

TERMS AND CONDITIONS FOR FUNCTIONS

1. Definitions

Unless the context otherwise requires, the following terms shall have the following meanings in these Terms and Conditions for functions to be held at GCC;

- 1.1 **“the/this Agreement”** means the agreement set out in this document together with the annexures thereto;
- 1.2 **“14-Day notice”** means the written notice to be given by the Client to GCC not less than 14 (fourteen) days prior to the earlier of the Function Date or the Occupation Date, in which notice the Client shall notify GCC of all additional requests and, final function details, including the intended number of guests which shall not be less than the Stipulated Minimum Occupancy for the designated venue, any specific further requirements, and the order of proceedings;
- 1.3 **“Booking Sheet” or “Function Sheet”** means the document to be prepared by GCC as soon as Practical, after receipt by GCC of the 14-Day notice. The client undertakes to sign the booking sheet not more than 48 (forty-eight) hours after it has been presented to the Client for signature;
- 1.4 **“Client”** means the entity designated as the Client in the Contract;
- 1.5 **“Contract”** means the contract/Deposit Invoice together with these Terms and Conditions for functions all signed by both parties;
- 1.6 **“Day/Days”** means calendar day/days unless stipulated to the contrary;
- 1.7 **“Function Date”** means the day of the function if the function does not extend over more than one day, and the first day of the function if the function extends over more than one day;
- 1.8 **“First Deposit”** means the first deposit as stipulated in the invoice to which this Agreement is attached and as more fully referred to in Clause 3;
- 1.9 **“Final Deposit”** means the final deposit as stipulated in the invoice to which this Agreement is attached;
- 1.10 **“Guest/Guests”** means any guest/guests, employee, invitee or agent of the Client;
- 1.11 **“GCC”** means Atterbell Investments (Pty) Ltd t/a Gallagher Convention Centre, registration number 2010/024889/07;
- 1.12 **“GCC’s Premises”** means all immovable property described in schedule A hereto, and all improvements and structures established thereon, which constitutes the concept of the exhibition, conference, convention and function facilities;
- 1.13 **“Occupation Date”** means the first day on which occupation of the venue will be given to the Client for the purpose of build-up, prior to the function, if applicable;

- 1.14 **“Prime Rate”** means the published prime rate as charged by First National Bank from time to time, and as certified by any manager of such bank, whose appointment it shall not be necessary to prove;
- 1.15 **“Second Deposit”** means the deposit which is provided for in the invoice and which is payable in addition to the First Deposit and the Final Deposit as more fully referred to in clause 1.8, 1.9;
- 1.16 **“Signature Date”** means the date of the person signing this Agreement last in time;
- 1.17 **“Stipulated Minimum Occupancy”** means the minimum number of Guests for which a Client will be charged for a designated venue;
- 1.18 **“Terms and Conditions”** means the terms and conditions for functions contained in this document;
- 1.19 **“Third Party Organiser”** means, if applicable, the entity designated as the third party organiser in the Contract.
- 1.20 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of the Agreement.
- 1.21 Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
- 1.22 Should any terms be defined in the body of this Agreement, effect shall be given to it as if it were defined in this definitions clause, and the provisions of clause 1.21, 1.23 and 1.24 shall mutatis mutandis apply.
- 1.23 Should any provision in a definition be a substantive provision conferring rights or imposing obligations on any party, then effect shall be given to that provision as if it were a substantive provision in the body of this Agreement.
- 1.24 Any reference to an enactment, regulation, rule or by-law is to that enactment, regulation, rule or by-law as at the Signature Date, and as amended or replaced from time to time.
- 1.25 Where any number of Days is prescribed, such number shall be counted as calendar Days and shall exclude the first and include the last Day in the reckoning.
- 1.26 The use of the word “including” followed by a specific example/s shall not be construed as limiting the meaning of the general wording succeeding it and the *eiusdem generis* rule shall not be applied in the interpretation of such general wording or such specific example/s.
- 1.27 The expiration or termination of this Agreement shall not affect those provisions of this Agreement which expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration, notwithstanding the fact that the clauses themselves do not expressly provide this.
- 1.28 In its interpretation, the *contra proferentem* rule of construction shall not apply (this Agreement being the product of negotiations between the parties) nor shall this Agreement be construed in favour of or against any party by reason of the extent to which any party or its professional advisors participated in the preparation of this Agreement.

- 1.29 Records shall be binding on the parties and are not merely for information purposes.
- 1.30 The clause headings in this Agreement have been inserted for convenience only and shall not be taken into account in its interpretation.
- 1.31 Words and expressions defined in any sub-clause shall, for the purposes of the clause of which that sub-clause forms part, bear the meaning assigned to such words and expressions in that sub-clause.
- 1.32 All amounts payable in terms of this Agreement are exclusive of Vat unless otherwise indicated.

2. Terms and Conditions to Apply

All bookings and functions shall be subject to these Terms and Conditions and which terms and conditions the Client confirms has been brought to its attention prior to the conclusion of this agreement

3. Suspensive Condition

- 3.1 The Agreement, together with these terms and conditions, (save in respect of clause 1 to 3 (both inclusive) and clauses 19, 22, 23 and 27, which shall be of immediate force and effect) shall be subject to the fulfilment of the Suspensive Condition that the client makes payment of the First Deposit no later than SEVEN (7) days after the signature date or on such later date as the parties may agree to in writing;
- 3.2 If the suspensive condition shall be not have been fulfilled by not later than date specified in clause 3.1.1, this Agreement (save in respect of clause 1 and 3 (both inclusive) and clause 19, 22, 23 and 27, which shall remain of full force and effect) shall be of no force or effect and no Party shall have any claim against the other for anything done hereunder and/or arising pursuant to the conclusion of this Agreement.

4. Price

- 4.1** Estimated prices will vary according to final menu choices. All prices indicated in the variable terms of the Contract to which these terms and conditions are applicable, and unless otherwise stated, are exclusive of Value added Tax ("VAT").
- 4.2** Food and beverage prices as quoted and accepted are subject to variation if the Function Date is more than 60 (sixty) Days after the quoted price has been given. The variation shall be pro rata to the variation in costs incurred by GCC, and shall be determined by GCC in its discretion and which variation will be advised to the Client by no later than TEN (10) days prior to the event.

5. Confirmation of Function and Deposits required

- 5.1 The Client shall pay the First Deposit for Confirmation of the booking and the function ("confirmation") will be deemed to take place on receipt by GCC of the First Deposit, Unless GCC notifies the Client in writing, within the seven Day period referred to above that GCC declines to confirm the booking and/or the function.
- 5.2 The Final Deposit, which will be based on the number of Guests reflected in the 14-Day notice, must be paid in full by the date stipulated in the Contract.

6. Failure to pay any amount

6.1 After confirmation, should any amount payable in terms hereof not be paid on due date, GCC shall be entitled to enforce performance of the Contract, alternatively cancel the Contract, in either event, without prejudice to GCC's right to claim damages.

6.2 If GCC does not notify the Client of its intention to enforce the Contract, within 7 (seven) Days of any failure by the Client to pay any amount due to GCC, GCC will be deemed to have cancelled the Contract, without notice being required, and the provisions of clause 17 will mutatis mutandis, apply.

7. Booking Sheet and/or Function sheet and Final number notice

7.1 Should the Client fail to provide GCC with the 14-Day notice, GCC shall, in its discretion make the necessary arrangements on behalf of the Client, based on the last written indication by the Client of anticipated requirements, including the anticipated number of Guests. The Client acknowledges that the material Booking Sheet details may not be changed less than 72 (seventy-two) hours before the Function Date, and then only provided that GCC has consented in writing to such variation in writing.

7.2 The Client shall notify GCC in writing of the final number of Guests not less than 72 (seventy-two) hours before 08h00 on the Function Date ("the final number notice"), failing which the last notified number, will be taken as final. The number stipulated in the final number notice may not vary by more than 10% from the notified numbers given to GCC in the 14-Day notice, provided that if the final number notice reflects more than 10% additional Guests, GCC will use its best endeavours to accommodate these additional Guests, but does not guarantee that it will be able to do so. The Contract price will be increased pro-rata for additional Guests.

8. Payment Provisions

8.1 All deposits and other amounts payable shall be paid by the dates stipulated in the payment schedule of the Contract. The final payment will be adjusted according to any change in numbers and costs, subject to clause 7. Any adjustments to the account will be reflected on the final invoice which will be given by GCC after the function, and any refunds due to the Client shall be paid within 10 (ten) Days of such final invoice. All accounts are due and payable within 7 (seven) Days of presentation of GCC's invoice. Any amount not paid on due date shall attract interest at 2% above the Prime Rate from due date to date payment. All payments that are to be made in terms of the Contract shall be done by means of either an electronic funds transfer (EFT) or cheque, no cash or credit card payments will be accepted.

9. Food, Beverages and Smoking

9.1 No food or beverages may be brought onto GCC's Premises or into any function room, unless GCC gives prior written approval, and then only subject to any conditions which GCC may impose.

9.2 GCC's venues are non-smoking venues, and smoking is only permitted in designated smoking areas, subject to any law in force.

10. Function Venue

Function Room allocation is at the discretion of GCC and may be changed by GCC in its discretion.

11. Function ending times

Functions shall end by the following times:

Sunday to Thursday – 24h00

Friday to Saturday – 01h00

Should any function run over these stipulated times, a surcharge of 15% of the package price as stipulated in the Contract will be levied per hour, and be payable with the final invoice.

12. Nothing to be affixed without GCC's prior permission

12.1 The Client shall not affix or attach in any way, any sign, notice or other matter, fixture or appurtenance, to any wall, partition, ceiling, rail or floor in GCC's Premises without the express prior written approval of GCC.

12.2 The repair to any damages to the venue or to the property of GCC caused upon the affixing or removal of any of the above defined instances will be quantified and the Client will be held responsible for the repair of such damage.

13. Client Liability for damage to GCC property

13.1 In addition to 12.2 above, the Client shall be responsible for any damage caused to GCC and/or GCC's Premises or property by any act or omission by the Client, any Guest of the Client or employee of the Client, howsoever arising.

13.2 Notwithstanding any other stipulation to the contrary contained in this Agreement, the Client shall not be liable for any indirect, special, incidental or consequential damages of any kind whether caused contractually or delictually and whether caused directly or indirectly.

14. Client's Property brought onto GCC's Premises

14.1 Any property which the Client brings onto GCC's Premises for use at functions ("Client's property") must be delivered to GCC for the attention of the event coordinator, on such basis as is arranged with GCC in advance, but in any event, not less than 24 (twenty-four) hours before the Occupation Date or the Function Date, whichever is the earlier.

14.2 GCC shall not be held responsible for any loss, damage or harm suffered to any Client's property in any circumstances. GCC shall not be responsible for any Client's property which remains on GCC's Premises after the function, and shall be entitled to charge storage for storing such items, alternatively, in its discretion, GCC shall be entitled to deem any such item to be abandoned, and to dispose of any such abandoned items if same is not reclaimed within TEN (10) days after the function was held

15. Overriding Authority at Functions

GCC shall be entitled to immediately stop any function or request any Client or Guest of the Client to immediately leave GCC's Premises, should GCC in its discretion be of the opinion

that the function, Client, or Guest of the Client is causing a disturbance or interference with any other function, exhibition or activity at GCC.

16. No Claim for Damages

GCC shall not be responsible for any loss of life, injury or damage, (including without limitation, damage to property and indirect or consequential damages) suffered by the Client or any Guest, unless such injury, death or damages are caused or arises out of any gross negligence by GCC and/or any of its employees, contractors or sub-contractors, or any of GCC's suppliers of services. The client indemnifies GCC against any or all such claims, however arising.

17. Cancellation by Client

17.1 In the event of cancellation of the function by the Client:

17.1.1 A cancellation fee equal to 100% of the aggregate value of the latest signed Contract will be charged to, and will be payable by the Client within 7 (seven) Days of GCC's invoice.

17.2 Any amount payable to GCC in terms of this clause 17 will be deemed to be a genuine pre-estimate of GCC's liquidated damages.

18. Postponement of Function by Client

18.1 No postponement will be allowed on the special Year End Function Yearendfunction.co.za deal.

19. Force Majeure

19.1 If any law comes into operation subsequent to the signature of this agreement which law affects any aspect or matter or issue contained in this agreement, the parties undertake to enter into negotiations in good faith regarding a variation of this agreement in order to ensure that neither this agreement nor its implementation constitutes a contravention of such law.

19.2 If either party is prevented, from performing any of its obligations in terms of this agreement as a result of any conditions of *force majeure* or of any event beyond its reasonable control whether or not foreseeable, including, but not limited to the following:-

19.2.1 Acts of God which includes natural disasters;

19.2.3 Riots, strikes or industrial action which includes lockouts, transport and delivery delays as a consequence thereof but which shall not include riots, strikes or industrial action by either party's own Employees;

19.2.4 Warfare or conditions and legislation preparing the country for war;

19.2.5 Fire;

19.2.6 Pandemics, diseases or prevailing health and safety legislation inclusive of that issued under the NHA that effect the grouping, meeting, movement or gathering of persons and/or the procurement of products

or services and legislative efforts at curbing any such situation that renders performance impossible;

19.3 the party prohibited or for whom it is impossible to perform (or reasonably likely to be prohibited or for whom it is reasonably likely to be impossible to perform) shall, at the first instance of having knowledge of the impossibility/likely impossibility, give written notification to the other party specifying such impossibility of performance. The parties will attempt to distinguish between impossibility of performance and situations where performance would be merely delayed or hindered and attempt to mitigate the situation accordingly;

19.4 If the impossibility of performance will impact the preparation of the Use Period or exceed the Use Period, the parties will enter into a mutual cancellation of this agreement in an effort to curtail the possible damages suffered by either party.

19.5 In the event that the particular venue contracted for with GCC becomes unsuitable for use either through legislative requirements, fire, failure of the structure presenting a health and safety concern then GCC may elect to provide an alternative venue to suit the requirements of the Organizer to the best of its abilities;

20. Correctness of Beverage Account

It is the Client's responsibility to verify the correctness of any account for beverages consumed during the function, prior to the termination of the function, failing which the point of sale slips/till slips signed by a GCC representative shall be deemed sufficient prima facie proof of the correctness of such account for any legal purpose or proceeding.

21. Late arrangements

Any late arrangements or variations required by the Client after the final transfer notice has been given shall be recorded in writing and signed by both parties provided that GCC agrees to the late arrangements/variations.

22. Joint and Several Liability

Should the Contract have been prepared on the basis that it will be executed by more than one person on behalf of the Client, and should any of the intended persons not execute the Contract, those persons who do execute the Contract, hereby agree that each of them is jointly and severally liable to GCC, notwithstanding that any intended party did not bind itself to the Contract.

23. Jurisdiction, Breach and Legal Costs

23.1 The Agreement shall be governed by South African Law.

23.2 The Client consents to the jurisdiction of the Magistrates Court in terms of Section 45 of the Magistrate's Court Act, notwithstanding that the amount in dispute may be beyond the jurisdiction of such Court.

23.3 Should any legal action be taken against the Client, the Client shall be responsible for all legal costs and the other recovery costs incurred by GCC on the scale as between attorney and client.

- 23.4 Should the Client breach any provision of the Contract or these Terms and Conditions, and fail to remedy such breach within 3 (three) Days of the written notice being given to it by GCC, GCC shall be entitled, without prejudice to any other rights which it has in law, to the Contract and/or enforce performance thereof, and/or claim damages, provided that GCC shall not be required to give any notice to remedy the breach if the Client fails to pay any amount on due date, and the provisions of clause 5 shall mutatis mutandis apply. GCC shall, if it cancels the Contract, be entitled to retain all amounts paid as a deemed genuine pre-estimated of its liquidated damages.

24. No Ceding of Rights and Obligations by Client

GCC shall be entitled to cede or assign any of its rights and/or obligations in terms of this Contract or these Terms and Conditions without the prior written consent of the Client being obtained. The Client shall not be entitled to cede or assign any of its rights or obligations in terms of the Contract or these Terms and Conditions, without GCC's prior written consent having been obtained.

25. Sequestration, Liquidation or Insolvency of the Client

GCC shall be entitled to summarily cancel the Contract in the event that the Client is provisionally or finally liquidated or sequestrated, a business rescue proceeding application is filed or when a Court order payable in money is granted against the Client, and which is not satisfied within 14 (fourteen) Days of it coming to the Client's attention, or in the event that the Client commits any act of insolvency as described in the Insolvency Act, without prejudice to GCC's rights to claim damages.

26. Provisions Applicable where Third Party Organiser is Appointed by the Client

- 26.1 Should the Client appoint a Third Party Organiser to organise the function, the Client and/or designated Third Party Organiser may request GCC, in writing, to permit the Third Party Organiser to sign the Contract and these Terms and Conditions, as well as any required documents, on behalf of the Client.
- 26.2 After receiving such request, should GCC agree in writing to permit the Third Party Organiser to sign the Contract, on behalf of, and in the capacity of the Client, the Third Party Organiser, by its signature, will be deemed to have accepted all obligations which are imposed upon the Client by these Terms and Conditions and the Contract.
- 26.3 In the event that the Third Party Organiser is permitted to sign the Contract by GCC, and it will not be necessary for the Client to sign the Contract and GCC shall have recourse against the Third Party Organiser and the Third Party Organiser shall be jointly and severally liable with the Client for all the Client's obligations in terms of the Contract and these Terms and Conditions.

27. Disclaimer

- 27.1 The Client is aware that GCC is entitled to and may subcontract third parties to supply goods and/or services ("Third Party Supplier") in order for GCC to perform in terms of its obligations herein.
- 27.2 GCC, its agents and/or employees shall not be held liable by the Client for any action, claim, loss or costs arising out of any loss of or damage to property, physical injury or death

which may be sustained in any manner whatsoever by the Client and/or its Guests pursuant to the provision of goods and/or services by any Third Party Supplier.

28. General

28.1 These Terms and Conditions, and the Contract constitute the whole Agreement between the parties, and no promises, representations or warranties have been made by GCC, other than those specifically referred to herein, and no amendments, variations, waivers or indulgences shall be of any force or effect, unless reduced to writing and signed by both parties. The signatory on behalf of the Client warrants that he/she is duly authorized to enter into this Contract on behalf of the Client.

28.2 The Client undertakes to make every one of its exhibitors and all its Contractors and sub-Contractors aware of these Terms and conditions and the provisions of this Agreement, and undertakes further to take reasonable steps to enforce compliance by such persons with the terms of this Agreement, and shall, if called upon by GCC to do so, render assistance to GCC to enforce the terms of this Agreement against all such persons. If called upon by GCC to do so, the Client shall cede to GCC its rights against any of such persons, in order to enable GCC to exercise its rights under this Agreement.

28.3 This Agreement shall include any digitally signed and / or furnished versions of this agreement and subject to the provisions of Paragraph 30 below;

28.4 The parties choose as their *domicilium citandi et executandi* their respective addresses set out in clause for all purposes arising out of or in connection with this Agreement at which addresses all the processes and notices arising out of or in connection with this Agreement, its breach or termination may validly be served upon or delivered to the parties.

28.5 For the purpose of this Agreement the parties' respective addresses shall be:

28.5.1 GCC at Gallagher Management Offices in Gallagher House

Email: gallagher@gallagher.co.za

Attention: Chief Executive Officer;

28.5.2 the Client at;
Email Address:;
Attention:;

Or at such other address in the Republic of South Africa not being a post office or *poste restante*, of which the party concerned may notify the others in writing.

28.6 Any notice given in terms of this Agreement shall be in writing and shall if:

28.6.1 delivered by hand be deemed to have been duly received by the addressee on the date of delivery;

Initial

28.6.2 transmitted by Email and be deemed to have been received by the addressee 1 (one) business Day after despatch.

28.7 Notwithstanding anything to the contrary contained in this Agreement, a written notice or communication actually received by one of the parties from another including by way of facsimile transmission shall be adequate written notice or communication to such party.

29 Counterparts

This Agreement may be executed in any number of counterparts by the parties and once each party has signed a counterpart each such counterpart shall be considered an original and all such counterparts shall constitute one and the same instrument.

30 Electronic Communications and Transactions Act & Signatures

30.1 This agreement may be signed by both parties at different times and locations. The agreement becomes of force and effect by signature of the last party to append their signature hereto;

30.2 The parties agree that the signatures below are not signatures “required by law” for purposes of Section 13(1), Part 1, Chapter III of ECTA and that the signatures made below constitutes each party’s intention to communicate its acceptance of the terms and conditions of this agreement and with reference to Section 13(3)(a) read with Section 13(5)(b) of the Act;

31 POPI | PAIA | FICA

31.1 The Organizer confirms that its attention has been drawn to GCC’s PAIA & POPI-policies as contained on its website <https://gallagher.co.za/wp-content/uploads/2021/06/POPIA-Website-cookies-policy.pdf> and <https://gallagher.co.za/wp-content/uploads/2021/06/POPIA-Marketing-Policy.pdf>

31.2 In terms of POPIA the Organizer agrees and consents that, during the execution of this agreement and during the timeframe of the negotiation and operation between the parties, GCC (for these purposes the “responsible party”) will and may request certain categories of personal information and the Organizer consents that the collection, retention and processing of such personal information is done with the consent of the Organizer (for these purposes a “data subject”) or that same is processed for purposes of the performance of its contractual obligations as contemplated in Section 11 of POPIA;

31.3 Any personal information received by the Landlord during the timeframe of this agreement will, however, be processed, stored and de-identified in a responsible manner and in accordance with GCC’s policy as adopted and developed as required by the Act and further that the ORGANIZER may request any such personal information under the provisions of PAIA and in terms of GCC’s PAIA-policy;

31.4 The ORGANIZER acknowledges and agrees that GCC, as an accountable institution, must retain records under Sections 22 and 23 of the FIC-Act (as defined) and that the ORGANIZER cannot require that GCC must, for purposes of these records, de-identify or destroy such information;

31.4.1 The contents of this clause and any consent thereto will be equally applicable to any Agent that acts on behalf of GCC which, for purposes of the POPIA-Act, will fulfil the function as an operator as defined in that Act.

31.4.2 In compliance with GCC's obligations in terms of the FIC-Act (as defined) at Sections 20A and 21 (including the sub-sections) thereof, and to assist in the combt of fraud and money-laundering, the Organizer agrees to, on request, furnish GCC with the following documenation within FIVE (5) days of request therefor:-

31.4.3 All company incorporation and registration documents inclusive of CM1, CM29, CM22 and CM29-Identity documents. This is equally applicable to Close Corporations to furnish GCC with any CK1 or CK2-documents and Copies of all Directors' / Members' identity documents;

31.4.4 VAT registration certificates and SARS proof of income tax registration;

31.4.5 Any verification of "trading as" names and a proof of business address by provision of a utility or other account;

31.4.6 Proof of banking details.

31.5 The Organizer acknowledges that, if it does not provide the above documentation and GCC as accountable institution is unable to conduct ongoing due diligence, GCC reserves the right to make a report to the Financial Intelligence Centre and in terms of the Act and as read with Section 21E thereof.

31.6 The Organizer acknowledges that, from time to time, GCC utilizes photographs of events and functions for marketing purposes and for use on its website and other marketing materials. GCC undertakes not to be publish photographs so as to immediately identify individuals and will not publish same without the consent of the individual concerned or that of the Organizer.

TO BE COMPLETED BY THE CLIENT

Full name of Client (Registered Company Name)

(being the person/company/corporation/entity
.....)

which is responsible for payment)

Signed at on 2022

Name Signature

Witnessed

Name Signature

The signatory warrants that he accepts responsibility for payment and signs accordingly, and that he/she is duly authorised to sign this on behalf of the Client

TO BE COMPLETED BY GALLAGHER CONVENTION CENTRE

Signed at on 2022

Name Signature

For GCC, duly authorised

Witnessed

Name Signature

Initial