



RESIDENCE TERMS AND CONDITIONS

1. Agreement

- 1.1. These Terms and Conditions apply to the hire of a Residence..
- 1.2. Parrys Estate may vary these Terms and Conditions from time to time.
- 1.3. The Client must not transfer or assign any of its interests, rights, obligations or benefits under the Agreement.
- 1.4. The Agreement is governed by the laws of Western Australia and the parties submit to the exclusive jurisdiction of the Courts of Western Australia.
- 1.5. If a provision of the Agreement is invalid, illegal or unenforceable it must, to the extent that it is invalid, illegal or unenforceable, be treated as severed from the Agreement, without affecting the validity and enforceability of the remaining provisions.

2. Booking Procedure

- 2.1. When the Client requests to hire the Residence, a tentative booking will be made.
- 2.2. The booking will be held without obligation and will be confirmed only when the following occur within 24 hours of the tentative booking being made:
 - (a) On receipt of payment the Client is agreeing to the terms and conditions in this document
- 2.3. Until a booking is confirmed, Parrys Estate may:
 - (a) Hire the Residence to another person; or
 - (b) Decline to hire the Residence to the Client.
- 2.4. Confirmation of the booking is a condition precedent to performance of Parrys Estate obligations under the Agreement.
- 2.5. Upon confirmation of the booking, the rights and obligations of Parrys Estate and the Client as specified in the Agreement become binding on the parties.
- 2.6. A Client or known persons to the client are not permitted to hire more than one beach house for the same period without the permission of Parrys Estate.
- 2.7. Where a Client or known persons to the client has hired more than one beach house without permission, Parrys Estate may cancel one or more of the bookings.
- 2.8. Parrys Estate reserves the right to refuse to hire the Residence without stating any reason.
- 2.9. When a special offer is selected, the discount does not repeat when the booking spans a multiple of the number of nights booked and the guest cannot make a subsequent booking to receive double the discount.
- 2.10. Pricing is confirmed upon reservation and cannot be adjusted at a later date to align with rate fluctuations.

3. Security Bond

- 3.1. The Client must provide Parrys Estate with credit card information when booking for the purpose of recovering any amount owed to Parrys Estate in accordance with this clause.
- 3.2. Parrys Estate may charge to the credit card provided by the Client any of the following:
 - (a) Costs or anticipated costs incurred for remedying damage to the Residence or any facilities or equipment as a result of the conduct of the Client or a Guest;
 - (b) Costs or anticipated costs incurred for cleaning the Residence or any facilities or equipment that, as a result of the conduct of the Client or a Guest, exceed the costs that Parrys Estate would ordinarily incur for cleaning;
 - (c) Costs or anticipated costs incurred as a result of the Client's failure to comply with the Agreement; or

- (d) Any liquidated damages payable by the Client.
- 3.3. The balance of any amount charged in anticipation of actual costs incurred, after any applicable deductions, will be refunded within seven days of the latter of:
 - (a) The Booking;
 - (b) The costs or anticipated costs of remedying damage to, or cleaning of, the Residence having been assessed; or
 - (c) The cancellation of the Booking.

4. Residence Hire Fee

- 4.1. Payment may be made by cash, bank transfer or credit card.
- 4.2. Payment is to made at the time of booking

5. Use of the Estate

- 5.1. The Client acknowledges the Estate is a working farm and eco-sanctuary with conservation practices undertaken on the Estate.
- 5.2. This includes sustainable farming, native bird breeding, native planting and predator proofing. The ecology of the Estate is vulnerable.
- 5.3. The Client agrees to ensure that the Client and Guests respect the property, treat with care the animals, plants, land and structures and not leave rubbish or food anywhere on the Estate.
- 5.4. The Client must ensure that the Client or Guests do not access any part of the Estate beyond the immediate vicinity of the Beach House unless accompanied by one of Parry Beach Breaks' officers, agents or servants.

6. Use of the Residence

- 6.1. Licence
 - (a) Parrys Estate grants to the Client licence to use and occupy the Residence only during the period of the Booking.
 - (b) The Client must not sublicense any part of the Residence.
- 6.2. Allocation of Residences
 - (a) Where more than one Residence is specified in the Agreement or is otherwise hired by a Client or a person known to the client, no later than two months before the Booking, the Client must provide Parrys Estate with:
 - (i) The number of guests intending to occupy each Residence; and
 - (ii) The full name and contact information of at least one guest intending to occupy each Residence.
- 6.3. Maximum Capacity
 - (a) The maximum number of Guests permitted to occupy or be present in the Residence is six.
 - (b) For the avoidance of doubt, where more than one Residence is specified in the Agreement or is otherwise hired by a Client or a person known to the client, Guests occupying one Residence may not be present at another Residence.
 - (c) Parrys Estate is entitled to, and the Client must pay, \$1,500.00 by way of liquidated damages where the maximum number of Guests in the Residence is exceeded.
- 6.4. Housekeeping
 - (a) Parrys Estate is responsible for providing all linen, including bed sheets and towels.
 - (b) The Client or a Guest must not remove any glasses and or crockery from the Residence.
- 6.5. Children
 - (a) A child intending to sleep in a porta cot is included when calculating the maximum number of Guests permitted to occupy or be present in the Residence.
 - (b) However, there must be no more than one child in the Residence that is to sleep in a porta cot.
- 6.6. Arrival
 - (a) The Client and Guests may check-in to the Beach House no earlier than 3:00pm.
- 6.7. Conduct at the Residence
 - (a) The Client must ensure that:
 - (i) Activities at the Residence are carried out in a proper, orderly and lawful manner;

- (ii) Activities at the Residence are carried out in a safe manner;
 - (iii) Any lawful directions given by Parrys Estate, its officers, agents or servants are complied with;
 - (iv) Any signs or markings regulating the use of the Residence or any facilities, equipment or surrounding land are complied with;
 - (v) Any policies or procedures regulating the use of the Residence or any facilities, equipment or surrounding land are complied with;
 - (vi) A party is not held at the Residence;
 - (vii) The number of Guests at the Residence does not exceed the maximum number of Guests permitted at the Residence;
 - (viii) A pet or other animal is not kept at the Residence;
 - (ix) A candle or other open flame decorative device is not used at the Residence;
 - (x) The Client or Guests do not do or omit to do anything that may result in a contravention of any law, licence or permit, or a condition of any licence or permit, held by Parrys Estate;
 - (xi) The Client or Guests do not do or omit to do anything that may result in the suspension or cancellation of any licence or permit held by Parrys Estate
- (b) Parry Estate may:
- (i) Remove, or direct the Client to remove, from the Residence any Guests present in excess of the maximum capacity for the Residence;
 - (ii) Exercise control of audio, visual or audio-visual equipment being used at the Residence; or
 - (iii) Close the Residence and remove all Guests where the Agreement is not complied with.

6.8. Departure

- (a) The Residence must be vacated no later than 10:00am on the last day of the Booking.
- (b) The Client must ensure that the Residence is secured and keys are returned to the lock box located in the carport.
- (c) The Client must ensure that the Residence is left in a clean and tidy condition and that all glassware, crockery and cutlery is washed and polished.
- (d) The Client must ensure that all refuse is removed from the Residence and deposited in a designated rubbish bin located in the carport.

7. Smoking

- 7.1. Except at a designated smoking area, the smoking of any tobacco product is prohibited at the Estate.
- 7.2. Parrys Estate is entitled to, and the Client must pay, \$500.00 by way of liquidated damages where this clause is not complied with.

8. Children

- 8.1. The Client must ensure that a Guest that is a child is personally supervised by an adult at all times while the Guest is present at the Estate.

9. Lost Property

- 9.1. Parrys Estate, its officers, agents and servants are not responsible to the Client or any other person for damage to or the loss, theft or removal of any property brought to, or left at, the Estate.

10. Parking

- 10.1. The Client must ensure that a motor vehicle or bicycle is not parked or left in a place or in a manner that obstructs entry to, exit from, or the use of the Residence or the Estate.
- 10.2. Parrys Estate and its officers, agents or servants are not responsible to the Client or any other person for damage to or the loss, theft or removal of any motor vehicle or bicycle.

11. Prohibited Items

- 11.1. The Client must ensure that the Client or a Guest does not bring to, or possess at, the Estate a Prohibited Item.
- 11.2. Parrys Estate may direct, remove, or cause the Client to remove, a Prohibited Item, or a Guest who is found in possession of a Prohibited Item, from the Estate.

12. Variations

- 12.1. The Client may request that the date or period of the Booking be varied.

12.2. Parrys Estate will vary the date or period of the Booking where:

- (a) The request is in writing;
- (b) The request is received:
 - (i) no later than 30 days before the first day of the Booking; or
 - (ii) is received within 30 days of the first day of the Booking the Cancellation policy applies. 14.2 (ii)
- (c) the Residence is available on the requested date.

12.3. Where the ordinary fee for the hire of the Residence on the requested date or period exceeds the Residence Hire Fee, the Beach House Hire Fee is varied accordingly and the Client must pay the new Residence Hire Fee, or the balance of it, no later than 30 days before the first day (as varied) of the Booking.

12.4. The Client may request a variation to the facilities, equipment or services to be provided by Parrys Estate in connection with the Residence. The request must be in writing.

12.5. Parrys Estate will make the variation where:

- (a) The request is in writing;
- (b) The request is received no later than 30 days before the first day of the Booking;
- (c) The facilities, equipment or services are available on the requested date; and
- (d) Parrys Estate can accommodate the variation without undue inconvenience.
- (e) Please see booking confirmation for multiple beach house variations.

12.6. Where the facilities, equipment or services are varied and the provision of those facilities, equipment or services would, if they had been specified in the Agreement at the time of booking, resulted in a higher Residence Hire Fee, the Residence Hire Fee is varied accordingly and the Client must pay the new Residence Hire Fee, or the balance of it, no later than 30 days before the first day of the Booking.

12.7. This clause does not apply to a variation to the duration (e.g. number of days) of the Booking.

12.8. Despite anything to the contrary in the Agreement, Parrys Estate may, at its absolute discretion, decline to make any variation if it is of the opinion that it is not in its commercial interests to do so.

13. Cancellation by Client

13.1. The Client may cancel the Booking by notice in writing to Parrys Estate.

13.2. Where the Booking is cancelled under this clause:

- (a) Parrys Estate obligations under the Agreement are discharged; and
- (b) Parrys Estate is entitled to, and the Client must pay, the following by way of liquidated damages:
 - (i) Where cancellation occurs no later than 30 days before the first day of the Booking the full booking amount minus \$150 administrative fee.
 - (ii) Where cancellation occurs within 30 days of the first day of the Booking, the amount of the Residence Hire Fee.
 - (iii) Please see booking confirmation for multiple beach house cancellations.

13.3. Any amount owed to the Client following deduction of the amounts in this clause, will be refunded within seven days of the cancellation of the booking. At the Client's request, Parrys Estate may provide a credit note in lieu of payment of money.

13.4. Where, at the request of the Client, the duration (e.g. number of days) of the Booking are reduced, the subtracted date or period of the Booking is taken to have been cancelled and this clause applies (with any necessary amendments) to the subtracted date or period.

13.5. For the avoidance of doubt, Parrys Estate may be entitled to other damages or liquidated damages where the Client cancels the Booking.

13.6. Cancellation under this clause acts as a termination of the Agreement by the Client.

13.7. This clause survives termination.

14. Cancellation by Parrys Estate

14.1. Without limiting the other ways in which Parrys Estate may cancel the Booking, Parry Beach Breaks may cancel the Booking where:

- (a) Due to unforeseen circumstances Parrys Estate is unable to perform its obligations under the Agreement; or
- (b) Parrys Estate believes on reasonable grounds that the Client will not comply with its obligations under the Agreement.

14.2. Where the Booking is cancelled under this clause:

- (a) Parrys Estates obligations under the Agreement are discharged; and
- (b) Parrys Estate will, within seven days of the cancellation, refund to the Client all moneys paid to Parrys Estate by the Client.

14.3. Except as otherwise required by law, Parry Estate will not be liable for any consequential losses incurred by the Client where the Booking is cancelled due to the act or omission of a person other than Parry Estate or to some other cause beyond Parry Estate control.

14.4. Cancellation under this clause acts as a termination of the Agreement.

14.5. This clause survives termination.

15. Cancellation due to Cancellation Incident

15.1. Parry Estate may cancel the Booking upon the happening of a Cancellation Incident.

15.2. Where the Booking is cancelled under this clause:

- (a) Parrys Estate obligations under the Agreement are discharged;
- (b) Parry Estate is entitled to, and the Client must pay, the following by way of liquidated damages:
 - (i) Where cancellation occurs no later than 90 days before the first day of the Booking, the amount of the Deposit; or
 - (ii) Where cancellation occurs within 90 days of the first day of the Booking, the amount of the Residence Hire Fee;
- (c) Where the Booking is cancelled under this clause during the Booking, the Client and all Guests must immediately leave the Estate.
- (d) The Client's obligations under the Agreement continue as if the Booking had been not been cancelled (for example, the Client remains obligated to leave the Residence in a clean and tidy condition).

15.3. For the avoidance of doubt, Parrys Estate may be entitled to other damages or liquidated damages where the Booking is cancelled under this clause.

15.4. Cancellation under this clause acts as a termination of the Agreement.

15.5. This clause survives termination.

16. Coronavirus (COVID-19)

16.1. The Client must ensure that the Client and Guests comply with any directions or orders given under the *Emergency Management Act 2005* or *Public Health Act 2016*.

16.2. The Client is responsible for providing its own personal protective equipment, including hand sanitiser, respirators or disposable gloves.

16.3. If the Client is unable to stay at the Beach House as a result of a direction or order given under the *Emergency Management Act 2005* or *Public Health Act 2016* (or a corresponding law in another jurisdiction) the date of the Booking may be varied as agreed between the Client and Parrys Estate.

16.4. Parrys Estate will not vary the date of the Booking merely because an intended guest is unable to stay at the Residence as a result of a direction or order given under the *Emergency Management Act 2005* or *Public Health Act 2016* (or a corresponding law in another jurisdiction) or any other reason connected with COVID-19.

16.5. In the event of a confirmed outbreak of COVID-19 at the Estate, Parrys Estate will advise the Client. It is the Client's responsibility to advise Guests.

17. Force Majeure

17.1. Where as a result of a Force Majeure Event, Parry Estate is unable to perform its obligations under the Agreement, Parry Estate may cancel the Booking.

17.2. Where the Booking is cancelled under this clause:

(a) Parrys Estates obligations under the Agreement are discharged; and

(b) Parrys Estate will, within seven days of the cancellation, refund to the Client all moneys paid to Parrys Estate by the Client.

17.3. Except as otherwise required by law, Parrys Estate is not liable to the Client for any delay or failure to perform its obligations under the Agreement where such failure or delay is due to a Force Majeure Event.

17.4. Cancellation under this clause acts as a termination of the Agreement.

17.5. This clause survives termination.

18. Client's Liability

18.1. The Client is liable for any loss or damage, including consequential loss, incurred by Parrys Estate caused by the act or omission of the Client or a Guest, including a failure to comply with the Agreement.

18.2. The Client is liable for and shall indemnify, defend and hold harmless Parrys Estate, its officers, agents and servants from and against all actions, suits, losses, damages, charges, claims, costs, penalties, fines, demands and expenses (on a full indemnity basis), including without limitation legal and other professional fees, that Parrys Estate, its officers, agents and servants may sustain whether directly or indirectly, that are made by any person (including the Client or a Guest), in connection with, arising or alleged to arise from, wholly or in part any accident, injury or death of any person or damage to the property of any person any damage (other than fair wear and tear) to the Estate or the Residence, or the facilities or equipment at the Estate or the Residence, caused directly or indirectly by any act or omission of the Client or a Guest, or breach of any law by the Client or Guest.

18.3. This clause survives termination.

19. Parrys Estate Liability

19.1. All express or implied guarantees, warranties or representations relating to any services supplied or intended to be supplied by Parrys Estate, not expressly stated are excluded from the Agreement to the maximum extent permitted by law.

19.2. The Client acknowledges that the Client and Guests enter the Estate at their own risk.

19.3. Subject to any liability arising from Parrys Estate own negligent acts or omissions, Parry Estate its officers, agents and servants are not liable to the Client in respect of any loss or damage the Client may incur from staying at the Residence, including any act or omission on the part of a third-party and the Client releases Parrys Estate, its officers, agents and servants from any such liability.

19.4. Save for any liability which by law cannot be limited, Parrys Estate, its officer's, agent's and servant's liability (if any) to the Client under and in relation to the Booking, whether in contract or tort (including negligence) is limited in aggregate to a sum equal to the Residence Hire Fee received by Parrys Estate from the Client.

19.5. Nothing in the Agreement excludes, restricts or modifies any right, remedy, guarantee, warranty or other term or condition, implied or incorporated by law that cannot be lawfully excluded or limited.

19.6. This may include the Australian Consumer Law, which contains guarantees that protect the purchasers of good and services in certain circumstances.

19.7. This clause survives termination.

20. Privacy

20.1. Parrys Estate collects personal information to administer and facilitate the hire of the Residence and the operation of the Estate.

20.2. The personal information provided to Parrys Estate is collected, used and disclosed in accordance with Parrys Estate privacy policy.

20.3. Parrys Estate may share personal information with third parties such as contractors engaged by Parrys Estate to carry out functions and activities on Parrys Estate behalf, including direct marketing, and otherwise in accordance with Parrys Estate privacy policy.

20.4. Personal information is not generally disclosed overseas. Parrys Estate privacy policy contains information about how to access and request the correction of personal

information and provides information about how a complaint will be dealt with by Parrys Estate.

- 20.5. If a person does not wish to receive promotional material from Parrys Estate, they must advise Parrys Estate by email or telephone or via the specific opt-out procedures in the relevant communication.

21. Interpretation

- 21.1. In the Agreement, unless the contrary intention appears, the following expressions have the following meanings:

Agreement means the agreement entered into by the parties in relation to the Booking, which may be comprised by a completed booking request form or similar document, online or otherwise, and includes these Terms and Conditions.

Residence means each residence specified in the Agreement.

Residence Hire Fee means the amount specified in the Agreement as the Residence Fee. **Cancellation Incident** means any of the following:

- (a) A failure to pay the Deposit, Security Bond, Residence Hire Fee or Variation Fee when required;
- (b) The cancellation of the Booking as a result of the activities at the Residence or the Estate not being carried out in a proper, orderly and lawful manner.

Client means the client as specified in the Agreement.

Deposit means the deposit mentioned in clause 3.1.

Equipment includes furniture, homewares and lighting.

Estate means the whole of the land situated at 88 Astartea Glade Parryville, and for the avoidance of doubt, includes the Residence

Booking means the occasion involving the attendance of the Client and Guests at the Beach House for the period specified in the Agreement.

Force Majeure Event means, to the extent the event or its consequence was not caused or contributed to by party claiming the Force Majeure Event, any event which is beyond the control of a party, including one or more, or a combination, of the following:

- (a) Lightning, natural disasters, cyclones, earthquakes and tsunamis;
- (b) Civil riots (other than immediately before, during or after the event which involve the client or a guest in connection with their attendance at the event), rebellions, revolutions, insurrections, military and usurped power, act of sabotage, act of public enemy and war (declared or undeclared), civil war or terrorism (or proximate threat thereof);
- (c) Nuclear or biological contamination, ionising radiation or contamination by radioactivity;
- (d) Epidemic or pandemic;
- (e) Fire or explosion;
- (f) Interruption of any public utility, including water, gas or electricity;
- (g) A requirement of law, which (either separately or together) directly causes Parrys Estate or the Client to be unable to comply with all or a material part of its obligations in accordance with the Agreement.

Guest includes any person (other than Parrys Estate, its officers, agents and servants) present at the Estate for the purpose of the Booking and extends to any person invited or permitted by the Client to be at the Estate.

Month means a calendar month.

Off Season means the period each year that is not Peak Season.

Parrys Estate means A McHugh and D.A Williams (a partnership) trading as "Parrys Estate".

Peak Season means the period from 1 October one year to 1 May the following year.

Prohibited Item means any of the following:

- (a) A weapon prohibited by law;
- (b) A drug prohibited by law;
- (c) Pampas grass or other noxious weed (including in floral arrangements);
- (d) A motorcycle designed to be used off-road;
- (e) A remote-controlled pilotless aircraft or small flying device (e.g. a drone);

- (f) Any other thing that Parrys Estate makes aware to the client (including by the use of a sign) is prohibited at the Estate or a part of the Estate.

Security Bond means the security bond mentioned in clause 4.1.

Variation Fee means a fee equal to 25% (where the first date of the Booking was during the Off Season) or 50% (where the first date of the Booking was during the Peak Season) of the Residence Hire Fee.

Year means a calendar year.

- 21.2. Any references:

- (a) to the singular includes the plural and vice versa;
- (b) to any gender includes all genders;
- (c) to persons includes all bodies and associations both incorporated and unincorporated;
- (d) to any legislation or regulation includes all amending and succeeding legislation and regulations;
- (e) to the word 'including' is construed without limitation;
- (f) to a clause means a clause in the Agreement; and
- (g) to paragraph headings are for reference purposes only.

- 21.3. Unless expressly indicated otherwise all amounts referred to are inclusive of GST.

- 21.4. Anything that must be given in writing may be sent by email.

- 21.5. In the event of any dispute or difference arising as to the interpretation of the Agreement or as to any matter or thing contained in the Agreement, the decision of Parrys Estate, after consultation with the Client, is final and conclusive.

- 21.6. Where there is an inconsistency between these Terms and Conditions and the Agreement, the latter prevails.

Drafted by Hammond Legal

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