

# Creative Cities 21

## Terms & Conditions

### **1 Booking**

---

- (a) CC21 does not represent that it will provide any Experiences unless they are included in the Program
- (b) The Customer must place a Booking in writing.
- (c) CC21 may at its discretion accept or reject a Booking.
- (d) CC21 may require the payment of a Reservation Fee. If a Reservation Fee is required, CC21 will not be deemed to have accepted the request for the Experiences until the Reservation Fee has been paid.
- (e) The Reservation Fee is not refundable unless specifically stated within these Conditions, including at clause 8(b) herein.
- (f) The Customer covenants that it has the legal capacity to enter into contracts at the time of submitting the Booking to CC21.

### **2 Price**

---

- (a) All Prices quoted by CC21 are based on the taxes and statutory charges applicable at the time of the issuing of the Program. Should these vary from the date of the issuing of the Program to the date of the Invoice, the Customer will be liable to CC21 for the difference.
- (b) On request from the Customer, CC21 may agree to provide additional Experiences that were not included in the Program and/or Booking. The additional Experiences may include Variations to the scope of the original Experiences. In this event, CC21 will be entitled to charge an additional Price.
- (c) The Customer acknowledges that the Price is exclusive of any GST that may be charged by CC21 to the Customer, and therefore, CC21 will be entitled to add on GST where applicable.

### **3 Provision of Experiences**

---

- (a) CC21 does not warrant that it will be able to provide the Experiences at specific times.
- (b) Nothing in these Conditions will affect CC21's right to use its own judgment and to use its own skills in order to achieve compliance with the regulations, directions, resolutions or other obligations set out within these Conditions.
- (c) The Customer will:
  - (i) Co-operate with CC21 as CC21 reasonably requires;
  - (ii) Provide the information and documentation that CC21 reasonably requires; and
  - (iii) Ensure that the Customer's staff and agents co-operate with and assist CC21.
- (d) If the Customer does not comply with 3(c) herein, then any additional costs and expenses which are reasonably incurred by CC21 will be paid by the Customer and CC21 will not be responsible for any delay in provision of the Experiences resulting from a breach of 3(c) herein by the Customer.
- (e) The Customer is required to obtain all necessary and valid passports, visas and permits for the provision of the Experiences.
- (f) The Customer is responsible for checking and complying with the most current travel advisories and warnings by referring to its countries Embassy Department travel website and the Customer acknowledges that it will be liable for any Loss it suffers as a result of not doing so.
- (g) The Customer acknowledges that they are responsible for obtaining any vaccinations or health precautions applicable to the location of the Experiences.

- (h) The Customer acknowledges that it is responsible for organising and paying for any incidental goods and/or services not included in the Program that are required in order to receive the Experiences, including, but not limited to travel (to, from, within), accommodation, food, etc.
- (i) The Customer must not do any action which may result in danger, offence or hindrance to any other individual during the provision of the Experiences.
- (j) CC21 can assign, transfer, charge, sub-contract or license any part of its rights and obligations without the Customers consent, but CC21 will remain liable at all times to the Customer.

### **4 Payment and Credit**

---

- (a) The Customer must make full payment to CC21 within the terms stipulated on CC21's Reservation Invoice or CC21's Invoice or if no date is stated on CC21's Reservation Invoice or CC21's Invoice, within seven (7) days from the date of issue of CC21's Reservation Invoice or Invoice.

### **5 Default**

---

- (a) If the Customer does not make a payment in accordance with clause 4(a) herein, CC21 is entitled to do any or all of the following:
  - (i) Cancel the Experiences without liability for any Loss that this may cause to the Customer and retain the Reservation Fee paid; or
  - (ii) Not perform any further Experiences (or any part of the Experiences) without being liable for any delay in the provision of Experiences as a result.

### **6 Warranties, Liability, and Indemnities**

---

#### **6.1 Warranties**

- (a) CC21 warrants that it will use reasonable care and skill in performing the Experiences to the standard generally accepted within the industry.
- (b) If any defects are reported by the Customer to CC21 within thirty (30) days of the provision of the Experiences, with time being of the essence, then CC21 will, at its discretion and in a reasonable amount of time, remedy the defects if possible.
- (c) The Customer agrees that CC21 will not be liable to compensate the Customer for any delay in assessing the Customers claim and any delay in rectifying the defects. The Customer warrants that it will assist CC21 in assessing the warranty claim.
- (d) To the fullest extent permitted by law, CC21 will not be liable for any Loss to the Customer in:
  - (i) Contract;
  - (ii) Tort;
  - (iii) Negligence;
  - (iv) Breach of statutory duty; or
  - (v) Otherwise.
- (e) The liability of CC21 in connection with the provision of the Experiences whether arising in contract, tort, negligence, breach of statutory duty or otherwise, to the extent permitted by law, will be limited to:
  - (i) The re-supply of the Experiences;
  - (ii) The payment of the costs of having the Experiences provided again; or

- (iii) The payment of the Price paid by the Customer for the Experiences provided.
- (f) Warranty claims can be made:
  - (i) In writing with proof of purchase to CC21's business address, being C/- Geoff Steer, Level 2, 7 English Street, Essendon Fields, Victoria, Australia 3041;
  - (ii) By email with proof of purchase to CC21 at hello@CreativeCities21.com;
  - (iii) By contacting CC21 by telephone on +61 455 212 191.
- (g) CC21 does not claim to modify, restrict or exclude liability that cannot be excluded under the *Competition and Consumer Act 2010* (Cth) and/or any complementary or related legislation and/or regulations as in force and *amended* from time to time.

## 6.2 Liability

- (a) CC21 takes no responsibility if the information provided by the Customer is incorrect or inaccurate and the Customer will be liable for any expenses incurred by CC21 in rectifying the Booking.
- (b) The Customer must ensure that it brings any special requirements regarding the Booking to the attention of CC21.
- (c) CC21 will not be liable for and the Customer indemnifies CC21 against any Loss that occurs as a result of the Customer failing to comply with clauses 6.2(a) and 6.2(b) herein.
- (d) The Customer releases CC21 from any liability for any Loss incurred as a result of delay or failure to provide the Experiences or to comply with the terms within these Conditions to the extent that such delay or failure is caused by an event or circumstance that is beyond the reasonable control of that party, and which by its nature could not have been foreseen or, if it could have been foreseen, was unavoidable, provided that CC21 has used all reasonable endeavours to cure such an event or circumstance.
- (e) CC21 does not warrant that it will be able to provide the Experiences unless it is included in the Program and/or Reservation Invoice.
- (f) CC21 will not be liable to the extent that the Customer or its agents, employees or subcontractors have caused or contributed to any Loss.
- (g) Experiences provided by CC21 may include Experiences, activities and/or products provided by an Experience Provider. Customers will be provided with the Service Provider's details. Whilst CC21 makes all reasonable attempts to ensure their suitability for Customers, CC21 does not accept any responsibility for the Service Provider's Experiences, activities and/or products and the Customer indemnifies CC21 against any Loss it suffers as a result of receiving the Service Provider's Experiences, activities and/or products.
- (h) The Customer waives any rights it may have against CC21 for Loss it suffers as a result of any activities it participates in with CC21 staff that is outside the scope of the Program and/or Reservation Invoice.

## 6.3 Indemnity

- (a) The Customer will indemnify and hold CC21 harmless from and against all Claims and Loss arising from loss, damage, liability, injury to CC21, its employees and third parties, infringement of third party intellectual property, or third party losses by reason of or arising out of any information supplied to the Customer by CC21, its employees, or supplied to CC21 by the Customer within or beyond the scope of the Experiences provided.

## 6.4 Survival of obligations

- (a) The obligations accepted by CC21 and the Customer under this clause 6 survive termination or expiry of these Conditions and/or the provision of the Experiences.

## 7 Intellectual Property

- (a) The Customer warrants that it shall not, in anyway, infringe or allow any other party to infringe on CC21's intellectual property rights.
- (b) All documents provided by CC21 to the Customer remain the property of CC21 and must be returned by the Customer on demand by CC21. The Customer warrants that it shall not disclosure, communication or publish any details contained within the documents to a third party without obtaining CC21's written consent.
- (c) The Customer consents to CC21 taking photos and videos during the provision of the Experiences for marketing and promotional purposes. The Customer further acknowledges that these photos and videos remain the property of CC21.

## 8 Termination

- (a) Either party may terminate this agreement by notice in writing to the other, if the party to be notified of the termination:
  - (i) fails to observe any of the terms and conditions within these Conditions; and
  - (ii) fails to rectify the breach, to the satisfaction of the notifying party, following the expiration of 14 days' notice of the breach being given in writing by the notifying party to the other party.
- (b) If the Customer terminates the agreement pursuant to clause 8(a) herein, the Customer is entitled to a refund of any Reservation Fee paid.
- (c) Upon termination of this agreement under 8(a) any fees, expenses or reimbursements payable by the Customer to CC21 in respect of any period prior to the termination must be paid by the Customer within 7 days after the termination.
- (d) Despite 8(a) herein, at any time CC21 may at its discretion and without any liability for any Loss suffered by the Customer in doing so:
  - (i) Decline to provide the Experiences as requested by the Customer; or
  - (ii) Postpone or cancel the Experiences.
- (e) CC21 may provide at its discretion a full refund of any costs paid by the Customer for the Experiences should it elect to enact 8(d) herein.

## 9 Jurisdiction

- (a) This agreement will be governed by, and construed in accordance with Victorian law, and the parties irrevocably submit to the exclusive jurisdiction of the courts of Victoria in Australia.

## 10 Insurance

- (a) The Customer acknowledges that CC21 is not liable to provide any insurance cover in relation to the provision of the Experiences or related goods and/or services.
- (b) The Customer is responsible for obtaining whatever insurance cover it requires at its own expense, including travel, cancellation and medical insurance.

## 11 Privacy

- (a) The Customer acknowledges receipt of CC21's Privacy Policy, which can be found here:

## 12 Use of Website

- (a) The terms and conditions for use of the Site can be found here:

<http://www.creativecities21.com/website-terms-conditions/>

## 13 General

- (a) In these Conditions:
- (i) reference to the singular includes the plural, reference to the masculine includes the feminine and neuter and words importing persons will apply to corporations.
  - (ii) reference to a statute or statutory provision is a reference to such statute or provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.
  - (iii) any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- (b) Any instructions provided by the Customer to CC21 after receiving these Conditions will constitute acceptance of these Conditions.
- (c) This agreement may only be amended in writing signed by duly authorised representatives of the Parties.
- (d) If any provision in these Conditions is invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the residual provisions will not be affected, prejudiced or impaired and the offending provision will be deemed as severed from these Conditions.
- (e) No failure or delay by CC21 or the Customer in exercising any right, power or privilege in these Conditions will impair the same or operate as a waiver of the same nor may any single or partial exercise of any right, power or privilege preclude any further exercise of the same or the exercise of any other right, power or privilege.
- (f) If more than one Customer agrees to a single Booking, each will be jointly and severally liable.
- (g) If one Customer makes a Booking for the provision of Experiences for a third party, the Customer acknowledges it is a duly authorised agent of that third party and indemnifies CC21 against any Loss CC21 may suffer if this is proven to be incorrect or the third party fails to fulfil its obligations under these Conditions.
- (h) These Conditions together with CC21's Program, CC21's Booking Form and CC21's Reservation Invoice form the whole agreement. Each of the parties acknowledge that, in entering into this agreement, it does not do so in reliance on any representation, warranty or other provision except as expressly provided in these Conditions, CC21's Program, CC21's Booking Form and CC21's Reservation Invoice. Any conditions, warranties or other terms implied by statute or common law are excluded from this agreement to the fullest extent permitted by law.
- (i) If there are inconsistencies between these Conditions and the terms and conditions within CC21's Reservation Invoice, CC21's Reservation Invoice will prevail.
- (j) The rights and remedies provided in these Conditions are cumulative and not exclusive of any rights and remedies provided by law.
- (k) Nothing in these Conditions is intended to contravene any provisions within the *Competition and Consumer Act 2010* or any comparable Act(s) within the relevant State or Territory of Australia.

## 14 Definitions

### 14.1 Definitions

**Booking** means any request for the provision of Experiences by the Customer.

**CC21** means Vaysh Pty Ltd (ACN: 617 730 382) trading as Creative Cities 21.

**Claims** means all demands, claims, proceedings, penalties, fines and liability (whether criminal or civil, in contract, tort or otherwise).

**Conditions** means the terms and conditions set out in this document as amended from time to time in accordance with clause 13(h) herein.

**Confidential Information** includes any information marked as confidential and any information received or developed by the Customer during the term of this agreement, which is not publicly available and relates to processes, equipment and techniques used by the CC21 in the course of the CC21's business. This includes all information, data, drawings, specifications, documentation, source or object code, designs, construction, workings, functions, features and performance notes, techniques, concepts not reduced to material form, agreements with third parties, schematics and proposals and intentions, technical data and marketing information such as Customer lists, financial information and business plans.

**Customer** means an individual or company acquiring or seeking to acquire Experiences from CC21.

**Experiences** are all the vocational learning services and/or goods relating to the vocational learning services provided by CC21, including any advice and/or recommendations provided by CC21.

**Experience Providers** are third parties and service providers who provide Experiences, activities and/or products through CC21, with CC21 acting as agent.

**GST** means the same as in the *A New Tax System (Goods and Experiences Tax) Act 1999* (Cth).

**Intellectual Property** includes trademarks, patents, copyrights, processes know-how, registered and/or unregistered designs or other like rights or any right to apply for registration of any of the former.

**Intellectual Property Rights** means all patents, rights to inventions, utility models, copyright and related rights, trademarks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database right, topography rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

**Invoice** means all invoices issued for the Experiences provided by CC21, but for the Reservation Invoice.

**Loss** means all indirect, special and/or consequential losses, damages, costs or expenses of any nature whatsoever incurred or suffered, including any economic loss or other loss of turnover, any loss of reputation or goodwill, any loss of value of intellectual property, any legal costs and other expenses of any nature whatsoever.

**Price** means the price payable for the Experiences provided by CC21.

**Program** means the program associated with the Experiences that the Customer has elected on CC21's booking form.

**Reservation Fee** means the deposit paid for the Experience.

**Reservation Invoice** means the invoice issued for a Reservation Fee.

**Site** means [www.CreativeCities21.com](http://www.CreativeCities21.com)

**Variation** means any increase, decrease or other change in the Service.