



## TERMS AND CONDITIONS

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### 1. **OUR AGREEMENT & CHANGES**

- (a) By requesting accommodation services (**Services**) from Merrin Glasgow (ABN 71 235 085 763) trading as the Ark Coolamon (**The Ark, we, us**), you confirm that you have read The Ark's Terms and Conditions set out below and the House Rules available at our website, [www.thearkcoolamon.com.au](http://www.thearkcoolamon.com.au) (**Website**) and attached to this document, (together the **Terms and Conditions**) and agree to be bound by them.
- (b) We reserve the rights to change the Terms and Conditions (including after you have accepted these) by emailing you a copy of the Terms and Conditions. If you are not happy with any of the changes, you may cancel your booking within 48 hours of us sending the email with changes to you, although your Booking Fee (as defined in clause 2(d)) will not be refunded. If you fail to cancel the booking within the specified timeframe above, you confirm that you accept the changes.

### 2. **BOOKINGS**

- (a) Bookings at The Ark are subject to availability, and we reserve the right to refuse your booking if The Ark is not available on the dates you request.
- (b) A 2-night minimum stay applies throughout the year, with the exception of the following periods where the minimum stay is increased:
  - (i) 3 night minimum stay on New South Wales public holiday weekends;
  - (ii) 4 night minimum stay on Easter weekend; and
  - (iii) 5 night minimum stay between December 24 to January 2.
- (c) Please refer to the schedule of fees on our Website when calculating the fees applicable to your reservation dates (**Booking Period**). All fees are quoted in Australian dollars and are subject to change from time to time.
- (d) A non-refundable booking fee of \$50 applies to all bookings (**Booking Fee**). The Booking Fee is not a penalty but a genuine pre-estimate of the administrative costs associated with processing your reservation.
- (e) Booking requests can be made via the Website through our booking request form (**Booking Form**). To make a booking request using the Booking Form, you must

provide the mandatory information listed in the Booking Form.

- (f) Once we have processed your Booking Form, we will notify you by email to confirm The Ark's availability during your Booking Period.
- (g) Once we have confirmed The Ark's availability with you, you must complete the following to secure your booking:
  - (i) provide us valid photo identification by email, such as Australian driver's licence or learner's permit or an Australian or foreign passport (whereby we reserve the right to request supporting documentation if you cannot produce one of these documents);
  - (ii) submit a completed Guest Registration Form to us by email;
  - (iii) provide us with valid credit card details (**Credit Card**); and
  - (iv) submit the following payments in accordance with the Payment section below in clause 3:
    - (A) where your booking request is made more than 14 days from the Booking Period, a deposit equal to 50% of the costs of your stay (**Deposit**); and
    - (B) where your booking request is made less than 14 days from the Booking Period, 100% of the costs of your stay within 48 hours of you making that request (and if you fail to do so, your request will be cancelled and the relevant accommodation will be offered to others).
- (h) We will email you to confirm your booking is secured once the criteria specified in clause 2(g) above have been satisfied (**Confirmation Email**). Your booking is not secured until we have sent you a Confirmation Email.
- (i) We will not charge your Credit Card unless:
  - (i) you cause damage to The Ark during your stay;
  - (ii) you breach The Ark 'House Rules'; or
  - (iii) you otherwise breach these Terms and Conditions,in which case we reserve the right to charge your Credit Card in our absolute discretion.
- (j) Any changes made to your booking after confirmation must be requested in writing by email and will incur an

administrative fee of \$50 (**Administration Fee**). The Administration Fee is not a penalty but a genuine pre-estimate of the administrative costs associated with changing your reservation.

- (k) Where you have paid a Deposit, the balance is due at least 14 days prior to the date of your stay. We may cancel your booking and offer the relevant accommodation to third parties if you fail to pay the balance by the due date.
- (l) We will not sell or trade your personal information (including your photo identification, Credit Card, and information supplied to us in the Booking Form and Guest Registration Form) to any third party, organization or individual without your consent, other than if we are required to do so by law.

### 3. **PAYMENT**

- (a) Payments can be made to us by bank transfer (Australian bank accounts only).
- (b) We will contact you by email with information on how to make payments to us once we have confirmed the availability of the relevant accommodation for the Booking Period in accordance with clause 2(f).
- (c) By providing credit card information to us, you warrant that you have the right to use the credit card and authorize us to charge the cost of the booking to that card in accordance with these Terms and Conditions.

### 4. **CANCELLATION**

- (a) Subject to clause 6(a) and to the extent permitted by law, you may cancel your booking at any time, subject to the following conditions
  - (i) where you cancel your booking more than 30 days from the Booking Period, the Booking Fee is non-refundable;
  - (ii) where you cancel your booking between 14 and 30 days from the Booking Period, the Deposit is non-refundable; or
  - (iii) where you cancel your booking less than 14 days from the Booking Period, 100% of the fees paid to us will be non-refundable.
- (b) Subject to clause 6(a) and to the extent permitted by law, your booking may be cancelled by us in our sole discretion as follows (including during the Booking Period):
  - (i) immediately where you commit a serious breach (as deemed by us) of these Terms and Conditions (including, for the avoidance of doubt, the House Rules); and
  - (ii) immediately by written notice to you if the provision of our services are impacted by a Force Majeure Event.
- (c) Where your booking is cancelled under 3.b(ii) above, you may request:
  - (i) a new Booking Period to the same value as the cancelled Booking Period (subject to the Administration Fee); or

- (ii) a refund of any fees paid to date (minus the non-refundable Booking Fee).

### 5. **COVID-19**

- (a) You must not attend your reservation at The Ark if:
  - (i) you are required to self-isolate during the Booking Period due to being a confirmed case of COVID-19, having close contact with a confirmed case of COVID-19, living in or having been in a high-risk area within Australia or having returned from overseas; or
  - (ii) you have COVID-19 symptoms, have been tested for COVID-19 and are awaiting test results. The symptoms of COVID-19 include: fever, chills or sweats, cough, sore throat, shortness of breath, runny nose or loss of sense of smell.
- (b) We may in our sole discretion offer you a refund (in whole or in part) if you or someone you have been in close contact with tests positive to COVID-19 and are required to self-isolate on the Booking Period. To be eligible for a refund under this clause, your request must be made in writing to [thearkcoolamon@gmail.com](mailto:thearkcoolamon@gmail.com) on the date prior to the Booking Period. You should also provide supporting medical documentation as proof of you or your close contact's positive test result when submitting your request to us. We will consider your request in good faith, although we are not bound to give a refund.

### 6. **LIABILITY**

- (a) You retain all rights as a Consumer under the Australian Consumer Law when making a booking with The Ark. Nothing in these Terms and Conditions will limit, restrict or exclude any of your rights under the Australian Consumer Law (including any Consumer Guarantees) or other non-excludable conditions at law.
- (b) Subject to clause 6(c), if any of our Services fail to comply with any applicable Consumer Guarantees, we agree to provide remedies to you under the Australian Consumer Law as required by law however to the fullest extent permitted by law, we otherwise exclude any warranty or condition in relation the Services which would otherwise be implied.
- (c) To the extent permitted by section 64A of the Australian Consumer Law, our liability to you for any Loss or Claim suffered by you in respect of the Services, including in respect of a failure to comply with any applicable Consumer Guarantees, is limited to the fullest extent permitted by law and at our election, to either resupplying the Services; or paying the cost of having the Services supplied again.

### 7. **INDEMNITY**

You indemnify us against all Claims and Losses (excluding any Consequential Loss) incurred by us arising out of or in connection with:

- (a) any death of, or injury to, any person and any loss to the property of any person, caused by a negligent or unlawful act or omission of you in relation to your stay at The Ark; or

(b) any breach of these Terms and Conditions by you.

8. **GENERAL**

- (a) Capitalised words may be defined in the Definitions section or the body of these Terms and Conditions.
- (b) These Terms and Conditions, together with the House Rules, form the entire agreement between the parties and supersedes all prior discussions, understanding and agreements in relation to the subject matter of these Terms and Conditions.
- (c) We may assign, transfer or otherwise deal with any right or obligation under these Terms and Conditions for the purpose of restructuring, merger with another entity or a sale of business.
- (d) If any provision is unenforceable or invalid, it will be ineffective to the extent it is unenforceable or invalid, without affecting the validity or enforceability of the remaining provisions of these Terms and Conditions.
- (e) These Terms and Conditions are governed by the laws in force in New South Wales, Australia. The parties submit to the exclusive jurisdiction of the courts of New South Wales, Australia.

9. **DEFINITIONS AND INTERPRETATION**

**9.1 Definitions**

In this Agreement the following definitions apply:

**Australian Consumer Law** means the *Competition and Consumer Act 2010* (Cth) Schedule 2.

**Claim** means any allegation, debt, cause of action, liability, claim, proceeding, suit or demand of any nature, whether present or future, fixed or unascertained, actual or contingent, at law, in equity, under statute or otherwise.

**Consumer** has the same definition as in the Australian Consumer Law.

**Consumer Guarantees** has the same definition as in the Australian Consumer Law.

**Force Majeure Event** means an act of god, war, natural disaster, pandemic, global financial crisis, financial crisis, injury or illness, death in the family, government shutdown or similar restrictions, hacking, viruses, internet connectivity issues, power outages and any other cause not reasonably within the control of the party affected.

**Loss** means any loss, cost, expense (including legal costs on a full indemnity basis) or damage, whether direct or indirect, present or future, fixed or ascertained, actual or contingent and whether arising under contract, in tort, at common law, in equity, under statute, under an indemnity or otherwise.

**9.2 Interpretation**

In this Agreement, unless expressly stated:

- (a) a word importing the singular includes the plural and vice versa;
- (b) a word importing a gender includes other genders;
- (c) a law is a reference to that law as amended, consolidated or replaced;
- (d) this Agreement includes all schedules and attachments to it;
- (e) a party to this Agreement includes its agents, personal representatives, successors and permitted assigns;
- (f) a person, includes a natural person, partnership, joint venture, corporation, trust, governmental agency, association or other body corporate;
- (g) a time, is a reference to the time in the State or Territory of the jurisdiction that governs this Agreement;
- (h) \$, is a reference to Australian dollars unless otherwise expressly stated; and
- (i) the words 'such as' or 'including' are not used as words of limitation.