

TERMS AND CONDITIONS FOR CHARTERED SERVICES

1. BACKGROUND

1.1. CVBC holds operator accreditation under the *Transport Operations (Passenger Transport) 1994* (Qld) and is authorised to operate public passenger services in Queensland, including Charters and Tours.

1.2. The Customer has engaged CVBC to operate the Services pursuant to the terms and conditions of this Agreement.

2. FORMATION OF AGREEMENT

2.1. The provision of Services by CVBC for the Customer comprises of (**Agreement**):

- (a) the Quotation; and
- (b) the terms and conditions contained in this document.

2.2. The parties agree that each Quotation accepted by the Customer will constitute a separate agreement for the supply of Services specified in that Quotation and will incorporate the terms and conditions set out in this Agreement.

2.3. Unless otherwise agreed to by CVBC in writing, CVBC will not be bound by any amendments requested by the Customer to the Agreement (including, but not limited to, these terms and conditions).

3. DEFINITIONS

3.1. **Agreement** has the meaning given in clause 2.1.

3.2. **Booking** has the meaning given to that term in clause 6.1.

3.3. **Business Day** means a day on which banks are open for retail banking, other than a Saturday, Sunday or public holiday, in the Gold Coast, Queensland.

3.4. **Cancellation Notice** has the meaning given in clause 9.1.

3.5. **Charter** means a General Charter, School Charter or Wedding Charter.

3.6. **Claim** means any claim, notice, demand, action, proceeding, litigation, investigation, judgment or cause of action, whether based in contract, tort (including negligence), under common law, equity or statute.

3.7. **Consequential Loss** means loss of expected savings, loss of use, loss of opportunity, loss of profit, loss of revenue, increased financing costs, loss arising from delay, or any consequential, special or indirect loss or damage, whether or not the possibility or potential extent of the loss or damage was known or foreseeable, and whether arising from a claim under indemnity, contract, tort (including negligence), statute or otherwise.

3.8. **Corporations Act** means *Corporations Act 2001* (Cth).

3.9. **Customer** means the person identified as the customer in the Quotation.

3.10. **CVBC** means Brizac Pty Ltd ACN 120 921 539 trading as Currambin Valley Bus & Coach.

3.11. **Default Event** means any of the following:

- (a) a party suffers an Insolvency Event;
- (b) the Customer fails to pay any monies payable under this Agreement (or any other agreement with CVBC)

on the due date and the default continues for more than 10 Business Days;

- (c) the Customer, or any Passenger of the Customer, does not comply with any code of conduct for the Services; or
- (d) a party commits a material breach of this Agreement and fails to remedy that breach within 10 Business Days of written notice from the other party.

3.12. **Dispute Notice** has the meaning given in clause 19.2.

3.13. **Driver** means the person that is engaged by CVBC to drive a Vehicle on a Service.

3.14. **Fees** means the fees specified in the Quotation and payable by the Customer in accordance with clause 8.

3.15. **Force Majeure Event** means any of the following events, circumstances or combination of events and circumstances:

- (a) an act of God, lightning, storm, explosion, flood, cyclone, landslide, bush fire, tsunami or earthquake;
- (b) an act of terrorism, war (declared or undeclared), blockade, revolution, riot, insurrection, or civil commotion;
- (c) any pandemic or epidemic;
- (d) a state wide or nationwide shortage of bus drivers;
- (e) supply chain disruptions which impact the delivery of Services;
- (f) industry action in relation to the bus industry or involving any staff of CVBC;
- (a) any action, inaction, demand, order, restraint, restriction, requirement, prevention, frustration or hindrance by or of any government authority; or
- (b) the unavailability of any essential equipment, fuel, public utilities (such as electricity or water) or other materials necessary for the operation of the Vehicles.

3.16. **General Charter** means a chartered bus service for the carriage of Passengers other than a School Charter or Wedding Charter.

3.17. **GST** has the meaning given by the GST Law.

3.18. **GST Law** has the meaning given to "GST law" in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

3.19. **Insolvency Event** means, in respect of a person, the occurrence of any of the following in respect of that person (as applicable):

- (a) an order is made, or an effective resolution is passed for the winding up, dissolution without winding up (otherwise than for the purposes of solvent reconstruction or amalgamation) or deregistration of that person;
- (b) a receiver, receiver and manager, judicial manager, liquidator, administrator or like official is appointed or expected to be appointed over the whole or a substantial part of the undertaking or property of that person;
- (c) a holder of a Security Interest takes possession of or exercises any other rights arising from the Security Interest over the whole or any substantial part of the

undertaking and property of that person, or indicates an intention to do so;

(d) the person becomes insolvent or any circumstance exists or arises which would require a court to presume that that person is insolvent;

(e) that person enters into or takes any steps to enter or proposes to enter into any arrangement, compromise or assumption with or assignment for the benefit of its creditors or a class of them;

(f) that person receives a deregistration notice under section 601AB of the Corporations Act or any communication that might lead to such notice;

(g) that person stops, suspends or threatens to stop or suspend paying its debts as and when they fall due;

(h) that person becomes an "insolvent under administration" within the meaning given in section 9 of the Corporations Act, or any steps are taken or any order is made to cause that person to become an insolvent under administration, as defined;

(i) the party (being an individual) becomes bankrupt, or commits an act of bankruptcy; or

(j) any analogous event under the laws of any applicable jurisdiction.

3.20. **Loss** includes any loss, liability, expense, cost or damage of any kind and includes Consequential Loss and a fine or penalty imposed by a statutory or other authority.

3.21. **Passenger** means each passenger onboard the Vehicle operating the Service (excluding the Driver).

3.22. **PPSA** means the *Personal Property Securities Act 2009* (Cth).

3.23. **PPSR** means the Personal Property Securities Register established under the PPSA.

3.24. **Quotation** means the quotation issued by CVBC to the Customer in accordance with clause 5.

3.25. **School Charter** means the provision of a chartered bus service principally for the transport of school students.

3.26. **Security Interest** includes any mortgage, charge, lien, pledge, hypothecation, title retention arrangement, trust arrangement, encumbrance, contractual right of set off, any security arrangement in favour of any person or any security arrangement which is deemed to be a security interest for the purposes of the PPSA.

3.27. **Service** means the provision by CVBC of a:

- (a) General Charter;
- (b) School Charter;
- (c) Tour; or
- (d) Wedding Charter.

3.28. **Tour** means a tour service delivered by CVBC that travels to various locations, either operating in a single day or over multiple days.

3.29. **Vehicle** means the passenger vehicle used to deliver the Service.

3.30. **Vehicle Equipment** means any equipment or electronic or manual devices installed inside a Vehicle, including, but not limited, to TVs/DVD/CD players, radios, public announcement systems, and other audio/visual equipment.

3.31. **Wedding Charter** means a chartered bus service provided for Passengers attending a wedding.

4. AGREEMENT FOR SERVICES

4.1. CVBC agrees to provide the Services in accordance with the terms and conditions of this Agreement.

4.2. Where more than one Customer is specified on the Quotation, the Customers will be jointly and severally liable to CVBC for the performance of the Customer's obligations under this Agreement.

5. QUOTATIONS

5.1. Each Quotation issued to a Customer:

- (a) is valid for, and capable of acceptance by the Customer within, 1 month after issuance to the Customer;
- (b) will contain estimated charges including a minimum 2-hour engagement and variable hourly rates based on the time and day of supply of the Service; and
- (c) are exclusive of any road toll charges, parking charges, venue admission charges, meal allowances, and accommodation charges, unless otherwise stated.

5.2. CVBC may, subject to its ability to meet the requirements of the Customer, agree to extend the currency of a Quotation upon request by the Customer.

5.3. CVBC reserves the right to increase the Fees on any further Quotation to allow for any price variations.

5.4. Prices in a Quotation are exclusive of GST unless otherwise stated in the Quotation.

5.5. CVBC reserves the right to vary a Quotation at any time prior to acceptance by the Customer.

5.6. The Customer acknowledges that each Quotation is subject to the availability of Vehicles and Drivers which can only be confirmed upon acceptance of the Quotation.

5.7. A Quotation may include a requirement for the Customer to pay a non-refundable deposit at the time of making a Booking.

6. BOOKINGS AND VARIATIONS

6.1. A booking for Services is only confirmed by CVBC when (**Booking**):

- (a) the Quotation has been accepted by the Customer;
- (b) the Customer receives a confirmation notice from CVBC; and
- (c) pays any deposit specified in the Quotation,

6.2. The Customer acknowledges and agrees that the payment of any deposit is non-refundable unless the Service is cancelled by CVBC.

6.3. If the Customer requests a variation be made to a Booking, the parties agree that:

- (a) subject to clause 6.4, all variations must be made by the Customer in writing and not later than 48 hours prior to the departure of the Service;
- (b) the variation may only be accepted by CVBC subject to availability of its drivers and Vehicles; and
- (c) CVBC's reserves the right to levy additional reasonable charges payable by the Customer for all requested variations.

6.4. If the Customer requests a variation to a Booking that is a Wedding Charter:

- (a) for a variation requested up to 1 week before the Wedding Charter:
- (i) subject to CVBC's availability, the Customer will not be

liable for any extra charges; and

(ii) the Fees may be revised by CVBC (in its absolute discretion) with a refund provided to the Customer for any material change to the Booking;

(b) for a variation requested up to 1 week before the Wedding Charter:

(i) no refunds will be issued; and

(ii) the Customer may be liable for further charges should there been a change to the vehicle capacity or pick up times and locations.

(c) any deposit paid will be applied to the revised Booking for the Wedding Charter; and

(d) the Customer may be liable to pay additional Fees to CVBC in the event that the Wedding Charter is moved to a Sunday or public holiday.

6.5. CVBC reserves the right to vary or postpone any Service by written notice to the Customer in the event that the Service cannot be provided due to circumstances outside of CVBC's control, including the occurrence of a Force Majeure Event.

7. TOURS

7.1. The Customer acknowledges and agrees that:

(a) where the Customer cancels a Booking for a Tour:

(i) CVBC may charge the Customer a cancellation fee in accordance with clause 9.4; and

(ii) CVBC is not responsible for refunding any third party tickets or direct expenses paid by the Customer for that Tour;

(b) a Tour may be postponed or cancelled by CVBC by written notice if there are insufficient Passenger numbers for that Tour;

(c) all pricing for Tours:

(i) are in Australian dollars;

(ii) are correct at the time of publication but are subject to change without notice to the Customer; and

(iii) includes meals and activities recorded on the itinerary for the Tour, but excludes drinks, telephone calls, and items not detailed in the Quotation;

(d) travel insurance is not included in any Fees for a Tour and the Customer is solely responsible for arranging appropriate travel insurance from a third party insurer;

(e) any accommodation for a Tour provided will be a twin share unless otherwise stated. Any requests for a single room, subject to availability of the third-party accommodation supplier, will see the Customer responsible for any corresponding charges; and

(f) all special meal requests for a Tour must be provided to CVBC in writing by the Customer at the time of the Booking. CVBC will use reasonable endeavours to accommodate a Passenger's particular dietary requirements but provides no guarantee that the request can be accommodated by a third party provider.

7.2. Any Passenger requiring special assistance for a Tour must advise CVBC at the time of Booking and provide their own able-bodied companion.

7.3. All Passengers must inform CVBC at the time of Booking of any pre-existing medical conditions affecting the Passenger's ability to participate in any part or activity in the Tour, and CVBC reserves the right to refuse travel to a Passenger in such circumstances.

7.4. Except as otherwise agreed, CVBC is not responsible for providing any carers or for providing any assistance to a Passenger.

8. FEES AND PAYMENT

8.1. The Customer must pay the Fees in advance to CVBC by the date for payment specified in the invoice for the Service.

8.2. CVBC reserves the right to cancel any Booking if any Fees or other money owing are not paid to CVBC within the timeframe specified in clause 8.1.

8.3. The Customer acknowledges that any credit card payments made by a Customer may incur a bank processing fee which is payable to CVBC in addition to the Fees.

8.4. All Fees and money owing payable to CVBC must be made without any set-off or counterclaim and without deduction or withholding whatsoever.

8.5. CVBC reserves the right to charge the Customer an additional fee to cover its reasonable costs for:

(a) any additional waiting time for a Charter not included in the Quotation;

(b) cleaning any waste or mess left onboard a Vehicle by a Passenger; or

(c) repairing any damage to a Vehicle caused by a Passenger (as determined by CVBC acting reasonably).

9. CANCELLATION PROCESS AND CHARGES

9.1. If the Customer cancels a Booking prior to performance of that Service by CVBC:

(a) the Customer must notify CVBC of the cancellation in writing as soon as practicable (**Cancellation Notice**); and

(b) the Customer acknowledges and agrees that CVBC may (in its discretion) charge the Customer a cancellation fee which is immediately payable by the Customer in accordance with this clause 9.

9.2. **General Charters** – Where a Customer cancels a Booking for a General Charter, CVBC may charge a cancellation fee as follows:

Time the Cancellation Notice is given by the Customer	Cancellation fee
By 9.00am the day before the charter	Full refund of the Fees less any deposit paid
3 or more hours before the charter and after 9.00am the day before	50% of the Fees
Less than 3 hours before the charter	100% of the Fees

9.3. **School Charters** – Where a Customer cancels a Booking for a School Charter, CVBC may charge a cancellation fee as follows:

Time the Cancellation Notice is given by the Customer	Cancellation fee
By 3.00pm the day before the charter	Full refund
3 or more hours before the charter and after 3.00pm the day before	50% of the Fees
Less than 3 hours before the charter	100% of the Fees

9.4. **Tours** – Where a Customer cancels a booking for a Tour, CVBC may charge a cancellation fee which is immediately payable by the Customer as follows:

Time the Cancellation Notice is given by the Customer	Cancellation fee
Cancellation after making booking	Loss of deposit
45 days prior to departure	50% of the Fees
Between 45 and 30 days prior to departure	75% of the Fees
Less than 30 days prior to departure	100% of the Fees

The Customer will not be entitled to any refund for any third party tickets or direct expenses for the Tour, in accordance with clause 7.1(a)(ii).

Where a Tour is cancelled by CVBC for any reason, the Customer acknowledges that:

- (a) the Customer will be entitled to a full refund of the Fees paid; and
- (b) the Customer may, if applicable, be invited by CVBC to attend the Tour on a substitute date.

9.5. **Wedding Charter** – Where a Customer postpones or cancels a booking for a Wedding Charter, CVBC may charge a cancellation fee as follows:

Time the Cancellation Notice is given by the Customer	Cancellation fee
Cancellation after making booking	Loss of deposit
Up to 72 hours prior to departure	No additional charge – Refund of funds paid less deposit
Less than 72 hours to departure	100% of the Fee

10. VEHICLE USE AND CAPACITY

- 10.1. The use of the Vehicle when not delivering the Services is at the sole discretion of CVBC and the Customer should not assume that the Vehicle will remain at any point between the outward and return journeys, or that it is available for use when parked at such points.
- 10.2. The use of any Vehicle Equipment by Passengers on a Service is at the sole discretion of CVBC.
- 10.3. The Customer acknowledges that all Vehicles are subject to passenger capacity and loading restrictions in accordance with all applicable laws.
- 10.4. The Customer agrees that:
 - (a) the Driver has the sole discretion to accept or refuse luggage carried onto the Vehicle by a Passenger;
 - (b) the Driver may refuse to permit the carriage of any item which is deemed to be unsafe or dangerous for carriage onboard the Vehicle; and
 - (c) it is solely responsible for all luggage, carry-on bags and personal items brought onto a Vehicle.
- 10.5. CVBC disclaims all liability for any damage to, theft or loss of any luggage belonging to a Passenger.
- 10.6. Any items or property left onboard a Vehicle will be available for collection by the relevant Passenger from CVBC's office during ordinary business hours.

11. PASSENGER BEHAVIOUR AND PROHIBITED ITEMS

- 11.1. Each Passenger onboard a Vehicle must:
 - (a) comply with all reasonable directions of the Driver;
 - (b) not smoke or use e-cigarettes/vapes;
 - (c) not consume food, alcohol or illegal drugs or other prohibited substances;
 - (d) remain seated while the Vehicle is in motion; and
 - (e) wear a seatbelt at all times as required by law.
- 11.2. The Customer acknowledges that the Driver has the right to refuse to carry Passengers who:
 - (a) in the Driver's reasonable opinion, are affected by alcohol or drugs;
 - (b) are abusive or unruly to the Driver or other Passengers;
 - (c) are observed smoking or attempting to smoke on board a Vehicle, including any onboard toilet facility; or
 - (d) fail to comply with any reasonable direction of the Driver or any applicable laws and regulations.
- 11.3. The Customer acknowledges that the Driver has the right to immediately cease performance of a Service without any liability to the Customer if the behaviour of any Passengers adversely affects the safe operation of the Vehicle.
- 11.4. The Customer:
 - (a) for all Charters – remains responsible for the acts and omissions of all Passengers onboard a Service; and
 - (b) without limiting clause 11.4(a), is liable to CVBC for any damage sustained to a Vehicle and caused by a Passenger (as determined by CVBC acting reasonably).

12. SUBCONTRACTING

- 12.1. CVBC reserves the right to subcontract the provision of all or part of the Services to another operator.
- 12.2. In the event that CVBC subcontracts any part of the Services, CVBC will remain responsible for the acts and omissions of its subcontractors in the course of providing the Services as if they were CVBC's own acts or omissions.

13. LIMITATION OF LIABILITY

- 13.1. To the maximum extent permitted by law, CVBC's liability to the Customer is limited as follows:
 - (a) CVBC will not be liable to the Customer for any Claim for any Consequential Loss whatsoever arising directly or indirectly from the Services;
 - (b) CVBC will take reasonable steps to perform the Services but does not accept any liability for circumstances outside of its control, including, without limitation:
 - (i) delays to the pick up or departure time of the Service attributable to traffic congestion or road closures or changes in road conditions;
 - (ii) mechanical failure of a Vehicle;
 - (iii) loss, damage or theft to property belonging to Passengers; or
 - (iv) the occurrence of a Force Majeure Event;
 - (c) CVBC's liability to the Customer for a material breach of this Agreement is reduced to:
 - (i) the resupply of the Service; or
 - (ii) a refund of the Fees paid by the Customer for the

Service.

14. TERMINATION FOR DEFAULT

14.1. Either party may immediately terminate this Agreement by written notice to the other party upon the occurrence of a Default Event.

14.2. If CVBC terminates this Agreement for the occurrence of a Default Event in accordance with clause 14.1, the Customer must:

- (a) immediately pay all Fees and any other amount owing to CVBC under any other agreement (including any interest up to the date of termination); and
- (b) reimburse CVBC for any unavoidable costs or expenses that CVBC has reasonably incurred as a direct result of the termination and that CVBC is not able to recoup or otherwise as a result of the Customer's default.

15. FORCE MAJEURE

15.1. If CVBC is prevented in whole or in part from performing any part of its obligations under this Agreement because of a Force Majeure Event, CVBC must, as soon as practicable and no later than 48 hours after the occurrence of that event, provide the Customer with notice of:

- (a) full particulars of the Force Majeure Event including its nature and likely duration;
- (b) the obligations affected by the Force Majeure Event and the extent to which performance of those obligations is affected; and
- (c) the steps taken or proposed to be taken to rectify the Force Majeure Event.

15.2. CVBC's obligations are suspended to the extent that they are affected by a Force Majeure Event from the date that CVBC notifies the Customer under clause 15.1 until the cessation of the Force Majeure Event.

15.3. Where a Force Majeure Event no longer prevents CVBC from performing its obligations under this Agreement, CVBC must:

- (a) notify the Customer that it is no longer prevented from performing the relevant obligations; and
- (b) recommence performance of those affected obligations under this Agreement.

16. INDEMNITY

16.1. The Customer indemnifies, and must keep indemnified, CVBC from and against any Claim or Loss (excluding Consequential Loss), arising out of, or in connection with, any one or more of the following:

- (a) any breach of this Agreement by the Customer;
- (b) any damage to the Vehicle or any other property or goods that is caused by or contributed to by the Customer or any Passenger;
- (c) any negligence, recklessness or other wrongful act or omission of the Customer or any Passenger;
- (d) any injury to persons, including resulting in death caused or contributed to by the Customer or any Passenger, howsoever arising from, or in connection with, the performance of the Services.

16.2. The Customer's liability to indemnify CVBC under clause 16.1 is reduced proportionally to the extent that the act or omission of CVBC or its Drivers, caused or contributed to the Claim or Loss.

17. PRIVACY AND PERSONAL INFORMATION

17.1. Where CVBC is in possession of personal information of the Customer, CVBC will:

- (a) not use personal information other than for the purposes of performance of the Services, unless required or authorised by law;
- (b) not disclose personal information without the consent of the Customer, unless required or authorised by law;
- (c) ensure that access to personal information is restricted to those of its personnel who require access to perform their duties;
- (d) ensure that its personnel do not access, use or disclose personal information other than in the performance of their duties; and
- (e) ensure that any subcontractors who have access to personal information abide by the same obligations under this clause 17.

17.2. The Customer irrevocably authorises, and consents to, CVBC obtaining a credit report for the Customer from a third party provider.

18. PPSA SECURITY INTEREST

18.1. If either party believes that a Security Interest arises under this Agreement in connection with the Services, that party must notify the other party within 5 Business Days of becoming aware of such Security Interest.

18.2. Either party must take such steps as the other party reasonably requires to perfect or otherwise ensure the enforceability and first ranking priority of any Security Interest granted to it under this Agreement, including:

- (a) containing and giving consents;
- (b) producing and providing receipts;
- (c) attending to the signing of documents or procuring the signing of documents;
- (d) facilitating the registration of any Security Interest on the PPSR;
- (e) facilitating the giving of notice to any person, including any person who also has, or appears to have, a Security Interest; and facilitating the exercise of the secured party's right to enforce any Security Interest.

19. DISPUTE RESOLUTION

19.1. The parties agree not to commence any legal proceedings in respect of any dispute arising under this Agreement, which has not been resolved by informal discussion, until the procedure provided by this clause 19 has been followed.

19.2. The parties agree that any dispute arising during the course of this agreement will be dealt with as follows:

- (a) the party claiming that there is a dispute will send the other a written notice setting out the nature of the dispute (**Dispute Notice**);
- (b) the parties will try to resolve the dispute through direct negotiation, including by referring the matter to persons who have the authority to intervene and direct some form of resolution; and
- (c) if within 10 Business Days from the date of the Dispute Notice being issued:
 - (i) there is no resolution of the dispute;
 - (ii) there is no agreement on submission of the dispute to mediation or some alternative dispute resolution procedure; or
 - (iii) there is a submission to mediation or some other form

of alternative dispute resolution procedure, but there is no resolution within 10 Business Days of the submission, or such extended time as the parties may agree in writing before the expiration of the 10 Business Days, then either party may commence legal proceedings.

19.3. Despite the existence of a dispute, both parties must continue to perform their respective obligations under this Agreement.

20. GENERAL

20.1. This Agreement embodies the entire agreement between the parties and supersedes all previous agreements, understandings, negotiations, warranties and representations on the subject matter of this Agreement.

20.2. This Agreement is not intended to create a partnership, joint venture or agency relationship between the parties.

20.3. The following provisions survive termination of this Agreement:

- (a) rights accrued to a party up to the date of termination of this Agreement; and
- (b) indemnities and obligations of confidence given by a party under this Agreement.

20.4. If any provision of this Agreement will be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions will not be affected, prejudiced or impaired.

20.5. The terms and conditions of this Agreement will prevail to the extent of any inconsistency with any other document or agreement between the Customer and CVBC.

20.6. The parties agree that this Agreement is governed by the laws of, and subject to the jurisdiction of the courts, of Queensland, Australia.

20.7. CVBC reserves the right to review and amend this Agreement from time to time and must give notice to the Customer of any changes to this Agreement in writing.

20.8. The failure by CVBC to enforce any provision of this Agreement will not be treated as a waiver of that provision, nor will it affect CVBC's right to subsequently enforce that provision.

20.9. A written notice to be provided under this Agreement may be provided by:

- (a) handing the notice to the person, or an employee or officer of that person;
- (b) by leaving it at the address stated in a Quotation;
- (c) by sending it by registered post to the address stated in the Quotation; or
- (d) by email to the last known email address of that person.