



Vegan Australia
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Vegan Australia Accredited Business Trade Mark Licence

This agreement sets out the terms and conditions between Vegan Australia (ABN 21 169 219 854) and the **Licensee** for the use of the Vegan Australia Accredited Business Trade Mark.

RECITALS

- A. Vegan Australia is the owner of the right, title, interest and goodwill in the Trade Mark set out in **Item 1 of the Schedule**.
- B. Vegan Australia has obtained protection in Australia under the Trade Marks Act 1995 (Cth) ("**Act**") of the right, title, interest and goodwill in the Trade Mark, and details of the registration are set out in **Item 2 of the Schedule**.
- C. In consideration of payment of the Annual Licence Fee, Vegan Australia authorises the Licensee to use the Trade Mark on the terms and conditions contained herein ("**Licence**").

NOW THE PARTIES AGREE as follows:

1. Appointment of user

- (1) Subject to the successful completion of the **Vegan Australia Accredited Business Course** and to the terms of this Agreement, Vegan Australia grants to the Licensee for the Term a non-exclusive, non-assignable licence to use the Trade Mark upon or in relation to the business as agreed in writing by the parties.
- (2) This Agreement shall commence on the date this Agreement is executed ("**Execution Date**") and expire on the date one (1) year after the Execution Date ("**Term**"), or such later time as may be agreed in writing by the parties prior to the date 1 year after the Execution Date.

2. Payments

In consideration of the Licence, the Licensee must, upon receipt of a valid tax invoice from Vegan Australia, pay Vegan Australia the Annual Accreditation Fee in accordance with the payment terms specified in that invoice.

3. Promotion

- (1) The Licensee agrees to use the Trade Mark solely in respect of the Business as agreed in writing by the parties.
- (2) The Licensee must ensure that no advertising or promotional material produced

in respect of the Business that incorporates the Trade Mark contravenes the *Competition and Consumer Act 2010* (Cth) or similar legislation in any jurisdiction in the Territory or guidelines of the Australian Competition and Consumer Commission in relation to promotion of the Business.

- (3) The Licensee must ensure that no advertising or promotional material produced in respect of the Business that incorporates the Trade Mark be used to sponsor, promote or be associated with activities or events that might exploit, use or harm animals in any way.
- (4) The Trade Mark must not be used in a way that implies that a particular menu item or product is accredited by Vegan Australia.
- (5) The Licensee may use the Trade Mark in the following approved ways - marketing, promotion and sales, including on the websites, social media pages, business cards, brochures and other branding of the licensee - provided always that the marketing, promotion and sales complies with clause 3(4).

4. Quality control of Menu Items/Products

- (1) The Licensee must ensure that all relevant staff are aware of the vegan standard as described in the Vegan Australia Accredited Business Course.
- (2) Regarding the production, preparation, and supply of vegan menu items and products, the Licensee must:
 - (a) ensure that only food items that meet the vegan standard as described in the Vegan Australia Accredited Business Course are labelled as vegan on your menu;
 - (b) ensure that the business complies with all relevant local council, state/territory and federal food safety legislation relevant to where the business is located;
 - (c) comply with the Australia New Zealand Food Standards Code, as defined in the Health (ANZ Food Standards Code Adoption) Regulations 2001;
 - (d) comply with any reasonable directions given by Vegan Australia from time to time in writing.

5. No agency

The Licensee must not:

- (1) in any manner describe itself or hold itself out as the agent of Vegan Australia and Vegan Australia cannot be or become liable whatsoever in respect of the production, preparation, and supply of vegan menu items and products entered into by the Licensee with any other party;
- (2) grant any right, licence or authority to any third party whether at common law or otherwise to use the Trade Mark;
- (3) use Vegan Australia's name in any manner other than as contemplated by clause 3(4), without the prior written consent of Vegan Australia.

6. Title

- (1) The Licensee acknowledges Vegan Australia's title to the Trade Mark in Australia, the validity of Vegan Australia as the registered proprietor under the

Act and undertakes not to take any action which would or might:

- (a) invalidate or put in dispute Vegan Australia's title or rights;
 - (b) oppose any application for registration for the Trade Mark or invalidate any registration of the Trade Mark in due course;
 - (c) support an application to remove the Trade Mark as a registered trade mark;
 - (d) cause any Registrar of Trade Marks to require a disclaimer of a monopoly in the Trade Mark; or
 - (e) assist any other person directly or indirectly to take action resulting in any of the acts outlined in clause 6(1)(a) to (d).
- (2) The Licensee undertakes not to apply, vary or cancel any record under the Act of its interest as an authorised user of the Trade Mark without the express written authority of Vegan Australia.

7. Similar marks

The Licensee shall not use in its business any other trade mark or logo which is similar to or substantially similar to or so nearly resembles the Trade Mark as to be likely to cause deception or confusion among the public.

8. Maintenance of value

The Licensee must use its best endeavours to preserve the value and validity of the Trade Mark and in particular must:

- (1) endeavour to create, promote and retain the goodwill in its business relating to the production, preparation, and supply of vegan menu items and products;
- (2) use the Trade Mark as follows:
 - (a) The Trade Mark may be used in any material, promotions, packaging, menus or information relating to the business.
 - (b) If displayed, the Trade Mark must appear complete and in full and must not be cropped.
 - (c) The Trade Mark may be displayed with any foreground and background colours including transparent or the Vegan Australia standard colour Pantone 363 C.
 - (d) The Trade Mark may be displayed at any size and may be rotated, however the Trade Mark must not be altered in terms of graphic proportions relating to the design.
 - (e) The Trade Mark must not be used on packaging or promotional material that also depicts any animals being exploited or harmed.
- (3) not use the Trade Mark accompanied by words unless the Trade Mark is distinguished from the descriptive surrounding and adjacent text.

9. Infringement proceedings

- (1) The Licensee undertakes to Vegan Australia that it will do all things reasonably necessary for the protection of the Trade Mark against deregistration or infringement.

(2) In the event that:

- (a) the Licensee receives notice of any infringement or threatened infringement of the Trade Mark or any common law passing off by reason of imitations of get up or otherwise; or
- (b) the Licensee becomes aware that a third party alleges or claims that the Trade Mark is liable to cause deception or confusion to the public, the Licensee must promptly notify Vegan Australia giving particulars, and provide all information and assistance to Vegan Australia, at Vegan Australia's cost, in the event that Vegan Australia commences or defends proceedings in relation to the above claims or infringements. Any such proceedings will be under the control and at the expense of Vegan Australia.

10. Indemnity

The Licensee must at all times keep Vegan Australia, its employees, agents and contractors, indemnified from and against all claims, demands, actions, proceedings and prosecutions which may be brought, commenced or prosecuted against Vegan Australia, its employees, contractors or agents or in which Vegan Australia, its employees, contractors or agents may be involved to the extent determined to have been caused or contributed to by production, preparation, and supply of vegan menu items and products by the Licensee. The indemnity will extend to all costs, damages and expenses incurred by Vegan Australia, its employees, agents and contractors.

The Licensee acknowledges and agrees that any use of the Trade Mark by the Licensee in any country other than Australia shall be entirely at the risk of the Licensee and Vegan Australia shall not be liable for any resulting loss or damage from such use.

11. Termination

Without prejudice to any right or remedy which Vegan Australia may have against the Licensee for breach of this Agreement, Vegan Australia has the right to terminate or suspend the Licence and this Agreement at any time by notice to the Licensee:

- (1) if an insolvency event occurs where:
 - (a) the Licensee ceases to (or is unable to) pay its creditors (or any class of them) in the ordinary course of business, or announces its intention to do so;
 - (b) a receiver, receiver and manager, administrator, liquidator or similar officer is appointed to the Licensee or any of its assets;
 - (c) the Licensee enters into, or resolves to enter into, a scheme or arrangement, compromise or composition with any class of creditors;
 - (d) a resolution is passed or an application to a court is taken for the winding up, dissolution, official management or administration of the Licensee;
 - (e) if any liquidator, receiver or manager enters into possession of any of the assets of the Licensee; or
 - (f) anything having a substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction;
- (2) if the Licensee commits a breach of any of the provisions of this Agreement and does not remedy the breach within a period of 30 days after receiving notice from Vegan Australia specifying the nature of the default;

- (3) if the Licensee commits a breach of any of the provisions of this Agreement which in the reasonable opinion of Vegan Australia is not capable of remedy; or
- (4) if in the reasonable opinion of Vegan Australia, the reputation of Vegan Australia is, or is likely to be, damaged by any act of omission of the Licensee.

Where Vegan Australia suspends the Licence, it may reinstate it at such time as it considers appropriate in its absolute discretion.

Where Vegan Australia terminates the Licence, there will be no reinstatement of it and the Licensee shall have no right to the return of any portion of the Licence Fee.

12. Notices

Notices must be in writing, in English, and must be given by an authorised representative of the sender to the other party.

13. GST

- (1) In this clause 13:
 - (a) **GST Act** means *A New Tax System (Products and Services Tax) Act 1999* (Cth), and where the context permits, includes the Commissioner of Taxation's Products and services tax rulings and determinations;
 - (b) **Additional Amount**, **Recipient** and **Supplier** have the meanings given in clause 13(3);
 - (c) Any terms used in this clause 13 that are defined in the GST Act have the same meanings as in the GST Act.
- (2) All prices or other amounts fixed or determined under, or referred to in, this Agreement are exclusive of GST, except where expressly provided to the contrary in a particular provision of this Agreement.
- (3) Subject to clause 13(4), if GST is or becomes payable by a Party ("**Supplier**") in relation to any supply that it makes under, in connection with or resulting from this Agreement, the Parties agree that, in addition to any consideration provided by a Party ("**Recipient**") for that supply, the Recipient must pay to the Supplier the amount of any GST for which the Supplier is liable in relation to that supply ("**Additional Amount**") at the same time as the relevant consideration or any part of it is provided.
- (4) The obligation to pay the Additional Amount only arises once the Supplier has issued a tax invoice (and adjustment note) to the Recipient in respect of the Additional Amount.
- (5) If, under this Agreement, one Party is required to pay an amount to reimburse or compensate the other Party for any cost or liability incurred by that Party, the amount to be reimbursed or compensated excludes any GST component of that cost or liability for which that other Party is entitled to claim an input tax credit.
- (6)

14. Assignment

The Licensee must not assign all or any of its rights in this Agreement without the prior written consent of Vegan Australia.

15. Amendments

This Agreement may not be varied except in writing signed by all of the parties.

16. Severability

If any provision of this Agreement is held by a court to be unlawful, invalid, unenforceable or in conflict with any rule of law, statute, ordinance or regulation it is to be severed so that the validity and enforceability of remaining provisions are not affected.

17. Entire agreement

This Agreement records the entire agreement between the parties and replaces all representations, warranties or proposals not embodied herein.

18. Execution

The parties agree to execute all documents and do all acts and things required to give effect to this Agreement.

19. Counterparts

This Agreement may be executed by the parties in counterpart. Each counterpart shall constitute a binding agreement once both parties have executed.

20. Applicable law

This Agreement is governed by the laws of the State of New South Wales and the parties submit to the non-exclusive jurisdiction of the courts of that State.

21. Expiration

If this Agreement terminates or expires and is not renewed, the Licensee must cease using the Vegan Australia Accredited Business Label.

Schedule

Item 1 – Trade Mark



Access to high definition digital copies of the trade mark will be given on completion of certification.

Item 2 – Trade Mark Registration Details

The Trade Mark registration details are as follows:

| Trade Mark Owner | Trade Mark | Registration number | Commencement date | Classes |
|------------------|-----------------|---------------------|-------------------|---------|
| Vegan Australia | Refer to Item 1 | 2494139 | TBA | 42, 43 |