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# **Services Agreement**

for services provided by

**The Event Refinery**

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**Date:**  
**Parties**

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Provider: The Event Refinery  
Address: PO Box 44213 Point Chevalier, 1022  
Email: [hello@ter.co.nz](mailto:hello@ter.co.nz)  
  
(the Provider)

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Client:  
Address:  
Email:  
  
(the Client)

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**Operative provisions**

**1. Definitions and interpretations**

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1.1 The following definitions apply in this agreement unless the context requires otherwise:

**Authorised Third Party Disclosee** means any Representative of a Disclosee to whom that Disclosee discloses Confidential Information in accordance with clause 7.

**Claim** means any claim, complaint, demand, proceeding, suit, litigation, action, cause of action or other legal recourse (whether in contract, tort, under statute or otherwise).

**Client** means the party that will receive the Services as named in the Quote.

**Confidential Information** means all information relating to a party, any customer, clients, suppliers, distributors or joint venture partners, of the party and/or any of the business or financial affairs of any of them.

**Default Rate** means a rate of interest of 24.00% per annum.

**Deposit** has the meaning given in clause 4.1.

**Disclosee** means, in respect of any particular Confidential Information, any party that has received that Confidential Information (whether directly or indirectly) from another party.

**Discloser** means, in respect of any particular Confidential Information, any party that has disclosed or discloses that Confidential Information (whether directly or indirectly) to another party.

**Fees** has the meaning given in clause 4.1.

**Fixed Price** means, in respect of a particular Engagement, the price (exclusive of GST) specified in the relevant Quote for all of the Services.

**GST** has the same meaning given to that expression in the GST Law.

**Personal Information** has the meaning given in the Privacy Act.

**Privacy Act** means The Privacy Act 2020 No 31 (as at 30 November 2022).

## **Interpretation**

- 1.2 The following rules of interpretation apply in this agreement unless the context requires otherwise:
- (a) headings in this agreement are for convenience only and do not affect its interpretation or construction;
  - (b) no rule of construction applies to the disadvantage of a party because this agreement is prepared by (or on behalf of) that party;
  - (c) where any word or phrase is defined, any other part of speech or other grammatical form of that word or phrase has a cognate meaning;
  - (d) a reference to writing includes any communication sent by post, facsimile or email;
  - (e) a reference to time refers to time in Auckland, New Zealand and time is of the essence;
  - (f) all monetary amounts are in New Zealand currency;
  - (g) a reference to a "liability" includes a present, prospective, future or contingent liability;

## **2. Engagement as Provider**

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- 2.1 The Client hereby engages the Provider on a non-exclusive basis to provide the Services to the Client, and the Provider hereby accepts that engagement and agrees to provide the Services to the Client, in accordance with the terms of this agreement.

### **Commencement, duration and hire period**

- 2.2 All quoted prices are based on a 3 day hire period. Should you require any items for an extended period of time please contact us. Subject to availability and additional charges may apply.

### **Nature of relationship**

- 2.3 The Provider is an independent contractor of the Client and nothing in this agreement constitutes a relationship of employer and employee, principal and agent, partnership or joint venture between the parties.

## **Delivery**

- 2.4 For hire items, delivery is an additional to the quoted prices, and will be quoted on each booking based on location. You are deemed liable for the items at the time of delivery on collection.

## **Amendments**

- 2.5 We will accept amendments to your product or service booking up to 4 weeks prior to the date of your event, provided that the amendments will result in an equal or greater amount of your original order. Subject to availability.

## **Cancellation**

- 2.6 If you cancel your booking within 2 weeks of the date of your event, we have the right to retain your full payment. Your non-refundable deposit is non-refundable.

## **Covid-19/Other Unforeseen Circumstances**

- 2.7 In the instance that your event is affected due to Covid-19 levels or another unforeseen circumstance, we will work with you to ensure a fair outcome. We are able to postpone your event for an agreed mutual date (subject to availability) or can hold your deposit for use at a later date.

## **Care**

- 2.8 Please take extra care with our beautiful items and ensure they are kept dry and out of the weather. Please refer to special care instructions for certain items so we can ensure they are kept in perfect condition for the next client.

## **Cleaning**

- 2.9 We require most items to be returned to us clean. Alternatively, you can talk to us about our cleaning service, and we will quote/bill accordingly depending on items hired. If items are not returned clean, we will charge a cleaning fee of \$45.00 exclusive of GST per hour.

## **Damage**

- 2.10 You are solely responsible for all items upon delivery and until return, including but not limited to theft, breakage, water/weather damage and stains. We will inspect all items on return and use our sole discretion when assessing any damage. You are entirely responsible for any damage to our items. On discovery of any damage, we will invoice you for the cost of repair or replacement of the item. Please see below for cost of lost or damaged items:

## **Loss and Damage Fees**

- 2.11 Should we discover any items to be lost or damaged the following fees will apply and be invoiced accordingly.

- i. Furniture/Umbrellas/Lighting/Archs/Backdrops/Floral Stands/Sign Hangers – TBA
- ii. Glassware/Cutlery/Vases/Napkins - \$5.00 per item lost or damaged
- iii. Plates - \$10.00 per item lost or damaged
- iv. Festoon lightbulbs - \$8.00 per bulb

### **3. Provision of the Services**

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#### **Quote**

- 3.1 In respect of each individual engagement for the Provider to provide Services to the Client under this agreement (each an Engagement), the parties must first agree on a Quote. The Provider's obligation to provide the Services that are the subject of each Engagement does not arise unless and until the Client has notified the Provider of the Client's acceptance of the relevant Quote.

### **4. Pricing & invoices**

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- 4.1 Subject to clause 3.1, in respect of each Engagement, the parties have agreed that the total price for the relevant Services (exclusive of GST and Expenses, and including a Deposit where relevant) (the Fees) will be, if as designated in the relevant Quote:
- 4.2 (Fixed Price) a Fixed Price applies – that Fixed Price payable in advance. The Provider will invoice the Client for all relevant Charges upon the commencement of each Phase; and
- 4.3 (Hourly Rate) the Hourly Rate applies – calculated on the basis of the time spent by the Provider in exclusively providing those Services on an hourly rate basis at the Hourly Rate in accordance with clause 4.3 and payable in arrears subject to clause 4.1 upon completion of the Services to the reasonable satisfaction of the Client. The Provider will invoice the Client by way of a single invoice for all relevant Charges following completion of all relevant work to the reasonable satisfaction of the Client, provided that if, as designated in the relevant Quote, a deposit is specified (the Deposit):
- 4.4 the 50% Deposit will be payable to secure the booking. The Provider will invoice the Client for the Deposit; and
- 4.5 the balance of all relevant Charges will be payable 21 business days prior to the event.

#### **Deposit**

- 4.6 In the absence of any material breach by the Provider constituting a repudiation or deemed repudiation of this agreement, the 50% Deposit is non-refundable.

#### **Hourly Rates**

- 4.7 Hourly Rates shall be proportionately charged for work involving periods of less than one hour and structured in 15 minute units, with 4 units per hour – e.g., the time charged for an attendance of up to 15 minutes will be 1 unit.

## **Reimbursement of Expenses**

- 4.8 The Client will pay all reasonable expenses properly and necessarily incurred by the Provider in the course of providing the Services.

## **5. Payment**

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### **Timings**

- 5.1 The 50% Deposit is payable in accordance with the provisions of clause 4. The Client must pay to the Provider all other Charges properly invoiced pursuant to clause 4 in full on or before the date that is 21 Business Days after the Client's receipt of the relevant invoice.

### **Method of payment**

- 5.2 All amounts to be paid by a party to another party under or in connection with this agreement must be paid in cash or electronic funds transfer into the account nominated by the other party.

### **Default interest**

- 5.3 If a party fails to pay any sum payable by it under this agreement to another party at the time and otherwise in the manner provided in this agreement, it must pay interest on that sum from the due date of payment until that sum is paid in full at the Default Rate, calculated daily on the basis of a 365-day year and compounded monthly. Interest will accrue from day to day and will be payable on demand. The payment of interest by a party to another party in respect of any late payment in addition to any other remedies that the other party may have in respect of such late payment.
- 5.4 If a liability of a party to another party under this agreement becomes merged in a judgement or order and the interest rate that applies under that judgement or order is lower than the Default Rate, that party must, as an independent obligation, pay to the other party, at the same time and in the same manner as the sum that is the subject of that judgement or order is to be paid, such additional interest on that sum as is required to ensure that the total amount of interest that the other party receives in respect of that liability is equal to the Default Rate.

## **6. GST**

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### **Definitions regarding GST**

- 6.1 In this clause 6:
- (a) expressions that are not defined, but which have a defined meaning in the GST Law, have the same meaning as in the GST Law;
  - (b) any part of a supply that is treated as a separate supply for GST purposes will be treated as a separate supply for the purposes of this clause 6; and
  - (c) any consideration specified to be inclusive of GST must not be considered in calculating the GST payable in relation to a supply for the purpose of clause 6.

## **Receiving Party to pay additional amount**

- 6.2 If GST is imposed on any supply made under or in accordance with this agreement, the recipient of the supply (Receiving Party) must pay to the supplier (Providing Party) an additional amount equal to the GST payable on the supply, subject to the Receiving Party receiving a valid tax invoice, or a document that the Commissioner will treat as a tax invoice, in respect of the supply at or before the time of payment. Payment of the additional amount will be made at the same time and in the same manner as payment for the supply is required to be made in accordance with this agreement.

## **Fines, penalties and interest**

- 6.3 The amount recoverable on account of GST under this clause 6 by the Providing Party will include any fines, penalties, interest and other charges incurred as a consequence of any late payment or other default by the Receiving Party under this clause 6.

## **7. Confidentiality**

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- 7.1 a Disclosee must:
- (a) keep all Confidential Information confidential;
  - (b) not use or exploit any Confidential Information in any way except in the proper performance of the Services in accordance with this agreement;
  - (c) not disclose or make available any Confidential Information in whole or in part to any third party;
  - (d) not copy, reduce to writing or otherwise record any Confidential Information except in the proper performance of the Services in accordance with this agreement (and any such copies, reductions to writing and records will be the property of the Discloser); and
  - (e) ensure that any and all Authorised Third Party Disclosees:
    - (i) comply with the obligations in this agreement as if each of them was a party to this agreement in the place of the Disclosee; and
    - (ii) do not do, or omit to do, anything which, if done or omitted to be done by the Disclosee, would constitute a breach of this agreement by the Disclosee.
- 7.2 The Disclosee shall be responsible for, and liable to the Discloser in respect of, the actions or omissions of any and all of its Authorised Third Party Disclosees in relation to the Confidential Information as if they were the actions or omissions of the Disclosee.

## **8. Non-disparagement**

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- 8.1 Subject to clause 8.2, on and from the date of this agreement, each party must not:
- (a) make, express, transmit, speak, write, verbalise or otherwise communicate in any way (directly or indirectly, in any capacity or manner) any remark,



comment, message, information, declaration, communication or other statement of any kind (whether verbal, in writing, electronically transferred or otherwise) that might reasonably be construed to be critical of, or derogatory or negative towards, any other party or any Representative of any other party; or

(b) cause, further, assist, solicit, encourage or knowingly permit any other person to do so, or support or participate in any other person doing so, and must take all reasonable steps to prevent its Representatives from doing so.

8.2 Clause 8.1 shall not prohibit any party from making any statement or disclosure as required by law or court order, provided that such party must:

(a) promptly notify the other party in writing in advance of any such statement or disclosure, if reasonably practicable; and

(b) reasonably assist the other party in obtaining confidential treatment for, or avoiding or minimising the dissemination of, such statement or disclosure to the extent reasonably requested by any party.

## **9. Intellectual Property**

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9.1 The parties agree that all Relevant IP will be owned by, and vest in, the Client.

### **Assignment**

9.2 The Provider hereby assigns, transfers and conveys to the Client all current and future right, title and interest in all Relevant IP and acknowledges that all future Relevant IP will vest in the Client on and from creation.

### **Provider's duty to assist the Client**

9.3 The Provider must do anything necessary, including executing any documents, for the purpose of effecting, perfecting and/or protecting the Client's title to any Relevant IP, in New Zealand or in such other countries as the Client may require at its discretion.

### **Permitted use**

9.4 The Provider may not use or reproduce any Relevant IP or any other Intellectual Property Rights of the Client or any of the Client's customers, clients or suppliers without the Client's prior written approval, except in the proper provision of the Services and performance of its duties under this agreement.

### **Disclosure of Relevant IP**

9.5 The Provider must immediately disclose in writing to the Client any Intellectual Property Rights that the Provider makes, develops or conceives that might reasonably be regarded as Relevant IP.

### **Moral rights**

9.6 The Provider consents to the doing of any acts, or making of any omissions, by the Client or any of the Client's employees, officers, contractors, agents, licensees or assigns that

infringes its Moral Rights in any Works that constitute Relevant IP, including:

- (a) not naming the Provider as the author of a Work; or
- (b) amending or modifying (whether by changing, adding to or deleting/removing) any part of a Work but only if the Provider is not named as the author of the amended or modified Work, whether those acts or omissions occur before, on or after the date of this agreement. The Provider acknowledges that its consent pursuant to this clause 9.6 is genuinely given without duress of any kind and that it has been given the opportunity to seek legal advice on the effect of giving that consent.

### **Non-infringement**

9.7 In providing the Services, the Provider must not infringe any rights in any Intellectual Property of any third parties and must not, without proper authorisation, make any use of, or bring into the Client's computer systems or onto the Client's premises, any Intellectual Property of any third party.

## **10. Liability & remedies**

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10.1 The Provider shall have personal liability for, and hereby irrevocably indemnifies and covenants to hold the Client harmless from and against, any and all Losses that may be suffered by the Client and which arise, directly or indirectly, in connection with any breach of this agreement by the Provider and/or any negligent or other tortious conduct in the provision of the Services.

10.2 The Client shall have personal liability for, and hereby irrevocably indemnifies and covenants to hold the Provider harmless from and against, any and all Losses that may be suffered by the Provider and which arise, directly or indirectly, in connection with any breach of this agreement by the Client and/or any negligent or other tortious conduct in the provision of the Services.

### **Limitation of liability**

10.3 To the maximum extent permitted by law, the Provider and its Representatives expressly:

- (a) (Disclaimer of warranties) disclaim all conditions, representations and warranties (whether express or implied, statutory or otherwise) in relation to the Services, including any implied warranty of merchantability, fitness for a particular purpose or non-infringement. Without limitation to the foregoing, the Provider and its Representatives make no representation, and provide no warranty or guarantee, that:
  - (i) the Client will achieve any particular results from the provision of the Services or;
  - (ii) any particular individuals will perform the Services on behalf of the Provider.
- (b) (Limitation of liability) limit their aggregate liability in respect of any and all

Claims for any Losses that the Client and/or any of its Representatives may bring against the Provider under this agreement or otherwise in respect of the Services to the following remedies (the choice of which is to be at the Provider's sole discretion):

- (i) re-supply of the Services;
- (ii) payment of the costs of supply of the Services by a third party; or
- (iii) the refund of any amounts paid by the Client to the Provider under this agreement in respect to the Services, even if the Provider has been advised of the possibility of such Losses, and the Client acknowledges and agrees that the Provider holds the benefit of this clause 10.4 for itself and as agent and trustee for and on behalf of each of its Representatives.

### **Force majeure**

- 10.4 To the maximum extent permitted by law, the Provider and its Representatives expressly exclude liability for any damage and/or delay in the performance of any obligation of the Provider under this agreement where such damage or delay is caused by circumstances beyond the reasonable control of the Provider and the Provider shall be entitled to a reasonable extension of time for the performance of such obligations, and the Client acknowledges and agrees that the Provider holds the benefit for itself and as agent and trustee for and on behalf of each of its Representatives.

## **11. Termination**

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### **Effect of termination**

- 11.1 In the event of any termination of this agreement in any circumstances and for any reason whatsoever:
- (a) the Client will remain liable to pay all Charges accrued up to and including the date of termination, whether or not invoiced prior to the date of termination; and
  - (b) the Provider will send to the Client a final invoice for the balance of any unbilled Charges accrued up to and including the date of termination and clause 5 will apply in respect thereof.

### **Partially completed deliverables**

- 11.2 Upon the cessation of the Provider's engagement under this agreement, subject to payment of all outstanding Charges by the Client in accordance with the terms of this agreement, the Provider will deliver to the Client any and all partially completed deliverables that are included within the scope of the Services.

### **Accrued rights**

- 11.3 Termination of this agreement will not affect any rights or liabilities that the parties have accrued under it prior to such termination.

**DATE OF THIS AGREEMENT:**

SIGNED for and behalf of the Provider

SIGNED for and behalf of the Client

**EXECUTED BY**

**The Event Refinery**

the Provider

By is authorised signatory:

Name:

Signature:

Position:

**EXECUTED BY**

**XX**

the Client

By its authorised signatory:

Name:

Signature:

Position: