

**DRAFT**

**STANDARD AGREEMENT**

**FOR EXHIBITIONS ON LOAN**

**BETWEEN N.A.M.E. INSTITUTIONS**

*Prepared by:*

*Date:*



- 3.1.4 "Exhibition Period" means the period of time between the agreed opening date and the agreed closing date as specified in Item 4 of the Schedule.
- 3.1.5 "Venue" means the location where the Exhibitor wishes to have the Exhibition exhibited as set out in Item 2 of the Schedule.
- 3.1.6 "Intellectual Property Rights" means all rights conferred under statute, common law and equity in and in relation to inventions, designs, trade marks, trade names, logos and get-up, circuit layouts, confidential information and copyright.

## **3.2 Interpretation**

In this Agreement unless the contrary intention appears:

- 3.2.1 A reference to this Agreement or another instrument includes any variation or replacement of either of them.
- 3.2.2 A reference to a clause or schedule is a reference to a clause or schedule of this Agreement.
- 3.2.3 A reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacement of any of them.
- 3.2.4 The singular includes the plural and vice versa.
- 3.2.5 Each gender shall include every other gender.
- 3.2.6 The word "person" includes a firm, body corporate, and unincorporated association or an authority.
- 3.2.7 A reference to a person includes a reference to a person's executors, administrators, successors, substitutes (including, but not limited to, persons taking by novation) and assigns.
- 3.2.8 A reference to a month is a calendar month.

3.2.9 If a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated inclusive of that day.

3.2.10 The word "Parties" shall mean the signatories to this Agreement.

3.2.11 Headings are inserted for convenience and do not affect the interpretation of this Agreement.

### **3.3 Loan**

3.3.1 The Organiser hereby agrees to loan the Exhibition to the Exhibitor and the Exhibitor hereby agrees to take and display the Exhibition, at the Venue for the Exhibition Period, upon and subject to the terms of this Agreement.

3.3.2 Variations to this Agreement may occur only with the written consent of both Parties to this Agreement.

### **3.4 Management Responsibilities**

3.4.1 The Exhibitor shall be responsible for the day to day management of the Exhibition whilst at the Venue, other than as specified in this Agreement.

3.4.2 The Exhibitor shall not undertake any treatment or works on any component of the Exhibition or the exhibition itself without written permission of the Organiser

3.4.3 In the event of emergency situations the Exhibitor may take any action that it considers is necessary to ensure the safety of the Exhibition or any component of the Exhibition, and is hereby given the authority to act for and on behalf of the Organiser and may remove components of the Exhibition to a place of safekeeping. The Organiser must be informed at the earliest opportunity by telephone and in writing of any emergency.

3.4.4 The Exhibitor shall not permit the use of any part of the Exhibition or related material for commercial purposes other than

may be referred to in this Agreement without the written consent of the Organiser.

3.4.5 The Exhibitor will allow access for the Organiser and its agents to the Venue at mutually agreed times.

### **3.5 Delivery, Installation and Dismantling**

3.5.1 The Exhibitor and the Organiser shall consult together and agree on:

3.5.1.1 Transporting unpacking, installation handling and packing the Exhibition.

3.5.1.2 Determining the layout and plan of the Exhibition, based on floor and service plans for the Venue and lighting plans provided by the Exhibitor to the Organiser.

3.5.1.3 Arranging any ancillary displays, signage or associated events in the Venue.

3.5.2 The Organiser shall be responsible for the crating and packing, repacking material and transport of the Exhibition to and from the Venue. Dimensions, weights and special handling equipment requirements are detailed in Attachment "B".

3.5.3 The Organiser shall ensure that the components of the Exhibition arrive at the Venue in a condition suitable for public exhibition on or before the arrival date as set out in Item 4 of the Schedule and that the condition and configuration of such components will allow them to be installed in a space at the Venue accessible to the public as nominated by the Exhibitor, and which provides all required services as detailed in Attachment "C". The Organiser will arrange for the Exhibition to be removed from the Venue at a time which allows for the components of the Exhibition to be disassembled and packed after the Exhibition closes to the public. The date by which the Exhibition is to be repacked is set out in

Item 4 of the Schedule. The Exhibitor shall provide secure and adequate space to store packing cases, either on the Venue premises or at a mutually acceptable off-site store.

- 3.5.4 In the event of a late delivery or pick up of the Exhibition, any additional expenditure incurred or loss of income suffered by the Exhibitor in respect of the Exhibition will be borne by the Organiser.
- 3.5.5 The Organiser shall provide representative(s) to coordinate the unpacking, installation, dismantling and repacking of the Exhibition at the Venue. The number of representative(s) provided by the Organiser and the number of days allowed for installation, dismantling and repacking is specified in Attachment "D".
- 3.5.6 The Exhibitor shall provide resources as detailed in Attachment "D" to unload, unpack, install, dismantle, repackage and reload the Exhibition. If the Exhibitor is responsible for any delay and as a direct consequence the Organiser's representatives are required beyond the time allowed in Attachment "D", the Exhibitor shall be liable to meet all direct and associated costs properly incurred.
- 3.5.7 In the event of the Exhibitor failing to supply the services, equipment or personnel as listed in Attachments "C" and "D" for the unpacking, installation, dismantling and repacking of the exhibition, the Organiser shall arrange for these to be provided and the Exhibitor shall be liable to meet all associated costs reasonably and properly incurred.
- 3.5.8 The Organiser shall be responsible for providing condition report forms for all items in the Exhibition as detailed in Attachment "A". The Exhibitor shall be responsible for the completion of the condition reports after arrival and immediately before departure of the Exhibition from the Venue. The Exhibitor shall immediately

notify to the organiser any change in condition. Refer Attachment "E" for Standard Condition Report form.

### **3.6 Display and Maintenance**

- 3.6.1 The Organiser shall be responsible for and in consultation with the Exhibitor shall ensure that each component of the Exhibition on display at the Venue is in full operational order and that all components are present to a standard suitable for public exhibition at the time of opening and maintained at this level throughout the Exhibition Period.
- 3.6.2 During the installation period specified in Clause 3.5.6 the Organiser will train staff nominated by the Exhibitor in the operation, routine maintenance and servicing of the Exhibition as detailed in Attachment "F".
- 3.6.3 Whilst the Exhibition is in the Venue, the Exhibitor shall be responsible for the daily checking of agreed maintenance of the Exhibition. The specialised repair of components shall be the responsibility of the Organiser.
- 3.6.4 The Exhibitor will be responsible for keeping accurate records on the maintenance forms provided as per Attachment "G" of all day-to-day maintenance undertaken on each exhibit and shall not make any modification or alteration to the Exhibition without the prior written approval of the Organiser.
- 3.6.5 The Exhibitor will nominate a representative(s) as its official representative for the purposes of contact person for the Organiser. The individual so nominated shall be available for contact at all times including weekends and public holidays.

### **3.7 Security**

- 3.7.1 The Exhibitor shall provide 24 hour physical and/or electronic surveillance of the exhibition whilst the exhibition is in the Venue.

3.7.2 The Organiser shall be responsible for security arrangements during transportation of the Works to and from the Venue.

### **3.8 Environmental Conditions**

3.8.1 The Exhibitor shall ensure that the environment in which the works are placed during the period of the exhibition is maintained at levels nominated in Attachment "C"

[usually 20°C +/- 2° Celcius and 50-55% Relative Humidity] - this may vary depending on the nature of the Works.

### **3.9 Insurance**

3.9.1 Unless the Organiser expressly elects to maintain his own insurance coverage, the Exhibitor will insure the Works for the amount indicated in Schedule 'A' against all customary risks of physical loss or damage from external cause while in the custody of the Exhibitor during the period of the loan.

3.9.2 If the Organiser elects to maintain his own insurance the Exhibitor must be supplied with a certificate of insurance naming the Exhibitor as additional insured or waiving subrogation against the Exhibitor. Otherwise this Agreement shall constitute a release of the Exhibitor from any liability in connection with the Works.

3.9.3 The Organiser shall be responsible for all transit insurance unless otherwise indicated.

### **3.10 Financial Arrangements**

3.10.1 The financial and related reporting arrangements for the Exhibition shall be in accordance with Item 5 of the Schedule.

3.10.2 Other than expressly provided for in this Agreement each party shall pay its own costs of performing its obligations hereunder unless otherwise agreed in writing.

- 3.10.3 Within 30 days of the close of the Exhibition the Exhibitor shall supply to the Organiser a report showing the number of persons, separately identifying the number of booked school groups, who have visited the Exhibition whilst it was on display at the Venue.

### **3.11 Advertising, Promotion and Supporting Material**

- 3.11.1 The Organiser will provide copies of any television advertising, press and educational material developed for the exhibition, as detailed in Item 6, for use or adaption by the Exhibitor. Any changes to this material or new material must have the approval of the Organiser.
- 3.11.2 Photography of the exhibition and related material is not allowed except with the written approval of the Organiser.

### **3.12 Merchandise**

- 3.12.1 Any specific arrangements between the Organiser and Exhibitor for sale of merchandise associated with the Exhibition shall be as set out in Item 7 of the Schedule.

### **3.13 Sponsorship**

- 3.13.1 National sponsorship shall be the responsibility of the Organiser. The National sponsors are listed at Item 8 of the Schedule. The Organiser shall have sole discretion concerning the manner in which National sponsorship funding is utilised. The Exhibitor may arrange additional local sponsorship subject to final approval by the Organiser and such approval not to be unreasonably withheld or delayed. Matters concerning the acknowledgment of the National sponsors, special requirements, etc, are provided at Item 8 of the Schedule.

### **3.14 Special Openings and After Hours Functions**

- 3.14.1 If, at the request of the Organiser, the Exhibitor provides access for special groups outside the normal hours of operation, the

Organiser shall reimburse the Exhibitor the direct cost of such special openings. These costs would not include allowance for management overheads.

### **3.15 Organiser Acknowledgement**

3.15.1 Unless otherwise agreed between the parties the Organiser as providers of the Exhibition on loan to the Exhibitor shall be given clear acknowledgment in all educational and promotional material, press releases, posters, banners or other advertising. The form of acknowledgment to be used is provided at Item 9 of the Schedule.

3.15.2 The Organiser must provide necessary corporate identity material to the Exhibitor to meet production schedules of the Exhibitor.

3.15.3 The Exhibitor is responsible for ensuring agreement has been reached with the Organiser prior to production of the items under sub-clause 3.15.1.

### **3.16 Ownership**

3.16.1 The Exhibitor acknowledges that the title to and Intellectual Property Rights in the Exhibition vests in the Organiser.

3.16.2 The Exhibitor must not convey, duplicate, transfer, assign, mortgage, pledge, lend or part with possession of any component of the Exhibition, except in accordance with the provisions of this Agreement and acknowledges that the Exhibition is the property of the Organiser.

### **3.17 Indemnity and Insurance**

3.17.1 Subject to sub-clause 3.17.2 the Exhibitor or its officers, employees or agents shall indemnify and keep indemnified the Organiser its officers, employees and agents from and against any loss damages expenses or costs (including the costs of any settlement) arising from any claim, demand, action, suit or

proceeding that may be made or brought by any person against the Organiser, its officers, employees or agents or any of them in respect of personal injury to or the death of any person or loss of or damage to any property or any other loss or damage arising out of or as a consequence of any act or omission by the Exhibitor in connection with the performance of this Agreement.

3.17.2 The Exhibitor is not, under sub-clause 3.17.1, liable in respect of personal injury to, or the death of, any person or loss of, or damage to property resulting solely from any negligent act or omission of the Organiser or its officers, employees or agents, or in respect of any claim, demand, action, suit or proceeding, or costs or expenses in respect thereof.

#### **PART 4 - JURISDICTION**

4.1 This Agreement shall be governed by and construed in accordance with the laws for the time being in force in the State/Territory of and the Exhibitor agrees to submit to the non-exclusive jurisdiction of the courts of that State.

#### **PART 5 - VALIDITY OF AGREEMENT PROVISIONS**

5.1 In the event that any term, condition or provision contained herein shall be determined to be invalid, unlawful and unenforceable to any extent, such term, condition or provision shall, to that extent, be omitted from this Agreement.

#### **PART 6 - DISPUTATION ARRANGEMENTS**

6.1 If any dispute arises under this Agreement, either party may give notice in writing to the other of the dispute. At the end of thirty (30) days from the date of notice of the dispute, unless it has been otherwise settled, the dispute shall be submitted to arbitration by a mutually agreed arbitrator but if agreement cannot be reached on an arbitrator it shall be submitted by or in accordance with the Rules for the Conduct of Commercial Arbitration

of the Institute of Arbitrators, Australia. The costs of the arbitration shall be met equally by the parties.

#### **PART 7 - TERMINATION**

- 7.1 Either party shall have the right to terminate this Agreement at any time by giving at least three months written notice to the other party prior to the date of effect of such termination.
- 7.2 Termination pursuant to this Clause 7 shall be without prejudice to the rights and liabilities of both parties which have accrued up to the date of termination.

#### **PART 8 - UNAVOIDABLE DELAY**

- 8.1 A party to this Agreement shall not be entitled to exercise its rights and remedies upon the default of the other party if that default:
- (a) is caused by an act or event that is beyond the reasonable control of that other party;
  - (b) continues for less than 14 days; and
  - (c) was not reasonably foreseeable at the time this Agreement was entered into

#### **PART 9 - ASSIGNMENT**

- 9.1 This Agreement is binding and shall not be assigned without the consent of the other party.

#### **PART 10 - SERVICE OF NOTICES**

- 10.1 Any notice, approval, consent or other communication given or made to a party under the Agreement shall be given in accordance with Item 10 of the Schedule.

**PART 11 - CONTINUING OBLIGATIONS**

11.1 The expiration or determination of this Agreement howsoever arising shall not affect such of the provisions hereof as are expressed to operate or to have effect thereafter and shall be without prejudice to any right of action already accrued to either party in respect of any breach of this Agreement by any of the other parties.

**PART 12 - COMPLIANCE WITH STATUTES**

12.1 Throughout the continuance of this Agreement the Exhibitor shall conform at its own cost and expense with all Acts of both Federal, Territory and State Parliaments and all Regulations, By-laws, Ordinances or Orders made thereunder operating in the State or Territory in which the Venue is located.

**PART 13 - WAIVER**

13.1 No failure or delay by any party in exercising any right, power or remedy under this Agreement, and no course of dealing or grant of any time or consideration or other indulgence will operate as a waiver of a breach or a default by any party. No single or partial exercise by any party of a right, power or remedy will preclude further or other exercising of that or any other right, power or remedy.

**PART 14 - NO WARRANTY**

14.1 The Exhibitor agrees that, except where required by an applicable law, no condition or warranty is given and no representation is made by the Organiser in relation to the Exhibition as to quality, fitness suitability for purpose or otherwise.

**IN WITNESS WHEREOF the parties have executed this Agreement on the day and year first above written**

Signed for and on behalf of )

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In the presence of )

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Signed for and on behalf of )

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In the presence of )

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**DRAFT FOR MODEL ONLY**

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**SCHEDULE**

**ITEM 1 - VENUE (Clause 2.1)**

Full name including status in law

**ITEM 2 - VENUE [ADDRESS AND EXHIBITION AREA] (Clause 3.1.5)**

**ADDRESS** :

**EXHIBITION AREA:** (Note: may need to attach a floor plan)

**ITEM 3 - THE EXHIBITION (Clause 3.1.2)**

A touring exhibition developed by the

on the subject of

The Exhibition comprises

as detailed in

Attachment "A"

**ITEM 4 - DATES (Clause 3.1.4)**

- (a) Arrival at Venue -
- (b) Commence installation -
- (c) Exhibition Period -
- (d) Repacking completed on -

**ITEM 5 - FINANCIAL /REPORTING ARRANGEMENTS (Clause 3.10)**

- *Detail financial and other resource arrangements agreed by the parties including payment time frames and conditions, exemptions and concessions*
- *Detail reporting requirements to be provided by the Exhibitor to the Organiser and time frames*
- *Accurate recording of visitor numbers and categories and time frame*

**ITEM 6 - ADVERTISING PROMOTION AND SUPPORTING MATERIAL**

**(Clause 3.11)**

*Arrangements to be specified*

**ITEM 7 - MERCHANDISE SALES (Clause 3.12)**

*Arrangements to be specified*

**ITEM 8 - SPONSORSHIP GUIDELINES/RESPONSIBILITY (Clause 3.13)**

*Sample only*

8.1 *National Sponsors*

*The Organiser reserves the right to appoint a National Sponsor prior to the Exhibition commencing at the Venue.*

8.2 *The National Sponsor must be acknowledged in the form to be advised in all associated materials as follows:*

(a) *All printed materials associated with the Exhibition, including school materials, and the invitation to opening night functions.*

(b) *Advertising and promotional material directly associated with the Exhibition including TV advertising, media kits or press releases.*

(c) *Signage both internal and external for the Exhibition, including banners and billboards.*

(d) *Where local sponsors are to be acknowledged, they shall be distinguished from the National Sponsor by reference to local*

*sponsorship. Greater prominence shall be given in all references to the National Sponsor compared to local sponsors.*

### 8.3 *Sponsor Benefits*

- (a) *A number of complimentary family passes and adult passes to be used at the Venue will be issued to the National Sponsor. These passes will have the logo of the Organiser and the National Sponsor and will be numbered.*

*NATIONAL SPONSOR: 50 Family passes and 20 Adult passes*

- (b) *The National Sponsor shall be entitled to one free hire of the exhibition space for a private corporate function at a mutually agreed time outside the Exhibitors normal opening hours. The costs of staffing for this function will be borne by the Organiser. Costs such as food and drink will be the responsibility of the National Sponsor.*
- (c) *The National Sponsor shall at their discretion be represented at any opening functions. The names and addresses of relevant National Sponsor invitees will be provided by the Organiser to the Exhibitor who shall process the invitations to the invitees.*

### **ITEM 9 - ORGANISER ACKNOWLEDGMENT (Clause 3.15)**

*The form of acknowledgment is to be specified.*

### **ITEM 10 - SERVICE OF NOTICES (Clause 10.1)**

Any notice, approval, consent or other communication given or made to a party under this Agreement must be in writing addressed and sent by prepaid ordinary post or facsimile to the party at the address or facsimile number referred hereunder or to such other address, facsimile number or person as the party from time to time may notify to the other party for the purpose of this Clause:

In the case of the Organiser

In the case of the Exhibitor

or the last known place of business of the Proof of posting by prepaid ordinary, registered or certified post or of dispatch of facsimile transmission is proof of receipt:

- (a) In the case of a letter on the fourth business day after posting; and
- (b) In the case of facsimile transmission, on production of an 'OK' transmission report by the machine from which the facsimile was sent which indicates that the facsimile was sent in its entirety to the facsimile number of the addressee and that the sender was not notified by the recipient that the transmission was garbled or illegible, by the next ordinary day of business.

**ATTACHMENT 'A' - Specification of Exhibit Items**

(Clauses 3.1.3, 3.5.8, 3.9.1)

Exhibition Name:

Components:

Name	Number	Value for Insurance
		\$AUD

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## **ATTACHMENT 'B' - Sizes, Weights and Handling Requirements**

(Clause 3.5.2)

**ATTACHMENT 'C' - Services to be provided by the Exhibitor**

(Clauses 3.5.3, 3.5.7, 3.8.1)

**ATTACHMENT 'D' - Time and Personnel Required to Install**

(Clause 3.5.7)

**ATTACHMENT 'E' - Condition Report Form**

(Clause 3.5.8)

**ATTACHMENT 'F' - Maintenance and Repair**

(Clause 3.6.3)

**ATTACHMENT 'G' - Maintenance Report**

(Clause 3.6.4)