any development consent (if required) from the City for its use of the Site;
- b) all laws, including local laws and all other legal requirements relevant to the use of the Site, and to ensure that all employees, agents and other persons associated with the market comply with the same;
- c) any requirements of all governmental, consent and other like authorities in its use and occupation of the Site.

5.2 Operating Hours

- a) The duration of the market including bump in and bump out times, must be scheduled to minimise the amount of time the Site is not available for public use.
- b) The Operator is only entitled to access and use the Site Use during the Operating Hours.
- c) The hours of operation for loading and unloading of goods, set up, construction and dismantling of temporary structures on the Site are detailed in Item 9 and 10 of Schedule 1.

5.3 Trade signage

- a) The Operator with the prior written consent of the City may erect a sign on the Site advertising its trade name provided that the City may prescribe the size and style of the sign and the method of its affixation.
- b) The Operator must pay all costs associated with the signage including the cost of making good the Site on its removal.

5.4 Works to the Site by the City and any relevant Authority

- a) The Operator must permit the City and any relevant Authority to enter upon the Site with all necessary materials and equipment at all reasonable times and on reasonable notice (but at any time without notice in the case of an emergency) to:
 - (i) inspect the state of repair or condition of any services or utilities located with or passing through, under or above the Site; and
 - (ii) carry out works (including repairs, additions, replacements or renovation) to any services or utilities located with or passing through, under or above the Site.

- b) The City may suspend the Operator's use of the Site at any time if the City considers it necessary to enable the City or any relevant Authority to carry out works in or around the Site.
- c) The Operator must not make any claim for compensation or abatement or any other demand in relation to the entry on to the Site or the carrying out of any works by the City or any relevant Authority or the suspension of use under clause 5.4 (b).

5.5 Use of the Site for Special Events

- a) The Operator must permit the City and the Event Organiser to enter upon the Site at all reasonable times and on reasonable notice for any Special Events.
- b) The Operator must not make any claim for compensation or abatement or any other demand in relation to the entry and use of the Site by the City and the Event Organiser for the purposes of a Special Event.

5.6 Condition and Variation of the Market Infrastructure

- a) The Operator must ensure that Market Infrastructure, including any signage, is in and remains in good condition and repair over the Term, to the reasonable satisfaction of the City.
- b) Any variation to the details of the Market Infrastructure provided by the Operator in the Operator's tendered proposed plan must be approved by the City prior to installation.

6. Operator's Obligations

The Operator must:

- a) use all reasonable endeavours to at all times keep the Site clean, tidy and well illuminated;
- b) use all reasonable endeavours to keep the Site free of dirt, rubbish, pests and vermin;
- c) ensure no signs or other structures are attached to any trees;
- d) only use designated areas for depositing rubbish and trade waste;
- e) ensure that the Stallholders are aware of and comply with the Stallholders Rules and Code of Conduct provided by the Operator to the Stallholders;
- f) ensure that the Operator and any Stallholder obtain an appropriate licence for any live music and or recorded music which is played on the Site (if that music is protected by copyright);
- g) ensure that any Stallholder who authorises the playing or performance of music at the Market is responsible for obtaining the appropriate licences from the Australasian Performing Right Association (APRA) and the Phonographic Performance Company of Australia (PPCA);
- h) use all reasonable endeavours to ensure that Stallholders do not sell counterfeit or illegal goods;
- i) ensure that access to the Site is maintained for emergency vehicles;
- j) inform the City of any damage to the Site, immediately on becoming aware of the same;
- k) ensure that noise from any activity or enterprise associated with the market, including but not limited to music (amplified or otherwise), or notification system used at the Market does not cause 'Offensive Noise' as defined in the protection of the Environment Operations Act or else a sound pressure level which exceeds the following levels exceed an L_{Amax} of 65dB(A) when measured at the boundary of the nearest affected residential or noise sensitive commercial building (the latter when in-use):

- (i) LAeq, 15 minute 55 dB(A), or
- (ii) LAeq, 15 minute less than or equal to LA90 + 5 dB(A)

measured and assessed as per the definitions and methodology prescribed by Australian Standard AS1055 – Acoustics-Measurement and Description of Environmental Noise.

- l) Ensure that if during the market substantiated complaints or breaches of noise conditions occur, it immediately arranges for the noise to be reduced to comply with the noise levels specified in paragraphs (k) and (l) above, or to a direction given by a Venue Management officer, Ranger or Environmental Health Officer from the City of Sydney;
- m) Ensure that especially in residential areas, the market noise and the bump in and bump out of the Stallholders entering and leaving the Site is kept to a minimum and does not detrimentally affect the amenity of the neighbourhood. Bump in bump and bump out activities shall not occur prior to 6am, after 5pm for regular Saturday market and 10pm for a Twilight Market on any day of permitted operations and must not cause 'Offensive Noise' or noise which otherwise exceeds the relevant permitted level in Table 1 of the City of Sydney Construction Hours Noise Code of Practice 1992;
- n) ensure that if during the market substantiated complaints or breaches of noise conditions occur, it immediately arranges for the noise to be reduced to comply with the noise levels specified in paragraphs (k) and (l) above;
- o) ensure that especially in residential areas, the market noise and the bump in and bump out of the Stallholders entering and leaving the Site is kept to a minimum and does not detrimentally affect the amenity of the neighbourhood;
- p) ensure that Temporary Food Vending Permits and Liquor Licences for all food and beverages are obtained as described below and any conditions enforced for all food and beverage vendors;
- q) ensure that the preparation and sale or provision of any food during the market complies with the all legislative obligations relating to the supply, service and storage of food and beverages, including but not limited to the health and hygiene provisions of the Food Act 2003, Food (General) Regulations 2010, the Liquor Act 2007 and Regulations;
- r) ensure that the sale and or supply of alcohol may only be permitted under this Agreement if the required liquor licence has been obtained in accordance with the provisions of the Liquor Act 2007 and Regulations; and
- s) ensure management and control measures are undertaken to ensure alcohol is not removed or consumed beyond the approved liquor licensed area.

The Operator must not:

- a) commit any nuisance or annoyance on the Site; or
- b) manufacture any dangerous substances on the Site; or
- c) bring any dangerous substances onto the Site; or
- d) breach any fire safety regulations; or
- e) do anything which would void the City's insurance or cause the City's premiums to be increased.

7. Temporary Food Stall – Set Up and Operation

- a) Details of all temporary food stalls proposed to attend on the Site must be submitted to the City at least 28 days prior to the Commencement Date using the City of Sydney "Temporary Food Stall Register."

- b) All temporary food stalls must have a current approval from the City in accordance with the requirements of the Local Government Act 1993. Approval numbers for stalls must be submitted to the City in accordance with subclause 7(a) above.
- c) The set up and operation of any temporary food stall and associated equipment must comply with the City of Sydney fact sheet – “Requirements for the Operation of a Temporary Food Stall” and Standard 3.2.2, Food Safety Practices and General Requirements of the Australia New Zealand Food Standards Code”.
- d) The “Requirements for the Operation of a Temporary Food Stall, City of Sydney” and the Temporary Food Stalls Event Register” and “Details of Temporary Food Stall” forms can be obtained from the City of Sydney website <http://www.cityofsydney.nsw.gov.au/>. Completed forms may be returned to Council’s Health and Building Unit by post or facsimile. (Facsimile number: 02 9265 9750)

8. Temporary Market Structures

- a) The ground surface on which the structure is to be erected is to be sufficiently firm to sustain the structure while it is being used and isn’t dangerous because of its slope or irregularity or for any other reason.
- b) The temporary structures must be erected and secured in accordance with the manufacturers / structural specifications to ensure they are structurally sound and can withstand likely wind in the locality and any likely live loadings.
- c) Electrical services serving structures shall meet with all Australian standards requirements and be certified by a licensed electrical contractor prior to the commencement of use.
- d) There is to be **NO SMOKING** in ANY structures, and appropriate signage is to be displayed in conspicuous locations throughout the Site.
- e) All mechanical and electrical installations including generators, electrical cabling and any mobile structures are to be surrounded or covered by appropriate physical barriers so as to prevent unauthorised access by the public at all times, and to protect ground laid cabling from being trip hazards, during public occupation of the site.
- f) All structures must be weighted and not “pegged”.
- g) Temporary structures must not obstruct access to services or services access pits.
- h) Adequate hand held fire extinguishers must be available at all times during operation of any electrical or electronic device, and are to be available at all times during the market. A schedule of supply must be provided to the inspecting officer prior to commencement of the approved use.
- i) The structures and surrounds are to be maintained in a clean and tidy manner at all times, all waste and general rubbish is to be cleared on a regular basis.
- j) Erection and dismantling (packing up) of structures is to be done quietly and orderly to minimise disturbance to the surrounding locality.

9. Waste Management, Traffic Management, Risk Management, and Security Management Plans.

9.1 Waste Management Plan

- a) The Operator must provide a Waste Management Plan, including details of waste minimisation, recycling and management of waste generated by the market for the City’s approval prior to occupation of the Site.
- b) The Operator must comply with the Waste Management Plan as amended by the City at all times.

- c) The Operator must ensure that the Site and its surrounds is maintained in a clean and tidy condition throughout the market, including the bump-in and bump-out phases and is returned in the same condition as it was in prior to the commencement of the market. This includes the collection and removal of all litter including cigarette butts, bottle cap tops, and all other waste.
- d) The Operator agrees to pay any costs incurred by the City for cleansing and or repairs required to the Site as a result of the market.
- e) The Operator must ensure that during Operating Hours adequate toilet facilities (including disabled facilities) are provided by the Operator at or near the Site to cater for the maximum number of patrons attending the market at one time, which may be either:
 - (i) the provision of portable toilet facilities in the Site; and/or
 - (ii) obtaining licences or consents from existing businesses or building owners for use of existing toilet facilities in the area in connection with the market, subject to the Operator providing evidence of those agreements to the City.

9.2 Traffic Management Plan (if relevant)

- a) The Operator must provide a Traffic Management Plan (which includes a Road Closure Plan) for the City's Approval prior to occupation of the Site.
- b) The Operator must:
 - (i) comply with the Traffic Management Plan as amended by the City;
 - (ii) ensure that the Traffic Management Plan is kept up to date and renewed when required by the City;
 - (iii) comply with directions from the police and City rangers or compliance officers;
 - (iv) maintain and provide traffic controls and barricades as directed by the City, and
 - (v) maintain a Temporary Road Closure Approval, approved by the Sydney Traffic Committee,

at all times.

9.3 Risk Management Plan

- a) The Operator must provide a Risk Management Plan for the City's Approval prior to occupation of the Site.
- b) The Operator must comply with the Risk Management Plan as amended by the City at all times.
- c) This Risk Management Plan must include plans to cover issues including but not limited to, lost children, fire, electrical/wind/hail storms; collapse of structures; crowd panic; bomb threats; assault; theft and evacuation plans.
- d) The Risk Management Plan may be reviewed by the City from time to time, and the City may amend the Risk Management Plan in consultation with the Operator.

9.4 Security Management Plan

- a) The Operator must provide a security management plan for the City's Approval prior to occupation of the Site.
- b) The Operator must comply with the security management plan as amended by the City at all times.

10. Operator's insurance and indemnities

10.1 Required policies

The Operator must maintain policies of insurance for:

- a) Public and products liability covering illness or injury to person or damage to third party property arising out of the Operator's activities on the Site for an amount of not less than \$20,000,000 for any one single accident or event;
- b) damage to and loss of the Operator's fixtures, stock and merchandise on the Site or comprising part of the Site; and
- c) workers compensation if applicable under legislation or common law or appropriate personal accident insurance.

10.2 Requirements

The Operator must:

- a) produce to the City for inspection before the first day of the term and within two Business Days of demand (provided that demand cannot be made more often than once each year), a certificate of currency establishing the insurance policies required under clause 10;
- b) ensure the policies are taken out with a reasonably approved by the City; and
- c) note the City as an interested party on the public and products liability insurance policy.

10.3 Release and Indemnity

- a) The Operator occupies and uses the Site at its own risk and releases the City from any action, demand, cost, liability or loss due to any damage, loss, injury or death occurring in the Site except to the extent that it is caused by the City.
- b) The City does not take responsibility for any loss or damage to any infrastructure and equipment associated with the market. All infrastructure and equipment on site is at the Operator's risk.
- c) The Operator indemnifies the City against any action, demand, cost, liability or loss due to any damage, loss, injury or death caused or contributed to by:
 - (i) the Operator's act, omission or negligence;
 - (ii) the Operator's use or occupation of the Site; or
 - (iii) the Operator's breach of this Licence,except to the extent that it is caused by the City.

11. Expiry or Earlier termination of the Term

11.1 Early termination by the City Of Sydney

The City may terminate this Licence at any time by giving the Operator at least one month's written notice of the termination.

11.2 Make good

Before the last day of the Term or the earlier termination of this Licence, the Operator must at its own cost:

- a) remove the Operator's Property from the Site;

- b) make good the Site to its condition at the commencement of this Licence.

If the Site is not left in the same condition as it was at the commencement of the Licence, the City may charge the Operator for any remedial work or additional cleaning required to achieve this.

11.3 Disposal of Operator's property

If, following the termination of this Licence, any of the Operator's Property is left at the Site the City may deal with the Operator's Property as it thinks fit as if it was the City's own property, without being liable to the Operator in tort. The Operator indemnifies the City against all costs incurred and damages sustained by the City due to its reasonable actions under this clause.

12. Default

12.1 Events of default

If the Operator:

- a) fails to pay the Market Fee or other monies by the due date and the failure continues for five Business Days following notice by the City to the Operator; or
- b) breaches any other obligation under the Licence or fails to perform any required act and the breach or failure, if capable of remedy, is not remedied within the time specified by the City;

the City may

- a) terminate this Licence and take any action it considers necessary or desirable in order to give effect to its rights under this Licence;
- b) recover from the Operator an amount equal to the damages or loss it sustains; and
- c) apply any part of the Security Deposit in reduction of its loss or damage.

12.2 Costs on default

The Operator must pay on demand all costs incurred by the City due to default by the Operator or in enforcing its rights under this clause including legal costs on a solicitor and own client basis.

12.3 No waiver

Acceptance by the City of arrears of the Market Fee or other money or of any breach of this Licence by the Operator does not constitute a waiver of the City's rights.

12.4 Interest on overdue payments

If the Operator fails to pay any money by the due date for payment the Operator must pay interest calculated on a daily basis from the due date until the date of payment at the rate of interest which is 2% more than Westpac Banking Corporation's rate on overdraft accounts in excess of \$100,000 from time to time. The City may capitalise interest on monthly rests.

13. Performance Bond

13.1 Provision of Performance Bond

As security for the performance of its obligations under this Licence the Operator must give to the City a Performance Bond for the amount specified in Item 12 of Schedule 1.

13.2 City may apply Performance Bond

In the event of any failure by the Operator to observe the conditions of this Licence, the City may without notice to the Operator call on the Security Deposit in respect of:

- a) any amount outstanding; and
- b) any costs or expenses incurred by the City in remedying any breach, including disposal of the Operator's Property under clause 11.3.

13.3 Top up

If all or any of the Security Deposit is appropriated by the City pursuant to clause 13.2 the Operator must, within fourteen days of receipt of written notice from the City, provide a top up to the Security Deposit to the amount required under this Licence.

14. Dispute Resolution

14.1 If either the City or the Operator believes that there is a dispute in respect of anything contained in this Licence (Dispute) then:

- a) that party must give notice (Dispute Notice) in writing to the other party stating that there is a Dispute; and
- b) the Dispute Notice must outline:
 - (i) what the party believes the dispute to be;
 - (ii) what the party wants to achieve; and
 - (iii) what the party believes will settle the Dispute.

14.2 Consultation between the Representatives

- a) Within fourteen (14) days of the date of the Dispute Notice being served in accordance with clause 14.1, both parties must meet in good faith to try and resolve the Dispute.
- b) If the Dispute is not resolved at the meeting referred to in subclause (a), then within a further fourteen (14) days each party must appoint a person from their senior management (Representative) to meet in order to promptly resolve the issue.

15. Role as a governmental agency

Nothing in this Licence Agreement in any way restricts or otherwise affects the unfettered discretion of the City in the exercise of its statutory powers as a governmental agency.

16. Assignment or other Dealings

- a) This Licence is personal to the Operator.
- b) The Operator must not assign, transfer, sub-licence, mortgage, charge or encumber its interest in this Licence or otherwise deal with its interest in this Licence.
- c) The Operator must not grant any licence for part of the Site or otherwise part with possession of the whole or part of the Site without the City's prior consent.

17. Variation

This Licence can only be varied in writing with the agreement of both the City and the Operator.

18. Force majeure

18.1 Notice and suspension of obligations

If either the City or the Operator is affected, or likely to be affected, by a Force Majeure Event:

- a) that party must immediately give the other party prompt notice of that fact including:
 - (i) full particulars of the Force Majeure Event;
 - (ii) an estimate of its likely duration;
 - (iii) the obligations affected by it and the extent of its effect on those obligations; and
 - (iv) the steps taken to rectify it; and
- b) the obligations under this Consent of the party giving the notice are suspended to the extent to which they are affected by the relevant Force Majeure Event as long as the Force Majeure Event continues.

18.2 Effort to overcome

A party claiming a Force Majeure Event must use its best endeavours to remove, overcome or minimise the effects of that Force Majeure Event as quickly as possible. This does not require a party to settle any industrial dispute in any way that it considers inappropriate.

18.3 No liability

Neither party will be liable for any claims for compensation from the other party as a result of any Force Majeure.

If a Force Majeure Event continues for more than 30 days in respect of the affected party, the other party may terminate this document by giving at least one Business Day's written notice to the affected party.

SCHEDULE 1

GENERAL AND SPECIFIC CRITERIA

Impact on residents

The market operator must ensure that any impact on residents, particularly noise (and specifically noise emanating from the event bump in and market entertainers) is kept to a minimum.

Community stalls

The market operator will endeavour to ensure that dedicated stall space will be available for community use. The specific details of community usage will be reviewed as part of the general market review.

Market Revenue and the review process

The Market Operator must make available on request by the City of Sydney (in writing) the details of any payments made to community groups and individuals from market revenue.

example

SCHEDULE 2

The City will use the following General Key Performance Indicators to evaluate performance of the market operator.

Performance will be evaluated regularly, at least annually, and always upon completion of the contract. Each assessment will form the basis of the Performance Review.

General Key Performance Indicator Score Rating Scale:

- 1 unacceptable / deficient
- 2 limited / flawed
- 3 adequate / satisfactory / appropriate
- 4 competent / proficient
- 5 strong / superior / exceeds expectations

Key Performance Indicator		Rating					Comments
		1	2	3	4	5	
1	Key Objectives / Deliverables*						
2	Quality of work						
4	Reporting						
5	Communication						
6	WH&S compliance and Risk Management						

* The Key Objectives / Deliverables have been set out in this Specification and are detailed in the table below. These are the results that the Market Operator is expected to deliver to meet the City's requirements.

KEY PERFORMANCE INDICATOR (WITH REPEATING ACTIVITIES)

Name of KPI (With Repeating Activities)	0	1	2	3	4
Operate the market as an interesting and vibrant destination, focusing on creative and cultural excellence					
Operate a market that sells products and or services of good quality and represents value for money					
Maintains high standards of presentation and quality					
Ensure that the market's operation complements and adds value to the existing businesses in the area					
Professionally organise and manage the market					
Meet regularly with the City and submit performance reports as part of the ongoing review of the Market					
Ensure compliance with the requirements of the License, as well as any other applicable legislative or planning obligations.					

(These are important repeating activities that occur in delivering the services and which will be measured periodically to assist in assessing the quality of performance of the contract)

KPI (With Repeating Activities) Score Rating Scale

0	Achieved few or none of the specification requirements for the KPI
1	Achieved some of the specification requirements for the KPI
2	Achieved most of the specification requirements for the KPI
3	Achieved all of the specification requirements for the KPI
4	Achieved all and exceeded the specification requirements for the KPI

example

Signing page:

Signed for and on behalf of the

[INSERT NAME OF MARKET OPERATOR] (Operator) [INSERT ABN and POSTAL ADDRESS]

Signed for and on behalf of The Council of the

City of Sydney (ABN 22 636 550 790)

By its duly authorised representative:

example

example

ANNEXURE B – MARKET OPERATOR OF CONDUCT

The City of Sydney requires the Market Operator to uphold standards of integrity, professionalism, safety and respect.

You must conduct yourself in a manner that is not likely to bring the City of Sydney into disrepute. Specifically, you must not act in a way that:

- a) contravenes the Local Government Act 1993, associated regulations, City of Sydney's relevant administrative requirements and policies
- b) is improper or unethical
- c) is an abuse of power or otherwise amounts to misconduct
- d) causes, comprises or involves intimidation, harassment or verbal abuse
- e) causes, comprises or involves discrimination, disadvantage or adverse treatment in relation to employment
- f) causes, comprises or involves prejudice in the provision of a service to the community.

You must:

- treat others with respect at all times
- not harass, discriminate against, or support others who harass and discriminate against colleagues or members of the public. This includes, but is not limited to harassment and discrimination on the grounds of sex, pregnancy, age, race, responsibilities as a carer, marital status, disability, homosexuality, transgender grounds or if a person has an infectious disease

The Market Operator is expected to:

- ensure that stallholders adhere to the Stallholder Code of Conduct
- maintain a clean and safe site
- refrain from smoking within the market site
- ensure that stallholder products and services meet all legal and statutory requirements
- dispose of all waste as directed by the rules of the market

The Market Operator must at all times be able to present Licence.

The Market Operator is not permitted to bring dogs or any other animals into the market area
Any reasonable demand made by a City of Sydney Officer must be observed by the Market Operator.

ANNEXURE C – STALLHOLDER CODE OF CONDUCT

The City of Sydney requires stallholders to uphold standards of integrity, professionalism, safety and respect.

Stallholders are expected to:

- Maintain a clean and safe stall site
- Refrain from smoking within the market site
- Ensure their product meets all legal and statutory requirements
- Follow all directions relating to the movement of vehicles within and around the site
- Dispose of all waste as directed by the rules of the market

The stallholder must at all times be able to present their authority to trade

Stallholders are not permitted to bring dogs or any other animals into the market area

Any reasonable demand made by the approved market operator on a stallholder must be observed by the stallholder

example

example