STANDARD TERMS AND CONDITIONS FOR THE HIRE OF COUNCIL THEATRES

1. Venue Bookings

1.1 Application

An application for the use of the Venue may be made via Council's website, in person, telephone, e-mail or in any other manner determined by Council from time to time. Applicants must complete Council's Venue Hire Application Form and provide any additional supporting information requested by Council.

1.2 Booking Procedure and Event Estimate

(a) Once Council receives a completed Venue Hire Application Form and any additional information required, Council will give the Hirer an Event Estimate, which will be open for acceptance in writing by the Hirer for 14 days. If the Hirer accepts the Event Estimate, Council will give the Hirer a Venue Hire Agreement to sign and raise a Tax invoice for the Deposit.

(b) The Event Estimate is Council's best estimate of the Fees and Charges payable by the Hirer, based on the Hirer's anticipated requirements for the Event. The Event Estimate is not a fixed lump sum price for the hire of the Venue. The Fees and Charges payable by the Hirer will be based on the actual services and items used by the Hirer for the Event, calculated in accordance with **clause 2** and the Information Schedule.

1.3 Pencil Bookings and Reserved Dates

(a) Pencil bookings will be held for no longer than 28 days. If a booking is not confirmed within this period, then the date(s) will be released for hire to others.

(b) Bookings for the Venue will only be confirmed when the Hirer has:

(i) accepted the Event Estimate in writing;

(ii) paid the Deposit; and

(iii) signed and returned the Venue Hire Agreement to Council.

1.4 Venue Hire Questionnaire

After the Venue has been booked Council will give the Hirer a Venue Questionnaire, which must be completed and returned with all relevant particulars 28 days before the Start Date.

2. Fees and Charges

2.1 Venue Hire Fee

(a) The Hirer must pay to Council the Venue Hire Fees for its agreed usage.

2.2 Deposit

(a) The Hirer must pay to Council the Deposit on the date specified in If no date is specified, the deposit must be paid within 14 days of the date a tax invoice for the deposit is given to the Hirer.

(b) The Hirer grants a charge over the Deposit in favour of Council as security for all money payable by the Hirer under this Agreement.

(c) Council may apply the Deposit for or towards the payment of any Liability of the Hirer to Council under this Agreement.

(d) Failure to pay the deposit by the specified time will result in a termination of this agreement and loss of the booking timeslot.

2.3 Staffing Arrangements, Fees and Charges

(a) Council will on request provide staffing, based on Council's estimate of staffing requirements that will be required for the Event. Council reserves the right to specify a minimum number of staff required to be engaged or present during the Hire Period.

(b) The Hirer is not permitted to appoint front of house, technical or security staff unless otherwise agreed by Council in writing before the Event Estimate is given.
(c) The Hirer's staff must report to Council's technical manager for the Event and must be inducted prior to the Event.
(d) The Hirer must pay the Staffing Fees and Charges for staff provided by Council for the Event, at the applicable labour charge out rates in.
(e) All technical and front of house staff are required by law to have a half hour break every 5 hours. Although staff breaks are not included in the Staffing Fees and Charges payable by the Hirer, the Hirer must take these breaks into consideration when scheduling its use of the Venue. The Venue must be cleared of all staff and the public during staff break times.

2.4 Technical Fees and Charges

(a) The Hirer must pay the Technical Fees and Charges for the specific items set out in the Fees and Charges and for all other technical facilities, equipment, services and items provided by Council at the Hirer's request (Technical Services).
(b) The Fees and Charges payable for Technical Services are the applicable Council Approved Fees and Charges that apply as at the Start Date.

2.5 Ticketing Fees and Charges

(a) Tickets may only be sold by Council, and fees apply for the running of this service.
(b) The Hirer must pay the Ticketing Fees and Charges specified in the Fees and Charges respect of all tickets sold by Council.
(c) The Hirer must pay the charges specified in for charges and service fees payable to banks or any other credit organisation in respect of all ticket sales.

2.6 Marketing Fees and Charges

(a) The Hirer must pay the Marketing Fees and Charges for the marketing services, materials and advertising space provided by Council at the Hirer's request.
(b) The Hirer must pay the relevant commission on the sales of the Hirer's Merchandise associated with the Event that is sold by the Hirer or Council from the Venue or Building during the Hire Period.
(c) The Hirer is normally responsible for making its own arrangements for selling the Hirer's Merchandise. If the Hirer requires Council staff to assist with the sale of the Hirer's Merchandise, Council will provide additional front of house staff at the Hirer's cost. Any additional front of house staff provided for the purpose of selling the Hirer's Merchandise must be engaged for a minimum of 3 hours.

2.7 Dark Days

The Hirer must pay the cost of hiring the Venue for the Event on days when there are no performances (dark days),

2.8 Cleaning Fees and Charges

The Hirer must pay the Cleaning Fees and Charges set out in, inclusive of additional cleaning fees if the Venue is left in an unacceptable condition.

2.9 Security

The Hirer must pay the cost of providing security for the Event if security is deemed required by Council.

2.10 Over-runs

If the use of the Venue by the Hirer extends beyond the times scheduled under this agreement (including where the Hirer is using the Venue to store its set and other property on the Venue), the Hirer must pay to Council the Overruns Charge specified in the Fees and Charges for each half hour or part half hour that the use of the Venue by the Hirer runs over the time scheduled.

2.11 Catering Fees and Charges

The Hirer must pay the Catering Fees and Charges if relevant.

2.12 Rescheduling and Cancellation Fees

(a) Fees may be payable if a performance or the Event is rescheduled.
(b) Performance cancellation fees are payable if the Hirer cancels a scheduled performance.

(c) Event cancellation fees are payable if the Hirer cancels the Entire Event.

3. Settlement and Payments

3.1 Box Office Receipts

Council will retain in trust all money paid to Council's Box Office for the Event ('Gross Box Office Receipts'), whether by way of advance seat booking charges or otherwise, until all payments for the Event have been settled in accordance with this clause.

3.2 Deductions

Council is entitled to apply the Gross Box Office Receipts as follows:

(a) for payment of all Fees and Charges payable by the Hirer under this Agreement

(b) for payments of any refunds to ticket holders, and

(c) for payment to Council for any other amounts payable by the Hirer under this Agreement including failure to make good the Venue for loss or damage to the Venue or to any facilities or equipment provided by Council to the Hirer for the Event.

3.3 Settlement Statement

(a) Within 10 business days after the conclusion of the Event, Council will give the Hirer a settlement statement, setting out the following:

(i) total Gross Box Office Receipts received by Council for the Event,

(ii) the Deposit paid by the Hirer,

(iii) total Fees and Charges payable by the Hirer under this Agreement,

(iv) any other deductions claimed by Council, and

(v) the settlement amount payable by either the Hirer or Council calculated in accordance with ('Settlement Payment').

(b) If the Hirer considers there are any discrepancies in Council's settlement statement, it must notify Council within 7 days. If any changes are agreed Council must promptly amend and reissue the settlement statement.

(c) If a Settlement Payment is payable by Council, Council will give a Settlement Payment schedule to the Hirer. Council must pay the Settlement Payment by direct payment to the Hirer's nominated bank account within 30 days from the date the tax invoice is given to the Hirer by Council.

(d) If a Settlement Payment is payable by the Hirer, Council will give the Hirer a tax invoice for the Settlement Payment. The Hirer must pay the Settlement Payment to Council by direct bank transfer to Council's nominated bank account within 30 days from the date the tax invoice is given to the Hirer.

3.4 Settlement Payment Calculation

(a) If the total of the Gross Box Office Receipts and Deposit paid by the Hirer is greater than the total of the Fees and Charges and any other deductions claimed by Council under **clause 3.2** ('Deductions'), Council must pay to the Hirer a Settlement Payment calculated as follows:

(i) (Gross Box Office Receipts + Deposit) LESS Deductions, if the Hirer is registered for GST; or

(vi) (Gross Box Office Receipts + Deposit) LESS Deductions LESS GST retained, if the Hirer is not registered for GST.

(b) If the total of the Gross Box Office Receipts and Deposit paid by the Hirer is less than the Deductions, the Hirer must pay to Council a Settlement Payment calculated as follows:

(i) Deductions LESS (Gross Box Office Receipts + Deposit) if the Hirer is registered for GST; or

(vii) Deductions LESS (Gross Box Office Receipts + Deposit LESS GST retained, if the Hirer is not registered for GST.

3.5 Payments

All money payable by the Hirer to Council under this Agreement must be paid:

(a) on or before the date the payment is due, or if no date is specified in this Agreement, within 14 days of demand,

(b) without set-off, counter-claim, withholding or deduction;

(c) in Australian currency; and

(d) by direct credit to the bank account nominated by Council.

3.6 GST

(a) Unless otherwise expressly stated, the Fees and Charges payable under this agreement include GST.

(b) For all other amounts payable by the Hirer under this Agreement, the Hirer must pay to Council, on demand, in addition to the amount payable, any GST payable by Council in respect of that amount.

(c) If the Hirer is not registered for GST, Council will retain the GST collected on Box Office takings on the Hirer's behalf and remit the GST, in accordance with GST laws.

(d) If a party is required to pay, reimburse or contribute to any expense or liability incurred by the other party ('**payee'**), the amount to be paid or reimbursed must be reduced by the amount of any credit or refund of GST to which the payee is entitled as a result of incurring the expense or liability.

(e) For the purposes of this Agreement, GST means a tax in the nature of a supply of goods and services tax levied or imposed by a Federal government.

4. Use of Venue

4.1 Permitted Use

(a) The Hirer is only permitted to access and use the Venue for the purposes of the Event.

(b) The Hirer acknowledges that this Agreement does not give the Hirer the right to occupy the Venue or any part of it, and no rights or obligations in relation to the operation of the Venue, other than the limited rights and obligations set out in this Agreement.

(c) The Hirer acknowledges that Council has unrestricted access to the Venue at all times and must facilitate Council's access to the Venue during the Hire Period.

(d) The Hirer agrees to ensure that only persons authorised by Council or the Hirer are permitted in any performance-related, restricted and/or non-public area of the Venue.

4.2 Supervision

(a) The Hirer must give Council the name and contact details of the Hirer's Authorised Representative for the Event. Either the Hirer or the Hirer's Authorised Representative must be present on the Venue at all times that the Venue is being used by the Hirer.

(b) The Hirer is responsible for ensuring that the Hirer's Cast and Crew are properly supervised and under the control of the Hirer or the Hirer's Representative at all times.

(c) The Hirer is responsible for providing adequate duty of care and supervision for all persons under the age of 18 brought onto the Venue for the purposes of the Event.

4.3 House Rules

The Hirer must comply with any House Rules of Council in force at the time of the Event and must follow any reasonable direction given by Council.

4.4 Right to Remove People

(a) Council may request the removal from the Venue and the Building any person behaving in a disorderly manner. Council may request the Hirer to cease activity if disorderly and unacceptable conduct occurs which is directly related to the Hirer's performance.

(b) The Hirer must not do anything which is a nuisance or annoyance to Council or other users of the Building or which in the reasonable opinion of Council is dangerous, disorderly, offensive, illegal, immoral, or otherwise objectionable. Any illegal activities will be reported immediately to the relevant authority.

4.5 No Smoking or Illegal Substances

(a) Smoking is prohibited at the Venue, Building and within 10 metres of any doorway, window or air intake where smoke may enter the Venue or Building.

(b) The Hirer and the Hirer's Cast and Crew must not use any illegal substances at the Venue or Building (including external areas).

4.6 Temporary Seating

The Hirer is not permitted to install temporary seating in the Venue or Building.

4.7 Theatre Sound and Stage Lighting and Electrical Equipment

(a) Council must ensure at least two Council Technical Staff are always present at the Venue during the times that the Venue has been hired for the Event.

(b) The Hirer is not permitted to enter the Venue unless at least two Council Technical Staff are on the Venue.

(c) The Hirer may provide their own stage equipment operators with Council's prior written consent.

(d) All electrical equipment brought into the Venue must conform with and be tested and tagged in accordance with the relevant Australian Standard.

4.8 Sound Levels

(a) Council reserves the right to exercise control over sound levels within the Venue, to ensure the safety and comfort of people working in or attending the Venue or to ensure other activities in the building are not compromised. Hirers must comply with Council's reasonable requirements or directions in relation to sound level limits.

(b) The Hirer must not without Council's prior written consent use any equipment likely to be heard outside the Venue.

4.9 Rigging/Suspension

The Hirer must not suspend or allow the Hirer's Cast and Crew to suspend from any height within the Building or Venue any item until the item and the manner of suspension has been approved in writing by Council. The Hirer must comply with any requirements imposed by Council as a condition of approval.

4.10 Liquor and Service of Alcohol

(a) Council agrees to provide staff who hold current Responsible Service of Alcohol RSA Certificates to serve alcohol for the Event and Council must comply with all laws relating to the service of alcohol.

(b) The Hirer must not sell, serve or bring alcohol into the Venue.

4.11 Dangerous Goods

(a) The Hirer must not bring into the Building or Venue any flammable, volatile, explosive or dangerous substances, including pyrotechnics and chemicals, without the prior written consent of Council.

(b) The Hirer must not use the following items without prior written consent from Council: naked flame; flammable substances; hot work; pyrotechnics; strobe lighting; lasers; helium balloons; weapons; smoke, haze or snow machines or other similar items.

(c) The Hirer must not undertake any activity involving the discharge of ammunition from a firearm, the use of any material or thing giving off a level or heat or toxicity that poses a threat of harm, or the use of any sharp implement or weapon that poses a threat of harm.

4.12 Animals

(a) With exception of assistance animals, animals may not be brought into the Venue or used for the Event without Council's prior written approval. If Council consents to an animal being brought into the Venue for the Event, the animal must be expertly cared for at all times. The Hirer must take full responsibility for the animal and must demonstrate compliance with relevant animal protection and welfare requirements. Anyone found mistreating animals will be reported by Council to the appropriate authorities.

(b) For the purpose of this clause 'assistance animals' mean guide dogs, hearing dogs and any other animal specially trained to assist a person with a disability.

4.13 Storage

The Hirer must not use the Venue for storage other than for the purposes of the Event.

5. Compliance with Laws and Requirements of Authorities

(a) The Hirer must ensure that the Event is carried out in accordance with all applicable laws and requirements of any government authority, including but not limited to:

(i) relevant Australian Standards
(ii) conditions and requirements in the *Safety Guidelines for The Entertainment Industry (2001*), and
(iii) music licensing requirements.

(b) The Hirer must obtain all necessary consents or licences, comply with any conditions of consent and keep current any licences, permits or registrations needed for the Event and the use or occupation of the Venue under this Agreement.

(c) The Hirer must comply with the provisions of all industrial agreements and awards in relation to any person engaged or employed by the Hirer in connection with the Event.

(d) The Hirer must ensure it and the Hirer's Cast and Crew comply with any directions given by any member of the police force, fire brigade, ambulance service or any other emergency service from entering the Venue.

6. Work Health and Safety

6.1 Compliance with work health and safety laws

The Hirer must comply with all laws relating to work health and safety and all regulations and requirements issued by WorkCover, Council or any relevant authority in respect of any activity undertaken on the Venue by the Hirer.

6.2 Venue Safety Requirements

(a) The Hirer must ensure that it and the Hirer's Cast and Crew immediately comply with any direction given by Council in connection with the security, safety and proper use of the Venue and its facilities and equipment.

(b) At the start of the Hire Period, the Hirer must undertake a Council induction in relation to the WHS and the emergency evacuation procedures for the Venue.

(c) The Hirer must ensure that it and the Hirer's Cast and Crew comply with the emergency evacuation procedures for the Venue.

(d) The Hirer must not obstruct aisles, entrances, exits, electrical cupboards, emergency lighting, fire extinguishing equipment and fire alarms in the Venue.

6.3 Venue Capacity

(a) The Hirer must not exceed the maximum seating capacity of the Venue specified under this agreement at any time.

(b) Council reserves the right to:
(i) refuse a booking on the grounds of health and safety; and
(ii) restrict entry to the Venue once the maximum legal capacity has been reached.
(iii) Hold house seats for every event for use by the Venue, which by the Council's agreement can be sold within 72 hours of the event date.

6.4 Reporting of Incidents

The Hirer must immediately report to Council:

(a) any work health and safety incident; and

(b) any damage or loss of property or death or injury to any person,

that the Hirer becomes aware of in connection with the use of the Venue.

7. Care of the Venue

7.1 Responsibility for the Venue

The Hirer is responsible for the care of the Venue during the Hire Period and is liable for any loss or damage to the Venue and any facilities and equipment in the Venue from the Start Date (or early occupation or bump-in) to the End Date, except for loss or damage caused by Council or another hirer of the Venue.

7.2 Keeping in Good Repair

The Hirer must keep the Venue and the facilities and equipment in the Venue in good repair and condition having regard to the condition of the Venue and the facilities and equipment at the Start Date.

7.3 General Care of the Venue

The Hirer must not:

(a) mark, paint, nail, drill into, cut, string wires within, or in any way deface, penetrate or damage any walls, ceilings, partitions, floors, wood, stone, concrete (and the like) of the Venue and the Building without Council's prior written consent

(b) use blue tack, sticky tape, masking tape (or any other form of adhesive), nail, or drill to fix or attach any item on the walls, ceilings, partitions, floors, wood, stone, concrete (and the like) of the Venue and the Building without Council's prior written consent

(c) use confetti, glitter, streamers, hay bales or similar articles of decoration without Council's prior written consent

(d) obstruct any window or lights in the Venue without Council's prior written consent

(e) allow the floor of the Venue to be broken, strained or damaged by overloading

(f) use any method of heating, cooling or lighting the Venue other than those provided or approved by Council, and

(g) do anything to affect the working or efficiency of Council's air-conditioning plant and equipment.

7.4 Damage to the Venue

(a) The Hirer must not damage the Venue or Building and must ensure that the Hirer's Cast and Crew do not damage the Venue or Building or any facilities and equipment in the Venue or Building.

(b) Each party must promptly inform the other party after becoming aware of any damage to the Venue or Building during the Hire Period.

(c) The Hirer must pay on demand to Council the reasonable cost of repairing or replacing any loss or damage to the Venue, Building or to any facilities or equipment provided by Council for the Event that occurs during the Hire Period, except for any loss or damage caused by Council or another hirer of the Venue or Building.

7.5 Cleaning of the Venue

The Hirer must ensure that the Venue is left clean and tidy and in the same condition of cleanliness as at the Start Date. Failure to do so will result in additional cleaning fees.

7.6 Alterations

The Hirer must not make any alterations to the Venue or to any fittings, facilities or equipment in the Venue.

7.7 Additions

(a) The Hirer must not provide or install any additional decoration or furnishings to the Venue including but not limited to stage property, electrical installations, appliances or any other decorative materials or articles without the prior written consent of Council. The Hirer must remove any additional decorations or furnishings immediately after the Event (or if agreed immediately after a series of events or performances or functions), at the Hirer's cost.

(b) All additions must meet the *Safety Guidelines for the Entertainment Industry 2001* (as amended from time to time).

8. Marketing and Promotion

8.1 General

The Hirer may not start advertising for the Event until this Agreement is executed and Deposit received.

8.2 Approval of Materials

All promotional and advertising material must be submitted to Council for approval prior to the production or publication of the material. Council must not unreasonably withhold or delay its approval.

8.3 Display of Promotional Material

(a) No signage or display material is to be nailed, screwed, stapled or adhered to any surface in the Venue or Building.

(b) The content and arrangements for any free-standing signage displayed at the Venue or Building by the Hirer must be approved by Council. Free-standing signage must be kept to a minimum for safety reasons and due to space constraints.

8.4 Use of Council's Logo or Branding

The Hirer must obtain Council's written consent before using Council's logo or branding in any advertising or promotional material for the Event. If Council consents to its logo and branding being used for the Event:

(a) the Hirer must comply with any requirements imposed by Council as a condition for use of its logo and branding

(b) Council's logo and branding must be reproduced and used only in a font and format approved by Council, and

(c) Council's logo and branding must not be used for any other purpose.

8.5 Council Displays and Marketing

(a) Council reserves the right to display its own advertising material at any time and to distribute such material to any persons attending the Venue for the Event.

(b) Council reserves the right to use the front of house and other areas of the Venue or Building to advertise other events.

8.6 Sale of Merchandise

(a) The Hirer may sell merchandise associated with the Event from the Venue ('Hirer's Merchandise').

(b) The Hirer must pay Council a commission on all Hirer's Merchandise and must also pay for any additional staffing required to assist with the sale of the Hirer's Merchandise.

(c) Council is not responsible for the quality or safety of the Hirer's Merchandise and does not give any warranties that the Hirer's Merchandise is of merchantable quality or fit for its intended purpose. The Hirer releases and indemnifies Council from and against any Claim in relation to any loss, damage, injury or death in relation to the Hirer's Merchandise.

9. Box Office Ticket Sales

(a) All theatre performances and any activities within the Venue that require patron ticketing must be ticketed through the Council Box Office specified in this agreement. The Hirer is not permitted to sell tickets directly to patrons for the Event.

(b) Patrons of the Event will normally be able to book tickets online, via telephone or in person. Council may limit or change booking methods if required for public health or safety reasons or if Council's Box Office is required to be closed to the public. To ensure adequate selling time, all box office and ticketing information must be provided with all necessary booking information with the Venue Hire Application Form.

(c) If the Event is cancelled, Council must promptly refund tickets sold through the Box Office for the Event.

(d) If a performance is cancelled or rescheduled, Council must promptly refund or exchange tickets sold through the Box Office for the cancelled or rescheduled performance, fees for this cancellation are incurred by the hirer.

10. Copyright, Cameras and Filming

10.1 Performing Rights Copyright and Moral rights

(a) The Hirer must not infringe or allow to be infringed any copyright, performing rights or any other protected rights in connection directly or indirectly with the Event.

(b) The Hirer must on demand give Council evidence of the necessary authorities or consents from the copyright owner and the author of the work (if different from the copyright owner) in relation to any works used in connection with Event, including Event marketing content.

(c) The Hirer is responsible for any royalties payable to the Australasian Performing Rights Association or any other like bodies or to any person in connection with the Event.

(d) Council may use, copy and distribute any marketing material provided by the Hirer for the purposes of the Event, including placing such material on its website or social media sites.

10.2 Cameras and Filming

(a) If the Hirer wishes to record or transmit any of the performance, it must notify Council in writing.

(b) Council reserves the right to take photographs, recordings and footage of the Event for any Council purpose (including promotional, marketing, archival purposes and annual reports).

10.3 Indemnity

The Hirer indemnifies Council against all losses, liabilities and legal costs arising from any allegation of infringement of intellectual property rights arising from any use, copying or distribution of the Hirer's marketing material or any photos, recordings or footage of the Event.

11. Insurance and Indemnity

11.1 Hirer's Insurance

(a) The Hirer must take out and maintain for the duration of the Hire Period the following insurance policies:

(i) Public liability insurance for $20 million covering Council and the Hirer against all claims for loss or injury arising from the hire of the Venue and the performance of the Event by the Hirer and the Hirer's Cast and Crew, and

(ii) Worker's compensation insurance in respect of the Hirer's employees.

(b) The Hirer must provide Council with certificates of currency of any insurance it is required to have under this Agreement no later than 28 days prior to the Start Date.

11.2 Assumption of Risk by the Hirer

The Hirer uses and has access to the Venue at its own risk. The Hirer's Property and any other property of the Hirer and the Hirer's Cast and Crew brought into or used in the Venue is at the sole risk of the Hirer.

11.3 Release of the Hirer and Indemnity

The Hirer cannot make a Claim against Council and releases Council from and indemnifies it against all Claims for damages, loss, injury or death which:

(a) arise from the use of the Venue by the Hirer or the Hirer's Cast and Crew

(b) arise in connection with a performance or any other activity undertaken by the Hirer or the Hirer's Cast and Crew at the Venue

(c) relate to the loss, damage or use of the Hirer's Property, or

(d) arise from the misuse of the services in the Venue

except to the extent that it is caused by the wilful act or omission or negligence of Council, its employees, agents or contractors.

12. Make Good Obligations

12.1 Make Good

(a) Unless otherwise notified by Council to the Hirer in writing, the Hirer must at the End Date or earlier termination of this Agreement:

(i) return the Venue to the condition it was in at the date the Hirer first obtained access to the Venue

(ii) leave the Venue in a clean and tidy condition and remove all rubbish, waste and materials brought into or left in the Venue and the Building by the Hirer or the Hirer's Cast and Crew
(iii) make good any part of the Venue structure in which holes have been made by or on behalf of the Hirer
(iv) ensure that all cables, wires, ducting and pipes installed by or on behalf of the Hirer are removed from the Venue and terminated at the source
(v) remove all of the Hirer's Property or property of the Hirer's Cast and Crew from the Venue and the Building, and
(vi) repair all damage caused to the Venue or the Building by the Hirer in removing the Hirer's Property.

(b) Without limiting the Hirer's obligations under this clause, the Hirer must ensure that all make-up is removed from all surfaces; sticky tape, blue tack and other adhesives are removed; and all glitter, paint, streamers or similar items are removed from the Venue.

12.2 Costs of Council Remedying Hirer's defaults

If Council considers that the Hirer has failed to clean and make good the Venue in accordance with **clause 12.1** ('reinstatement work'), Council may give the Hirer a notice setting out the outstanding reinstatement work and the time within which it is to be completed. If the Hirer fails to comply with the notice, Council may undertake the reinstatement work at the Hirer's cost. The cost of such work is a debt due by the Hirer to Council and may be claimed as a deduction by Council.

12.3 Failure to Remove the Hirer's Property

(a) If the Hirer does not remove the Hirer's Property after being given reasonable notice, Council may keep, remove, sell or otherwise dispose of the Hirer's Property at the Hirer's risk and cost and treat any of the Hirer's Property as if it is Council's property and deal with it in any way (including by sale), without being liable to account to the Hirer. The Hirer agrees that whatever Council does in good faith under this clause will be taken to be done with full authority of, as agent for and at the risk of the Hirer.
(b) The Hirer indemnifies Council in relation to the removal and storage of the Hirer's Property and in relation to Claims by any person of an interest in the Hirer's Property.

13. Assignment and Subletting

(a) This Agreement cannot be assigned.
(b) No part of the Venue may be sub-licensed by the Hirer without the prior written consent of Council.

14. Rescheduling, Cancellation and Termination

14.1 Event Cancellation/Rescheduling Costs

For the purposes of this clause, 'Event Cancellation/Rescheduling Costs' means:

(a) the applicable Cancellation Fee from the Fees and Charges.
(b) Fees and Charges for services provided by Council under this Agreement up to the date the Event is cancelled or rescheduled or the date this Agreement ends (as is applicable), including ticketing and marketing Fees and Charges; and
(c) Ticketing Fees and Charges for any tickets that need to be exchanged or refunded as a result of a cancellation or rescheduling.

14.2 Rescheduling

(a) If the Hirer wishes to reschedule a performance or the entire Event, Council will endeavour to accommodate the Hirer's alternative dates, subject to availability of the Venue. Council may also reschedule a performance or the Event with the agreement of the Hirer.
(b) If a performance is rescheduled at the request of the Hirer, the Hirer must pay to Council the Ticketing Fees and Charges for any tickets that need to be exchanged or refunded as a result of the rescheduling.
(c) If the entire Event is rescheduled:
    (i) the parties will enter into a new Venue Hire Agreement
    (ii) this Agreement will end on the date of the new Agreement
    (iii) the Deposit will be applied towards the new Agreement; and

(iv) if the Event is rescheduled at the Hirer's request, the Hirer must pay to Council the Event Cancellation/Rescheduling Costs

(d) Council is not liable to pay the Hirer any damages, costs or expenses in connection with the rescheduling of a performance or the Event.

14.3 Cancellation by Hirer

(a) If the Hirer wishes to cancel a performance, the Hirer must notify Council as soon as possible. If a performance is cancelled:

(i) part of the deposit for the cancelled performance will be forfeited, based on the proportion of performances cancelled (for example if half of the performances are cancelled, 50% of the Deposit will be forfeited)

(ii) the Hirer must pay to Council the cancellation fee for each cancelled performance; and

(iii) the Hirer must pay to Council ticketing Fees and Charges for any tickets that need to be exchanged or refunded as a result of the cancellation.

(b) If the Hirer wishes to cancel the entire Event, the Hirer must notify Council in writing as soon as possible (Event Cancellation).

(c) If an Event Cancellation is received by Council more than 3 months prior to the Start Date:

(i) Council is entitled to retain the Deposit; and

(ii) the Hirer must pay to Council the Event Cancellation/Rescheduling Costs

(d) If an Event Cancellation is received by Council less than 3 months prior to the Start Date:

(i) the Hirer must pay to Council the Venue Hire Fees from the Information Schedule less the amount of the Deposit paid; and

(ii) the Hirer must pay to Council the Event Cancellation/Rescheduling Costs.

14.4 Termination by Council for breach

(a) Without limiting any other available remedy Council may cancel the Event and terminate this Agreement at any time and without giving prior notice when the Hirer has not remedied a breach of this Agreement within the time specified in a notice; repudiates its obligations under this Agreement; becomes bankrupt or insolvent; or has a receiver/manager/administrator appointed.

(b) If this Agreement is terminated by Council under this clause, the Hirer must pay on demand the same amounts as if the Hirer had cancelled the Event less than 3 months prior to the Start Date.

(c) In addition, the Hirer is liable to pay Council's reasonable costs incurred in connection with any default by the Hirer under this Agreement including, legal costs.

(d) Council is not liable to pay the Hirer any damages, costs or expenses in connection with the cancellation of the Event and termination of this Agreement under this clause.

14.5 Termination by Council for Convenience

(a) Council may cancel the Event and terminate this Agreement for any reason by giving not less than 6 months' notice in writing to the Hirer.

(b) If this Agreement is terminated by Council under this clause, the Hirer is entitled to the return of the Deposit and any other amounts paid in advance for services not yet supplied by Council under this Agreement.

(c) Council is not otherwise liable to pay the Hirer any damages, costs or expenses as a result of the cancellation of the Event and termination of this Agreement under this clause.

14.6 Force Majeure Event

If a Force Majeure Event affects a Party's performance of a material obligation under this Agreement and such circumstance warrants the cancellation of the Event, either party may by notice in writing, cancel the Event. If the Event is cancelled under this clause:

(a) each party must take all steps necessary to minimise the loss suffered by that party as a result of the cancellation

(b) the Hirer must pay the Fees and Charges for services provided by Council under this Agreement up to the date the Event is cancelled, including ticketing and marketing Fees and Charges

(c) the Hirer is entitled to the return of the Deposit and any other amounts paid in advance under this Agreement for services not yet supplied by Council under this Agreement, and

(d) the parties are otherwise released from their obligations under this Agreement and will not be liable to the other for any damages, costs or expenses as a result of the cancellation of the Event.

14.7 Settlement Payments on Termination

(a) If this Agreement is terminated, Council must promptly give the Hirer a settlement statement, setting out the amounts payable or due to the parties.

(b) If the Hirer considers there are any discrepancies in the settlement statement, it must notify Council within 7 days. If any changes are agreed Council must promptly amend and reissue the settlement statement.

(c) If the amount payable by the Hirer in the settlement statement is more than the amount payable by Council, Council will give the Hirer a tax invoice for the amount owed by the Hirer to Council. The Hirer must pay this amount by direct bank transfer to Council's nominated bank account within 30 days from the date the tax invoice is given to the Hirer.

(d) If the amount payable by Council in the settlement statement is more than the amount payable by the Hirer, Council will give a settlement payment schedule to the Hirer for the amount owned by Council to the Hirer. Council must pay this amount by direct payment to the Hirer's nominated bank account within 30 days from the date the tax invoice is given to the Hirer by Council.

14.8 Prior Breaches

Expiry, termination or rescission of this Agreement or cancellation of the Event does not affect any right in connection with a breach of the Agreement before then.

15. Notices

15.1 Service

(a) A notice given by a party under this Agreement must be in writing and is sufficiently given or served on a party if left at or posted to the Address for Service of that party set out in the Information Schedule.

(b) A notice is also validly served if sent by email to the email address in the Information Schedule or such other email nominated in writing by the party to the other from time to time.

15.2 Time of Service

(a) If a notice is sent by post, it is taken to have been given on the fourth day after posting.

(b) If a notice is left at an address permitted by **clause 15.1,** it is taken to have been given on the date of delivery, except that if the notice is left on a day that is not a business day or after 5.00 pm on a business day, delivery is taken to have occurred at 9.00 am on the following business day.

(c) If a notice is sent by email, it is taken to be received when the email enters the recipient's mail server, unless the sender is aware that the transmission is impaired.

15.3 Contact Person

The parties must each nominate a person to contact about day-to-day matters relating to the Event. The contact person is the person stated in the Information Schedule or such other person nominated in writing by the parties from time to time.

16. Definitions and Interpretation

16.1 Defined Terms

In this Agreement, unless the contrary intention appears the following words have the following meanings:

Term:	Definition:
Agreement	This Venue Hire Agreement.
Box Office	The Box Office referred to in Item 1, and includes on-line sales transacted through the Venue or Council website.
Building	The building that the Venue forms part of.

Claim	All or any claims, proceedings, actions, rights of action, liabilities, damages, losses, remedies, expenses, fines and penalties (including associated expenses and legal costs on a full indemnity basis).
Council Approved Fees and Charges	The Fees and Charges for services approved by Council in its annual Operational Plan pursuant to section 608 of the *Local Government Act 1993*.
Force Majeure Event	An event or circumstance which is beyond the control and without the fault or negligence of the Party affected which prevents a Party from complying with any of its obligations under this Agreement, including but not limited to: acts of God (including but not limited to, fires, explosions, earthquakes, drought, tidal waves and floods), strikes, riot, war, invasion, lockouts, terrorism, and any other unforeseeable circumstances beyond the control of the Parties against which it would have been unreasonable for the affected Party to take precautions and which the affected Party cannot avoid even by using its best efforts. For the purposes of this Agreement a Force Majeure Event includes the imposition of a public health law for COVID-19 or other pandemic after the date of this Agreement, which prohibits the Venue from being used for the Event on the dates or times set out in this Agreement; that materially restricts the capacity of the Hirer to produce the Event; or that materially reduces the seating capacity of the Venue.
Gross Box Office Receipts	All money paid to Council's Box Office for the Event.
Liability	Any liability (whether actual, contingent or prospective), loss, damage, debt, cost or expense (including legal costs and expenses) of whatever nature or description.
Hire Period	The period between the Start Date (or earlier occupation/bump-in of the Venue) and the End Date (or earlier termination of the Venue Hire Agreement).
Hirer	The person referred to in **Item 2** of the Reference Schedule and includes: (a) if the Hirer is a natural person, the Hirer's executors, administrators and permitted assigns; and (b) if the Hirer is a corporation or association, the Hirer's successors in title and permitted assigns;
Hirer's Property	Any property brought onto the Venue for the purposes of the Event by the Hirer or the Hirer's Cast and Crew including sets, artwork, sound, visual design, fittings, equipment and goods.
Hirer's Cast and Crew	The Hirer's employees, agents, contractors, clients, visitors, volunteers, invitees, performers, musicians and other paid or unpaid persons on the Venue with the consent of the Hirer for the purposes of the Event.
Item	An item in the Information Schedule.

Technician	Technical staff who are responsible for the technical aspects of a performance. This includes set design, lighting, sound, set construction and handling technical issues during performances.
Month	A calendar month.

16.2 Interpretation

In this Agreement:

(a) Any reference to words or terms in the singular form includes its plural form, and vice versa;
(b) Clause and subclause headings are for reference purposes only;
(c) The use of the word 'includes' or 'including' is not to be taken as limiting the meaning of the words preceding it;
(d) The expression 'at any time' includes reference to past, present and future time and the performance of any action from time to time;
(e) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning;
(f) Any reference to a party to this document includes its successors and permitted assigns unless expressing excluded;
(g) Any reference to any agreement or document includes that agreement or document as amended at any time.

16.3 General

In this Agreement:

(a) This Agreement may only be varied by a document signed by or on behalf of each party.
(b) This Agreement is governed by the laws of New South Wales.
(c) Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power or remedy provided by law or under this Agreement by a party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this Agreement.
(d) This Agreement may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes an original of this agreement, and all together constitute one agreement.
(e) If any part of this Agreement is, or becomes, void or unenforceable, that part is or will be severed from this Venue Hire Agreement.
(f) To the extent permitted by law, in relation to its subject matter, this Venue Hire Agreement:
    (i) embodies the entire understanding of the parties, and constitutes the entire terms agreed by the parties; and
    (ii) supersedes any prior written or other agreement of the parties.

16.4 Photography

The Hirer is responsible for ensuring all Photography Release and/or Photography Consent forms for children have been completed accurately and a record kept ensuring compliance during the event. If complaints are received due to a breach, these will be directed to, and dealt with, appropriately by the Hirer.