

Austrade Events Agreement - Terms and Conditions of Participation

EVENT AGREEMENT

- A. The Australian Trade Commission ('Austrade') proposes to conduct an Event to facilitate exporting and encourage investment in Australia.
- B. The Participant wishes to register and participate in the Event.
- C. These Terms and Conditions of Participation are to be read in conjunction with the Event Brochure and Application Form. In the event of any inconsistency, the Terms and Conditions of Participation take precedence to the extent of any inconsistency.
- D. Upon lodgment of the Application Form an agreement is entered into between Austrade and the Participant.

TERMS AND CONDITIONS

1 Definitions

Acceptance Letter: means written confirmation which includes email by an Austrade representative accepting the Participant's application.

Agreement: means these Terms and Conditions of Participation, the Event Brochure and the Application Form.

Application Form: means the online or hard copy Event Registration Form, specific to the Event contained on Austrade's website.

Deposit: means the amount specified in the Event Brochure and/or on the Application Form.

Event: means any exhibition, joint exhibition and trade mission, convention, seminar, trade fair, website promotion, display or production which is determined by Austrade to be an event.

Event Brochure: means the brochure specific to the event contained on the Austrade website or circulated in hard copy and which contains details of the Event including but not limited to the venue, date and Participation Fee.

Event Item: means the items brought to the Event venue or site by the Participant or an agent of the Participant, including display goods and promotional materials.

Invoice: means an invoice issued by Austrade to the Participant which specifies the Participation Fee payable by the Participant to Austrade for an Event.

Participant: means an Australian sole trader, partnership, or company which export goods or services from Australia or an ally who has applied to Austrade to participate in the Event.

Participation Fee: means the amount specified in the Event brochure Application Form and/or the Acceptance Letter that is required to be paid by the Participant to attend the Event.

Applications

2 Acceptance of Application:

Following electronic lodgment of the Application Form or receipt of a hardcopy application, Austrade will assess the application and determine whether the Participant is approved for the Event. If the application is approved, Austrade will issue an Acceptance Letter to the Participant. In the event that Austrade refuses approval to a Participant, this Agreement shall cease and become null and void. If Austrade refuses approval to a Participant, Austrade will notify the Participant in writing within a reasonable time period. The Acceptance Letter will include a cooling off period of 3 working days in which the Participant may withdraw their application without penalty.

Austrade reserves the sole discretion as to whether to accept an Application Form or hardcopy application and the Participant agrees and accepts that Austrade's decision is final and not subject to challenge. Austrade is not required to provide reasons for refusal of an application.

3 Participation Fee:

The Participation Fee is as set out in the Event Brochure and is indicative only and subject to currency rate variations. The Participant acknowledges and agrees that the Participation Fee, when calculated in Australian currency at the time of invoicing, may increase from the amount set out in the Event Brochure and/or on Austrade's Online Event Registration Form.

Notwithstanding this potential variation, the Participant agrees to pay the Participation Fee as invoiced and any increase when calculated in Australian currency remains the sole responsibility of the Participant.

4 Payment:

Upon expiry of the cooling off period specified in Clause 2, Austrade shall provide the Participant with an invoice for the Deposit or full amount (as listed on the Event Brochure) which must be paid by the date stated in that invoice. In the event that the Participant fails to pay the Deposit or Full Amount by the due date, the application will be deemed to be withdrawn by the Participant and Austrade may resell the exhibition space at its sole discretion.

If the deposit payment has been made, Austrade will then provide the Participant with an Invoice for the remaining Participation Fee which must be paid by the date specified in that invoice.

At the time of acceptance, a Participant may request one invoice for the full amount rather than pay a deposit followed by the remaining amount.

Once Austrade has received payment of the Participation Fee in full, the Participant will be deemed to be confirmed and their place at the Event secured.

If the Participant fails to pay the Participation Fee in full by the date specified in the Invoice, Austrade may decide at its sole discretion to cancel the Participant's registration and re-allocate the space to another Participant. In that instance, the Deposit paid by the Participant will be forfeited and no refund will be made.

Austrade will not permit a Participant to participate in the Event and will refuse a Participant access to the Event venue if the Participation Fee is unpaid.

5 Shared applications:

Shared applications are only possible when Austrade nominates this option in the Event Brochure and/or Application Form. The decision to allow shared booths and the extent to which sharing is permissible shall be at Austrade's sole discretion.

6 Late applications:

Austrade may, at its discretion, accept or reject an Application Form received after the specified deadline. If Austrade accepts a late application, it will notify the Participant and process the Participant's payment of the Deposit and Participation Fee in accordance with clause 4.

Event booth space

7 Booth Space:

Austrade will allocate to the Participant a dressed booth space consistent with the description contained in the Event Brochure and/or Application Form. Austrade reserves the right to determine the visual elements of that space and to limit the use of extra furnishings deemed inappropriate or unsuitable to the overall aesthetics of the pavilion.

8 Allocation of Space:

Austrade will, at its sole discretion, allocate booth space and positions within the Event venue or site to the Participants, taking into account the design and limitations of the venue and any other special circumstances that may arise. Austrade is not obliged to make any changes to its allocation of space and positions, except at its discretion.

Austrade reserves the right to replan the allocation of space and amend booth space or position at its discretion.

9 Assignment:

Participants must not assign, sub-let or share the whole or any part of the booth space in the Event to a third party without Austrade's prior written consent.

Event hours

10 Hours:

Austrade shall determine the hours during which the Event shall be conducted and the hours of access for Participants including variations of such times as determined by Austrade to be necessary.

Participant's General Responsibilities

11 Participant incurred costs:

The Participant must arrange and pay all costs associated with:

- a. shipping the Event Items to and from the Event venue or site including packaging, documentation, freight, handling, insurance, customs clearance, import duties, bonds and other taxes;
- b. the lawful removal and/or disposal of its Event Items from The Event venue; and
- c. the staffing of its booth space.

12 Delivery, setup and removal:

Participants are responsible for the prompt delivery, setup and removal of all Event Items. In the event a Participant fails to occupy their allocated booth space by the Event opening time, Austrade may cause the booth to be occupied in the

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manner it deems appropriate for the interests of the Event and without releasing the Participant from any liability under the Agreement.

- 13 **Staff:** With the exception of web site promotion, at least one representative of each Participant must be present at the Participant's display or booth at all times during the opening hours of the Event.
- 14 **Amenity:** The Participant must ensure the cleanliness and tidiness of their allocated booth space. The Participant agrees not to display any Event Items in such a manner as to obstruct or affect neighbouring Participants or which impedes or projects into aisles. The Participant agrees to abide by any requests by Austrade to cease any activity which may cause annoyance to others during the Event.
- 15 **Event Items:** Participants must not remove Event Items which are on display at the Event venue or site during the Event unless directed to do so by Austrade. Participants must take possession of their Event Items immediately after the end of the Event or when requested to do so by Austrade.
- 16 **Shipping Arrangements:** Austrade may nominate a forwarding agent in an attempt to consolidate shipment of the Event Items from Australia to the country where the Event will be held. The Participants may decide to use the nominated forwarding agent but are under no obligation to do so. If a Participant wishes to use the nominated forwarding agent, it must liaise with the forwarding agent and pay the agent's fees incurred in respect of the Participant's Event Items. Where a venue nominates an appointed freight forwarder, Participants agree to be bound by the third party's Terms & Conditions. The Participant acknowledges and agrees that Austrade bears no liability whatsoever for the shipping of Event Items or shipping and related fees incurred by the Participant and that this remains the sole responsibility of the Participant.
- 17 **Acknowledgment of Risk:** The Participant acknowledges and accepts that its participation in the Event may expose it and its representatives to the risk of damage, loss or harm. The Participant acknowledges and agrees that it will not hold Austrade responsible for any damage, loss or harm as a consequence of its participation in the Event.

Austrade strongly recommends that each Participant consider the travel advice issued by the Department of Foreign Affairs and Trade (DFAT) for the country in which the Event will be held and for any countries which the Participant's representatives or its Event Items will enter in transit. DFAT's travel advice can be viewed at www.smarttraveller.gov.au. The Participant acknowledges that it is solely responsible for making itself aware of all relevant information and travel advice available in relation to the country where the Event is taking place and any countries through which the Participant, its representatives or its Event Items will transit.

- 18 **Insurance:** The Participant must ensure that it takes out appropriate insurance to cover risks which may arise due to the Participant's involvement in the Event and that insurance is maintained at all relevant times. The Participant agrees to provide Austrade upon request with proof of insurance cover.

Austrade recommends that each Participant seek professional advice concerning the risks and relevant insurances relating to its participation in the Event, for example, insuring Event Items against loss, theft or damage in transit and while at the Event venue or site.

- 19 **Conduct:** Austrade reserves the right to immediately suspend or terminate services under this Agreement at its sole discretion and without liability if it considers ongoing services may bring the parties or the Commonwealth into disrepute. Considerations will include potential breach of Australian or local law, including anti-bribery laws, solvency, commercial dispute, unethical or immoral acts or any matter where ongoing provision of services is considered not in the best interests of Australian trade.

Event changes and additional terms and conditions

- 20 **Changes to Event:** Austrade will endeavour to ensure that the Event proceeds in accordance with the details in the Event Brochure and Application Form. Austrade may, at its sole discretion, make changes to the Event at any time without prior notice to the Participant.
- 21 **Additional terms and conditions:** If Austrade has entered into an agreement with an event or venue manager in respect of the Event, Austrade will direct the Participant to the terms and conditions of that agreement and the Participant must comply with them to the extent that they are relevant to the Participant.

Withdrawal & Cancellation

- 22 **Withdrawal:** If a Participant wishes to withdraw from the Event, written notice must be given to Austrade. Withdrawals will not be deemed received until the Participant has received written confirmation of their withdrawal from Austrade.

Upon withdrawal, the participant forfeits 50% of the total cost.

In exceptional circumstances, where the deposit requested is less than 50% of the total cost, the participant forfeits the total deposit amount.

After receiving a notice of withdrawal, Austrade will make reasonable endeavours to find a suitable replacement and may offer the booth space previously allocated to the withdrawing Participant without further consultation. In the event that Austrade finds a suitable replacement, the Deposit shall be refunded (without interest).

In the event that the Participant withdraws within the number of days listed in the Event Brochure of the Event, the Participant forfeits the Participation Fee in full.

If a Participant withdraws from the Event, Austrade will not be liable for any loss or damage the Participant may incur as a consequence of the withdrawal.

- 23 **Cancellation or Postponement of Event:** Austrade may cancel or postpone the Event at any time if:

- the risk to person, property or national security is considered by Austrade, in its absolute discretion, to be unacceptable;
- for administrative reasons (e.g. due to a change in the venue) or if, in Austrade's view, the Event may not achieve its purpose (e.g. because market forces have changed); or
- insufficient number of Participants is achieved.

If Austrade cancels or postpones the Event, it will notify the Participant as soon as practicable.

If Austrade cancels the Event in accordance with clause 23 (b) or (c), Austrade will make all reasonable endeavours to refund the Deposit and Participation Fee to the Participant within 30 days of the cancellation.

If Austrade cancels or postpones the Event pursuant to this clause the Participant acknowledges and agrees that Austrade will not be liable to pay compensation, damages or costs to the Participant in respect of the cancellation or postponement of the Event.

- 24 **Liability and Termination Rights:** Austrade reserves the right to suspend or terminate services under this Agreement at its sole discretion and without liability if it considers there to be a breach of any Australian or local (foreign) law, including anti-bribery laws under the Australian Criminal Code, by a Participant or where ongoing provision of services may bring the Exhibition Participants or the Commonwealth into disrepute.

Austrade will take reasonable care not to damage a Participant's Event Items during an Event. Austrade will not be liable to pay any compensation, damages or costs to any Participant for damage caused to its Event Items unless that damage was caused by Austrade's negligent or unlawful act.

- 25 **Force Majeure:** Austrade will not be liable to the Participant for any loss suffered, nor be in default under this Agreement for any delay, failure or interruption resulting directly or indirectly from industrial action, blackouts, fire, war, terrorism, civil or military unrest, explosions, earthquakes, floods, labour disputes, acts of God or any other event or cause beyond the control of Austrade, or if the attendance at the Event is adversely impacted by any of the causes nominated by this clause. In all such circumstances Austrade shall be entitled to retain the Participation Fee paid by the Participant.

- 26 **Indemnity:** The Participant indemnifies Austrade, its employees, contractors and agents (**the indemnified**) against all actions, proceedings, claims and demands which may be brought or made against the indemnified by any person in respect of any loss, damage or injury (including death) occurring to any person or property arising out of or in connection with:

- the Participant's involvement in the Event;
- the Participant's use or occupation of the booth space and position allocated by Austrade; or
- the Event Items owned, operated, exhibited, displayed, demonstrated by or under the direct or indirect control of the Participant, or by Austrade on behalf of the participant.

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This indemnity includes any costs incurred by Austrade (including legal costs on a solicitor-client basis) in defending any actions, proceedings, claims and demands or in being represented at proceedings, inquiries or inquests.

- 27 **Employees, Agents and Contractors of Participant:** Any rights conferred upon the Participants are deemed to have been conferred upon the Participant and its employees, agents and contractors and any breach of these terms and conditions by any employee, contractor, licensee or invitee of the Participant constitutes a breach of this Agreement by the Participant.
- 28 **Intellectual Property:** The Participant shall indemnify Austrade from and against all claims, liabilities, losses (including fines and penalties), damages and reasonable costs arising from any claim, suit or action (including legal costs and expenses) arising from reliance on information provided by the Participant for use by Austrade or for any breaches of third party intellectual property.

General

- 29 **Export Market Development Grants (EMDG) Scheme:** Participants may be eligible to claim expenses associated with the Event under the EMDG scheme. Participants should make enquiries with Austrade as to their eligibility for the scheme given the strict time limits in which to make an EMDG application. The Participant acknowledges and agrees that participation in the Event does not constitute a representation by Austrade that a Participant is eligible to apply under the EMDG Scheme.
- 30 **Privacy:** The Participant consents to the personal information in the Application Form being collected and used by Austrade or its contracted service providers for the purpose of informing the Participant of other services, Events, opportunities, seminars, conferences, trade fairs and other export related activities that are organised or promoted by Austrade.

Notwithstanding the above consent, all personal information collected by Austrade will only be used for the purpose for which it was provided and in accordance with the *Privacy Act 1988 (Cth)*.

Access to the information that Austrade holds in relation to a Participant, is available upon request to Austrade.

- 31 **Licence:** The Participant grants Austrade a non-exclusive, non-transferable and royalty free license to use the Participant's brand name(s), logo(s) and trademark(s) on any material related to the Event.
- 32 **Variation:** A provision of this Agreement can only be varied by a later written document executed by or on behalf of Austrade and the Participant.
- 33 **Applicable law:** These terms and conditions are governed by and to be construed in accordance with the laws of the Australian Capital Territory (ACT). The Participant irrevocably and unconditionally submits to the non-exclusive jurisdiction of the Courts of the ACT.
- 34 **Severability:** If any term, condition, provision or covenant contained in this Agreement is determined to be illegal, void, prohibited, invalid or otherwise unenforceable, it will be severed from these terms and conditions and the remaining terms and conditions will survive and remain in full force and effect.
- 35 **Survival on termination:** All indemnities survive termination of this Agreement.

Education Exhibition

- 36 Clauses 36 to 41 are only applicable to an Education Exhibition if specified as such in the Event Brochure and/or Application Form.
- 37 Participants in the education exhibition must be Australian Institutions with current Commonwealth Register of Institutions and Courses for Overseas Students (CRICOS) registration.
- 38 Austrade reserves the right to decline any application for participation in an Austrade Education Exhibition if it is determined that the Participant does not, where applicable, meet CRICOS registration requirements, have the capacity to supply the types of training or educational courses identified by Austrade as being areas of highest demand to the selected market or does not demonstrate commitment to the market.
- 39 Austrade may also, at its sole discretion, consider applications from ancillary service providers to the education and training sector if the service provided is relevant to the objectives of the Event, assists

students to make informed decisions about courses of study in Australia or directly benefits an Australian Institution.

- 40 Unless agreed to by Austrade, the Participant shall ensure that at least one representative in the direct employment of the Participant is present at the Participants booth during the opening hours of the Event. Participants may engage agents as additional representatives but these agents must not be the sole representatives of the Participant.
- 41 Unless agreed to by Austrade, the Participant shall not, either through direct participation or by way of publications or any other means, use areas outside of the allocated exhibition space to promote the Participant.

Website Promotion

- 42 Clauses 42 to 45 are only applicable to Events that include website promotion as specified in the Event Brochure and/or Application Form.
- 43 The Participant grants Austrade a non-exclusive, non-transferable and royalty free license to use the Participant's brand names, logo(s) and trademark(s) on any material related to the website.
- 44 The Participant warrants that all information provided to Austrade for use in any material related to the website is accurate and free from errors. To the extent permissible by law, Austrade shall not be under any liability (contract, tort or otherwise) to the Participant in respect of any loss or damage (including, without limitation, consequential loss or damage) however caused, which may be suffered or incurred or which may arise directly or indirectly in respect to the website or the act, failure or omission of Austrade.
- 45 The Participant shall indemnify Austrade from and against all claims, liabilities, losses (including fines and penalties), damages and reasonable costs arising from any claim, suit or action (including legal costs and expenses) arising from reliance on information provided by the Participant for use in connection with the website or for any breaches of third party intellectual property.