

# LOVE LOCAL MAKERS MARKET

## Blue Mountains Theatre & Community Hub

### **STALLHOLDER AGREEMENT**

File No. F16155

THIS AGREEMENT is made on the date of application submission.

**BETWEEN:** The applicant stall holder  
AND  
Blue Mountains City Council – Blue  
Mountains Theatre & Community Hub  
(hereafter referred to as ‘the Commissioner’)  
ABN: 52699520223  
Address: 104-108 Macquarie Rd, Springwood  
NSW 2777  
Email: Market Coordinator  
[hubevents@bmcc.nsw.gov.au](mailto:hubevents@bmcc.nsw.gov.au)

#### LIAISON

1. a) During the term of this agreement the Stallholder shall liaise and consult only through the Blue Mountains Theatre & Community Hub’s Market Coordinator unless otherwise directed by the Program Leader Blue Mountains Theatre.  
  
b) The Stallholder shall arrange all site access through the Market Coordinator.  
  
c) The Stallholder shall forthwith comply with any direction given by the Market Coordinator concerning compliance with any Act of Parliament, ordinance, regulation or by-law of any authority.

#### SUB-CONTRACTS

2. a) The Stallholder shall not be relieved of any of his/her liabilities or obligations under this Agreement by entering into sub-contracts. The Stallholder will be solely liable to the Commissioner for the completion of the contract.

#### INTELLECTUAL PROPERTY

3. a) The Stallholder shall indemnify and keep indemnified the Commissioner against all costs expenses and liabilities whatsoever arising out of or in connection with any claim that work completed by the Stallholder infringes the Intellectual Property Rights of any person.

#### INSURANCE

4. a) The Stallholder must be insured for the term of the contract against risk to the public. A certificate of currency must be presented to the Marketing Officer. Should the Stallholder not have existing public liability insurance the Stallholder must notify the Market Coordinator to ensure that an Indemnity Agreement be completed prior to the commencement of the contract.  
  
b) The stallholder occupies and utilises the site at their own risk, and releases Blue Mountains Theatre & Community Hub from any liability for any damage to the display/stall/equipment or any other property of any description, or for loss of income due to event cancellation or eviction due to non-coherence to safety regulations or terms of this agreement.  
  
c) The Stallholder shall be responsible for the Stallholder’s own and his/her staff’s Workers Compensation insurance.

#### INDEMNITY

5. a) In the absence of any negligence on the part of the Stallholder the Commissioner shall indemnify and save

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harmless the Stallholder from and against all or any actions, suits, claims and demands by or on behalf of any person whatsoever in respect of the death or personal injury to any person whomsoever or damage to property which may arise directly or indirectly in the presence of the Stallholder at the Site.

## TERMINATION

6. a) Prior to the commencement of the contract either the Stallholder or the Contractor may terminate this agreement at any time upon giving written notice to the other.

In the event that;

- I. the Stallholder fails to comply with a direction of the Commissioner in accordance with this Agreement;
- II. in the reasonable opinion of the Commissioner, the Stallholder abandons or refuses to proceed or complete his/her obligations within the time provided for under this Agreement;

b) Under this Agreement the Commissioner may terminate this Agreement by notice in writing to the Stallholder. The termination will be effective from the receipt of the notice by the Stallholder.

## WAIVER

8. a) Any failure by a party to compel performance by the other party of any of the terms and conditions of this Agreement will not constitute a waiver of

those terms or conditions nor will it affect or impair the right to enforce those rights at a later time or to pursue remedies for any breach of those terms or conditions.

## VARIATIONS

9. a) The scope of work as defined in Appendix A can only be varied upon written Agreement signed by the parties.

## LAW

10. a) This Agreement shall be governed by the law of the State of New South Wales.

## DISPUTES

11. a) Any dispute arising in connection with this Agreement, which cannot be settled by negotiation, will be first submitted to mediation.

## NON-ASSIGNABILITY

12. a) Neither party hereto shall have the right to assign this Agreement to a third party without prior written consent of the other party.

## CONSTRUCTION AND INTERPRETATION

13. For the purpose of the interpretation and construction of this Agreement:-

- a) Headings and marginal notes shall not form part of this Agreement and shall not limit or effect the interpretation or construction of this Agreement.
- b) Words importing a person shall include bodies corporate of any nature and vice versa.
- c) Singular words shall include the plural and plural words shall include the singular.

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- d) Words importing a particular gender shall include each other gender.

## Appendix A - Agreement

IT IS HEREBY AGREED:

### STALLHOLDER'S SERVICES

- a) The Stallholder agrees to set up a display of goods which has hitherto been approved by the Commissioner as part of the Blue Mountains Theatre & Community Hub's Markets on the designated date and time.
- b) The Stallholder will provide all promotional and decorative material for their stall providing it is kept within the specified placement space and does not infringe on the specified placement of other stallholders.
- c) The stallholder will be provided with a bump-in time and access details, one weeks prior to the event.
- d) The Stallholder agrees to exercise a professional duty of care and ensure that all relevant standards and specifications are met.
- e) All stallholders give consent for the Commissioner to take photographs of stalls and display items, and that they may be used in documents, or for promotional and educational purposes.
- f) 'No refunds, credits to future event may be granted at management discretion'
- g) The stallholder will remove all rubbish generated by their stall from site and leave no marks or damage to surrounding area.

### BLUE MOUNTAINS THEATRE & COMMUNITY HUB'S SERVICES

- a) The Blue Mountains Theatre & Community Hub will release all promotional material for the Market.
- b) There are three stall types available

**Stall type 1** -3mx3m outdoor space (moved into the *theatre* in wet weather) \$88 GST inclusive

**Stall type 1a** – 3mx3m outdoor space regardless of weather \$88.00 GST inclusive

**Stall type 2** – Hub to provide 1 table and chair indoor space regardless of weather (No Marquee shells) \$77 GST inclusive

**Stall type 2a** - Hub to provide 1 table (second table can be provided by stall holder) and 2 chairs indoor space regardless of weather \$104.50 GST inclusive

c) The Blue Mountains Theatre & Community Hub does not provide tables, chairs or stall furniture for **stall type 1**. Marquees, umbrellas, stall furniture for your set up must be in safe working order and good condition. If deemed unsafe by the Commissioner's onsite staff, you will be required to remove the furniture.

d) Limited sites with power are available. This will be allocated on a first in basis

e) Where first preference stall is not available stall holders will be asked for a second preference

f) In wet weather stallholders will be accommodated inside the theatre, with the option to remain outside.

g) Refunds will not be provided due to weather if the market goes ahead.