

**ROOM HIRE TERMS AND CONDITIONS**

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1. **Definitions**

**Owner** or **we** or **us** means HANDS ON KALLAROO PTY LTD ACN: 106 700 136 of First Floor, 109 Grand Boulevard, Joondalup, Western Australia as trustee for The Du Plessis Family Trust trading as MOVEMENT ZONE;

**Hirer** or **you** means the person or entity which has submitted a request to hire the Hire Room on the Booking Form;

**Agreed Purpose** means the provision of fitness, health or wellness classes, one on one training, and related activities such as workshops and conferences;

**Agreement** means these terms and conditions together with any policies which are issued by us from time to time in relation to the Premises;

**Booking Form** means the booking form, whether hardcopy or online, which was submitted by you to us to initiate the hire of the Hire Room on which form you would have selected the Hire Period and the Hire Room;

**Common Areas** means that part of the Premises comprising the kitchen, bathroom and the corridors leading between those areas;

**Equipment** means the furniture, appliances and other equipment of the Owner situated in the Hire Room and Common Areas;

**Hire Period** means the period which you have selected on the Booking Form for which you wish to hire the Hire Room;

**Hire Room** means that part of the Premises which you have requested to hire on the Booking Form.

**Premises** means the premises at Unit 5, 124 Winton Road, Joondalup, Western Australia;

2. **Grant of Right of Hire**

(a) Once you submit the Booking Form, then we will advise you if your request has been accepted (successful submission is not acceptance; acceptance is confirmation by us that your booking has been accepted). We may ask for such further information as we see fit before we accept a booking and we are under no obligation to accept a booking.

(b) If your booking request is accepted by us, then in consideration of the Hire Fee, we licence and permit you to occupy the Hire

Room and use the Common Areas and Equipment on the terms and conditions set out in this Agreement for the Hire Period.

3. **Hire Fee**

(a) The Hire Fee payable is the amount advised at the time of booking.

(b) The Hire Fee is inclusive of access to electricity, water, WiFi and use of the Equipment.

(c) The Hire Fee must be paid in advance at the time of submitting the Booking Form.

(d) Payment of the Hire Fee implies full acceptance by you of the terms and conditions set out in this Agreement.

4. **Bond**

(a) You must pay to the Owner a security deposit (**Bond**) of \$150.00 at the time of submitting the Booking Form.

(b) We may use the Bond for the following reasons:

(i) to pay for cleaning and/or repairs to any part of the Premises including but not limited to the Hire Room, Common Areas or Equipment where the soilage and/or damage was caused by you or your employees, contractors, guests, invitees or customers, whether or not from a breach of any provision of this Agreement; and

(ii) to pay any amounts payable by you which remain unpaid after the due date; and

(iii) to pay all debt collection, legal costs and other expenses incurred by us which are attributable to a breach of this Agreement by you, or anything contemplated by this clause 4 (on a full indemnity basis).

(c) If the amount of Bond is not sufficient to fully cover the costs in clause 4(b), you shall reimburse us on demand for any amount paid by us in excess of the Bond.

(d) Any Bond which has not been used by us will be refunded to you within 7 days of the end of the Hire Period.

5. **Payments**

- (a) All Hire Fees and Bond payments must be made via the online booking platform at the time of submitting the Booking Form.
- (b) Any amounts payable by you arising from a breach of this Agreement are payable upon demand being made by us.

6. **Access and Security Codes**

- (a) Once your booking has been confirmed, you will be provided with instructions on how to access the Premises, including the provision of access/security codes. You must not disclose these codes to any other person.
- (b) You must not access the Premises outside of the Hire Period, including for set up or clean up. Set up and clean up must be done within the Hire Period.
- (c) You acknowledge that the Premises will be fitted with alarms and CCTV cameras and security. By your use of the Hire Room you are deemed to consent to us filming and storing footage of you and your invitees, guests and customers whilst on the Premises. We may keep the footage as we see fit. We may also provide copies to our legal team or the police if we consider it appropriate.

7. **Use and Care of Premises**

- (a) You may only use the Hire Room, Common Areas and Equipment for the Agreed Purpose. Without limiting the foregoing, you must not use or allow the Hire Room, Common Areas or Equipment to be used for any illegal purpose.
- (b) Whilst some Equipment may be available for use, we do not warrant that any Equipment will be available at the time you require. You will need to bring your own equipment if the Equipment available is not sufficient or fit for purpose.
- (c) You must have all clearances required to conduct your business, including Working With Children clearances if you intend on having children attend your classes and the law requires you to hold clearances for them to do so.
- (d) You agree that your use of the Hire Room, Common Areas and Equipment shall be conducted in a safe, environmentally and socially responsible manner, and in alignment with our philosophy and policies.
- (e) You must ensure that care is taken to avoid

damaging the Hire Room, Common Areas and Equipment.

- (f) If you become aware of damage to the Hire Room, Common Areas or Equipment, you must give us notice of any such damage as soon practicable.
- (g) You must keep the Hire Room, Common Areas and Equipment in a clean and tidy condition at all times. You are responsible for cleaning up any dirt or spills and placing all waste in proper receptacles. If you do not clean up in accordance with this clause, we may, at our sole discretion, charge you a fee for attending to such cleaning or disposal of rubbish on your behalf.
- (h) You must not use or allow the Hire Room or Common Areas to be used in such a manner as to cause a nuisance or cause an interference with the reasonable peace, comfort or privacy of any other persons who have a right to occupy or share the Hire Room, Common Areas or any other part of the Premises or any person using or occupying any other building in close proximity to the Premises.
- (i) You must not allow any person other than yourself or your employees to use the Hire Room, Common Areas or Equipment without our prior written consent.
- (j) If a fire alarm is activated because of any act or omission of you or any of your guests, employees, invitees, customers or agents, the cost of the response by FESA will be your responsibility.
- (k) You must supply your own kitchen consumables (if required).
- (l) You must not bring any animals or pets onto the Premises unless we have provided our prior written agreement. Any breach of this provision will incur a penalty of \$500 payable immediately upon demand.
- (m) You must not use Equipment other than in accordance with the manufacturer's guides and manuals.
- (n) You shall not:
  - (i) smoke or allow anyone to smoke on the Premises;
  - (j) consume or allow alcohol to be consumed on the Premises;
  - (ii) use or allow anyone to use candles, open flames or flammables on the Premises;

- (iii) use or allow anyone to use incense on the Premises unless the incense is therapeutic grade; or
  - (iv) leave any environmental toxins or items which have a strong odour on the Premises.
- (o) You acknowledge and agree that other areas of the Premises may be in use while you are occupying the Hire Room, and that, whilst those occupiers will have also agreed to terms as set out in this Agreement, voices, music, and movement may interfere with your use of the Hire Room during those times.
  - (p) The Hire Room must be left in its original state at the conclusion of the Hire Period and you must not change the décor of the Hire Room without our prior written consent.
  - (q) You must comply with all Health Directions, capacity limits, shared equipment usage rules, social distancing requirements and other requirements and laws arising from the COVID-19 pandemic.
  - (r) We do not warrant that the Premises or Equipment are fit for any particular purpose. You are responsible to ensure that the Premises are suitable for the purpose (which must be an Approved Purpose) you intend to use them for.

8. **Storage**

- (a) If we agree in writing, you may store equipment or items in the Hire Room or in the Common Areas.
- (b) Any equipment or items left on the Premises by you must not interfere with the safety or convenience of others using the Premises.
- (c) We shall not be responsible for any equipment or items that are left on the Premises by you. They are stored at your risk.

9. **Conduct of Hirer**

- (a) You must, at your own expense, maintain professional indemnity insurance for an amount of not less than \$20,000,000 (twenty million dollars) and hold such other business insurances as are customary in your industry. We may ask for proof of such insurances prior to your occupation of the Hire Room. If you fail to provide proof to our satisfaction, we can cancel the Hire at any time by notice to you.

- (b) You must at all material times conduct yourself in a professional manner, and must not engage in any conduct that will or is likely to cause harm to the professional image of the Owner or the Premises.
- (c) You acknowledge and agree that:
  - (i) our relationship under this Agreement is that of Owner and Hirer;
  - (ii) neither party has any express or implied authority to commit the other party to any contract or make any binding promise or representation on behalf of the other;
  - (iii) nothing in this Agreement deems or implies that we or you are in partnership or in a joint venture partnership with the other party.

10. **Default**

You must pay on demand interest at the rate of 10% per annum on any moneys payable by you which remain unpaid after the due date, computed from the due date for payment until paid.

11. **Indemnity**

- (a) We are not liable to you for anything that happens to you, your equipment, your guests, invitees, customers or any other person who brings a claim against you, as a result of your use of the Hire Room, Common Areas or Equipment whatsoever and howsoever arising. You use the Hire Room at your sole risk and you are responsible for any claim of any nature that might arise as a result of you doing so.
- (b) You shall indemnify us and hold us harmless against any claim, loss or expense arising out of any legal liability incurred by you to any persons as a result of any act, omission, neglect, fault, failure or negligence of you, your servants or agents in exercising the rights contemplated by this Agreement or in occupying the Hire Room or using the Common Areas and Equipment.
- (c) You shall indemnify and hold us harmless against any claim, loss or expense arising out of any legal liability incurred by us to any persons as a result of any act, omission, neglect, fault, failure or negligence of you, your servants or agents in exercising the rights contemplated by this Agreement or in occupying the Hire Room or using the Common Areas and Equipment.

12. **Assignment**

You may not assign your rights under this Agreement.

13. **Variation**

This Agreement may only be amended by a document in writing and signed by both the Owner and Hirer.

14. **Termination**

(a) We may terminate the Hire by written notice to you at any time and for any reason whatsoever prior to the Hire Period commencing. Whilst we will endeavour to provide you with as much notice as possible, we will not be liable to you for any such termination. You will be entitled to a refund in full of your Hire Fees and Bond if we terminate on this basis.

(b) (i) **Early cancellation**

If you cancel your booking 14 days or more before the Hire Period commences, you will be entitled to a refund in full of the Hire Fee paid by you to us.

(ii) **Late cancellation**

If you cancel your booking less than 14 days before the Hire Period commences, you will be entitled to a refund of 50% of the Hire Fee paid by you to us.

(c) You will be entitled to a refund of the Bond in full if the Hire Period is terminated by you prior to its commencement.

(d) We may terminate the Hire Period by verbal notice during the Hire Period if you are in breach of any provision of this Agreement. If this occurs, you will be required to immediately vacate the Premises and leave the Hire Room, Common Areas and Equipment in a good clean condition. We will be entitled to retain 100% of the Hire Fees and your Bond will be dealt with in accordance with clause 4.

15. **General**

(a) Waiver by us of any default by you shall not be deemed to be a waiver of any continuing or recurring default.

(b) This Agreement shall be governed by and construed in accordance with the laws of the State of Western Australia.

(c) Nothing in these conditions shall be read or applied so as to exclude, restrict or modify or have the effect of excluding, restricting or modifying any condition, warranty, guarantee, right or remedy implied by law and which by law cannot be excluded, restricted or modified.

(d) The right granted under this Agreement to occupy the Hire Room and use the Common Areas and Equipment is not exclusive to you and we may grant any number of separate licences as we think fit.

(e) Any notice by either party to the other party pursuant to this Agreement may be given in person or by email. Your address for notice is the address you used in the Booking Form.

(f) This Agreement together with any policies issued by us from time to time constitutes the entire agreement between the parties. This Agreement supersedes all prior arrangements and understandings whether written or oral pertaining to the subject matter of this Agreement.

(g) A reference to either party in this Agreement shall be deemed to extend to and include the successors and permitted assigns of that party.

(h) Unless the context otherwise requires:-

(i) words denoting the singular shall include the plural and vice versa;

(ii) words denoting any gender shall include all genders;

(iii) "person" includes a body corporate and other entities and

(iv) 'including' means including but not limited to.

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