

APPLICATION FOR PLACEMENT OF A MEMORIAL PLAQUE (10 YEAR LICENCE)

DETAILS

Name:		Date:	
Address:			
Contact phone numbers	Home:		Mobile:
Email address:			

REQUESTED PLAQUE WORDING (Please print clearly)

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Note: Once payment received, plaque order can take up to 8 weeks. Plaque size and example of wording overleaf.

LOCATION REQUESTED

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Payment for a 10 year licence: Foreshore seat: **\$4,600.00** Reserve seat: **\$3,100.00**

Additional plaque & timber rail to accommodate extra plaque \$425.00

I acknowledge the memorial plaque licence terms and conditions (as attached):

Signed by applicant: _____ Date: _____

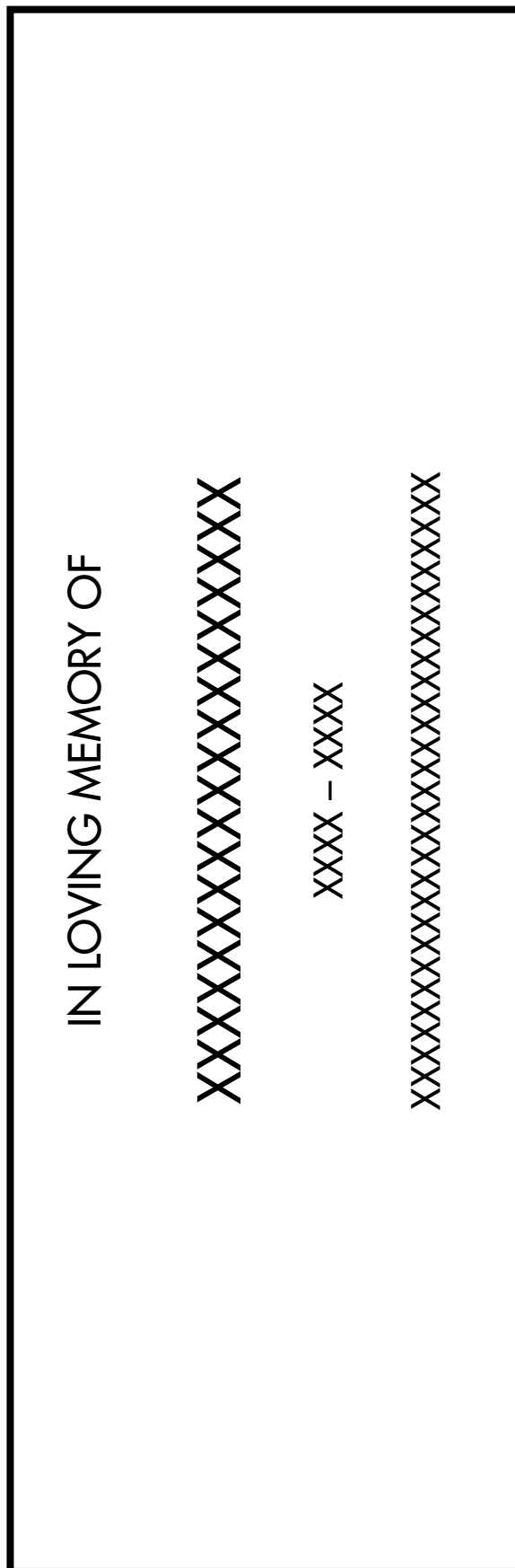
OFFICE USE ONLY

Invoice to Finance: Date:
Payment date: Date:
Plaque ordered: Date:
Trimmed: Date:
GIS updated: Date:

EXAMPLE OF PLAQUE

Plaque shown at actual size (23cm x 7.5cm) with example of text

(Council reserves the right to refuse any application with wording that is deemed to be unsuitable or offensive)



MEMORIAL PLAQUE TERMS AND CONDITIONS

These T&Cs apply where The City of Holdfast Bay accepts your application to attach a Memorial Plaque to a Seat

1. Definitions

In these Terms:

Agreement means the Council's contract with you in relation to a Memorial Plaque, which is made up of your Application, the Memorials Policy and these Terms;

Australian Consumer Law means Schedule 2 of the Competition and Consumer Act 2010 (Cth) and the corresponding provisions of the relevant State and Territory fair trading acts;

Commencement Date means the date on which the Council informs you that the Memorial Plaque has been attached to the Seat;

Consumer Guarantee means a right or guarantee under the Australian Consumer Law that cannot lawfully be excluded;

Initial Term means the period commencing on the Commencement Date and ending on the 10th anniversary of the Commencement Date;

Memorial Plaque means a memorial plaque in such dimensions and form as may be determined by the Council in its absolute discretion, bearing such name or other personal details as may be nominated by you in the Application or otherwise approved by the Council;

Memorials Policy means any policy published by the Council governing the grant of rights by Council in relation to memorial plaques, as amended or varied by the Council from time to time;

Renewal Term means the further term provided for in the Memorials Policy as at the 10th anniversary of the Commencement Date;

Seat means a seat, usually in the form of a park bench, in a style and colour as may be decided upon by Council in its absolute discretion, owned and maintained by the Council and to which the Council has determined that a Memorial Plaque may be affixed; and

Term means the Initial Term, plus the Renewal Term (if any).

2. Agreement

2.1 To the extent required by law, the Agreement includes all those statutory rights (if any) which you are entitled to and which the Council is not capable of excluding, restricting or modifying, including under the Australian Consumer Law.

2.2 Subject to clause 2.1 and unless otherwise agreed in writing by the Council, you acknowledge and agree that these Terms and Conditions take precedence over all other conditions and apply regardless of any other documents, prior discussions, understandings and arrangements (written or oral, express or implied) and other representations (contractual or otherwise) that you may have or have had with the Council.

2.3 In the event of any inconsistency between them, the documents comprising this Agreement will apply in the following order of precedence:

- (a) these Terms and Conditions;
- (b) the Memorials Policy; and
- (c) the Application

3. Applications

3.1 The Council may choose to accept or refuse your Application, or part of your Application, in its discretion, but if your Application is refused, Council will provide reasons for the refusal.

3.2 You may withdraw your Application before it is accepted by the Council and in that event you will not have to pay any fee in relation to it (Fee).

3.3 Once your Application has been accepted by the Council, you can only withdraw the Application if the Council agrees, and in that event you will be required to pay any reasonable costs incurred by the Council up to the time of withdrawal (including the cost of any materials purchased and any work undertaken in relation to the Memorial Plaque or the Seat). Any balance of the Fee beyond those costs will be repaid to you within 30 business days of the Council accepting the withdrawal.

4. Fee

4.1 The Fee will be as set out in the Application form applicable at the time the Application is made by you, and will also be published annually as part of the Council's Fees and Charges.

5. Payment

5.1 You must pay the Fee in full at the time of submitting the Application. If you fail to do so, the Council may refuse your Application.

6. Information supplied by you

6.1 You must specify in the Application the text to be included on the Memorial Plaque. The Council has the right to approve in full, or request variations to, any text specified in an Application.

6.2 You are responsible for the completeness and accuracy of any text to be included on the Memorial Plaque. The Council accepts no responsibility for any liability arising from any error or inaccuracy in the text included on a Memorial Plaque where the final inscription reflects the details contained in your Application or otherwise agreed between you and the Council, and you agree to release the Council from any such liability.

7. Your rights and obligations

7.1 Your rights under the terms of this Agreement are limited to the right to have the Memorial Plaque affixed to a Seat during the Term and to have the Council observe its obligations under clause 8.

7.2 You acknowledge and agree that you have no proprietary right, title or interest in the Memorial Plaque or the Seat or the surrounding environment in which the Seat is located.

7.3 During the Term, you must ensure that you provide the Council with up to date contact details (name, phone number and email address) for an appropriate representative to whom all correspondence will be directed in relation to this Agreement.

8. Rights and Obligations of Council

8.1 Title and risk in the Memorial Plaque and the Seat will remain at all times with the Council.

8.2 Within a reasonable period after you pay the Fee in full, the Council will undertake all work associated with:

- (a) purchasing and arranging for the production of the Memorial Plaque;
- (b) identifying a suitable Seat and
- (c) affixing the Memorial Plaque to the Seat.

MEMORIAL PLAQUE TERMS AND CONDITIONS

- 8.3 These services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the services, you are entitled to cancel the service contract with the Council, and to a refund for the unused portion, or to compensation for its reduced value. You are also entitled to be compensated for any other reasonably foreseeable loss or damage. If the failure does not amount to a major failure you are entitled to have problems with the service rectified in a reasonable time and, if this is not done, to cancel the contract and obtain a refund for the unused portion of the contract.
- 8.4 During the Term, the Council:
- (a) will maintain the Memorial Plaque and the Seat in accordance with the Memorials Policy and the Council's Asset Management Policy and applicable asset management plans. No special care of Memorial Plaques or Seats will be provided by Council in excess of the above stated standards; and
 - (b) reserves the right to relocate a Seat or move a Memorial Plaque from one Seat to another. The Council will use reasonable efforts to notify you and to negotiate any proposed new location of the Seat or a Memorial Plaque.
- 8.5 After expiration of the Term, or at the end of the useful life of the Seat (whichever occurs first), the Council will deal with the Memorial Plaque in accordance with the requirements of the Memorials Policy.
- 8.6 If, during the Term, a Memorial Plaque or a Seat has been significantly damaged (other than as a result of the direct acts of the Council):
- (a) this Agreement will be taken to have been terminated and the Council will, within a reasonable period, refund to you any balance of the Fee that relates to any period of the Term that remains at that time; and
 - (b) you acknowledge and agree that the Council has no ongoing obligation to repair or replace the Memorial Plaque or the Seat; and
 - (c) you may elect to apply to enter into a new agreement in respect of the Memorial Plaque and/or Seat on terms acceptable to the Council at the time.
9. **Term, Renewal & Termination**
- 9.1 This Agreement will continue for the Initial Term, unless renewed or terminated earlier in accordance with this clause 9.
- 9.2 Not less than 90 days before the end of the Initial Term, the Council will notify you of the impending expiration of the Initial Term and offer you the first right to renew this Agreement for the Renewal Term, on the Terms and Conditions applicable at that time and upon payment of the relevant Fee applicable at that time. You must, by no later than the date on which the Initial Term expires, advise the Council whether you wish to extend this Agreement for the Renewal Term. If you fail to do so within that period, or if you notify the Council that you do not wish to extend this Agreement for the Renewal Term, then clause 9.4 will apply.
- 9.3 During the Term, either party can terminate the Agreement by giving 20 business days' notice in writing to the other party. You will not be entitled to a refund for any unused portion of the Initial Term if you terminate the Agreement using this clause. If the Council terminates the Agreement using this clause, the Council will, within 30 business days, refund to you any amount of the Fee that relates to any part of the Initial Term then remaining as at the effective date of termination.
- 9.4 Upon the expiration or early termination of this Agreement the Council will remove the Memorial Plaque from the Seat and deal with it in accordance with the requirements of the Memorials Policy.
10. **Notices**
- Any notice given under you this Agreement must be given in writing to the postal or email addresses you specified in the Application. Any notice you give to the Council must be given in writing to the following addresses:
- (a) Postal address - City of Holdfast Bay, PO Box 19, Brighton SA 5048; or
 - (b) Email address - mail@holdfast.sa.gov.au.
11. **General**
- 11.1 You may not assign the Agreement or any part of it without the Council's prior written consent.
- 11.2 If you make an Application jointly with another person/s:
- (a) the Agreement binds each of you jointly and severally; and
 - (b) the Council is only required to give notices and other information, to one of you (who agrees and undertakes to provide the notices and information to the other/s).
- 11.3 A waiver of any right arising under the Agreement must be in writing and signed by the party granting the waiver. Except as provided under clause 2, any variation of the Agreement must be in writing and signed by the parties.