

FACILITY USE DEED

This Facility Use Deed is between the Owner, Primary User and the Client (the Parties). This Deed sets out the arrangements between the Parties – in the first section below the Parties’ details and arrangements, and in the second section the Terms and Conditions.

Term:	Meaning:	
Owner:	Trustees of the Christian Brethren Trust [CBT] Folium 642 in the Register of Successory Trusts under Part II of the Religious and Successory Trusts Act 1958 of 3 Tamar Street, Ringwood North Victoria 3130	
Primary User	Name:	
	ABN:	
	Address:	
	Email:	
Primary User Contact	Name:	
	PO Address:	
	Email:	
	Mobile:	
Client:	Name:	
	ABN:	
	Address:	
	Email:	
Primary Client Contact	Name:	
	PO Address:	
	Email:	
	Mobile:	

Term:	Meaning:																																																	
Premises:																																																		
Attendees:	Any person whether invited or not on the Premises related to the Client's use of any part of the Premises.																																																	
Bond:	A security deposit held by the Owner or the Primary User of \$																																																	
Facilities:	The part of the Premises used by the Client (as set out in the attached plan of the Premises) and any furniture and/or equipment owned by the Primary User and/or the Owner.																																																	
Permitted use:	<p>To operate as a Christian Church based group for the purposes of worship, worship services, prayer groups, Bible studies and the like from the Premises at the discretion of the Primary User only during the times noted below or at such other times by written agreement from the Primary User:</p> <table border="1"> <thead> <tr> <th rowspan="2">DAY</th> <th colspan="2">TIMES</th> <th>HOURS</th> <th>RATE</th> </tr> <tr> <th>From [am/pm]</th> <th>To [am/pm]</th> <th>Hours</th> <th>Per Hour</th> </tr> </thead> <tbody> <tr> <td>Monday</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Tuesday</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Wednesday</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Thursday</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Friday</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Saturday</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Sunday</td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Public Holidays</td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table> <p>For other times and dates the Client is to give the Primary User one week's notice of the booking and the Primary User is to notify the Client whether or not the facility is available to book.</p>	DAY	TIMES		HOURS	RATE	From [am/pm]	To [am/pm]	Hours	Per Hour	Monday					Tuesday					Wednesday					Thursday					Friday					Saturday					Sunday					Public Holidays				
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Fees:	The Client will pay to the Primary User for the hours booked each month at the prescribed hourly rate within 7 days of the end of each month.																																																	

Term:	Meaning:
Special Conditions:	The Client agrees with the Primary User's Statement of Faith as set out in Annexure 1 and as amended from time to time.
Start Date:	
Term:	Monthly from the Start Date or as determined by the Primary User or until terminated by the Primary User or the Primary User or the Client giving the other party one months' notice, or as otherwise agreed between the Owner, Primary User and Client.

TERMS AND CONDITIONS:

The Primary User agrees to offer the use of the Facilities to the Client subject to the following Terms and Conditions of use.

1. Definitions

- a. **Attendees** – includes the Clients customers, volunteers, employees, agents, contractors and any other invitees.
- b. **Client** – the person or entity using the Facilities and/or Equipment as detailed above.
- c. **Equipment** – furniture and/or equipment of the Primary User and/or the Owner used or available for use by the Client.
- d. **Interpretation of Deed** – in this Deed the following is to be taken into account in interpreting the provisions of the Deed:
 - i. Headings are for convenience only and do not affect interpretation.
 - ii. Individual or person references includes a corporation, firm partnership, joint venture, association, authority, trust, state or government and vice versa and a reference to any gender includes all genders.
 - iii. Legislation or legislative provision references includes any statutory modification or re-enactment of, or legislative provision substituted for, and any subordinate legislation issued under, that legislation or legislative provision.
 - iv. Party references in this Deed or any other document or arrangement includes that Party's executors, administrators, substitutes, successors and permitted assigns.
 - v. Singular includes the plural and vice versa.
- e. **Owner** – the owner of the Premises and Facilities as detailed above.
- f. **Primary User** – is the party that utilizes the Premises with the permission of the Owner and is making part of it available to the Client subject to the Terms and Conditions of this Deed.

2. Offer to Use, Acceptance and Arrangements

- a. The Primary User offers use of the Facilities and Equipment to the Client on the condition that the Permitted Use meets with the ongoing approval of the Primary User and the Owner, and the Client and the Permitted Use are compatible with Christian beliefs and practices, and the Client agrees and continues to comply with all Terms and Conditions of this Deed.
- b. The Client accepts the offer of use of the Facilities and Equipment on the Terms and Conditions of this Deed.

- c. The Client agrees to pay to the Primary User any Bond and/or Donation and/or reimbursement as agreed in this Deed or required by the Primary user on or before the times and in the form required by the Primary User as set out in this Deed or as advised by the Primary User from time to time.

3. Primary User and Owner's Position

The Primary User and Owner make no assertion or representation that the Facilities and/or Equipment are fit for purpose and the Client acknowledges that it has inspected (prior to entering this Deed) all the Facilities and Equipment, to satisfy itself that they are fit for purpose, regulatory compliant and that they understand how to use the Facilities and Equipment.

4. Client Responsibilities

- a. The Client must first seek the approval of the Primary User where it wishes to affix internal or external signage at the Premises or decorate the Facilities or Premises and may only do so after it has acquired written approval from the Primary User.
- b. The Client uses the Facilities and Equipment at its own risk and is liable for all damages caused to the Facilities, Equipment and/or the Premises and is liable for any repairs and maintenance required due to improper or incorrect use of the Facilities, Equipment and/or the Premises and must ensure that none of the Equipment of the Primary User is removed from the Premises.
- c. The Client shall ensure the Facilities are used for the Permitted Use and no other purpose and must have and keep up to date all applicable permissions, permits or licenses to comply with the Permitted Use.
- d. The Client shall ensure that all Attendees and users of the Facilities and/or Equipment understand and comply with the Terms and Conditions of this Deed and are supervised whilst on the Premises.
- e. The Client will ensure its representatives and Attendees only park in permitted spaces or areas as and at the times and on the days designated by the Primary User.
- f. The Client is responsible for the security and safety of its representatives and any Attendees.
- g. The Client and its representatives are to comply with all Facilities instructions and the directives of the officers or delegates of the Primary User and/or the Owner and the Client must ensure the quiet enjoyment of the Premises continues for the Primary User and the Owner and for any other client of the Primary User.
- h. If the Clients use of the Facilities and/or Equipment or presence on the Premises overlaps with any other Client of the Primary User then it will at all times ensure its representatives and Attendees are considerate of any other parties' rights to and use of the Facilities, Equipment and/or Premises.
- i. The Client shall be responsible and liable for the loss of or damage to Attendees personal property and any injury and/or death to the Attendees or users of the Facilities regardless of the cause and must ensure it has adequate insurance to cover all possible contingencies.
- j. The Client shall ensure the Facilities are cleaned and left in good condition, and all waste removed on a regular basis.
- k. The Client must ensure any of its electrical equipment has been tested and tagged by a qualified tester.
- l. The Client must advise the Primary User as soon as possible in the event any significant injury or death occurs to any person or any damage is incurred to any part of the Facility, Equipment and/or Premises.
- m. The Client must keep confidential and only provide keys and passwords to relevant equipment to its authorized persons and keep a register of authorized persons.

5. Client Acknowledgements

The Client acknowledges the following that:

- a. The Owner is the owner of the Premises and the Client will make no claim in relation to any legal right to an interest in the Facilities, Equipment or the Premises.

- b. The Primary User is authorized to make the day to day decisions in relation to the Facilities, Equipment and the Premises.
- c. The ultimate control of the Premises is with and will remain with the Owner or their successor or nominee.
- d. Any improvements or enhancements made by the Client to the Premises remains with the Premises and are owned by the Owner.
- e. If the Client has made any structural changes to the Premises then at the Primary Users and/or the Owners discretion the Client upon termination of this Deed must make good such changes and ensure the Premises is reinstated to the condition and form it was in when the Client took initial possession.

6. Insurance

- a. The Client must take out all insurances necessary for its Permitted Use at the Premises including its own public liability insurance to the value of at least \$20,000,000 or for such other amounts as required by the Owner or the Primary User from time to time.
- b. Each policy of insurance must note the interest of the Primary User and the Owner and must be with an insurer approved by the Primary User.
- c. The Client will provide a copy of the Insurance Policy and the Certificate of Currency of insurance of each required policy to the Primary User seven days prior to the Start Date and at least once per year thereafter.
- d. The Client must immediately notify the Primary User if any insurance cover is cancelled, adversely affected and/or expires for any reason.

7. Food and non-alcoholic drinks

- a. Food and non-alcoholic drinks may be prepared or served in the Facility in accordance with general Christian practices e.g. Holy Communion, fellowship and outreach activities.
- b. The Client is to ensure at all times that it complies with all food handling regulations and will ensure (when necessary) all handlers of food are trained and licenced in accordance with any regulatory requirements.

8. Alcohol and Illegal Drug Consumption and Smoking

- a. The Facility is not a licensed venue and does not under any condition allow any person to consume, supply, sell or disburse alcoholic beverages or illegal drugs.
- b. The Client will ensure that at no times will any person be able to consume, supply, sell or disburse alcoholic beverages or illegal drugs or to smoke at or near the Premises.

9. The Environment

- a. The Client must ensure that all noise created by the Client or Attendees (including but not limited to music instruments, amplification, public address systems and CCTV Cameras) must be operated within all regulatory requirements including (but not limited to) Local Council and EPA standards and within any relevant policy of the Primary User and/or Owner.
- b. The Client is to familiarize itself and keep itself up to date with all regulatory requirements including Local Council and EPA standards and with any relevant policy of the Primary User and/or Owner.

10. Cleaning, Damage and Security

- a. Where the Facilities, Equipment and/or Premises (which the Client is required to keep clean under this Deed) are not cleaned or kept clean on a timely basis to the satisfaction of the Primary User, the Primary User shall have the right to contract professional cleaners to clean these to the state they were in prior to use, at the Client's cost.
- b. Where the Facilities, Equipment and/or Premises (which the Client is required to ensure are not damaged under this Deed) are damaged as a result of the act or omission of the Client or their Attendees, then the

Primary User shall have the right to contract professionals to repair those areas or items damaged to return them to the condition they were in prior to the damage, at the Client's cost.

- c. The facility is equipped with a monitored alarm and smoke detectors. If the alarm or smoke detectors are activated whilst the Client is on the premises, the Client is to contact Barwon Security immediately in the event it is a false alarm [The alarm was triggered as a result of it not being armed or disarmed and, or the smoke detectors were triggered by smoke from cooking or other sources other than any fire]. If for any reason Barwon Security responds to the activation resulting in a visit to the facility, the Client shall be responsible for any charges relating to the visit.

11. Assignment

- a. The Client may not assign their rights under this Deed to any third party or its agent.
- b. The Primary User will assign their rights under this Deed with the written consent or direction of the Owner.
- c. The Owner may assign their rights under this Deed to any third party or its agent at its sole discretion.

12. Indemnity

- a. The Client indemnifies the Primary User and the Owner against all claims by the Client or any Attendee, or any related party to the Client and/or the Attendees (including but not limited to any fines imposed by authorities stemming from the Clients and/or Attendees use of the Facilities, Equipment and/or the Premises).
- b. The Client indemnifies and forever releases the Primary User and the Owner, their respective volunteers, officers, employees, agents, advisors and contractors from any claim for damage, loss, injury or death made against them by any Attendees or any related party of the Client and/or the Attendees.

13. Default and Termination

- a. If the Client fails to perform its obligations under or otherwise breaches a provision of this Deed and does not remedy that breach within 14 days of notice of the breach by the Primary User and/or the Owner then the Client is in breach of this Deed and the Primary User and/or Owner may terminate the Clients rights under this Deed immediately.
- b. Upon termination of the Clients rights under this Deed for any reason (whether as a result of a default or expiration of notice of the Term, or for any other reason), the Client will lose all rights under this Deed and must give back to the Primary User any key, code or other form of access to the Facilities and/or Premises and return any item of Equipment it has in its possession.

14. Disputes

Any disputes between the Parties will be dealt with as follows:

- a. The Parties will meet in person and discuss the details of the dispute between them, with the intention of resolving prayerfully and in a Christian manner all issues.
- b. If meeting together does not adequately resolve the issues between the Parties, then they will appoint an independent mediator (agreed to by all Parties in dispute) to meet with the Parties with the intention of resolving prayerfully and in a Christian manner all issues.
- c. If the above processes do not adequately resolve the issues between the Parties, then they will appoint an independent arbitrator (agreed to by all Parties in dispute) to meet with the Parties with the intention of deciding all issues between the Parties. If the Parties cannot agree on an arbitrator then either Party may request that an arbitrator be nominated by the Chair of the Resolution Institute in Victoria.

15. Force Majeure

- a. Force Majeure means a circumstance beyond the reasonable direct or indirect control and without the fault or negligence of the Party claiming force majeure, including but not limited to accident, fire, explosion, epidemic, strike, lockout, labour conditions, civil disturbance, riot, act of God, act of war, terrorist incident, cyclone, flood, storm or earthquake (but excludes changes in economic circumstances).

- b. A delay in or failure of performance by a Party (other than the payment of money) does not constitute a breach of this Deed or these Terms and Conditions by that Party if and to the extent that the delay or failure is caused by a Force Majeure, provided the Party claiming Force Majeure, gives notice to the other Party of the occurrence of the Force Majeure providing details of the Force Majeure and its anticipated likely duration and effect; and uses its best endeavours to resume fulfilling its obligations as promptly as possible and gives notice to the other Party with notice of the cessation of the Force Majeure.

16. Provisions Severable

If any provision of this Deed or these Terms and Conditions is invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions will not be affected and such invalid, illegal or unenforceable provision is to be severed from this Deed or these Terms and Conditions.

17. Consents

Unless otherwise stated in this Deed, where the consent, approval or permission of the Primary User and/or Owner is required under this Deed, such consent approval or permission must be in writing and may be given subject to such specified condition as the Primary User and/or Owner determines in its absolute discretion.

18. Notices

A notice, consent, approval or other communication under this Deed must be in writing signed by or on behalf of the person giving it, addressed to the person to whom it is to be given and sent to the relevant contact details set out in table at the beginning of this Deed.

19. Jurisdiction

This Deed is governed by the laws of Victoria.

20. Waiver

The non-exercise of or delay in exercising any power or right of the Primary User and/or Owner does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other or further exercise of it or the exercise of any other power or right.

21. Entire agreement

This Agreement sets out the entire agreement and understanding between the Parties with respect to the subject matter of the Terms and Conditions of this Deed and supersedes all prior agreements, understandings and representations (if any) between the Parties.

22. Variation

No part of this Deed or these Terms and Conditions may be amended or modified unless reduced to writing making specific reference to the term in the Deed or these Terms and Conditions and signed by the Parties or their Authorised Representatives on their behalf.

23. Time of the Essence

Time is of the essence in all obligations of the Client created under this Deed and these Terms and Conditions.

24. Status of Parties

Nothing in this Deed nor these Terms and Conditions is to be construed as creating a partnership, joint venture, relationship, agency or employment between the Parties.

Signed as a Deed

Declaration

We acknowledge on behalf of the Client that:

- We have read and understand this Facility Use Deed and its Terms and Conditions.
- We are authorised by the Client to complete and sign this Deed.
- We accept responsibility on behalf of the Client and Attendees to comply with this Deed and its Terms and Conditions.

Signed by the Client	
Name:	Date:
Signature:	

Signed by the Primary User	
Name:	Date:
Signature:	

Signed by the Owner	CBT
Name: Leigh Minehan	Date:
Signature:	

Annexure 1 - Plan of Premises and Facilities.

Annexure 2 - Statement of Faith