

**THIS AGREEMENT** is made the ..... day of .....

**BETWEEN PRISON ENTERTAINMENT PTY LTD**

**(ABN 50 630 779 476)**

of 9 Queen Street, Belmont, Victoria 3216

**(The Operator)**

**AND** The Participants listed on the execution page hereto **(The Participant(s))**

### **RECITALS**

- A. Prison Entertainment Pty Ltd conducts escape based games ("**the Experience**") from a number of locations;
- B. The Experience is intended to be complex and challenging as well as enjoyable and entertaining;
- C. The Experience is conducted under supervision at all times; and
- D. The Participants are monitored via CCTV at all times.
- E. All Participants are briefed prior to engaging in the Experience. Specifically, it is brought to the attention of the Participant:
  - a. Participants are not to touch the lights, use force, run, jump or climb;
  - b. Participants are able to be in constant oral communication with an authorised representative of the Operator. The representative will be monitoring some but not all of the Experience in person and will be onsite at all material times;
  - c. The Experience is situated in an Old Gaol built in 1853 and as such does not comply with the Building Code of Australia. The Operator puts the Participant on notice that a number of dangers exist including but not limited to:
    - A. Slanted stair wells;
    - B. Low first-floor hand railings;
    - C. Old electrical wiring
    - D. Iron gate & heavy wooden door crush points
- d. Participants are advised that the experience is only accessible via a flight of stairs.
- F. Due to the physical and psychological nature of the Experience, the Operator has a legitimate interest in limiting its liability.
- G. The Participant understands that there are inherent risks associated with the Experience and agrees to participate on the terms outlined herein.
- H. The parties enter into this agreement in order to document their intentions in relation to the Experience.

### **AGREEMENT**

- 1. If this agreement is signed on behalf of a minor Participant then the person who signs warrants that they are the legal guardian of the Participant and they agree to be bound by the terms of this agreement.
- 2. The Participant agrees to observe and obey all rules and warnings whether written or verbal put in place by any authorised representative of the Operator.

3. Any authorised representative of the Operator may, at any time, exclude any Participant from the Experience should they have any concerns in relation to violent or offensive behaviour, alcohol or drug use and or for any other reason which is in the opinion of the authorised representative reasonable grounds for exclusion.
4. The Participant acknowledges that there are certain inherent risks associated with the Experience and they assume full responsibility for any personal injury to themselves, any loss or damage arising out of their use of the plant and equipment obtained from the Operator, whether caused by the Participant, the Operator or any third party.
5. The Participant agrees to waive, release and discharge the Operator from any and all liability, including but not limited to, liability arising from the use of plant and equipment provided by the Operator, the use of facilities or premises occupied by the Operator, or from engaging in any conduct forming part of the Experience provided by the Operator.
6. The Participant warrants that they have not been advised by a medical practitioner not to participate in activities similar to the Experience. The Participant further agrees that there are no health reasons which would preclude their participation in the Experience.
7. The Participant agrees to indemnify the Operator from all costs, claims or damages (including legal costs) that arise from the Participants breach of any part of this agreement.
8. The Participant agrees to indemnify the Operator from any action that may arise from the Participants death, personal injury, disability, property loss or damage or actions of any kind which may occur during the Experience.
9. The Participant agrees to receive medical treatment which is deemed necessary by any authorised representative of the Operator in the event of accident, injury or illness. If medical treatment is required, the Participant acknowledges they will be personally liable for any medical costs incurred for their benefit.
10. The Participant agrees to pay for all damage caused to the Operator's plant and equipment or to the facilities or premises occupied by the Operator from any negligent, reckless or malicious acts by the Participant.
11. The Participant agrees that the Operator has the right to take and use any photos or any video/sound footage during the Experience. Any photos, video footage or sound materials may be used for marketing purposes.
12. The Participant agrees that they are under no pressure or duress to sign this Agreement and that they have been given a reasonable time to review the Agreement prior to signing. The Participant further acknowledges that they have the ability to receive independent legal advice in relation to this agreement.
13. The parties acknowledge that:
  - 13.1 Under the Australian Consumer Law (Victoria), several statutory guarantees apply to the supply of certain goods and services. These guarantees mean that the supplier **Prison Entertainment Pty Ltd** named on this form is required to ensure that the recreational services it supplies to you:
    - i. are rendered with due care and skill; and
    - ii. are reasonably fit for any purpose which you, either expressly or by implication, make known to the supplier; and
    - iii. might reasonably be expected to achieve any result you have made known to the supplier.
  - 13.2 Under section 22 of the *Australian Consumer Law and Fair Trading Act 2012*, the supplier is entitled to ask you to agree that these statutory guarantees do

not apply to you. If you sign this agreement, you will be agreeing that your rights to sue the supplier under the *Australian Consumer Law and Fair Trading Act 2012* if you are killed or injured because the services provided were not in accordance with these guarantees, are excluded, restricted or modified in the way set out in this form.

- 13.3 The change to your rights, as set out in this agreement, does not apply if your death or injury is due to gross negligence on the supplier's part. Gross negligence, in relation to an act or omission, means doing the act or omitting to do an act with reckless disregard, with or without consciousness, for the consequences of the act or omission. See regulation 5 of the *Australian Consumer Law and Fair Trading Regulations 2012* and section 22(3)(b) of the *Australian Consumer Law and Fair Trading Act 2012*.
14. The Participant agrees that this agreement shall be construed broadly to limit the liability of the Operator to the maximum extent permitted by law.
15. If there is any conflict between this agreement and any other agreement, the terms of this agreement shall prevail to the extent of the inconsistency.
16. The Participant warrants that they have read and fully understood the matters set out in this agreement.

## **INTERPRETIVE PROVISIONS**

### **1. Events Beyond Control**

Neither party shall be liable to the other party for any loss caused by any failure to observe the terms and conditions of this agreement, where such failure is occasioned by causes beyond its reasonable control including but not limited to by fire, flood, riot, strike, war, restrictions and prohibitions or any other actions by any government or semi government authorities.

### **2. Severance**

If anything in this agreement is unenforceable, illegal or void, it is severed and the rest of the agreement remains in force.

### **3. Jurisdiction**

This agreement will be governed by and construed in accordance with the law of the State of Victoria and each of the parties hereby submits to the jurisdiction of the Courts of the State of Victoria.

### **4. Binding on Successors**

This agreement will extend to bind the parties and their respective heirs, executors, successors, assigns, administrators and legal personal representatives.

### **5. Joint Obligations**

In the case where a party that consists of more than one person, each of those persons covenants, agrees and declares that all of the covenants, agreements, declarations and consents contained in this agreement and made and given by that party have been entered into, made and given and are binding upon that person both severally and also jointly with the other person or persons constituting that party.

