

Whispering Brook Terms & Conditions

VERSION DATE – September 2015

This website (<http://www.whispering-brook.com>) (the “Site”) is operated by Whispering Brook Pty Limited an Australian company ABN 60126246624, (the “Company”).

Any use of this Site by any person (“you” or the “user”) is governed by these terms & conditions of use (“Terms & Conditions”). The purpose of these Terms & Conditions is to define the conditions of access, navigation and use of the Site.

By accessing and using this Site, you accept these Terms and Conditions as well as our Privacy Policy ([click here](#) to review the Privacy Policy). If you do not agree to be bound by the Terms and Conditions and Privacy Policy you must immediately stop using the Site.

The Company may revise or update these Terms and Conditions and the Privacy Policy at any time, without notice and the updated Terms and Conditions and the Privacy Policy will be published on the Site. It is your responsibility to check for updates to these Terms and Conditions and the Privacy Policy on a regular basis. Continued use of the Site after publication of any amendments indicates your agreement to the new Terms and Conditions and Privacy Policy (and any of the amendments). If you do not agree to any amendments, you must immediately stop using the Site.

The Company provides this Site only for people who have reached the legal age to consume and/or purchase alcoholic beverages (whichever is the higher) in their country of residence and provided that the consumption and/or purchase of alcoholic beverages is legal. For Australian residents, only those aged 18 years and over may access and use the Site for the purchase of alcoholic beverages .

1- NAVIGATION ON THE SITE

1. 1. ACCESS TO THE SITE

Necessary hardware and software to access the internet and this Site are the sole responsibility of the user.

The Company reserves the right, in its absolute discretion, to suspend or terminate access or navigation to all or part of the Site and/or its content and/or the available services without prior notice and without entitling any user to claim any indemnity or compensation.

You must not attempt to modify the Site (or any associated content, software or any element of it) or to obtain unauthorised access to the Site.

Information submitted to or accessed via this Site may not be secure and you should use discretion in deciding what information you send to us via the Site. Information and emails sent to/from the Site may undergo email filtering and virus scanning, including by third party

contractors. The Company does not warrant that such filters and scans will be effective in removing viruses or other potentially harmful code.

1. 2. LINKS

The Site may include links to other websites or other internet sources. As the Company cannot control these websites and external sources, the Company cannot be held responsible for the provision or display of these websites and external sources, and may not be held liable for the content, advertising, products, services or any other material available on or from these websites or external sources. Furthermore, the Company is not liable to the user or any other person for any demonstrated or alleged damage, harm or loss resulting from (directly or indirectly) or in relation to the use of, or the fact of having had confidence in, the content, goods or services available on these third party websites or external sources.

1. 3. USER RESPONSIBLE BEHAVIOUR

Each user warrants:

- to be of minimum age legally required to consume and/or purchase alcohol in accordance with the laws and regulations of user's country of residence,
- to use the Site for user's personal and lawful use only, excluding therefore any other commercial use without the prior written consent of the Company,
- that any information it provides to the Company via the Site will be true, up-to-date and accurate.

When using the Site, users must behave responsibly, lawfully, with courtesy and respect towards other users, the Company, its subsidiaries, affiliates and third parties.

A user must not under any circumstances:

- upload, display, send by e-mail or by any other means any file containing viruses, codes, text files, software or similar items which could disrupt, interrupt, destroy, damage or limit any functionality of the Site or any software, hardware or telecommunications services,
- disrupt or interrupt the Site, its servers or networks connected to the Site,
- prevent (or attempt to prevent) the Site from functioning, including by exposing the Site to viruses, creating an overload of communication to the Site or its servers, sending "spam" or overloading the Site messaging system,
- download or access privileged or confidential information or access a server or account to which the user is not expressly granted access,
- try to assess or test the vulnerability of the Site, or attempt to breach the Site security or authentication measures of the Site, without the prior written consent of the Company,
- conduct any illegal activity in connection with or via the Site or engage in any other activity likely to adversely affect the Company, its subsidiaries, affiliates, providers (including technical providers and contractors), customers and third parties, and must not encourage, facilitate or permit any third parties to do any of those things,

- upload, display, post, send by e-mail or by any other means any unsolicited or unauthorised commercial electronic messages or promotional content, junk mail or spam on or via the Site or to any other user, the Company, its subsidiaries, affiliates, providers (including technical providers and contractors), customers and third parties,
- upload, display, send by e-mail or by any other means any illegal, detrimental, defamatory, offensive, racist, vulgar, obscene, threatening, violent, or indecent materials, or materials which infringe the rights (including intellectual property rights) of any person, on or via the Site or to any other user, the Company, its subsidiaries, affiliates, providers (including technical providers and contractors), customers and third parties,
- send or forward by e-mail or by any other means any content of the Site to people under the legal alcohol drinking and/or purchasing age in their country of residence.

Each user must comply with any and all applicable regulations, laws and rules related to user's behaviour on the Internet and transmission of technical data.

The Company reserves the right in its absolute discretion for any reason to terminate or withdraw any user's access to the Site without notice, including if the user is in breach of the user's obligations under these Terms & Conditions, and any such termination of the user's access is without prejudice to any claim the Company may have against the user for damages or other relief for any breach of these Terms and Conditions.

1. 4. USER GENERATED CONTENT (WHEN APPLICABLE)

Users are solely liable for any content they may post or upload onto the Site and the consequences of disclosing or broadcasting such content. The Company does not approve any content, opinion, suggestion or notice generated by users and the Company declines any and all responsibility and liability in respect of any such content.

However, the Company reserves the right, but not the obligation, to monitor use of the Site and to remove any content which, in its sole discretion, would breach these Terms & Conditions, may be offensive, illegal or otherwise objectionable in any way.

The user warrants that any content they upload or otherwise make available on the Site ("user content") is either their own original work or they have all necessary rights and consents from the owners of the user content to post, upload and make available that user content to the Site.

The user permits the Company to use, copy, modify, reproduce, communicate, adapt, publish and perform in public the user content (and may licence third parties to do any of those things) in any manner (including in part) for any purpose anywhere in the world, without cost and without further reference to the user (and the user consents to any use or act done by the Company and its licensees which would but for this clause infringe the user's moral rights in the user content).

2- PROTECTION OF THE SITE CONTENT

The Site and each of its elements (including all text, images, web pages, sounds, videos, designs, trademarks, logos and other material on or accessible via the Site) as well as any software required to be used in relation to the former, data bases and newsletters (the “Content”), may contain confidential information and information that is protected by intellectual property rights. Unless otherwise expressly stated on the Site, the Company exclusively owns all intellectual property rights related to the Content and the Company does not grant any user any license or other right other than a right to view the Content via the Site.

The user may access and view the Content (in whole or in part) of the Site for personal and private use only. Any reproduction or use or other exploitation of Content for any other purposes (whatever the manner or the kind) is expressly prohibited.

Users must not copy, modify, create derivative pieces of work, assemble, decompile, assign, sub-licence or transfer in any way any Content or other elements of the Site or any material (including software) related to the Site without the Company’s prior written consent.

3- PERSONAL INFORMATION

The collection and use of any personal information disclosed by users via the Site is governed by the Company’s Privacy Policy.

4- RESPONSIBILITY AND LIABILITY

While the Company uses reasonable commercial efforts to ensure that the information provided on this Site is correct and up-to-date, inaccuracies may occur.

Information on this Site is generic and is not designed to take into account the specific objectives, needs and circumstances of any particular user.

The Company provides no guarantee, representation or warranty as to the correctness, fitness for purpose, accuracy, currency or exhaustiveness of the information provided on the Site. Your use of the Site is at your own risk and the Content is provided to you “as is”.

The Company allows free access to the Site and declines all responsibility and may not be held liable in any case:

- for any interruption in provision of the Site or services accessible via the Site,
- for the occurrence of bugs, viruses and similar technical issues adversely affecting your ability to access this Site,
- for any inaccuracy, isolated and unforeseen error or omission relating to information or Content available on the Site, and
- for any damage resulting from any unauthorised use or fraudulent intrusion by a third party.

The Company will not be liable for any loss (including, without limitation, indirect, special or consequential loss or loss of profits), expense, damage, personal injury or death which is suffered or sustained (whether or not arising from any person's negligence) in connection with the use of the Site, except for any liability which cannot be excluded by law (in which case that liability is limited to the minimum allowable by law). Nothing in these Terms & Conditions restricts, excludes or modifies or purports to restrict, exclude or modify any statutory consumer rights available to you under any applicable law.

5- GENERAL TERMS

These Terms & Conditions (and the [Privacy Policy](#)) are governed by and are to be construed in accordance with the laws applicable in New South Wales, Australia.

The user irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in New South Wales, Australia and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

Any failure by the Company to enforce strict performance of any of the Terms and Conditions will not be construed as a waiver of any right or remedy of the Company in respect of any existing or subsequent breach of the Terms and Conditions.

If any provision of the Terms and Conditions is found to be invalid or unenforceable, the provision will be deemed severed from the Terms and Conditions and the remainder of the terms will continue in full force and effect.